CHAPTER clix.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Kirkcaldy and Dysart Water. [15th August 1913.]

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

62 & 63 Vict. c. 47.

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

Confirmation of Order in schedule.

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

Short title.

2. This Act may be cited as the Kirkcaldy and Dysart Water Order Confirmation Act 1913.

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SCHEDULE.

Provisional Order to authorise the Waterworks Commissioners of Kirkcaldy and Dysart to make and maintain additional works for providing an increased water supply and for other purposes.

WHEREAS by the Kirkcaldy and Dysart Waterworks Act 1867 (in this Order called "the Act of 1867") a body corporate was created under the name and style of the Waterworks Commissioners of Kirkcaldy and Dysart (in this Order called "the Commissioners") and provision was made for vesting in the Commissioners the waterworks of the trustees acting under the Act (Local) of the fifty-first year of the reign of His Majesty King George the Third mentioned in the Act of 1867 and the Commissioners were empowered to construct and acquire other works and to borrow thirty-eight thousand pounds and to levy rates and exercise other powers for the purpose of supplying water to the parliamentary burghs of Kirkcaldy and Dysart and surburbs and places adjacent:

And whereas by the Kirkcaldy and Dysart Waterworks Amendment Act 1870 (in this Order called "the Act of 1870") the Commissioners were authorised to borrow a further sum of fifteen thousand pounds for the purposes of the Act of 1867 and the Act of 1870 and the Act of 1867 was amended and further powers were conferred on the Commissioners:

And whereas by the Kirkcaldy Burgh and Harbour Act 1876 (in this Order called "the Act of 1876") the boundaries of the burgh of Kirkcaldy were extended and the limits for the compulsory supply of water as defined in the Act of 1867 were extended so as to include such portions of the said extended burgh of Kirkcaldy as were not within such limits:

And whereas by the Kirkcaldy and Dysart Waterworks (Additional Powers) Act 1881 (in this Order called "the Act of 1881") the Commissioners were empowered to construct an additional reservoir filter-beds and other works and by contract to

supply water in bulk as therein mentioned and to borrow a further sum of forty thousand pounds:

And whereas by the Kirkcaldy and Dysart Waterworks Act 1886 (in this Order called "the Act of 1886") the Commissioners were empowered to borrow an additional sum of twenty-five thousand pounds to enable them to complete the works authorised by the Act of 1881 and for the general purposes of their undertaking and the powers of the Commissioners for the supply of water in bulk conferred by the Act of 1881 were enlarged:

And whereas by the Kirkcaldy and Dysart Waterworks Act 1896 (in this Order called "the Act of 1896") the Commissioners were empowered to construct the additional reservoirs and works therein described for the purpose of affording an increased supply of water and to provide water for the purpose of supplying motive power by hydraulic pressure and to borrow a further sum of one hundred thousand pounds:

And whereas by the Kirkcaldy and Dysart Waterworks Amendment Order 1901 (in this Order called "the Order of 1901") the Commissioners were authorised to borrow a further sum of thirty thousand pounds to enable them to complete the works authorised by the Act of 1896 and for the general purposes of their undertaking:

And whereas by the Kirkcaldy and Dysart Waterworks Order 1908 (in this Order called "the Order of 1908") the Commissioners were authorised by agreement to acquire and hold lands within the drainage area of the waterworks of the Commissioners for the purpose of securing the purity of the water in the drainage area and to borrow a further sum of thirty thousand pounds:

And whereas in the year 1893 the boundaries of the burgh of Kirkcaldy were extended by the sheriff of the county of Fife under the Burgh Police (Scotland) Act 1892:

And whereas by the Kirkcaldy Corporation Order 1910 (in this Order called "the Order of 1910") the limits for the compulsory supply of water as defined in the Act of 1867 and extended by the Act of 1876 were further extended so as to include such portions of the burgh of Kirkcaldy as extended in the year 1893 as were not within such limits:

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And whereas the Commissioners duly acquired the water-works of the trustees before mentioned and constructed the reservoirs and other works authorised by the Act of 1867 the Act of 1881 and the Act of 1896 and have acquired portions of the drainage area as authorised by the Order of 1908:

And whereas the present supply of water is becoming inadequate for the needs of the population and trade of Kirkcaldy and Dysart and places adjacent and it is expedient and would be for the public advantage that the Commissioners should be authorised to make and maintain the additional reservoirs and works hereinafter described for the purpose of affording an increased supply of water:

And whereas by the Act of 1867 the Act of 1881 and the Act of 1896 certain provisions are made as to the discharge of compensation water from the reservoirs authorised by the Act of 1867 and the Act of 1896 and it is expedient that these provisions should be consolidated and amended:

And whereas estimates have been prepared showing that the Commissioners will or may require to borrow the following sums for the following purposes (that is to say):—

For permanent works—	£
Purchase of lands and servitudes - -	4,000
Reservoirs - - - - -	33,000
Filters - - - - - -	8,000
Conduits mains and catchwaters - -	6,000
Subsidiary works - - - -	1,000

And it is expedient that the cost thereof should be spread over a term of years:

And whereas it is expedient that the Commissioners should be authorised to borrow additional money for the purpose of the works authorised by this Order and for the general purposes of their undertaking:

And whereas it is expedient that various provisions of the recited Acts should be altered and repealed as hereinafter provided and that the other powers hereinafter contained should be conferred on the Commissioners:

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: A.D. 1913.

And whereas plans and sections showing the lines situations and levels of the works authorised by this Order and also books of reference to the said plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands houses 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 Cupar Kirkcaldy and Dunfermline respectively of the principal sheriff-clerk of the county of Fife and in the office at Kinross of the principal sheriff-clerk of the county of Kinross and those plans and sections and books of reference are in this Order respectively referred to as the deposited plans sections and book of reference:

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

Short title and joint citation.

1. This Order may be cited for all purposes as the Kirkcaldy and Dysart Waterworks Order 1913 and the recited Acts and this Order may be cited as the Kirkcaldy and Dysart Waterworks Acts 1867 to 1913.

Commencement of Order.

2. This Order shall commence and have effect on and from the date of the passing of the Act confirming the same which date is hereinafter referred to as the "commencement of this Order."

Interpretation.

3. In this Order the several words and expressions to which meanings are assigned in the recited Acts and in any Acts wholly or partially incorporated with those Acts shall have the meanings attached to them in the recited Acts unless there be something in the subject or context repugnant to such construction.

The expression "the recited Acts" shall mean the Act of 1867 the Act of 1870 sections 62 and 63 of the Act of 1876 the Act of 1881 the Act of 1886 the Act of 1896 the Order of 1901 the Order of 1908 and section 4 of the Order of 1910.

The expression "the undertaking" shall mean the existing waterworks of the Commissioners and the waterworks which may be constructed under the powers of this Order and all lands and property rights powers privileges duties and obligations pertaining to the said waterworks for the time being.

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Incorporation of Acts.

4. 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 this Order:—

The Lands Clauses Acts:

The Waterworks Clauses Act 1847 except the sections and provisions thereof with respect to (*a*) the communication pipes within the limits of supply to be laid by the undertakers and (*b*) the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and also except sections 68 70 71 and 72:

The Waterworks Clauses Act 1863:

The sections 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 sections and provisions for the purposes of this Order the word "company" shall mean the Commissioners and the word "railway" the filters and service reservoirs and works immediately connected therewith authorised by this Order and the words "the centre of the railway" any part of the said works:

The Commissioners Clauses Act 1847 with the exception of the sections and provisions thereof with respect to the following matters (that is to say) with respect to the qualification of Commissioners with respect to the election and rotation of the Commissioners where the Commissioners are to be elected by the ratepayers or other like class of electors with respect to the accounts to be kept by the Commissioners and also with the exception of sections 84 86 and 87.

Power to make works.

5. The Commissioners may subject to the provisions of this Order make and maintain in the lines and according to the levels shown on the deposited plans and sections and upon the lands delineated on the deposited plans and described in the deposited book of reference the waterworks hereinafter described:—

Work No. 1 An enlargement extension and heightening of the existing embankment of Ballo Reservoir (authorised

by the Act of 1867) wholly situate in the parish of Leslie in the county of Fife to commence at a point thirty yards or thereby measured in a westerly direction from the centre of the existing overflow weir and terminating at a point two hundred and ninety yards or thereby measured in an easterly direction from the centre of the said overflow weir and the raising of the existing top water level of the said reservoir thereby submerging certain lands adjacent thereto wholly situate in the parishes of Falkland and Leslie in the county of Fife:

Work No. 2 An enlargement extension and heightening of the existing embankment of Holl Reservoir (authorised by the Act of 1896) wholly situate in the parish of Leslie in the county of Fife to commence at a point fifteen yards or thereby measured in a south-westerly direction from the south-west end of the existing embankment and terminating at a point thirty-five yards or thereby measured in a north-easterly direction from the north-east end of the existing embankment thereby raising the existing top water level of the said reservoir and submerging certain lands adjacent thereto wholly situate in the said parish of Leslie in the county of Fife:

Work No. 3 An enlargement extension heightening and reconstruction of the existing embankment of Arnot Reservoir (authorised by the Act of 1896) wholly situate in the parish of Portmoak in the county of Kinross to commence at a point one hundred and forty yards or thereby measured in a north-easterly direction from the north corner of the cottages situate about five hundred yards north of Arnot Tower and terminating at a point two hundred yards or thereby measured in a westerly direction from the south-west corner of the plantation known as "The Common":

Work No. 4 An aqueduct conduit or line or lines of pipes situate in the parishes of Portmoak and Leslie commencing in the parish of Portmoak in the county of Kinross at the embankment of Arnot Reservoir at a point three hundred yards or thereby measured in a westerly direction from the south-west corner of the before-mentioned plantation known as "The Common" and terminating in the parish of Leslie in the county of Fife at or near the filter-house beside Holl Reservoir embankment:

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Work No. 5 A channel aqueduct conduit or line or lines of pipes wholly situate in the parish of Leslie in the county of Fife commencing at a point in the byewash channel at the south corner of Drumain Reservoir and terminating in Holl Reservoir at a point in the old Lothrie Burn watercourse fifty yards or thereby measured in an easterly direction from the east corner of Lothrie Cottage:

Work No. 6 A cut channel or line or lines of pipes situate in the parishes of Leslie and Portmoak commencing in the parish of Leslie in the county of Fife at a point on the Drumain Burn one thousand four hundred yards or thereby measured in a westerly direction from the west end of Drumain Reservoir and terminating in the parish of Leslie in the county of Fife at a point in the stream flowing into Holl Reservoir and sometimes described as the "Holl Burn" at a point one thousand two hundred yards or thereby measured in a westerly direction from the west corner of Lothrie Cottage:

Work No. 7 Filters wholly situate in the parish of Leslie in the county of Fife at or near the filter-house beside Holl Reservoir embankment.

Power to empty Arnot Reservoir.

6. Notwithstanding anything contained in the recited Acts the Commissioners may empty Arnot Reservoir during its reconstruction (Work No. 3) and they shall then and until the completion of the enlarged reservoir allow the waters of the existing feeders of Arnot Reservoir to pass freely through the site of the said reservoir and down the Arnot Burn Provided that during the said reconstruction and the suspension of the provisions for the discharge of a continuous flow of compensation water into the Arnot Burn the Commissioners shall turn into its old channel the water from a drainage area of 205 acres which was diverted from the Arnot Burn to the Lothrie Burn at Holl Reservoir as authorised by the Act of 1896.

To prevent the contamination of the water of the Arnot Burn in the exercise of the powers herein conferred the Commissioners shall take such precautions and shall carry out such works as may be agreed upon between them and the River Leven trustees or between engineers duly authorised by the Commissioners and the River Leven trustees respectively to act on their behalf and failing agreement as may be determined by

David Westland civil engineer Edinburgh whom failing by David A. Stevenson civil engineer Edinburgh whom failing by an engineer to be appointed (unless otherwise agreed) by the sheriff of the county of Fife on the application of either party and that as sole arbiter.

Water in Ballo Reservoir not to be completely drawn off.

7. The Commissioners in the administration of the works shall not without the consent which shall not be unreasonably withheld of the respective owners of the lands on which Ballo Reservoir is constructed and of the River Leven trustees discharge the compensation water to the Lothrie Burn in such a manner as to allow the water level in Ballo Reservoir to fall lower than twelve feet six inches below the overflow sill as proposed to be altered.

Power to make subsidiary works.

8. In addition to the waterworks by this Order authorised and in connection therewith the Commissioners may upon or in the lands delineated on the deposited plans and described in the deposited book of reference make erect reconstruct and maintain all such embankments dams weirs intake weirs by-wash channels bridges roads accesses approaches wells tanks gauges filter-beds sluices outlets drains aqueducts culverts channels ditches catchwaters cuts mains pipes engines machinery buildings telegraphs telephones posts wires and other works and conveniences as may be necessary or convenient in connection with or subsidiary to the waterworks or any of them but nothing in this section shall exonerate the Commissioners 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 Commissioners shall not be used in contravention of the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869.

Power to deviate.

9. The Commissioners may in constructing the works by this Order authorised deviate laterally from the lines and position thereof as shown on the deposited plans to the extent of the limits of lateral deviation shown thereon and where on any road no such limits are shown the boundaries of such road shall be deemed to be such limits and the Commissioners may also 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 always that except for

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the purposes of crossing over a stream no part of any pipe shall be raised above the surface of the ground unless and except so far as is shown on the deposited sections Provided further that the Commissioners shall not construct any embankment or retaining wall of any reservoir of a greater height above the general surface of the ground than that shown on the deposited sections in the case of the corresponding embankment or wall and five feet in addition.

Power to open roads &c.

10. For the purposes and during the execution of the several works which the Commissioners are by this Order authorised to make and in maintaining the same and subject to the provisions of this Order the Commissioners may temporarily from time to time break up or cross over or under alter or stop up any streets highways roads lanes paths bridges passages sewers drains watercourses and water pipes and electric or telephonic 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 highway street road lane path bridge or passage or the flow of water sewage or electricity or telephonic communication in any such sewer drain watercourse pipe or apparatus and making full compensation to all persons injuriously affected thereby Provided that nothing in this section shall extend to or authorise any interference with electric telegraphic or telephonic apparatus or other property 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 1890 to which the provisions of section 15 of the Electric Lighting Act 1882 apply.

Commissioners may enlarge or increase number of pipes.

11. The Commissioners may from time to time subject to the provisions of this Order maintain use extend alter renew relay replace enlarge and increase the number and size of the works (other than reservoirs) mains pipes filters filter-beds tanks channels and other works and conveniences from time to time in use or required for filtering storing conveying and distributing water for the purposes of their undertaking Provided always that such extension enlargement or increase shall be executed only on lands or property belonging to the Commissioners or which may be acquired by them by agreement or in any roads

or streets which they may be by the Waterworks Clauses Acts 1847 and 1863 the recited Acts or this Order authorised to open and break up.

Power to take water.

12. Subject to the provisions of this Order it shall be lawful for the Commissioners to take intercept collect and divert into and to impound and store up in the reservoirs and other works by this Order and by the recited Acts authorised or some of them the waters of the stream known as the Lothrie Burn and the tributaries and affluents thereof at any point above the existing embankment of the Holl Reservoir together with the waters of the stream called the Arnot Burn and the tributaries and affluents thereof at any point above the existing embankment of the Arnot Reservoir and to use and appropriate the said several waters for the purposes of the undertaking and of the recited Acts and this Order.

Laying mains on public roads.

13. The Commissioners may subject to the consent of the road authority at any time for the purposes of conveying water from any of the works by this Order authorised or for distributing and supplying water beyond the limits of compulsory supply lay down make maintain and use aqueducts conduits or lines of pipes through over under along across or into any public road or highway and renew alter enlarge duplicate and increase the number and size thereof or extend the same and stop up temporarily any such public road or highway for such purposes providing when possible a proper temporary substitute to the reasonable satisfaction of the road authority before interrupting the traffic on any such road and making full compensation to all persons injuriously affected by anything done under the provisions of this section.

As to compensation water to Lothrie Burn.

14. The provisions of the recited Acts in regard to compensation water to the Lothrie Burn shall (notwithstanding the provisions of the section of this Order the marginal note whereof is "Repeal of sections of certain former Acts and Order") have effect until the date of the completion of the said enlarged Ballo Reservoir and the first filling thereof and thereafter the following provisions shall apply:—

(*a*) The Commissioners shall during every day of twenty-four hours discharge or deliver into the stream known as the Lothrie Burn at the existing gauge below the foot of the embankment of the said Holl Reservoir not less than one million four hundred and

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fifty-four thousand gallons of water in a continuous flow :

(*b*) For the purpose of measuring the quantity of water to be so discharged or delivered into the said stream the Commissioners shall for ever maintain on the site of the existing gauge before referred to a proper and suitable measuring gauge over or through which the said compensation water shall flow and such gauge shall be under the sole management and control of the Commissioners and shall be open to the inspection and examination at all times by night or day of all persons interested therein or of persons duly authorised by them in that behalf The said gauge shall be fitted with a suitable recording instrument and the charts therefrom shall be kept in the office of the Commissioners' superintendent at Kirkcaldy and shall be open to the inspection and examination at all reasonable times of all persons interested therein or of persons duly authorised by them in that behalf as aforesaid with a right to copy the same :

(*c*) In case of any neglect on the part of the Commissioners to maintain the gauge 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 Commissioners shall for every day on which such neglect occurs forfeit and pay to each of the persons affected thereby (who may sue for and recover the same) the sum of five pounds and shall in addition make compensation for any loss damage or injury sustained by such persons or any of them :

(*d*) If any difference arises between the Commissioners and any person so interested with respect to the construction or use of the gauge or the state of repair or condition thereof or as to the quantity of compensation water such difference shall be referred to the arbitration of an engineer to be nominated (unless otherwise agreed) on the application of either of them by the sheriff of the county of Fife :

(*e*) Except in respect of any lands situate between the foot of Holl Reservoir embankment and the said point of

discharge of water into the Lothrie Burn the provisions of this section shall be accepted and taken by all persons interested as full compensation for all waters of the Lothrie Burn and the tributaries and affluents thereof which the Commissioners can divert collect impound or appropriate by means of the works authorised by this Order and the recited Acts and in substitution for the compensation water provided to the Lothrie Burn by section 39 of the Act of 1867 and section 12 of the Act of 1896.

As to compensation water to Arnot Burn.

15. Prior to the emptying of Arnot Reservoir as authorised by the section of this Order of which the marginal note is "Power to empty Arnot Reservoir" the provisions of section 12 of the Act of 1896 in regard to compensation water to the Arnot Burn shall (notwithstanding the provisions of the section of this Order the marginal note whereof is "Repeal of sections of certain former Acts and Order") have effect and after the date of the completion of the said enlarged Arnot Reservoir and the first filling thereof the following provisions shall apply:—

(*a*) The Commissioners shall during every day of twenty-four hours discharge or deliver into the stream known as the Arnot Burn at the existing gauge below the foot of the embankment of the said Arnot Reservoir not less than three hundred and seventy-five thousand gallons of water in a continuous flow:

(*b*) For the purpose of measuring the quantity of water to be so discharged or delivered into the said stream the Commissioners shall for ever maintain on the site of the existing gauge before referred to a proper and suitable measuring gauge over or through which the said compensation water shall flow and such gauge shall be under the sole management and control of the Commissioners and shall be open to the inspection and examination at all times by day or night of all persons interested therein or of persons duly authorised by them in that behalf The said gauge shall be fitted with a suitable recording instrument and the charts therefrom shall be kept in the office of the Commissioners' superintendent at Kirkcaldy and shall be open to the inspection and

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examination at all reasonable times of all persons interested therein or of persons duly authorised by them in that behalf as aforesaid with a right to copy the same:

(*c*) In case of any neglect on the part of the Commissioners to maintain the gauge 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 Commissioners shall for every day on which such neglect occurs forfeit and pay to each of the persons affected thereby (who may sue for and recover the same) the sum of five pounds and shall in addition make compensation for any loss damage or injury sustained by such persons or any of them:

(*d*) If any difference arises between the Commissioners and any person so interested with respect to the construction or use of the gauge or the state of repair or condition thereof or as to the quantity of compensation water such difference shall be referred to the arbitration of an engineer to be nominated (unless otherwise agreed) on the application of either of them by the sheriff of the county of Fife:

(*e*) Except in respect of any lands situate between the foot of the said Arnot Reservoir embankment and the said point of discharge of water into the Arnot Burn the provisions of this section shall be accepted and taken by all persons interested as full compensation for all waters of the Arnot Burn and the tributaries and affluents thereof which the Commissioners can divert collect impound or appropriate by means of the works authorised by this Order and the recited Acts and in substitution for the compensation water provided to the Arnot Burn by section 12 of the Act of 1896.

Power to take lands.

16. Subject to the provisions of this Order the Commissioners may purchase acquire hold enter upon appropriate take and use such of the lands shown on the deposited plans and described in the deposited book of reference as may be required for the purposes of the works by this Order authorised.

For protection of owners of lands on which reservoirs are constructed.

17. There shall be reserved to the respective owners of the lands on which the said enlarged Ballo Reservoir Holl Reservoir and Arnot Reservoir are to be constructed and their respective successors in the said lands the exclusive right of fishing shooting sporting curling and skating in or over the said reservoirs so far as the same are to be constructed on the lands of such owners respectively and also of keeping and using boats on the said reservoirs with power to erect and maintain boat-houses thereon and with all rights of access that shall be necessary for the full use and enjoyment of the fishing shooting and sporting rights hereby reserved but so that the exercise of such rights shall not injure the embankments pipes sluices or other works and shall not foul or pollute the said reservoirs: Provided always that the Commissioners or their engineer or persons under their or his control may enter upon the said lands and may keep and use boats on the said reservoirs for the purpose of examining and repairing the works of the Commissioners Provided further that nothing herein contained shall prevent the Commissioners from using and appropriating the waters of and in the said reservoirs for the purposes of the recited Acts and this Order or from causing the waters to be drawn or let off from the said reservoirs for the purposes of repairing or inspecting the state of such reservoirs or any of the dams banks tanks channels water-gates pipes or other works appertaining thereto or for the purpose of cleaning out such reservoirs or any part thereof but in any such case the Commissioners shall use all convenient speed in making such repairs or in executing such cleaning.

Power to agree for 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 Commissioners 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

19. The Commissioners may in lieu of acquiring any lands for the purposes of the conduits or lines of pipes by this Order

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for lines of pipes.

authorised where the same are intended to be constructed underground acquire such servitudes only 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 and in respect of the acquisition of such servitudes as fully as if the same were lands within the meaning of those 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 also that as regards any lands in respect of which the Commissioners have acquired servitudes only under the provisions of this section the Commissioners shall not 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 subject to such servitudes at all times have the same rights to use and cultivate the said lands as if this Order had not been confirmed.

Power to acquire lands by agreement.

20. In addition to the lands authorised to be taken as aforesaid the Commissioners may purchase by agreement lands not exceeding five acres for the purposes of making depôts pipe-yards and other buildings and conveniences in connection with the undertaking and the works by this Order authorised 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.

Limiting power of Commissioners to abstract water.

21. The Commissioners 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 Order or in any Act of Parliament or Order confirmed by Parliament.

For protection of reservoirs &c. from pollution.

22. 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 may think necessary or desirable for preventing sewage or polluting liquids or contaminated or impure water from entering or polluting any of the reservoirs conduits or watercourses of the Commissioners or any waters flowing into the same.

Reservation of water rights on sale.

23. The Commissioners on selling any lands acquired for or in connection with the purposes of the recited Acts and 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 power of Commissioners to abstract water" reserve to themselves all or any part of the water rights belonging thereto and may make the sale subject to such reservation accordingly and may also make any such sale subject to such other reservations special conditions restrictions and provisions with respect to use of water exercise of noxious trades or discharge or deposit of manure sewage or other impure matter or otherwise as they may think fit.

Power to agree as to drainage of lands.

24. The Commissioners may make and carry into effect agreements with the owners lessees or occupiers of any lands within the drainage area of any reservoirs and works belonging to the Commissioners with reference to the execution by the Commissioners or such owners lessees or occupiers of such works as may be necessary for the purpose of draining such lands or any of them or for more effectually collecting conveying and preserving the purity of the waters by the recited Acts or this Order authorised to be diverted collected and appropriated by the Commissioners flowing to upon or from such lands directly or derivatively into such reservoirs and works.

Accommodation for workmen &c.

25. The Commissioners shall if and when required by the local authority of the district in which the works by this Order authorised are situate (in this section called "the local authority") make provision to the satisfaction of the local authority for the proper housing and sanitary requirements of the persons employed in constructing the works by this Order authorised and for the treatment of cases of sickness (other than infectious disease) and accident occurring among the said persons during the construction of the said works Provided that in considering what provision is required as aforesaid the local authority shall take into consideration the provision already available

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in the neighbourhood of or conveniently accessible from the said works.

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

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

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

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

Power to acquire and hold lands for prevention of pollution.

26. In addition to the powers contained in section 4 of the Order of 1908—

(1) The Commissioners may hold any lands transferred to or 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 Commissioners 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 Commissioners 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 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 the purposes of this Order to which capital is properly applicable:

(3) Nothing in this Order shall exonerate the Commissioners 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 Commissioners shall not erect or permit the erection of any buildings on such lands except such as are required in connection with the water undertaking or for farm buildings.

Power to discharge water temporarily into streams.

27. The Commissioners may at any time for the purpose of repairing or of cleansing any existing works or any of the works or aqueducts authorised by this Order cause the water in any such works or aqueducts to be temporarily discharged into any available drain 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 powers the amount of compensation to be settled in case of difference by arbitration.

Period for compulsory purchase of lands.

28. The powers of the Commissioners for compulsory purchase of lands for the works authorised by this Order shall not be exercised after the expiration of five years from the commencement of this Order.

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Period for completion of works.

29. If the works other than the enlargement of Holl Reservoir Work No. 2 authorised to be constructed by this Order are not completed within seven years from the commencement of this Order and if the said Work No. 2 is not completed within fifteen years from the commencement of this Order then on the expiration of these periods respectively 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 maintaining using extending enlarging altering replacing relaying increasing adding to or removing any of their conduits aqueducts mains or pipes at any time and from time to time as occasion requires for the purpose of supplying water under this Order.

Suspension of constant pressure during repairs &c.

30. The water to be supplied by the Commissioners need not be constantly laid on under pressure during the execution of necessary repairs renewals or alterations.

Relief from obligation to provide constant supply or constant pressure until completion of works.

31. Notwithstanding anything in the Waterworks Clauses Act 1847 contained the water to be supplied by the Commissioners within the limits for compulsory supply as defined in the Act of 1867 and extended by the Act of 1876 and the Order of 1910 need not be constantly supplied or laid on under pressure and their pipes to which fire-plugs are fixed need not at all times be charged with water until the expiry of seven years from the commencement of the Order or until after completion of the enlarged reservoirs Works No. 1 and No. 3 authorised by this Order in the event of the said works being completed within the said period of seven years.

Compensation for damage caused by bursting or giving way of reservoirs.

32. The Commissioners shall make full compensation to all persons for all damage and injury losses and expenses whatsoever which may at any time be incurred or suffered by reason or in consequence of the bursting or giving way of any of the reservoirs or the aqueducts by this Order or the recited Acts authorised and such compensation shall be paid and satisfied out of any rates revenues or funds for the time belonging to the Commissioners.

Repeal of sections of certain former Acts and Order.

33. From and after the commencement of this Order the sections of the Acts and Order mentioned in the schedule to this Order are hereby repealed.

Water for road &c. purposes.

34. Water supplied to any local or road authority for road purposes and for flushing sewers shall be supplied through a standpipe the diameter of the orifice of which shall be determined by the Commissioners.

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

35. Every person who takes water from any of the public fountains or standpipes supplied from any of the mains or pipes of the Commissioners for any purpose other than domestic use or drinking shall for every such offence be liable to a penalty not exceeding five pounds.

Tube or hose not to be affixed to mains or pipes without notice to Commissioners.

36. Before the owner or occupier of any house or premises supplied with water by the Commissioners affixes or permits or suffers to be affixed any tube or hose to any of the mains or pipes of the Commissioners or to any service pipe or apparatus of such owner or occupier for the purpose of washing horses or carriages or other vehicles houses or buildings or windows or for watering gardens or washing pavements of roads or for any other purpose he shall give notice in writing to the Commissioners of his intention so to do and any person offending against this enactment except by arrangement with the Commissioners shall for every such offence be liable to a penalty not exceeding forty shillings.

Commissioners not bound to supply several houses by one pipe.

37. The Commissioners except where otherwise expressly provided in this Order 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 Commissioners 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 Commissioners or be given by the consumer personally at the office of the Commissioners.

Supply to houses partly used for trade &c.

39. The Commissioners 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.

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

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The provisions of section 16 of the Waterworks Clauses Act 1863 shall extend to authorise the Commissioners to let or hire any water fittings to any person supplied by them with water.

Injuring meters &c.

41. 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 Commissioners or who fraudulently alters the index to any meter or other instrument for measuring water or prevents any meter or other instrument for measuring water from duly registering the quantity of water supplied or fraudulently abstracts consumes or uses water of the Commissioners shall (without prejudice to any other right or remedy for the protection of the Commissioners) be liable to a fine not exceeding five pounds and the Commissioners 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 Commissioners 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 Commissioners the Commissioners 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 ensuring 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 Commissioners by the person so offending and may be recovered by them as water rates and assessments are recoverable The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or using water of the Commissioners 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.

As to borrowing powers in recited Acts.

42. The powers to borrow and raise money and to grant security therefor contained in the recited Acts 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 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.

43. The Commissioners may from time to time borrow on mortgage the following sums of money and may make and grant mortgages of the assessments rates rents and charges by the recited Acts and this Order authorised in security of the money so borrowed and interest thereon (that is to say):—

(*a*) For the purchase of land and other property and rights the sum of four thousand pounds;

(*b*) For the construction of reservoirs the sum of thirty-three thousand pounds;

(*c*) For the construction of filters the sum of eight thousand pounds;

(*d*) For trunk conduits mains and catchwaters the sum of six thousand pounds;

(*e*) For subsidiary works the sum of one thousand pounds;

(*f*) For the general purposes of their water undertaking to which capital is properly applicable the sum of twelve thousand pounds; and

(*g*) For the costs of this Order the sum necessary for that purpose.

Commissioners may borrow on cash account.

44. The Commissioners may accept and take from any bank or banking company credit on a cash account to be opened and kept by such bank or banking company in the name of the Commissioners according to the usage of bankers in Scotland to the extent of the sum which the Commissioners are authorised to borrow under the authority of this Order or any part thereof and may make and grant mortgages of the several rates and charges leviable by them under the recited Acts and this Order in security of the payment of the amount of such credit or of the sums advanced from time to time on such cash account with interest thereon Provided always that the whole principal sums due and owing by the Commissioners on such cash account and otherwise borrowed by them shall not when taken together exceed the sums by the recited Acts and this Order authorised to be borrowed.

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Debt may be funded.

45. The Commissioners may fund the whole or any part of the sums to be raised on mortgage under the authority of this Order under the powers and provisions with the rights and privileges and subject to the restrictions and conditions which are contained in sections ninety-five to ninety-nine both inclusive of the Act of 1867.

Provisions as to mortgages &c. in Act of 1867 to be applicable to this Order.

46. Sections ninety-one ninety-two ninety-four and one hundred and three of the Act of 1867 shall be and are hereby made applicable to the money to be borrowed and the mortgages interest warrants drafts or orders and discharges to be granted under the authority of this Order in the same manner as if the money to be borrowed and the mortgages interest warrants drafts or orders and discharges to be granted under the authority of this Order had been borrowed or granted under the authority of the Act of 1867.

Provisions as to judicial factors to be applicable to this Order.

47. Sections one hundred one hundred and one and one hundred and two of the Act of 1867 shall be and are hereby made applicable to the money to be borrowed or raised and to the mortgages and certificates of funded debt to be granted and issued under the authority of this Order in the same manner as if the money to be borrowed or raised under the authority of this Order had been borrowed or raised under the authority of the Act of 1867.

Application of money borrowed or raised.

48. The several sums borrowed or raised by the Commissioners on mortgage or by means of the funded debt under the authority of this Order shall be applied for the purposes of this Order and of the recited Acts to which capital is properly applicable and to no other purpose whatsoever Provided that with the exception of the cost of enlarging or increasing the number of mains and pipes and of extending the works mains and pipes the several sums borrowed or raised by the Commissioners under the authority of this Order shall not be applied to any of the purposes to which the rates and charges by the recited Acts and this Order authorised to be levied are by this Order specially made applicable.

Priority of existing mortgages and securities.

49. All mortgages certificates of funded debt and securities granted by the Commissioners in pursuance of the powers of the recited Acts which shall be subsisting at the passing of the Act confirming this Order shall during the continuance of such

mortgages funded debt and securities have priority over any mortgages funded debt or securities to be granted or created by them under this Order and all such last-mentioned mortgages funded debt and securities shall rank together pari passu without any preference or priority the one over the other.

Protection of lenders from inquiry.

50. Any person lending or paying money under this Order to the Commissioners shall not be bound to inquire as to the observance by the Commissioners of any of the provisions of the recited Acts or this Order 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.

Annual estimate to include interest and annuity on money borrowed or funded.

51. In estimating and fixing once in every year the amount of money necessary to be levied for the purposes mentioned in section sixty-seven of the Act of 1867 the Commissioners shall not only include the annual sums and expenditure specified in the recited Acts but likewise the interest on the money and the annuity on the funded debt that may be borrowed or created under the authority of this Order and the sum by this Order provided to be set apart as a sinking fund and the rates by the recited Acts and this Order authorised shall be assessed and levied to such an extent as will be sufficient to meet the same and the amount so levied shall be applied in payment thereof.

Mode of repayment of borrowed money.

52. The Commissioners shall pay off all moneys borrowed by them under this Order either by means of a sinking fund formed under the provisions of this Order or by equal yearly or half-early instalments of principal or of principal and interest combined or partly by one of these methods and partly by another or others of them.

Period of repayment of borrowed money.

53. The Commissioners shall pay off all moneys borrowed under the section of this Order the marginal note whereof is "Power to borrow additional money" other than money borrowed for the costs of this Order within the period of forty years from the date or dates of borrowing the same (hereinafter referred to as "the prescribed period").

Sinking fund.

54.—(1) If the Commissioners determine to repay by means of a sinking fund any moneys borrowed such sinking fund shall be formed or maintained either—

(*a*) By payment to the fund throughout the prescribed period of such equal annual sums as will together

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amount to the moneys for the payment 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 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 Commissioners the Commissioners 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 Commissioners towards the equal annual payments to the fund.

(4) The Commissioners 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 Commissioners 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 Commissioners:

(*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 Commissioners in addition to the payments provided for by this Order.

(7) If it appears to the Secretary for Scotland or to the Commissioners 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 Commissioners to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose.

(8) If the Commissioners desire to accelerate the repayment of any loan they may increase the amount 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 Commissioners be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Commissioners 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 Commissioners be sufficient to repay the loan in respect of which it is formed within the prescribed period the Commissioners may with the consent of the Secretary for Scotland discontinue the annual payments to such sinking fund.

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(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 Commissioners may determine.

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

55. The treasurer of the Commissioners shall within two months after the expiration of each financial year during which any sum is by the recited Acts or this Order required to be set aside as 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 set apart in respect of that year and also showing the purposes to which any portion of such sinking fund and the interest thereof have been applied during the same period and the total amount remaining to the credit of such fund at the end of the same period and in the event of any default in making such return the treasurer of the Commissioners shall be liable to a penalty not exceeding twenty pounds recoverable by the Secretary for Scotland as a debt to the Crown is recoverable If it appears to the Secretary for Scotland by such return or otherwise that the Commissioners have failed to pay any instalment or to set apart any sum so required to be paid or set apart or to make any increased payment to the sinking fund under the recited Acts or this Order required or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by the recited Acts or 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 aside 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.

Application of rates and charges.

56. 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):—

First In defraying the expenses of management and maintenance of the undertaking of the Commissioners

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 or ground annuals exigible in respect of any lands streams or property forming part of the said undertaking;

Second In payment of the interest of money which may have been or may be borrowed and of the annuity on the funded debt which may have been or may be issued under the authority of the recited Acts and this Order or under any of them;

Third In payment of such portion of the cost of enlarging and increasing the number of mains and pipes and of extending the works mains and pipes from time to time as may properly be charged against the revenue for the year and of any other necessary annual expenditure; and

Lastly In payment of the instalments or the contributions to the sinking fund by the recited Acts and this Order required for the repayment of borrowed money.

Costs of Order.

57. All costs charges and expenses of and incidental to the preparing for and making of this Order and to the confirmation thereof by Parliament or otherwise in relation thereto shall be paid by the Commissioners out of the rates and charges and other revenues to be levied and received by them or the moneys to be borrowed for that purpose under the authority of this Order Provided that any money borrowed for paying any such costs charges and expenses shall be repaid within five years from the commencement of this Order.

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SCHEDULE referred to in the foregoing Order.

I.—THE ACT OF 1867.

Section 38 (Power to take waters of Lothrie Burn and its tributaries and affluents).

Section 39 (Compensation water to Lothrie Burn and provision for gauges).

Section 40 (Construction and inspection of reservoirs).

Section 45 (Inspection of gauge for compensation water).

Section 46 (As to discharge of compensation water).

II.—THE ACT OF 1881.

Section 8 (Power to divert and impound water).

III.—THE ACT OF 1896.

Section 11 (Power to divert and impound water).

Section 12 (Compensation water and provision as to gauges).

Section 16 (Inspection of gauges for compensation water).

Section 18 (As to discharge of compensation water).

IV.—THE ORDER OF 1908.

Section 23 (Application of rates and charges).

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FOR
FREDERICK ATTERBURY, Esq., C.B., the King's Printer of Acts of Parliament.

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