



CHAPTER xxii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to North Berwick Corporation. A.D. 1906.
[29th May 1906.]

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 North Berwick Corporation Order Confirmation Act 1906. Short title.

A.D. 1906.

SCHEDULE.

NORTH BERWICK CORPORATION.

Provisional Order to empower the Provost Magistrates and Councillors of the Royal Burgh of North Berwick to acquire the Rhodes Links and other adjoining lands for a Public Park and Recreation Ground and to extend the boundaries of the said Burgh and for other purposes.

WHEREAS the provost magistrates and councillors of the royal burgh of North Berwick (hereinafter called "the town council") are the municipal and local authority therein and are charged with the administration and management thereof:

And whereas the inhabitants of the said burgh and other persons resorting thereto have from time immemorial played golf and other games upon and used for recreation and other purposes the ground commonly known as the west links within the said burgh:

And whereas on account of the increasing popularity of the game of golf and the constantly increasing number of the inhabitants and other persons resorting to the said burgh to play the said game the existing golf course has been found to be inadequate to meet the requirements of the community:

And whereas the said burgh is mainly dependent for its prosperity and popularity as a residential town and holiday and health resort on the facilities which it affords to persons resorting thereto to play golf and a large number of valuable high-class residences have within recent years been built in and around the said burgh for the accommodation of such persons:

And whereas in consequence of the inadequacy of the existing means of recreation it is expedient and would be for the advantage of the said burgh and the inhabitants thereof and the public that the lands adjoining the said burgh on the east side thereof known as Rhodes Links with certain lands adjoining the same herein-after described should be acquired and held and maintained

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by the town council for the purposes of a public park and place of public resort and recreation and that provision and facilities for the playing of golf and other games thereon should be made and for laying out and maintaining on the said lands a new golf course or golf courses and that provision should be made for the maintenance management regulation and control of the said lands and of any games to be established and of any golf courses to be formed thereon and that the town council should be empowered to levy and recover charges in connection therewith:

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And whereas it is expedient that the town council should be authorised to borrow money for the purposes of this Order and to levy rates and assessments for the payment of the interest thereon and for the repayment thereof:

And whereas a plan of the lands and property to be acquired under the powers of this Order and a book of reference to the said plan containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands and property were duly deposited with the principal sheriff clerk of the county of Haddington at his office in Haddington and the same are herein-after referred to as the deposited plan and book of reference respectively:

And whereas it is expedient that the boundaries of the existing burgh of North Berwick should be extended as by this Order provided to include therein the lands to be acquired as aforesaid and that all franchises rights privileges and immunities of and pertaining to the existing burgh of North Berwick and the powers and jurisdictions of the town council and all other powers and jurisdictions should be extended to and be applicable within the burgh as extended by this Order and to the inhabitants thereof and that the district annexed should be disjoined from the county of Haddington:

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 North Berwick Corporation Links and Burgh Extension Order 1906 and

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A.D. 1906. shall come into operation on the date of the passing of the Act confirming the same except as otherwise expressly provided which date is herein-after referred to as "the commencement of this Order."

Incorporation of Acts.

2. The following Acts (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Order) are incorporated with and form part of this Order (that is to say):—

The Lands Clauses Acts.

Interpretation.

3. In this Order the several words and expressions to which meanings are assigned by the Acts incorporated with this Order have the same respective meanings unless there be something in the subject or context repugnant to such construction. And in this Order and the said Acts the following words and expressions shall have the meanings hereby assigned to them (that is to say):—

"The existing burgh" means the burgh of North Berwick within the existing boundaries thereof;

"The burgh" means the burgh of North Berwick as extended by this Order;

"The district annexed" means and comprehends so much of the burgh as lies outside the existing burgh;

"The town council" means the provost magistrates and councillors of the existing burgh or of the burgh as the case may be;

"The magistrates" mean the magistrates of the existing burgh or of the burgh as the case may be;

"The town clerk" means the town clerk of the existing burgh and of the burgh and includes any deputy acting for him;

"The county" means the county of Haddington;

"The county council" means the county council of the county and includes any district committee thereof;

"The sheriff" means the sheriff of the Lothians and Peebles and includes any of his substitutes in the county of Haddington;

"The sheriff clerk" means the principal sheriff clerk of the county;

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“The Police Acts” mean the Burgh Police (Scotland) Acts 1892 to 1903; A.D. 1906.

“The Town Councils Acts” mean the Town Councils (Scotland) Acts 1900 and 1903;

The expression “the links” means the lands and property described in the First Schedule to this Order and shown on the deposited plan and described in the deposited book of reference.

4. Subject to the provisions of this Order the town council may compulsorily or by agreement enter upon take appropriate and use for the purposes of this Order or any of them the lands shown on the deposited plan and described in the deposited book of reference and described in the First Schedule to this Order. Power to take lands.

5. If there be any omission mis-statement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plan or specified in the deposited book of reference the town council after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to the sheriff for the correction thereof and if it appear to the sheriff that the omission mis-statement or wrong description arose from mistake he shall certify the same in duplicate and he shall in his certificate state the particulars of the omission and in what respect any such matter is mis-stated or wrongly described and one of such certificates shall be deposited with the sheriff clerk at his office at Haddington and the other with the town clerk and such certificates respectively shall be kept by such sheriff clerk and town clerk respectively with the other documents to which the same relate and thereupon the deposited plan and book of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the town council to take the lands in accordance with such certificate. Correction of errors &c. in deposited plan and book of reference.

6. The powers of the town council under this Order for the compulsory purchase of lands shall not be exercised after the expiration of three years from the commencement of this Order. Limitation of time for compulsory purchase.

7. The agreement set forth in the Second Schedule to this Order made between the Corporation and Sir Walter Hamilton Confirmation of agreement.

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A.D. 1906. Dalrymple of North Berwick Baronet is hereby confirmed and shall have effect according to the true intent and meaning thereof.

Purposes for which links to be acquired.

8. The town council shall hold and maintain the links as a public park and place for public resort and recreation for the inhabitants of the burgh and all other persons resorting to the links or temporarily resident in the burgh or in the neighbourhood thereof and that on such conditions as may be prescribed by the town council and subject always to the management regulation and control of the town council and the town council may form and maintain or lay out or set apart any part of the said lands for a golf course or golf courses and for the playing of golf or any other game or games thereon and may also form and maintain thereon curling rinks and tennis courts The town council may let or lease the links or any part thereof to any person or bodies of persons on such terms and under such conditions and for such period or periods as the town council may think proper and may regulate the playing of games thereon and generally may deal with the links for public park and public resort and recreation purposes and may erect and maintain thereon or authorise other persons to erect and maintain thereon shelters club houses restaurants shops for the manufacture or disposal of and dealing in goods and articles used for or in connection with the games to be played on the links or any part thereof bandstands bathing houses and other such erections and may form improve and maintain roads footpaths and walks thereon and do such other things as from time to time may appear to the town council to be expedient for the use and enjoyment of the links by the public and the town council may charge and take such rents rates or charges in respect of the user of the lands and of such rinks tennis courts shelters club houses restaurants shops bandstands bathing houses or other erections as in their discretion they think fit.

Power to levy charges for use of golf courses &c.

9. The town council may make levy and recover charges from all persons or bodies of persons whether inhabitants of the burgh or not who may use any golf course links tennis courts or rinks that may be formed or laid out or opened up by the town council and shall apply such charges to recoup the town council the cost of such forming laying out or opening up and to enable them to uphold and maintain the same

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Provided that the charges proposed from time to time shall A.D. 1906.
before being fixed by the town council be published once in
each of two successive weeks in a newspaper or newspapers
circulating in the county and burgh and shall thereafter be
fixed at a meeting of the town council and the charges so
fixed shall remain in force until the same are altered in like
manner and after publication as aforesaid Provided further
that the town council may exercise and apply to the links and
for the maintenance and improvement thereof all or any of the
powers available to or vested in them by or under the Police
Acts for the maintenance and improvement of open spaces.

10. In addition to any powers to make byelaws under the Byelaws.
Police Acts and the exercise thereof the town council may from
time to time make byelaws for all or any of the following pur-
poses and may from time to time repeal alter or amend any such
byelaws and all such byelaws may be enforced by the imposition
of the penalties (not exceeding forty shillings) and shall be
confirmed and published under and according to the provisions
contained in the Police Acts as regards the byelaws thereby
authorised (that is to say):—

For the general management regulation and control of the
links and of all or any golf courses or places for the
playing of golf and of any other games which may be
established thereon;

For appointing and regulating keepers starters caddie-masters
and other persons to be employed on and about the links;

For licensing appointing and regulating golf caddies and
professional golfers and golf experts and all other persons
who may be employed on the links for remuneration or
reward and for fixing and regulating the charges for
their services;

For the prevention of unlicensed persons being employed
or taking employment on the links;

For the orderly conduct of persons frequenting or using the
links or engaging in golf or any other games thereon;

For excluding and removing from the links all gipsies
hawkers beggars rogues and vagabonds or persons com-
mitting a breach of the peace and any person infringing
any byelaw;

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For regulating and prescribing the days on which the games may be played and the hours at which games shall be permitted on the links or on any part or parts thereof:

For preventing or regulating the admission to the links of carriages or vehicles and of horses and other animals;

For protecting from injury all or any golf courses and turf and greens and all tee boxes guide posts bunkers golf holes pin flags and other fittings connected therewith and any rinks tennis courts or ground set apart for any other games or any apparatus or implements used for or in connection with any games established or provided on any part of the links;

For regulating and varying from time to time any charges to be exacted from persons using all or any golf courses or places for the playing of golf or other games on the links and the recovery thereof and the exclusion and removal of persons refusing or evading payment thereof:

Provided that all offences against any byelaw hereby authorised to be made may be tried before the magistrates and section 487 and subsection (b) of section 501 of the Burgh Police (Scotland) Act 1892 shall be and the same are hereby made applicable thereto Provided further that no byelaw restricting the military user of the links in any case of national emergency shall take effect unless it be approved by the Secretary of State for War.

Power to
accept con-
tributions.

11. The town council may accept and apply towards the purposes of this Order any moneys which may be contributed by gift to them for those purposes.

Power to
borrow
money.

12. The town council may under the authority and for the purposes of this Order from time to time borrow at interest by way of bond mortgage or otherwise on the credit and security of a special rate or assessment of such amount as the town council may deem necessary which shall be known as "the links assessment" and shall be levied and recovered in addition to and in the same way and manner and with the same incidence as the general improvement rate authorised to be levied by section 359 of the Police Burgh (Scotland) Act 1892 and of the rents and charges authorised to be made and levied under this Order as before provided or of any one or more of them as the town council may resolve such sums of money not exceeding in the whole the sum of twelve thousand pounds and if after having

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borrowed the said sum or any part thereof the town council pay off the same otherwise than by means of the instalments or sinking fund herein-after provided they may again borrow the amount so paid off and so from time to time.

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13. All bonds or mortgages to be granted for money to be borrowed under the authority of this Order may be in the form and tenour set forth in the Burgh Police (Scotland) Act 1903 and shall be executed and completed as in that Act provided and the town council may grant bonds or mortgages accordingly for the moneys to be borrowed. The provisions of the Police Acts as to the borrowing of money for the general purposes of those Acts shall in so far as applicable and not inconsistent with the provisions of this Order apply to the borrowing by the town council of the money which they are by this Order authorised to borrow and the bonds or mortgages to be granted by the town council for the purposes of this Order shall refer to the title of this Order.

Bonds for borrowed money.

14. Nothing herein contained shall prejudice or affect any bonds or securities which may have been granted by the town council for money borrowed by them previous to the confirmation of this Order and remaining unpaid.

Present bonds and securities by town council not to be prejudiced.

15. Any person lending or paying money under this Order to the town council shall not be bound to inquire as to the observance by them of any provisions of 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 lenders.

16. All money borrowed by the town council under the authority of this Order shall be applied to the purposes of this Order and to no other purpose whatsoever. Provided always that money borrowed shall be applied only to purposes to which capital is properly applicable.

Application of money borrowed.

17. The town council may levy and apply the links assessment to all or any of the purposes of this Order.

Application of links assessment to any purposes of Order.

18. The town council shall subject to the provisions of this Order annually include in and as part of the links assessment authorised to be levied by them under this Order such sums as shall be necessary for paying the interest of any money borrowed by them under the authority of this Order and also the instal-

Rates to include interest and sinking fund.

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A.D. 1906. — ments or the sums to be set apart annually as a sinking fund as herein-after in this Order provided.

Periods of repayment.

19. The town council shall pay off all moneys borrowed by them under this Order within the respective periods following (which periods are in this Order referred to as "the prescribed periods") (that is to say):—

As to money borrowed for the purposes of this Order (other than for payment of the costs of this Order) within fifty years from the date or dates of borrowing the same;

As to money borrowed for payment of the costs of this Order within five years from the commencement of this Order.

Mode of repayment.

20. The town council shall pay off all moneys borrowed by them under this Order either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by one of these methods and partly by another or others of them.

Sinking fund.

21.—(1) If the town council determine to repay by means of a sinking fund any moneys borrowed by virtue of this Order such sinking fund shall be formed or maintained either—

(A) By payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed. A sinking fund so formed is herein-after called a non-accumulating sinking fund; or

(B) By payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate not exceeding three per centum per annum will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed. A sinking fund so formed is herein-after called an accumulating sinking fund.

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in securities in which trustees are by law for the time

being authorised to invest or in mortgages bonds debentures debenture stock stock or other securities (not being annuity certificates or securities payable to bearer) duly issued by any local authority other than the town council the town council being at liberty from time to time to vary and transpose such investments. A.D. 1906.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the town council towards the equal annual payments to the fund.

(4) The town council may at any time apply the whole or any part of any sinking fund in or towards the discharge of the money for the repayment of which the fund is formed Provided that in the case of an accumulating sinking fund the town council shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5)—(A) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the town council :

(B) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any such excess may be applied towards such annual payments.

(6) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under this Order shall be paid by the town council in addition to the payments provided for by this Order.

(7) If it appears to the Secretary for Scotland or to the town council at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Order together with the accumulations thereon (in the case of an accumulating sinking fund) will probably not be sufficient to repay within the prescribed period the moneys for the

A.D. 1906. — repayment of which the sinking fund is formed it shall be the duty of the town council to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose.

(8) If the town council desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Order together with the accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the town council be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the town council may with the consent of the Secretary for Scotland reduce the payments to be made to the sinking fund either temporarily or permanently to such amounts as will be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed.

(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the town council be sufficient to repay the loan in respect of which it is formed within the prescribed period the town council may with the consent of the Secretary for Scotland discontinue the annual payments to such sinking fund.

(11) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose or purposes of this Order as the town council may determine.

(12) The payment of the first instalment or the first equal annual payment to the sinking fund shall be made within one year after the date of borrowing the sum in respect of which payment is made but it shall not be necessary (except in the case of sums borrowed for the payment of the costs of this Order) to make the first payment earlier than the fifteenth day of November one thousand nine hundred and seven.

For appoint-
ment of a
judicial
factor.

22. The mortgagees of the town council in respect of money borrowed under this Order may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a judicial factor.

23. The town clerk shall within two months after the expiration of each year during which any sum is by this Order 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 town clerk so making default shall be liable to a penalty not exceeding twenty pounds which shall be recoverable by the Secretary for Scotland as a debt to the Crown is recoverable. If it appear to the Secretary for Scotland by any such return or otherwise that the town council have failed to 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.

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

24. If the town council out of the moneys received by them on capital account and applicable to the purposes of this Order other than borrowed moneys repay any principal moneys borrowed under the powers of this Order the payments to the sinking fund established under the provisions of this Order for the repayment of such principal moneys may be reduced to such extent and upon such terms as may be from time to time approved by the Secretary for Scotland.

Sinking
fund may be
adjusted in
certain
events.

Burgh Extension.

25. From and after the fifteenth day of May in the year one thousand nine hundred and six the municipal and police boundaries of the existing burgh shall be and are hereby extended so as to include and shall include the lands and area within the

Extension
of burgh
boundaries.

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A.D. 1906. limits defined in the Third Schedule to this Order situate in the Parish of North Berwick and County of Haddington (in this Order referred to as "the district annexed") and the district annexed shall as from and after that date be disjoined from the county Provided always that the description of boundaries contained in the said schedule shall be subject to the rules of construction laid down in section 5 of the Representation of the People (Scotland) Act 1832.

Deposit of
plan of
burgh.

26. A map of the burgh showing the boundaries as existing at the commencement of this Order and also the boundaries as extended by this Order having been signed in triplicate by the Secretary for Scotland one copy thereof shall within one month after the commencement of this Order be deposited in the office of the Secretary for Scotland Whitehall London another copy thereof shall be deposited with the town clerk and another copy with the sheriff clerk at his office in Haddington and a copy of the said map certified by the town clerk shall be sent as soon as may be after such deposit to the Board of Agriculture and Fisheries Provided that the copies deposited with the town clerk and sheriff clerk shall be open at all reasonable times to the inspection of any ratepayer without charge In case of any discrepancy between the boundaries as delineated on the said map and the boundaries as described in the Third Schedule hereto the said map shall be deemed to be correct and shall prevail.

Parochial
arrange-
ments not to
be affected.

27. The lands and heritages within the district annexed shall remain parts and portions of the parish of North Berwick within which they now lie and shall not be affected by any of the provisions of this Order in so far as regards the settlement relief or management of the poor the erection and maintenance of district lunatic asylums the payment of poor's rates or school rates or any burdens for purposes other than those for which the said lands and heritages will be assessed under the provisions of the Police Acts or any other public or local statutes presently affecting or which may hereafter affect the existing burgh and of this Order.

Transference
of works in
district an-
nexed from
county coun-
cil to town
council.

28. All lands sewers drains and pipes within the district annexed belonging to or vested in the county council and all powers rights duties revenues and jurisdictions and obligations connected therewith shall from and after the fifteenth day of

May in the year one thousand nine hundred and six be and the same are hereby transferred from the county council and from any district committee of the county council and all committees thereof and are hereby vested in the town council and the said property and rights revenues and obligations connected therewith shall subject to the provisions of this Order and to the provisions of the Police Acts be held used managed and maintained with the same rights duties revenues jurisdictions and obligations attached thereto by the town council as when vested in and belonging to the county council or any special district committee or other committees thereof and the town council may use such works hereby vested in them in connection with any works in the burgh.

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29. Section 50 of the Local Government (Scotland) Act 1889 as applied by section 96 of the Burgh Police (Scotland) Act 1903 shall apply and have effect on the extension of the boundaries of the burgh by this Order.

Agreement
between
town and
county
council.

30. All roads lanes and footpaths within the district annexed and all rights connected therewith at present vested in the county council or any committee thereof shall from and after the fifteenth day of May in the year one thousand nine hundred and six be transferred from the county council and any committee thereof to and shall be vested in the town council and thereafter shall be managed maintained and repaired and carried on in the same way and manner and to the same extent by the town council as roads lanes and footpaths within the existing burgh.

Transference
of roads &c.
in added
area.

31. The county council and district committee of the county council and all committees thereof shall from and after the fifteenth day of May in the year one thousand nine hundred and six be freed and relieved of and from the repair and maintenance of all such roads lanes and footpaths and of all pipes sewers and drains and works within the district annexed.

County
council and
committees
freed from
maintenance
of works &c.
transferred
to town
council.

32. Subject to the provisions of this Order all jurisdictions rights powers and authorities heretofore exercised or exerciseable by the county council or any committee thereof or other authority within or over the district annexed or any part or parts thereof (with the exception of such jurisdictions rights powers and authorities as are presently exercised by the county council or any committee thereof or other authority within the existing

Powers of
local autho-
rities to cease
in added
district.

A.D. 1906. burgh or any part thereof) shall cease and determine from and after the fifteenth day of May in the year one thousand nine hundred and six. Provided that nothing in this Order shall affect any jurisdiction judicial or administrative appertaining or relating to Inland Revenue.

Assessments on burgh.

33. Every rate or assessment (except such rates or assessments as are presently levied and collected by the county council and parish council within the existing burgh or any part thereof) authorised to be collected and levied by the county council or other local authority having jurisdiction over the district annexed or any part or parts thereof but which shall not have been actually imposed previous to the fifteenth day of May in the year one thousand nine hundred and six shall on that date cease and determine within the district annexed and thereafter the assessments and rates leviabie under the Police Acts and this Order and all other burghal assessments and rates shall thenceforth be leviabie on and within the burgh in the same way and manner as the same are leviabie on and within the existing burgh.

Extension and application of the provisions of Acts and certain rights to burgh.

34. The provisions of all Public General and all Local Acts which apply to the existing burgh shall apply to the burgh in the same way and manner and as fully to all intents and purposes as they apply to the existing burgh and all rights powers jurisdictions civil and criminal authorities privileges immunities and obligations at present enjoyed possessed by or incumbent on the town council the magistrates or inhabitants of the existing burgh whether at common law or by statute or otherwise including all powers of imposing levying or recovering assessments rates and taxes shall from the fifteenth day of May in the year one thousand nine hundred and six extend and apply to the burgh and the inhabitants thereof.

Saving jurisdiction of sheriff.

35. The sheriff shall continue to hold use and exercise all and every jurisdiction of whatever kind or nature civil as well as criminal which he has or is in any way entitled to hold use and exercise in the same way and manner as if this Order had not been made.

Order not to affect election of members to serve in Parliament.

36. Nothing in this Order contained shall affect the county or the limits of the same or the polling districts so far as regards the election of members to serve in Parliament for the said county or the preparation of the register of voters for the purposes of such elections.

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37. The town council shall continue to consist of the same number of members as at present and shall continue in office subject to the provisions of the Town Councils Acts and other statutes regulating the election of magistrates and councillors and the order of their retirement shall not be affected.

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Continuance
in office of
town
council.

38. Nothing in this Order shall affect prejudicially any estate right power privilege or exemption of the King's most Excellent Majesty and in particular nothing herein contained shall authorise the town council to take use or in any way interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent such Commissioners and such Board are hereby respectively authorised to give).

Saving
rights of
Crown.

39. All the costs charges and expenses of and incident to the preparing for obtaining and passing of this Order or otherwise in relation thereto shall be paid by the town council out of the links assessment leviable by them under this Order or out of the moneys to be borrowed by them under the authority of this Order.

Costs of
Order.

SCHEDULES referred to in the foregoing Order.

THE FIRST SCHEDULE.

LANDS ACQUIRED.

All and whole the lands subjects and others all situate in the parish of North Berwick and county of Haddington and bounded as follows Commencing at Millburn and bounded on the north and north-east by high-water mark at ordinary spring tides on the east by grazing ground belonging to Sir Walter Hamilton Dalrymple of North Berwick Baronet on the south partly by the public road leading from North Berwick to Dunbar partly by portions of the farm of Rhodes in the occupation of Peter Wilson and belonging to the said Sir Walter Hamilton Dalrymple

A.D. 1906. and partly by land feued by the said Sir Walter Hamilton Dalrymple to the Reverend Peter Hately Waddell Doctor of Divinity on the south-west by the glen belonging to the said Sir Walter Hamilton Dalrymple and on the west partly by land feued to the said Peter Hately Waddell and partly by the Millburn dividing the property belonging to the Royal Burgh of North Berwick from that belonging to the said Sir Walter Hamilton Dalrymple.

THE SECOND SCHEDULE.

MINUTE OF AGREEMENT between SIR WALTER HAMILTON DALRYMPLE of North Berwick Baronet (herein-after called "the First Party") on the one part and the PROVOST MAGISTRATES AND COUNCILLORS of the Burgh of North Berwick (herein-after called "the Second Parties") on the other part.

WHEREAS the first party has agreed to sell to the second parties certain lands subjects and others herein-after described forming part of his estate of North Berwick in the parish of North Berwick and county of Haddington for the purposes of a public park and place for public resort and recreation :

And whereas the second parties have agreed to purchase said lands subjects and others at the price and in terms of the several conditions after set forth :

And whereas to enable the second parties to complete and carry through said purchase and make sundry necessary arrangements and regulations in connection therewith it is necessary for them to obtain parliamentary authority :

And whereas the second parties have given the necessary notices and are in course of proceeding to obtain parliamentary authority for the carrying through of said purchase and are promoting a Provisional Order in the ensuing session of Parliament to that end :

And whereas it is right and proper that the whole arrangements between the parties should be reduced to writing Therefore the parties have agreed and do hereby agree as follows videlicet :—

First.—The first party hereby agrees and binds and obliges himself and his heirs and successors but subject always to the conditions reservations and restrictions herein-after specified to sell and dispone to the second parties by a valid disposition containing a clause of absolute warrandice (qualified in terms of Article 7th hereof) and other usual and necessary clauses All and whole the lands subjects and others all situate in the parish of North

[6 Edw. 7.] *North Berwick Corporation Order* [Ch. xxii.]
Confirmation Act, 1906.

Berwick and county of Haddington and extending to one hundred and twenty-eight acres and four hundred and thirty-five decimal or thousandth parts of an acre or thereby and bounded as follows videlicet On the north and north-east by high-water mark at ordinary spring tides on the east by grazing ground belonging to the first party on the south partly by the public road leading from North Berwick to Dunbar partly by portions of the farm of Rhodes in the occupation of Peter Wilson and belonging to the first party and partly by land feued by the first party to the Reverend Peter Hatley Waddell Doctor of Divinity on the south-west by the Glen belonging to the first party and on the west partly by land feued to the said Peter Hatley Waddell and partly by the Millburn dividing the property belonging to the Royal Burgh of North Berwick from that belonging to the first party which lands subjects and others are tinted green on the plan or sketch annexed and signed as relative hereto Together with right to take and remove from the foreshore ex adverso of the said lands subjects and others such sand and gravel as may reasonably be required from time to time by the second parties for use on the said lands subjects and others or the roads to be formed by them thereon. A.D. 1906.

Second.—The price to be paid to the first party by the second parties for said lands subjects and others shall be six thousand two hundred and fifty pounds sterling which price shall be payable at the date of the second parties' entry and shall bear interest at the rate of five pounds per centum per annum from that date till paid The said date of entry shall be such date as may be mutually agreed upon between the parties and failing agreement shall be deemed to be the first day immediately after the expiry of two calendar months from the date on which the foresaid Provisional Order to be promoted by the second parties shall become law.

Third.—The lands subjects and others before described shall be held by the second parties but that only for the purposes of a public park and place for public resort and recreation for the inhabitants of North Berwick and also for the use of golf and other clubs and visitors resorting to or temporarily resident in North Berwick or its neighbourhood and that on such conditions and for such payments as may be prescribed by the second parties and subject always to the management regulation and control of the second parties and the second parties shall be entitled to set apart or lease or let any part of the said lands subjects and others for a golf course and for the playing of golf or any other game or games thereon on such terms and under such conditions and for such period or periods as the second parties may think proper and in general to deal with the said lands subjects and others for public park and public resort and recreation purposes with powers of putting up and maintaining shelters clubhouses restaurants shops for the disposal and dealing in goods and articles used for or in connexion with the games to be played on said lands subjects and others or any part thereof band stands bathing houses and other such erections and of regulation management and control and of letting and

[Ch. xxii.] *North Berwick Corporation Order* [6 EDW. 7.]
Confirmation Act, 1906.

A.D. 1906. taking such rents or rates in respect of the user of the lands subjects and others or any part thereof and of such shelters club houses restaurants shops band stands bathing houses or other erections as the second parties may in their discretion think right.

Fourth.—The first party notwithstanding the sale and conveyance by him to the second parties of said lands subjects and others shall have power at any time after the said Provisional Order becomes law and on timeous intimation to the second parties to continue in a line to be adjusted with the second parties the existing road east of Tantallon Terrace North Berwick from its point of termination as at the date hereof at Rhodes Braes eastwards and southwards to join the Tantallon Road but that always in such a way as to interfere as little as possible with the playing of games on the ground before described and which continuation of said existing road if and when formed by the first party shall be maintained and upheld by him and his heirs and successors in all time thereafter declaring that the second parties shall also be bound to maintain and uphold the present road so far as extending from the existing eastern boundary of the burgh of North Berwick at the east end of Tantallon Terrace to the top of the Rhodes Braes and which present road so far as already existing is tinted brown on the said plan or sketch annexed and signed as relative hereto.

Fifth.—The second parties hereto bind and oblige themselves to fence with fences of a kind to be approved of by the first party in so far as not already done the whole of the south-west south and east sides of the said lands subjects and others before described in so far as the same are bounded by property belonging to the first party and thereafter to maintain and uphold not only such fences but all existing walls and fences dividing the property of the first party from the said lands subjects and others Notwithstanding anything before written the second parties shall be bound to erect immediately after the date of their entry and wholly on ground belonging to the first party walls of stone and lime not less than four feet in height between the points A and B and the points C and D on said plan or sketch annexed and subscribed as relative hereto Providing always and declaring that in the event of any of the said walls or fences being damaged by the operations of the first party or his tenants or those for whom he is responsible he shall be bound to repair such damage when called on by the second parties.

Sixth.—The first party notwithstanding the sale and conveyance by him to the second parties of said lands subjects and others shall have power to lay in and through the said lands subjects and others before described in such lines and at such depths as may be approved of and adjusted by the second parties any drains or sewers or gas and water pipes which may be necessary for any buildings which are already or may hereafter be erected on his ground lying to the south of said lands subjects and others and also power to the first party and those having his authority

[6 EDW. 7.] *North Berwick Corporation Order* [Ch. xxii.]
Confirmation Act, 1906.

to cart seaweed sand and gravel across the said lands subjects and others A.D. 1906.
by the roads or paths existing thereon at the date of these presents or
by such roads or paths as may hereafter be made thereon by the second
parties and also power to remove by cart along a road or track immediately
to the north of the farm cottages of said farm of Rhodes the contents
of the midden or ashpit used in connection with said cottages and also
power to the first party to enter upon the said lands subjects and others
for the purpose of making such repairs to his buildings or walls as he
may consider necessary In the event of the second parties filling up the
gully to the north-west of the Rhodes farmsteading they agree to lay
an iron pipe or conduit not less than twelve inches in diameter for the
purpose of carrying off sewage field drainage and flood water from the
first party's ground and from buildings erected or to be erected thereon
which would naturally drain by such an outlet and the second parties
undertake to maintain and uphold said covered drain when so put in
by them.

Seventh.—In respect that there is an annuity secured over the whole
of the first party's estate of North Berwick of which said lands subjects
and others form part amounting to eight hundred pounds payable to
Lady Alice Mary Hamilton Dalrymple wife of the first party during the
joint lives of the first party and herself conform to bond of annuity and
disposition in security granted by the first party in favour of the said
Lady Alice Mary Hamilton Dalrymple dated second and recorded in the
division of the general register of sasines applicable to the county of
Haddington the ninth both days of June eighteen hundred and ninety-
nine and a contingent annuity of one thousand one hundred and twenty-
one pounds five shillings and eight pence also payable to the said Lady
Alice Mary Hamilton Dalrymple during her life after the death of the
first party conform to bond of annuity and disposition in security granted
by the first party in favour of the said Lady Alice Mary Hamilton Dalrymple
dated fifth and recorded in the said division of the general register of
sasines twenty-sixth both days of November eighteen hundred and eighty-
nine and that there is a maximum sum amounting to ten thousand and
ninety-one pounds ten shillings and nine pence payable by the first party
immediately after his death to Agnes Mary Dalrymple Marjorie Dalrymple
Sibyl Dalrymple Hew Clifford Dalrymple and John Dalrymple his children
and any other child or children to be born of his present marriage
conform to bond of provision and disposition in security by the first party
in favour of his said children dated fifth and recorded in the said division
of the general register of sasines twenty-sixth both days of November
eighteen hundred and eighty-nine and that the first party is unable to
obtain discharges of the provisions in said respective bonds of annuity
and disposition in security and bond of provision and disposition in
security so far as regards the said lands subjects and others and in
respect that the second parties are satisfied of the sufficiency of the security
to be granted to them by the first party in connexion with the said

A.D. 1906. annuities and provisions as after set forth Therefore the second parties agree subject to the approval of Parliament being obtained to this agreement to accept from the first party a conveyance of the said lands subjects and others before described subject always to the foresaid annuities in favour of the said Lady Alice Mary Hamilton Dalrymple and the provisions in favour of the children of the first party and shall not require the first party during his life to procure discharges or other deeds releasing the said lands subjects and others from the securities for the said annuities and provisions but without prejudice always in all other respects to the rights and remedies of the second parties under and by virtue of the clause of absolute warrandice in the disposition to be granted by the first party in their favour the first party being bound and undertaking as he hereby binds himself and undertakes to grant concurrently with the disposition of the said lands subjects and others in favour of the second parties a bond of relief and disposition in security disposing in security to the second parties his whole estate of North Berwick postponed to the debts and incumbrances at present affecting the same other than the bond for six thousand pounds granted by the first party in favour of the marriage trustees of Mr. and Mrs. Adam Gillies Smith dated eleventh and recorded in said division of the general register of sasines sixteenth both days of May nineteen hundred and the bond for four thousand pounds granted by the first party in favour of James Auldjo Jamieson writer to the signet and others dated fourth and recorded in said division of the general register of sasines fourteenth both days of September nineteen hundred and one to which two last-mentioned bonds said bond of relief and disposition in security shall be preferable and that for the purpose of securing to the second parties the repayment of any sum or sums of money they may be called upon to pay and may pay in respect of the said annuities and provisions which bond of relief and disposition in security shall be framed in terms appropriate to accomplish its purpose as before mentioned and shall contain all clauses usual and necessary and particularly a clause reserving power to the first party and his successors to feu the lands and others therein contained in terms similar to the corresponding clause inserted in the other deeds of security over the said estate of North Berwick.

Eighth.—The second parties agree and bind and oblige themselves to settle with the agricultural tenants of the Rhodes and Castleton Farms for all their claims including both the penal rent and the agricultural claims to which they may respectively be entitled under the existing leases between them and the first party arising through the sale by the first party to the second parties of said lands subjects and others so far as these form parts of said respective farms the first party being bound to grant proportionate reductions of rent to said tenants in respect of the portions of their farms sold to the second parties and in the event of any disputes arising between the second parties and the agricultural tenants with regard to their respective claims the matter shall be settled in terms of the existing leases of said farms of Rhodes and Castleton.

A.D. 1906.

Ninth.—In respect that said lands subjects and others before described include an area of ground extending to thirteen acres and eight hundred and fourteen decimal or thousandth parts of an acre or thereby within the North Berwick special water district and also an area of twenty-nine acres and six hundred and sixty decimal or thousandth parts of an acre or thereby within the area of two hundred acres agreed to be supplied with water under Article fourth of Minute of Agreement entered into between the first party and the then Commissioners of the Burgh of North Berwick dated twenty-fifth May and fourth June nineteen hundred the second parties agree to supply with water the five areas three of them coloured red and two of them coloured blue on the said plan or sketch annexed and signed as relative hereto in lieu and place of the two areas above referred to and that on the same terms and conditions as they are at present bound to supply the said two areas respectively but specially providing and declaring that the second parties shall not be liable for any further expense in connection with the water supply of said five substituted areas than they would be for the supply provided to be given under Article fourth of said Minute of Agreement.

Tenth.—Notwithstanding the sale and conveyance by the first party to the second parties of the said lands subjects and others immediately on the present tenant of Rhodes Farm ceasing to occupy the cottages near the old lime kilns the first party shall remove the roof of said cottages and shall thereupon or at any time within twelve months thereafter be entitled to use the stones and lime composing the walls thereof for the purpose of road making and in like manner the first party shall at any time within twelve months from and after the last date hereof be entitled to use the stones and lime composing the walls of the cottages at Wanton Walls for the same purpose.

Eleventh.—The second parties shall pay the whole expenses incurred or to be incurred by the first party of and incident to all deeds which may be necessary in connection with the intended sale of said lands subjects and others including these presents the disposition to follow thereon any necessary deeds of restriction by heritable creditors the said bond of relief and disposition in security and also including searches of incumbrances.

Twelfth.—This agreement is conditional on the confirmation of the same by Parliament in the ensuing or immediately succeeding session of Parliament and shall be subject to such alterations as Parliament may make thereon but in the event of any alteration being made thereon which in the opinion of either of the parties hereto is material it shall be in the power of either party to withdraw but subject always to payment by the second parties of all lawful expenses bonâ fide incurred by the first party of and incident to the proposed transaction And in the event of this agreement for any reason not being fully carried out and of the second parties proceeding with the said Provisional Order and obtaining Parliamentary sanction thereto it is hereby specially agreed between the

A.D. 1906. parties hereto that notwithstanding either this agreement not being confirmed by Parliament or the withdrawal of either party therefrom in terms of this article the before-mentioned price will not be binding on the parties and will not be founded on by the second parties as fixing or indicating the value of the said lands subjects and others and that neither the negotiations leading up to this agreement nor the agreement itself shall be founded on in any way by either of the parties hereto in any proceedings which may be adopted for ascertaining the purchase price of the lands subjects and others to be acquired under and in terms of the said Provisional Order.

Thirteenth.—Should any difference of opinion arise between the parties hereto as to the true intent and meaning of these presents it is referred to the amicable and final decision of the Lord Advocate whom failing the Solicitor-General for Scotland for the time being and both parties bind and oblige themselves to implement whatever decisions or decrees arbitral shall be pronounced by the said arbiter in the premises under the penalty of fifty pounds to be paid by the party failing to the party implementing or willing to implement over and above performance And the parties consent to registration hereof and of all such decisions or decrees arbitral for preservation and execution In witness whereof these presents written on this and the seven preceding pages by William Davidson Robertson clerk to Messrs. Lyle and Wallace solicitors North Berwick are (under the declaration that the words "date of" are interlined so as to read between the words "said" and "entry" occurring in the sixteenth line counting from the top of page second hereof) together with the plan annexed hereto subscribed in duplicate by the parties hereto as follows videlicet On behalf of and as specially authorised by the said provost magistrates and councillors in meeting assembled by John Macintyre chemist North Berwick provost and Andrew Dewar Wallace town clerk of said burgh and the seal of said burgh adhibited thereto all at North Berwick on the twenty-ninth day of January nineteen hundred and six before these witnesses Thomas Scollay police constable North Berwick and David Bell Swan clerk to said Lyle and Wallace and by the said Sir Walter Hamilton Dalrymple at Alassio Liguri Italy on the thirteenth day of February and year last mentioned before these witnesses Charles Henry Whetham gentleman and Herbert John Seale electrical engineer both residing at Twelve Via della Circonvallazione Alassio aforesaid.

W. HAMILTON DALRYMPLE. }

JOHN MACINTYRE provost. }

A. D. WALLACE town clerk. }

L.S.

C. H. WHETHAM witness.

HERBERT J. SEALE witness.

THOMAS SCOLLAY witness.

D. B. SWAN witness.

THE THIRD SCHEDULE.

A.D. 1906.

THE DISTRICT ANNEXED.

The area within the parish of North Berwick and County of Haddington bounded as follows Commencing at Millburn and bounded on the north and north-east by low water mark on the east by grazing ground belonging to Sir Walter Hamilton Dalrymple of North Berwick Baronet on the south partly by the public road leading from North Berwick to Dunbar partly by portions of the farm of Rhodes in the occupation of Peter Wilson and belonging to the said Sir Walter Hamilton Dalrymple and partly by land feued to the Reverend Peter Hatelty Waddell Doctor of Divinity on the south-west by the glen belonging to the said Sir Walter Hamilton Dalrymple and on the west partly by land feued by the said Sir Walter Hamilton Dalrymple to the said Peter Hatelty Waddell and partly by the Millburn dividing the property belonging to the Royal Burgh of North Berwick from that belonging to the said Sir Walter Hamilton Dalrymple.

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