

[9 EDW. 7.] *St. Andrews Water Order Confirmation* [Ch. cx.]
Act, 1909.



CHAPTER cx.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to St. Andrews Water. A.D. 1909.
[16th August 1909.]

WHEREAS His Majesty's Secretary for Scotland has made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament: 62 & 63
Vict. c. 47.

Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

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

2. This Act may be cited as the St. Andrews Water Order Confirmation Act 1909. Short title.

A.D. 1909.

SCHEDULE.

ST. ANDREWS WATER.

Provisional Order to authorise the Provost Magistrates and Councillors of the Burgh of St. Andrews to provide an additional water supply and to construct and maintain new waterworks and for other purposes.

WHEREAS the water supply for the burgh of St. Andrews in the county of Fife was introduced in the year one thousand eight hundred and sixty-seven by the then Town Council of the burgh. under the provisions of the General Police and Improvement (Scotland) Act 1862 and further extensions were made in the years one thousand eight hundred and eighty-four and one thousand nine hundred :

And whereas the said Act of 1862 was repealed by the Burgh Police (Scotland) Act 1892 and the affairs of the burgh including the existing waterworks and water supply are now managed and administered by the provost magistrates and councillors thereof (herein-after called "the Town Council") under among others the Burgh Police (Scotland) Acts 1892 to 1903 and the Town Council are also the local authority within the burgh under the Public Health (Scotland) Act 1897 :

And whereas the boundaries of the burgh of St. Andrews were extended and defined by the sheriff of the county of Fife by decree dated the twentieth day of March and registered in the sheriff court books of the said county on the fourth day of April both in the year one thousand eight hundred and ninety-five and the boundaries so defined are the existing boundaries of the burgh :

And whereas by the increase of the residential population of St. Andrews which during several months of every year is largely augmented by the influx of visitors for the purposes of recreation the present supply of water is inadequate and insufficient for the increasing wants and for the health and convenience of the community :

And whereas it is expedient that a better and more abundant supply of water should be provided to the burgh and that the

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Town Council should be empowered to introduce the same and for that purpose to acquire lands and construct and maintain additional waterworks: A.D. 1909.

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 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 supply in accordance with the provisions in that behalf of the Burgh Police (Scotland) Acts 1892 to 1903 and this Order:

And whereas it is expedient that further powers should be conferred on the Town Council in relation to their waterworks and water supply:

And whereas it is expedient that provision should be made for the repayment of any money to be borrowed under the authority of this Order:

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 as follows:—

	£
For the purchase of lands and servitudes - -	6,050
For reservoirs embankments waste weirs &c. -	14,250
For mains conduits and drains roads gauge tanks &c. - - - - -	5,750

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 in the office at Cupar of the principal sheriff clerk of the county of Fife and in the office at St. Andrews of the depute sheriff clerk of the said county and are hereinafter respectively referred to as the deposited plans sections and book of reference:

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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 commencement of Order.

1. This Order may be cited for all purposes as the *St. Andrews Water Order 1909* 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.”

Interpretation.

2. In this Order the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction And in this Order unless the context otherwise requires—

“The burgh” means the burgh of *St. Andrews* according to the boundaries thereof existing at the date of the commencement of this Order ;

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

“The Police Acts” means the *Burgh Police (Scotland) Acts 1892 to 1903* ;

“The sheriff” means the sheriff of the county of *Fife* or any of his substitutes ;

The words “lands and premises” shall have the same meaning as in the *Police Acts*.

Incorporation of Acts.

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

The *Lands Clauses Acts* :

The *Waterworks Clauses Act 1847* except the clauses and provisions with respect to the communication pipes to be laid by the undertakers and with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and also with the exception of clauses 68 70 71 and 72 :

The *Waterworks Clauses Act 1863* :

The clauses 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 clauses and provisions "the company" means the Town Council "the railway" means the reservoir and embankments authorised by this Order and the works immediately connected therewith and "the centre of the railway" means any part of these works. A.D. 1909.

4. The Town Council may subject to the provisions of this Order make and maintain wholly within the county of Fife in the lines and according to the levels shown on the deposited plans and sections the works herein-after described or some of them or some part or parts thereof (that is to say):— Power to
make new
waterworks.

(1) A reservoir (Work No. 1) situate wholly in the parish of Cameron on the burn known as Cameron Burn commencing at a point on the said Cameron Burn one thousand one hundred and seventy yards or thereby measured in a westerly direction from the centre of Reform Bridge and terminating at the embankment (A) herein-after described:

(A) An embankment two hundred and ninety-six yards or thereby in length wholly situate in the parish of Cameron across the said Cameron Burn at or adjoining a point in the centre of the said Cameron Burn one hundred and seventy yards or thereby measured in an easterly direction from the centre of the said Reform Bridge which embankment will commence at a point one hundred and thirty-one yards or thereby measured in a northerly direction from the said point in the said Cameron Burn and will terminate at a point one hundred and sixty-five yards or thereby measured in a southerly direction from the said point in said Cameron Burn;

(B) An embankment five hundred and fifty yards or thereby in length wholly situate in the parish of Cameron across the said Cameron Burn at or adjoining a point in the centre of the said Cameron Burn seven hundred and seventy yards or thereby measured in a south-westerly direction from the

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south-west corner of Cameron Farm Buildings which embankment will commence at a point two hundred and fifty-three yards or thereby measured in a northerly direction from the said point in the said Cameron Burn and will terminate at a point two hundred and ninety-seven yards or thereby measured in a southerly direction from the said point in said Cameron Burn:

- (2) A tank or measuring chamber (Work No. 2) situate on the Cameron Burn in the parish of Cameron thirty yards or thereby measured in an easterly direction from a point at or adjoining the centre of the said Cameron Burn one hundred and seventy yards or thereby measured in an easterly direction from the centre of the said Reform Bridge above described in (A) (Work No. 1):
- (3) A conduit or line of pipes (Work No. 3) commencing in the parish of Cameron at the tank or measuring chamber (Work No. 2) above described and terminating in the parish of Cameron in the water tank (Work No. 4) herein-after described:
- (4) A water tank (Work No. 4) wholly in the parish of Cameron and situate on the east side of the road at Priorletham Smithy one hundred yards or thereby measured in an easterly direction from the north-east corner of Priorletham Smithy:
- (5) A conduit or line of pipes (Work No. 5) wholly in the parish of Cameron commencing in the tank (Work No. 4) and terminating at a point ten yards or thereby measured in a north-westerly direction from the water tank (Work No. 4) above described in the Priorletham Burn on the eastern side of the public road at Priorletham Smithy which burn flows into Lambieletham Reservoir:
- (6) A conduit or line of pipes (Work No. 6) wholly situate in the parish of Cameron commencing at the water tank (Work No. 4) before described and terminating at the south-east end of the existing reservoir of the Town Council at Lambieletham:
- (7) A diversion of the road (Work No. 7) near Reform Bridge wholly situate in the parish of Cameron commencing at a point in the road leading from Radernie to Denhead

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three hundred and sixty yards or thereby measured in a south-westerly direction from the centre of Reform Bridge and terminating at a point three hundred yards or thereby measured in a northerly direction from the centre of said Reform Bridge: A.D. 1909.

- (8) A diversion of the footpath (Work No. 8) wholly situate in the parish of Cameron commencing at a point one thousand three hundred and seventy yards or thereby measured in a westerly direction from the north-west corner of Cameron Farm Buildings and terminating at a point six hundred yards or thereby measured in an easterly direction from the south-east corner of Blackwalls Farm Buildings:
- (9) A diversion of the occupation or farm road (Work No. 9) wholly situate in the parish of Cameron commencing at the point of termination of Work No. 8 above described and terminating at the point of commencement of Work No. 7 above described:
- (10) A diversion of the occupation or farm road (Work No. 10) wholly situate in the parish of Cameron commencing at a point five hundred and sixty-eight yards or thereby measured in a south-westerly direction from the south-east corner of Cameron Parish Church and terminating at the point of commencement of the embankment (A) above described:
- (11) A diversion of Cameron Burn (Work No. 11) commencing in the said Cameron Burn at a point five hundred and ninety-seven yards or thereby from the north-east corner of Nether Radernie Farm Buildings measured in a south-westerly direction and terminating in reservoir (Work No. 1) at a point seventy yards or thereby measured in a north-easterly direction from the termination of embankment (B):
- (12) A drain or watercourse (Work No. 12) commencing at a point in the said Cameron Burn seven hundred and eighty yards or thereby measured in a south-westerly direction from the south-west corner of Cameron Farm Buildings and terminating in the watercourse or drain at a point three hundred and sixty yards or thereby measured in a south-westerly direction from the south-west corner of Threefords Farm Buildings.

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Power to
make sub-
sidiary
works.

5. The Town Council in addition to the waterworks authorised by this Order and in connexion therewith may upon or in the lands which they are authorised to acquire or use for the purposes thereof make erect and maintain all such embankments dams weirs intake weirs bywash channels bridges roads accesses approaches wells tanks gauges filter beds sluice outlets drains aqueducts culverts channels cuts mains pipes engines machinery buildings telegraphs telephones posts wires and other works and conveniences as may be necessary or convenient in connexion with or subsidiary to the 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.

Power to
deviate
laterally
and verti-
cally.

6. The Town Council may in constructing the works by this Order authorised deviate laterally from the lines thereof as shown on the deposited plans to the extent of the limits of lateral deviation respectively shown thereon and when the line of any work is shown on the said plans as passing along any road and no limits of lateral deviation are marked thereon the Town Council may in constructing such works deviate laterally to any extent within the boundaries of such road and the Town Council may 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 that in the exercise of such powers of vertical deviation the Town Council shall not except in the case of crossing bridges or culverts or streams lay above the ground any pipe unless and except so far as is shown on the deposited sections Provided also that if the Town Council shall in the case of embankments exercise the powers of vertical deviation hereby granted they shall construct the embankments of such additional thickness at the base as shall be equal to five feet for every additional foot and shall make a corresponding addition to the height of any retaining wall Provided further that the Town Council shall not construct any embankment or wall of any reservoir of a greater height above the general surface of the ground than that shown on the deposited sections in respect of the corresponding embankment or wall and five feet in addition.

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7. In the execution of the works and the exercise of the powers by this Order authorised and conferred so far as they affect highways of the county of Fife the following provisions for the protection of the county council of Fife (in this section called "the county council") shall (except so far as otherwise agreed to between the Town Council and the county council) have effect (that is to say) :—

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For protection of county council of Fife.

- (1) All aqueducts conduits or lines of pipes authorised to be laid in or along any county highway or in upon or across any county bridge shall so far as practicable be laid in such position in or at the side thereof as the county council in writing under the hand of their surveyor for the district may reasonably direct :
- (2) The provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes shall extend and apply to all county highways and county bridges opened and broken up or interfered with by the Town Council in the execution of the works authorised by this Order and the exercise of the powers of this Order Provided that the notice required by section 30 of that Act shall not be less than seven days instead of three days :
- (3) The plan required by section 31 of the last-mentioned Act shall be accompanied by a section of the proposed works and a short specification thereof and shall be delivered to the county council or their surveyor for the district by the Town Council not less than in case of a county bridge one month and in all other cases 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 :
- (4) All works shown on the deposited plans crossing any county highway shall be so executed by the Town Council as not to stop the traffic and so far as reasonably practicable not in any way to impede or interfere with the traffic on any such highway or over any county bridge or the approaches thereto and in case of default in compliance with this provision the county council may by their own servants and workmen clear any such highway and remove any impediment to the traffic on any such highway or over any county bridge

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or the approaches thereto and may recover the expenses of and incident thereto from the Town Council :

- (5) The county council shall not except in the case of their negligence 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 :
- (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 :
- (7) If any difference arise between the county council and the Town Council touching this section or anything to be done or not to be done thereunder such difference shall failing agreement be referred to the decision of an arbiter to be named (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 and the costs shall be in the discretion of such arbiter.

Power to
alter roads
&c. tem-
porarily.

8. For the purposes and during the execution of the works which the Town Council are by this Order authorised to make and in maintaining the same and subject to the provisions of this Order the Town Council may temporarily break up or cross over or under alter or stop up any streets roads lanes paths bridges railways canals passages sewers drains watercourses gas pipes and water pipes and electric or telephonic apparatus in any of the lands shown on the deposited plans and specified in the deposited book of reference which they may from time to time find it expedient for any of those purposes so to interfere with providing when possible a proper temporary substitute before interrupting the traffic on any such street road lane path bridge railway or passage or the flow of water gas sewage or electricity or telephonic communication in any such sewer drain watercourse canal

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or pipe and making full compensation to all persons injuriously affected thereby Provided that nothing in this section shall extend to authorise any interference 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 1890 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with the provisions of that section.

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9. Where in the construction of the works by this Order authorised any diverted portion of any road or footpath authorised to be diverted is formed in lieu of any existing road or footpath such diverted portion shall as respects management and maintenance and in all other respects be held as part of and be subject to the same provisions as any existing road or footpath so diverted Provided always that no portion of any road or footpath to be diverted shall be stopped up until the sheriff shall have certified that the substituted portion of road or footpath to be constructed in lieu thereof has been completed and that the same is open to the public.

New portions of road to be subject to same provisions as existing roads.

10. So soon as the substituted portions of the roads and footpaths respectively situate in the parish of Cameron in the county of Fife and by this Order authorised to be diverted have been certified by the sheriff to have been completed and to be open to the public the Town Council may stop up and extinguish all rights of way over the portions of the said existing roads and footpaths between the points of the commencement and termination of the said diversions thereof and they may appropriate for the purposes of this Order the site of the said roads and footpaths so stopped up and diverted so far as the same is bounded on both sides by lands of the Town Council Provided that the Town Council shall make full compensation to all parties interested in respect of any private rights of way extinguished by virtue of this section and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

On completion of diverted portions of roads site of existing road so far as superseded to vest in Town Council.

11. The Town Council may subject to the provisions of this Order from and after the commencement of this Order by means of the works by this Order authorised and by the existing waterworks of the Town Council or some of them or some part or

Power to take water.

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A.D. 1909. parts thereof abstract intercept divert take appropriate impound collect store distribute supply and use the waters of the stream known as Cameron Burn and all tributary streams springs and waters flowing or which naturally arise or drain or flow within and into the said burn and the said reservoir above the embankment (A) before described and from the said works authorised by this Order and the existing waterworks of the Town Council or from some of them the Town Council may supply water within the limits of compulsory supply of this Order or to such places beyond the same as are authorised by this Order for the domestic and other purposes for which the Town Council are by this Order and the Police Acts authorised to supply water and also for providing compensation water as herein-after mentioned.

Temporary restriction as to taking water.

12. Until the reservoir authorised by this Order is completed and filled the Town Council shall not appropriate and take the waters of the said burn unless a flow of water at the rate of two hundred and fifty thousand gallons per diem is passing down Cameron Burn at the point of abstraction on that burn but in the event of such flow exceeding the said quantity the Town Council may for the said purposes appropriate take and divert into their said works or any of them the remainder of the water flowing in the said burn. Provided that the Town Council shall place a gauge weir across the said burn at or near the point of abstraction on that burn through an aperture in which the said quantity of two hundred and fifty thousand gallons per diem shall be ascertained to be flowing down the said burn and shall maintain such gauge while and so long as the same shall be required for the purpose aforesaid.

Compensation water.

13.—(1) The Town Council shall so soon as the aforesaid reservoir is completed and filled discharge or allow to flow as compensation water into Cameron Burn a uniform and continuous flow of water of not less than two hundred and eighteen thousand gallons during the twenty-four consecutive hours of every day.

(2) Such compensation water to be discharged into the said Cameron Burn as aforesaid shall be deemed to be full compensation to all mill owners riparian proprietors and other persons interested in the waters flowing down Cameron Burn below the point of discharge for the waters appropriated by this Order.

(3) The Town Council shall for the purpose of ascertaining the amount of the compensation water to be daily discharged as

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aforesaid into Cameron Burn construct and maintain immediately below the foot of the outer slope of the embankment (A) of the said reservoir a suitable and sufficient measuring gauge or other apparatus over or through which such compensation water shall flow or be discharged into Cameron Burn And such gauge or other apparatus aforesaid shall be open to the inspection and examination of all persons having an interest in the said compensation water or persons duly authorised by them on their behalf at all reasonable times.

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(4) In case of any neglect on the part of the Town Council to maintain any such gauge or other apparatus in a state of efficiency and in case of any other neglect by or in consequence of which the said quantity 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 and shall in addition make compensation for any loss damage or injury sustained by such persons or any of them.

(5) 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 failing agreement be settled by an engineer to be agreed on and failing agreement to be named by the sheriff on the application of either party.

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

Power to use lands already acquired.

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

Power to acquire lands.

16. 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

Persons under disability may grant servitudes &c.

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A.D. 1909. 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.

Power to acquire servitudes only for lines of pipes.

17. The Town Council may in lieu of acquiring any lands for the purposes of the conduits or lines of pipes by this Order authorised where the same are intended to be constructed underground acquire such servitudes in such lands as they may require for the purpose of making maintaining cleansing and repairing the same and may give notice to treat in respect of such servitudes and may in such notice describe the nature thereof and the several provisions of the Lands Clauses Acts (inclusive of those with regard to limited owners and to arbitration and the summoning of a jury) shall apply to such servitudes as fully as if the same were lands within the meaning of those Acts:

Provided that nothing herein contained shall authorise the Town Council to acquire by compulsion any such 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 proviso:

Provided also that 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 and 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.

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

18.—(1) The Town Council may hold any lands 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 may in their opinion be necessary or desirable for the purpose of securing the purity of the water in the drainage area of the waterworks of the Town Council and of protecting their water supply against pollution nuisance encroachment or injury and so long as such necessity shall continue such lands shall not be deemed to be superfluous lands within the meaning of the Lands Clauses Acts.

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(2) 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 lands by the Town Council shall only be applied to the purposes of this Order to which capital is properly applicable.

(3) Nothing in this Order 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 upon any lands acquired under the powers of this section and the Town Council shall not erect or permit the erection of any buildings on such lands except such as are required in connexion with their waterworks undertaking or for farm buildings.

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

Limiting time for exercise of compulsory powers of purchase.

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

Period for completion of works.

21. In addition to the lands authorised to be taken and acquired under the powers of this Order the Town Council may purchase by agreement lands not exceeding five acres for the purpose of making depôts pipe yards and other buildings and conveniences in connexion with the water undertaking of the Town Council 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 any houses or buildings which may be required in connexion with the undertaking of the Town Council.

Lands for extra-ordinary purposes.

22. The Town Council shall not sink any well upon or construct any works for taking or intercepting water from any lands acquired by them after the commencement of this Order

Limiting powers of Town Council to abstract water.

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

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

Injuring
meters &c.

24. 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 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 insuring 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 persons so offending and may be recovered by them as water rates are recoverable. The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or

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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. A.D. 1909.

25. 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.

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

27. 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 offences.

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

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

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Act, 1909.

A.D. 1909.

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

Limits of compulsory supply.

29. 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."

Pressure.

30. The water to be supplied from any main or pipe of the Town Council whether existing or authorised to be constructed 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 service reservoirs or tanks of the Town Council already existing or by this Order authorised from which the supply is given.

Suspension of constant supply.

31. Notwithstanding anything to the contrary contained in the Waterworks Clauses Acts 1847 and 1863 the Town Council until the expiration of seven years from and after the commencement of this Order or until the waterworks authorised by this Order shall have been substantially completed and the water therefrom introduced whichever shall first happen shall not be bound to give or maintain a constant supply.

Town Council may enlarge or increase number of pipes.

32. The Town Council may at any time subject to the provisions of this Order and notwithstanding the expiration of the periods limited for completion of works lay down maintain use extend alter renew relay replace enlarge and increase the number and size of any mains pipes and other conveniences of the Town Council at any time existing for conveying and distributing water under the powers of this Order Provided always that such laying down extension enlargement or increase shall be executed only on lands or property belonging to the Town Council or over which the Town Council have acquired a servitude right or which may be acquired by agreement or which they are by the Waterworks Clauses Acts 1847 and 1863 entitled to open and break up for such purposes.

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Act, 1909.

33. The Town Council may enter into and carry into effect agreements with any local authority company or person for the supply of water in bulk to any such authority company or person respectively beyond the limits of compulsory supply and for such remuneration and on such terms and conditions and for such periods as may be agreed upon. Provided that such supply 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.

A.D. 1909.
Contracts for supplying water in bulk.

34. The Town Council may after the completion of the reservoir and works authorised to be constructed as aforesaid supply water from any of the waterworks or conduits of the Town Council to any owners and occupiers of lands and heritages lying adjacent or near to the said conduits and the Town Council may contract with all or any such persons for such supply at such rates and 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 and the immediately preceding section of this Order shall not prejudicially affect or restrict the supply of water from time to time required within the limits of compulsory supply. Provided further that the supply of water by the Town Council under this section shall be subject to the consent of the local authority of the district within which such supply is proposed to be given.

Power to Town Council and owners &c. to agree as to supply of water.

35. The charge for the supply of water under the two immediately preceding sections of this Order shall be payable at such times and in such manner as the Town Council shall fix and unless the Town Council shall otherwise determine shall except when the same is supplied by measure be paid in advance and the first payment shall be made at the time when the pipe by which the water is supplied is made to communicate with the pipes of the Town Council or at the time when the agreement to take water from the Town Council is made. Provided always that where the supply is furnished by measure the consumer may be required to deposit such sum in security of the payment for such supply as the Town Council may think necessary.

Payment of charge for water supply.

36. The Town Council may at any time for the purposes of conveying water from any of their waterworks whether existing or by this Order authorised or for distributing and supplying

Laying mains in public roads,

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A.D. 1909. water beyond the burgh with the consent of the road authority lay down make and maintain and use aqueducts conduits or lines of pipes through over under along across or into any public road or highway and renew alter enlarge duplicate and increase the number and size thereof or extend the same and stop up temporarily any such public road or highway for such purposes providing when possible a proper temporary substitute to the reasonable satisfaction of the road authority before interrupting the traffic on any such road and making full compensation to all persons injuriously affected by anything done under the provisions of this section.

Power to borrow.

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

- (1) For the purchase of lands and servitudes six thousand and fifty pounds;
- (2) For the construction of reservoirs embankments waste weirs &c. fourteen thousand two hundred and fifty pounds;
- (3) For the construction of mains conduits drains roads gauge tanks &c. five thousand seven hundred and fifty pounds;
- (4) For the payment of the costs charges and expenses of and incidental to obtaining and confirming this Order together with the costs incurred in relation to the Provisional Order promoted by the Town Council in the session of 1908—the sum requisite for the said purposes;

and may make and grant mortgages or other securities of the water assessment and rates rents and charges in the manner authorised by the Police Acts in security of the money so borrowed and interest thereon and any sums so to be borrowed may be borrowed on terms of the repayment thereof by annuity instalment or otherwise.

Periods of repayment of borrowed money.

38. The Town Council shall pay off all moneys borrowed and to be borrowed by them for the purposes of their water undertaking within the respective periods following (herein-after referred to as “the prescribed period”) (that is to say):—

As to moneys to be borrowed for purposes (1) and (2) mentioned in the immediately preceding section of this

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Order within fifty years from the date or dates of borrowing the same; A.D. 1909.

As to moneys to be borrowed for purpose (3) mentioned in the immediately preceding section of this Order within thirty years from the date or dates of borrowing the same;

As to money borrowed for the payment of the costs charges and expenses of and in relation to this Order and the confirmation thereof and the costs of the Order promoted in the session of 1908 within five years from the commencement of this Order.

39. 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. Mode of re-
payment of
borrowed
money.

40.—(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 and 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 herein-after called a “non-accumulating sinking fund”; or

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

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in securities in which trustees are by law for the time being authorised to invest or in mortgages bonds debentures debenture stock stock or other securities (not being annuity

[Ch. cx.] *St. Andrews Water Order Confirmation* [9 EDW. 7.]
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A.D. 1909. certificates or securities payable to bearer) duly issued by any local authority other than the Town Council the Town Council being at liberty from time to time to vary and transpose such investments.

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

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

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

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

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

(7) If it appears to the Secretary for Scotland or to the Town Council at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Order together with the accumulations thereon (in the case of an accumulating sinking fund) will probably not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Town Council to make such increased payments

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to the sinking fund as will cause the sinking fund to be sufficient for that purpose. A.D. 1909.

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

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

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

(11) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose as the Town Council may determine.

(12) The period at which the payments into the sinking fund shall commence shall be five years after the commencement of this Order or within one year after the completion of the works and the introduction of the water supply from the said works authorised by this Order whichever shall be the earlier.

41. 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 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.

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Town Council may borrow on cash account.

42. The Town Council may accept and take from any bank or banking company credit on a cash account to be opened and kept with such bank or banking company in the name of the Town Council according to the usage of bankers in Scotland to the extent of the amount which the Town Council require at the time to borrow under this Order or any part thereof and may make and grant mortgages or other securities of the water assessment and rents rates and charges in the manner authorised by the Police Acts in security of the payment of the amount of such credit or of the sums advanced from time to time on such cash account with interest thereon. Provided always that the whole sum due and owing by the Town Council on such cash account and for money otherwise borrowed by them shall not when taken together exceed the aggregate amount of the sum by this Order authorised to be borrowed.

Borrowing power for current expenses.

43. 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.

Application of Police Acts.

44. The provisions of the 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 and from the works by this Order authorised.

Reserve fund.

45. The Town Council may provide out of the yearly water assessment and rates rents charges and other revenues of their 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 their water undertaking.

Annual return to Secretary for Scotland with respect

46. 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 transmit to the Secretary for Scotland a return in

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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.

A.D. 1909.
to sinking
fund.

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

Application
of moneys
borrowed.

48. 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.

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

Protection
of lender
from in-
quiry.

50. The mortgagees of the Town Council may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a judicial factor In

For appoint-
ment of a
judicial
factor.

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A.D. 1909. 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.

Existing waterworks and new works to form one undertaking.

51. Subject to the provisions of this Order the existing waterworks of the Town Council 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 of the Town Council.

Costs of Order.

52. The costs charges and expenses incurred in preparing for and obtaining and confirming this Order and incidental thereto including the costs incurred in relation to the Provisional Order promoted by the Town Council in the session of 1908 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.

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