



CHAPTER xcvi.iii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Forfar Corporation Water. [20th July 1906.] A.D. 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 Forfar Corporation Water Order Confirmation Act 1906. Short title.

A.D. 1906.

SCHEDULE.

FORFAR CORPORATION WATER.

Provisional Order to authorise the Provost Magistrates and Councillors of the Burgh of Forfar to make and maintain additional Waterworks and for other purposes.

WHEREAS the Provost Magistrates and Councillors of the Burgh of Forfar (herein-after called "the Corporation") are vested with the municipal administration of the said Burgh (herein-after called "the Burgh") and are the Local Authority within the Burgh under the Public Health (Scotland) Act 1897:

And whereas by the Forfar Water Act 1878 (herein-after called "the Act of 1878") the then Commissioners of Police of the Burgh were empowered to provide a supply of water to the Burgh and places adjacent and for that purpose to acquire lands waters and streams and to make and maintain the works in the Act of 1878 described and inter alia an aqueduct conduit or line of pipes to commence in the stream known as the White Burn and to terminate in the Den of Ogil Reservoir and to intercept take and divert the waters of the White Burn and the tributaries and affluents thereof as therein specified but they were not to be entitled to take any water from the White Burn until there should be a quantity equal to three cubic feet per second flowing down that stream and they were empowered to divert and appropriate any water in excess of such quantity:

And whereas the Water Undertaking of the said Commissioners became vested in the Corporation under and in virtue of the Town Councils (Scotland) Act 1900 and is now maintained and managed by them:

And whereas neither the said Commissioners nor the Corporation have ever exercised the powers conferred on the said Commissioners by the Act of 1878 to make the said aqueduct conduit or line of pipes and to take the waters of the White Burn and the tributaries and affluents thereof as aforesaid and such powers have lapsed and cannot now be exercised:

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And whereas the present supply of water to the Burgh and places adjacent has become insufficient for the domestic sanitary and other requirements thereof and it is expedient that an additional supply of water should be provided thereto and that the Corporation should be empowered to introduce such additional supply from the White Burn and for that purpose to make and maintain the work herein-after described and to acquire lands springs streams waters servitudes and other property in connection therewith :

A.D. 1906.

And whereas it is expedient that the Corporation should be authorised to exercise their existing borrowing powers under the Act of 1878 as amended by the Forfar Water Order Confirmation Act 1891 for the purposes of this Order as well as for the purposes of the Act of 1878 as so amended :

And whereas it is expedient that the other powers in this Order contained should be conferred on the Corporation in relation to their Water Undertaking :

And whereas plans and sections showing the line and levels of the work authorised by this Order and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands springs streams waters and other property required or which may be taken for the purposes or under the powers of this Order were duly deposited in the office at Forfar of the principal Sheriff Clerk of the county of Forfar and are herein-after respectively referred to as the deposited plans sections and books of reference :

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 Forfar Corporation Water Order 1906 and the Act of 1878 the Order confirmed by the Forfar Water Order Confirmation Act 1891 and this Order may be cited together as the Forfar Corporation Water Acts 1878 to 1906.

Short title
and citation
of Acts and
Order.

2. The following Acts and parts of Acts (so far as the same respectively are applicable for the purposes and are not inconsistent

Incorporation
of Acts.

A.D. 1906. with the provisions of this Order) are hereby incorporated with
— and form part of this Order:—

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 except the words "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" in clause 44 of that Act and also with the exception of clauses 68 70 71 and 72;

The Waterworks Clauses Act 1863;

The provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof (except so much of those provisions as relates to the occupation and use of lands for the purpose of taking earth or soil by side cuttings therefrom or for the purpose of obtaining materials therefrom for the construction or repair of the railway or accommodation works and except Sections 25 and 26) and in construing the said provisions "the Company" means the Corporation "the Railway" means so much of the aqueduct conduit or line of pipes authorised by this Order as will not be constructed in a highway and "the centre of the railway" means the centre of so much of such aqueduct conduit or line of pipes as aforesaid.

Interpreta-
tion.

3. 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 In this Order and in the Acts wholly or partially incorporated with this Order—

"The Burgh" means the Burgh of Forfar within the limits thereof as fixed and defined by the public Act second and third William IV chapter sixty-five;

"The Corporation" means the Provost Magistrates and Councillors of the Burgh;

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- “The Undertakers” “the Company” and “the Promoters of the Undertaking” mean the Corporation; A.D. 1906.
- “The Water Undertaking” means the Waterworks and Water Undertaking authorised by the Act of 1878 and this Order;
- “The Act of 1878” means the Forfar Water Act 1878;
- “The Order of 1891” means the Order confirmed by the Forfar Water Order Confirmation Act 1891;
- “The Sheriff” means the Sheriff of the County of Forfar and includes any of his substitutes;
- “The commencement of this Order” means the date of the passing of the Act confirming this Order.

4. The Corporation subject to the provisions of this Order may make and maintain in the line and situation and according to the levels shown on the deposited plans and sections the work herein-after described together with all necessary and proper embankments dams weirs channels sluices outlets outfalls catch-water drains aqueducts culverts cuts tunnels bridges wells tanks basins gauges filters filtering apparatus stand-pipes main and distributing pipes junctions valves pumps pumping stations engines houses buildings works apparatus and conveniences in connection with the said work herein-after described or any of them or necessary or convenient for diverting taking conducting distributing and regulating the waters by this Order authorised to be taken and for diverting any sewerage or drains which might pollute or otherwise injuriously affect the same or the water supply of the Corporation and for conducting inspecting maintaining repairing cleansing managing or using the said work herein-after described and may purchase enter upon take hold and use compulsorily or by agreement such of the lands springs streams waters (except the waters herein-after specially excepted) and other property delineated on the deposited plans and described in the deposited books of reference as may be required for such purposes. Power to make water-works.

5. The work hereinbefore referred to and authorised by this Order is the following:— Description of work.

An aqueduct conduit or line of pipes to be wholly situate in the parish of Tannadice and County of Forfar commencing in the bed or channel of the stream known as the White Burn at a point five hundred and sixty yards or

A.D. 1906.

thereabouts measured in a straight line in a north-westerly direction from the centre of the bridge carrying the road leading from New Mill of Inshewan to Boghaugh over the said stream and terminating in the existing well or manhole of the Corporation situate on the stream known as the Den of Ogil Burn at or near the north end of the western embankment of the Corporation's Den of Ogil Reservoir.

Power to deviate laterally and vertically.

6. The Corporation may in constructing the work by this Order authorised deviate laterally from the line thereof as shown on the deposited plans to the extent of the limits of lateral deviation shown thereon and may deviate vertically from the levels of the said work as shown on the deposited sections to any extent not exceeding five feet upwards and twenty feet downwards Provided that in the exercise of such power of vertical deviation the Corporation shall not except in the case of crossing bridges or culverts or streams lay above the ground any pipe unless and except so far as is shown on the deposited sections.

Power to alter roads &c. temporarily.

7. For the purposes and during the execution of the works which the Corporation are by this Order authorised to make and in maintaining the same and subject to the provisions of this Order the Corporation may open break up or cross over or under alter divert or stop up and use temporarily any highways roads lanes paths passages bridges rivers streams culverts sewers drains water-courses gas pipes and water pipes and telegraphic electric or telephonic apparatus or other mains and pipes in any of the lands shown on the deposited plans and specified in the deposited books of reference which they may from time to time find it expedient for any of those purposes so to interfere with providing when possible a proper temporary substitute before interrupting the traffic on any such highway or road or the flow of gas water sewage or electricity in any such sewer drain watercourse main pipe or apparatus and making full compensation to all persons injuriously affected thereby Provided that nothing in this section shall extend to authorise any interference with telegraphic electric or telephonic apparatus or other property of His Majesty's Postmaster-General or with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 to 1902 to which the provisions of Section 15 of the Electric Lighting Act 1882 apply.

Corporation may enlarge or increase

8. The Corporation may from time to time subject to the provisions of this Order extend alter replace enlarge and increase

[6 EDW. 7.] *Forfar Corporation Water Order* [Ch. xcviij.]
Confirmation Act, 1906.

the aqueduct conduit or line of pipes and other works authorised by this Order and may from time to time extend alter replace enlarge and increase the number and size of the works mains and pipes from time to time in use for conveying and distributing water for the purposes of the Act of 1878 and this Order Provided always that such extension enlargement or increase shall be executed only on lands or property belonging to the Corporation or that may be acquired by them by agreement for such purposes.

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number of
pipes.

9. Subject to the provisions of this Order the Corporation may by means of the works by this Order authorised and of their existing works intercept take and divert into their existing reservoirs authorised by the Act of 1878 or either of them and in the said reservoirs or either of them may impound and store up the waters of the White Burn and the tributaries and affluents thereof and also the waters of all such springs streams and watercourses as will be intercepted by the aqueduct conduit or line of pipes and other works by this Order authorised except the waters of such springs streams and watercourses as flow in or through the estate of Glen Queich between the White Burn and the stream flowing into and through the Den of Ogil and may convey appropriate and use the said waters except as aforesaid for the purposes of the Act of 1878 and this Order.

Power to
take water.

10.—(1) As full compensation to the owners lessees and occupiers of lands mills manufactories works buildings and others and all other persons interested in the waters of the White Burn and other waters flowing into that stream and in the streams and rivers into which they flow the Corporation shall not be entitled to take any water until there shall be a quantity equal to three cubic feet per second flowing down the White Burn at the point of commencement of the aqueduct conduit or line of pipes by this Order authorised but they shall be entitled to divert and appropriate any water in excess of such quantity Provided always that the Corporation shall when required by the proprietor or occupier for the time being of the farm and mills of New Mill of Inshewan (but that only during the seven months from September to March inclusive in each year and for not more than twenty-four hours in each of the said seven months) shut off the water of the White Burn from the Den of Ogil Reservoir the property of the Corporation from time to time for the use of the grain and other mills including the sawmill on the farm and mill lands of New Mill of Inshewan.

Compensa-
tion water
and provision
as to gauges.

A.D. 1906.

(2) For the purpose of ascertaining and measuring such quantity as aforesaid a suitable gauge shall be constructed and for ever afterwards maintained by the Corporation at the point of diversion of the White Burn stream.

(3) If any dispute shall at any time arise as to the fulfilment by the Corporation of the obligations imposed upon them by this section the same shall be determined by the Sheriff and the decree of the Sheriff after hearing the parties interested and in such form as he shall deem expedient shall be final and not subject to review in any way. Provided that the Sheriff shall have power if he see fit before proceeding to pronounce the said decree to appoint some competent person to report to him as to the facts out of which such dispute has arisen. Provided further as regards any waters or streams supplying any fields with water which may be intercepted and taken by the works by this Order authorised or which shall thereby be deprived of water that the Corporation shall give a supply of water for such fields for the use of horses and cattle when there is a natural flow of water in the said waters or streams at the point of taking or interception and shall make and maintain all necessary troughs and other apparatus for that purpose.

For protection of reservoirs &c. from pollution.

11. The Corporation may on any lands which they may acquire under the powers of this Order or otherwise construct all such drains channels and other works as they think necessary or desirable for preventing sewage or polluting liquids from entering or polluting the reservoirs aqueducts conduits or watercourses of the Corporation or any waters flowing into the same.

Power to agree for servitudes &c.

12. The Corporation may subject to the provisions of this Order take by agreement and any person by the Lands Clauses Acts or otherwise enabled to sell and convey or dispose of 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.

13. The Corporation may in lieu of acquiring any lands for the purpose of the aqueduct conduit or line of pipes by this Order authorised acquire such servitudes and rights in such lands as they may require for the purpose of making maintaining cleansing and repairing the same and may give notice to treat in respect of such servitudes and rights and may in such notice describe the nature thereof and the several provisions of the Lands Clauses Acts (inclusive of those with regard to limited owners and to arbitration and the summoning of a jury) shall apply to such servitudes and rights as fully as if the same were lands within the meaning of such Acts :

A.D. 1906.
Power to acquire servitudes only for line of pipes.

Provided that nothing herein contained shall authorise the Corporation to acquire by compulsion any such servitude in any case in which the owner in his particulars of claim shall require the Corporation to acquire the lands in respect of which they have given notice to treat for the acquisition of a servitude only and every notice to treat for the acquisition of a servitude shall be endorsed with notice of this proviso :

Provided that as regards any lands taken or used by the Corporation for the purpose of making such aqueduct conduit or line of pipes the Corporation shall not (unless they give notice to treat for and have acquired such lands and not merely servitudes therein) be required or entitled to fence off or sever such lands from the adjoining lands but the owners or occupiers for the time being shall at all times after the completion of the works have the same rights of passing over such lands for all purposes of or connected with the use or enjoyment of the adjoining lands as if such lands had not been taken or used by the Corporation.

14. The Corporation may hold any lands acquired by them under the powers of the Act of 1878 or this Order and may also by agreement purchase or take on lease for such term or terms of years as they may think fit or otherwise acquire and hold any other lands waters springs and streams within the drainage area of any of their existing reservoirs or works or of any of the works by this Order authorised or servitudes or restrictions in or over the same 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 said reservoirs and works and of protecting their water supply against pollution nuisance encroachment or injury and so long as such necessity shall continue such lands shall not be deemed to be superfluous lands within the meaning of the Lands

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

A.D. 1906. **Clauses Acts** Provided that the Corporation shall not create or permit any nuisance on any such lands and shall not erect or permit the erection of any buildings thereon except such as are required in connexion with the water undertaking or for farm buildings.

The Corporation may let for such period as they think fit or sell or feu or otherwise dispose of any land acquired under this section on such terms conditions and restrictions as regards its use as to the Corporation may seem fit for the purpose of securing that such land shall not be broken up for tillage and that no buildings which may prejudicially affect the water supply or the purity of the water shall be erected thereon The proceeds of the sale of any lands by the Corporation shall only be applied to purposes of this Order to which capital is properly applicable.

Lands for extraordinary purposes.

15. The Corporation may for the purposes of the Act of 1878 and this Order purchase by agreement in addition to lands hereby authorised to be taken by compulsion any additional lands not exceeding in the whole five acres but nothing in this Order shall exonerate the Corporation from any action interdict or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any land taken under the powers of this section and no house or building shall be erected on any such lands other than any houses or buildings which may be required in connection with the Water Undertaking.

Restriction on taking houses of labouring class.

16.—(1) The Corporation 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.

(2) If the Corporation acquire or appropriate any house or houses in contravention of the foregoing provision 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.

[6 EDW. 7.] *Forfar Corporation Water Order* [Ch. xcviij.]
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(3) For the purposes of this section the expression "house" means any house or part of a house occupied as a separate dwelling and the expression "labouring class" means mechanics artisans 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. A.D. 1906.

17. The powers of the Corporation 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. Period for compulsory purchase of lands.

18. If the works authorised by this Order are not completed within four years from the commencement of this Order then on the expiration of that period the powers by this Order granted to the Corporation for executing any works not so completed or in relation thereto shall cease except as to so much thereof as is then completed. Period for completion of works.

19. For the purpose of executing any necessary work of repair or of cleansing or of examining any of the works by this Order authorised or any reservoir filter tank aqueduct or conduit belonging to the Corporation the Corporation may cause the water in any such works to be temporarily discharged into any available stream or watercourse. In the exercise of the power conferred by this section the Corporation 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. Powers for repair of aqueducts and temporary discharge of water into streams.

20. The water to be supplied by the Corporation need not be constantly laid on under pressure during the execution of necessary repairs renewals or alterations nor be supplied in any case at a higher level or at a greater pressure than can be afforded by gravitation from the existing service reservoir of the Corporation at Baggerton. Supply and pressure.

21. The powers to borrow money conferred by the Act of 1878 and the Order of 1891 shall and may be exercised by the Borrowing powers.

[Ch. xcvi.] *Forfar Corporation Water Order* [6 EDW. 7.]
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A.D. 1906. Corporation for the purposes of this Order to which capital is properly applicable as well as for the like purposes of the Act of 1878 and the borrowed money may be applied for such several purposes.

Estimates
&c. by Cor-
poration to
include pur-
poses of this
Order.

22. The estimate required to be made and the rates and charges and other water revenues authorised and required to be imposed levied charged collected and recovered by the Corporation under and for the purposes of the Act of 1878 shall be made imposed levied charged collected and recovered and the Corporation are hereby authorised and required to make impose levy charge collect and recover the same so that such rates and charges and other water revenues shall not only include and be sufficient for the purposes of defraying the annual sums or expenditure mentioned in Section 37 (Commissioners to estimate annual sums required) of the Act of 1878 but also the interest and instalments of any money that may be borrowed due or raised for the purposes of this Order and the payment to the sinking fund and the expense of maintaining and managing or extending the works authorised by this Order and all other annual expenditure arising out of the exercise of the powers by this Order conferred.

Application
of revenue.

23. The proceeds of the rates and charges levied imposed received and collected by the Corporation under the authority of the Act of 1878 and of this Order and the other income of the Corporation for the supply of water shall be applied not only in the manner and to the purposes mentioned in the Act of 1878 but also in the like manner and to the same purposes so as to include all such costs charges expenses interest contributions to sinking fund and other expenditure so far as the same are caused or increased by or are attributable to the works authorised by and the carrying out of the purposes of this Order.

Works to
form part
of Water
Undertaking.

24. Subject to the provisions of this Order the existing water-works of the Corporation constructed under the authority of the Act of 1878 and the works authorised to be constructed under the authority of this Order shall for all purposes whatsoever be and be deemed to be part of the Water Undertaking.

Costs of
Order.

25. All the costs charges and expenses of and incident to the preparing and applying for and the issue of this Order and the confirmation thereof by Parliament or otherwise in relation

[6 EDW. 7.] *Forfar Corporation Water Order* [Ch. xcviij.]
Confirmation Act, 1906.

thereto shall be paid by the Corporation out of any moneys in their hands applicable to the Water Undertaking or out of any moneys borrowed or to be borrowed by them under the authority of the Act of 1878 and the Order of 1891 or either of them and if paid out of borrowed money shall be repaid within five years from the commencement of this Order. A.D. 1906.

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