



CHAPTER lxx.

An Act for authorising the Hamilton Waterworks Commissioners to make and maintain additional Waterworks and for other purposes. A.D. 1888.
—
[28th June 1888.]

WHEREAS by the Hamilton Waterworks Act 1854 certain Commissioners were appointed and authorised to make and maintain the works in that Act mentioned for supplying the parliamentary burgh or town of Hamilton and suburbs thereof with water which Act was in certain respects amended by the Hamilton Waterworks Amendment Act 1863 : 17 & 18 Vict. c. xc. 26 & 27 Vict. c. xxix.

And whereas by the Hamilton Water Act 1875 (in this Act called "the Act of 1875") the magistrates and town council of the burgh of Hamilton were appointed the Hamilton Waterworks Commissioners in place of the said Commissioners with all the powers rights and privileges of those Commissioners under the recited Acts : 38 & 39 Vict. c. cv.

And whereas by the Hamilton Burgh Act 1878 (in this Act referred to as "the Act of 1878") the provost magistrates and town council of the burgh of Hamilton as by that Act reconstituted were substituted for the Waterworks Commissioners appointed under the Act of 1875 and were appointed the Commissioners for executing within the burgh the purposes of the recited Acts and the provisions of the recited Acts or some of them were extended and made applicable to the burgh of Hamilton as extended and defined by the Act under recital : 41 & 42 Vict. c. cxxxvii.

And whereas by the extension of the burgh under the provisions of the Act of 1878 a large additional population was included within the limits of water supply and the population of the burgh as so extended has since the passing of that Act greatly increased so that the existing reservoirs and works of the Waterworks Commissioners are inadequate to afford the necessary supply of water and it is expedient that the Waterworks Commissioners should be authorised

A.D. 1888. — to construct additional waterworks as in this Act provided and to borrow a further sum of money :

And whereas the waterworks by this Act authorised will be of great advantage to the community of the burgh and it is expedient that the provost magistrates and town council should be authorised to apply towards the purposes of the recited Acts and this Act such portions of the common good of the burgh as they may think fit :

And whereas it is expedient that the recited Acts should be in divers respects amended and that certain provisions of the Act of 1875 should be repealed :

And whereas plans and sections showing the lines and levels of the works authorised by this Act and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the principal sheriff clerk of the county of Lanark in his offices at Glasgow and Hamilton and are in this Act respectively referred to as the deposited plans sections and books of reference :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen'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 :—

Short title.

1. This Act may be cited as the Hamilton Water Act 1888.

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 Act) are incorporated with this Act :

The Lands Clauses Consolidation (Scotland) Act 1845 ;

The Lands Clauses Consolidation Acts Amendment Act 1860 ;

The Waterworks Clauses Act 1847 except the provisions with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and except the words in section 44 thereof "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" ;

The Waterworks Clauses Act 1863 ;

The Commissioners Clauses Act 1847 with respect to the mortgages to be executed by the Commissioners with the exception of clauses 84 86 and 87 ; and

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 but such last-mentioned clauses and provisions shall apply only in the case of the reservoir by this Act authorised and the works immediately connected therewith. A.D. 1888.

3. In this Act 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 Interpretation.

The expression "the burgh" means the burgh of Hamilton as extended and defined by the Act of 1878;

The expression "the Waterworks Commissioners" means the provost magistrates and town council of the burgh acting as the Waterworks Commissioners under the provisions of the Act of 1878;

The expression "the Hamilton Water Acts" means the Hamilton Waterworks Act 1854 the Hamilton Waterworks Amendment Act 1863 the Hamilton Water Act 1875 and the Hamilton Burgh Act 1878 (so far as the same relates to waterworks and water supply); and

The expression "the water undertaking" means the water undertaking authorised by the Hamilton Water Acts and this Act:

In the Acts wholly or partially incorporated with this Act the expression "the special Act" means this Act the expressions "the undertakers" "the Company" "the promoters of the undertaking" and "the Commissioners" mean respectively the Waterworks Commissioners and the expression "the undertaking" or "the waterworks" means and includes the undertaking and the waterworks and works connected therewith belonging or which shall belong to the Waterworks Commissioners under the Hamilton Water Acts and this Act and in the said sections of the Railways Clauses Consolidation (Scotland) Act 1845 as incorporated with this Act the expression "the railway" means the reservoir by this Act authorised and the works immediately connected therewith the expression "the centre of the railway" means any part of the said reservoir and works as delineated on the deposited plans and the prescribed limits shall be one hundred yards therefrom.

4. Subject to the provisions of this Act the Waterworks Commissioners may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works hereinafter described and may enter upon take and use such of the lands and streams delineated on the said plans and described in the Power to make new waterworks.

A.D. 1888. — said books of reference as may be required for that purpose The works hereinbefore referred to and authorised by this Act are :—

- (1) A reservoir on the stream called the Cadzow Burn commencing at a point on the said stream about two hundred and eighty yards south-westward from the southern corner of Burnhead Farm Steading and terminating at the embankment next hereinafter described ;
- (2) An embankment across the said stream called the Cadzow Burn at a point in the centre of that stream about five hundred and thirty-five yards north-eastward from the southern corner of the said farm steading which embankment will commence at a point about one hundred and ninety-seven yards south-eastward from the said point in the centre of the said stream and will terminate at a point about one hundred and sixty-eight yards north-westward from the said point in the centre of the said stream ;
- (3) A conduit or line of pipes commencing in the said reservoir at a point about forty yards measuring south-westward from the centre of the said stream called the Cadzow Burn where it is crossed by the embankment hereinbefore described and terminating in the existing reservoir of the Waterworks Commissioners at Wellbrae known as the Upper or Number One Reservoir at or near the southern end of the embankment of that reservoir ;
- (4) A road of approach to the said reservoir commencing at a point about eighty yards north-eastward from the point of commencement of the conduit or line of pipes before described and terminating by a junction with the highway known as the Cadger Road at a point about three hundred and sixty yards north-westward from the junction of the said Cadger Road with the highway leading to Haspielaw and Burnhead ;
- (5) An occupation road across the said reservoir commencing at a point about two hundred and sixty yards north-westward from the southern corner of Burnhead Farm Steading and terminating by a junction with an existing occupation road at a point about eighty-five yards eastward from the said point of commencement ;
- (6) A filter or filters adjoining and on the western side of the ground occupied by the existing filters and pure water tanks of the Waterworks Commissioners at or near Townhill :

together with all such embankments dams weirs bridges roads approaches ways wells tanks basins gauges filter-beds stand-pipes sluices outlets outfalls drains discharge-pipes adits shafts tunnels aqueducts culverts cuts channels conduits mains pipes junctions

valves engines buildings apparatus and other conveniences in connection with the said works or any of them as may be necessary or convenient for diverting impounding taking collecting storing conducting distributing and regulating the supply of water for the purposes hereinafter mentioned and for compensating all persons whose supply of water may be affected by or in consequence of the works hereinbefore described or the exercise of the other powers of this Act and for inspecting maintaining repairing altering cleansing managing and using the said several works. A.D. 1888.

5. In the construction of the works authorised by this Act the Waterworks Commissioners may deviate laterally from the lines thereof as shown on the deposited plans to the extent of the limits of lateral deviation marked thereon and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding five feet Provided always that the Waterworks Commissioners shall not in the exercise of the power of lateral deviation hereby given construct any embankment or retaining wall of the reservoir by this Act authorised of a greater height above the general surface of the ground than that shown on the deposited sections and three feet in addition. Powers of lateral and vertical deviation.

6. The Waterworks Commissioners may divert impound and store up in the reservoir and other works by this Act authorised and in their existing reservoirs and works and may appropriate use and distribute for the purposes of the Hamilton Water Acts and this Act the waters of the said stream called or known as the Cadzow Burn and of all or any affluents of that stream. Power to divert water.

7. For the protection of John Watson of Earnock and Neilsland and his heirs and successors the following provisions shall have effect: For the protection of John Watson of Earnock &c.

1. As soon as the reservoir by this Act authorised is constructed the Waterworks Commissioners shall if and so far as required by the said John Watson or his heirs or successors and at such times and in such quantities as he or they may from time to time desire discharge in perpetuity into the streams or pipes which feed the lake on his lands of Neilsland or otherwise supply to him or them at such other point or points on the existing conduit or line of pipes or on the proposed conduit or line of pipes when constructed as he or they may from time to time select a quantity of water not exceeding nineteen thousand two hundred and thirty-one gallons of water in each week and that in addition to any supply of water to which he is at present entitled under any existing Act of Parliament or agreement with the Waterworks Commissioners;

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2. The supply of water which is at present afforded for the use of the farm of Loughtownhill shall continue to be so afforded;
3. The said John Watson and his heirs and successors shall be entitled by means of a pump to take a supply of water free of charge from the reservoir by this Act authorised through a two-inch pipe for the use of the farm of Earnockmuir Provided always that such supply shall be used for farm and domestic purposes only and that the whole expense of conducting and pumping such water including pipes and material shall be borne by the said John Watson or his heirs or successors;
4. The Waterworks Commissioners shall erect at their own expense and thereafter maintain three watering troughs for the accommodation of the fields adjoining the reservoir by this Act authorised and provide the same in perpetuity with a supply of water by gravitation free of charge at such places as the said John Watson or his heirs or successors may reasonably appoint.

Compensation water.

8. The Waterworks Commissioners shall as soon as the waterworks authorised by this Act are completed so far as to be able to afford the supply of compensation water hereinafter mentioned and before any water is otherwise used or appropriated cause to be discharged from the existing reservoir or the reservoir by this Act authorised down the stream called the Cadzow Burn a regular continuous and uniform flow of not less than twenty thousand gallons between the hours of five o'clock in the morning and nine o'clock in the evening every day and the compensation water by this section provided shall be in addition to any compensation given to any other persons interested in the waters flowing down the said stream for the water intercepted and appropriated for the purposes of this Act and the Waterworks Commissioners shall construct and maintain all such works as shall from time to time be necessary for the due discharge and delivery of the said compensation water Provided always that if the Waterworks Commissioners shall commence and continue to discharge the due quantity of compensation water in manner by this Act provided the same shall be deemed to be compensation to all persons interested in the waters flowing down the said stream called the Cadzow Burn for the water intercepted and appropriated for the purposes of this Act.

Power to alter roads &c. temporarily.

9. For the purposes and during the execution of the several works which the Waterworks Commissioners are by this Act authorised to make and subject to the provisions of this Act the Waterworks Commissioners may from time to time alter or stop up temporarily any streets roads lanes paths bridges passages sewers drains water-

courses gas-pipes water-pipes and electric apparatus in any of the lands shown on the deposited plans and specified in the deposited books of reference which they may from time to time find it expedient for any of those purposes so to interfere with making full compensation to all persons injuriously affected thereby Provided that nothing in this section shall extend to authorise any interference with electric apparatus or other property of Her 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 Act 1882 to which the provisions of section 15 of that Act apply.

10. Persons empowered by the Lands Clauses Consolidation (Scotland) Act 1845 to sell and convey or dispose of lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Waterworks Commissioners any servitude right or privilege (not being a servitude of water) required for the purposes of this Act 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.

Power to take servitudes by agreement.

11. In addition to the lands authorised to be taken compulsorily under the provisions of this Act the Waterworks Commissioners may purchase by agreement lands not exceeding in the whole ten acres for the purposes of depôts pipe yards and other buildings and conveniences in connection with the waterworks of the Waterworks Commissioners Provided that no buildings shall be erected on the lands so purchased except buildings required for purposes of the waterworks.

Lands for extraordinary purposes.

12. The powers of the Waterworks Commissioners for the compulsory purchase of lands and houses for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Period for compulsory purchase of lands.

13. If the works by this Act authorised shall not be completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Waterworks Commissioners for making and completing the said works or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed but nothing in this section shall restrict the Waterworks Commissioners from extending their works mains and pipes from time to time whenever it shall be

Period for completion of works.

A.D. 1888. — necessary for increasing or distributing the supply of water for the purposes of the water undertaking.

Provisions as to supply of water outside burgh.

14. The Waterworks Commissioners may subject to the provisions of this Act make and carry into effect contracts and agreements with any local authority board company person or persons for the supply of water by the Waterworks Commissioners beyond the burgh and such supply may be furnished at such rates upon such terms and conditions and by measure or otherwise as shall be agreed upon between the Waterworks Commissioners and the local authority board company person or persons desiring the same.

Waterworks Commissioners when so required to sell pipes &c. outside the district.

15. At any time after the passing of this Act the Waterworks Commissioners shall if required by the local authority of any district within which pipes fittings and other apparatus for or connected with the distribution of water belonging to the Waterworks Commissioners are situate sell to such authority all such pipes fittings and apparatus within the district of such authority except such as are or may be required and used for supplying and conveying water into and for the district of the Waterworks Commissioners at such price and on such terms and conditions as may be settled by agreement between the Waterworks Commissioners and such local authority or failing agreement as may be determined by an arbitrator to be appointed for that purpose by the sheriff of the county of Lanark on the application of either party and after any such sale the powers of the Waterworks Commissioners to supply water within the district of such local authority shall cease and the costs of the reference shall be in the discretion of the arbitrator.

Penalty for wrongful use of water.

16. Every person who not having agreed to be supplied with water by the Waterworks Commissioners wrongfully takes or uses any water from any reservoir watercourse conduit or pipe belonging to them or from any pipe leading to or from any such reservoir watercourse conduit or pipe or from any cistern or other like place containing water belonging to the Waterworks Commissioners or supplied by them for the use of any consumer of such water shall for every such offence be liable to a penalty not exceeding five pounds and every person who having agreed to be supplied with water by the Waterworks Commissioners wrongfully takes or uses any water from any such reservoir watercourse conduit or pipe or from any such pipe cistern or other like place for any purpose other than the purpose for which he so agreed to be supplied shall for every such offence be liable to a penalty not exceeding five pounds and in any of the cases aforesaid the Waterworks Commissioners shall be entitled in addition to recover from any such person the amount of any loss damage or injury sustained by them by or in

consequence of any such wrongful acts and the same and also such penalty may be recovered in the same manner as penalties are recoverable under the provisions of the Hamilton Water Acts. A.D. 1888.

17. The Waterworks Commissioners may from time to time purchase or hire and sell or let meters and fittings upon and subject to such terms (pecuniary or otherwise) as the Waterworks Commissioners think fit. Power to sell or let meters.

18. The waterworks by this Act authorised shall form part of the waterworks of the Waterworks Commissioners. Waterworks to form part of undertaking.

19. In addition to the moneys already authorised to be borrowed by the Waterworks Commissioners under the authority of the Hamilton Water Acts the Waterworks Commissioners may from time to time borrow on mortgage any sum or sums not exceeding in the whole twenty-five thousand pounds which sum shall include the sum of ten thousand pounds which the provost magistrates and town council of the burgh are by this Act authorised to advance on loan to the Waterworks Commissioners and may make and grant mortgages and assignations of the water undertaking and of the several water rates and charges authorised and leviable under the provisions of those Acts and this Act in security of the payment of the money so borrowed and interest thereon and if after having so borrowed the said sums or any part thereof the Waterworks Commissioners pay off the same otherwise than by means of a sinking fund it shall be lawful for them again to borrow the amount so paid off or any part thereof and so from time to time. Power to borrow on mortgage.

20. The Waterworks Commissioners 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 Waterworks Commissioners according to the usage of bankers in Scotland to the extent of the moneys which the Waterworks Commissioners are by this Act authorised to borrow or any part thereof and may make and grant mortgages or assignations of the rates by the Hamilton Water Acts and this Act authorised in security of the payment of the amount of such credit or of the moneys advanced from time to time on such cash account with interest thereon. Provided that the whole moneys due and owing by the Waterworks Commissioners on such cash account and for money borrowed by them on mortgages or assignations of the said rates or any part thereof shall not when taken together exceed the aggregate amount of the moneys authorised to be borrowed under the Hamilton Water Acts and the moneys which they are authorised to borrow under this Act from any parties other than the provost magistrates and town council of the burgh. Commissioners may borrow on cash credit.

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Existing mortgages to have priority.

21. All mortgages granted by the Waterworks Commissioners before the passing of this Act and which shall be subsisting at the time of the passing of this Act shall during the continuance of such mortgages have priority over any mortgages to be granted by virtue of this Act.

Application of money borrowed.

22. The several sums borrowed by the Waterworks Commissioners under the authority of this Act shall be applied for the purposes of the waterworks and the supply of water authorised by the Hamilton Water Acts and by this Act and otherwise to the purposes of the Waterworks Commissioners being in every case purposes to which capital is properly applicable and to no other purpose whatsoever.

Powers of existing Acts to apply to money borrowed by Waterworks Commissioners under this Act.

23. Subject to the provisions of this Act all the powers provisions and directions of the Hamilton Water Acts with respect to the manner of borrowing the sums thereby authorised to be borrowed and to the mortgages and securities to be granted therefor and to the borrowing of sums to pay off existing securities and to the transfer or assignment of securities and to the power of the mortgagees to apply for the appointment of a judicial factor are hereby made applicable to the moneys to be borrowed and the mortgages or assignments in security to be granted by the Waterworks Commissioners under the authority of this Act in the same manner as if the moneys to be borrowed by them under this Act had been borrowed under the authority of those Acts.

Corporation of Hamilton may contribute out of common good.

24. The provost magistrates and town council of the burgh may out of the burgh funds or common good of the burgh or out of the annual revenue thereof advance on loan to the Waterworks Commissioners on the security of the water undertaking and of the rates and charges by the Hamilton Water Acts and this Act authorised (but postponed to the other sums by those Acts authorised to be borrowed) and upon such terms for such periods and at such rate of interest not exceeding four per centum per annum as may be agreed on such sum or sums of money not exceeding in the whole ten thousand pounds as they shall think fit towards the purposes of the water undertaking.

Sinking fund.

25. The Waterworks Commissioners shall annually after the expiration of three years from the time at which they shall borrow any money for the purposes of this Act set apart as a sinking fund out of the rates and charges and other moneys received by them from or on account of the water undertaking (other than money borrowed) such equal sums as shall by accumulation with compound interest thereon at the rate of three and a half per centum per annum be sufficient to pay off the money so borrowed within sixty years from the time of borrowing such money.

26. The Waterworks Commissioners may from time to time apply the whole or any part of the said sinking fund in or towards the discharge of the principal moneys borrowed under the powers of this Act Provided that they pay in each year into the said fund and accumulate until the whole of the principal moneys so borrowed shall have been discharged a sum equivalent to the interest of the sinking fund or part of the sinking fund so applied Provided also that whenever and so long as the yearly income arising from the said sinking fund shall be equal to the annual interest of such principal moneys then outstanding the Waterworks Commissioners may in lieu of investing the said yearly income apply the same in payment of such interest and may during such periods discontinue the payment to such sinking fund of the yearly sums by this Act required to be so paid thereto.

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Application
of sinking
fund.

27. The Waterworks Commissioners shall invest the said sums so to be set apart as a sinking fund in the public funds or in any bank in Scotland incorporated by Act of Parliament or by Royal Charter or on heritable security until such sinking fund shall be applied in manner hereinbefore provided.

Investment
of sinking
fund.

28. The rates and charges levied under the authority of the Hamilton Water Acts and this Act shall be applied in manner following (that is to say) :—

Application
of rates.

First. In defraying the expenses of the management and maintenance of the water undertaking including salaries and other payments to officers and servants and the annual costs charges and expenses of providing and supplying water and in payment of any feu-duties or ground annuals and other annual payments exigible in respect of any lands streams or property forming part of the water undertaking ;

Secondly. In payment of the interest of money borrowed under the authority of the Hamilton Water Acts and of this Act in connection with the water undertaking ;

Thirdly. In payment of the sums by the Hamilton Water Acts and this Act directed to be set apart as sinking funds in connection with the water undertaking ;

Lastly. In payment of such portion of the cost of enlarging or increasing and renewing and from time to time extending their works mains and pipes as the Waterworks Commissioners shall think it reasonable to charge against the revenue for the year and of any other necessary annual expenditure.

29. The Waterworks Commissioners shall not under the powers of this Act without the consent of the Secretary for Scotland purchase or acquire in any district within the meaning of the Public

Restriction
on taking
houses

A.D. 1888. Health (Scotland) Act 1867 ten or more houses which after the passing of this Act had been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers For the purposes of this section the expression "labouring class" includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Confirming agreement with John Watson.

30. The agreement dated the first and thirteenth days of February one thousand eight hundred and eighty-three entered into between the Waterworks Commissioners and John Watson esquire of Earnock and Neilsland as set forth in the schedule to this Act annexed is hereby sanctioned and confirmed.

Costs of Act.

31. The costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Waterworks Commissioners out of the rates to be levied or out of the moneys to be borrowed under the authority of the Hamilton Water Acts and this Act.

The SCHEDULE to which the foregoing Act refers.

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MINUTE OF AGREEMENT between the Commissioners under the Hamilton Waterworks Acts on the first part and John Watson esquire of Earnock and Neilsland on the second part.

WHEREAS the Commissioners under the Hamilton Waterworks Acts have applied to the second party for the permanent servitude right and privilege aftermentioned and that the second party has agreed to grant the same on the terms and conditions hereinafter stated and whereas there are other matters formerly agreed to between the said Commissioners and the second party but which were not reduced to a formal agreement Therefore it is proper that this Minute of Agreement should be entered into and the said Commissioners and the second party mutually agree as follows viz. :—

First. The second party has agreed and hereby agrees and binds and obliges himself and his heirs and successors to sell assign dispone and convey to the said Commissioners the permanent servitude right and privilege to enter upon and use in all time coming a strip of ground six feet in width part of the lands and estate of Earnock for the purpose of laying therein a conduit or conduits with the necessary valves and other apparatus connected therewith and thereafter of maintaining the same or of laying new conduits to lead water from the said Commissioners' reservoirs at Wellbrae to their filters and distributing tanks at Laigh Townhill and which strip of ground is delineated by a red line on the plan signed as relative hereto and that on the terms and conditions following viz. :—

- (1) The said Commissioners shall in consideration of said permanent servitude right and privilege pay to the second party and his successors in the estate of Earnock or his or their assignees the sum of five pounds annually in all time coming and that at the term of Whitsunday in each year (beginning payment at the term of Whitsunday eighteen hundred and eighty-four) with interest thereon at the rate of five per cent. per annum during non-payment ;
- (2) The said Commissioners shall lay the said conduit or conduits of such depth and in such a manner as not to interfere with the use of the ground for agricultural purposes ;
- (3) The said Commissioners shall pay to the agricultural tenants in the lands at the time or to the said second party or his foresaids in the event of the said lands being in his or their own possession compensation for any loss they or he may sustain by the operations of the Commissioners in laying or maintaining said conduit or conduits or by reason of the said conduit or conduits having been laid in said strip of ground as such compensation may if necessary be determined by arbitration ;
- (4) Save in so far as before mentioned the said second party's whole rights as proprietor of said stripe of ground are reserved to him entire the said

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Commissioners acquiring no right in same beyond the said permanent servitude right and privilege foresaid the said second party and his foresaids being entitled without prejudice to his or their other rights by himself his tenants or others to work win and carry away the whole minerals in and under the said strip of ground and that without incurring any responsibility to the said Commissioners or others or becoming liable in compensation for injury that may be done to the said conduit or conduits thereby all such risks being hereby specially undertaken by said Commissioners;

- (5) That the said Commissioners shall give from their then existing main pipes below the distributing tanks a supply of water for agricultural purposes only for the use of the second party and his foresaids or his or their tenants the second party being bound as he hereby binds himself and his foresaids to lay provide and maintain at his own expense and to the satisfaction of the Commissioners or of their superintendent the necessary service pipes and a meter for each such supply through which meter (to which the Commissioners' servants shall have access at all reasonable times) all the water of each such supply shall pass and to pay to the said Commissioners for the water so supplied at the lowest rate which shall from time to time be fixed and charged against consumers supplied by meter who are not liable in payment of the public water rate and that at Whitsunday yearly for the supply during the year previous to each term of Whitsunday with interest at five per cent. from the date of the notice desiring payment.

Second. The said Commissioners as some time ago agreed to between them and the second party by informal writings hereby agree to continue through a four-inch pipe to the second party and his foresaids free of cost and in all time coming a supply of water for use in the Mansion House of Earnock offices garden and policy grounds and that for all other than purely ornamental purposes declaring however that the second party and his foresaids shall not be entitled to use the said supply of water for trade purposes and that the Commissioners shall not be bound to continue the supply for use in the garden free of charge if it shall be let as a market garden but shall in that event be bound to supply water for said garden on the terms mentioned in the preceding Article Further the second party and his foresaids shall use all reasonable means to prevent the water from being wasted.

Third. All water hitherto supplied and paid for to be continued on the same terms as before and all existing agreements between the said Commissioners and the second party so far as not hereby expressly altered are confirmed.

Fourth. The said Commissioners bind and oblige themselves and their successors and the second party binds and obliges himself and his foresaids to implement this agreement to each other under a penalty of five hundred pounds.

Fifth. The second party and his foresaids shall be entitled at any time hereafter to substitute and require the said Commissioners to accept a servitude in a new and equally suitable strip of ground in lieu of that over which the foregoing right and servitude is hereby granted and to require them to remove and place their said conduit or conduits into said new stripe Declaring as it is hereby agreed that should any question arise regarding the suitability or

otherwise of said new stripe all such questions shall be and are hereby referred to the amicable decision of arbiters to be mutually chosen or to an oversman to be named by said arbiters before entering on their duties and further should the said substitution be at any time required by the second party or his foresaid he or they shall be bound to pay to the Commissioners the cost of removing and relaying the said conduit or conduits.

Sixth. Should the said Commissioners or their successors at any time hereafter apply for an Act of Parliament they shall be bound to insert and embody therein this agreement and that to the satisfaction of the law agent of the second party or his foresaid.

Seventh. The whole expenses connected with this agreement and the carrying out of the same shall be borne entirely by the said Commissioners.

Lastly. Both parties consent to the registration hereof for preservation and execution In witness whereof these presents written on this and the two preceding pages by William Campbell Rodger law clerk in Hamilton for Edward Pellew Dykes clerk to the said Commissioners are subscribed as follows (it being declared that the policy grounds referred to in Article second hereof are hereby limited to the area coloured "pink" on said plan signed as relative hereto that six words have been deleted in the thirty-ninth line from the top of page second and that the words "bind and oblige themselves and their successors" have been interlined to be read immediately after the word "Commissioners" in the same line) viz. by Andrew Cassels Thomas Thorburn James Keith Gavin Paterson David Patrick John Wylie James Brown and Robert Archibald being a majority and quorum of the said Commissioners all at Hamilton the first day of February eighteen hundred and eighty-three years before these witnesses the said Edward Pellew Dykes and John Nisbett his clerk and by the said John Watson at Glasgow upon the thirteenth day of the month and year last mentioned before these witnesses Charles Macdonald Williamson writer in Glasgow and Robert Cameron cashier to the said John Watson.

(Signed) EDWARD P. DYKES
Witness.
JNO. NISBETT Witness.

(Signed) ANDREW CASSELS.
THO. THORBURN.
JAMES KEITH.
GAVIN PATERSON.
DAVID PATRICK.
JOHN WYLIE.
JAMES BROWN.
ROB. ARCHIBALD.
JOHN WATSON.

CHAS. MACDONALD WILLIAMSON
Witness.

ROB. CAMERON Witness.

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