



CHAPTER xxv.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to the Water Supply of the Burgh of Grangemouth. A.D. 1901.

[2nd July 1901.]

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:—

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

2. This Act may be cited as the Grangemouth Water Order Confirmation Act 1901. Short title.

A.D. 1901.

SCHEDULE.

GRANGEMOUTH WATER.

Provisional Order to authorise the Provost Magistrates and Councillors of the Burgh of Grangemouth to acquire Lands and to construct and maintain additional Works in connexion with their existing Water Supply and for other purposes.

WHEREAS the present water supply of the burgh of Grangemouth in the county of Stirling was introduced by the then Commissioners of Police of the burgh under the provisions of the General Police and Improvement (Scotland) Act 1862 and Acts amending the same :

And whereas the said Act of 1862 was repealed by the Burgh Police (Scotland) Act 1892 and the affairs of the burgh including the water supply are now managed and administered under the provisions of the last-mentioned Act as amended by the Town Councils (Scotland) Act 1900 and the provost magistrates and councillors (herein-after called "the Town Council") are also the local authority within the burgh under the Public Health (Scotland) Act 1897 :

And whereas the boundaries of the burgh were extended in the year 1894 and the population now numbers about eight thousand and is rapidly increasing :

And whereas certain parts of the existing waterworks of the burgh having been constructed under agreements with the owners of the lands on which the same are situate it is expedient that limited owners should be enabled to agree with the Town Council so as to remove all doubt as to the sufficiency of the title to be obtained to those portions of the said works and that the Town Council should be authorised by this Order to acquire the lands herein-after described :

And whereas by the great expansion of the trade and population of the burgh of Grangemouth and the extension of the docks and shipping thereat the present supply of water is inadequate and insufficient for the increasing wants and conveniences of the same :

And whereas it is expedient that an increased supply of water should be provided and that the Town Council should be empowered to introduce an additional supply and to acquire the lands and construct and maintain the works herein-after described :

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

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

[1 EDW. 7.] *Grangemouth Water Order Confirmation* [Ch. xxv.]
Act, 1901.

And whereas a plan of the lands intended to be acquired under and plans and sections showing the lines and levels of the works authorised by this Order and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands water 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 Stirling and Falkirk respectively of the principal sheriff clerk of the county of Stirling and are herein-after respectively referred to as the deposited plans sections and book of reference : A.D. 1901.

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899 :

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

1. This Order may be cited for all purposes as the ~~Grangemouth Water~~ Order 1901 and shall come into operation at the date of the passing of the Act confirming the same which date is referred to in this Order as “the commencement of this Order.” Short title and commencement of Order.

2. In this Order the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction. And the expression “the burgh” means the burgh of Grangemouth. The expression “the Town Council” means the provost magistrates and councillors of the burgh of Grangemouth acting under the Burgh Police (Scotland) Act 1892 and Acts amending the same or under any other Police Act for the time being in force within and applicable to the burgh. The expression “the Police Acts” means the Burgh Police (Scotland) Act 1892 and Acts amending the same or any other Police Act for the time being in force within the burgh. The expression “the sheriff” means the sheriff of the counties of Stirling Dumbarton and Clackmannan or any of his substitutes within the county of Stirling. The words “lands and premises” shall have the same meaning as in the Police Acts. Interpretation.

3. The following Acts and parts of Acts (so far as the same respectively are applicable for the purposes and are not inconsistent with the provisions of this Order) are hereby incorporated with and form part of this Order :— Incorporation of Acts.

The Lands Clauses Acts ;

The Waterworks Clauses Act 1847 except the clauses and provisions with respect to the communication pipes to be laid by the undertakers and with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and also with the exception of clauses 68 70 71 and 72. Provided that the clauses of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes shall apply to the lines of pipes which may be laid under this Order ;

The Waterworks Clauses Act 1863.

[Ch. xxv.] *Grangemouth Water Order Confirmation* [1 EDW. 7.]
Act, 1901.

A.D. 1901.
—
Acquisition of
lands.

4. The Town Council may subject to the provisions of this Order for the purposes of their water supply acquire take hold and use compulsorily or by agreement the lands situate in the parish of Grangemouth and county of Stirling shown on the deposited plans and described in the deposited book of reference or so much thereof as they may require for such purposes. The said lands are the following (that is to say) :—

- (1) The lands situate and lying within the area marked A on the said plans ;
- (2) The lands situate and lying within the area marked B on the said plans ;
- (3) The lands situate and lying between the letters C and D and indicated by the hard line shown on the said plans ;
- (4) The lands situate and lying between the letters E and F and indicated by the hard line shown on the said plans ;
- (5) The lands situate and lying between the letters G to H and indicated within the hard lines shown on the said plans ;
- (6) The lands situate and lying between the letters I to K and indicated by the hard line shown on the said plans ;
- (7) The lands situate and lying between the letters L to M and indicated by the hard lines shown on the said plans.

For protection
of Marquis of
Zetland.

5. Notwithstanding anything in this Order the Town Council shall not (unless otherwise agreed between them and the Marquis of Zetland his heirs or successors) acquire take hold or use under the powers of this Order any lands waters or other property of the said Marquis his heirs or successors or any servitudes or rights in or over the same other than those described in a minute of agreement between the most Honourable Lawrence Marquis of Zetland Earl of Ronaldshay Baron Dundas K.T. and the provost magistrates and councillors of the burgh of Grangemouth dated the eighteenth and twenty-second days of March one thousand nine hundred and one and in accordance with the terms and conditions of said agreement.

Power to make
new water-
works.

6. The Town Council 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 the works herein-after described or some of them together with all proper dams weirs roads approaches ways wells tanks basins filter-beds stand-pipes catchwater drains outlets outfalls discharge pipes aqueducts culverts cuts channels conduits drains mains pipes junctions meters valves buildings apparatus and conveniences connected with the said works or any of them or necessary or convenient for taking collecting conducting distributing and regulating the supply of water by the Town Council and for inspecting maintaining repairing altering cleansing managing and using the same and may enter upon take hold and use compulsorily or by agreement such of the lands and water delineated on the deposited plans and described in the deposited book of reference as may be required for such purposes. The said works are—

- (1) A conduit or line of pipes (Work No. 1) situate in the parish of Grangemouth and county of Stirling commencing in the lands belonging

[1 EDW. 7.] *Grangemouth Water Order Confirmation* [Ch. xxv.]
Act, 1901.

to the Town Council at a point forty yards or thereby measured in a straight line from the north-west corner of the western filter of the Town Council's waterworks at Millhall and terminating at the filter at Avonbank waterworks of the Town Council;

A.D. 1901.

(2) A conduit or line of pipes (Work No. 2) situate in the parishes of Grangemouth and Muiravonside and county of Stirling commencing at a well or spring belonging to the Town Council situate in a plantation on the lands of Avonbank numbered 1460 on the Ordnance survey (2nd edition 1897) and terminating at the filter second described in Work No. 1;

(3) A conduit or line of pipes (Work No. 3) situate in the parish of Grangemouth and county of Stirling commencing at a point in the public road from Grangemouth to Bo'ness where the said road is intersected by the burgh boundary of Grangemouth near Upper Candie and terminating at the point of commencement of Work No. 1 before described.

7. The Town Council may in constructing the works by this Order authorised deviate laterally from the lines thereof as shown on the deposited plans to the extent of the limits of lateral deviation respectively shown thereon and when the line of any work is shown on the said plans as passing along any road and no limits of lateral deviation are marked thereon the Town Council may in constructing such works deviate laterally to any extent within the boundaries of such road and may deviate vertically from the levels of the various works as shown on the deposited sections to any extent not exceeding three feet upwards and ten feet downwards. Provided that except for the purpose of crossing a stream no part of a pipe shall be raised above the surface of the ground except so far as is shown on the deposited sections.

Power to deviate laterally and vertically.

8. And whereas in the construction of the works hereby authorised or otherwise in exercise of the powers of this Order it may happen that portions only of the properties numbered 24 and 27 on the deposited plans in the parish of Grangemouth may be sufficient for the purposes of the same and that such portions may be severed from the remainder of the said properties without material detriment thereto. Therefore notwithstanding section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and other persons interested in the said properties whereof parts only are required for the purposes of this Order may if such portions can in the opinion of the jury arbiter or other authority to whom the question of disputed compensation shall be submitted be severed from the remainder of such properties without material detriment thereto be required to sell and convey to the Town Council the portions only of the premises so required without the Town Council being obliged or compellable to purchase the whole or any greater portion thereof the Town Council paying for the portions required by them and making compensation for any damage sustained by the owners thereof and other parties interested therein by severance or otherwise.

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

[Ch. xxv.] *Grangemouth Water Order Confirmation* [1 EDW. 7.]
Act, 1901.

A. D. 1901.

Power to alter
roads &c.
temporarily.

9. For the purposes and during the execution of the works which the Town Council are by this Order authorised to make and in maintaining the same and subject to the provisions of this Order the Town Council may break up or cross over or under alter or stop up temporarily or use any streets roads lanes paths bridges railways canals passages sewers drains watercourses gas pipes and water pipes and electric or telephonic apparatus in any of the lands shown on the deposited plans and specified in the deposited book of reference which they may from time to time find it expedient for any of those purposes so to interfere with providing when possible a proper temporary substitute before interrupting the traffic on any such street or the flow of water gas sewage or electricity in any such sewer drain watercourse canal or pipe and making full compensation to all persons injuriously affected thereby Provided further that nothing in this section shall extend to authorise any interference with electric apparatus or other property of His Majesty's Postmaster-General Provided also that nothing in this section shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 to 1890 to which the provisions of section 15 of the Electric Lighting Act 1882 apply.

Power to
take water.

10. The Town Council may by means of the works by this Order authorised and by the existing waterworks of the Town Council or some of them or some part or parts thereof take appropriate and use the waters which may be intercepted by the foresaid conduits or lines of pipe and also within the lands before mentioned which may be acquired under the powers of this Order.

Power to
agree for
servitudes &c.

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

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

12. The Town Council may by agreement purchase acquire and hold any lands or take servitudes or restrictions over any lands which may in their opinion be necessary or desirable for the purpose of securing the purity of the water in the drainage area of the waterworks of the Town Council and of protecting their water supply against pollution nuisance encroachment or injury and so long as such necessity shall continue such lands to be acquired shall not be deemed to be superfluous lands within the meaning of the Lands Clauses Acts.

The Town Council may let for such period as they think fit or sell or feu any land acquired under this section on such terms conditions and restrictions as regards its use as to the Town Council may seem fit and to secure that such land shall not be manured or broken up for tillage and that no buildings

[Ch. xxv.] *Grangemouth Water Order Confirmation* [1 EDW. 7.]
Act, 1901.

A.D. 1901. water under the powers of the Police Acts and this Order Provided always that such laying down extension enlargement or increase shall be executed only on lands or property belonging to the Town Council or which may be acquired by them by agreement or which they are by the Waterworks Clauses Acts 1847 and 1863 entitled to open and break up for such purposes.

Laying mains on public roads.

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

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

19. For the purpose of executing any necessary work of repair or of cleansing or of examining any of the works authorised by this Order or any reservoir filter or tank aqueduct or conduit belonging to the Town Council the Town Council may cause the water in any such works or reservoir filter or tank aqueduct or conduit to be temporarily discharged into any available stream or watercourse In the exercise of the power conferred by this section the Town Council shall do as little damage as may be and shall make full compensation to all persons for any damage sustained by them by reason or in consequence of the exercise of such power the amount of compensation to be settled in case of difference by arbitration.

Town Council may purchase water from local authorities &c.

20. The Town Council may in addition to the powers in that behalf contained in the Police Acts enter into agreements with any local authority or person for a supply of water to the Town Council by such authority or person in augmentation of the Town Council's water supply and that either in bulk or otherwise and for such price and upon such terms and conditions for such period of time as may be agreed.

Penalty for interference with Town Council's valves &c.

21. Every person who shall wilfully carelessly or without due authority from the Town Council in any way interfere with any valve pipe lock cock or other apparatus or works of the Town Council or with any meter used for registering the quantity of water supplied by the Town Council to the injury of the Town Council shall without prejudice to any other right or remedy competent to the Town Council be liable to a penalty not exceeding five pounds for every such offence.

Town Council may repair apparatus on failure by owner or occupier.

22. If any of the apparatus herein-after defined 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 Town Council or by any duly authorised officer of the Town Council the Town Council or any person

[1 EDW. 7.] *Grangemouth Water Order Confirmation* [Ch. xxv.]
Act, 1901.

which may prejudicially affect the water supply or the purity of the water shall be erected thereon. The proceeds of the sale of any lands by the Town Council shall only be applied to purposes of this Order to which capital is properly applicable.

A.D. 1901.

13. The powers of the Town Council for the compulsory purchase of lands for the purposes of this Order shall cease after the expiration of three years from the commencement of this Order.

Limiting time for exercise of compulsory powers of purchase.

14. If the works authorised by this Order are not completed within five years from the commencement of this Order then on the expiration of that period the powers by this Order granted to the Town Council for executing any works not so completed or in relation thereto shall cease except as to so much thereof as is then completed but nothing herein contained shall restrict the Town Council from maintaining using laying extending enlarging altering replacing relaying increasing adding to or removing any of their conduits aqueducts mains or pipes at any time existing and as occasion requires for the purpose of supplying water within the burgh.

Period for completion of works.

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

Restriction on taking houses of labouring class.

If the Town Council acquire or appropriate any house or houses under the powers by this Order granted in contravention of the foregoing provisions they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the Court of Session and shall be carried to and form part of the Consolidated Fund of the United Kingdom. Provided that the Court may if it think fit reduce such penalty.

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

16. The limits for the compulsory supply of water by the Town Council and the limits of this Order shall be the burgh of Grangemouth which limits are in this Order referred to as "the limits of compulsory supply."

Limits of compulsory supply and limits of Act.

17. The Town Council may at any time subject to the provisions of this Order and notwithstanding the expiration of the period limited for completion of works lay down maintain use extend alter renew relay replace enlarge and increase the number and size of any mains pipes and other conveniences of the Town Council at any time existing for conveying and distributing

Town Council may enlarge or increase number of pipes.

[1 EDW. 7.] *Grangemouth Water Order Confirmation* [Ch. xxv.]
Act, 1901.

authorised by them may enter upon such premises and repair renew and make water-tight all such apparatus and 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 for wilful waste of water or for suffering such apparatus to be out of repair in the manner by the Acts herewith incorporated provided 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 watercloset ball-cock stop-cock valve and other articles used in the supply or storing of water in houses manufactories or premises or in connexion therewith Provided that in the event 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. A.D. 1901.

23. Every person who takes or uses water belonging to the Town Council for any purpose other than domestic or drinking purposes except under and in accordance with the provisions of this Order shall for every such offence be liable to a penalty not exceeding twenty pounds and to a daily penalty of five pounds for each day any such offence continues after conviction. Penalty for taking water except for domestic use.

24. All penalties exigible under the provisions of this Order and of the Acts wholly or partially incorporated therewith (excepting any penalties which may be imposed upon the Town Council) shall be paid over to the Town Council instead of being applied in the manner provided by the last-mentioned Acts or the Acts therein referred to. Application of penalties.

25. All offenders against any of the provisions of this Order or of any of the Acts incorporated with the same respectively or against any of the byelaws of the Town Council may be prosecuted and all penalties in respect of offences against any of such provisions or byelaws may be recovered summarily by the Town Council under the Summary Jurisdiction (Scotland) Acts. Prosecution of offences.

26. The Town Council may in the manner and under the powers and provisions of the Police Acts from time to time borrow any sums required for the purposes of this Order and for executing the works authorised by this Order and for the purchase of lands and other property and rights and for the repayment of any money already borrowed for the purposes of the existing water supply may make and grant mortgages or other securities of the several rates rents and charges in the manner authorised by the Police Acts in security of the money so borrowed and interest thereon and any sums so to be borrowed may be borrowed on terms of the repayment thereof by annuity instalment or otherwise Provided that nothing in this section contained shall operate to extend the period limited for the repayment of any existing debt. Power to borrow.

27. If after having borrowed the sums of money by this Order authorised or any part thereof the Town Council shall pay off the same or any part thereof otherwise than by means of annuities or instalments or of the sinking fund required by the Police Acts it shall be lawful for the Town Council Power to re-borrow.

[Ch. xxv.] *Grangemouth Water Order Confirmation* [1 EDW. 7.]
Act, 1901.

A.D. 1901. — again to borrow the amount so paid off upon the same securities as those upon which the moneys so paid off were secured and so from time to time.

Town Council
may borrow
on cash
account.

28. The Town Council may accept and take from any bank or banking company credit on a cash account to be opened and kept with such bank or banking company in the name of the Town Council according to the usage of bankers in Scotland to the extent of the amount which the Town Council require at the time to borrow or any part thereof and may make and grant mortgages or other securities of the several rents rates and charges in the manner authorised by the Police Acts in security of the payment of the amount of such credit or of the sums advanced from time to time on such cash account with interest thereon.

Borrowing
power for
current
expenses.

29. In order to raise such money as may be necessary to defray the current annual expenditure for the water supply of the Town Council until the rates rents and charges which they are authorised to levy under the Police Acts shall be levied and collected they may borrow during the currency of any year from the fifteenth day of May in one year to the fifteenth day of May in the succeeding year in addition to any other sums to be borrowed on the security of such rates rents and charges in such way and manner as they may deem most expedient any sum or sums not exceeding in the whole two-third parts of the estimated amount of such rates rents and charges for the year then current from any bank or banking company or other company or person on such terms and conditions and in such form as may be agreed on between the parties Provided always that such sums so borrowed shall be paid off and extinguished at or before the fifteenth day of May concluding the year to which such borrowing applies.

Application of
Police Acts.

30. The existing waterworks and water supply of the Town Council and the works authorised by and the lands to be acquired under this Order and the powers conferred by this Order shall be held and exercised by the Town Council under and subject to the provisions of the Police Acts and of this Order and all the provisions of the Police Acts with respect to supply of water execution of works rates and assessments and borrowing money and other incidental matters shall apply to the purposes of this Order.

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

31. The treasurer of the Town Council shall within two months after the expiration of each year during which any sum is required to be set apart for a sinking fund transmit to the Secretary for Scotland a return in such form as may be prescribed by the Secretary for Scotland and verified by statutory declaration if so required by him showing the amount which has been so set apart in respect of that year and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of such sinking fund and the interest or income thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any default in making such return such treasurer so making default shall be liable to a penalty not exceeding twenty pounds which shall be recoverable by the Secretary for Scotland as a debt to the Crown is recoverable If it appear to the Secretary for Scotland by any

[1 EDW. 7.] *Grangemouth Water Order Confirmation* [Ch. xxv.]
Act, 1901.

such return or otherwise that the Town Council have failed to set apart the sum required by this Order to be set apart for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest or income thereof to any purposes other than those authorised by this Order the Secretary for Scotland may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund and such order shall be enforceable by decree of either division of the Inner House of the Court of Session in Scotland pronounced in a summary application presented for that purpose.

A.D. 1901

32. All sums borrowed by the Town Council on mortgage or cash account or otherwise (except any sums borrowed for current expenses) shall be applied only to purposes to which capital is properly applicable.

Application
of moneys
borrowed.

33. Nothing in this Order shall prejudice or affect the priority or other rights or remedies under any mortgages or securities or obligations granted by the Town Council before the commencement of this Order and then subsisting.

Reservation
of prior
mortgages.

34. No person lending money to the Town Council shall be bound to inquire as to the observance by the Town Council of any provision of the Police Acts or this Order or be bound to see to the application or be answerable for any loss or non-application of such money or any part thereof.

Protection
of lender
from inquiry.

35. The mortgagees of the Town Council may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a judicial factor. In order to authorise the appointment of a judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than three thousand pounds.

For appoint-
ment of a
judicial factor

36. The costs charges and expenses incurred in preparing for and obtaining this Order and incidental thereto shall be paid by the Town Council out of any moneys in their hands or out of any moneys borrowed by them under this Order and the Police Acts and if paid out of borrowed money shall be repaid within five years.

Costs of Order

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