CHAPTER cxxiv.

An Act to authorise the Stirling Waterworks Commissioners to make and maintain an additional Reservoir and other Works and to extend the supply of Water and for other purposes. [18th July 1881.]

A.D. 1881.

WHEREAS by the Stirling Waterworks Act 1848 (hereinafter called "the Act of 1848") the Stirling Waterworks Commissioners (hereinafter called "the Commissioners") were authorised to supply with water the royal burgh of Stirling and suburbs thereof within the limits of the said Act: 11 & 12 Vict. c. viii.

And whereas by the Stirling Waterworks Amendment Act 1864 (hereinafter called "the Act of 1864") the Commissioners were authorised to make and maintain additional reservoirs and other works and to introduce an additional supply of water into the said burgh and suburbs and to extend the supply of water beyond the limits of the Act of 1848 but within the parishes of Stirling Saint Ninians and Logie: 27 & 28 Vict. c. lxiii.

And whereas the population of the said burgh and suburbs has increased and is still increasing and the supply of water introduced under the recited Acts is insufficient and it would be attended with public advantage and convenience if the Commissioners were authorised to construct and maintain the works hereinafter described and to introduce an additional supply of water into the said burgh and suburbs and parishes and places adjacent thereto within the limits of the recited Acts and if further provision were made for regulating the supply and preventing the waste or misuse of water for levying and recovering water assessments and rates and for the nomination and election of Commissioners and the regulation of the proceedings of the Commissioners and that in these and in other respects the recited Acts should be amended:

A.D. 1881.

And whereas it is expedient that the limits for the compulsory supply of water prescribed by the Act of 1848 should be extended as by this Act provided:

And whereas the Commissioners have expended for the purposes of their undertaking upwards of £29,723 and the debt owing by them as at 16th September 1880 being the balance of moneys borrowed on mortgage under the authority of the recited Acts amounted to £14,250 and it is expedient that the Commissioners should be authorised to raise a further sum of money for defraying the expense of the works by this Act authorised and for the general purposes of their undertaking:

And whereas plans and sections showing the lines and levels of the works authorised by this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the principal sheriff clerk of the county of Stirling and are hereinafter respectively referred to as the deposited plans sections and book of reference:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please your Majesty that it may be enacted and be it enacted by the Queen'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:—

Short title.

1. This Act may be cited as the Stirling Waterworks Amendment Act 1881 and the recited Acts and this Act may be cited together as the Stirling Waterworks Acts 1848 1864 and 1881.

Interpretation.

2. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction the word "burgh" means the Royal burgh and the Parliamentary burgh of Stirling and the word "sheriff" means the sheriff of the county of Stirling or any of his substitutes.

Certain provisions of *recited* Acts repealed.

3. Subject to the provisions of this Act sections 8 15 28 31 32 and 49 of the Act of 1848 and the 3rd 4th and 5th sub-sections of section 14 and section 16 of the Act of 1864 and also all such other provisions of the recited Acts as are in any way inconsistent with the provisions of this Act are hereby repealed.

Recited Acts and this Act to be read together as one Act.

4. The recited Acts (save in so far as altered or repealed by this Act) and this Act shall be read and construed together as one Act.

Extension of limits for water supply. 44 & 45 Vict. c. cxxiv.

5. In addition to the limits specified in the third section of the Act of 1848 the limits for the purposes of the Stirling Waterworks Acts 1848 1864 and 1881 shall be extended to and shall comprise and include the parliamentary burgh of Stirling so far as the said limits specified in the Act of 1848 do not comprise and include the same but excepting always Stirling Castle and the lands of Raploch and Kildean belonging to George Frederick William Callander of Craigforth and the lands of Torbrex belonging to William Wright of Broom and the provisions of the Stirling Waterworks Acts 1848 1864 and 1881 shall apply to the said extended limits as fully and effectually as if such limits had been included in the Act of 1848 Provided always that in addition to the rates leviable under the recited Acts and this Act the Commissioners are hereby empowered and required once in every year for a period of fifty years commencing at Whitsunday one thousand eight hundred and eighty-one but no longer to cause a rate of threepence in the pound to be made upon all dwelling houses inns hotels taverns and other similar premises situate within the said extended limits but not within the limits of the Act of 1848 and such additional rate shall be made according to the rack rent or annual value of the property rated and shall be chargeable on and recoverable from the occupier or in his default when the rack rent or annual value of the premises rated does not exceed three pounds from the owner of the property upon which the same is made.

Incorporation of general Acts. 8 & 9 Vict. c. 19. 23 & 24 Vict. c. 106. 10 & 11 Vict. c. 17. 26 & 27 Vict. c. 93. 8 & 9 Vict. c. 33. 10 & 11 Vict. c. 16.

6. The Lands Clauses Consolidation (Scotland) Act 1845 the Lands Clauses Consolidation (Scotland) Acts Amendment Act 1860 the Waterworks Clauses Acts 1847 and 1863 (except the provisions with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit) and the 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 Commissioners Clauses Act 1847 with the exception of sections 21 22 23 24 25 28 to 32 both inclusive 84 86 and 87 thereof are (except where expressly varied by this Act) incorporated with and form part of this Act and the provisions of the Waterworks Clauses Acts 1847 and 1863 as incorporated with this Act shall apply to the existing waterworks of the Commissioners and to the waterworks by this Act authorised.

Commissioners incorporated.

7. The Commissioners shall be a body corporate under the name of "The Stirling Waterworks Commissioners" with perpetual

A.D. 1881.

succession and a common seal and shall have power to sue and be sued in that name alone and to purchase take hold and dispose of lands and other property for the purposes of their undertaking and shall have all the other powers and privileges of a body corporate and all deeds and instruments to be made or granted by the Commissioners under that name shall be valid and effectual if subscribed by any two of their number and sealed with their common seal.

Power to make new works.

8. Subject to the provisions of this Act the Commissioners may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works hereinafter described and may enter upon take and use such of the lands springs and streams delineated on the deposited plans and described in the deposited book of reference as may be required for that purpose except the lands springs and streams delineated and respectively numbered 14 15 16 and 17 on the said plans and so much of the moor pasture numbered 9 on the said plans as does not naturally drain into Touch Burn above the present intake sluice situated at or near the point marked A on the said plans.

Description of works.

9. The works herein-before referred to and authorised by this Act are—

First. A reservoir (marked on the deposited plans "proposed reservoir No. 4" and herein-after referred to as "No. 4 reservoir") situate on the lands called Touch Muir part of the entailed estate of Touch and on the stream or burn called Touch Burn.

Second. An aqueduct conduit or line of pipes commencing in No. 4 reservoir and terminating by a junction with the aqueduct or conduit leading from Touch Burn to the existing reservoir of the Commissioners (marked on the deposited plans and herein-after referred to as "No. 3 reservoir") at a point ten yards or thereby eastward from the upper end of such last-mentioned aqueduct or conduit.

Third. A waste weir or bye-wash leading from a point at or near the north-west end or corner of No. 4 reservoir into and forming a junction with a branch or affluent of Touch Burn.

Fourth. An aqueduct conduit line of pipes or open cut commencing at a point near the north-east end of the outlet pipe of No. 3 reservoir by a junction with the said outlet pipe and terminating in the burn or stream leading from the existing reservoir of the Commissioners marked on the deposited plans "No. 2 reservoir" to the existing reservoir of the Commissioners marked on the deposited plans "No. 1 reservoir."

All which existing and intended reservoirs and other works are or will be situate in the parish of Saint Ninians and county of Stirling and all necessary embankments bridges dams weirs sluices culverts cuts tunnels roads of access and other works and conveniences in connexion with the said existing and intended reservoirs and other works above described and all pipes drains cuts and other works necessary for connecting the said intended No. 4 reservoir with No. 3 reservoir and the other works of the Commissioners and for collecting and diverting the springs and water arising in or flowing through the lands of Touch Muir Hill Parks of Touch Touchmollar and Tomanton Park or any other portion of the said estate of Touch and the water of the said Touch Burn and branches or affluents thereof except as herein-before provided and conveying the same into the said existing or intended reservoirs aqueducts conduits and other works or some of them or into any other works of the Commissioners.

Lateral and vertical deviations.

10. The Commissioners in constructing the works by this Act authorised may make deviations from the lines of the said works but not exceeding the limits of lateral deviation shown on the deposited plans and may deviate from the levels delineated on the deposited sections to any extent not exceeding five feet upwards and seven feet downwards Provided always that the Commissioners shall not in the exercise of the powers of lateral deviation hereby given construct any embankment or wall of the said reservoir of a greater height above the general surface of the ground than the height of the corresponding embankment or wall as shown on the deposited sections and three feet in addition.

Works to form part of undertaking of Commissioners.

11. The works authorised to be made and maintained by this Act and above described shall for all purposes whatsoever form part of the undertaking of the Commissioners.

Period for compulsory purchase of lands.

12. The powers of the Commissioners for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Lands for extraordinary purposes.

13. In addition to the lands to be taken by the Commissioners under the powers of this Act the Commissioners may by agreement purchase or take on lease for such periods as may be agreed on any land not exceeding in the whole three acres for the purpose of forming depôts pipe-yards sites for houses for their workmen and other buildings and conveniences in connexion with their undertaking and it shall be lawful for any person to sell and convey or grant leases of land to the Commissioners for such purposes and to contract in reference thereto.

Temporary occupation of lands.

14. The provisions with respect to the temporary occupation of lands of the Railways Clauses Consolidation (Scotland) Act 1845 incorporated with this Act shall apply only to the reservoir by this Act authorised and the works immediately connected therewith and for the purposes of this Act those provisions shall be read as if such reservoir and works were therein mentioned instead of "the railway" and the boundaries of such reservoir and works instead of "the centre of the railway" and the prescribed limits shall be two hundred and fifty yards from such boundaries.

Power to take and use water.

15. The Commissioners may take and impound the springs and water arising in or flowing through the said lands of Touch Muir Hill Parks of Touch Touchmollar and Tomanton Park and also as hereinafter provided the waters of the said Touch Burn and by means of the works by this Act authorised to be made and maintained and of the existing works of the Commissioners may appropriate and use the said springs and waters for the purposes of the recited Acts and this Act.

Period for completion of works.

16. If the works authorised by this Act are not completed within seven years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Commissioners for making and completing the said works or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Regulating supply of water from Touch Burn.

17. The supply of water from Touch Burn shall be taken to the extent and under the conditions hereinafter specified:

First. The Commissioners shall in all time coming out of the water to be diverted and collected in No. 4 reservoir after the same shall be first filled to the top water level thereof and before any of such water so collected shall be taken by the Commissioners for the purposes of their undertaking or from other streams which cannot be led into the said reservoir but which the Commissioners are entitled to take above the present intake sluice situated at or near the point marked A on the deposited plans discharge into the said burn at or near but not farther than fifty yards below the said intake sluice and through the gauge hereinafter referred to and cause to flow in the said burn in a continuous and uniform stream such a quantity of water that the flow of the said burn immediately below such gauge shall at no time be less than thirty cubic feet per minute.

Second. Until the water in No. 4 reservoir shall come up to and reach the top water level thereof the Commissioners shall as

soon as they begin permanently to collect water therein discharge into the said burn at or near but not farther than fifty yards below the said intake sluice and cause to flow in the said burn in a continuous and uniform stream such a quantity of water that the flow of the said burn immediately below such gauge shall at no time be less than five cubic feet per minute.

Third. The Commissioners shall along with and as part of the works by this Act authorised construct and for ever after maintain at or near but not farther than fifty yards below the said intake sluice a proper and sufficient measuring gauge over or through which the aforesaid quantity of water mentioned or referred to in the first head of this section shall flow or be discharged into the said burn and such guage shall be constructed at the sight and to the satisfaction of Messrs. J. and A. Leslie civil engineers Edinburgh or such engineer or engineers as shall for the time being be appointed by the proprietor of the estate of Touch and shall at all times thereafter be open to the inspection of such proprietor or of any person or persons having his authority in writing.

Provision as to percentages on revenue payable to proprietor of the estate of Touch.

18. Whereas by a minute of agreement dated the twenty-first day of February and seventeenth day of March and recorded in the Sheriff Court books of Stirlingshire the twenty-fifth day of September eighteen hundred and forty-eight entered into between Dame Elizabeth Margaret Seton Steuart (therein named Dame Elizabeth Seton Steuart) on the first part and the magistrates and town council of Stirling on the second part and by a feu contract entered into between the said Dame Elizabeth Margaret Seton Steuart therein described as heiress of entail in possession of the entailed lands and estate of Touch and others in the county of Stirling on the first part and the Commissioners on the second part which said feu contract was confirmed by the Act of 1864 the Commissioners have become bound to pay to the proprietor for the time being of the estate of Touch as long as a gross annual revenue is paid to or received by the Commissioners by voluntary payment open account public water rate water rate assessments or in any manner of way in virtue of the Act of 1848 or otherwise on account of water beyond the sum of four hundred pounds an additional sum at the rate of ten pounds per centum per annum on the excess of the said gross annual revenue beyond the said sum of four hundred pounds payable yearly at Whitsunday and whereas Sir Henry James Seton Steuart Baronet the heir of entail in possession of the said entailed lands and estate of Touch and the Commissioners

A.D. 1881.

have agreed that the said percentage should be modified in manner following Now therefore notwithstanding anything contained in the said minute of agreement and feu contract or in the Act of 1864 the aforesaid percentage on the excess of the aforesaid gross annual revenue beyond four hundred pounds shall as and from the term of Whitsunday one thousand eight hundred and eighty-two be taken exacted and received so long as and in so far as the said gross revenue in each year shall amount to or shall not exceed two thousand five hundred pounds at the said rate of ten pounds per centum per annum and shall be taken exacted and received at the rate of five pounds per centum per annum instead and in place of ten pounds per centum per annum on the amount by which such gross annual revenue shall in each year exceed the said sum of two thousand five hundred pounds such percentage to be payable at the same term and subject to all such and the like incidents privileges and conditions as if the same had been stipulated for along with or instead or in place of the aforesaid percentage in the said minute of agreement and feu contract and so that the net sum on which the said percentage at the rate of ten pounds per centum per annum shall be payable in any one year shall not exceed the sum of two thousand one hundred pounds.

Rates for water for domestic purposes.

19. The Commissioners shall at the request of the owner or occupier of any dwelling-house or part of a dwelling-house inn or hotel in any street within the limits of the recited Acts and this Act in which any pipe of the Commissioners shall be laid or of any person who under the provisions of the recited Acts and this Act or any Act incorporated therewith respectively shall be entitled to demand a supply of water for domestic purposes furnish to such owner or occupier or other person a sufficient supply of water for domestic purposes at a rate per annum not exceeding sixpence in the pound upon the rack rent or annual value of the premises supplied with water and the said rate shall be chargeable on and recoverable from the occupier or in his default when the rack rent or annual value of the premises rated does not exceed three pounds from the owner of the premises upon which the same is made in the same manner as water rates are or may be recovered under the authority of the recited Acts and this Act provided nevertheless that the Commissioners shall not be obliged to furnish such supply to any person for any less sum than two shillings and sixpence in any one year.

Power to supply water beyond limits of

20. The Commissioners may supply water for domestic and other purposes to the owners or occupiers of houses buildings works and lands situate beyond the limits of the recited Acts and this Act

but within the parishes of Stirling Saint Ninians and Logie or any of them or to the parochial board or local authority of any of these parishes at such rates or rents and upon such terms and conditions and for such period or periods of time as shall be mutually agreed upon and for the purpose of such supply the Commissioners may lay and maintain pipes or conduits from any of their mains conduits or pipes Provided that such supply shall not prejudicially affect or restrict the supply of water from time to time required within the limits of the recited Acts and this Act for any of the purposes thereof.

recited Acts and this Act.

21. The Commissioners may if they think fit enter into agreements for the supply of water for other than domestic purposes by measure and may charge a rent for any meter provided by them for such purpose such rent to be payable quarterly in advance and to be recoverable in all respects as if the same were rates for the supply of water for domestic purposes.

Supply of water by meter.

22. The Commissioners may borrow on mortgage and security of their undertaking and clear revenues of the lands and property connected therewith and of the rates and rents leviable under the recited Acts and this Act any sums not exceeding in the whole twenty thousand pounds in addition to the moneys borrowed or authorised to be borrowed by them under the recited Acts and if after having borrowed the sums of money by this Act and the recited Acts authorised or any part thereof the Commissioners shall pay off the same or any part thereof otherwise than by means of the sinking fund provided by this Act the Commissioners may again borrow the amount so paid off and so from time to time.

Power to borrow money.

23. Every mortgage to be granted by the Commissioners and every assignation or transfer of such mortgage shall be by deed duly stamped in which the consideration shall be truly stated and may be respectively in the forms contained in the First and Third Schedules to this Act or the like effect.

Form of mortgage.

24. The Commissioners may issue along with any such mortgage and during the period of any postponement of the term of payment thereof interest warrants in the form contained in the Second Schedule to this Act or to the like effect signed by the clerk or treasurer for the periodical payment of the interest to become due on the principal sums thereby secured during the period for which such mortgage is intended to subsist and the delivery to the Commissioners or their clerk or treasurer or to any person on their behalf of any such interest warrant duly stamped as a receipt (where necessary) shall be a valid and sufficient discharge to the Commissioners for the interest in respect of which the same was issued.

Mortgages may be accompanied by interest warrants.

A.D. 1881.

Commissioners may borrow on credit of a cash account.

25. The Commissioners may accept and take from any bank or banking company credit on a cash account to be opened and kept with such bank or banking company in the name of the Commissioners according to the usage of bankers in Scotland to the extent of the aggregate amount of the several sums which the Commissioners are by the recited Acts and this Act authorised to borrow or any part thereof and may make and grant mortgages in manner aforesaid in security of the payment of the amount of such credit or of the sums advanced from time to time on such cash account with interest thereon Provided always that the whole sum due and owing by the Commissioners on such cash account and for money borrowed by them on mortgage as aforesaid shall not when taken together exceed the aggregate amount of the several sums by the recited Acts and this Act authorised to be borrowed.

Manner in which mortgages and orders on bank account to be signed and executed.

26. Every mortgage to be granted by the Commissioners may be partly in writing and partly printed and shall besides being under the common seal of the Commissioners be signed by at least two of the Commissioners and the clerk or treasurer and all drafts or orders on the cash account before mentioned shall be signed by any two of the Commissioners authorised so to do and by the clerk or treasurer Provided always that no Commissioner clerk or treasurer shall by his subscription of any such mortgage draft or order be or be held to have rendered himself individually or personally liable for the payment of any money so borrowed drawn or received or any interest thereon or of any sums whatsoever in respect thereof.

Commissioners may fund debt and issue certificates of funded debt.

27. The Commissioners from time to time in lieu of borrowing or continuing on mortgage the sums which they are authorised to borrow by the recited Acts and this Act may resolve to fund the whole of such sums or such part thereof as they shall from time to time think fit and on any such resolution being passed the amount stated therein shall be denominated "The Stirling Waterworks Funded Debt" and the Commissioners may issue to any person paying to them any portion of the said sums a certificate of such person being the holder of funded debt to the amount so paid and every such certificate may be according to the form in the Fifth Schedule to this Act annexed or to the like effect and shall be subscribed by two of the Commissioners and the clerk or treasurer Provided always that after the creation and issue of any portion of such funded debt it shall not be lawful for the Commissioners to issue mortgages for or again to borrow the sum so created and issued and the power of borrowing by the Commissioners shall to the extent of the funded debt so from time to time created and issued be extinguished and the sums due and owing at any one time on the security

of their undertaking and the lands and property connected therewith and of the water rates and rents by the recited Acts and this Act authorised to be levied including the funded debt shall not exceed the sum by the recited Acts and this Act authorised to be borrowed.

Register of holders of funded debt to be kept.

28. The Commissioners shall from time to time cause the names of the several parties who may be interested in such funded debt as aforesaid with the amount of the interest therein possessed by them respectively to be entered in a book to be kept for that purpose and to be called the "Register of Holders of Funded Debt" and such book shall be accessible at all reasonable times to the several holders of such debt or of mortgages granted by the Commissioners.

Transfer of funded debt.

29. The interest of the several holders of such funded debt or any part of such interests may be transferred or transmitted in the same manner and subject to the same regulations and provisions mutatis mutandis as or according to which any mortgage to be granted by the Commissioners may be transferred or transmitted under the provisions of this Act or of the Commissioners Clauses Act 1847 and the Commissioners shall cause an entry to be made in a book to be kept by the clerk for that purpose of every such transfer or transmission and for every such entry the clerk may demand any sum not exceeding two shillings and sixpence.

Annuity to be paid.

30. The several holders of the said funded debt shall receive an annuity thereon at any rate not exceeding five pounds per centum per annum which shall be fixed by the Commissioners in any resolution to be passed by them as aforesaid and specified in the certificates issued to the holders of the said funded debt which annuity shall be payable half-yearly on the fifteenth day of May and the eleventh day of November in every year and the holders of the said funded debt shall not be entitled to repayment of the capital thereof but the same shall by agreement with the owner and other persons interested be redeemable by the Commissioners in whole or in part by means of the sinking fund herein-after provided and not otherwise.

Security of holders of funded debt.

31. The several holders of such funded debt shall be creditors of the Commissioners for the payment of the said annuity and shall be deemed to hold by virtue of this Act a mortgage of their undertaking and clear revenues of the lands and property connected therewith and of the several rates and rents leviable under the provisions of the recited Acts and this Act in security of such payment.

Sinking fund.

32. The Commissioners shall annually after the expiration of two years from the passing of this Act set apart as a sinking fund from and out of the moneys received by them under the authority

A.D. 1881.

of the recited Acts and this Act (other than money borrowed) such an annual sum as shall by accumulation with compound interest thereon be sufficient to pay off in fifty years the whole of the principal moneys borrowed under the authority of the recited Acts and this Act and the funded debt created under the authority of this Act and such sinking fund shall be from time to time applicable to the redemption of the mortgages and money borrowed on cash credit or cash account and funded debt and to no other purpose whatsoever Provided that whenever any mortgages granted or any funded debt created under the authority of this Act shall have been paid off or redeemed out of such sinking fund the Commissioners shall thenceforward in each year until the whole of such borrowed moneys and funded debt shall have been paid off and redeemed pay into the sinking fund and accumulate a further sum equal to the interest or annuities which would have been payable on such mortgages or funded debt if the same had not been paid off or redeemed Provided also that in the event of the Commissioners being able to borrow money on more favourable terms by obliging themselves to repay the principal moneys within any shorter term than fifty years they shall have power to do so anything to the contrary herein notwithstanding Provided also that no part of the said sinking fund shall be applied in the redemption of the funded debt until the whole mortgages of the Commissioners shall have been paid off.

Protection of lender from inquiry.

33. No person lending money to the Commissioners shall be bound or entitled to inquire as to the observance by the Commissioners of any provision of the recited Acts or of this Act or be bound to see to the application or be answerable for any loss or non-application of such money or any part thereof.

Arrears may be enforced by appointment of judicial factor.

34. In the event of any interest to the amount of one hundred pounds or of any principal moneys to the amount of one thousand pounds due on any mortgage or mortgages of the Commissioners or of any annuities of the funded debt not being paid within one month after the same shall have become due and after demand thereof in writing it shall be lawful for the holder or holders of such mortgages or of funded debt to the amount of one thousand pounds to render his or their security effectual by the appointment of a judicial factor and the application for such appointment shall be made by summary petition to the Court of Session or in time of vacation to the Lord Ordinary on the bills who are hereby respectively authorised and required on such application being made to appoint some person as judicial factor to the effect and

with the powers herein-after mentioned unless previously to such application being advised the sums due with interest and expenses shall have been paid or unless the said Court or Lord Ordinary as the case may be shall be satisfied that consignation thereof should under the circumstances be accepted in lieu of payment and such consignation be made accordingly and the interlocutor making such appointment shall not be subject to review or appeal.

Powers and duties of judicial factor.

35. The judicial factor so appointed on finding security in common form shall exercise all the powers conferred by the recited Acts or this Act upon the Commissioners for and in relation to assessing levying and recovering the several rates and rents by the said Acts authorised to be levied and managing and maintaining the undertaking works and property of the Commissioners under the said Acts and the Commissioners shall deliver to him all rate-books and other books and documents necessary for that purpose and after defraying the expense of such application management and maintenance the said judicial factor shall from time to time apply and pay over the balance of the sums received by him to the several parties entitled to payment therefrom and such judicial factory shall continue not only until all arrears of mortgages and annuities of the funded debt due at the date of the appointment of such judicial factor and all interest due on such mortgages and any annuity or interest which shall have become due during his continuance in office with interest and expenses including the expenses of the application for such appointment and of carrying the purposes thereof into execution shall have been paid but also until any half-year's annuity or interest which although not due may become current during his continuance in office and a sufficient sum to meet expenses shall have been paid or consigned in one of the banks in Scotland incorporated by Act of Parliament or Royal Charter and upon payment and consignation as aforesaid of such mortgages annuities interest and expenses it shall be lawful for the Commissioners to apply to the Court of Session or Lord Ordinary as aforesaid for the recall of the appointment of the judicial factor who may recall such appointment accordingly.

Mortgages to be personal estate.

36. All mortgages and certificates of funded debt to be granted by the Commissioners under the authority of this Act and all money to be advanced and lent on the security of the rates and rents leviable by them shall be movable or personal estate and transmissible as such and shall not be of the nature of heritable or real estate.

A.D. 1881.

Discharge of mortgages.

37. Any person entitled to any mortgage granted by the Commissioners under the authority of the recited Acts and this Act may discharge the same and his right and interest therein in favour of the Commissioners and every such discharge may be written or partly written and partly printed on the mortgage and may be according to the form contained in the Fourth Schedule to this Act or to the like effect and such discharge when signed by the person entitled to such mortgage and duly stamped shall be valid and effectual to all intents and purposes.

Saving existing mortgages.

38. All mortgages heretofore granted by the Commissioners under the powers and for the purposes of the recited Acts on the security of the works and rates by those Acts authorised and subsisting at the passing of this Act shall during the continuance of such mortgages have priority over any mortgages or certificates of funded debt granted or issued by the Commissioners under the powers of this Act.

Application of money borrowed or raised.

39. The money borrowed or raised on mortgage or by means of the funded debt under the authority of the recited Acts and this Act shall be applied in or towards defraying the expense of the works by the recited Acts and this Act authorised to be made and maintained and for purposes to which capital is properly applicable and the provisions contained in sections 50 to 53 both inclusive and sections 55 and 56 of the Act of 1848 shall be applicable to the money to be borrowed under the authority of this Act in the same manner and to the same effect as the said provisions are applicable to the money borrowed under the authority of the recited Acts and the certificate mentioned in the said sections 55 and 56 of the Act of 1848 shall not be granted by the sheriff until the whole of the principal moneys borrowed by the Commissioners on mortgage under the authority of the recited Acts and this Act and the annuities payable to the holders of the said funded debt have been paid off and discharged.

Pipes and cisterns to be constructed to prevent waste and impurity.

40. Every pipe valve or cock and every cistern or other receptacle of water and every water closet soil pan and private or public bath well or fountain or place which is or shall be supplied with water by the Commissioners or which they shall be called on to supply with water shall be altered or constructed and shall be maintained by the owner or occupier of the premises supplied or to be supplied with water so as effectually to prevent the waste misuse or undue consumption of water and the flow or return of foul air or other noxious or impure matter into the pipes or mains of the Commissioners or into any pipes connected or communicating

therewith and notwithstanding anything in the Waterworks Clauses Acts 1847 and 1863 or in the recited Acts or this Act contained the Commissioners shall not be bound to supply water into any pipe cistern or other receptacle for water water closet soil pan private or public bath well or fountain or place which shall not be so altered or constructed and maintained Provided notwithstanding anything contained in this section that from and after the passing of this Act the provisions contained in the Waterworks Clauses Acts 1847 and 1863 in relation to the waste misuse and fouling of water shall be applicable to the undertaking of the Commissioners and to the supply of water to be given by them.

Pipes, &c. to be kept in repair.

41. If any pipe valve cock bath soil pan cistern or any other apparatus used in connection with water supplied by the Commissioners to the houses of the inhabitants or to manufactories or other places or for storing it therein shall be out of order the owner or other person using any such apparatus not belonging to the Commissioners shall be bound to repair and make good the same on receiving a written or printed requisition signed by the manager or other authorised officer or servant of the Commissioners (which may be left at the premises supplied with water) so to do and if such owner or other person fail to make the requisite repairs within two days after such requisition it shall be in the power of the Commissioners by their manager or other authorised officer or servant to alter repair renew and make good and water-tight all such apparatus and the Commissioners shall be entitled to recover from the owner or other person so failing the cost of such repair alteration or renewal together with the penalty contained in the Waterworks Clauses Acts 1847 and 1863 for wilful waste of water or for suffering such apparatus to be out of repair.

Byelaws with respect to supply of water.

42. It shall be lawful for the Commissioners to make byelaws for regulating all or any matters and things whatsoever connected with the supply of water and for the prevention of waste mis-use or undue consumption of water and among other things to prescribe the size nature make strength and arrangement of the pipes cocks cisterns and other apparatus used or which may be used for the purposes of the supply and hours for inspection thereof by the officers or servants of the Commissioners and to impose such penalties for breaches of such byelaws not exceeding five pounds for each offence as may be considered expedient and from time to time as they shall think fit to repeal alter or re-enact any such byelaws Provided always that such byelaws shall not be repugnant to the law of Scotland and before being acted on shall be signed by the

A.D. 1881.

chairman and clerk of the Commissioners for the time being on behalf of the Commissioners and approved of and confirmed by the sheriff and inserted weekly for at least two weeks in a newspaper published in Stirling and all byelaws so made signed confirmed and published shall be observed by and binding on all persons concerned therein Provided also that such byelaws shall be so framed as to allow the judge before whom any penalty imposed thereby may be sought to be recovered to order a part only of such penalty to be paid if such judge shall think fit.

Recovery of rates.

43. It shall be lawful for the collector in his own name but on behalf and at the risk and expense of the Commissioners to recover any arrears of rates or rents due by any person or by any number of persons either according to the ordinary procedure before any competent court or by obtaining from the sheriff or the magistrates of the burgh of Stirling a summary warrant to recover such arrears with the addition of ten per centum thereon in lieu of any costs which have been or may require to be incurred from the person or persons respectively liable in payment of the same which warrant the sheriff or magistrates shall grant on production of an extract from the Commissioners' rate book of the entries therein relating to such person or persons showing the amounts respectively due by him or them and a certificate by the collecter that he had given to such person or persons a special or second notice by delivering the said notice to such person or persons personally or by putting the same postpaid into the post office at Stirling addressed to such person or persons according to the address set forth in the Commissioners' rate book requiring him or them to make payment of the amount due by him or them within fourteen days thereafter that such period had expired and that the said amount had not been paid and was still truly due and such warrant shall authorise the collector to cause any messenger-at-arms sheriff officer or officer of court to enter into the premises of the person or persons so in arrear and poind seize remove to a place of safety or otherwise secure any goods and effects therein belonging to or in the lawful possession of such person or persons or so much thereof as will fully satisfy the arrears due by him or them respectively with the addition of ten per centum thereon in lieu of costs and shall also authorise the collector after the lapse of four days in the event of non-payment of the said arrears and costs to cause any messenger-at-arms officer of court sheriff officer or licensed auctioneer to sell and dispose of the said goods and effects and shall further authorise the collector on receiving payment of the price of the said goods and effects to apply the same in payment of the said arrears and addition

of ten per centum thereon respectively due by such person or persons and also in payment of the expenses attending the sale.

Assessments, &c. to be recoverable beyond limits of Act.

44. In case any person liable to payment of any of the assessments rates or rents authorised to be levied under and in virtue of the provisions of the recited Acts and this Act shall remove to any place beyond the limits of said Acts it shall nevertheless be lawful for the Commissioners and the collector or other officers to put the decrees and warrants which may be granted for the recovery of such assessments rates or rents in manner before mentioned into execution within or beyond such limits in the same manner as if such person had continued to reside within such limits such decrees or warrants being first endorsed by a magistrate or sheriff or justice of the peace for the burgh or county within which they are to be put into execution.

Regulating sales of effects for payment of assessments.

45. Every sale which shall take place in pursuance of the provisions hereinbefore contained shall be conducted by public auction and on such notice and at such place as the sheriff or magistrates who shall grant the warrant may direct or failing such direction as the collector may fix.

Collector to account for surplus proceeds of such sales.

46. The collector shall account to the owner of any goods and effects which are sold in pursuance of the provisions hereinbefore contained for any surplus which may remain after applying the proceeds of sale in payment of the said arrears and addition of ten per centum thereon due by him and expenses of sale and shall for a period of three months after the date of every sale preserve evidence of the amount of such proceeds.

Providing appeal against any oppressive proceedings of collector.

47. The owner of any goods and effects which shall have been either pointed or sold in pursuance of the provisions hereinbefore contained and who shall consider himself aggrieved by any proceeding under such warrant may present a petition to the sheriff or magistrates who granted the warrant and the sheriff or magistrates shall thereupon summarily call before him or them the party complained of and such petitioner and without written pleadings shall inquire into and decide any dispute question or claim of damage raised by such petition and in addition to the award of damages (if any) may award expenses to either party and the decision of the sheriff or magistrates on any such dispute question or claim shall be final and not subject to suspension reduction advocation or appeal or to any other form of review or stay of execution.

Rate book to be evidence.

48. In any proceeding to levy and recover or consequent on the levying or recovering of any rate or rent under the provisions of the

A.D. 1881.

recited Acts and this Act the rate book of the Commissioners on the production thereof alone and without any evidence that the notices or other requirements of the recited Acts and this Act have been given or complied with shall be received as primâ facie evidence of such rate or rent and of the amount thereof.

Rates to be payable in advance.

49. All rates or rents payable under the recited Acts and this Act shall be payable in advance and that by a yearly payment at Whitsunday or by equal half-yearly payments at Whitsunday and Martinmas as the Commissioners shall determine.

Application of rates.

50. The rates rents and charges levied or leviable under the authority of the recited Acts and this Act and the other income of the Commissioners shall be applied in manner and order following and not otherwise (that is to say)—

First. In payment of the expenses of managing and maintaining the undertaking including therein the salaries and other payments to the officers and servants of the Commissioners and all expenses of and incidental to the raising levying and recovering of rates rents charges and revenues and the borrowing of moneys for the purposes of the recited Acts and this Act and in payment of any feu-duties ground-annuals or other charges exigible in respect of any lands streams or property required for the purposes of the undertaking.

Second. In payment of the interest of money borrowed under the authority of the recited Acts and this Act and of the annuities on the funded debt issued under the authority of the recited Acts and this Act.

Third. In setting apart annually the sinking fund for paying off the money borrowed under the authority of the recited Acts and this Act.

Fourth. In payment of such portion of the cost of enlarging increasing and renewing the number of mains and pipes and of extending the works mains and pipes from time to time and of any other necessary expenditure as the Commissioners shall think it reasonable to charge against the revenue for the year.

Application of penalties.

51. All penalties and forfeitures exigible under the recited Acts and this Act from any person or body other than the Commissioners shall be payable to the Commissioners and shall when recovered be applied by them to the purposes of the recited Acts and this Act.

Qualification of Commissioners.

52. Every person rated under the recited Acts and this Act on house property for the public water rate in respect of any such

property of the yearly rent or value of ten pounds at the least and who at least one week before the annual election of Commissioners by the ratepayers under the recited Acts and this Act shall have paid such rate and all rates due and payable by him in respect of such property under the recited Acts and this Act at or before the term of Whitsunday preceding such election and no other person shall be qualified to be elected a Commissioner by the ratepayers under the recited Acts and this Act.

Qualification of electors.

53. Every person rated under the recited Acts and this Act on house property for the public water rate in respect of any such property of the yearly rent or value of three pounds or upwards and who at least one week before the date of the annual election of Commissioners by the ratepayers under the recited Acts and this Act at which he tenders his vote shall have paid such rate and all rates due and payable by him in respect of such property under the recited Acts and this Act at or before the term of Whitsunday preceding such election and no other person shall be entitled to vote in the election of Commissioners to be elected by the ratepayers under the recited Acts and this Act.

Nomination of candidates for election as Commissioners.

54. All persons to be elected Commissioners by the ratepayers shall be nominated by two qualified electors as defined under the immediately preceding section of this Act and the notices in connection with the election and the nomination of candidates shall be made and the annual election of Commissioners and the ascertainment and declaration of the result of such election shall be conducted as nearly as the circumstances will permit in the manner provided with respect to the nomination and the election of town councillors in the Royal Burghs of Scotland under the Act 3 and 4 William IV. chapter 76. the Municipal Elections (Scotland) Act 1868 the Municipal Elections Amendment (Scotland) Act 1870 and the Ballot Act 1872 and in case of an equality in the number of votes for any two or more such persons the returning officer shall if necessary to prevent an excess in the number of Commissioners decide by lot which of such persons shall be elected Provided that in all such elections the chairman of the Commissioners shall act as returning officer and the clerk to the Commissioners shall in all respects occupy the place and perform the duties of the town clerk under the above-mentioned Acts in so far as necessary to carry the provisions of the recited Acts and this Act into effect and in the case of the chairman of the Commissioners becoming incapable to act the Commissioners shall appoint another of their body to be the returning officer in the place of the said chairman and the clerk to the Commissioners shall by advertisement placard

31 & 32 Vict. c. 108.
33 & 34 Vict. c. 92.
35 & 36 Vict. c. 33.

A.D. 1881.

or otherwise give public notice of every such appointment and the whole expense of and incident to the elections under the recited Acts and this Act shall be paid by the Commissioners out of the moneys levied by them under the recited Acts and this Act.

Presiding officer at elections of Commissioners.

55. The returning officer for the time being shall appoint one of the Commissioners to act as presiding officer at each polling station required in the election of Commissioners by the ratepayers under the recited Acts and this Act and shall fix the place of election notice of which shall be given in the intimation to be made of the annual election of Commissioners.

Expenses of Act.

56. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Commissioners out of the moneys belonging to or the rates and revenues leviable or receivable by them under the recited Acts or this Act.

SCHEDULES referred to in the foregoing Act. A.D. 1881.

THE FIRST SCHEDULE.

FORM OF MORTGAGE.

Mortgage No. £

By virtue of the Stirling Waterworks Acts 1848 1864 and 1881 we the Stirling Waterworks Commissioners in consideration of the principal sum of [*specify amount*] paid by [*name and designation of mortgagee*] to the clerk [or treasurer] to the said Commissioners for the purposes of the said Acts do hereby grant and assign to the said [*name of mortgagee*] and his executors administrators and assignees [*or as the case may be*] such proportion of the several rates and charges to be levied by the said Commissioners under the authority of the said Acts as the said sum of [*specify amount*] doth or shall bear to the whole sum which is or shall be borrowed upon the credit of the said rates and charges to hold to the said mortgagee and his foresaids until the said principal sum and whole interest due thereon shall be fully paid and satisfied and it is hereby stipulated that the said principal sum shall be repayable on the [*date*] or shall thereafter in virtue hereof remain as a loan to the said Commissioners until the expiration of such further term of years and at such rate of interest as shall be specified in a minute or minutes to be indorsed hereon and signed by the said mortgagee or his foresaids and by the clerk [or treasurer] to the said Commissioners and which minute or minutes are hereby declared and shall be held to be valid and binding though they may be neither holograph of the said mortgagee or his foresaids or of the said clerk [or treasurer] nor tested and for and in respect of interest on the said principal sum to the said date of repayment first above mentioned (being at the rate of [*specify rate*] per centum per annum) the said Commissioners shall pay the several sums contained in the [*state number*] interest warrants bearing the number and date hereof and delivered herewith and that at the several times mentioned in such warrants upon delivery of the same respectively and such delivery shall be a sufficient receipt and discharge to the said Commissioners for the contents of such warrants declaring that the said mortgagee and his foresaids shall not be entitled to make and that the said Commissioners shall not be bound to recognise or register any partial assignation of these presents or of the sums of money principal or interest herein contained and that the said Commissioners shall not be liable for any expenses that may be incurred by the said mortgagee or his foresaids for or in relation to the preparation revision adjustment or execution of this mortgage or of any discharge renunciation release assignation or minute of postponement or renewal thereof In witness whereof [*testing clause according to the law of Scotland.*]

[*Signed by two of the Commissioners and the clerk or treasurer.*] (L.S.)

A.D. 1881.

THE SECOND SCHEDULE.

FORM OF INTEREST WARRANT.

Mortgage No.

Dated 18

Interest Warrant.

For pounds shillings and pence, £

Less Income Tax . .

£

Payable on 18 at the

Clerk [or Treasurer].

THE THIRD SCHEDULE.

FORM OF TRANSFER OF MORTGAGE.

I, A. B., of in consideration of the sum of paid to me by C. D. of do hereby transfer to the said C. D. his executors administrators and assignees a certain mortgage number granted by the Stirling Waterworks Commissioners under the Stirling Waterworks Acts 1848 1864 and 1881 bearing date the day of in favour of E. F. for securing the sum of and interest [*or if such transfer be by endorsement* the within security] and all my right estate and interest in and to the rates charges or other moneys thereby assigned In witness whereof [*testing clause according to the law of Scotland*].

THE FOURTH SCHEDULE.

FORM OF DISCHARGE.

Received from the clerk [or treasurer] to the Stirling Waterworks Commissioners acting on their behalf the sum of

being the principal sum contained in the within mortgage (all interest due thereon having been previously paid) and the said mortgage is now delivered up as paid.

Dated this day of one thousand eight hundred and

THE FIFTH SCHEDULE.

FORM OF CERTIFICATE OF FUNDED DEBT.

This is to certify that *A. B.* [*name and designation*] is the holder of pounds of "the Stirling Waterworks Funded Debt" created by and under the provisions of the Stirling Waterworks Amendment Act 1881 and is entitled to receive an annuity on the said sum at the rate of per centum per annum.

Signed this day of one thousand eight hundred and

[*Signed by two of the Commissioners and the clerk or treasurer.*]

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE, Printers to the Queen's most Excellent Majesty. 1881.