CHAPTER i.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Kirkcaldy and Dysart Water. [21st February 1924.]

A.D. 1924.

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 1924.

[*Price 2s. Net.*]

A.D. 1924.

SCHEDULE.

KIRKCALDY AND DYSART WATER.

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 suburbs 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

A.D. 1924.

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 :

And whereas by the Kirkcaldy and Dysart Waterworks Order 1913 (hereinafter called "the Order of 1913") the Commissioners were authorised to enlarge their works by heightening the embankments of three of their reservoirs known as Ballo Reservoir Holl Reservoir and Arnot Reservoir and to construct filters and other works :

And whereas the Commissioners duly acquired the waterworks 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 have acquired portions of the drainage area as authorised by the Order of 1908 have carried out the enlargement and heightening of Ballo Reservoir (Work No. 1) authorised by the Order of 1913 and have constructed and laid the aqueducts conduits or lines of pipes (Works Nos. 5 and 6) authorised by the Order of 1913 but have not constructed the other works authorised by the Order of 1913 and the powers for doing so except in respect to the enlargement of Holl Reservoir (Work No. 2) have lapsed :

And whereas for the purpose of utilising to the full extent the waters in the drainage area under their control the Commissioners are constructing a new conduit or line of pipes from Holl Reservoir to Carberry distributing reservoir and it is expedient that this work should be confirmed :

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 reservoir and works hereinafter described for the purpose of affording an increased supply of water :

And whereas by the Act of 1896 certain provisions are made as to the discharge of compensation water from the reservoir on the Arnot Burn authorised by the Act of 1896 and it is expedient that these provisions should be 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) :— A.D. 1924.

	£
For permanent works—	
Purchase of lands and servitudes -	6,000
Reservoirs - - - - - -	54,000
Filters - - - - - -	20,000
Conduits mains and catchwaters - -	50,000
Subsidiary works - - - -	5,000
	135,000

And whereas the said works are permanent works 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 exercise their existing powers of levying water-rates assessments and charges authorised by the recited Acts for the purposes of the works and for the purchase of lands and servitudes authorised by and for the purposes of this Order and to borrow further money for the purposes of the 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 :

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 and Kirkcaldy 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 :

A.D. 1924.

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 1924 and the recited Acts and this Order may be cited as the Kirkcaldy and Dysart Waterworks Acts 1867 to 1924.

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 section 4 of the Order of 1910 and the Order of 1913 :

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.

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.

Confirmation of construction of existing work.

5. The construction and maintenance by the Commissioners of the work shown on the deposited plans and sections and hereinafter in this section described are hereby sanctioned and confirmed and the Commissioners may retain hold and use any lands and property or any interest therein which have been already acquired by them or which may be acquired under this Order for the purposes of or in connection with the said work and may enter upon take and use such of the lands described in the deposited plans and book of reference as they may require for those purposes and the expenditure by the Commissioners for the purposes of the said lands and works is also hereby sanctioned and confirmed.

The work in this section referred to is:—

Work No. 1 An aqueduct conduit or line of pipes commencing in the parish of Leslie at the filter house at Holl Reservoir and terminating

A.D. 1924.

in the parish of Kirkcaldy and Dysart in the measuring house at Carberry Reservoir which aqueduct conduit or line of pipes will pass from through in or into the parishes of Leslie Kinglassie and Kirkcaldy and Dysart in the county of Fife.

Power to make works.

6. 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. 2 An enlargement extension heightening and reconstruction of the embankment of the existing Arnot Reservoir wholly situate in the parish of Portmoak and county of Kinross commencing at a point one hundred and thirty-two 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 one hundred and ninety yards or thereby measured in a westerly direction from the south-west corner of the plantation known as "the Common" thereby raising the existing top water level of the said reservoir and submerging lands adjacent thereto wholly situated in the said parish of Portmoak and county of Kinross.

Work No. 3 An aqueduct conduit or line or lines of pipes commencing in the parish of Portmoak and county of Kinross at the outlet of the culvert through the existing embankment of Arnot Reservoir and terminating in the parish of Leslie and county of Fife at a point in conduit Work No. 1 (hereinbefore described) six hundred and seventy yards or thereby measured in an easterly direction from the commencement of the said conduit Work No. 1 at Holl Filters which said aqueduct conduit or line or lines of pipes will be situated in or will pass from through or into the parish of Portmoak and county of Kinross and the parish of Leslie and county of Fife.

Work No. 4 An aqueduct conduit or line or lines of pipes wholly situate in the parish of Portmoak and county of Kinross commencing at a point in the stream known as the Back Burn four hundred and twenty yards or thereby measured in a southerly direction from the north-east corner of enclosure numbered 56 on the 25-inch Ordnance survey map of Kinross-shire edition 1914 and terminating by a junction with the conduit Work No. 3 at a point seventy yards or thereby measured in a southerly direction from the commencement of the said conduit Work No. 3.

Work No. 5 An aqueduct conduit or line or lines of pipes commencing in the bye-wash channel at the north-east corner of Holl Reservoir authorised by the Act of 1896 and terminating at a point in the River Leven five hundred and twenty yards measured in a westerly direction from the bridge crossing the said river at Walkerton which work is situated wholly in the parish of Leslie and county of Fife.

Work No. 6 Filters wholly situated in the parish of Kirkcaldy and Dysart and county of Fife in the enclosures numbered 515 516 and 545 on the 25-inch Ordnance survey sheet of the county of Fife edition 1914.

Work No. 7 An aqueduct conduit or line or lines of pipes wholly situate in the parish of Kirkcaldy and Dysart and county of Fife commencing by a junction with conduit Work No. 1 (hereinbefore described) at a point forty yards or thereby measured in a northerly direction from the termination of the said conduit Work No. 1 and terminating in the filters Work No. 6 hereinbefore described.

New works to form part of water undertaking.

7. Subject to the provisions of this Order the work already constructed and sanctioned and confirmed by this Order and the works to be constructed under this Order and any lands which may have been acquired for the works already constructed or which may be acquired under this Order shall for all purposes whatsoever be and be deemed to be part of the undertaking.

A.D. 1924.

Power to empty Arnot Reservoir and as to compensation water to Arnot Burn.

8. Sections 6 and 15 of the Order of 1913 are hereby repealed and in lieu thereof the following provisions shall have effect :—

(*a*) Notwithstanding anything contained in the recited Acts the Commissioners may empty Arnot Reservoir during its reconstruction :

(*b*) Prior to the emptying of Arnot Reservoir or carrying water away from the Arnot Burn or the tributaries or affluents thereof as herein authorised or reducing interfering with or stopping the compensation water to be delivered from Arnot Reservoir in terms of section 12 of the Act of 1896 the Commissioners shall complete the conduit Work No. 5 of this Order and shall thereafter by means of the said conduit Work No. 5 deliver from Ballo and Holl Reservoirs or from one of them not less than 369,320 gallons of water every day of 24 hours in a continuous flow into the River Leven at a point above Walkerton Mills and 6000 gallons of water every day of 24 hours in a continuous flow from the conduit Work No. 3 of this Order to the proprietor of Arnot Estate as provided for in the agreement set forth in the schedule to this Order :

(*c*) The said respective quantities of water delivered into the River Leven above Walkerton Mills as aforesaid shall be in substitution of the obligation to discharge compensation water from Arnot Reservoir in accordance with the provisions contained in the recited Acts and the provisions of this section and of the agreement set forth in the schedule to this Order shall be accepted and taken by all persons interested as full compensation for all the waters of the stream called the Arnot Burn and the tributaries and affluents thereof at any point above the embankment of Arnot Reservoir as enlarged under the powers of this Order which 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 in this Order and by the recited Acts authorised and to use and appro-

priate for the purposes of the undertaking and the recited Acts and this Order:

(*d*) For the purpose of measuring the quantity of water to be so discharged into the River Leven above Walkerton Mills the Commissioners shall erect and maintain at the point of discharge into the said river a proper and suitable measuring gauge over or through which the said compensation water shall flow and the same shall be open to the inspection and examination of all persons interested therein If required by the River Leven Trustees 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:

(*e*) 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:

(*f*) 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 Fife and Kinross (hereinafter referred to as "the sheriff").

For prevention of contamina-

9. To prevent the contamination of the water of the Arnot Burn in the exercise of the powers herein conferred

A.D. 1924.

tion of Arnot Burn.

the Commissioners shall take such precautions and shall carry out such works as may be agreed upon between them and the River Leven Trustees respectively 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 an engineer to be appointed (unless otherwise agreed) by the sheriff on the application of either party and that as sole arbiter.

Power to make subsidiary works.

10. 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 catch-waters 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.

11. 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 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 take water.

12. The provisions of section 12 of the Order of 1913 the marginal note whereof is "Power to take water" in so far as relating to the waters of the Arnot Burn and the tributaries and affluents thereof are hereby repealed and 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 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 waters for the purposes of the undertaking and of the recited Acts and this Order.

Power to take lands.

13. 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.

Period for compulsory purchase of lands.

14. 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 three years from the commencement of this Order.

Period for completion of works.

15. If the works authorised to be constructed by this Order are not completed within seven years from the commencement of this Order then on the expiration of that period the powers by this Order granted to the Commissioners for executing any works not so completed or in relation thereto shall cease except as to so much thereof as is then completed but nothing herein contained shall restrict the Commissioners from 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.

A.D. 1924.

Confirming agreement with T. F. Hope Bruce of Arnot.

16. The agreement between the Commissioners on the one part and Thomas Francis Hope Bruce Esquire of Arnot on the other part as set forth in the schedule to this Order is hereby confirmed and made binding on the Commissioners and on the said Thomas Francis Hope Bruce and his successors in the said estate of Arnot.

For protection of proprietor of Arnot Estate.

17. There shall be reserved to the owner of the lands on which the Arnot Reservoir is constructed and the said enlarged Arnot Reservoir is to be constructed and his successors in the said lands the exclusive right of fishing shooting sporting curling and skating in or over the said reservoir and also of keeping and using a boat on the said reservoir with power to erect and maintain a boat-house thereon and with all rights of access which 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 reservoir 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 reservoir 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 reservoir for the purposes of the recited Acts and this Order or from causing the waters to be drawn or let off from the said reservoir for the purposes of repairing or inspecting the state of such reservoir or any of the dams banks channels water gates pipes or other works appertaining thereto or for the purpose of cleaning out such reservoir 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.

For protection of Kirkcaldy District Committee.

18. In the execution of the works and the exercise of the powers by this Order authorised and conferred so far as they affect highways in the county of Fife the following provisions for the protection of the Kirkcaldy district committee of the county council of the county of Fife (hereinafter in this section called "the district committee") shall (except so far as otherwise agreed to

in writing between the Commissioners and the district committee) have effect (that is to say):—

(1) 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 Commissioners shall have been laid and the Commissioners shall forthwith on receiving notice in writing under the hand of the clerk or surveyor 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 hereinafter prescribed:

(2) The district committee shall not be liable for or in respect of any damage or injury done to any work of the Commissioners 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 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 or culvert:

(3) For the purposes of section 57 of the Roads and Bridges (Scotland) Act 1878 the Commissioners 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 connection with the execution of the works by this Order authorised The Commissioners shall make payment to the district committee for and in respect of the carriage or haulage over any highway situate within the district of the district committee of materials to be used by the Commissioners in the construction of the works numbers 2 to 7 inclusive by this Order authorised or in the reconstruction thereof of twopence per ton for each mile for and in respect of such materials so carried or hauled:

A.D. 1924.

(4) If any difference arises between the district committee and the Commissioners 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.

For protection of London and North Eastern Railway Company.

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

(1) The Commissioners shall not under the powers of this Order take or acquire by compulsion any lands or property of the company but the Commissioners may purchase and the company shall sell if required by the Commissioners 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 works by this Order authorised:

(2) Before constructing any works authorised by this Order or any subsequent repairs thereof in over under or affecting any of the railways works and property of the company the Commissioners shall submit to the company plans sections working drawings and specifications thereof showing the line and level and the manner in which such works or operations are to be carried out and the mode of execution thereof for the approval of the company which approval shall not be unreasonably withheld and shall be deemed to have been given unless the company signify their disapproval within fourteen days after submission of the said plans sections working drawings and specifications for approval:

(3) All the said works and operations shall be constructed carried on and completed by the Commissioners in strict conformity with the

plans sections working drawings and specifications so approved at the sole risk and cost of the Commissioners and at the sight and to the reasonable satisfaction of the engineer of the company and all such works shall be maintained repaired or renewed by the Commissioners so long as they exist on the lines and levels shown on the said plans sections and working drawings and as described in the said specifications so approved at their sole risk and cost and at the sight and to the reasonable satisfaction of the engineer of the company :

(4) The Commissioners shall not without the previous consent in writing of the company which consent shall not be unreasonably withheld enter upon or alter or interfere with the railways works and property of the company further or otherwise than may be necessary for constructing maintaining and renewing any of the works authorised by this Order to be laid in upon over or under the said railways works and property of the company of which they shall give the company fourteen days' notice in writing except in cases of emergency in which case such notice as is reasonably practicable shall be given :

(5) The Commissioners shall pay to and reimburse the company in all reasonable costs charges and expenses which they may incur in connection with the construction of any of the works authorised by this Order or the subsequent maintenance renewal use alteration replacing or repair thereof including (without prejudice to the said generality) any expense which the company may reasonably incur in connection with the employment of inspectors signalmen watchmen and others and for superintendence of the works hereby authorised during construction and for all extra precautions for the safety and working of their traffic or protection of their property on account of the execution maintenance renewal use alteration replacing or repair of the said works :

(6) All the said works and operations and the subsequent maintenance renewal alteration re-

A.D. 1924.

placing or repair thereof shall in so far as the same affect the railways works and property of the company be carried out by the Commissioners so as not to injure or alter or interfere with (except so far as may be necessary for carrying out the said works) or endanger the structure or stability of any of the said railways works and property of the company and the Commissioners shall at their own expense execute all underpinning or other works which may be necessary to secure the support or safety of the said railways works and property of the company and should any damage or injury to or interruption or impediment of or interference with the passage or conduct of traffic on the said railways works and property of the company be caused by or be in any way owing to the said works or operations of the Commissioners or the failure of or defect in any of the said works or operations the Commissioners shall at their own cost and free of all expense to the company execute and do all such works as may be necessary to restore the damage or injury and remove such interruption impediment or interference as the case may be or the company in their option and for any of these purposes may enter upon the works or property of the Commissioners and execute all such works and do all such things as may be necessary to restore such damage or injury or to remove or prevent such interruption impediment or interference and the Commissioners shall on demand repay to the company all reasonable costs and expenses incurred by them in connection therewith:

(7) The Commissioners shall also make reasonable compensation to the company for all loss or damage caused by such works and operations interruptions impediment or interference to or with the said railways and works and property of the company and the Commissioners shall also free and relieve and indemnify the company from all damages or compensation which may be recovered from them at the instance of their employees passengers owners of merchandise traders or owners of property adjoining the said

works or any other person or persons by reason of such interruption impediment or interference or by reason of any accident so far as such interruption impediment interference or accident shall have been occasioned by or through the acts or default of the Commissioners or those for whom they are responsible :

(8) Should it be necessary in constructing the works by this Order authorised or in subsequently maintaining renewing altering or repairing the same to alter or remove any telegraph posts wires or other telegraphic or telephonic apparatus belonging to or maintained by the company the Commissioners shall pay to and reimburse the company in all expense incurred by them in connection with such alteration or removal and the erection of other posts wires or apparatus in substitution for those so altered or removed :

(9) Nothing in this Order contained or which may be done in pursuance thereof shall prevent the company from maintaining and repairing and whenever in their discretion thought necessary reconstructing altering renewing deviating widening or enlarging any of the lines of railway or other works or property belonging to them without interference on the part of the Commissioners and without incurring any liability to them or to any person using the works by this Order authorised to be constructed for any loss injury damages or expenses which may arise from such maintenance repair reconstruction alteration renewal deviation widening or enlarging provided that any extra expense which the company may incur in such maintenance repair renewal deviation widening enlarging alteration or reconstruction by reason of the existence of any of the said works shall be paid by the Commissioners :

(10) In the event of the company exercising any of the powers referred to in the immediately preceding subsection they shall do so in such manner as to cause as little damage and interference as practicable to and with the works of the Commissioners and shall give (except in

A.D. 1924.

case of emergency in which case such notice as is reasonably practicable shall be given) fourteen days' previous notice in writing to the Commissioners before commencing any such operations as may affect any of the said works :

(11) If the company give to the Commissioners notice that they themselves desire to construct so much of the works authorised by this Order to be constructed or to carry out so much of the alterations of any mains pipes or culverts to be laid by the Commissioners under the powers of this Order as will be situate on the lands and property of the company the company may themselves execute such works and alterations and recover the reasonable cost thereof from the Commissioners :

(12) Any question or difference between the Commissioners and the company arising under this section shall be referred to and determined by an arbiter to be agreed upon between the Commissioners and the company or failing agreement to be nominated by the sheriff on the application of the Commissioners or the company.

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

20. 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 this Order or until after completion of the enlarged reservoir Work No. 2 authorised by this Order in the event of the said work being completed within the said period of seven years.

As to breaking up ground for maintaining communication pipes.

21. For the purpose of complying with any obligation under this Order or the recited Acts 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.

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

22. The Commissioners may on the application of the owner or occupier of any premises within the limits of supply abutting on or being erected in any street laid out but not dedicated to 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 Act 1847 shall apply as if section 29 of that Act were excepted from incorporation in this Order.

Power to Commissioners to repair communication pipes.

23. If it should appear to the Commissioners that by reason of any injury to or defect in any communication pipe which is situate in a street and which the Commissioners are not under obligation to maintain any waste of water or injury or risk of injury to person or property is caused or likely to be caused it shall be lawful for the Commissioners to execute such repairs as may be necessary or expedient in the circumstances of the case without being requested so to do and the expense incurred by the Commissioners in executing such repairs shall be recoverable by the Commissioners from the owner of the premises supplied or in cases where the communication pipe is repairable by the occupier of such premises from the occupier.

Power to Commissioners to re-washer water fittings.

24. The Commissioners may re-washer any water fittings belonging to any person supplied by them with water and that either gratuitously or on payment by such person of the reasonable charges of the Commissioners in providing the necessary materials and workmanship.

Commissioners may repair apparatus on failure by owner or occupier.

25. If any of the apparatus shall be out of order the owner or occupier of the house or premises in or to which such apparatus is placed or attached shall be bound to repair and make good the same and if such owner or occupier fail to make the requisite repairs within twenty-four hours after notice in writing so to do by the Commissioners or by any officer of the Commissioners the Commissioners or any person authorised by them may enter upon such premises and repair renew and make water-tight all such apparatus and the Commissioners shall be entitled to recover from the owner or occupier so failing the cost of such repair or renewal together with any penalty which may have been incurred

A.D. 1924.

for wilful waste of water or for suffering such apparatus to be out of repair in the manner provided in the Acts herewith incorporated for the recovery of penalties or by action in any court of competent jurisdiction and for the purposes of this section the word "apparatus" means and includes pipe cistern bath water-closet ball-cock stop-cock valve and other articles used in the supply or storing of water in houses manufactories or premises or in connection therewith provided that in the event of the expense of such repair or renewal being paid by the occupier of any such house or premises he shall be entitled to recover such expense from the owner thereof or to deduct the same from his rent unless otherwise provided for by the terms of the tenancy.

Power to supply fittings.

26.—(1) The Commissioners may if requested by any person supplied or about to be supplied by them with water furnish to him and repair or alter but shall not manufacture any such pipes valves cocks cisterns baths meters soil-pans water-closets and other fittings as are required or permitted by their regulations and may provide all materials and work necessary or proper in that behalf and the reasonable charges of the Commissioners in providing such materials and executing such work shall be paid by the person requiring the same.

(2) Any fittings let for hire under the provisions of this section shall not be subject to poinding or to the landlord's remedy for rent or be liable to be taken in execution under any process of any court or any proceedings in bankruptcy against the persons in whose possession the same may be provided that such fittings have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Commissioners as the actual owners thereof.

Provided as follows:—

(*a*) The Commissioners shall so adjust the charges to be made by them for any such fittings or for the fixing repairing or removal thereof as to meet any expenditure by them under the powers of this section in connection therewith (including interest upon any moneys borrowed for those purposes and all sums

applied to sinking fund for repayment of moneys so borrowed);

(*b*) Every sum charged by the Commissioners in respect of the provision of such fittings or the repairing fixing or removal thereof shall be clearly stated in every demand note delivered by the Commissioners to the consumer;

(*c*) The total sums expended and received by the Commissioners in connection with the purposes in this section mentioned in each year shall be separately shown in the published accounts of the Commissioners for such year.

Power to borrow.

27. The borrowing powers of the Commissioners under the recited Acts or any of them except in so far as these relate to moneys borrowed by the Commissioners prior to the commencement of this Order are hereby repealed and it is provided that the Commissioners may from time to time borrow under the authority of this Order the following sums of money (that is to say):—

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

(*b*) For the construction of reservoirs the sum of fifty-four thousand pounds;

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

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

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

(*f*) For the general purposes of their water undertaking to which capital is properly applicable the sum of twenty thousand pounds and with the sanction of the Secretary for Scotland but not otherwise such further sums as may be necessary;

(*g*) For the 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 (hereinafter referred to as "the costs of this Order") the sums necessary for that purpose.

A.D. 1924.

And in security of the sums to be borrowed under the provisions of this Order the Commissioners may make and grant mortgages and assignations of the several rates rents and charges leviable under the provisions of the recited Acts and of the other revenues of the Commissioners and if after having borrowed such moneys or any part thereof the Commissioners pay off the same otherwise than by means of the sinking fund they may again borrow the amount so paid off and so from time to time And all the provisions as to re-borrowing borrowing for current expenses and granting of terminable annuities contained in the recited Acts with reference to the sums therein authorised to be borrowed shall mutatis mutandis apply to the moneys to be borrowed under this Order provided that any moneys borrowed for paying the costs of this Order and the confirmation thereof shall not be re-borrowed The Secretary for Scotland shall have and may exercise in regard to any such sanction as aforesaid all the powers of section 93 of the Local Government (Scotland) Act 1889.

Application of money borrowed or raised.

28. All moneys borrowed by the Commissioners under the authority of the recited Acts or this Order shall be applied for the purposes of the recited Acts and this Order to which capital is properly applicable.

Priority of existing mortgages and securities.

29. 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.

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

30. 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.

Periods for repayment of borrowed moneys.

31. The Commissioners shall pay off all moneys borrowed under the section of this Order the marginal note whereof is "Power to borrow" other than sums borrowed with the sanction of the Secretary for Scotland for the purposes (*f*) mentioned in that section which shall be paid off within such period not exceeding thirty-five years and by such method as the Secretary for Scotland may prescribe and other than money borrowed for the costs of this Order within the period of thirty-five years from the date or dates of borrowing the same.

Incorporation of sections of Order of 1913.

32. The following sections of the Order of 1913 shall apply and extend to the works authorised by and the powers conferred on the Commissioners by this Order:—

Section 10 (Power to open roads &c.).
Section 13 (Laying mains on public roads).
Section 18 (Power to agree for servitudes &c.).
Section 19 (Power to acquire servitudes only for lines of pipes).
Section 20 (Power to acquire lands by agreement).
Section 21 (Limiting powers of Commissioners to abstract water).
Section 22 (For protection of reservoirs &c. from pollution).
Section 23 (Reservation of water rights on sale).
Section 24 (Power to agree as to drainage of lands).
Section 25 (Accommodation for workmen &c.).
Section 26 (Power to acquire and hold lands for prevention of pollution).
Section 27 (Power to discharge water temporarily into streams).
Section 32 (Compensation for damage caused by bursting or giving way of reservoirs).

A.D. 1924.

Section 44 (Commissioners may borrow on cash account).
Section 45 (Debt may be refunded).
Section 46 (Provisions as to mortgages &c. in the Act of 1867 to be applicable to this Order).
Section 47 (Provisions as to judicial factors to be applicable to this Order).
Section 50 (Protection of lenders from inquiry).
Section 52 (Mode of repayment of borrowed money).
Section 54 (Sinking fund).
Section 55 (Annual return to Secretary for Scotland with regard to sinking fund).
Section 56 (Application of rates and charges).

Costs of Order.

33. All the costs of this Order 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 shall be repaid within five years from the commencement of this Order.

SCHEDULE referred to in the foregoing Order. A.D. 1924.

MINUTE of AGREEMENT between the WATERWORKS COMMISSIONERS of KIRKCALDY and DYSART incorporated by the Kirkcaldy and Dysart Waterworks Act 1867 of the first part (hereinafter called the First Parties) and THOMAS FRANCIS HOPE BRUCE Esquire of ARNOT in the COUNTY of KINROSS of the Second part (hereinafter called the Second Party).

WHEREAS the First Parties have made application to the Secretary for Scotland for a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 under the title of the Kirkcaldy and Dysart Waterworks Order 1923 by which Order they seek powers inter alia to enlarge their reservoir on the estate of Arnot to convey away from the estate by means of pipes &c. the whole waters draining into said reservoir and that no provision is made in said Order for the discharge of compensation water into the Arnot Burn upon which the said reservoir is constructed and into which burn the water of said reservoir is at present discharged :

And whereas certain buildings upon the estate of Arnot and certain of the lands thereof are wholly dependent upon said burn with the springs or tributaries draining into it for their water supply :

And whereas the Second Party has certain statutory rights of fishing sporting and other rights over said reservoir :

And whereas the proposed operations of the First Parties will destroy or injuriously affect said water supply said sporting rights and certain roads on the estate and cause loss and damage to the Second Party who has accordingly intimated to the First Parties that he proposes to petition against said Order and in consideration of the Second Party agreeing to withdraw his opposition to said Order the First Parties have agreed to amend the same and to give the Second Party such compensation and such other relief as is hereinafter set forth :

Therefore the parties have agreed and hereby agree as follows :—

First—The First Parties agree and hereby bind and oblige themselves on the Act of Parliament confirming said Order receiving the Royal Assent to pay to the Second

A.D. 1924.

Party the sum of one thousand pounds sterling as compensation for depriving him of the waters at present draining into the said reservoir and discharged therefrom into said Arnot Burn :

Second—The First Parties also agree and hereby bind and oblige themselves before taking away any water from Arnot Estate or otherwise interfering with the quantity or quality of the compensation water to the Arnot Burn as provided by the First Parties Acts of Parliament to deliver to the Second Party from the aqueduct or pipe forming Work No. 3 of the draft Order as shown on the plans deposited therewith and at such point on said aqueduct or pipes as the Second Party or his engineer may select 6,000 gallons of Arnot Burn water during every twenty-four hours in an equal and continuous flow into an adjoining substantial tank or chamber having a capacity of not less than 4,000 gallons with an outlet near the bottom of the tank consisting of a rosehead length of pipe and sluice valve together with provision for emptying the tank and means for conveying the overflow into the burn by a pipe all at the expense of the First Parties and all to the satisfaction of the Second Party's engineer but the Second Party shall thereafter maintain said tank and fittings and have right to make a suitable connection with the outlet from said tank to enable him to draw the said water supply therefrom In the event of the First Parties failure to deliver the said 6,000 gallons as provided in this Article they shall make compensation for any loss damage or injury sustained by the Second Party or any of his tenants :

Third—In the event of the First Parties not exercising the powers granted to them in the Order they shall be bound to continue the delivery into Arnot Burn of the compensation water as provided in the Kirkcaldy and Dysart Waterworks Act 1896 :

Fourth—The First Parties bind and oblige themselves as soon as the Royal Assent has been given as aforesaid to pay to the Second Party a further sum of one thousand pounds sterling to enable him to provide and maintain the means of taking from the First Parties works and distributing said water supply referred to in the Article Second hereof Declaring that the First Parties shall be entitled to make a connection to the pipe which the Second Party shall lay to Arnot Mill and to lay therefrom a lead pipe not exceeding three-quarters of an inch in diameter for the purpose of affording a supply to the existing feus at Auchmuir Bridge which supply to said

feus shall be taken from the said supply of 6,000 gallons of water to be provided every twenty-four hours by the First Parties in terms of Article Second hereof :

Fifth—The price to be paid by the First Parties to the Second Party for the servitudes of wayleaves for pipe-tracks and for land and others to be taken by the First Parties from the Second Party under the provisions of the said Order and also the compensation to be paid to the Second Party or his tenants for the interference with sporting rights during the construction of the works authorised by the Order on Arnot Estate shall be such sums as failing agreement shall be fixed by James Inglis Davidson land valuator Saughton Mains Corstorphine or failing him by an arbiter to be appointed by the sheriff of Fife and Kinross on the application of either party :

Sixth—In respect the First Parties by the enlargement of Arnot Reservoir are to submerge part of the road from Greenhead of Arnot to the Hill grazings the First Parties agree and undertake to form a similar substitute road round the west side of the reservoir so far as is necessary to connect the portions of the road on each side of the submerged portion and to fence the same as at present all at their own expense :

Seventh—The First Parties agree and undertake to use no other road as an access to their works than that over which they have at present right of access viz. from the public road west of Arnot Mill leading past Little Arnot and to take all reasonable means to prevent their servants or contractors using any other roads on the estate and they further hereby undertake to restore the surface of said road to its present condition after their operations are completed and during the carrying out of the works to maintain it in a serviceable condition and repair all damage done in the execution of the works authorised by the Order by themselves their servants or contractors to any part of the estate which the First Parties are not taking under their compulsory powers :

Eighth—The First Parties undertake not to interfere in any way with the existing water supply to Arnot Tower and to the other buildings and fields supplied from the same source and in the event of any of their operations causing any such interference they bind and oblige themselves at their own expense to restore the supply to its present condition in all respects and to pay for any damage caused They further agree to take no exception nor raise any objection to any operations of the Second Party at the source of said supply for the purpose of improving it :

A.D. 1924

Ninth—The First Parties hereby undertake to pay the adjusted amount of expenses of the Second Party in his opposition to said Order and for adjusting the terms of settlement and of this agreement not exceeding the sum of one hundred pounds and subject to the approval of the Secretary for Scotland and of Parliament to have this agreement scheduled to the Order and statutory sanction given thereto :

Tenth—This agreement is subject to such alterations as may be made thereon during the progress of the said Order but if any material alteration be so made it shall be competent to either of the parties to withdraw therefrom.

In witness whereof these presents are subscribed by the parties in duplicate as follows They are sealed with the Common Seal of the said Waterworks Commissioners of Kirkcaldy and Dysart and signed at a meeting of the Commissioners for and on their behalf by Alexander Kilgour and William Young two of the said Commissioners and by David Beveridge their secretary all at Kirkcaldy on the eleventh day of December nineteen hundred and twenty-three before these witnesses Robert Ritchie water superintendent Kirkcaldy and Wemyss Erskine Mitchell Maxwell Burgh Chamberlain Kirkcaldy and are subscribed by the said Thomas Francis Hope Bruce in London on the seventeenth day of December and year last mentioned before these witnesses Walter Henry Pain civil servant Greenfield Avenue Road Southall and Leslie Brooks civil servant St. Budeaux Kings Road New Kindersley Essex.

(Signed) W. PAIN Witness.

L. BROOKS Witness.

ROBERT RITCHIE Witness.

WEMYSS E. M. MAXWELL Witness.

(Signed) THOS. F. HOPE BRUCE.

A. KILGOUR.

WILLIAM YOUNG.

DAVID BEVERIDGE Secretary.

Printed by EYRE and SPOTTISWOODE, LTD.,
FOR
WILLIAM RICHARD CODLING, Esq., C.V.O., C.B.E., the King's Printer of Acts of Parliament.

To be purchased directly from
H.M. STATIONERY OFFICE at the following addresses:
IMPERIAL HOUSE, KINGSWAY, LONDON, W.C. 2; 28, ABINGDON STREET, LONDON, S.W. 1;
YORK STREET, MANCHESTER; 1, ST. ANDREW'S CRESCENT, CARDIFF;
or 120, GEORGE STREET, EDINBURGH;
or through any Bookseller.