

**CHAPTER xlix.**

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Cowdenbeath Water. A.D. 1918.  
[21st November 1918.]

**W**HEREAS His Majesty's Secretary for Scotland has after inquiry held before Commissioners 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 Cowdenbeath Water Order Confirmation Act 1918. Short title.

A.D. 1918.

## SCHEDULE.

## COWDENBEATH WATER.

*Provisional Order to transfer to and vest in the Provost Magistrates and Councillors of the Burgh of Cowdenbeath certain waterworks constructed by the Dunfermline District Committee of the County Council of the County of Fife under the Kelty Water Order Confirmation Act 1896 to authorise the Town Council to construct and maintain additional waterworks and for other purposes.*

WHEREAS the provost magistrates and councillors of the burgh of Cowdenbeath in the county of Fife (hereinafter respectively called "the Town Council" and "the burgh") are the local and sanitary authority within the burgh under the Burgh Police (Scotland) Acts 1892 to 1911 and the Public Health (Scotland) Acts 1897 to 1907 :

And whereas prior to the formation in the year one thousand eight hundred and ninety of the town of Cowdenbeath into a burgh the said town was a special water supply district managed and administered by the parochial board of the parish of Beath as the then local authority therein :

And whereas upon the passing of the Local Government (Scotland) Act 1889 the said special water supply district came under the administration of the Dunfermline District Committee of the county council of the county of Fife (hereinafter called "the district committee") prior to the formation of the town of Cowdenbeath into a burgh as aforesaid :

And whereas the existing water supply of the burgh was introduced by the said parochial board of the parish of Beath under and by virtue of the Cowdenbeath Water Supply Confirmation Act 1887 and such water supply and the existing waterworks are now vested in and managed and maintained by the Town Council :

And whereas the boundaries of the burgh were extended and defined by the sheriff of Fife and Kinross by decree dated the twelfth day of January one thousand nine hundred and



eleven and the boundaries so defined are the existing boundaries of the burgh: A.D. 1918.

And whereas in consequence of the rapid growth of the burgh in recent years and the erection of many dwelling-houses and other buildings on the higher ground and of the increase of the residential population in connexion principally with the mining industry the present supply of water has as regards quality become unsatisfactory and as regards quantity and pressure for the domestic and trade requirements and for the health and convenience of the community become inadequate and insufficient and it is expedient that a more abundant supply of water should be provided for use within the burgh:

And whereas the district committee are the owners of certain waterworks constructed under the powers of the Kelty Water Order Confirmation Act 1896 (hereinafter called "the Act of 1896") and it is expedient that such waterworks with the exception of certain distributing mains should be transferred to the Town Council as hereinafter provided and the Town Council authorised to utilise the supply of water obtained from the said waterworks for the benefit of the inhabitants of the burgh and for the purposes of this Order:

And whereas the provisions of the Act of 1896 with respect to the control of the water stored in and discharged from Loch Glow are inconsistent with the efficient administration of the said waterworks and it is expedient that the same should be repealed and other provision made as in this Order provided:

And whereas it is expedient that the Town Council should be empowered to acquire lands and construct and maintain additional waterworks:

And whereas it is expedient that the limits within which the Town Council are required to give a supply of water should be defined and that they should be authorised to supply water beyond such limits and that the further powers in this Order contained should be conferred on the Town Council in relation to their water undertaking:

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 in accordance with the provisions in that behalf of the Burgh Police (Scotland) Acts 1892 to 1911 and this Order:

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And whereas estimates have been prepared by the Town Council for the construction and completion of the said additional waterworks and other works and for the purchase of lands and such estimates are as follows:—

|  | £      |
|--|--------|
| Purchase of lands and servitudes - - -   | 2,000  |
| Enlargement of existing Loch Glow Reservoir<br>(Work No. 3) and the reconstruction of<br>existing filters and pure water tanks (Work<br>No. 7) - - - - - | 10,000 |
| Trunk mains (Works Nos. 1 2 4 5 and 6) -   | 20,000 |
| Subsidiary works - - - - -   | 1,000  |

And whereas the said several works included in the said estimates are permanent works and it is expedient that the cost thereof should be spread over a term of years:

And whereas plans and sections showing the lines and levels of the waterworks 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 and other property required or which may be taken for the purposes or under the powers of this Order were duly deposited with the principal sheriff clerks of the counties of Fife and Kinross and are hereinafter respectively referred to as the deposited plans sections and book 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:—

Short title  
and com-  
mencement  
of Order.

1. This Order may be cited for all purposes as the Cowdenbeath Water Order 1918 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."

Incorporation  
of Acts.

2. 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 (namely):— A.D. 1918.

The Lands Clauses Acts;

The Waterworks Clauses Act 1847 except the sections and provisions thereof 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 sections 68 70 71 and 72;

The Waterworks Clauses Act 1863;

The sections and provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and the crossing of roads and other interference therewith and in construing the said sections and provisions "the company" means the Town Council "the railway" means the waterworks authorised by this Order and the works connected therewith and "the centre of the railway" means any part of those works.

3. In this Order unless there be something in the subject or context repugnant to such construction the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings and the following expressions shall have the meanings respectively assigned to them in this section (namely):— Interpreta-  
tion.

"The burgh" means the burgh of Cowdenbeath;

"The Town Council" means the provost magistrates and councillors of the burgh;

"The Act of 1887" means the Cowdenbeath Water Supply Confirmation Act 1887;

"The Act of 1896" means the Kelty Water Order Confirmation Act 1896;

"The county council" means the county council of the county of Fife;

"The district committee" means the Dunfermline District Committee of the county council;

"The Order of 1913" means the Dunfermline District Water Order 1913;

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—

“The Burgh Police Acts” means the Burgh Police (Scotland) Acts 1892 to 1911;

“The water undertaking” means the existing waterworks and water undertaking of the Town Council the waterworks lands property powers rights and privileges by this Order transferred to the Town Council and the waterworks and water undertaking authorised by this Order;

“The sheriff” means the sheriff of Fife and Kinross or any of his substitutes;

In the Acts incorporated with this Order unless there be something in the subject or context repugnant to such construction the expression “the undertakers” means the Town Council.

Limits of  
supply.

4. Subject to the provisions of this Order the limits for the compulsory supply of water by the Town Council shall be the burgh which limits are in this Order referred to as “the limits of compulsory supply.”

Transfer of  
waterworks  
of district  
committee  
under Act  
of 1896.

5. On the expiry of six months after the commencement of this Order (which date is hereinafter referred to as “the date of transfer”) the water undertaking sanctioned by the Act of 1896 and the lands and property acquired by and belonging to or vested in the county council or the district committee for the purposes thereof together with the waterworks in the counties of Fife and Kinross constructed by the district committee under the powers of that Act including (1) the main supply pipe from Loch Glow to the filter beds and pure water tank at or near East Bowmuir on the estate of Blairadam (2) the said filter beds and pure water tank (3) the main pipe leading from the said filter beds to a point at or near Blackhall but excluding the distributing mains from such main pipe affording a supply to the village of Kelty and adjoining district which distributing mains shall remain the property of the district committee (4) the meter through which the quantity of water taken and appropriated by the district committee under the Act of 1896 flows and (5) the sluice through which the compensation water under that Act passes into the lade or stream which runs between Loch Glow and the Gairney Burn together with the powers rights privileges and authorities of the district committee under or by virtue of the Act of 1896 as amended by this Order all herein-



after in this Order referred to as "the waterworks transferred by this Order" shall be transferred to and vested in the Town Council subject (except in so far as the same are repealed or varied by this Order) to all the provisions and restrictions whatsoever to which the district committee may be subject under the Act of 1896 with regard to the waterworks transferred by this Order and the district committee shall thenceforth be relieved from all liability in connexion therewith and the Town Council may subject to the provisions of this Order exercise and enjoy all the powers rights privileges and authorities and shall be subject to all the obligations and liabilities hereby transferred to and vested in the Town Council in like manner in every respect as if they were the district committee:

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The Town Council shall pay to the district committee in respect of such transfer the sum of ten thousand five hundred pounds and such sum shall be payable on the date on which the Town Council cease to supply water to the district committee as provided in subsection (1) of the section of this Order whereof the marginal note is "Supply of water by Town Council to district committee" Provided that in the event of the Town Council failing to pay the said sum on the said date the said sum shall bear interest from that date until payment at the rate of five pounds per centum per annum.

6. The following provisions shall unless otherwise agreed upon in writing between the Town Council and the district committee have effect (that is to say):—

Supply of water by Town Council to district committee.

(1) From and after the date of transfer the Town Council shall if so required by the district committee for the purposes of the supply of water within the limits of supply of the district committee as defined by the Order of 1913 supply to the district committee one hundred and sixty-two thousand five hundred gallons of water per day until the reservoir (Work No. 1) authorised by the Order of 1913 is in use:

(2) In addition to the supply of water provided for in the immediately preceding subsection the Town Council shall from and after the date of transfer if so required by the district committee supply to the district committee during the months of May June July August and September in each year until the reservoir (Work

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No. 1) authorised by the Order of 1913 is in use a further quantity of water not exceeding in all seventy-seven thousand gallons in any one day of twenty-four hours in a uniform and continuous flow:

- (3) The quantities of water to be supplied to the district committee under subsections (1) and (2) of this section shall be ascertained by meter and such meter shall be under the control of the Town Council and shall be open at all times to the inspection and examination of the district committee or of persons duly authorised by them in that behalf:
- (4) The district committee shall pay to the Town Council in respect of the supply of water to be afforded under subsection (2) of this section a sum of thirty pounds sterling for each of the said months in which any water is supplied to the district committee under the said subsection.

Repeal of  
certain pro-  
visions of  
Act of 1896.

7. As from the date of transfer the following sections of the Act of 1896 shall be and are hereby repealed (that is to say):—

- Section 4 (Incidental works);
- Section 5 (Water to be taken by district committee and compensation water);
- Section 6 (Self-recording meter to be maintained);
- Section 7 (Sluice for compensation water and regulation thereof);
- Section 8 (Raising of embankment by River Leven Trustees).

Power to  
make new  
waterworks.

8. Subject to the provisions of this Order the Town Council may in the lines and situation and upon the lands delineated on the deposited plans and described in the deposited book of reference make and maintain the following waterworks in the counties of Fife and Kinross shown on the deposited plans and sections (that is to say):—

Work No. 1 A catchwater cut aqueduct conduit line or lines of pipes wholly situate in the parish of Cleish and county of Kinross commencing at a point in the northern slopes of the Cleish Hills one hundred and forty yards or thereby measured in a southerly direction from the southmost corner of Hill Strip Plantation and terminating



at a point at the eastern end of Loch Glow forty yards or thereby measured in a westerly direction from the northern end of the existing embankment at the outlet end of the said loch : A.D. 1918.

Work No. 2 A catchwater cut aqueduct conduit line or lines of pipes wholly situate in the parish of Dunfermline and county of Fife commencing at a point at or near the western boundary of the highway leading from Loch Ornie to Cleish seven hundred and fifty yards or thereby measured in a southerly direction from Lurg Bridge and terminating at a point at the eastern end of Loch Glow thirty yards or thereby measured in a westerly direction from the southern end of the existing embankment at the outlet end of the said loch :

Work No. 3 An enlargement by raising the said embankment of the existing reservoir known as Loch Glow situate partly in the parish of Cleish and county of Kinross and partly in the parish of Dunfermline and county of Fife commencing at a point ten yards or thereby west of the western end of the said existing reservoir and terminating at the said embankment :

Work No. 4 An aqueduct conduit line or lines of pipes situate partly in the parish of Dunfermline and county of Fife and partly in the parish of Cleish and county of Kinross commencing in the parish of Dunfermline at a point in the said existing reservoir one hundred and ninety yards or thereby measured in a north-westerly direction from the southern end of the said existing embankment and terminating in the parish of Dunfermline at a point near the foot of the outer slope of the said existing embankment near the existing outlet from the said existing reservoir :

Work No. 5 An aqueduct conduit line or lines of pipes situate partly in the parishes of Dunfermline and Beath and county of Fife and partly in the parish of Cleish and county of Kinross commencing at the termination of Work No. 4 hereinbefore described and terminating in the parish of Beath at a point on the road passing through Croftangry Wood two hundred yards or thereby measured in an easterly direction from the south-east corner of Keltyhill Farmhouse :

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Work No. 6 An aqueduct conduit line or lines of pipes wholly situate in the parish of Beath and county of Fife commencing at the termination of Work No. 5 hereinbefore described and terminating at the existing filters and pure water tanks of the Town Council near Moss-side;

Work No. 7. A reconstruction of the existing filters and pure water tanks of the Town Council near Moss-side in the parish of Beath and county of Fife or some portion or portions thereof.

Power to  
make subsi-  
diary works.

9. In addition to the waterworks by this Order authorised and the waterworks transferred by this Order and in connexion therewith the Town Council may upon or in the lands delineated on the deposited plans or on the plans deposited in respect of the Act of 1896 and described in the deposited book of reference or in the book of reference deposited in respect of the Act of 1896 make erect reconstruct and maintain all such embankments dams weirs intake weirs bywash channels bridges roads accesses approaches wells tanks gauges filter beds sluices outlets drains aqueducts culverts channels cuts mains pipes engines pumps pumping stations machinery sluice keeper's house buildings telegraphs telephones posts wires and other works and conveniences as may be necessary or convenient in connexion with or subsidiary to the said waterworks or any of them but nothing in this section shall exonerate the Town Council from any action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them Provided that any telegraphs telephones posts wires and other works made erected or maintained by the Town Council shall not be used in contravention of the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869.

Limits of  
deviation.

10. In the construction of the works by this Order authorised the Town Council may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and where on any road no such limits are shown the boundaries of such road shall be deemed to be such limits and they may also deviate vertically from the levels of the various works as shown on the deposited sections to any extent not exceeding five feet upwards and to any extent downwards Provided as follows (that is to say):—

The Town Council shall not raise the embankment (Work No. 3) to a greater height above the general surface of



the ground than that shown on the deposited sections in respect thereof and five feet in addition; A.D. 1918.

Except for the purposes of crossing over a stream no part of the pipes shall be raised above the surface of the ground unless and except so far as is shown on the deposited sections.

11. Subject to the provisions of this Order the Town Council may from and after the date of transfer collect impound take use divert and appropriate for the purposes of the water undertaking the waters of Loch Glow and all such springs streams and waters as may be intercepted by the works by this Order authorised and the waterworks transferred by this Order. Power to take water.

12. As from the date of transfer the following provisions shall have effect and shall be binding on the Town Council for the protection of all millowners and other persons interested in the waters of Loch Glow and in the waters which may be intercepted and led into Loch Glow by means of the Works Nos. 1 and 2 by this Order authorised (that is to say):— As to compensation water.

(1) In respect of the area naturally draining to Loch Glow which area is computed to be six hundred and thirty acres or thereabouts the Town Council shall during every day discharge or deliver into the present outlet channel from the said loch at a point therein situate not more than two hundred yards below the foot of the embankment or dam of the said loch not less than one hundred and twenty-seven gallons per minute during the months of January February March April May November and December and not less than two hundred and fifty-four gallons per minute during the remaining months in any year:

(2) In respect of each acre of area from which the waters are intercepted and diverted into Loch Glow by means of the said Works Nos. 1 and 2 when constructed the Town Council shall augment the rates of discharge provided in subsection (1) of this section by one six hundred and thirtieth part of the said rates respectively:

(3) At least fourteen days before intercepting any water by means of either of the said Works Nos. 1 and 2 the Town Council shall give public notice by adver-

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tisement in the Edinburgh Gazette and in at least one newspaper circulating in the county of Fife of their intention to make application to the sheriff to appoint an engineer to certify the number of acres contained in the drainage area and the decision of the engineer so appointed shall when expressed in writing and signed by him be final and binding on all parties concerned:

- (4) In the event of there having been undue depletion of the water in Loch Glow prior to the date of transfer it shall be competent to the engineer to be agreed upon or named by the sheriff as hereinafter provided to readjust the quantity of compensation water to be discharged into or allowed to flow into the said outlet channel during the period until Work No. 3 by this Order authorised has been constructed and the said loch filled with water and in the event of there being undue depletion of the water in Loch Leven subsequent to the date of transfer it shall be competent to the said engineer to readjust the quantity of compensation water until the water level in Loch Leven is within six inches of the overflow level of that loch:
- (5) The sluice through which the said quantities of water to be so discharged or delivered into the said outlet channel shall be under the sole control and management of the Town Council:
- (6) For the purpose of measuring the quantities of water to be so discharged or delivered into the present outlet channel from Loch Glow the Town Council shall erect and maintain at the point referred to in subsection (1) of this section on the said outlet channel below the foot of the embankment or dam of Loch Glow a proper and suitable measuring gauge over and through which the said compensation water shall flow and the same shall be under the sole management of the Town Council and shall together with the records thereof be open to the inspection and examination at all reasonable times of all persons interested therein:



- (7) In case of any neglect on the part of the Town Council, A.D. 1918.  
to maintain any gauge in a state of efficiency and in  
case of any other neglect by or in consequence of  
which the said respective quantities of compensation  
water shall not so flow the Town Council shall for  
every day on which such neglect occurs forfeit and  
pay to each of the persons affected thereby (who  
may sue for and recover the same) the sum of five  
pounds :
- (8) In the event of any dispute or difference arising  
between the Town Council and any person interested  
as to the true intent and meaning of the provisions  
of this section or as to the carrying out of the same  
such dispute or difference shall be settled by an  
engineer to be agreed on or failing agreement to be  
named by the sheriff on the application of either  
party :
- (9) The provisions of this section shall be accepted and  
taken by all persons interested as full compensation  
for all waters of Loch Glow and for all waters  
intercepted by means of the said Works Nos. 1 and 2  
which the Town Council may divert collect impound  
or appropriate by means of the waterworks by this  
Order authorised and the waterworks transferred by  
this Order except in respect of any lands situate  
between the foot of the embankment or dam of  
Loch Glow and the point of discharge referred to  
in subsection (1) of this section.

13. The Town Council may subject to the consent of the  
road authority at any time for the purposes of distributing and  
supplying water beyond the burgh lay down make 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 satis-  
faction of the road authority before interrupting the traffic on  
any such road or highway and making full compensation to  
all persons injuriously affected by anything done under the  
provisions of this section Provided that the consent aforesaid

Laying  
mains on  
public roads.

A.D. 1918. of the road authority shall not be unreasonably withheld and any question as to whether such consent has been unreasonably withheld shall be referred to and determined by an arbiter to be nominated failing agreement by the sheriff on the application of either party and the decision of such arbiter shall be final Provided also that nothing in this section shall prejudice extend or affect the powers or provisions of this Order with respect to the works authorised by this Order.

Power to  
alter roads  
&c. tempo-  
rarily.

14. For the purposes and during the execution of the several 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 temporarily from time to time break up or cross over or under alter or stop up any streets highways roads lanes footways footpaths bridges tramways 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 highway road lane footway footpath bridge tramway railway canal or passage or the flow of water gas sewage or electricity or telephonic communication in any such sewer drain watercourse canal 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 the water pipes or mains or sewers of the district committee or with electric telegraphic or telephonic 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 1909 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with the provisions of that section.

Town Coun-  
cil may  
enlarge or  
increase  
number of  
pipes.

15. The Town Council may from time to time subject to the provisions of this Order and notwithstanding the expiration of the period limited for completion of the works by this Order authorised lay down maintain use extend alter renew relay replace enlarge and increase the number and size of the works (other than reservoirs) mains pipes filters filter beds tanks



channels and other works and conveniences from time to time in use or required for filtering storing conveying and distributing water for the purposes of the water undertaking Provided always that such extension enlargement or increase shall be executed only on lands or property belonging to the Town Council or over which the Town Council have acquired a servitude or which may be acquired by them by agreement or in roads and streets which they are by the Waterworks Clauses Acts 1847 and 1863 entitled to open and break up for such purposes Provided further that the Town Council shall not be entitled to duplicate or increase the number of pipes in any county highway without the consent of the district committee which consent shall not be unreasonably withheld and if any difference arises as to whether such consent is unreasonably withheld that difference shall be referred to and determined by an arbiter to be agreed upon between the Town Council and the district committee or failing agreement to be nominated by the sheriff on the application of either party and the decision of such arbiter shall be final.

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16. The Town Council 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 may think necessary or desirable for preventing sewage or polluting liquids or contaminated or impure water from entering or polluting any of the reservoirs conduits or watercourses of the Town Council or any waters flowing into the same.

For protec-  
tion of reser-  
voirs &c.  
from pollu-  
tion.

17. The Town Council on selling any lands acquired for or in connexion with the purposes of this Order and not required to be retained for those purposes may subject to the provisions of the section of this Order of which the marginal note is "Limiting powers of Town Council to abstract water" reserve to themselves all or any part of the water rights belonging thereto and may make the sale subject to such reservation accordingly and may also make any such sale subject to such other reservations special conditions restrictions and provisions with respect to use of water exercise of noxious trades or discharge or deposit of manure sewage or other impure matter or otherwise as they may think fit.

Reservation  
of water  
rights on  
sale.

18. The Town Council may make and carry into effect agreements with the owners lessees or occupiers of any lands

Power to agree  
as to drainage  
of lands.

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within the drainage area of the reservoirs and works by this Order authorised and the waterworks transferred by this Order with reference to the execution by the Town Council or such owners lessees or occupiers of such works as may be necessary for the purpose of draining such lands or any of them or for more effectually collecting conveying and preserving the purity of the waters by this Order authorised to be diverted collected and appropriated by the Town Council flowing to upon or from such lands directly or derivatively into such reservoirs and works.

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 conduit or line of pipes belonging to the Town Council the Town Council may cause the water in any such works or reservoir filter or tank aqueduct conduit or line of pipes 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 an arbiter to be appointed failing agreement by the sheriff on the application of either party.

Power to  
use lands  
already  
acquired.

20. The Town Council may hold retain and use for the purposes of the water undertaking any lands already acquired for the purposes of their existing waterworks.

Power to  
acquire  
lands.

21. Subject to the provisions of this Order the Town Council may purchase acquire hold enter upon take appropriate and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for the purposes of this Order.

Persons  
under dis-  
ability may  
grant servi-  
tudes &c. by  
agreement.

22. Persons empowered by the Lands Clauses Acts to sell and convey or dispose of lands may if they think fit subject to the provisions of those Acts and of this Order grant to the Town Council any servitude right or privilege (not being a servitude right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Order in over or affecting any such lands and the provisions of the said Acts with respect to lands and annual feu



duties or ground annuals so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively. A.D. 1918.

23. Whereas in the exercise of the powers of this Order it may happen that portions only of certain properties shown on the deposited plans may be sufficient for the purposes of the Town Council and that such portions may be severed from the remainder thereof 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 properties described in the First Schedule to this Order and 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 thereof without material detriment thereto be required to sell and convey to the Town Council the portions only thereof 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 or other parties interested therein by severance or otherwise.

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

24.—(1) The Town Council may in lieu of acquiring any lands for the purposes of the works authorised by this Order where the same are intended to be constructed underground acquire such servitudes only in such lands as they may require for such purposes and may give notice to treat in respect of such servitudes describing the nature thereof and the provisions of the Lands Clauses Acts shall apply to and in respect of the acquisition of such servitudes as fully as if the same were lands within the meaning of those Acts.

Power to acquire servitudes only in certain cases.

(2) As regards any lands in respect of which the Town Council have acquired servitudes only under the provisions of this section the Town Council shall not 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 subject to such servitudes have the same rights to use and cultivate the said lands at all times as if this Order had not been confirmed.

(3) Provided that nothing in this section contained shall authorise the Town Council to acquire by compulsion any such

A.D. 1918. servitude in any case in which the owner in his particulars of claim shall require the Town Council 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 provision.

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

25. The Town Council may hold any lands acquired by them for the purposes of or in connexion with their existing waterworks and any lands transferred to or acquired by them under this Order and may also by agreement purchase acquire and hold any lands or take servitudes or restrictions over any lands which they may deem 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 fouling contamination 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 this Order or the Lands Clauses Acts respectively Provided that the Town Council shall not create or permit a nuisance on any such lands and shall not erect or permit the erection of any buildings thereon other than offices and dwellings for persons in their employ and such buildings and works as may be incident to or connected with the water undertaking or farm buildings.

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

Power to acquire additional lands by agreement.

26. The Town Council may from time to time for the purposes of this Order purchase by agreement in addition to the lands by this Order authorised to be acquired by compulsion any lands not exceeding in the whole twenty acres but nothing in this Order shall exonerate the Town Council from any action interdict or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any land



purchased under the powers of this section and no house or building shall be erected on any such lands other than houses or buildings which may be required in connexion with the water undertaking. A.D. 1918.

27. The Town Council shall not construct any works for taking or intercepting water from any lands acquired by them unless the works are authorised by and the lands upon which the same are to be constructed are specified in this Order or by or in an Act of Parliament or Order confirmed by Parliament. Limiting powers of Town Council to abstract water.

28. The powers of the Town Council for the compulsory purchase of lands for the purposes of this Order shall cease after the expiration of four years from the termination of the present war. Period for compulsory purchase of lands.

29. If the works in this Order described are not completed within ten years from the termination of the present war then on the expiration of that period the powers by this Order granted to the Town Council for executing the same shall cease except as to so much thereof as is then completed. Period for completion of water-works.

30. The Town Council shall if and when required by the local authority of the district in which the works by this Order authorised are situate (in this section called "the local authority") make provision to the satisfaction of the local authority for the proper housing and sanitary requirements of the persons employed in constructing the works by this Order authorised and for the treatment of cases of sickness (other than infectious disease) and accident occurring among the said persons during the construction of the said works. In considering what provision ought to be made for the said purposes the local authority shall take into consideration the provision already available in the neighbourhood of or conveniently accessible from the said works. Accommodation for workmen &c.

In the event of any dispute arising between the Town Council and the local authority as to the amount or nature or situation of the housing accommodation and sanitary requirements to be provided or as to the sufficiency of the provision for the treatment of cases of sickness (other than infectious disease) and accident or as to the time within which such accommodation shall be provided and such provision made or as to the carrying out by the Town Council of any requirement of the local authority under this section either party may appeal to the Local Government Board for Scotland (in this section called

A.D. 1918. — “the Board”) and their decision shall be final and binding on both parties:

Provided that if it appear to the Board at any time that sufficient provision for the aforesaid purposes is not made they shall have power to require the Town Council to make provision or additional provision therefor to the satisfaction of the Board.

In the event of the Town Council or the local authority failing to comply with any order or requirement of the Board under this section they shall be liable to a penalty not exceeding five pounds for every day during which such failure continues and such penalty shall be recoverable with expenses at the instance of the Lord Advocate on behalf of the Board in any competent court.

For the purposes of this section the Board shall have the same powers of holding inquiries and of requiring reports to be made by local authorities and their officials as they have under the Public Health (Scotland) Act 1897 for the purposes of that Act and the provisions of the said Act relating to such inquiries and reports shall apply accordingly.

Town Council may supply water for other than domestic purposes.

31. The Town Council may furnish to any person within the limits of compulsory supply a supply of water for other than domestic purposes to shops offices and warehouses and for steam engines or railway purposes or for warming or ventilating any premises other than dwelling-houses or for working any machine or apparatus or for cattle or for horses or for washing carriages or motor cars or for gardens fountains or ornamental purposes or for any trade manufacture business or occupation or for hotels taverns or for any other purpose not domestic and either in bulk or otherwise such respective supplies being so furnished at such rates and upon such terms and conditions as shall be fixed from time to time by the Town Council and in the event of disagreement either as to the ability of the Town Council to give the supply or as to the rate terms or conditions on or in respect of which the supply is to be given the same shall be fixed by the sheriff upon summary application made in the sheriff court at Dunfermline by either of the parties and the decision of the sheriff shall be final Provided always that so far as possible the rate for such supply of water shall be uniform to all persons in the same circumstances and requiring the same extent of supply and the charges for such supply shall be recoverable in the same manner as any other



water assessment rates or charges may be recovered by the Town Council under the authority of this Order Provided further that when water is so supplied the Town Council shall not charge the water assessment and also charge for water supplied to the same premises by meter but the Town Council shall have the option either to charge the water assessment in respect of the premises for which such supply is given or to charge for the same by meter or they may charge in addition to the water assessment such special rates as may be fixed as aforesaid for water supplied otherwise than by meter for the purposes or any of them in this section mentioned Provided also that the supply of water under this section shall not prejudicially affect or restrict the supply of water from time to time required for domestic use within the limits of compulsory supply.

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32. The water to be supplied from any main or pipe of the Town Council whether existing or authorised to be constructed or reconstructed by this Order 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 level above or at a greater height than can be supplied or afforded by gravitation from the existing service reservoirs or tanks of the Town Council or from the waterworks transferred by this Order or from the waterworks by this Order authorised from which the supply is given.

Pressure.

33. Notwithstanding anything to the contrary contained in the Waterworks Clauses Acts 1847 and 1863 and this Order the Town Council until the expiration of ten years from the termination of the present war or until the substantial completion of Work No. 3 by this Order authorised whichever shall first happen shall not be bound to give or maintain a constant supply.

Suspension  
of constant  
supply.

34. The Town Council may from and after the completion of the works by this Order authorised supply by agreement water from any of the lines of pipes by this Order or by the Act of 1887 or by the Act of 1896 authorised or from any of the works of the Town Council to any owners or occupiers of lands or heritages beyond the limits of compulsory supply and lying adjacent or near to the same and also to any local authority in or through or near to whose district the lines of pipes or waterworks of the Town Council may pass or be

Supply of  
water by  
Town Coun-  
cil along line  
of pipes.

A.D. 1918. — constructed and the Town Council may contract with all or any of such persons or authority for such supply at such rates upon such terms and conditions and for such period or periods of time as they may agree. Provided always that any supply of water under the provisions of this section shall not prejudicially affect or restrict the supply of water from time to time required for any purpose within the limits of compulsory supply. Provided further that any supply of water by the Town Council under this section shall not be given except with the consent of any local authority company or person supplying water under parliamentary authority within the district to be supplied and of the local authority of that district.

Town Council not bound to supply several houses by one pipe.

35. The Town Council shall not be bound to supply more than one house by means of the same communication pipe and they may if they think fit require that a separate pipe be laid from the main pipe into each house supplied by them with water.

Notice of discontinuance.

36. A notice to the Town Council from a consumer for the discontinuance of a supply of water shall not be of any effect unless it be in writing signed by or on behalf of the consumer and be left at or sent by post to the office of the Town Council or be given by the consumer personally at the office of the Town Council.

Byelaws for preventing waste &c., of water.

37.—(1) The Town Council may make byelaws for the purpose of preventing the waste undue consumption misuse or contamination of water and may by such byelaws prescribe the size nature materials workmanship and strength and the mode of arrangement connexion disconnexion alteration and repair of pipes meters cocks ferrules valves soil-pans waterclosets baths cisterns and other apparatus (in this section referred to as "water fittings") to be used and forbid any arrangements and the use of any water fittings which may allow or tend to waste undue consumption misuse erroneous measurement or contamination.

(2) All byelaws made under this section which affect any district beyond the burgh shall be subject to the approval of the local authority for such district. Provided that such approval shall not be necessary where in the opinion of the Local Government Board for Scotland it has been unreasonably withheld.

(3) Such byelaws shall apply only in the case of premises to which the Town Council are bound to afford and do in fact



afford or are prepared on demand to afford a constant supply and the provisions with respect to byelaws contained in sections 183 to 188 of the Public Health (Scotland) Act 1897 shall apply to all byelaws so made. A.D. 1918.

(4) In case of failure of any person to observe such byelaws as are for the time being in force the Town Council may if they think fit after twenty-four hours' notice in writing enter and by and under the direction of their duly authorised officer repair replace or alter any water fittings belonging to or used by such person and not being in accordance with the requirements of such byelaws and the expense of every such repair replacement or alteration shall be recoverable by the Town Council in the same manner as the water rates in respect of the premises are recoverable.

38. The Town Council shall not be bound to supply with water otherwise than by measure any building used by an occupier as a dwelling-house whereof any part is used by the same occupier for any trade or manufacturing purpose for which water is required. Supply to houses partly used for trade &c.

39. The Town Council may sell meters and any fittings connected therewith upon and subject to such terms (pecuniary or otherwise) and conditions as they think fit. Power to sell or let meters.

The provisions of section 14 of the Waterworks Clauses Act 1863 shall extend to authorise the Town Council to let for hire any water fittings to any person supplied by them with water.

40. Before any person connects or disconnects any meter by means of which any of the water of the Town Council is intended to be or has been registered he shall give not less than twenty-four hours' notice in writing to the Town Council of his intention to do so and all alterations or repairs and the connecting and disconnecting of meters shall be done at his cost and under due superintendence of any officer of or person authorised by the Town Council and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings. Notice to Town Council of connecting or disconnecting meters.

41. Every person who wilfully fraudulently or by culpable negligence injures or suffers to be injured any pipe meter or other instrument for measuring water or any fittings belonging to the Town Council or who fraudulently alters the index to Injuring meters &c.

A.D. 1918. any meter or other instrument for measuring water or prevents any meter or other instrument for measuring water from duly registering the quantity of water supplied or fraudulently abstracts consumes or uses water of the Town Council shall (without prejudice to any other right or remedy for the protection of the Town Council) be liable to a fine not exceeding five pounds and the Town Council may in addition thereto recover the amount of any damage by them sustained And in any case in which any person has wilfully fraudulently or by culpable negligence injured or suffered to be injured any pipe meter instrument or fittings belonging to the Town Council or has fraudulently altered the index to any meter or other instrument for measuring water or prevented the same from duly registering the quantity of water supplied or has fraudulently abstracted consumed or used water of the Town Council the Town Council may also enter upon the premises occupied by the offender and repair such injury and do all such works matters and things as may be necessary for ensuring the proper registering by such meter of the quantity of water supplied by means thereof and the expense of such repair and of all such works matters and things shall be repaid to the Town Council by the person so offending and may be recovered by them as water rates and assessments are recoverable The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or using water of the Town Council when such pipe meter instrument or fittings is or are under the custody or control of the consumer shall be primâ facie evidence that such injury alteration prevention abstraction consumption or use as the case may be has been fraudulently knowingly and wilfully caused by the consumer using such pipe meter instrument or fittings.

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

42. If any of the apparatus shall be out of order the owner or occupier of the house or premises in or to which such apparatus is placed or attached shall be bound to repair and make good the same and if such owner or occupier fail to make the requisite repairs within twenty-four hours after notice in writing so to do by the Town Council or by any officer of the Town Council the Town Council or any person authorised by them may enter upon such premises and repair renew and make watertight all such apparatus and the Town Council 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 provided in the Acts herewith incorporated for the recovery of penalties or by action in any court of competent jurisdiction and for the purposes of this section the word "apparatus" means and includes pipe cistern bath 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 the expense of such repair or renewal being paid by the occupier of any such house or premises he shall be entitled to recover such expense from the owner thereof or to deduct the same from his rent unless otherwise provided for by the terms of the tenancy.

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43. Every person who fraudulently takes or uses water belonging to the Town Council for any purpose other than domestic or drinking purposes shall for every such offence be liable to a penalty not exceeding ten 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.

44. All penalties exigible under the provisions of this Order and of the Acts wholly or partially incorporated herewith (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 in the last-mentioned Acts or the Acts therein referred to.

Application  
of penalties.

45. 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) Act 1908.

Prosecution  
of offenders.

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

Power to  
supply fit-  
tings.

A.D. 1918. in providing such materials and executing such work shall be paid by the person requiring the same.

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

Provided as follows:—

- (a) The Town Council shall so adjust the charges to be made by them for any such fittings or for the fixing repairing or removal thereof as to meet any expenditure by them under the powers of this section in connexion therewith (including interest upon any moneys borrowed for those purposes and all sums applied to sinking fund for repayment of moneys so borrowed):
- (b) Every sum charged by the Town Council in respect of the provision of such fittings or the repairing fixing or removal thereof shall be clearly stated in every demand note delivered by the Town Council to the consumer:
- (c) The total sums expended and received by the Town Council in connexion with the purposes in this section mentioned in each year (including interest and sinking fund) shall be separately shown in the published accounts of the water undertaking for such year.

Power to lay  
pipes in pri-  
vate streets.

47. The Town Council may on the application of the owner or occupier of any premises within the limits of compulsory supply abutting on or being erected in any street laid out but not dedicated to the public use supply such premises with water and may lay down take up alter relay or renew in across or along such street such pipes and apparatus as may be requisite or proper for furnishing such supply and for that purpose the Waterworks Clauses Acts 1847 and 1863 shall apply as if such



street were a street within the meaning of those Acts and as if section 29 of the Waterworks Clauses Act 1847 had been excepted from the incorporation of that Act in this Order. A.D. 1918.

48. For the purpose of complying with any obligation under this Order to maintain any pipe or apparatus the person liable to maintain the same shall have the like power to open the ground as is conferred upon him by sections 48 to 52 of the Waterworks Clauses Act 1847 in relation to the laying of communication pipes. As to breaking up ground for maintaining communication pipes.

49.—(1) The Town Council may enter into and carry into effect agreements with any local authority company or person for the supply of water beyond the burgh to any such authority company or person respectively in bulk for any purpose and for such remuneration and on such terms and conditions and for such period as may be agreed upon. Power to Town Council to supply water to local authorities and others.

(2) Any supply of water under the provisions of this section shall not prejudicially affect or restrict the supply of water from time to time required for any purpose within the limits of compulsory supply.

(3) Any supply of water by the Town Council under this section shall not be given except with the consent of any local authority company or person supplying water under parliamentary authority within the district to be supplied and of the local authority of that district.

50. The Town Council may if they see fit furnish a supply of water for the purposes of watering or cleansing streets or of flushing or cleansing sewers and drains or for public baths or washhouses or for public fountains or wells either gratuitously or at such charge or reduced charge and upon such terms and conditions as they shall think proper. Cleansing sewers &c.

51. For the purpose of providing for the better distribution of the water supply among the inhabitants within the limits of compulsory supply the Town Council may require the owner of any dwelling-house or tenement of dwelling-houses not properly supplied with water in any street within the limits of compulsory supply in which the pipes of the Town Council are laid to take a supply of water for such house or tenement by connecting a service pipe with the main pipe of the Town Council in any such street (such connexion to be made by the Town Council or some person to be employed by them at the expense of the Owners to provide and maintain service pipes.

A.D. 1918.

owner) and to provide lay and maintain in good and sufficient repair such service pipes stand pipes or taps cisterns and other means and apparatus and in such positions as may be necessary for that purpose and in the event of refusal or delay on the part of such owner to comply with such requisition it shall be lawful for the Town Council to enter such house or tenement and premises connected therewith and to provide lay and maintain such service pipes stand pipes or taps cisterns and other means and apparatus in such positions as aforesaid and to recover the expense thereof from such owner in the same manner as the water assessment rates or charges are recoverable by the Town Council under this Order and the Waterworks Clauses Acts 1847 and 1863 Provided always that in the case of houses not exceeding four pounds of yearly rent or value such owner shall not be required to introduce water into each house but only such means of supply for each tenement of houses as the Town Council may deem necessary Provided also that in case of any question or difference between the Town Council and any owner to whom this section applies with respect to the necessity for such supply or as to any other matter arising under this section the same shall be determined by the sheriff on summary application made in the sheriff court at Dunfermline by either of the parties and the decision of the sheriff shall be final.

Tube or hose not to be affixed to mains or pipes without consent of Town Council.

52. It shall not be lawful for the owner or occupier of any house or premises supplied with water by the Town Council without their written consent to affix or permit or suffer to be affixed any tube or hose to any of the mains or pipes of the Town Council or to any service pipe or apparatus of such owner or occupier for the purpose of washing horses carriages or other vehicles houses or buildings or for watering gardens or washing pavements or roads or for any other purpose and any person who contravenes this enactment shall be guilty of an offence and shall for every such offence forfeit and pay to the Town Council a penalty not exceeding forty shillings.

Rent for water may be ascertained by meter.

53. The Town Council may agree with any person for supplying him with water by measure and may require any person supplied with water for other than domestic purposes to take and pay for his supply by measure In both cases a meter for ascertaining the quantity consumed shall be provided by the Town Council at a reasonable rent to be fixed by the Town Council.



54. In the execution of the works and the exercise of the powers by this Order authorised and conferred so far as they affect highways bridges and culverts in the county of Fife the following provisions for the protection of the district committee shall (except so far as otherwise agreed upon in writing between the Town Council and the district committee) have effect (that is to say):—

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For protec-  
tion of dis-  
trict com-  
mittee.

- (1) All aqueducts conduits tunnels or lines of pipes or other works to be laid by the Town Council in under or along any county highway or in under upon or across any county bridge shall so far as practicable be laid in such a position in or at the side thereof as the district committee in writing under the hand of their surveyor for the district may reasonably direct and all works and operations to be executed by the Town Council shall be so executed at the risk of the Town Council and the Town Council shall maintain the tracks thereof for at least twelve months after the completion of the works Provided that if within one month after plans of the said works have been submitted by the Town Council to the said surveyor he shall not have given written notice to the Town Council objecting thereto he shall be deemed to have approved thereof:
- (2) The plan required by section 31 of the Waterworks Clauses Act 1847 shall be accompanied by a section of the proposed works and a short specification thereof and shall be delivered to the district committee or their surveyor for the district by the Town Council not less than fourteen days before they commence to break or open up any county highway or interfere with any county bridge for the purpose of executing the works:
- (3) No greater length than one hundred and fifty yards of any county highway shall be broken up at any one place at one time without the consent of the district committee A clear and sufficient carriageway shall be kept for the passage of carriages and traffic along every county highway and county bridge during any interference therewith by the Town Council unless where by arrangement with the district committee a

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county highway or county bridge may be shut up and in case of default in compliance with this provision the district committee may by their own servants and workmen clear any such carriageway and may recover the expenses incident thereto from the Town Council :

- (4) Nothing in this Order contained shall interfere with the right of the district committee to alter the level of divert widen or improve in any manner they think fit any county highway in under or along which any aqueduct conduit tunnel or line of pipes of the Town Council shall have been laid and the Town Council shall forthwith on receiving notice in writing under the hand of the clerk or surveyor of the district committee alter the position of any such aqueduct conduit tunnel or line of pipes in the manner and to the extent prescribed by such notice or as in the case of difference shall be determined by arbitration in the manner hereinafter prescribed :
- (5) The district committee shall not be liable for or in respect of any damage or injury done to any work of the Town Council by reason of such work being laid at a depth below the surface of any highway insufficient for its protection from injury arising from the reasonable use of any steam or other roller or traction engine for the repair of such county highway or from the passage of the traffic in such highway or in repairing any county bridge or the approaches thereto or culvert connected therewith :
- (6) For the purposes of section 57 of the Roads and Bridges (Scotland) Act 1878 the Town Council shall be deemed to be the person by whose order any excessive weight shall have been passed or any extraordinary traffic conducted on the county highways in connexion with the execution of the works by this Order authorised The Town Council shall make payment to the district committee for and in respect of the carriage or haulage over any highway situate within the district of the district committee of materials or things to be used by the Town Council in the construction repair or maintenance of the works or any of them by this



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Order authorised or in the reconstruction thereof of threepence per ton for each mile for and in respect of such materials or things so carried or hauled by traction engine haulage and of twopence per ton for each mile for and in respect of such materials or things so carried or hauled in carts or waggons and the Town Council shall require their contractor and such contractor shall at the end of each month supply to the surveyor of the district committee a detailed statement of the materials so carried or hauled during such month over such highways in carts or waggons together with the railway weigh notes or other evidence of such quantities Provided that the Town Council shall be bound to relieve the district committee of all claims for damages occasioned by any operations of the Town Council :

- (7) If any difference arises between the district committee and the Town Council touching this section or anything to be done or not to be done hereunder such difference shall failing agreement be referred to the decision of an arbiter to be nominated (failing agreement of the parties to name an arbiter) by the sheriff on the application of either party and the decision of such arbiter shall be final.

55. The following provisions for the protection of the North British Railway Company (hereinafter called "the North British Company") shall unless otherwise agreed between the North British Company and the Town Council apply and have effect (that is to say):—

For protection of North British Railway Company.

- (1) The Town Council shall not under the powers of this Order take or acquire by compulsion any lands or property of the North British Company but shall be entitled to acquire such servitudes in and under the lands and property of the North British Company as may be required for making and maintaining any works carried out by the Town Council under the authority of this Order :
- (2) Before commencing the construction under the powers of this Order of the said works in so far as affecting the lands or property of the North British Company the Town Council shall submit plans sections and

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specifications of their works to the North British Company for their approval and the said works shall be constructed and carried out in conformity only with such plans sections and specifications as approved and at the sight and to the reasonable satisfaction of the engineer of the North British Company and such works shall thereafter be maintained by the Town Council to the reasonable satisfaction of such engineer. Provided that the approval of the North British Company shall not be unreasonably withheld and that it shall be deemed to have been given unless the North British Company signify their disapproval within twenty-eight days after submission of the said plans sections and specifications. Provided also that any expenses which the North British Company may reasonably incur for inspection or superintendence of the said works during execution or in connexion with the maintenance or repair of these works at any time or in protecting their property during or in connexion with the construction maintenance or repair of the said works shall be repaid to them by the Town Council:

- (3) All the works and operations of the Town Council under the powers of this Order shall be constructed executed and completed so as not to injuriously affect the structure of any bridge or other works of the North British Company or to cause any injury thereto or to any railway of that company or any interruption to the passage or conduct of traffic on any such railway and if any injury or interruption shall arise from or be in any way owing to the works or operations of the Town Council or the bursting leakage or failure of the said works or any of them the Town Council shall forthwith make good or remove such injury or interruption at their own expense or the North British Company may do the same and the Town Council shall pay to the North British Company all proper and reasonable costs and expenses loss or damage including loss of traffic incurred or sustained by them in respect thereof:



(4) The Town Council shall free and relieve the North British Company from all claims whatsoever by third parties arising out of the construction or existence of the said works or the bursting leakage or failure thereof: A.D. 1918.

(5) The North British Company may repair and when necessary alter or reconstruct their railways or any bridge or other works under or over which the said works or any of them may be laid but not so as to injuriously affect the said works of the Town Council or to interrupt the water supply otherwise than may be reasonably necessary in connexion with any work of repair alteration or reconstruction by the North British Company and if any injury or other interruption shall arise to the said works or any of them from or be owing in any way to any works or operations of the North British Company on any railway or on any such bridge or other works the North British Company shall forthwith make good or remove such injury or interruption at their own expense or failing their doing so the Town Council may do the same and the North British Company shall pay to the Town Council all costs and expenses loss or damage incurred or sustained by them in respect thereof Provided that any such works of the North British Company shall so far as they may interfere with the works of the Town Council be done to the reasonable satisfaction of the engineer of the Town Council Any extra expense which the North British Company would not have incurred in such repair alteration or reconstruction but for the construction or existence of the said works shall be paid by the Town Council and such extra expense if any shall failing agreement be determined by the arbiter to be appointed as after mentioned:

(6) If at any future time the North British Company should find it necessary to utilise any of the land or property belonging to them on which any works of the Town Council may be constructed the Town Council shall at their own expense if required by

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the North British Company carry out any alteration of such works to the reasonable satisfaction of the engineer of the North British Company :

- (7) If any difference shall arise between the Town Council and the North British Company or between the respective engineers of the Town Council and the North British Company as to the meaning of this section or any matter arising under the provisions of this section or as to any plans or sections or the mode of executing any works or as to any costs or expenses loss or damage provided for in this section such difference shall (unless herein otherwise provided) be determined by an arbiter to be appointed failing agreement by the sheriff on the application of either party.

For protec-  
tion of trus-  
tees of late  
Laurence  
Dalglish.

56. For the protection of the trustees of the late Laurence Dalglish (hereinafter referred to as "the trustees") as proprietors of the estate of Outh the following provisions shall unless otherwise agreed upon in writing between the Town Council and the trustees apply and have effect (that is to say):—

- (1) In the event of Work No. 2 by this Order authorised or any portion thereof being constructed in open cutting the side slopes shall not except where in rock be steeper than one and a half horizontal to one perpendicular and the Town Council shall construct and maintain a sufficient number of bridges or gangways suitable for the passage of stock at such places as may be reasonably necessary and as may be agreed between the trustees and the Town Council or failing agreement determined by arbitration in manner hereinafter in this section provided The Town Council shall in all cases where the cutting is in rock and dangerous to stock construct and maintain suitable and sufficient fences :
- (2) The Town Council shall not less than six months prior to the commencement of Work No. 3 by this Order authorised submit to the trustees a detailed plan showing the manner in which the existing boathouse on Loch Glow will be affected by the carrying out



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of that work and the raising of the water level of the said loch and the works proposed to be executed by the Town Council to render the said boathouse serviceable and fit for the purposes for which it is at present used or is capable of being used and the trustees shall not later than one month after the said plan shall have been submitted to them be entitled to object to the nature or extent of or the manner in which it is proposed to execute the said works and in the event of their so doing the question of the works required to be executed on the said boathouse for such purposes shall failing agreement be determined by an arbiter to be appointed as hereinafter provided but if at the expiry of the said period of one month no such objections have been received by the Town Council the trustees shall be deemed to have approved the said plan and to have accepted the works proposed to be executed. The Town Council shall so soon as the progress of the said Work No. 3 renders it necessary commence and carry out the works in connexion with the said boathouse shown on the said plan if such plan shall have been approved and accepted as aforesaid or otherwise such works as may be agreed upon between the Town Council and the trustees or as may be determined by the arbiter to be required as aforesaid:

- (3) The Town Council shall before commencing the construction of Work No. 3 by this Order authorised acquire at the rate of sixty pounds per acre such lands belonging to the trustees as they may require for the purposes thereof and the extent of the lands so to be acquired shall be calculated from the boundary line of the lands acquired under the Act of 1896 up to the line of the lands to be acquired under this Order. Upon the completion of the said Work No. 3 the Town Council shall be bound to execute such works as may be reasonably necessary to protect the bank of the said loch so far as belonging to the trustees from erosion and to prevent the area of the said loch extending beyond the line of the lands to be acquired for the purposes of this Order and shall

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—

be responsible for all damage arising from their failure so to do :

- (4) The Town Council shall not later than twelve months after the termination of the present war execute such works as may be reasonably necessary to protect the said portion of the bank of the said loch from further erosion unless prior to the expiry of the said period of twelve months they shall have arranged to acquire lands from the trustees for the purposes of the said Work No. 3 :
- (5) All such stones and clay as the Town Council may reasonably require for pitching round the margin of the said loch or for the purpose of repairing or raising the embankment thereof may be quarried or taken by the Town Council from any lands acquired by the Town Council under this Order or by the district committee under the Act of 1896 free of lordship or other charge :
- (6) The Town Council shall not later than twelve months after the termination of the present war erect suitable and sufficient fences at all dangerous places round the margin of the said loch so as to prevent accidents to stock and shall also erect any fencing which may reasonably be required on account of any lowering of the water level in the said loch to prevent stock straying from one property to another Any fencing erected under this subsection shall be maintained in good order and repair in all time by the Town Council and failing their carrying out any necessary repairs after due notice the trustees shall be entitled to have the said repairs executed and to recover the cost thereof from the Town Council :
- (7) The terms on which any roads of access necessary for the carrying out of the works authorised by this Order shall be given by the trustees or on which materials other than those materials referred to in subsection (5) of this section shall be supplied by them for the work in connexion with the raising of the embankment or otherwise shall be such as may be agreed between the Town Council and the trustees prior to the Town Council commencing operations or



failing agreement determined by arbitration as herein-  
after in this section provided: A.D. 1918.

- (8) Any difference under this section between the Town Council and the trustees shall unless otherwise provided be referred to and determined by an arbiter to be mutually chosen or failing agreement appointed on the application of either party by the sheriff and the decision of the arbiter so appointed shall be final.

57. For the protection of William Young of Cleish Castle in the county of Kinross heir of entail in possession of the estate of Cleish (hereinafter referred to as "the proprietor") the following provisions shall unless otherwise agreed upon in writing between the Town Council and the proprietor apply and have effect (that is to say):— For protec-  
tion of Wil-  
liam Young  
of Cleish  
Castle.

- (1) In the event of Work No. 1 by this Order authorised or any portion thereof being constructed in open cutting the side slopes shall not except where in rock be steeper than one and a half horizontal to one perpendicular and the Town Council shall construct and maintain a sufficient number of bridges or gangways suitable for the passage of stock at such places as may be reasonably necessary and as may be agreed between the proprietor and the Town Council or failing agreement determined by arbitration in manner hereinafter in this section provided The Town Council shall in all cases where the cutting is in rock and dangerous to stock construct and maintain suitable and sufficient fences:
- (2) The Town Council shall before commencing the construction of Work No. 3 by this Order authorised acquire at the rate of sixty pounds per acre such lands belonging to the proprietor as they may require for the purposes thereof and the extent of the lands so to be acquired shall be calculated from the boundary line of the lands acquired under the Act of 1896 up to the line of the lands to be acquired under this Order Upon the completion of the said Work No. 3 the Town Council shall be bound to execute such works as may be reasonably necessary

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to protect the bank of Loch Glow so far as belonging to the proprietor from erosion and to prevent the area of the said loch extending beyond the line of the lands to be acquired for the purposes of this Order and shall be responsible for all damage arising from their failure so to do:

- (3) The Town Council shall not later than twelve months after the termination of the present war execute such works as may be reasonably necessary to protect the said portion of the bank of the said loch from further erosion unless prior to the expiry of the said period of twelve months they shall have arranged to acquire lands from the proprietor for the purposes of the said Work No. 3:
- (4) All such stones and clay as the Town Council may reasonably require for pitching round the margin of the said loch or for the purpose of repairing or raising the embankment thereof may be quarried or taken by the Town Council from any lands acquired by the Town Council under this Order or by the district committee under the Act of 1896 free of lordship or other charge:
- (5) The Town Council shall not later than twelve months after the termination of the present war erect suitable and sufficient fences at all dangerous places round the margin of the said loch so as to prevent accidents to stock and shall also erect any fencing which may be reasonably required on account of any lowering of the water level in the said loch to prevent stock straying from one property to another. Any fencing erected under this subsection shall be maintained in good order and repair in all time by the Town Council and failing their carrying out any necessary repairs after due notice the proprietor shall be entitled to have the said repairs executed and to recover the cost thereof from the Town Council:
- (6) The terms on which any roads of access necessary for the carrying out of the works authorised by this Order shall be given by the proprietor or on which materials other than those materials referred to in subsection (4) of this section shall be supplied by



him for the work in connexion with the raising of the embankment or otherwise shall be such as may be agreed between the Town Council and the proprietor prior to the Town Council commencing operations or failing agreement determined by arbitration as hereinafter in this section provided :

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- (7) In the event of the Town Council constructing Work No. 1 by this Order authorised for a greater length than two thousand lineal yards measured from its commencement at the said loch they shall pay to the proprietor the sum of one hundred pounds sterling and shall also arrange to give off for the use of the proprietor at such point on the said Work No. 1 when completed to a greater length than two thousand yards as aforesaid as may be agreed between him and the Town Council such reasonable preferential supply of water as he may require not exceeding twenty gallons per minute for a period not exceeding ten hours in any one day which shall be accepted by him as full compensation for any water which may be diverted from the sawmill at West Mains and the Town Council shall construct such channel as may be necessary to conduct and discharge such preferential supply of water into the existing east-most stream feeding the Mill Pond for the supply of water to the said sawmill and the said quantity of water shall be subtracted from the augmented supply from the said loch required to be provided by subsection (2) of the section of this Order of which the marginal note is "As to compensation water" Provided always that the Town Council shall at no time be required to give off for such preferential supply of water more water than is for the time being flowing along the said Work No. 1 at its junction with the said channel In the event of the existing supply of water to Cleish Castle being cut off or diminished as a result of the construction of the said Work No. 1 the Town Council shall be bound at their expense to furnish at all times by a pipe from the said Work No. 1 or otherwise a supply of water for the use of the said

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castle equal in amount and quality to the present supply :

- (8) Any difference under this section between the Town Council and the proprietor shall unless otherwise provided be referred to and determined by an arbiter to be mutually chosen or failing agreement appointed on the application of either party by the sheriff and the decision of the arbiter so appointed shall be final.

For protection of Sir Basil Templer Graham Montgomery of Stanhope baronet.

58. For the protection of Sir Basil Templer Graham Montgomery of Stanhope baronet proprietor of the estate of Kinross in the county of Kinross and of the loch known as Loch Leven thereon (who and his successors in the said estate are hereinafter in this section called "the proprietor") the following provisions with respect to the fishings in the said loch shall unless otherwise agreed upon in writing between the Town Council and the proprietor apply and have effect (that is to say) :—

- (1) Any question which may arise between the proprietor and the Town Council as to whether the said fishings have been injuriously affected within the meaning of section 6 of the Waterworks Clauses Act 1847 by reason of the exercise by the Town Council of the powers of this Order shall be determined by an arbiter to be agreed upon between the proprietor and the Town Council or failing agreement to be nominated by the sheriff on the application of the proprietor :
- (2) If it be conceded by the Town Council or determined by the arbiter that the said fishings have been injuriously affected the Town Council shall make to the proprietor such compensation as may be agreed upon or failing agreement be determined by arbitration as aforesaid Provided that in fixing such compensation (if any) the arbiter shall take into account any improvement to the fishings in consequence of the Act of 1896 and this Order :
- (3) Notwithstanding anything contained in this Order or shown on the deposited plans the Town Council shall not without the consent in writing of the proprietor construct so much of Work No. 1 by this Order



authorised as is situate between its commencement as described in section 8 of this Order and a point one thousand yards or thereby measured from the said commencement thereof along the line thereof as shown on the deposited plans. A.D. 1918

59. The agreement between the Town Council of the one part and the River Leven Trustees of the other part as set forth in the Second Schedule to this Order is hereby sanctioned and confirmed and made binding on the parties thereto. Confirmation of agreement with River Leven Trustees.

60. The agreement between Sir Charles Elphinstone Adam baronet of Blairadam of the first part and the Town Council of the second part as set forth in the Third Schedule to this Order is hereby sanctioned and confirmed and made binding on the parties thereto. Confirmation of agreement with Sir Charles Elphinstone Adam baronet.

61. The Town Council may subject to the provisions of this Order in the manner and under the powers and provisions of the Burgh Police Acts from time to time borrow the sums following:— Power to borrow.

- (1) For the purchase of lands and servitudes the sum of two thousand pounds;
- (2) For the purposes of the Works Nos. 3 and 7 by this Order authorised the sum of ten thousand pounds;
- (3) For the purposes of the Works Nos. 1 2 4 5 and 6 by this Order authorised and for subsidiary works the sum of twenty-one thousand pounds;
- (4) For the payment to the district committee by the Town Council in respect of the waterworks and powers transferred by this Order the sum of ten thousand five hundred pounds and for defraying the costs charges and expenses incident to such transfer (other than the costs of this Order) the sum requisite for that purpose;
- (5) For the payment of the costs charges and expenses of and incident to obtaining and confirming this Order the sum requisite for that purpose;
- (6) For the purposes of the water undertaking with the consent of the Secretary for Scotland but not otherwise such further moneys as the Town Council may

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require and the Secretary for Scotland shall have and may exercise in relation to such consent all the powers of section 93 of the Local Government (Scotland) Act 1889:

And the Town Council may make and grant mortgages or other securities of the water assessment and rates rents and charges in the manner authorised by the Burgh 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.

Periods for  
repayment  
of borrowed  
moneys.

62. The Town Council shall pay off all moneys to be borrowed by them under this Order for the purposes of the water undertaking within the respective periods following (hereinafter referred to as "the prescribed period") (that is to say) :—

As to moneys borrowed for the purpose (1) mentioned in the immediately preceding section of this Order within sixty years from the date or dates of borrowing the same :

As to moneys borrowed for the purpose (2) mentioned in that section within fifty years from the date or dates of borrowing the same :

As to moneys borrowed for the purpose (3) mentioned in that section within forty-five years from the date or dates of borrowing the same :

As to moneys borrowed for the purpose (4) mentioned in that section within thirty years from the date or dates of borrowing the same :

As to moneys borrowed for the purpose (5) mentioned in that section within five years from the commencement of this Order :

As to moneys borrowed with the approval of the Secretary for Scotland for the purpose (6) mentioned in that section within such period as the Secretary for Scotland may notwithstanding anything in the Burgh Police Acts contained prescribe.

Mode of  
repayment  
of borrowed  
moneys.

63. The Town Council shall pay off all moneys borrowed by them (other than money borrowed for current expenses) under this Order either by means of a sinking fund formed



under the provisions of this Order or by equal yearly or half-yearly instalments of principal or of principal and interest combined or partly by one of those methods and partly by another or others of them. A.D. 1918.

64.—(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— Sinking fund.

(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 hereinafter 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 hereinafter 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 or be deposited in bank the Town Council being at liberty from time to time to vary and transpose such investments.

(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

A.D. 1918. 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 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. A.D. 1918.

(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 as the Town Council may determine.

(12) The period at which the payments into the sinking fund shall commence shall be within one year from the date of borrowing.

65. 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 provided by this Order or out of moneys derived from the sale of lands it shall be lawful for the Town Council 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. Power to re-borrow.

66. In the application to the burgh of section 49 (Power to borrow temporarily) of the Burgh Police (Scotland) Act 1903 the expression "any public general Act" shall be deemed to include this Order. Borrowing power for current expenses.

67. The provisions of the Burgh Police Acts with respect to water supply shall subject to the provisions of this Order and so far as not inconsistent therewith apply to the supply of water within the burgh by the Town Council from their existing waterworks the waterworks transferred by this Order and the works by this Order authorised. Application of Burgh Police Acts.

68. The Town Council may provide out of the yearly water assessment and rates rents charges and other revenues of the Reserve fund.

A.D. 1918. — water undertaking a reserve fund by setting aside such a sum annually as they may from time to time think fit and investing the same and the resulting income thereof upon such securities as the Town Council may by law for the time being invest their funds and accumulating the same at compound interest which reserve fund shall not at any time exceed in the whole the sum of seven thousand pounds and shall be applicable as and when the Town Council may determine from time to time for the renewal of the works plant and apparatus or any extraordinary claim or demand at any time arising against the Town Council in respect of the water undertaking.

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

69. The treasurer of the Town Council shall within four months after the expiration of each year during which any sum is required to be paid as an instalment or to be set apart for a sinking fund under this Order 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 paid or 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 such return or otherwise that the Town Council have failed to pay any instalment or to set apart the sum required by this Order to be set apart for the sinking fund or to make any increased payment thereto by this Order required 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.



70. All sums borrowed by the Town Council under this Order 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.

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Application  
of moneys  
borrowed.

71. 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.

72. 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 Burgh 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.

73. The mortgagees of the Town Council 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. 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  
judicial  
factor.

74. Subject to the provisions of this Order the existing waterworks of the Town Council the waterworks transferred by this Order and the works 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.

Existing  
waterworks  
transferred  
and new  
waterworks  
to form one  
undertaking.

75. Notwithstanding anything contained in this Order the Town Council shall not under the powers of this Order borrow any money (other than money required for the payment of the costs charges and expenses referred to in the section of this Order whereof the marginal note is "Costs of Order") during the continuance of the present war and twelve months thereafter unless the consent of the Treasury has been previously obtained.

Restriction  
on exercise  
of borrowing  
powers.

76. All costs charges and expenses of and incident to the preparing for obtaining and confirming this Order or otherwise in relation 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 for that purpose.

Costs of  
Order.

A.D. 1918.

SCHEDULES referred to in the foregoing Order.

## THE FIRST SCHEDULE.

## PROPERTIES OF WHICH PORTIONS ONLY MAY BE TAKEN.

| Parish.         | Numbers on deposited Plans. |
|-----------------|-----------------------------|
| Beath - - - - - | 15 31 33A and 40.           |

## THE SECOND SCHEDULE.

AGREEMENT between the PROVOST MAGISTRATES AND COUNCILLORS OF THE BURGH OF COWDENBEATH (hereinafter called "the Town Council") on the one part and the RIVER LEVEN TRUSTEES (hereinafter called "the trustees") on the other part.

WHEREAS the Town Council have applied under the provisions of the Private Legislation Procedure (Scotland) Act 1899 to the Secretary for Scotland for a Provisional Order (hereinafter referred to as "the said Order") "to transfer to and vest in the provost magistrates and councillors of the burgh of Cowdenbeath certain waterworks constructed by the Dunfermline District Committee of the County Council of the County of Fife under the Kelty Water Order Confirmation Act 1896 to authorise the Town Council to construct and maintain additional waterworks and for other purposes":

And whereas the trustees were constituted by and act under and by virtue of the Acts 7 and 8 George IV. cap. 105 1 and 2 William IV. cap. 10 and 5 William IV. cap. 14 and have in virtue of the said Acts sole control of the whole of the water discharged from Loch Leven:

And whereas the trustees have lodged a petition against the said Order which fully sets forth their rights and interests in the premises and their objections to the said Order:

And whereas the parties have been in negotiation with reference to the said Order and the trustees have agreed to withdraw their



opposition to the said Order on the following terms and conditions and the parties accordingly hereby agree as follows namely :— A.D. 1918.

First The Town Council in the event of the said Order being confirmed by Parliament and receiving the Royal Assent shall within twelve months from the date of the termination of the present war pay to the trustees the sum of five thousand pounds sterling which sum the trustees may apply as they deem most expedient for all or any of the purposes of the Acts before mentioned The Town Council shall also pay the trustees interest at the rate of five per centum per annum on the said sum of five thousand pounds from the date of the Royal Assent to the Order until payment of the five thousand pounds.

Second In consideration of the payment of the said sum of five thousand pounds the trustees shall and do hereby relinquish as and from the commencement of the said Order all and whatever rights they have or may claim to have in the said Loch Glow and the waters thereof whether under their own Acts hereinbefore recited the Kelty Water Order Confirmation Act 1896 or otherwise and all and any rights they or the persons or bodies represented by them may have under their own Acts and the said Act of 1896 in or to any other waters sought to be diverted impounded or otherwise dealt with under or by virtue of the works described in section 8 (Power to make new waterworks) of the said Order and shown on the deposited plans and the trustees or the persons or bodies represented by them shall not in a question with the Town Council be entitled to insist on delivery of any compensation water which may be provided by the said Order.

Third In the event of a Provisional Order being applied for or a substituted Bill being promoted in the next or some future session of Parliament by the Town Council under the provisions of the Private Legislation Procedure (Scotland) Act 1899 for repealing or amending section 12 (As to compensation water) of the said Order the trustees undertake not to oppose directly or indirectly the Town Council in such application and to use their best endeavours to obtain the granting of the said Order and the confirmation by Parliament thereof or the passing of such substituted Bill into an Act as the case may be.

Fourth The Town Council hereby agree to pay subject (if so desired by the Town Council) to taxation by the auditor of the Court of Session (a) the cost of and in connexion with this agreement and (b) the costs incurred by the trustees in connexion with their opposition to the said Order said costs to be paid within three months of the said Order being confirmed by Parliament and receiving the Royal Assent.

Fifth If any difference arise between the Town Council and the trustees under this agreement such difference shall be determined

A.D. 1918. — by an arbiter to be agreed upon or failing agreement by an arbiter to be appointed by the sheriff on the application of either party.

Sixth This agreement shall be scheduled to and confirmed by the said Order subject to such alterations as the Secretary for Scotland or Parliament may see fit to make thereon but if any alteration in this agreement be made by the Secretary for Scotland or Parliament which in the opinion of James A Fleming esquire one of His Majesty's counsel whom failing J Condie S Sandeman esquire also one of His Majesty's counsel is material either party may withdraw therefrom.

In witness whereof these presents typewritten on this and the two preceding pages are along with a duplicate thereof executed by the parties hereto as follows videlicet they are subscribed for and on behalf of the said provost magistrates and councillors of the burgh of Cowdenbeath by George Penman provost and Robert Thomas Milne town clerk both of said burgh and sealed with the common seal of said burgh all at a meeting of said provost magistrates and councillors held within the Town House Cowdenbeath on the twenty-first day of September in the year nineteen hundred and eighteen before these witnesses James Sutherland Rae burgh surveyor Cowdenbeath and Harry Gardiner apprentice in the office of the said James Sutherland Rae and they are subscribed for and on behalf of and as authorised by the said River Leven Trustees by James Porter of Prinlaws Leslie chairman and James Ogilvy Shepherd solicitor Leven joint clerk of the said trustees as follows videlicet by the said James Ogilvy Shepherd at Leven on the twenty-fifth day of September in the year last mentioned before these witnesses Alexander James Forbes and George McIntosh both clerks with Messrs. W. & J. Ogilvy Shepherd solicitors Leven and by the said James Porter at Markinch on the twenty-sixth day of September in the year last mentioned before these witnesses Alexander McDonald motor engineer the Motor House Leven and Margaret Logan housemaid Howiegate Markinch.

JAMES S. RAE witness.

GEORGE PENMAN provost.

(L.S.)

HARRY GARDINER witness.

R. T. MILNE town clerk.

A. J. FORBES witness.

J. OGILVY SHEPHERD joint clerk.

G. MCINTOSH witness

ALEXANDER McDONALD witness.

JAMES PORTER.

MARGARET LOGAN witness.



## THE THIRD SCHEDULE.

A.D. 1918.

AGREEMENT between Sir CHARLES ELPHINSTONE ADAM baronet of Blairadam heir of entail in possession of the lands and estate of Blairadam situated in the parish of Cleish in the county of Kinross and the parishes of Beath and Dunfermline in the county of Fife of the first part (hereinafter called "the First Party") and the PROVOST MAGISTRATES AND COUNCILLORS of THE BURGH of COWDENBEATH in the county of Fife as the local authority of said burgh under the Burgh Police (Scotland) Acts 1892 to 1911 and the Public Health (Scotland) Act 1897 of the second part (hereinafter called "the Second Parties").

THE said parties considering that an application has been made by the Second Parties to the Secretary for Scotland under the Private Legislation Procedure (Scotland) Act 1899 session nineteen hundred and eighteen for a Provisional Order (hereinafter called "the Order") intituled "(Draft) Provisional Order to transfer to and vest in the " provost magistrates and councillors of the burgh of Cowdenbeath " certain waterworks constructed by the Dunfermline District Committee " of the County Council of the County of Fife under the Kelty Water " Order Confirmation Act 1896 to authorise the Town Council to con- " struct and maintain additional waterworks and for other purposes " that the First Party has presented a petition against the said (Draft) Provisional Order that certain negotiations have taken place between the parties with the view of removing the objections stated by the First Party in his said petition against the Order and that the parties have agreed and hereby agree and bind and oblige themselves as follows:—

First During the execution of the works set forth in the Order and deposited plans and this agreement the Second Parties shall be entitled to make use of the Blairenbathie Loading Bank and of the estate road from said loading bank by Lochornie Farm Steading to the public road from Gask to Nivingston and Cleish the estate road from Kelty Bridge by way of Blairadam Sawmill Blairenbathie Siding Northerton Bridge Bowmuir Filters Craigenat Old Steading and Millstone Cottage to its junction with the foresaid public road a quarter of a mile or thereby to the east of Loch Glow and of the estate road from Blackhall by way of Keltyhill Farm Clentry Bridge and Clentry Meadow to its junction with the last-mentioned estate road near Blairadam Mill Dam and of the railways passing through the said estate in so far as the First Party has any right thereto for the conveyance of plant and materials to and from the said works and for the passage of



A.D. 1918. workmen vehicles and others engaged in connexion with the execution of the said works and that until the said works shall have been completed and it is hereby declared that the Second Parties and their contractors and others as aforesaid shall be restricted to the use of the said estate roads and railways and shall not be entitled to make use of any of the other estate roads on the lands of Blairadam for any of the purposes above mentioned Further the Second Parties bind and oblige themselves to maintain the said loading bank and estate roads so to be used by them as aforesaid during the whole period of their use and occupation thereof in good serviceable order to the effect that the First Party and his tenants and others deriving right from him may make use thereof freely and with the least possible inconvenience and the Second Parties also bind and oblige themselves to free and relieve the First Party of any claims for damage that may be made against him by any of his tenants or others having right to make use of the said loading bank or estate roads in so far as said claims may arise out of or in connexion with the operations of the Second Parties and their use of the said loading bank and estate roads And further the Second Parties bind and oblige themselves to pay to the First Party at the first date of notice to treat the sum of one hundred pounds as in full settlement of any claim the First Party may have against them for the privilege of the use of the said loading bank and estate roads And further the Second Parties bind and oblige themselves on the completion of the said works to repair and restore the said loading bank and estate roads used by them so as to leave them in as good a state of repair as they were in previous to the commencement of the operations of the Second Parties to the satisfaction of the road surveyor of the district who shall for the purpose of enabling him to determine the extent of the said restoration and repairs inspect the said loading bank and estate roads before the commencement of the operations of the Second Parties and the fee and expenses of the said road surveyor shall be paid by the Second Parties.

Second After the completion of the said works the Second Parties shall be entitled to make use for the purposes of inspection and maintenance of the pipe track and filter beds within the estate of Blairadam and for the conveyance of materials necessary for the said maintenance thereto and therefrom of the three estate roads mentioned in Article First hereof but the First Party shall not be under obligation to maintain these roads in any better condition than he may consider necessary for the uses in connexion with his estate And it is hereby declared that the Second Parties shall not be entitled to make use of any other estate roads within the lands and estate of Blairadam for any purpose whatever And the Second Parties bind and oblige themselves to pay to the First Party three years after the first date of notice to treat the sum of one hundred pounds in respect of the use



to be made by them under this Article of the roads above mentioned and for any damage to the said roads that may be caused by the reasonable use thereof for the purposes set forth in this Article but it is hereby declared that the Second Parties shall not be entitled to make use of the said roads for any excessive or extraordinary traffic except on terms to be arranged between the First Party and them. A.D. 1918.

Third The Second Parties bind and oblige themselves to pay to the First Party on the first date of notice to treat the sum of three hundred pounds in respect of the privilege servitude tolerance and permanent right of wayleave extending to four thousand seven hundred and sixty seven lineal yards or thereby for the purpose of laying and maintaining an aqueduct conduit line or lines of pipes situated partly in the parishes of Beath and Dunfermline in the county of Fife and partly in the parish of Cleish and county of Kinross and an aqueduct conduit line or lines of pipes wholly situated in the parish of Beath and county of Fife as the same are delineated on the deposited plans and in so far as the said aqueduct conduit line or lines of pipes are situated within the said lands and estate of Blairadam.

Fourth The Second Parties bind and oblige themselves to pay to the First Party on the first date of notice to treat the sum of fifty pounds in full settlement of any claims the First Party may have against the Second Parties for any surface damages arising to crops trees roads fences ditches drains and others during the execution of the said works in so far as the same are situated within the said lands and estate of Blairadam declaring that said last-mentioned sum shall include and cover the use of such convenient pieces of ground as may be pointed out by the First Party for the deposit of spoil heaps during the construction of the said works on or through the said estate the levels to which such spoil heaps shall be raised being always first approved of by the First Party and the Second Parties shall also be bound after the completion of the said works to restore any other roads on the estate of Blairadam which they may be authorised by the First Party to use for the purpose of conveying the materials to said spoil heaps so as to leave these roads in thoroughly good order to the reasonable satisfaction of the First Party or of his engineer and to restore the surface of any land over which carting may be done to the condition in which it was before their operations were commenced and that to the reasonable satisfaction of the First Party. And the Second Parties further bind and oblige themselves to free and relieve the First Party of any claims at the instance of his tenants including the Carlingnose Granite Company tenants of the whinstone in part of the said estate of Blairadam and the tenants of the coal and other minerals in said estate arising out of the operations and actings of the Second Parties on said estate.



A.D. 1918.

Fifth In the event of the Second Parties requiring additional land on said estate for the extension of the existing filters or for the erection of new filters adjoining the same the First Party shall give off such land within the limits of the lines of deviation shown on the deposited plans and the terms on which such additional land shall be given off shall be such as may be agreed between the parties prior to the Second Parties commencing operations or failing agreement determined by arbitration in terms of the Lands Clauses Acts and other Acts incorporated with the Order.

Sixth The Second Parties agree and bind and oblige themselves notwithstanding the terms of the Order not to erect upon any ground to be acquired by them upon the said lands and estate of Blairadam or upon any land which formerly formed part of said estate and now to be transferred to them any dwelling-house or offices in connexion with a dwelling-house without the previous consent in writing of the First Party and it is further declared that the Second Parties shall not be entitled at any time to make use of any existing structure at Bowmuir Filters or of any structure that may hereafter be erected on any part of the estate of Blairadam as or for a dwelling-house or a bothy or sleeping place except in so far as the consent of the First Party may have been obtained as aforesaid.

Seventh The Second Parties hereby agree and bind and oblige themselves notwithstanding the terms of the Order not to make or erect telegraphs telephones posts wires and other similar works and conveniences upon the said lands and estate of Blairadam except as regards lines or routes immediately alongside or upon the lines of the estate roads referred to in Article First hereof but in such a way as not to interfere with or obstruct the traffic in the said roads or partly alongside or upon the lines of the said estate roads and of the railways passing through the said estate and except on such terms as regards wayleave as may be agreed upon between the parties or failing agreement determined by arbitration as provided in Article Fifth hereof And it is further agreed that the plans and method of construction of such telegraphs and others shall first be approved of by the First Party before any operations in connexion therewith shall be commenced.

Eighth The Second Parties agree and bind and oblige themselves in the event of their requiring to discharge any water from the pipes or filter beds into any stream or watercourse on the said lands and estate of Blairadam to pay or compensate the First Party for any damage he may sustain through the discharge of such water and particularly and without prejudice to the foresaid stipulation the Second Parties hereby agree and bind and oblige themselves in the event of their discharging water into the Pieries Burn on the estate



A.D. 1918.

of Blairadam to form or make at any time if called upon by the First Party a dam or other catchwater and that to the reasonable satisfaction of an engineer to be appointed by the First Party to intercept the water to be discharged from the said water pipes or filter beds and to make provision for the overflow from said dam or catchwater being allowed to flow into the said Pieries Burn in such a way as not to cause damage to the said First Party's lands and estate of Blairadam or to water supplies mills the banks of the said burn or any other subjects belonging to him on the said lands and estate of Blairadam.

Ninth The First Party hereby reserves any claims for wayleaves surface damage use of roads loading bank and others that may arise in connexion with any further works that may be undertaken by the Second Parties for the enlargement or increase in the number of pipes and filters within the said lands and estate of Blairadam.

Tenth In respect of the foregoing agreement the First Party binds himself to withdraw his petition against the Order.

Eleventh Without prejudice to the provisions of Articles Fifth and Sixth hereof it is hereby agreed that in the event of any dispute or difference arising between the parties as to the true intent and meaning of these presents or as to the carrying out of the same such dispute or difference shall be referred to and determined by an arbiter to be mutually chosen or failing agreement to be appointed by the sheriff of Fife and Kinross on the application of either of the parties and the decision of the arbiter so appointed shall be final.

Twelfth This agreement is made subject to such alterations as may be made thereon during the progress of the Order declaring however that if any alteration be so made which in the opinion of the Dean of the Faculty of Advocates is material it shall be competent to either of the parties hereto to cancel the agreement.

Lastly It is provided and declared that this agreement shall be scheduled to the Order.

In witness whereof these presents written on this and the four preceding pages by Alexander Strathern clerk to John Clerk Brodie and Sons w.s. Edinburgh are along with a duplicate hereof and under the declaration that the word "on" occurring in the twenty-ninth line of page second hereof is deleted—executed by the parties hereto as follows vizt. the same are subscribed for and on behalf of the said provost magistrates and councillors of the burgh of Cowdenbeath by George Penman provost and Robert Thomas Milne town clerk both of said burgh and sealed with the common seal of said burgh all at a meeting of said provost magistrates and councillors held within the Town House Cowdenbeath on the twenty-first day of September in the

A.D. 1918. year nineteen hundred and eighteen before these witnesses James Sutherland Rae burgh surveyor Cowdenbeath and Harry Gardiner apprentice in the office of the said James Sutherland Rae and are subscribed by the said Sir Charles Elphinstone Adam at Blairadam on the twenty-third day of said month of September in the year last mentioned before these witnesses John Campbell plumber and James Hay tiler both in the employment of Carron Company Carron Stirlingshire.

JOHN CAMPBELL Witness.

C. E. ADAM.

JAMES HAY Witness.

JAMES S. RAE Witness.

GEORGE PENMAN Provost.

(L.S.)

HARRY GARDINER Witness.

R. T. MILNE Town Clerk.

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