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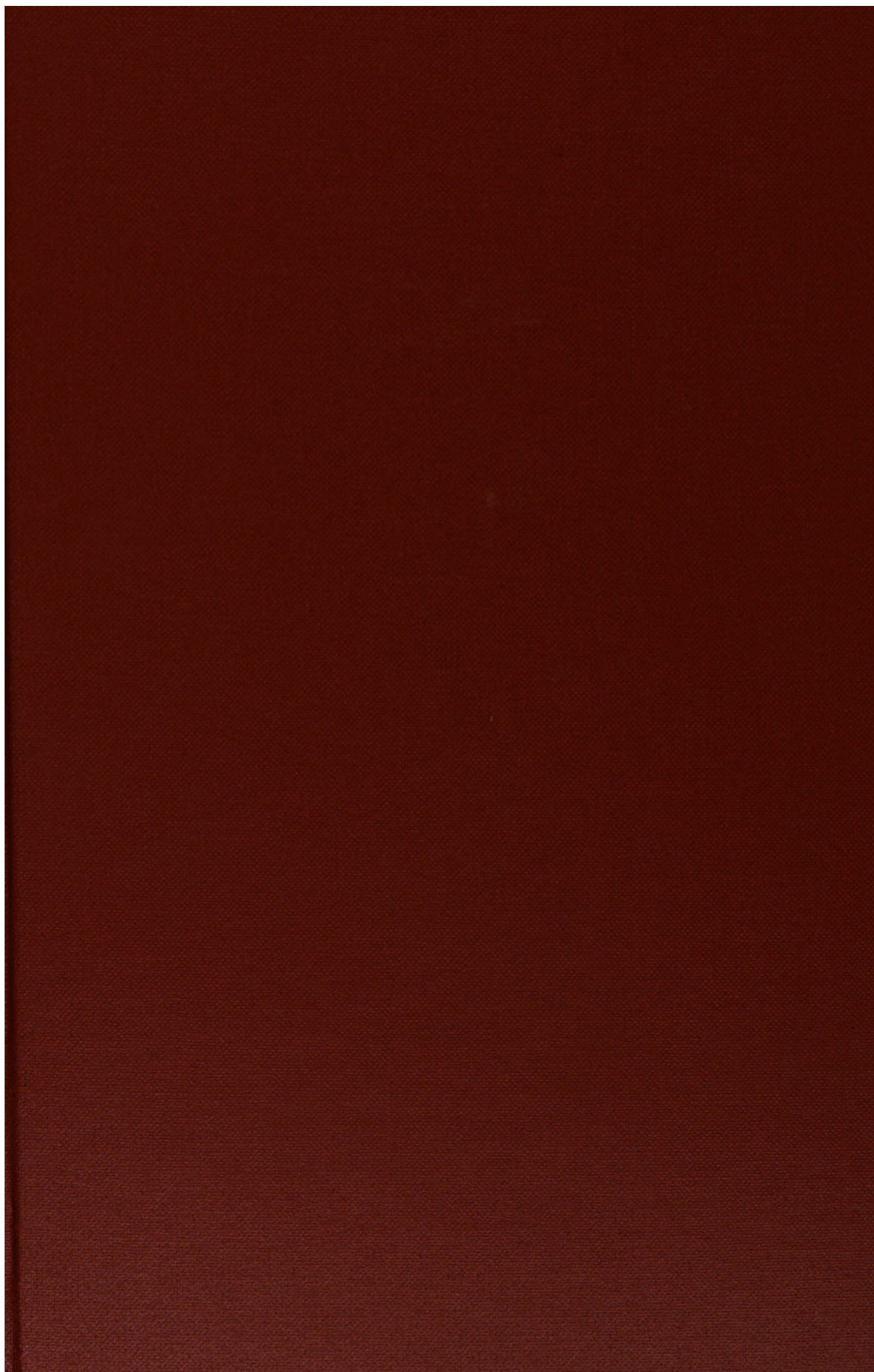
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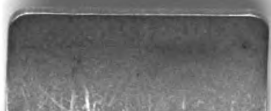
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THE  
**SESSIONAL PAPERS**  
PRINTED BY ORDER  
OF  
**THE HOUSE OF LORDS,**  
OR PRESENTED BY ROYAL COMMAND,  
IN THE  
Session 1909,  
(9 EDWARD VII.)  
ARRANGED IN VOLUMES.

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**Vol. IX.**

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**PUBLIC BILLS,**

(Six Volumes.)

CONCLUDED.

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THE SUBJECTS ALPHABETICALLY ARRANGED :

**NAT - - ZET**

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**1909.**

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(SIX VOLUMES.)

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# National Service (Training and Home Defence) Bill. [H.L.]

1

## MEMORANDUM.

This Bill imposes on all male British subjects resident in the United Kingdom the obligation of serving in the Territorial Force between the ages of eighteen and thirty. There are, however, excluded from the operation of the Bill all officers and men of the Navy and Regular Army and of the Naval and Military Reserve Forces (so that the existing voluntary system of raising the Regular Forces will in no way be interfered with), and all persons who reach the age of eighteen before the date on which the Bill comes into operation, viz., 1st January 1910.

Subject to certain modifications, every person who comes under the Bill will be in exactly the same position as a person who now enlists voluntarily into the Territorial Force; and will thus during his term of service have to undergo training, and be liable to be called out for home defence in case of imminent national danger, but will be under no liability to serve outside the United Kingdom.

Under the Bill liability to training will not (as is now the case) extend over the whole term of service, but will be limited to four years—normally the first four years of the term, but in exceptional cases the second to the fifth years, or the third to the sixth.

The first year's training will be recruit training, and will be four months for men in the Infantry, and not less than four or more than six months for men in other branches. In each of the three next years, fifteen days' training as well as a course of musketry and attendance at certain drills will be required.

Liability to attend *on embodiment* (i.e., in case of imminent national danger) will remain exactly as it is under the Act of 1907.

The Bill secures absolute equality of treatment as between all classes, inasmuch as under no circumstances will any person be able to buy his discharge or to procure any kind of exemption by means of a money payment.

ii      *National Service (Training and Home Defence)*. [9 EDW 7.]

The Bill provides for the exemption from training of (i) men who have served at least three years in the Army or Navy, ministers of religion, and (in certain cases) only sons of widows; and (ii) persons physically incapacitated and certain persons employed in public service; and also for the disqualification of criminals and persons of bad character. All persons in class (ii), and also persons disqualified, will, if their incomes exceed fifty-two pounds per annum, be required, in each of the four years during which they should have been trained, to pay a special military tax amounting to one per cent. of their incomes.

As regards officers, it is proposed that first appointments should only be given to persons who have either been through recruit training or held commissions in the regular army.

After the Bill comes into operation, voluntary enlistment for the Territorial Force will cease, but men now in the Force will complete their current terms of service.



# National Service (Training and Home Defence) Bill. [H.L.]

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## ARRANGEMENT OF CLAUSES.

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### Clause.

1. Liability of all British subjects resident in the United Kingdom to be trained and to serve in the Territorial Force.
2. Modifications of Territorial and Reserve Forces Act, 1907.
3. Provisions as to training.
4. Exemptions and disqualifications.
5. Punishment for failure to attend for training.
6. Liability to disqualifications for evasion.
7. Provisions as to officers of the Territorial Force.
8. Power to make orders and regulations.
9. Raising of Territorial Force and saving for men serving at commencement of Act.
10. Short title, construction, and commencement.

### SCHEDULE.

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[9 EDW. 7.] *National Service (Training and Home Defence).* 1  
[H.L.]

A

# B I L L

## INTITULED

An Act to provide for National Service in the Territorial Force, and for that purpose to amend the Territorial and Reserve Forces Act, 1907. A.D. 1909.

**B**E it 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:—

- 5 **1.**—(1) After the commencement of this Act and subject as herein-after provided, every male person who is a British subject and resident in the United Kingdom or the Isle of Man, shall be liable during the term of service required under this Act to be trained in the manner and to the extent provided in this
- 10 Act, and, in case of imminent national danger or great emergency, to be called out for service, as a man of the Territorial Force; and the provisions of Part II. of the Territorial and Reserve Forces Act, 1907 (in this Act called the principal Act) shall, subject to such modifications as are contained in this Act, apply to every
- 15 person liable to serve by virtue of this Act as if he had been duly enlisted in the Territorial Force for the said term of service.

Liability of all British subjects resident in the United Kingdom to be trained and to serve in the Territorial Force.  
7 Edw. 7. c. 9.

- (2) The term of service required in the case of a person liable to serve by virtue of this Act shall commence on the first day of January next after he attains the age of eighteen years, and shall
- 20 terminate on the thirty-first day of December next after he attains the age of thirty years:

(3) Nothing in this section shall apply to—

- (a) Any person in or belonging to His Majesty's Navy or the Royal Naval Reserve; or

(59.) A

2      *National Service (Training and Home Defence). [9 EDW. 7.]*

A.D. 1909.

(b) Any officer of the regular forces, any reserve officer within the meaning of the Royal Warrant regulating the composition of the reserve of officers, or any non-commissioned officer or man belonging to the regular or reserve forces; or

5

(c) Any person who has attained the age of eighteen years before the commencement of this Act.

Modifica-  
tions of  
Territorial  
and Reserve  
Forces Act,  
1907.

2.—(1) The provisions of subsection (3) of section nine of the principal Act (which entitle a man of the Territorial Force to be discharged on complying with certain conditions), shall not apply 10 in the case of a person liable to serve by virtue of this Act, and no such person shall be discharged by his commanding officer under subsection (4) of that section without the consent of the Army Council.

(2) The provisions of proviso (a) to subsection (1) of section 15 nine of the principal Act (which relate to appointments to corps), shall not apply in the case of a person liable to serve by virtue of this Act, but every such person shall on being enrolled in the Territorial Force be appointed to serve in such corps, and posted to such unit in that corps, as the Army Council in the prescribed 20 manner direct :

Provided that, in appointing or posting any person, regard shall, so far as the circumstances of the case admit, be had to his wishes in the matter.

Provisions as  
to training.

3. Subject to the provisions of this section every person 25 liable to serve by virtue of this Act—

(1) shall, in first year of his term of service, undergo training as a recruit, that is to say, be trained at such places within the United Kingdom and at such times as may be prescribed, and, in the case of a 30 man of the infantry branch, for a continuous period of four months, and, in the case of a man in any other branch, for such continuous period not being less than four nor more than six months as may be prescribed; and

35

(2) shall, in each of the three years next following the year of his training as a recruit—

(i) be trained for a continuous period of fifteen days at such time and at such places in any part of the United Kingdom as may be prescribed; 40

[9 EDW. 7.] *National Service (Training and Home Defence).* 3

(ii) fire the prescribed course of musketry and fulfil the other conditions relating to training prescribed for his branch of the service: A.D. 1909.

Provided that—

- 5 (a) the Army Council may, if they think it desirable so to do in the case of any person, postpone his training as a recruit till the second or third year of his term of service; and
- 10 (b) except during any period when a proclamation ordering the Army Reserve to be called out on permanent service is in force, no person shall be liable to be trained as a recruit after the expiration of the third year of his term of service.

15 4.—(1) The persons specified in the First and Second Parts of the Schedule to this Act shall be exempt from liability to be trained under this Act (but not from liability to be called out for service in case of imminent national danger or great emergency). Exemptions and disqualifications.

(2) The persons specified in the Third Part of the Schedule to this Act shall be disqualified for service in the Territorial Force.

(3) Where in any legal proceedings any person claims to be entitled to an exemption under this Act, it shall lie on the person alleging the exemption to prove that he is so entitled.

25 (4) Every person declared by the Army Council to be disqualified for service in the Territorial Force, and every person who is exempt from training as belonging to one of the classes of persons specified in the Second Part of the Schedule to this Act, shall in each year in which, if he had not been so disqualified or

30 exempt (as the case may be), he would have been liable to be trained under this Act, be liable, if his total income for the year exceeds fifty-two pounds, to pay for the use of His Majesty a sum equal to one per cent. of that total income, and any sum so payable shall be recoverable on complaint to a court of summary

35 jurisdiction by the prescribed officer, and any sums received by him shall be accounted for by him in the prescribed manner.

5. Every person liable to be trained under this Act who without leave lawfully granted, or such sickness or other reasonable excuse as may be allowed in the prescribed manner, fails to attend for training in pursuance of this Act, or to attend on such occasions as he is required to attend for the purpose of fulfilling the

Punishment for failure to attend for training.

A.D. 1909. conditions relating to training prescribed for his branch of the service, shall be guilty of a misdemeanour and shall be liable on conviction on indictment to imprisonment with or without hard labour for a term not exceeding six months, or to a fine not exceeding one hundred pounds, or to both, and on summary 5 conviction to imprisonment with or without hard labour for a term not exceeding three months, or to a fine not exceeding fifty pounds, or to both.

Liability to disqualifications for evasion.

**6.** If any person liable to serve by virtue of this Act is convicted under section twenty of the principal Act for failure 10 to attend on embodiment, the High Court, or in Scotland the Court of Session, may, on the application of the Army Council, order that he shall either permanently or for any time specified in the order—

- (a) be incapable of holding any office whatsoever in the 15 service of the Crown;
- (b) be incapable of voting at any parliamentary election; and
- (c) be disqualified for receiving an old age pension.

Provisions as to officers of the Territorial Force.

**7.**—(1) No person shall be recommended to His Majesty for 20 appointment as an officer of the Territorial Force who—

- (a) has not either undergone training as a recruit, or held a commission as an officer of the regular forces for at least one whole year; and
- (b) does not satisfy the prescribed conditions as to age, 25 educational qualifications, physical fitness, and any other requirements which may be prescribed.

(2) After the commencement of this Act the provisions of section eight of the principal Act (which relate to first appointments to the lowest rank of officers of the Territorial Force) 30 shall cease to have effect.

Power to make orders and regulations.

**8.**—(1) The power to make orders and regulations under section seven of the principal Act shall extend to the making of orders and regulations in reference to any of the following matters:—

- (a) any matters by this Act authorised or required to be 35 prescribed;
- (b) the preparation and keeping of lists and registers of persons who are, or will within six months become, liable to serve by virtue of this Act, and the

[9 EDW. 7.] *National Service (Training and Home Defence)*. 5

obtaining of returns or particulars from or as to A.D. 1909.  
any such persons;

- (c) the attendance for enrolment of persons liable to serve by virtue of this Act;
  - 5 (d) the notification to persons liable to serve by virtue of this Act of their liabilities under this Act;
  - (e) the assignment to county associations of any powers and duties in connection with the carrying of this Act into effect.
- 10 (2) If any person fails to comply with any order or regulation made under this section in reference to attendance for enrolment or in reference to returns or particulars to be obtained from or as to persons liable, or about to become liable, to serve by virtue of this Act, he shall be liable on summary conviction
- 15 to a penalty not exceeding five pounds.

(3) Any orders or regulations made under subsection (6) of section seven of the principal Act (which provides for the formation of a reserve division of the Territorial Force) shall not apply to persons liable to serve by virtue of this Act.

- 20 **9.**—(1) After the commencement of this Act voluntary enlistment and re-engagement for the Territorial Force shall cease, and the Territorial Force shall consist of the persons liable to serve by virtue of this Act, and (until they are duly discharged) of the persons constituting the Territorial Force at
- 25 the commencement of this Act.

Raising of  
Territorial  
Force and  
saving for  
men serving  
at com-  
mencement  
of Act.

(2) Nothing in this Act shall affect the terms or conditions of service of any person who is a man of the Territorial Force at the commencement of this Act.

- 30 **10.**—(1) This Act may be cited as the National Service (Training and Home Defence) Act, 1909, and shall be construed as one with the principal Act, and that Act so far as it relates to the Territorial Force and this Act may be cited together as the Territorial Force Acts, 1907 and 1909.

Short title,  
construction,  
and com-  
mencement.

(2) This Act shall come into operation on the first day of

35 January, nineteen hundred and ten.

## SCHEDULE.

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A.D. 1909.

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### EXEMPTIONS AND DISQUALIFICATIONS.

#### PART I.

1. Any person who has held a commission as an officer, or has served as a non-commissioned officer or man for not less than three years in the Navy or the Regular Forces. 5
2. Any person who has served for not less than three years in any police force in the United Kingdom.
3. Any person being the only son of a widow who satisfies the Army Council in the prescribed manner that his mother is wholly or mainly dependent on him for support. 10
- 4 Any minister of religion of any denomination.

#### PART II.

1. Any person who satisfies the Army Council in the prescribed manner that by reason of physical or mental infirmity he is permanently unfitted for training. 15
2. Any person declared by the Army Council to be exempt as being a person whom it is desirable to exempt in the interests of the public service.

#### PART III.

20

Any person declared by the Army Council to be disqualified for service in the Territorial Force as being a criminal, habitual drunkard, or otherwise undesirable by reason of bad character.





**National Service  
(Training and Home  
Defence). [H.L.]**

---

A

**B I L L**

INTITULIED

An Act to provide for National Service  
in the Territorial Force, and for that  
purpose to amend the Territorial and  
Reserve Forces Act, 1907.

*The Earl Roberts*

---

Ordered to be printed 19th May 1909.

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E. POSENER, 116, Grafton Street, Dublin.

[Price 1½d.]

(59.)

A  
B I L L

INTITULED

An Act to enable the punishment of Detention to be substituted for the punishment of Imprisonment for Offences against Naval Discipline under the Naval Discipline Act. A.D. 1909.

**B**E it 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:—

5     **1.**—(1) For the purpose of preventing persons subject to the Naval Discipline Act convicted of offences against discipline under that Act, and not dismissed from His Majesty's Service, from being subjected to the stigma attaching to imprisonment there shall be added to the punishments specified in section fifty-two  
10 of the Naval Discipline Act the punishment of detention, which in the scale of punishments mentioned in that section shall come next before dismissal from His Majesty's service.

Detention to be substituted for imprisonment as punishment for offences against discipline.

(2) The maximum term of detention shall be two years, and a person sentenced to detention shall undergo the term of his  
15 detention either in naval detention quarters or in a detention barrack, or partly in one way and partly in another: a person liable to imprisonment in a naval prison may be confined in naval detention quarters, but a person sentenced to detention shall not be confined in a prison.

20     (3) The Admiralty shall have the same power of setting apart buildings or vessels, or any parts thereof, as naval detention quarters as they have of setting apart such buildings or vessels or parts thereof as naval prisons.

(4) For the purpose of giving effect to the foregoing pro-  
25 visions such amendments shall be made in the Naval Discipline Act as are set forth in the schedule to this Act.

(220.)

A

A.D. 1909.  
—  
Printing and  
construction  
of Naval  
Discipline  
Act.

**2.**—(1) Every enactment and word which is directed by the schedule to this Act to be substituted for or added to any portion of the Naval Discipline Act shall form part of that Act in the place assigned to it by the said schedule, and the Naval Discipline Act, and all Acts which refer thereto, shall after the commencement of this Act be construed as if that enactment or word had been originally enacted in the Naval Discipline Act in the place so assigned, and, where it is substituted for another enactment or word, had been so enacted in lieu of that enactment or word, and as if the Naval Discipline Act had been enacted with the omission of any enactment or word which is directed by the schedule to this Act to be omitted from that Act, and the expression “this Act” in the Naval Discipline Act shall be construed accordingly. 5 10

(2) A copy of the Naval Discipline Act with every such enactment and word inserted in the place so assigned, and with the omission of any portion of that Act directed by the schedule to this Act to be omitted from that Act, shall be prepared and certified by the Clerk of the Parliaments and deposited with the rolls of Parliament, and His Majesty’s printers shall print in accordance with the copy so certified all copies of the Naval Discipline Act which are printed after the commencement of this Act. 15 20

Short title  
and com-  
mencement.

**3.**—(1) This Act may be cited as the Naval Discipline Act, 1909.

(2) This Act shall come into force on such day or days not being later than the first day of January nineteen hundred and eleven as the Admiralty may appoint, and the Admiralty may appoint different days for different places and stations, and for different provisions of this Act. 25

[9 EDW. 7.]

*Naval Discipline.*

3

SCHEDULE.

A.D. 1909.

MODIFICATIONS OF NAVAL DISCIPLINE ACT.

| 5  | Provisions of Naval Discipline Act to be amended.                                                                                                              | Nature of Amendment.                                                                                                                                                               |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10 | Sections twenty-three, fifty-three, paragraph (10); fifty-six, subsection (2); seventy-four, subsections (1) and (3); seventy-eight; seventy-nine, and eighty. | The words "or detention" shall be inserted after the word "imprisonment," wherever that word occurs.                                                                               |
|    | Section twenty-three -                                                                                                                                         | The words "with or without hard labour" shall be omitted.                                                                                                                          |
| 15 | Sections forty-seven, forty-eight, and fifty-eight, paragraph (8).                                                                                             | The word "person" shall be substituted for the word "prisoner," wherever that word occurs.                                                                                         |
|    | Section fifty-two - -                                                                                                                                          | After paragraph (4) there shall be inserted the following new paragraph :—<br>"(4A) Detention."                                                                                    |
| 20 | Section fifty-three - -                                                                                                                                        | In paragraph (1) after the words "but so that" there shall be inserted the following words: "neither the degree nor the duration of," and the word "not" shall be omitted.         |
| 25 |                                                                                                                                                                | After paragraph (9) the following new paragraph shall be inserted :—<br>"(9A) The punishment of detention may be inflicted for any term not exceeding two years."                  |
| 30 |                                                                                                                                                                | At the end of paragraph (10) the following proviso shall be added :—<br>"Provided that where the punishment awarded is                                                             |
| 35 |                                                                                                                                                                | "detention for a term not exceeding fourteen days, the sentence may direct that the punishment shall not be accompanied by stoppage of pay or wages during the term of detention." |
|    |                                                                                                                                                                | In paragraph (11), after the words "no officer shall be subject" there shall be inserted the words "to detention or."                                                              |
| 40 | Sections fifty-six, subsection (4); sixty-two; and sixty-three.                                                                                                | The words "person charged" shall be substituted for the word "prisoner," wherever that word occurs.                                                                                |
|    | Section sixty-six - -                                                                                                                                          | After the word "imprisonment" there shall be inserted the words "or if the offender is a person liable to be sentenced to detention under this Act, by detention."                 |
| 45 | Sections seventy and seventy-four, subsection (3).                                                                                                             | For the words "his detention" there shall be substituted the words "detaining him."                                                                                                |
| 50 | Section seventy-two - -                                                                                                                                        | For the words "during his detention" there shall be substituted the words "while he is detained."                                                                                  |

(220.)

A 2

A.D. 1909.

| Provisions of Naval Discipline Act to be amended. | Nature of Amendment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section seventy-three                             | <p>For the words "imprisonment or of" there shall be substituted the words "detention, imprisonment, or." 5</p> <p>The word "detention" shall be inserted before the word "imprisonment," wherever that word occurs in the first paragraph of the section.</p> <p>The words "or detention" shall be inserted after the word "imprisonment," where it first and secondly occurs in the proviso. 10</p> <p>The words "in the aggregate" shall be inserted after the words "for any period exceeding."</p> <p>For the words "his imprisonment" there shall be substituted the words "the total term of his punishment." 15</p> <p>The word "any" shall be substituted for the word "either," where that word secondly occurs.</p> |
| Section seventy-four, subsection (1).             | <p>The words "imprisonment or detention" shall be substituted for the words "or of imprisonment." 20</p> <p>After the words "and may" there shall be inserted the words "in the case of imprisonment."</p> <p>After the words "appointed under this Act" there shall be inserted the words "or naval detention quarters." 25</p> <p>After the words "military prison" there shall be inserted the words "or detention barrack and may in the case of detention be any naval detention quarters or a military detention barrack."</p>                                                                                                                                                                                           |
| Subsection (2) -                                  | <p>After the words "proper prison," where those words first occur, there shall be inserted the words "or naval detention quarters." 30</p> <p>After the word "imprisonment," wherever that word occurs, there shall be inserted the words "or detention, as the case may be." 35</p> <p>After the words "proper prison," where those words secondly occur, there shall be inserted the words "or naval detention quarters, or in the case of an offender under sentence of detention, to some place at which there are naval detention quarters." 40</p>                                                                                                                                                                       |
| Subsection (3) -                                  | <p>After the words "naval custody or" there shall be inserted the words "in the case of a person sentenced to imprisonment."</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Section seventy-five                              | <p>After the words "this Act" there shall be inserted the words "or of any offender undergoing or sentenced to undergo detention." 45</p> <p>After the words "house of correction," where those words first occur, there shall be inserted the words "or, in the case of an offender undergoing or sentenced to undergo detention, to the naval detention quarters." 50</p> <p>After the words "such prison," and after the words "house of correction," where those words secondly occur, there shall be inserted the words "or naval detention quarters." 55</p>                                                                                                                                                             |

[9 EDW. 7.]

*Naval Discipline.*

5

A.D. 1909.

|    | Provisions of Naval Discipline Act to be amended. | Nature of Amendment.                                                                                                                                       |
|----|---------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5  | -                                                 | After the words "naval prison" there shall be inserted the words "or naval detention quarters."                                                            |
|    | -                                                 | For the word "prisoner," wherever that word occurs, there shall be substituted the word "offender."                                                        |
| 10 | -                                                 | For the words "has been imprisoned" there shall be substituted the words "is undergoing imprisonment or detention."                                        |
|    | -                                                 | For the words "such detention takes place" there shall be substituted the words "he is so detained."                                                       |
| 15 | -                                                 | After the word "imprisoned" there shall be inserted the words "or undergoing detention."                                                                   |
| 20 | -                                                 | After the word "confinement" there shall be inserted the words "or, in the case of a person sentenced to detention, such naval detention quarters."        |
| 25 | -                                                 | After the words "as naval prisons" there shall be inserted the words "or naval detention quarters."                                                        |
|    | -                                                 | After the word "apart," where it secondly occurs, there shall be inserted the words "as naval prisons or naval detention quarters, as the case may be."    |
|    | -                                                 | After the words "to be naval prisons" there shall be inserted the words "or naval detention quarters respectively."                                        |
| 30 | -                                                 | After the words "naval prisons" there shall be inserted the words "and naval detention quarters respectively."                                             |
| 35 | -                                                 | After the words "military prisons" there shall be inserted the words "and detention barracks respectively."                                                |
|    | -                                                 | After the words "for 'military'" there shall be inserted the words "and of 'naval detention quarters' for 'detention barrack.'"                            |
| 40 | -                                                 | After the words "naval prison" there shall be inserted the words "or any such naval detention quarters."                                                   |
| 45 | -                                                 | After the word "prisoner," wherever that word occurs, there shall be inserted the words "or person undergoing detention."                                  |
|    | -                                                 | After the words "such prison," "the prison" or "said prison," wherever those words occur, there shall be inserted the words "or naval detention quarters." |
| 50 | -                                                 | After the word "correction" there shall be inserted the words "or of any naval detention quarters."                                                        |

# Naval Discipline.

A

B I L L

[AS AMENDED IN COMMITTEE]

INTITLED

An Act to enable the punishment of  
Detention to be substituted for the  
punishment of Imprisonment for  
Offences against Naval Discipline  
under the Naval Discipline Act.

*(Brought from the Commons 8th November 1909.)*

---

Ordered to be printed 17th November 1909.

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[*Price 1d.*]

(226.)



A

## B I L L

## INTITULED

An Act to make better provision respecting Naval  
Establishments in British Possessions.

A.D. 1909.

**B**E it 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:—

- 5      **1.**—(1) It shall be lawful for His Majesty, on the representation of the Admiralty and of the Treasury that it is expedient to do so, by Order in Council to vest any store, yard, magazine, building or other property in any British Possession held in trust for naval purposes (whether vested in His Majesty or in the Admiralty or  
10 in any officer), and the care and disposal of such property in the Governor of the possession for such estate and interest and upon such terms and conditions, and subject to such reservations, exceptions, and restrictions as may be specified in the Order, and the Governor of the possession shall, by virtue of this Act  
15 and the Order, take and hold, subject to the provisions of the Order, the premises transferred to and vested in him accordingly.

Power to  
transfer  
Naval Esta-  
blishments  
in British  
Possessions  
to the  
Governor  
thereof.

- (2) Every representation to His Majesty proposed to be made under this Act shall be laid before both Houses of Parliament, and shall lie for not less than forty days on the  
20 table of both Houses before it is submitted to His Majesty.

- (3) Nothing in an Order made in pursuance of this Act shall affect any estate, interest, right, or claim in or to any property comprised in the Order other than such as at the date of the Order was vested in or held in trust for His Majesty or  
25 the Admiralty.

**2.** This Act may be cited as the Naval Establishments in British Possessions Act, 1909.

(154.)





# Naval Establishments.

A

B I L L

INTITULIED

An Act to make better provision  
respecting Naval Establishments in  
British Possessions.

*(Brought from the Commons 31st August 1909.)*

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Ordered to be printed 31st August 1909.

---

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[Price  $\frac{1}{2}d.$ ]

(154.)

## A

## B I L L

## INTITULED

An Act to amend the Law as to Oaths.

A.D. 1909.

**B**E it 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:—

5     **1.** This Act may be cited for all purposes as the Oaths Short title.  
Act, 1909, and the Oaths Act, 1888, and this Act may be cited  
together as the Oaths Acts, 1888 and 1909.

2.—(1) Any oath may be administered and taken in the Manner of  
form and manner described in the schedule hereto.     administra-  
tion of oaths.

10     (2) The officer shall (unless the person about to take the  
oath voluntarily objects thereto, or is physically incapable of so  
taking the oath) administer the oath in such form and manner  
without question.

3. In this Act the word "officer" shall mean and include Definition.  
15 any and every person duly authorised to administer oaths.

4.—(1) This Act shall come into operation on the first day Commence-  
of October nineteen hundred and nine.     ment and  
extent.

(2) This Act shall not apply to Scotland.

A.D. 1909.

SCHEDULE.

## FORM AND MANNER OF ADMINISTERING OATH.

The officer administering the oath shall address the person taking the oath in the following form: "You swear by Almighty God that," and then proceed with the words of the oath prescribed by law, 5 omitting any further words of imprecation or calling to witness; and the person taking the oath shall, with uplifted hand, say "I do."

If the oath is an oath which is customarily taken by the words of the oath being read or repeated after the officer administering it, the words shall be read or repeated with uplifted hand in the form 10 following: "I do swear by Almighty God that," and then proceed with the words of the oath prescribed by law, omitting any further words of imprecation or calling to witness.



---

## Oaths.

---

A

# B I L L

INTITLED

An Act to amend the Law as to  
Oaths.

*(Brought from the Commons 10th September 1909.)*

---

Ordered to be printed 10th September 1909.

---

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[Price  $\frac{3}{4}d.$ .]

(195.)



## Oaths Bill

### A M E N D M E N T

TO BE MOVED IN COMMITTEE

BY

THE LORD ALVERSTONE.

---

In the schedule, page 2, leave out lines 3 to 13, and insert  
("The person to be sworn shall say or repeat after the officer  
" administering the oath the following words: 'I swear by  
" 'Almighty God that' . . . followed by the words of the  
" oath prescribed by law")

---

# Oaths Bill.

## AMENDMENT

TO BE MOVED IN COMMITTEE

BY

THE LORD ALVERSTONE.

\_\_\_\_\_  
14th October 1909.

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[*Price 3d.*]

(165 a.)

## Oaths Bill.

### A M E N D M E N T S

TO BE MOVED IN COMMITTEE

BY

THE LORD STEWARD (*E. Beauchamp*).

---

Clause 2, page 1, line 9, leave out ("described in the schedule  
" hereto") and insert ("following—

"The person taking the oath shall hold the New Testament in  
" his uplifted hand and shall say or repeat after the officer  
" administering the oath the words 'I swear by Almighty  
" ' God that . . . . .', followed by the words of the  
" oath prescribed by law")

line 12, leave out ("in such form and  
" manner") and insert ("in the form and manner aforesaid")

line 13, at the end of the clause insert  
("Provided that in the case of a person who is not a Christian the  
" oath shall be administered as nearly as may be in the form and  
" manner aforesaid, but with such modifications of the words or  
" ceremony as may make the same conformable to the religious  
" faith, or binding on the conscience of such person")

Clause 4, page 1, line 17, leave out ("October nineteen  
" hundred and nine") and insert ("January nineteen hundred and  
" ten")

Page 2, leave out the schedule.

---

# Oaths Bill.

## AMENDMENTS

TO BE MOVED IN COMMITTEE

BY

THE LORD STEWARD (*E. Beauchamp*).

21st October 1909.

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[*Price 3d.*]

(165 b.)

[9 EDW. 7.]

*Oaths.*

1

A

**B I L L**

[AS AMENDED IN COMMITTEE]

INTITULED

An Act to amend the Law as to Oaths.

A.D. 1909.

**B**E it 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:—

- 5**     **1.** This Act may be cited for all purposes as the Oaths Short title.  
Act, 1909, and the Oaths Act, 1888, and this Act may be cited together as the Oaths Acts, 1888 and 1909.

- 10**     **2.—(1)** Any oath may be administered and taken in the Manner of  
administra-  
tion of oaths.  
form and manner: The person taking the oath shall hold the New Testament in his uplifted hand and shall say or repeat after the officer administering the oath the words "I swear by Almighty God that . . . .", followed by the words of the oath prescribed by law.

- 15**     **(2)** The officer shall (unless the person about to take the oath voluntarily objects thereto, or is physically incapable of so taking the oath) administer the oath in the form and manner aforesaid without question. Provided that in the case of a person who is not a Christian the oath shall be administered as nearly as may be in the form and manner aforesaid, but with such  
**20** modifications of the words or ceremony as may make the same conformable to the religious faith, or binding on the conscience of such person.

- 3.** In this Act the word "officer" shall mean and include Definition  
any and every person duly authorised to administer oaths.

- 25**     **4.—(1)** This Act shall come into operation on the first day Commence-  
ment and  
extent.  
of January nineteen hundred and ten.

- (2)** This Act shall not apply to Scotland.

(207.)





# Oaths.

A

## B I L L

[AS AMENDED IN COMMITTEE]

INTITLED

An Act to amend the Law as to  
Oaths.

*(Brought from the Commons 10th September 1909.)*

Ordered to be printed 25th October 1909.

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[Price 3d.]

(207.)



[9 Edw. 7.]

*Oaths.*

1

A

**B I L L**

[AS AMENDED ON REPORT]

INTITULED

An Act to amend the Law as to Oaths.

A.D. 1909.

**B**E it 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:—

5     **1.** This Act may be cited for all purposes as the Oaths Short title.  
Act, 1909, and the Oaths Act, 1888, and this Act may be cited  
together as the Oaths Acts, 1888 and 1909.

2.—(1) Any oath may be administered and taken in the Manner of  
administra-  
tion of oaths.  
form and manner following:—

10     The person taking the oath shall hold the New Testament in  
his uplifted hand and shall say or repeat after the officer  
administering the oath the words "I swear by Almighty  
God that . . . .", followed by the words of the  
oath prescribed by law.

15     (2) The officer shall (unless the person about to take the  
oath voluntarily objects thereto, or is physically incapable of so  
taking the oath) administer the oath in the form and manner  
aforesaid without question:

20     Provided that in the case of a person who is not a Christian  
the oath shall be administered in any manner which is now  
lawful.

3. In this Act the word "officer" shall mean and include Definition.  
any and every person duly authorised to administer oaths.

25     **4.**—(1) This Act shall come into operation on the first day Commence-  
ment and  
extent.  
of January nineteen hundred and ten.

(2) This Act shall not apply to Scotland.

(212.)





---

## Oaths.

---

A

B I L L

[AS AMENDED ON REPORT]

INTITLED

An Act to amend the Law as to  
Oaths.

*(Brought from the Commons 10th September 1909.)*

---

Ordered to be printed 26th October 1909.

---

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[Price  $\frac{1}{2}d.$ ]

(212.)

**Oaths Bill.**

A M E N D M E N T

TO BE MOVED ON THIRD READING

BY

THE LORD STEWARD (*E. Beauchamp*).

---

Clause 2, page 1, line 14, after (" law ") insert (" but omitting  
" any further words of imprecation or calling to witness ")

---

# Oaths Bill.

## A M E N D M E N T

TO BE MOVED ON THIRD READING

BY

THE LORD STEWARD (*E. Beauchamp*).

---

28th October 1909.

---

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[*Trice*  $\frac{3}{4}d.$ ]

(212*a.*)

## Oaths Bill.

### A M E N D M E N T S

TO BE MOVED ON THIRD READING

BY

THE LORD ALVERSTONE.

---

Clause 2, page 1, line 10, after (" Testament ") insert (" or  
" in the case of a Jew, the Old Testament ")  
line 19, leave out (" not ") and insert  
(" neither "), and after (" Christian ") insert (" nor a Jew ")

---

# Oaths Bill.

## A M E N D M E N T S

TO BE MOVED ON THIRD READING

BY

THE LORD ALVERSTONE.

6th November 1909.

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[*Price 3d.*]

(212*b.*)



[9 EDW. 7.] *Pier and Harbour Provisional Order*  
(No. 1). [H.L.]

1

A

## B I L L

## INTITULED

An Act to confirm a Provisional Order made by the Board of Trade under the General Pier and Harbour Act 1861 relating to Tralee and Fenit. A.D. 1909.

**W**HEREAS a Provisional Order made by the Board of Trade under the General Pier and Harbour Act 1861 is not of any validity or force whatever until the confirmation thereof by Act of Parliament: 24 & 25 Vict. c. 45.

5 And whereas it is expedient that the Provisional Order made by the Board of Trade under the said Act and set out in the schedule to this Act be confirmed by Act of Parliament:

Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and 10 Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. The Order set out in the schedule to this Act shall be and the same is hereby confirmed and all the provisions thereof in manner and form as they are set out in the said schedule shall 15 from and after the passing of this Act have full validity and force. Confirmation of Orders in schedule.

2. The Undertakers mentioned in the Order by this Act confirmed shall not under the powers of this Act or of the Order purchase or acquire in any borough or other urban district 20 or in any parish or part of a parish not being within an urban district any house or houses which on the fifteenth day of December last were occupied either wholly or partially by thirty or more persons belonging to the working class as tenants or lodgers or except with the consent of the Local Government 25 Board any house or houses which were not so occupied on the

Special provisions as to houses of working class.

A.D. 1909. said fifteenth day of December but have been or shall be subsequently so occupied.

If the Undertakers acquire or appropriate any house or houses for the purposes of this Act or of the Order in contravention of the foregoing provision they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court in Ireland 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.

For the purposes of this section the expression "house" means any house or part of a house occupied as a separate dwelling and the expression "working 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 of such persons who may be residing with them.

Short title.

**3.** This Act may be cited as the Pier and Harbour Order Confirmation (No. 1) Act 1909.

[9 EDW. 7.] *Pier and Harbour Provisional Order*  
(No. 1).

3

## SCHEDULE.

A.D. 1909.

### TRALEE AND FENIT.

*Provisional Order for the construction and maintenance of new works at Fenit in the county of Kerry for enabling the*  
5 *Tralee and Fenit Pier and Harbour Commissioners to accept free grants and for other purposes.*

*Tralee and Fenit.*

1.—(1) This Order shall come into force upon the day when the Act confirming this Order is passed and that day is in this Order referred to as "the commencement of this Order."

Commence-  
ment inter-  
pretation and  
short title.

10 (2) In this Order unless the context otherwise requires:—

The expression "the existing harbour" means the Tralee and Fenit Pier and Harbour as existing at the commencement of this Order;

15 The expression "the new viaduct" means the pier or viaduct and the approaches thereto by this Order authorised;

The expression "the harbour" includes the existing harbour and the new viaduct;

20 The expression "the deposited plan" and "the deposited sections" means respectively the plan and sections deposited with reference to this Order with the Board of Trade;

The expression "the Order of 1880" means the Tralee and Fenit Pier and Harbour Order 1880;

The expression "the Order of 1888" means the Tralee and Fenit Pier and Harbour Order 1888;

25 The expression "the Order of 1907" means the Tralee and Fenit Pier and Harbour Order 1907.

(3) This Order may be cited as the Tralee and Fenit Pier and Harbour Order 1909 and this Order and the Order of 1880 and the Order of 1888 and the Order of 1907 as amended by this Order may  
30 together be cited as the Tralee and Fenit Pier and Harbour Orders 1880 to 1909.

2. The Tralee and Fenit Pier and Harbour Commissioners shall be the Undertakers for carrying this Order into execution and are in this Order referred to as "the Undertakers."

Undertakers

35 3. Subject to the provisions of this Order and subject also to such alterations (if any) in the deposited plan and deposited sections as the Board of Trade may require before completion of the works authorised by this Order in order to prevent injury to navigation the Undertakers

Power to con-  
struct works.

A.D. 1909. may in the lines and situations and according to the levels shown on the deposited plan and sections so far as the same are shown thereon and within the limits of deviation shown on the said plan or specified in this Order make and maintain the works authorised by this Order.

*Tralee and Fenit.*

**Description of works.**

4. The works authorised by this Order comprise A pier or viaduct 5 and the approaches thereto (north and south) commencing at a point on the existing pier and viaduct of the Undertakers at Fenit 815 feet or thereabouts (measured in a southern direction) from the southern gable of the existing railway station at Fenit in the townland of Fenit Without and extending in a southerly direction for a distance of 1060 feet or 10 thereabouts along the eastern side of the existing pier and viaduct and terminating at a point on the existing pier and viaduct 1060 feet or thereabouts from the said point of commencement.

The new viaduct will be built open throughout its whole extent.

**Power to deviate.**

5. In constructing the works authorised by this Order the Undertakers may with the consent in writing of the Board of Trade deviate laterally to any extent within the limits of deviation marked on the deposited plan and may with the like consent deviate vertically to any extent.

**Consent of Board of Trade to works.**

6. No part of the works authorised by this Order below high-water mark shall be commenced without the consent in writing of the Board of Trade and those works shall be executed only in accordance with the terms of such consent. 20

**Penalty for obstructing works.**

7. Any person who wilfully obstructs any person acting under the authority of the Undertakers in setting out the lines of the works authorised by this Order or pulls up or removes any poles or stakes driven into the ground for the purpose of setting out the lines of those works shall for each offence be liable to a penalty not exceeding five pounds. 25

**Power to maintain and improve harbour and works.**

8.—(1) Subject to the provisions of this Order the Undertakers may maintain the harbour and may from time to time with the consent of the Board of Trade alter improve and extend the works authorised by this Order and may in connexion with the same respectively construct maintain alter and improve embankments landing places quays jetties wharves buoys moorings lights beacons roads sewers drains watercourses gas and electric lighting and water pipes and other works and conveniences which may be found necessary for the accommodation of vessels and traffic and may also from time to time lay down and maintain rails railways tramways sidings and turntables on and along the works authorised by this Order and land connected therewith and may take down or remove portions of the existing works. 30 35 40

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(No. 1).

5

(2) No line of rails railway or tramway constructed under the powers of this Order shall be used for the public conveyance of passengers unless and until the same shall have been inspected and certified by the Board of Trade to be fit for such traffic.

A.D. 1909.  
*Tralee and Fénit.*

5 (3) Any electric lighting works constructed or maintained under this Order shall be so constructed used and worked as to prevent any interference with telegraphic communication by means of any telegraphic line belonging to or used by the Postmaster-General.

9. For the protection of the Great Southern and Western Railway Company (in this section called "the company") the following provisions shall apply and have effect unless otherwise agreed upon in writing between the company and the Undertakers:—

For protec-  
tion of Great  
Southern and  
Western  
Railway  
Company.

15 (1) The Undertakers shall not commence the construction of the new viaduct until they have given to the company at least one month's previous notice in writing of their intention to commence the same by leaving such notice at or sending the same by registered post to the principal office of the company in Dublin together with detailed plans and other necessary particulars of the construction of the new viaduct and until the company shall have signified in writing their approval of those plans and particulars or shall have failed or neglected during that month to express in writing their approval or disapproval of those plans and particulars and the Undertakers shall subject to the approval of the Board of Trade comply with and conform to all reasonable requirements of the company in the construction of the new viaduct regard being had to the rights (if any) of the company under the heads of arrangement referred to in the section of this Order of which the marginal note is "As to heads of arrangement between the Undertakers and Great Southern and Western Railway Company" and the new viaduct and the permanent way to be laid down thereon shall be constructed and laid to the reasonable satisfaction of the engineer of the company:

35 (2) If the company fail to signify their approval or disapproval or other requirements in reference to the said detailed plans and other particulars as aforesaid for one month from the delivery thereof the company shall be deemed to have approved the same:

40 (3) If in the opinion of the Undertakers the company shall unreasonably withhold their approval of such plans and particulars as aforesaid or shall require as a condition to their approval the making or doing of any further or other works or things which the Undertakers are or may be unwilling to undertake

A.D. 1909.

*Tralee and  
Fenit.*

or comply with it, shall be lawful for the Undertakers or the company to require any such difference between them to be decided by arbitration as herein-after provided :

- (4) The Undertakers shall take all necessary precautions in the construction of the new viaduct or any of the works connected therewith and shall properly light the same so as to prevent injury or accident to any servants or officers of the company while lawfully engaged on the business of the company on the pier railway between the railway station at Fenit and the end of the pier and to prevent any damage to any rolling stock or other property of the company used on the said pier railway and in the event of any such accident or damage occurring as aforesaid from the negligence or neglect of the Undertakers their agents workmen contractors or servants the Undertakers shall indemnify and save harmless the company from and against all loss costs charges expenses or liability whatsoever in connexion therewith : 5 10 15
- (5) In carrying out the work of construction of the new viaduct and works connected therewith the Undertakers shall make all necessary arrangements so that the traffic over the pier railway between the said station at Fenit and the end of the pier shall not be delayed or otherwise unduly interfered with and in the event of any claim being made against the company for or in respect of loss or damage by reason of stoppage or delay to any such traffic arising from the construction of the new viaduct and works connected therewith the Undertakers shall indemnify and save harmless the company from and against all costs damages and expenses which they may from time to time sustain or be put to in consequence thereof : 20 25 30
- (6) In case of any difference or dispute arising at any time between the Undertakers and the company or their respective engineers as to anything to be done or not to be done or as to any matters provided for under this section or as to the effect or meaning thereof such difference or dispute shall be referred to an arbitrator to be appointed by the Board of Trade on the application of the Undertakers and the company or either of them and the decision of such arbitrator (who shall have authority to determine by whom the costs of such reference shall be paid) shall be binding and conclusive : 35 40
- (7) Nothing in this section contained shall take away or abridge any power of the Board of Trade and that Board shall notwithstanding the approval by the company of any plans 45



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(No. 1).

7

- and particulars or any decision of such arbitrator as aforesaid have full power to alter and amend the same in such manner in all respects as it may think fit and the plans and particulars so altered or amended shall not require the approval of the company and the Undertakers shall be at liberty without any further reference to or approval by the company to construct the works authorised by this Order or any alteration improvement or extension thereof in accordance with the plans and particulars so altered or amended.
- 10.—(1) If within two years from the commencement of this Order the works authorised by this Order are not substantially commenced the powers given by this Order for executing those works or otherwise in relation thereto shall cease unless the time for the commencement of the works be extended by the special direction of the Board of Trade.
- (2) If the works authorised by this Order after having been substantially commenced are virtually suspended for twelve consecutive months the powers by this Order given for executing those works or otherwise in relation thereto shall cease except as to so much of those works as have then been completed unless those powers are by the special direction of the Board of Trade continued and directed to remain in force for any period not exceeding five years from the commencement of this Order.
- (3) In either of the above cases a certificate from the Board of Trade to the effect that the works authorised by this Order have not been substantially commenced or that they have been virtually suspended for twelve consecutive months shall for the purposes of this Order be conclusive evidence of the facts stated in such certificate.
11. Subject to the provisions of this Order the works authorised by this Order shall for the purposes of the rates and charges which may be demanded and received by the Undertakers and for all other purposes be part of the harbour and undertaking of the Undertakers under the Orders of 1880 1888 and 1907 and the powers and provisions of the Order of 1880 as amended or varied by the Orders of 1888 and 1907 and by this Order shall extend and apply to the works authorised by this Order.
12. The works authorised by this Order and all rates tolls income or revenue received from or by reason of the same shall be and become subject to all the clauses and provisions of a certain indenture of mortgage dated the 9th day of March 1883 and made between the Undertakers of the one part and Robert John Fitzgerald of the other part and shall become mortgaged and charged in like manner and in the same priority

A.D. 1909.

*Tralee and Fenit.*Powers to  
cease in cer-  
tain events.Rates and  
provisions of  
Orders of  
1880 to 1907  
to extend to  
works autho-  
rised by this  
Order.For protec-  
tion of Kerry  
County  
Council.

A.D. 1909.  
*Tralee and  
Fenit.*

Portions of Har-  
bours Clauses Act  
not incorporated.

Grants of  
moneys to  
Undertakers.

As to lights  
during con-  
struction of  
works.

As to lights  
after com-  
pletion of  
works.

As to buoys  
and lights in  
case of decay  
of works.

as if the same had existed at the date of the said mortgage and were included therein and the same shall not be capable of being or become charged with any claim or charge whatsoever in priority thereto.

13. Sections 16 17 18 19 25 and 26 of the Harbours Docks and Piers Clauses Act 1847 shall not be incorporated with this Order. 5

14. The Commissioners of His Majesty's Treasury the Public Works Loan Commissioners the Board of Public Works (Ireland) or the Department of Agriculture and Technical Instruction for Ireland or any of them may make free grants of money to the Undertakers out of public funds and the Undertakers may accept and shall apply such grants towards the cost and erection of the works authorised by this Order and the costs of this Order and the Undertakers may also accept from any company public body or person any sum or sums of money by way of gift or free grant and apply the same towards such cost and outlay. 10 15

15.—(1) Before commencing the works authorised by this Order the Undertakers shall apply to the Board of Trade for directions as to the lights to be exhibited and other means to be taken for preventing danger to navigation and shall in all respects obey any directions given upon that application or afterwards from time to time given as to like matters by the Board of Trade during the construction of the works authorised by this Order and compliance with the directions so given shall satisfy and be in place of every other statutory requirement as to those matters during the construction of the said works. 20 25

(2) The Undertakers shall be liable to a penalty not exceeding ten pounds for every day during which they omit so to apply or refuse or neglect to observe any such direction.

16.—(1) After completion or permanent discontinuance or abandonment of the works authorised by this Order the Undertakers shall exhibit at the outer extremity of the new viaduct or the completed portion thereof or in such other places as may be required from sunset to sunrise and according to the requirements of the traffic and the season of the year such lights if any and take such other steps for the prevention of danger to navigation as are directed by the Commissioners of Irish Lights and shall apply to those Commissioners for such directions. 30 35

(2) The Undertakers shall be liable to a penalty not exceeding ten pounds for every day during which they omit so to apply or refuse or neglect to observe any such directions. 40

17.—(1) In case of injury to or destruction or decay of the works authorised by this Order or any part thereof the Undertakers shall lay down such buoys exhibit such lights or take such other



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(No. 1).

9

means for preventing (as far as may be) danger to navigation as shall from time to time be directed by the Commissioners of Irish Lights and shall apply to those Commissioners for such directions.

A.D. 1909.

*Tralee and Fenit.*

(2) The Undertakers shall be liable to a penalty not exceeding ten pounds for every day during which they omit so to apply or refuse or neglect to observe any such directions.

18. The Undertakers may construct the works authorised by this Order or any part thereof by themselves or by labour employed by themselves or through a contractor or contractors or by any one or more of such methods.

Undertakers may construct works themselves or through a contractor.

19. For the purposes of the heads of arrangement between the Undertakers and the Great Southern and Western Railway Company which are set forth in the Third Schedule to the Great Southern and Western and Waterford Limerick and Western Railway Companies Amalgamation Act 1900 the new viaduct when and so soon as the same is substantially completed shall be deemed to be part of the pier referred to in the said heads of arrangement and any railway laid down by the Undertakers on and along the new viaduct authorised by this Order shall be deemed to be part of the railway of the Undertakers referred to in the said heads of arrangement.

As to heads of arrangement between Undertakers and Great Southern and Western Railway Company.

20. Nothing in this Order contained shall alter prejudice or affect any baronial or other guarantee granted before the commencement of this Order in reference to the existing harbour or any mortgage security or charge created or granted by the Undertakers before the commencement of this Order.

Saving for existing guarantees and securities.

21. Nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Undertakers to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any lands hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent those Commissioners and that Board are hereby respectively authorised to give).

Saving rights of Crown.

22. All costs charges and expenses (including engineering fees and expenses) of and incident to preparing and obtaining this Order and all costs and expenses of any kind whatsoever of constructing the works authorised by this Order or rendered necessary by reason of such construction or in any way incidental thereto or otherwise incurred in carrying out this Order save as herein-after provided shall be paid and

Costs of Order.

A.D. 1909. defrayed out of the free grants or moneys which may be made under the provisions of the section of this Order of which the marginal note is "Grants of moneys to Undertakers" and it shall not be lawful for the Undertakers to pay the same or any part thereof out of any rates charges or other income received by them nor shall the undertaking or any 5 property or works of the Undertakers be capable of being or liable to be charged for payment thereof.

*Tralee and Fenit.*

Provided however that with the consent of the county council a sum not exceeding £200 may be paid in respect of law costs and engineering fees out of any revenue charges or other income received by the 10 Undertakers.

Provided also that if the works authorised by this Order are not constructed the Undertakers shall be entitled to pay out of revenue the law costs and fees incurred up to the 17th April 1909.

**Pier and Harbour  
Provisional Order  
(No. 1). [H.L.]**

A

B I L L

INTITLED

An Act to confirm a Provisional Order made by the Board of Trade under the General Pier and Harbour Act 1861 relating to Tralee and Fenit.

*The Lord Hamilton of Dalzell.*

Ordered to be printed 5th May 1909.

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[Price 1½d.]

(47.)

[9 EDW. 7.] *Pier and Harbour Provisional Orders* 1  
(No. 2).

A  
**B I L L**

INTITULED

An Act to confirm certain Provisional Orders made by the Board of Trade under the General Pier and Harbour Act 1861 relating to Bognor Herne Bay and Truro. A.D. 1909.

**W**HEREAS a Provisional Order made by the Board of Trade under the General Pier and Harbour Act 1861 is not of any validity or force whatever until the confirmation thereof by Act of Parliament: 24 & 25 Vict.  
c. 45.

5 And whereas it is expedient that the several Provisional Orders made by the Board of Trade under the said Act and set out in the schedule to this Act be confirmed by Act of Parliament:

10 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 several orders as amended and set out in the schedule to this Act shall be and the same are hereby confirmed and all the provisions thereof in manner and form as they are set out in the said schedule shall from and after the passing of this Act have full validity and force. Confirmation  
of Orders in  
schedule.

2. The Order relating to the district of Bognor made by the Local Government Board on the 8th day of June 1875 and confirmed by the Local Government Board's Provisional Orders Confirmation (Abingdon &c.) Act 1875 and the Order relating to the same district made by the Local Government Board on the 11th day of February 1884 and confirmed by the Local Government Board's Provisional Orders Confirmation Act 1884 are hereby repealed. Repeal of  
Local  
Government  
Board Pro-  
visional  
Orders 1875  
and 1884.

3. This Act may be cited as the Pier and Harbour Orders Confirmation (No. 2) Act 1909. Short title.

(89.) A

A.D. 1909.

The SCHEDULE of Orders.

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1. BOGNOR.—Provisional Order for the maintenance and management of the Bognor Pier in the county of Sussex for authorising widenings thereof for repealing the Bognor Pier Orders 1893 and 1895 and for other purposes. 5
  2. HERNE BAY.—Provisional Order for the transfer of the undertaking of the Herne Bay Pier Company Limited to the Urban District Council of Herne Bay and for other purposes in connexion therewith.
  3. TRURO.—Provisional Order for the amendment of the Truro Harbour Order 1903 and for conferring further powers upon the Mayor 10 Aldermen and Citizens of the City of Truro in the county of Cornwall in relation to Truro Harbour.
-

## BOGNOR PIER.

A.D. 1909.

*Provisional Order for the maintenance and management of the Bognor Pier in the county of Sussex for authorising widenings thereof for repealing the Bognor Pier Orders 1893 and 1895 and for other purposes.*

Bognor.

*Preliminary.*

1. This Order may be cited as the Bognor Pier Order 1909. Short title.
2. This Order shall come into operation upon the day when the Act confirming this Order is passed and that day is in this Order referred to as the commencement of this Order. Commencement.
3. In this Order the following words and expressions shall have the following meanings (that is to say):— Interpretation.
  - "The Company" means the Bognor Pier Company Limited;
  - "The council" means the Bognor Urban District Council;
  - 15 "The Order of 1893" means the Bognor Pier Order 1893;
  - "The Order of 1895" means the Bognor Pier Order 1895;
  - "The Orders of 1893 and 1895" mean the Order of 1893 and the Order of 1895;
  - 20 "The existing pier" means and includes the existing pier at Bognor and the works connected therewith which have been constructed by and immediately before the commencement of this Order were vested in and belonged to the council under and by virtue of the Order of 1893 and the Order of 1895;
  - 25 "The pier" means and includes the existing pier and the works authorised by this Order.

*Undertakers.*

4. The Company shall be the undertakers for carrying this Order into execution. Undertakers.
- 30 5. From and after the commencement of this Order the existing pier shall as from the 1st August 1908 (herein-after called "the date of transfer") be deemed to have been transferred to and vested in the Company and the Company shall accordingly be entitled to sue for receive retain and hold for its own benefit all rates charges and revenue to which under the Orders of 1893 and 1895 or either of them the council has since the date of transfer become entitled and shall undertake discharge and keep the council indemnified against all debts and liabilities of the council (if any) incurred since the date of transfer in relation to or in respect of the existing pier. Transfer and vesting of existing pier.

A.D. 1909. 6. Subject to the provisions of this Order nothing in this Order  
*Bognor.* contained shall prejudice or affect any right or cause of action or suit  
 Saving rights of action. or any remedy with respect to the existing pier which has arisen since  
 the date of transfer but every such right cause and remedy may be  
 enforced and prosecuted by or against the Company in like manner 5  
 and within the same period of time as the same might have been  
 enforced and prosecuted by or against the council if this Order had  
 not been made and confirmed.

*Acquisition of Lands.*

Incorporation of Lands 7. The Lands Clauses Acts (except so much thereof as relates to 10  
 Clauses Acts. the purchase and taking of lands otherwise than by agreement and  
 to the entry upon lands by the promoters of the undertaking) are  
 hereby incorporated with this Order and for the purposes of that  
 incorporation the term "special Act" in those Acts shall mean this  
 Order. 15

Power to take 8. For the purposes of the works authorised by this Order the  
 lands by agreement. Company may purchase by agreement and use all or such parts of the  
 lands and foreshore shown on the plan deposited for the purposes of this  
 Order as they may think requisite for the purposes of those works.

Lands for 9. The Company may (in addition to the lands by the last preceding 20  
 extraordinary purposes. section authorised to be taken by them) purchase by agreement and hold  
 for extraordinary purposes any lands not exceeding in the whole two  
 acres but nothing in this section shall exempt the Company from any  
 proceedings for nuisance caused or permitted by them on land acquired  
 by them under the power conferred by this section. 25

Power to take 10. Persons empowered by the Lands Clauses Acts to sell and  
 easements by agreement. convey or release lands may if they think fit subject to the provisions  
 of those Acts and this Order grant any easement right or privilege (not  
 being an easement right or privilege of water in which other persons  
 than the grantors have an interest) required for the purposes of this 30  
 Order in over or affecting any such lands and the provisions of the said  
 Acts with respect to lands so far as the same are applicable in this  
 behalf shall extend and apply to such grants and to such easements  
 rights and privileges as aforesaid.

*Limits.*

35

Limits. 11. The limits within which the Company shall have authority and  
 within which the powers of the piermaster may be exercised shall com-  
 prise the pier and the works by this Order authorised and an area below  
 high-water mark within a distance of one hundred yards in any direction  
 from the centre of the pier head which limits are in this Order termed 40  
 "the limits of this Order."



[9 EDW. 7.] *Pier and Harbour Provisional Orders*  
(No. 2).

5

*Works and Powers.*

A.D. 1909.

*Bognor.*Maintenance  
and execu-  
tion of works.

12. The Company may maintain the pier and subject to the provisions of this Order and subject also to such alterations (if any) in the plan and sections deposited with reference to this Order as the Board  
5 of Trade may require or sanction before completion of the works the Company may on the lands belonging to them or acquired under this Order and in the lines and according to the levels and within the limits of deviation shown on the deposited plan and section make and maintain the works authorised by this Order.

10 13. The works authorised by this Order are—

Description  
of works.

(A) The extension of the existing pier in a seaward direction  
10 feet or thereabouts :

15 (B) The widening of the existing pier to a total width of 80 feet or thereabouts for a distance of 300 feet or thereabouts in a seaward direction from the commencement of the pier at the shore end thereof.

14. In constructing the works authorised by this Order the Company may with the consent in writing of the Board of Trade deviate laterally to any extent within the limits of deviation marked  
20 on the deposited plan and may with the like consent deviate vertically to any extent.

Power to  
deviate.

15.—(1) Subject to the provisions of this Order the Company may from time to time with the consent of the Board of Trade improve alter and extend the pier and may in connexion with the same re-  
25 spectively construct maintain alter and improve landing places jetties wharves buoys moorings lights beacons roads sewers drains watercourses mains pipes wires engines weighing machines and other works and apparatus and conveniences which may be found necessary for carrying on the business of the Company and for the accommodation of vessels  
30 and traffic and may also from time to time lay down and maintain rails tramways sidings and turntables on and along the pier and may connect sewers or drains from the pier with the drainage system of the council upon plans approved by the council and in case of dispute by an arbitrator appointed by the Board of Trade and may take supplies  
35 from persons supplying gas water electric light or power and carry out any works which may be necessary or incidental thereto.

Power to  
maintain and  
improve  
works.

(2) A line of rails or tramway constructed under the powers of this Order shall not be used for the public conveyance of passengers unless and until it has been inspected and certified by the Board of  
40 Trade to be fit for that use.

16. Any electric lighting electric power or other apparatus or machinery constructed provided or maintained under this Order shall be so constructed used and worked as to prevent any interference with

For pro-  
tection of  
Postmaster-  
General.

A.D. 1909. telegraphic communication by means of any telegraphic line belonging  
to or used by the Postmaster-General or any telephonic communication  
*Bognor.* by means of any apparatus of the National Telephone Company Limited.

Consent of Board of Trade to works. 17. No part of the works authorised by this Order below high-water mark shall be commenced without the consent in writing of the Board 5 of Trade and those works shall be executed only in accordance with the terms of such consent.

Penalty for obstructing works. 18. Any person who wilfully obstructs any person acting under the authority of the Company in setting out the lines of the works authorised by this Order or who pulls up or removes any poles or 10 stakes driven into the ground for the purpose of setting out the lines of those works shall for every such offence be liable to a penalty not exceeding five pounds.

Powers to cease in certain events. 19.—(1) If within two years from the commencement of this Order the works authorised by this Order are not substantially commenced 15 the powers given by this Order for executing those works or otherwise in relation thereto shall cease unless the time for the commencement of the works be extended by the special direction of the Board of Trade.

(2) If the works authorised by this Order after having been 20 substantially commenced are virtually suspended for twelve consecutive months the powers by this Order given for executing those works or otherwise in relation thereto shall cease except as to so much of those works as has then been completed unless those powers are by the special direction of the Board of Trade continued and directed to 25 remain in force for any period not exceeding five years from the commencement of this Order.

(3) In either of the above cases a certificate from the Board of Trade to the effect that the works have not been substantially commenced or that they have been virtually suspended for twelve consecutive months 30 shall for the purposes of this Order be conclusive evidence of the facts stated in such certificate.

Power to erect pavilions and other buildings. 20. The Company may construct and maintain on the pier and may furnish stock and equip and make such reasonable charges as they think fit for the use of and admission to fishing and bathing 35 platforms pavilions saloons assembly concert lecture waiting refreshment reading and other rooms automatic machines bicycle stands band stands shops bazaars kiosks skating rinks aquariums waterclosets urinals lavatories baths appliances machinery plant and other things necessary for manufacturing and supplying any kind of light to the pier and 40 the erections and buildings now thereon or to be erected or built thereon or added thereto and sanitary and other conveniences and may also construct under the pier and maintain and make such reasonable charges as they think fit for the use of and admission to floating swimming baths. 45



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(No. 2).

7

21.—(1) The Company may deepen dredge scour and excavate any portion of the foreshore and bed of the sea to the extent necessary to secure a sufficient water-way and approach to the pier for vessels using the same. A.D. 1909.  
Bognor.  
Power to dredge.

- 5 (2) All sand mud and other materials so dredged up or removed shall be the property of the Company and they may sell or otherwise dispose of or remove or deposit the same as they think fit Provided that no sand mud stone or other material shall be laid down or deposited in any place below high-water mark without the consent  
10 in writing of the Board of Trade having been first obtained.

(3) All money arising from any sale or other disposition of sand mud and other materials under this section after payment of the expenses connected therewith shall for the purposes of this Order be deemed to be income.

- 15 22. The Company may for the purposes of this Order provide purchase lease or hire such steam or other dredgers engines tugs lighters or other vessels diving bells tools plant or other materials as they may think fit and may demand and receive such reasonable sums for the use of the same as they may think fit or may sell or dispose  
20 of the same and the money realised by any sale thereof shall for the purposes of this Order be deemed to be capital. Power to purchase or hire dredgers &c.

23. The Company shall have the appointment of meters and weighers within the limits of this Order. Meters and weighers.

- 24.—(1) The byelaws which may from time to time be made by the Company in exercise of the power in that behalf conferred on them by section 83 of the Harbours Docks and Piers Clauses Act 1847 may provide for imposing a penalty not exceeding forty shillings for the breach or non-observance of any of the byelaws. Power to make bye-laws.

- (2) No byelaw shall come into operation until it has received the  
30 allowance and confirmation of the Board of Trade and that allowance and confirmation shall be sufficient for all purposes.

(3) Sections 84 and 85 of the Harbours Docks and Piers Clauses Act 1847 shall not be incorporated with this Order.

25. Nothing in this Order shall entitle any person with any vessel or boat to ship or unship at the pier any sheep cattle minerals goods or merchandise or to ship or unship there anything which in the judgment of the Company might in any manner interfere with the use of the pier for recreation or for the embarking or landing of passengers and their luggage and personal effects. Restriction on use of pier.

40 *Rates.*

26. Notwithstanding sections 25 and 26 of the Harbours Docks and Piers Clauses Act 1847 the Company may subject and according to Power to levy rates.

A.D. 1909.  
—  
*Bognor.*

the provisions of this Order forthwith after the commencement of this Order demand receive and recover for the use of the pier and the works and conveniences connected therewith and for services described in the schedule to this Order any rates not exceeding those specified in that schedule.

5

Power to  
vary exemp-  
tions and  
compound  
for rates.

27. The Company may confer vary or extinguish exemptions from and compound with any person with respect to the payment of rates or charges authorised by this Order but so that no preference be in any case given to any person over any other person using the works under the like circumstances and that anything done under this section shall not prejudice the other provisions of this Order.

10

Power to  
charge higher  
rates at cer-  
tain times.

28.—(1) Notwithstanding anything contained in this Order the Company may charge for every person entering upon and using the pier between the hours of 6 p.m. and 10 p.m. on any day on which a concert or other public entertainment (lasting for at least one and a half hours between the said hours of 6 p.m. and 10 p.m.) is held on the pier or in any pavilion building or room for the time being on the pier any sum not exceeding the sum mentioned in the schedule hereto.

15

(2) Any person who having already paid the ordinary charge for using the pier remains on the pier after 6 p.m. on any such day as in the preceding subsection mentioned shall have credit for the sum already paid by him and shall be liable in addition thereto to pay only the difference between the special charge and the sum already paid by him as aforesaid.

20

(3) The Company shall notwithstanding the progress of any concert or other public entertainment reserve a sufficient passage along the pier for all persons landing or embarking in accordance with this Order at the pier and that reserved passage shall be open for use by such persons at the ordinary charge and without payment of the special rate by this section authorised so long as they use the pier as a passage only and do not remain upon it.

25

30

(4) A copy of this section shall be exhibited in print at the entrance to the pier and in some conspicuous place or places on the pier.

Pass and  
family  
tickets.

29.—(1) The Company may grant to passengers and promenaders or others for the use of the pier (either exclusively or not of any building or room for the time being thereon) pass tickets or family tickets at such rates on such terms and for such periods not exceeding one year as the Company may think fit and may issue books containing any number of pass tickets at a reduced rate and day tickets available for one day or part of a day only but for any number of admissions on such day or part of a day at a reduced rate but so that no preference be given to any person.

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40

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(No. 2).

(2) The Company shall have power to prescribe the conditions on which family tickets are issued and the persons by whom such tickets may be used. A.D. 1909.  
*Bognor.*

(3) A pass ticket shall not be transferable and shall not be used by any person except the person to whom it is granted. No pass ticket or family ticket shall be used otherwise than in accordance with the conditions on which it is issued or after the period limited for its use.

(4) There shall be printed on every pass ticket and family ticket the terms and conditions upon and subject to which the same is issued.

(5) If any person wilfully and with intent to defraud acts in any way in contravention of the provisions of this section or uses or attempts to use any false or counterfeit ticket he shall for each offence be liable to a penalty not exceeding twenty shillings.

30.—(1) The Company may on any special occasions but not exceeding twelve days in any one year or for more than three days consecutively close the pier against the public and may if they think fit on such occasions admit any persons to the pier on payment of such special rates of admission not exceeding one shilling for each person as the Company may think fit. Power to close pier on special occasions.

(2) On all such occasions the Company shall reserve a sufficient passage along the pier from the landing steps to the shore for any persons landing or embarking at the pier the reserved passage to be open for use by those persons at the ordinary charge and without payment of any special rates so long only as they use the pier as a passage and do not remain upon it.

(3) The special rate charged under this section shall be in lieu of and not in addition to the rate specified in the schedule to this Order and any person paying the special rate shall not be liable to pay any further or other rate or sum for admission to the pier on the day for which the special rate is charged.

(4) The Company shall give notice of their intention to close the pier under this section by exhibiting the notice conspicuously at the entrance to the pier during at least two days before the day on which the pier is to be closed.

31. The Company may (so far as the rates specified in the schedule to this Order do not extend) demand and recover such rates or other consideration as they think reasonable for the use of any warehouses sheds buildings yards weighing machines mooring posts cranes buoys works and conveniences belonging to or provided by the Company or in respect of any services rendered by them in connexion with the pier. Rates for warehouses &c.

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*Bognor.*  
Certain fish-  
ing vessels  
under stress  
of weather  
exempt from  
rates.

32. Fishing vessels belonging to countries with which for the time being treaties exist exempting from duties and port charges those vessels when forced by stress of weather to seek shelter in the ports or on the coasts of the United Kingdom shall when forced by stress of weather to make use of the pier and not breaking bulk while making use thereof be exempt from rates leviable under this Order. 5

Exemption of  
lifeboat crew.

33. All persons going to or returning from any lifeboat or using any apparatus for saving life and being persons either belonging to the crew of the lifeboat or to the coastguard or being persons for the time being actually employed in saving life or in exercising or using the lifeboat or the apparatus for saving life and all persons brought ashore from any vessel in distress shall at all times have free ingress passage and egress to along and from the premises and works belonging to the Company. 10

Board of  
Trade may  
reduce rates.

34. If at any time the clear annual income derived from the pier on the average of the then three last preceding years after payment of all expenses and outgoings other than payments for principal in respect of money borrowed exceeds interest at the rate of ten pounds per centum per annum on the entire sum from time to time appearing to the Board of Trade to have been properly expended by the Company in purchasing constructing repairing and improving the pier including the works authorised by this Order the Board of Trade may if in their discretion they think fit reduce the rates leviable under this Order to such amounts as will be sufficient to provide the aforesaid interest at the rate of ten pounds per centum per annum and may again at any time raise the rates to any amount not exceeding the rates specified in the schedule to this Order. 15 20 25

Annual  
account to  
be sent to  
Board of  
Trade.  
25 & 26 Vict.  
c. 19.

35.—(1) The Company shall within one month after sending to the clerk of the peace the copy of their annual account in abstract send a copy of the same to the Board of Trade and the sixteenth section of the General Pier and Harbour Act 1861 Amendment Act shall apply to and include any such account. 30

(2) The account shall be made up to the end of thirty-first day of March in each year.

(3) The Company shall as from the expiration of that month be liable to a penalty not exceeding twenty pounds or every week or part of a week during which they refuse or neglect to comply with this section. 35

*Powers of Sale and Leasing.*

Power to sell.

36.—(1) The Company may (if authorised so to do by their memorandum and articles of association and subject to the powers and provisions thereof) with the previous consent in writing of and upon such terms conditions and restrictions as may be sanctioned by 40

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the Board of Trade sell their undertaking and the purchaser to the extent authorised by his conveyance shall have and may exercise all or any of the powers conferred upon the Company by this Order which the Company have or might exercise under this Order and  
5 shall be subject to all the liabilities and obligations to which the Company are subject and shall perform all the duties of the Company under this Order.

A.D. 1909.  
*Bognor.*

(2) The Company shall within one month after the date of any conveyance made under this section deposit a certified copy thereof  
10 respectively with the Board of Trade and shall as from the expiration of that month be liable to a penalty not exceeding twenty pounds for every week or part of a week during which they refuse or neglect to comply with this subsection.

37.—(1) The Company may with the previous consent in writing  
15 of and upon such terms conditions and restrictions and for such period as may be sanctioned by the Board of Trade lease to any company corporation or person (a) the entire undertaking of the Company or (b) the rates and other charges authorised to be taken by this Order.

Power to  
lease under-  
taking or  
rates.

(2) As from the date of any lease made under the last preceding  
20 subsection the lessee during the continuance of and to the extent provided in his lease shall have and may exercise all or any of the powers conferred upon the Company by this Order which the Company have or might exercise under this Order and shall be subject to all the liabilities and obligations to which the Company are subject and  
25 shall perform all the duties of the Company under this Order.

(3) No lease made under subsection 1 of this section shall be assignable without the previous consent in writing of the Board of Trade.

(4) The Company shall within one month after the date of any lease  
30 made under this section deposit a certified copy thereof respectively with the Board of Trade and shall as from the expiration of that month be liable to a penalty not exceeding twenty pounds for every week or part of a week during which they refuse or neglect to comply with this subsection.

(5) No lease made under this section shall be made in consideration or part consideration of any fine premium or other capital sum.

(6) Nothing in this section shall exempt the Company from their obligation to keep and render accounts and as from the date of any lease made under this section all the provisions of the Acts incorporated with  
40 this Order and of this Order as to the keeping delivery and audit of accounts shall apply to and be binding upon as well the lessees as the Company and all moneys received by the Company under or in respect of any such lease shall be deemed to be moneys levied by virtue of and income received under this Order.



A.D. 1909. 38. The Company may let for hire or lease for any term not exceeding seven years any pavilion rooms shops baths sheds warehouses or other buildings separately from any other part of the undertaking to any company corporation or person upon such terms pecuniary or otherwise and under such restrictions and conditions as they think fit.

*Bognor.*  
Power to  
lease pavilions &c.

*Life-saving Apparatus.*

Provision for  
life-saving  
apparatus.

39.—(1) Sections 16 to 19 inclusive of the Harbours Docks and Piers Clauses Act 1847 shall not be incorporated with this Order.

(2) The Company shall whenever required by the Board of Trade provide at their own expense and to the satisfaction of the Board of Trade a site on or near the pier and build on that site a house or other proper accommodation for a rocket apparatus and other life-saving apparatus.

(3) If the Company fail to comply with this section they shall be liable to a penalty not exceeding ten pounds for every month during which the failure continues.

Life-saving  
apparatus  
may be  
attached to  
pier.

40. The officers of the coastguard and all other persons for the time being actually employed in connexion with the lifeboat or the apparatus for saving life may either permanently or temporarily without payment attach or cause to be attached to any part of the pier spars and other apparatus for saving life and may also either in course of using or of exercising the apparatus for saving life fire rockets over the pier.

Lifebuoys to  
be kept.

41. The Company shall at all times keep at convenient places on the pier and in obedience to any requirements which may be made by the Board of Trade lifebuoys and lifelines in good order and fit and ready for use.

*Lights.*

Lights during  
construction  
of works.

42.—(1) Before commencing the works authorised by this Order the Company shall apply to the Board of Trade for directions as to the lights to be exhibited and other means to be taken for preventing danger to navigation and shall in all respects obey any directions given upon that application or afterwards from time to time given as to the like matters by the Board of Trade during the construction of the works and compliance with the directions so given shall satisfy and be in place of every other statutory requirement as to lights during the construction of the works.

(2) The Company shall be liable to a penalty not exceeding ten pounds for every day during which they omit so to apply or refuse or neglect to observe or comply with any directions so given.

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13

43.—(1) The Company shall at the outer extremity of the pier or the completed portions thereof or in such other places as may be required exhibit from sunset to sunrise and according to the requirements of the traffic and the season of the year such lights (if any) and shall take such other steps for the prevention of danger to navigation as shall from time to time be directed by the Corporation of Trinity House Deptford Strond and shall apply to that Corporation for such directions.

A.D. 1909.

*Bognor.*

Lights after completion of works.

(2) The Company shall be liable to a penalty not exceeding ten pounds for every day during which they omit so to apply or refuse or neglect to observe or comply with any such direction.

44.—(1) In case of injury to or destruction or decay of the pier or any part thereof the Company shall lay down such buoys exhibit such lights or take such other means for preventing (as far as may be) danger to navigation as may from time to time be directed by the Corporation of Trinity House Deptford Strond and shall apply to that Corporation for directions as to the means to be taken.

As to buoys and lights in case of decay of works.

(2) The Company shall be liable to a penalty not exceeding ten pounds for every day during which they omit so to apply or refuse or neglect to observe or comply with any such directions.

*Miscellaneous.*

45. For all the purposes of the Harbours Docks and Piers Clauses Act 1847 this Order shall be deemed the special Act.

Application of Harbours Clauses Act 10 &amp; 11 Vict. c. 27.

46. All penalties under this Order shall be recovered and applied as penalties are recoverable and applicable under the Harbours Docks and Piers Clauses Act 1847.

Recovery of penalties.

47. Sections 28 and 99 of the Harbours Docks and Piers Clauses Act 1847 as incorporated with this Order shall apply to and for the benefit of any Government department in the same manner as they apply to and for the benefit of the Government departments specially named in those sections.

Exemptions and savings for Government departments.

48. Nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the

Crown rights.

A.D. 1909. case may be on behalf of His Majesty first had and obtained for that  
Bognor. purpose (which consent the said Commissioners and Board are hereby  
respectively authorised to give).

Works to be 49. The works authorised by this Order shall be deemed to be  
in parish of for all purposes within the parish and urban district of Bognor in 5  
Bognor. the county of Sussex.

Repeal of 50.—(1) The Orders of 1893 and 1895 are hereby repealed.  
Orders and  
byelaws. (2) Notwithstanding that repeal any byelaws made under the powers  
of those Orders or either of them and in force at the commencement  
of this Order shall continue in force for one year from the commencement 10  
of this Order but shall then cease to have effect and be repealed.

(3) The repeal of the said byelaws shall not affect any penalty  
forfeiture or punishment in respect of any offence against those byelaws  
committed before the date on which those byelaws cease to have effect  
and are repealed. 15

Costs of 51. The costs charges and expenses of and incident to the preparing  
Order. and obtaining of this Order and otherwise incurred in reference thereto  
shall be paid as to the sum of three hundred pounds by the council  
out of the district fund or the general district rate and as to the  
remainder thereof by the Company. 20

### The SCHEDULE to which the foregoing Order refers.

#### I.—RATES ON VESSELS USING THE PIER.

|                                                               |   |    |    |    |
|---------------------------------------------------------------|---|----|----|----|
| For every vessel not exceeding the burden of 15 tons per      | £ | s. | d. |    |
| ton register - - - - -                                        | 0 | 0  | 4  |    |
| For every vessel exceeding the burden of 15 tons and under    |   |    |    | 25 |
| 50 tons per ton register - - - - -                            | 0 | 0  | 6  |    |
| For every vessel of the burden of 50 tons and under 100 tons  |   |    |    |    |
| per ton register - - - - -                                    | 0 | 0  | 8  |    |
| For every vessel of the burden of 100 tons and under 150 tons |   |    |    |    |
| per ton register - - - - -                                    | 0 | 0  | 10 | 30 |
| For every vessel of the burden of 150 tons and upwards per    |   |    |    |    |
| ton register - - - - -                                        | 0 | 1  | 0  |    |
| All lighters for each trip - - - - -                          | 0 | 0  | 6  |    |
| All boats of steamers or yachts using the pier for taking in  |   |    |    |    |
| stores and provisions - - - - - each                          | 0 | 0  | 6  | 35 |



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(No. 2).

II.—RATES FOR USE OF PIER.

|    |                                                                                                                                                                                                 |   |    | A.D. 1909. |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|------------|
|    |                                                                                                                                                                                                 | £ | s. | d.         |
|    | For every master of any vessel boat or wherry using the pier for the purpose of going to or returning from his own vessel boat or wherry an annual sum not exceeding                            | - | 0  | 10 0       |
| 5  | Or if the annual sum is not paid for each and every time                                                                                                                                        | - | 0  | 0 1        |
|    | For every passenger or other person who shall land on or embark from it on board of any ship vessel packet or passage boat for each and every time any sum not exceeding                        | - | 0  | 0 4        |
| 10 | For every person who shall use the pier for the purpose of walking for exercise pleasure or any other purpose except of embarking or disembarking for each and every time any sum not exceeding | - | 0  | 0 3        |
| 15 | For every person using the pier under the section whereof the marginal note is "Power to charge higher rates at certain times" for each time any sum not exceeding                              | - | 0  | 0 6        |
|    | For every bath or sedan chair (including the person in charge or carriers) taken on the pier for each and every time any sum not exceeding                                                      | - | 0  | 0 6        |
| 20 | For every perambulator including the person in charge for each and every time any sum not exceeding                                                                                             | - | 0  | 0 3        |
|    | For every four-wheeled carriage taken on pier                                                                                                                                                   | - | 0  | 4 0        |
|    | For every two-wheeled carriage taken on pier                                                                                                                                                    | - | 0  | 2 6        |
|    | For every bicycle or tricycle taken on pier for each and every time                                                                                                                             | - | 0  | 0 3        |
| 25 | For every person using the pier for bathing purposes                                                                                                                                            | - | 0  | 0 6        |

III.—RATES ON PASSENGERS' LUGGAGE LANDED SHIPPED OR TRANSHIPPED AT THE PIER.

|    |                                                                                                                                          |   |   |     |
|----|------------------------------------------------------------------------------------------------------------------------------------------|---|---|-----|
| 30 | For every trunk portmanteau box parcel or package within the description of luggage and not borne by the passenger not exceeding 28 lbs. | - | 0 | 0 2 |
|    | Over 28 lbs. and not exceeding 56 lbs.                                                                                                   | - | 0 | 0 3 |
|    | Over 56 lbs. and not exceeding 84 lbs.                                                                                                   | - | 0 | 0 4 |
|    | Over 84 lbs. and not exceeding 112 lbs.                                                                                                  | - | 0 | 0 5 |
| 35 | Over 112 lbs. and not exceeding 140 lbs.                                                                                                 | - | 0 | 0 6 |
|    | Over 140 lbs. and not exceeding 196 lbs.                                                                                                 | - | 0 | 0 7 |
|    | Over 196 lbs. and not exceeding 2 cwt.                                                                                                   | - | 0 | 0 8 |
|    | And for every cwt. beyond                                                                                                                | - | 0 | 0 4 |
|    | And for every 20 lbs. weight in addition                                                                                                 | - | 0 | 0 1 |

A.D. 1909.

## HERNE BAY PIER.

*Herne Bay. Provisional Order for the transfer of the undertaking of the Herne Bay Pier Company Limited to the Urban District Council of Herne Bay and for other purposes in connexion therewith.*

## Preliminary.

5

Short title  
and com-  
mencement.

1.—(1) This Order may be cited as the Herne Bay Pier Order 1909.

(2) This Order shall come into force upon the day when the Act confirming this Order is passed and that day is in this Order referred to as “the commencement of this Order.”

10

Definitions.

2. In this Order the following words and expressions shall unless the context otherwise requires have the meanings herein-after assigned to them namely :—

“The Council” means the Urban District Council of the Urban District of Herne Bay ;

15

“The company” means the Herne Bay Pier Company Limited ;

“The date of transfer” means the thirtieth day of September one thousand nine hundred and nine ;

“The Order of 1891” means the Herne Bay Pier Order 1891 ;

“The Order of 1896” means the Herne Bay Pier Order 1896 ;

20

“The Order of 1903” means the Herne Bay Pier Order 1903 ;

“The Orders of 1891 to 1903” means the Orders aforesaid ;

“The pier” means the existing pier and works of the company (including therein all buildings and tramways as defined by section 11 of the Order of 1891) and includes the works authorised by this Order ;

25

“The works” means the works authorised by this Order ;

“The pier undertaking” means and includes the pier and the assets and undertaking of the company comprised in the purchase agreement herein-after mentioned and also all the right to levy rates tolls and other charges and all other rights conferred on the Council by this Order and the entire undertaking of the Council in connexion with the pier ;

30

“The pier revenue” means the pier revenue as defined in the section of this Order of which the marginal note is “Application of pier revenue.”

35

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(No. 2).

*Undertakers.*

A.D. 1909.

3. The Council shall be the undertakers for carrying this Order into execution and shall have and may exercise the powers privileges and authorities conferred by this Order and the Orders of 1891 to 1903. *Herne Bay. Undertakers.*

5

*Transfer.*

4.—(1) The agreement dated the 5th day of November 1908 and made between Frederick William Wachter of the one part and the Council of the other part (a copy of which is set forth in the First Schedule to this Order) is hereby confirmed and made binding on the parties thereto respectively and the same may and shall be carried into effect accordingly. *Transfer of pier and undertaking of company.*

10

(2) The said agreement is in this Order called "the purchase agreement."

(3) Subject to the provisions of this Order and of the purchase agreement the pier and the undertaking of the company shall as from the date of transfer be vested in and may be maintained by the Council and the Orders of 1891 to 1903 so far as the same are not by this Order repealed shall apply and have effect as if the Council had been referred to therein in lieu of the company.

15

5. Subject as herein-after provided the company may assign and the Council may accept an assignment of all or any leases licences or consents granted to the company by the Commissioners of Woods the Secretary of State for War the Admiralty or the Board of Trade or any other public or other authority body or person and the Council may accept and hold renewals of any such leases licences or consents and may accept and hold new and further leases licences or consents from any such authority body or person as aforesaid in respect of any lands or property comprised in any existing lease licence or consent or any other lands or property or otherwise. *Power to Council to accept leases.*

25

6. Subject to the provisions of this Order nothing in this Order contained shall be held to prejudice or affect any right or cause of action or suit or any remedy which the company have against any person or which any person has against the company but all such rights causes and remedies may be enforced or prosecuted by or against the company as if this Order had not been made. *Saving rights of action.*

30

7. All documents books maps plans writings papers and effects belonging to or vested in the company evidencing the title of the company to the pier and the undertaking of the company or of any part thereof or which may be necessary or convenient for the proper carrying on and working of the pier and the undertaking of the company by the Council and shall not be needed by the company in order to carry on or wind up their business shall be transferred to and belong to the Council. *Documents &c. to be transferred.*

40

A.D. 1909.

*Acquisition of Lands.*

*Herne Bay.*  
Incorporation of Lands  
Clauses Acts.

8. The Lands Clauses Acts (except section 127 of the Lands Clauses Consolidation Act 1845 and so much of those Acts as relates to the purchase and taking of lands otherwise than by agreement and to the entry upon lands by the promoters of the undertaking) are hereby 5 incorporated with this Order and for the purpose of that incorporation the term "special Act" in those Acts shall mean this Order.

Lands may be  
acquired by  
agreement.

9. The Council may by agreement purchase or take on lease for the purposes of the pier and of this Order any additional lands which the Council may deem requisite or convenient not exceeding two 10 acres and any easements rights and interests in over or affecting such lands.

Power to  
grant ease-  
ments &c. by  
agreement.

10. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Order grant to the Council any easement 15 right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Order in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to 20 such grants and to such easements rights and privileges as aforesaid respectively.

Power to  
retain and  
sell lands.

11. Notwithstanding anything in the Lands Clauses Acts or in any other Act or Acts to the contrary the Council may retain hold and use for such time as they may think fit or may sell let lease exchange or 25 otherwise dispose of in such manner and for such consideration and purpose and on such terms and conditions as they may think fit and in case of sale either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands and premises or any interest 30 therein vested in them or acquired by them under this Order and may sell exchange or dispose of any rents reserved on the sale exchange lease or other disposition of such lands and premises and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give 35 or take any money for equality of exchange.

*Limits.*

Limits.

12.—(1) The limits within which the Council shall have authority and within which the powers of the pier master may be exercised shall comprise the pier and the area below high-water mark within a distance 40 of one hundred and fifty yards from any part of the pier which limits are in this Order termed "the limits of this Order."

(2) The limits within which the power to levy rates may be exercised shall comprise the pier and are in this Order called "the rating limits."

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*Works and Powers.*

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Power to construct works.

13. Subject to the provisions of this Order and subject also to such alterations (if any) in the plans and sections deposited with reference to this Order as the Board of Trade may require before the  
5 completion of the works the Council may on the lands and in the lines and according to the levels shown on the said plans and sections and within the limits shown on those plans make and maintain the following works :—

10 Work A A widening and extension of the existing pier on both sides of the pier head commencing at the northern end of the pier head and terminating at a point 10 yards or thereabouts from such end measured in a northerly direction from such end :

15 Work B An extension of the existing pier on both sides thereof at or near Shore End Bay commencing at the pier entrance and terminating at a point 210 yards or thereabouts measured in a northerly direction from such pier entrance.

The works and all necessary conveniences connected therewith will be situate at and in the parish and urban district of Herne Bay and on the foreshore and bed of the sea adjoining thereto all in the county  
20 of Kent.

Works A and B will be constructed as open works throughout.

14. In constructing the works the Council may with the consent in writing of the Board of Trade deviate laterally to any extent within the limits of deviation marked on the deposited plans and may with  
25 the like consent deviate vertically to any extent from the levels shown in the deposited sections.

Power to deviate.

15.—(1) Subject to the provisions of this Order the Council may maintain and improve the pier and the works and in connexion therewith may from time to time construct erect maintain alter and improve  
30 all necessary embankments walls locks docks gates sluices piers quays wharves jetties landing-places railways tramways cattle-pens warehouses refreshment or other buildings and rooms roads approaches offices sheds coal-tips staiths bridges cranes weighing-machines engines electric and other apparatus and machinery moorings hawsers buoys lights water  
35 pipes and other works and conveniences Provided that no line of rails or tramway constructed under the powers of this Order shall be used for the public conveyance of passengers unless and until the same shall have been inspected and certified by the Board of Trade to be fit for such traffic.

Improvement and maintenance of pier and works.

40 (2) Sections 5 and 6 of the Order of 1896 shall apply to any works improved constructed maintained or used under this section in like manner as if the same were constructed or used under the powers conferred by the Order of 1891.



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(3) The Council may with the previous consent in writing of the Board of Trade from time to time construct remove alter and improve groynes so as to prevent the pier and foreshore from being damaged or injured by the movement of shingle or otherwise.

(4) Any electric and other apparatus and machinery constructed erected or maintained under this Order shall be so constructed erected maintained and worked as to prevent any interference with telegraphic communication by means of any telegraphic line belonging to or used by the Postmaster General. 5

Penalty for  
injuring  
works.

16. Every person who wilfully obstructs any person acting under the authority of the Council or who pulls up or removes any buoys moorings poles posts lights beacons or other conveniences shall for every offence be liable on conviction to a penalty not exceeding five pounds and shall in addition be liable to repay to the Council any expenses incurred by them in making good such damage. 10 15

Powers to  
cease in cer-  
tain events.

17.—(1) If within two years from the commencement of this Order the works are not substantially commenced the powers given by this Order for executing the works or otherwise in relation thereto shall cease unless the time for commencement is extended by the special direction of the Board of Trade. 20

(2) If the works after having been substantially commenced are virtually suspended for twelve consecutive months the powers given by this Order for executing the works or otherwise in relation thereto shall cease except as to so much of the works as is then completed unless those powers are by the special direction of the Board of Trade continued and directed to remain in force for any period not exceeding five years from the commencement of this Order. 25

(3) In either of the above cases a certificate from the Board of Trade to the effect that the works have not been substantially commenced or that they have been virtually suspended for twelve consecutive months shall for the purposes of this Order be conclusive evidence of the facts stated in that certificate. 30

Consent of  
Board of  
Trade to  
works below  
high-water  
mark.

18. No part of the works below high-water mark shall be commenced without the consent in writing of the Board of Trade having been previously obtained and those works shall be executed only in accordance with the terms of such consent. 35

Power to  
dredge.

19.—(1) The Council may with the consent of the Board of Trade deepen dredge scour and excavate any portion of the foreshore and bed of the sea to the extent necessary to secure a sufficient waterway and approach to the pier head for vessels using the same. 40

(2) All sand mud and materials dredged up under the powers contained in subsection (1) of this section shall be the property of the Council who may from time to time sell or otherwise dispose of the

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same or remove or deposit the same as they may think fit Provided **A.D. 1909.**  
that no sand mud or other materials shall be laid down or deposited **Herne Bay.**  
in any place below high-water mark without the consent in writing of  
the Board of Trade having been first obtained.

5 (3) All money arising from any sale or other disposition of sand  
mud and other materials under this section after payment of the expenses  
connected therewith shall be applied in the same manner as the pier  
revenue.

20. The Council may provide purchase take on lease hire and use **Power to**  
10 such steam or other dredgers eroders engines lighters or other vessels **purchase**  
machinery and apparatus as they may think necessary for effecting the **dredgers &c.**  
purposes of this Order and may let the same on hire for such sums and  
upon and subject to such terms and conditions as they may think fit  
or may sell or dispose of the same All sums received in respect of any  
15 such letting on hire shall be deemed to form part of the pier revenue  
and all moneys realised by any such sale shall be deemed to be money  
received on capital account within the meaning of the section of this  
Order of which the marginal note is "Proceeds of sale of surplus lands  
to be treated as capital" and be dealt with and applied in the manner  
20 provided by that section.

21. The Council may erect construct and maintain upon the pier **Power to**  
and upon any lands acquired by or leased to them under the powers **provide pavi-**  
of this Order and may furnish stock and equip pavilions or assembly **lions &c.**  
rooms concert rooms reading and refreshment rooms kiosks shops  
25 shelters winter gardens automatic machines urinals and other conve-  
niences and open or covered sea-water swimming and other baths with  
all necessary conveniences and appliances and may make such reasonable  
charges as they may think fit for the use thereof or for admission thereto  
in addition to the authorised charges for passengers and promenaders  
30 using the pier.

22. The Council shall have the appointment of meters and weighers **Meters and**  
within the limits of this Order. **weighers.**

*Rates.*

23.—(1) Sections 25 and 26 of the Harbours Docks and Piers **Power to**  
35 Clauses Act 1847 shall not be incorporated with this Order. **levy rates.**

(2) As from the date of transfer the Council may subject and  
according to the provisions of this Order demand recover and receive  
for the use of the pier in respect of the vessels persons animals fish  
goods matters and things in the Second Schedule to this Order any sums  
40 not exceeding the rates specified in that schedule.

24. The Council may confer vary or extinguish exemptions from **Power to**  
and compound with any person with respect to the payment of rates or **vary exemp-**  
charges authorised by this Order but so that no preference be in any **tions and**  
**compound**  
for rates.

A.D. 1909. case given to any person over any other person using the works under  
*Herne Bay.* the like circumstances and that anything done under this section shall  
 not prejudice the other provisions of this Order.

Power to sell. 25.—(1) At any time after the works have been completed the  
 Council may with the previous consent in writing and upon such terms 5  
 conditions and restrictions as may be sanctioned by the Board of Trade  
 sell the pier undertaking and the purchaser to the extent authorised by  
 his conveyance shall have and may exercise all or any of the powers  
 conferred upon the Council by this Order which the Council have or  
 might exercise under this Order and shall be subject to all the liabilities 10  
 and obligations to which the Council are subject and shall perform all  
 the duties of the Council under this Order.

(2) The Council shall within one month after the date of any  
 conveyance made under this section deposit a certified copy thereof  
 respectively with the Board of Trade and shall as from the expiration of 15  
 that month be liable to a penalty not exceeding twenty pounds for every  
 week or part of a week during which they refuse or neglect to comply  
 with this subsection.

Power to  
 lease under-  
 taking or  
 rates. 26.—(1) The Council may with the previous consent in writing of  
 and upon such terms conditions and restrictions and for such period as 20  
 may be sanctioned by the Board of Trade lease to any company cor-  
 poration or person (A) the pier undertaking or (B) the rates and other  
 charges authorised to be taken by this Order.

(2) As from the date of any lease made under the last preceding  
 subsection the lessee during the continuance of and to the extent 25  
 provided in his lease shall have and may exercise all or any of the  
 powers conferred upon the Council by this Order which the Council  
 have or might exercise under this Order and shall be subject to all the  
 liabilities and obligations to which the Council are subject and shall  
 perform all the duties of the Council under this Order. 30

(3) No lease made under subsection 1 of this section shall be  
 assignable without the previous consent in writing of the Board of  
 Trade.

(4) The Council shall within one month after the date of any lease  
 made under this section deposit a certified copy thereof respectively with 35  
 the Board of Trade and shall as from the expiration of that month be  
 liable to a penalty not exceeding twenty pounds for every week or part  
 of a week during which they refuse or neglect to comply with this  
 subsection.

(5) No lease made under this section shall be made in consideration 40  
 or part consideration of any fine premium or other capital sum.

(6) Nothing in this section shall exempt the Council from their  
 obligation to keep and render accounts and as from the date of any lease  
 made under this section all the provisions of the Acts incorporated with



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this Order and of this Order as to the keeping and delivery of accounts shall apply to and be binding upon as well the lessees as the Council and all moneys received by the Council under or in respect of any such lease shall be deemed to be moneys levied by virtue of and income  
5 received under this Order.

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27. The Council may let for hire or lease for any term not exceeding seven years any pavilions rooms shops baths sheds warehouses or other buildings separately from any other part of the undertaking to any company corporation or person upon such terms pecuniary or otherwise  
10 and under such restrictions and conditions as they think fit.

Power to  
lease pavi-  
lions &c.

28. The Council may (so far as the rates specified in the schedule to this Order do not extend) demand and recover such rates or other consideration as they think reasonable for the use of any warehouses sheds buildings yards weighing machines mooring posts cranes buoys  
15 works and conveniences belonging to or provided by the Council or in respect of any services rendered by them in connexion with the pier.

Rates for  
warehouses  
&c.

29. If at any time and from time to time the clear annual income derived from the pier on the average of the then three last preceding years after payment of all expenses and outgoings in connexion with the  
20 pier other than payments of interest and of instalments of principal and contributions to sinking funds shall exceed interest at the rate of ten per centum per annum on the entire sum from time to time appearing to the Board of Trade to have been expended by the Council for the purchase of or on the pier and the reconstruction thereof the Board of  
25 Trade may if in their discretion they think fit reduce the rates leviable under this Order to such extent as will be sufficient to provide the amount aforesaid and such rates shall thereupon be reduced accordingly but with power to the Board of Trade at any time and from time to time to raise them again to sums not exceeding those authorised by  
30 this Order.

Board of  
Trade may  
reduce rates.

30. Fishing vessels belonging to countries with which for the time being treaties exist exempting from duties and port charges those vessels when forced by stress of weather to seek shelter in the ports or on the coast of the United Kingdom shall when forced by stress of weather to  
35 make use of the pier and not breaking bulk while making use thereof be exempt from rates leviable under this Order.

Certain fish-  
ing vessels  
under stress  
of weather  
exempt from  
rates.

31. All persons going to or returning from any lifeboat or using any apparatus for saving life and being persons either belonging to the crew of the lifeboat or to the coastguard or being persons for the time  
40 being actually employed in saving life or in exercising or using the lifeboat or the apparatus for saving life and also all persons brought ashore from any vessel in distress shall at all times have free ingress passage and egress to or along and from the pier without payment.

Lifeboat  
crew exempt  
from tolls.

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Pass tickets  
for use of  
pier.

32.—(1) The Council may grant to passengers and promenaders or others for the use of the pier (either exclusively or not of any building or room for the time being thereon) pass tickets or family tickets at such rates on such terms and for such periods not exceeding one year as they may think fit or may issue books containing any number of tickets at a reduced rate but so that no preference be given to any person. 5

(2) The Council may prescribe the conditions on which pass tickets or family tickets or books of tickets are issued and the persons by whom those tickets may be issued.

(3) A pass ticket shall not be transferable and shall not be used by any person except the person to whom it is granted. A pass ticket family ticket or book of tickets shall not be used otherwise than in accordance with the conditions on which it is issued or after the period limited for its use. 10

(4) There shall be printed on every pass ticket and family ticket the conditions on which the same is issued. 15

(5) If any person wilfully and with intent to defraud acts in any way in contravention of the provisions of this section or uses or attempts to use any false or counterfeit ticket he shall for each offence be liable to a penalty not exceeding twenty shillings. 20

Power to  
close pier on  
special occasions.

33.—(1) The Council may on any special occasion but not exceeding twelve days in one year or for more than three days consecutively close the pier against the public and may if they think fit on such occasions admit any persons to the pier on payment of such special rates of admission not exceeding one shilling for each person as the Council may think fit. 25

(2) On all such occasions the Council shall reserve a sufficient passage along the pier from the landing steps to the shore for any persons landing or embarking at the pier the reserved passage to be open for use by those persons at the ordinary charge and without payment of any special rates so long only as they use the pier as a passage and do not remain upon it. 30

(3) The special rate charged under this section shall be in lieu of and not in addition to the rate specified in the Second Schedule to this Order and any person paying the special rate shall not be liable to pay any further or other rate or sum for admission to the pier on the day for which the special rate is charged. 35

(4) The Council shall give notice of their intention to close the pier under this section by exhibiting the notice conspicuously at the entrance to the pier during at least two days before the day on which the pier is to be closed. 40

Power to  
contribute to  
entertain-  
ments.

34. The Council may from time to time out of the pier revenue provide and pay for or contribute towards the payment of bands of

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music concerts or other entertainments on the pier or in the pavilions or other buildings thereon and subscribe towards the funds of any regatta or fête held in the immediate vicinity of the pier. A.D. 1909.  
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*Finance.*

- 5 35.—(1) The Council may independently of any other borrowing power from time to time borrow at interest not exceeding five per centum per annum— Power to borrow.
- 10 (A) for the construction of the work (A) authorised by this Order any sum or sums not exceeding in the whole seven thousand pounds ;
- (B) for the construction of the work (B) authorised by this Order any sum or sums not exceeding in the whole eleven thousand pounds ;
- 15 (C) for carrying the purchase agreement into effect the sum of six thousand pounds ;
- (D) for the construction of a pavilion and concert room on the pier any sum or sums not exceeding in the whole two thousand pounds ;
- 20 (E) with the consent of the Board of Trade such further sum or sums as may from time to time be required for any of the purposes of this Order ; and
- (F) such sum as may be required for the payment of the costs charges and expenses of this Order.
- 25 (2) In order to secure the repayment of money borrowed for the purposes mentioned in this section and the payment of interest thereon the Council may mortgage or charge as well the district fund and the general district rate as the pier revenue.
- 30 36. All moneys borrowed by the Council under this Order shall be repaid within the respective periods following (in this Order referred to as "the prescribed periods") (that is to say):— Periods for repayment of money borrowed.
- (A) As to the money borrowed for the purposes (A) mentioned in the last preceding section of this Order within twenty years from the date of borrowing the same :
- 35 (B) As to the money borrowed for the purposes (B) mentioned in the same section within forty years from the date of borrowing the same :
- (C) As to the money borrowed for the purposes (C) mentioned in the same section within thirty years from the date of borrowing the same :
- 40 (D) As to the money borrowed for the purposes (D) mentioned in the same section within fifteen years from the date of borrowing the same :
- (89.) D

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(E) As to the money borrowed with the consent of the Board of Trade within such period as that Board may prescribe:

(F) As to the money borrowed for the purpose (F) mentioned in the last preceding section within five years from the commencement of this Order.

5

Provisions of  
Public  
Health Act  
as to mort-  
gages to  
apply.

37.—(1) The following sections of the Public Health Act 1875 shall extend and apply to mortgages granted under this Order (that is to say):—

Section 236 (Form of mortgage):

Section 237 (Register of mortgages):

10

Section 238 (Transfer of mortgages):

Section 239 (Receiver may be appointed in certain cases).

(2) A person lending money to the Council shall not be concerned to enquire as to the observance by them of any provisions of this Order or be bound to see to the application or be answerable for any loss misapplication or non-application of the money lent.

15

Mode of  
payment off  
of moneys  
borrowed.

38. The Council shall pay off all moneys borrowed by them on mortgage under the powers of this Order either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by such instalments and partly by a sinking fund and the payment of the first instalment or the first payment to the sinking fund shall be made within twelve months if by yearly repayments or within six months if by half-yearly repayments after the date of borrowing the sum in respect of which the payment is made.

25

Sinking fund.

39.—(1) If the Council determines to repay by means of a sinking fund any moneys borrowed under this Order the Council in every year shall appropriate and set apart out of the pier revenue and the district fund and the general district rate such equal annual sums as will with the accumulations thereof by way of compound interest at a rate not exceeding three pounds per centum per annum (herein-after in this section referred to as "the prescribed rate") be sufficient to pay off the principal moneys borrowed within the period by this Order or by the Board of Trade in pursuance of this Order prescribed for the repayment thereof respectively.

35

(2) The yearly sums so appropriated and set apart shall be invested from time to time and accumulated in the way of compound interest by investing the same and the dividends interest and annual income thereof respectively in any security in which trustees are by law authorised to invest or in mortgages stocks debentures or other securities issued by any local authority as defined in section 34 of the Local Loans Act 1875 (other than securities of the Council and securities transferable by delivery).

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- (3) The Council may at any time apply the whole or part of the sinking fund in or towards the repayment of the borrowed moneys for the repayment of which it was set aside in such order and manner as they deem proper. Provided that in such case they pay into such  
5 sinking fund in each year afterwards and accumulate as herein-before prescribed until the whole of such borrowed moneys are discharged a sum equal to the interest produced by the sinking fund or the part thereof so applied at the rate per centum per annum on which the equal annual payments to the sinking fund are based.
- 10 (4) If and so often as the income of the sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the prescribed rate any deficiency shall be made good by the Council.
- (5) If and so often as the income of the sinking fund is in excess  
15 of the income which would be derived from the amount invested if the same were invested at the prescribed rate 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  
20 this Order shall be paid by the Council in addition to the payments provided for by this Order.
- (7) If it appears to the 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 will  
25 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 Council to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose. Provided that if it appears to the Local Government Board  
30 that any such increase is necessary the Council shall increase the payments to such extent as that Board may direct.
- (8) If the Council desire to accelerate the repayment of any loan they may increase the amounts payable to the sinking fund created to meet that loan.
- 35 (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 will in the opinion of the Local Government Board be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the  
40 Council may reduce the payments to be made to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Local Government Board be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed.

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(10) If the amount in any sinking fund at any time together with the probable accumulations thereon will in the opinion of the Local Government Board be sufficient to repay the loan in respect of which it is formed within the prescribed period the Council may with the consent of that Board discontinue the annual payments to such sinking fund until the Local Government Board shall otherwise direct. 5

(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 Council with the consent of the Local Government Board may determine. 10

Return as to  
sinking fund  
&c. to be  
made to Local  
Government  
Board.

40.—(1) The clerk to the Council shall within twenty-one days after the thirty-first day of March in each year if during the twelve months next preceding the said thirty-first day of March any sum is required to be paid as an instalment or annual payment or to be appropriated or paid to a sinking fund in pursuance of the provisions of this Order or in respect of any money raised thereunder and at any other time when the Local Government Board may require such a return to be made transmit to the Local Government Board a return in such form as may be prescribed by that Board and if required by that Board verified by statutory declaration of the clerk to the Council showing for the year next preceding the making of such return or for such other period as the Board may prescribe the amounts which have been paid as instalments or annual payments and the amounts which have been appropriated and the amounts which have been paid to or invested or applied for the purpose of the sinking fund and the description of the securities upon which any investment has been made and the purposes to which any portion of the sinking fund or investment or of the sums accumulated by way of compound interest has been applied during the same period and the total amount (if any) remaining invested at the end of the year. 15 20 25

(2) The clerk to the Council in the event of any wilful default by him in making the return under this section shall for each offence be liable to a penalty not exceeding twenty pounds and that penalty shall be paid to the Local Government Board and shall be recoverable by that Board by action on behalf of the Crown in the High Court and notwithstanding the recovery of such penalty the making of the return shall be enforceable by writ of Mandamus to be obtained by that Board out of the High Court. 30 35

(3) If it appears to the Local Government Board by the return under this section or otherwise that the Council have failed to pay any instalment or annual payment or to appropriate any sum required to be appropriated or to set apart any sum required for any sinking fund under this Order (whether such instalment or annual payment or sum is required by this Order or by the Local Government Board in virtue thereof to be paid appropriated or set apart) or have applied any portion 40

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of any sinking fund to any purposes other than those authorised by this Order the Local Government Board may by order direct that the sum mentioned in that order not exceeding double the amount in respect of which the default has been made shall be paid or applied as in that order mentioned and that order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

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- 5 41. The Council shall except as herein-after provided have power to re-borrow for the purpose of paying off any moneys borrowed or re-borrowed under this Order which have not been repaid and are intended to be forthwith repaid or in respect of any moneys which have been repaid by the temporary application of funds at the disposal of the Council within twelve months before the re-borrowing and which at the time of the repayment it was intended to re-borrow. Provided that the Council shall not have power to re-borrow for the purpose of paying off any moneys repaid by instalments or annual payments or by means of a sinking fund or out of moneys derived from the sale of land or out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose. Provided also that any moneys re-borrowed shall be deemed to form the same loan as the moneys for the repayment of which the re-borrowing has been made and shall be repaid within the prescribed period.

Power to re-borrow.

- 25 42. All moneys borrowed under this Order shall be applied by the Council only for the purposes for which the money is authorised to be borrowed by this Order and to which capital is properly applicable.

Application of money borrowed.

- 30 43. The proceeds of sale of any surplus lands of the Council under the powers of this Order and all other moneys received on capital account not being borrowed moneys shall be distinguished as capital in the accounts of the Council and shall be applied in discharge of moneys borrowed by the Council under this Order. Provided that such proceeds when used to pay off borrowed moneys shall not be applicable to the payment of instalments or to payments into the sinking fund except to such extent and upon such terms as may be approved by the Local Government Board.

Proceeds of sale of surplus lands to be treated as capital.

- 35 44.—(1) Subject to the provisions of this Order with reference to the application of the pier revenue the Council may in any year if they think fit for the purpose of forming and maintaining a contingency fund not exceeding at any one time (inclusive of accumulations of income) one-fifth of the aggregate capital sums for the time being expended by the Council on the pier to meet any deficiency of revenue or any extraordinary claim or demand or any unforeseen accident or extraordinary damage which may happen or be caused to the pier set apart out of the revenue such a sum as they may think fit.

Contingency fund.

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(2) Every sum set apart under this section shall be invested in securities in which trustees are authorised to invest money other than securities of the Council and the interest thereon shall be accumulated until the fund reaches one-fifth of the aggregate capital sums for the time being expended by the Council on the pier or is required for any of the purposes mentioned in this section. 5

Application  
of pier revenue.

45. All rates tolls dues rents and receipts or other revenue received by the Council in respect of the pier under the authority and provisions of this Order including the interest on the contingency fund when that fund amounts to the maximum herein-before prescribed (all of which are in this Order referred to as the "pier revenue") shall be applied for the purposes and in the order following and not otherwise (that is to say):— 10

- (1) In payment of all expenses connected with the management and maintenance of the pier including therein the payment of or contribution towards a band of music playing on the pier and the provision of concerts or entertainments thereupon and subscribing towards the funds of any regatta or fête held in the immediate vicinity of the pier: 15
- (2) In paying year by year the interest for the time being due in respect of moneys borrowed by the Council under this Order: 20
- (3) In paying the instalments as they become due of the principal and moneys so borrowed:
- (4) In providing a sinking fund for the repayment of the moneys so borrowed and not repayable by instalments: 25
- (5) In creating and maintaining if they think fit a contingency fund in manner specified in the section of this Act of which the marginal note is "Contingency fund":
- (6) In repaying to the district fund or general district rate all moneys and interest paid thereout for the purposes of the pier whether in respect of money borrowed or otherwise: 30
- (7) In the general improvement of the pier:
- (8) And the balance shall subject to the provisions of this Order be carried to the district fund. 35

Deficiency of  
revenue to be  
charged on  
district fund.

46. All charges on the pier revenue which that revenue may be insufficient to defray shall be charged on and paid out of the district fund and general district rate and the Council shall include in each rate the amount (if any) which it is estimated may be required to cover the deficiency accruing during the currency of the rate and also the amount (if any) which is required to make up any deficiency which has occurred during any previous period. 40



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47. Section 58 of the Local Government Act 1894 shall apply to the accounts of the Council and their committee and officers under this Order and to the audit of such accounts.

*Herne Bay.*  
Local Gov-  
ernment  
Board audit.

- 48.—(1) The Council shall keep a separate account of all receipts  
5 payments credits and liabilities on capital and revenue accounts respec-  
tively in relation to the pier and shall within one month after sending to  
the clerk of the peace a copy of such account in abstract (which account  
shall be made up at the end of the day on the thirty-first day of March  
in each year) send a copy of the same to the Board of Trade and the  
10 16th section of the General Pier and Harbour Act 1861 Amendment  
Act shall apply to and include any and every such account as if the  
Council were a company.

Annual  
accounts to  
be sent to  
Board of  
Trade.  
25 & 26 Vict.  
c. 19.

- (2) If the Council refuse or neglect to comply with this provision  
they shall as from the expiration of that month be liable to a penalty  
15 not exceeding twenty pounds for every week or part of a week during  
which such refusal or neglect continues.

*Byelaws.*

- 49.—(1) The byelaws which may from time to time be made by  
the Council in exercise of the power in that behalf conferred on them  
20 by section 83 of the Harbours Docks and Piers Clauses Act 1847 may  
provide for imposing a penalty not exceeding forty shillings for the  
breach or non-observance of any of the byelaws.

Byelaws.

- (2) No byelaw shall come into operation until it has received the  
allowance and confirmation of the Board of Trade and that allowance  
25 and confirmation shall be sufficient for all purposes.

(3) Sections 84 and 85 of the Harbours Docks and Piers Clauses  
Act 1847 shall not be incorporated with this Order.

*Life-saving Apparatus.*

- 50.—(1) Sections 16 to 19 inclusive of the Harbours Docks and  
30 Piers Clauses Act 1847 shall not be incorporated with this Order.

Provision  
for life-  
saving appa-  
ratus.

- (2) The Council shall whenever required by the Board of Trade  
provide at their own expense and to the satisfaction of that Board  
a site near the pier and build on that site a house or other proper  
accommodation for a lifeboat rocket apparatus and other life-saving  
35 apparatus.

(3) If the Council fail to comply with this section they shall be  
liable to a penalty not exceeding ten pounds for every month during  
which the failure continues.

51. The officers of the coastguard and all other persons for the  
40 time being actually employed in connexion with the lifeboat or the  
apparatus for saving life may either permanently or temporarily with-  
out payment attach or cause to be attached to any part of the pier

Life-saving  
apparatus  
may be  
attached to  
pier.

A.D. 1909. spars and other apparatus for saving life and may also in course  
*Herne Bay.* either of using or of exercising the apparatus for saving life fire  
 rockets over the pier.

Lifebuoys to 52. The Council shall at all times keep at convenient places on  
 be kept. the pier and in obedience to any requirements which may be made 5  
 by the Board of Trade lifebuoys and lifelines in good order and fit  
 and ready for use.

*Lights.*

As to lights 53.—(1) Before commencing the works the Council shall apply to  
 during con- the Board of Trade for directions as to the lights to be exhibited and 10  
 struction of works. other means to be taken for preventing danger to navigation and shall  
 in all respects obey any directions given upon that application or after-  
 wards from time to time given as to the like matters by the Board of  
 Trade during the construction of the works and compliance with the  
 directions so given shall satisfy and be in place of every other statutory 15  
 requirement as to lights during the construction of the works.

(2) The Council shall be liable to a penalty not exceeding ten  
 pounds for every day during which they omit so to apply or refuse or  
 neglect to obey any such direction.

As to lights 54.—(1) The Council shall at the outer extremity of the pier and 20  
 after com- the works or the completed portions thereof or in such other places as  
 pletion of may be required exhibit from sunset to sunrise and according to the  
 works. requirements of the traffic and the season of the year such lights (if any)  
 and shall take such other steps for the prevention of danger to navigation  
 as shall from time to time be directed by the Corporation of Trinity 25  
 House Deptford Strond and shall apply to that Corporation for such  
 directions.

(2) The Council shall be liable to a penalty not exceeding ten  
 pounds for every day during which they omit to apply for or refuse or  
 neglect to obey any such directions. 30

Provision 55.—(1) In case of injury to or destruction or decay of the pier  
 against danger to navigation. or of the works or any part thereof the Council shall lay down such  
 buoys exhibit such lights or take such other means for preventing as  
 far as may be danger to navigation as shall from time to time be directed  
 by the Corporation of Trinity House Deptford Strond and shall apply 35  
 to that Corporation for directions as to the means to be taken.

(2) The Council shall be liable to a penalty not exceeding ten  
 pounds for every day during which they omit to apply for or refuse or  
 neglect to observe any such directions.

*Miscellaneous.*

Appointment 56. The Council may appoint officers for securing the observance  
 of officers to of the byelaws and regulations made by the Council under this Order  
 enforce bye- in respect of the pier and may procure such officers to be sworn in  
 laws and regulations, 40

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(No. 2).

as constables for that purpose but no such officers shall act as constables until so sworn in and unless in uniform or provided with a warrant. A.D. 1909.  
—  
Herne Bay.

57. All penalties recovered under this Order shall except in case of penalties recovered against the Council be paid to the treasurer for the time being of the Council and be by him carried to the credit of the district fund. Recovery of penalties.

58. The Council shall within the limits of this Order be a local lighthouse authority for the purposes and within the meaning of the Merchant Shipping Act 1894. Council to be a local light-house authority.

59. Sections 28 and 99 of the Harbours Docks and Piers Clauses Act 1847 as incorporated with the Orders of 1891 to 1903 shall apply to and for the benefit of any Government department in the same manner as they apply to and for the benefit of the Government departments specially named in those sections. Extension of 10 & 11 Vict. c. 27 (ss. 28 99) to all Government departments.

60. Nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Council to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any lands hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent the said Commissioners and Board are hereby respectively authorised to give). Crown rights.

61. From and after the commencement of this Order the pier shall for all purposes be deemed to form part of the parish and urban district of Herne Bay. Pier to be within district of Herne Bay.

62.—(1) As from the date of transfer the Orders of 1891 to 1903 except sections 5 and 6 of the Order of 1896 shall be repealed. Repeal.

(2) As from the same date the Herne Bay Pier Act 1908 shall be repealed save in so far as any of the provisions contained in that Act are applicable to or necessary for the carrying out of the purchase agreement.

63. All costs charges and expenses of and incident to the preparation and obtaining of this Order and otherwise incurred in reference thereto as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council out of the pier revenue or out of money borrowed for the purposes of the promotion of this Order. Costs of Order.

A.D. 1909.

The SCHEDULES to which the foregoing Order refers.

*Herne Bay.*

FIRST SCHEDULE.

AN AGREEMENT made the fifth day of November 1908 between FREDERICK WILLIAM WACHER of Pier Villa Herne Bay in the County of Kent (herein-after referred to as the Receiver) of the one part and THE 5  
HERNE BAY URBAN DISTRICT COUNCIL (herein-after referred to as the Council) of the other part.

WHEREAS under powers conferred by the Herne Bay Pier Orders 1891 to 1903 (herein-after referred to as the Pier Orders) the Herne Bay Pier Company Limited (herein-after called the company) constructed a pier 10  
and other works and buildings at Herne Bay and the company are also possessed of or entitled to other property and assets And whereas the company have created and issued certain mortgage debentures and have otherwise incumbered their undertaking and property or some part thereof And whereas by an order of the Chancery Division of the High 15  
Court of Justice made on the seventeenth day of February 1905 in an action in re the Company Concannon v. the Company and others 1905 H. No. 501 the Receiver was appointed receiver of all the undertaking of the company and of all its property whatsoever and wheresoever both present and future and by a subsequent order dated the second day of 20  
May 1905 the Receiver was authorised to manage and carry on as a going concern those portions of the business and undertaking of the company which related to matters not forming part of the undertaking in respect of which the company was authorised to levy rates And 25  
whereas by the Herne Bay Pier Act 1908 (herein-after referred to as the Act of 1908) power was conferred upon the said High Court of Justice upon an application in the said action or otherwise to sanction a sale by the Receiver of the undertaking of the company as defined by the Act of 1908 and also the assets and property of the company acquired 30  
otherwise than by virtue of the Pier Orders And whereas the Council have agreed with the Receiver to purchase the undertaking and property of the company herein-after mentioned upon the terms and conditions herein-after contained Now it is hereby agreed and declared as follows :—

1. Subject to the sanction of the said court to this agreement being 35  
obtained as herein-after provided the Receiver agrees to sell and subject to the Council obtaining a Provisional Order authorising the acquisition of the undertaking and property of the company by the Council and to such Provisional Order being confirmed by Parliament and subject also to the Council obtaining the sanction of the Local Government Board 40

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(No. 2).

or any other necessary sanction for the raising of the loan herein-after mentioned the Council agrees to purchase—

A.D. 1909.

*Hern Bay.*

(A) The undertaking of the company as defined by section 2 of the Act of 1908 :

5 (B) All other assets and property of the company acquired otherwise than by virtue of the Pier Orders or any of them including the fixtures fittings furniture stock and chattels now in and upon the said pier (as specified in an inventory to be prepared and signed by the Receiver and the clerk to the Council).

10 2. The consideration for the sale shall be the sum of six thousand pounds which shall be paid by the Council as herein-after provided.

3. So much of the undertaking and property of the company as is of freehold tenure shall be conveyed to the Council for an estate of fee simple in possession and so much as is of leasehold tenure shall be  
15 assigned to the Council for the residue of the term or terms for which the same is held subject to the rents reserved in respect thereof and to performance and observance of all covenants and conditions affecting the same which the company is liable to perform and observe.

4. The said undertaking assets and property are sold and shall be  
20 conveyed and assigned free from incumbrances but subject to the tenancy agreements affecting parts thereof specified in the schedule hereto and to all other leases tenancies and agreements easements liabilities and obligations affecting the same or any part or parts thereof and subject also to all the provisions of the Pier Orders and the Act of 1908 now  
25 subsisting and capable of taking effect and the Council shall be deemed to have purchased with full notice of the contents of the said Orders and Act.

5. The Council shall accept the title of the Receiver without investigation but they shall be entitled if they so desire at their own expense  
30 to have an abstract of the title of the Receiver to the property hereby agreed to be sold but they shall make no objection thereto or requisition thereon and in particular (without prejudice to the generality of this clause) they shall accept as conclusive the findings in the Master's certificate filed in the said action on the seventeenth day of March  
35 1906 and shall assume that every person in whom is vested any incumbrance affecting the said undertaking assets and property or any equitable interest therein whether a party to the proceedings or not is bound thereby and by the order to be obtained as herein-after provided and the Council shall not require the concurrence in the conveyance of  
40 such incumbrancers or of any person other than the Receiver (as the person appointed to convey as herein-after provided).

6. The purchase shall be completed at the offices of Messrs. Ashurst Morris Crisp & Co. 17 Throgmorton Avenue E.C. upon the expiration of forty-two days from the date on which the Order of the Local



A.D. 1909. Government Board or other necessary order sanctioning the loan herein-  
*Herne Bay.* after mentioned shall have been obtained and before the expiration of  
such period of forty-two days the Council shall under an order or  
direction for that purpose to be obtained by and at the expense of the  
Council upon an application in the said action pay the said sum of 5  
six thousand pounds into court to the credit of the said cause to such  
account as the judge may direct. If from any reason whatever (other  
than non-completion caused by the wilful default of the Receiver)  
the said purchase money shall not be paid as herein provided the  
Council shall pay interest thereon at the rate of £5 per cent. per annum 10  
computed from the day on which such period expires until actual  
payment.

7. Upon payment of the purchase money or so soon thereafter as  
the court shall direct the Receiver shall execute a proper assurance or  
proper assurances to the Council to be prepared and perfected at the 15  
expense of the Council and the draft and drafts thereof left at the office  
for the said solicitors for approval not less than fourteen days and the  
engrossment or engrossments left at the same office for execution by the  
Receiver not less than seven days before the due date for completion.

8. The Receiver shall only give such covenants for title as is 20  
implied by his being expressed to convey under an order of the court.

9. The sale (subject to the sanctions and confirmation of Provisional  
Order referred to in clause 1) shall take effect as from the seventeenth  
February 1909 and the Receiver shall continue up to the actual date  
of completion to receive the rents and profits and manage the said 25  
undertaking and carry on the same as a going concern but as from  
the said seventeenth February 1909 under the direction and super-  
vision of the Council (subject nevertheless to any order from time to  
time made or direction given by the judge) at the risk and cost but  
for the benefit of the Council whose agent he shall be deemed to be 30  
and the Council shall as from the said last-mentioned date indemnify  
him accordingly. Any question which may arise as to the management  
of the said undertaking apportionment of rents and profits or as to  
the right of the Receiver to indemnity or otherwise under the provisions  
of this clause shall be settled and decided by the judge at chambers 35  
upon an application to be made in the said action.

10. The Receiver shall forthwith procure an application to be made  
by the plaintiff in the said action to obtain the approval and sanction  
of the court to this contract and shall give notice to the Council when  
such approval and sanction shall have been obtained and shall also 40  
procure an application to be made by the plaintiffs for any further  
order that may be necessary to carry the sale into effect or under  
section 3 of the Act of 1908 including an order appointing him to  
convey the property hereby agreed to be sold.

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(No. 2).

37

11. The Council shall forthwith take all steps necessary to obtain a Provisional Order authorising the acquisition of the undertaking assets and property of the company by the Council upon the terms and conditions herein contained and to obtain in due course confirmation of such Provisional Order by Parliament and further to obtain an order of the Local Government Board or other necessary order sanctioning the raising by loan of the said sum of six thousand pounds and will use their best endeavours to obtain without delay such Provisional Order confirmation and sanction.
12. Unless the said order approving the sale and the said Provisional Order confirmation and sanction shall have been obtained within eleven calendar months from the date hereof this agreement at the expiration of such period or such further period as the parties may in the meantime mutually agree to in writing shall be absolutely void.
13. The said undertaking assets and property shall as to any damage by fire tempest or other inevitable accident arising after the seventeenth day of February 1909 be at the risk of the Council and no claim shall be made against the Receiver for any deterioration or damage from whatsoever cause The Receiver shall as from the said seventeenth day of February 1909 hold any subsisting policy of insurance against fire or his interest thereon in trust for the Council subject to the consent of the office and subject to the purchase being completed and to the Council paying a proportionate part of the premiums for the unexpired term of any policy but the Receiver shall not be bound to keep up or renew any policy.

A.D. 1909.  
*Herne Bay.*

As witness the hand of the Receiver and the common seal of the Council.

The SCHEDULE above referred to.

PARTICULARS OF TENANCIES.

| 30 | Tenant.          | Shops.        | Nature of Tenancy.                           | Yearly Rent. |    |    |
|----|------------------|---------------|----------------------------------------------|--------------|----|----|
|    |                  |               |                                              | £            | s. | d. |
|    | Miss Chapman -   | Shop -        | Yearly tenancy March 1909 -                  | 55           | 0  | 0  |
|    | Mrs. Mazzoleni - | Shop -        | Seven years' agreement from 25th March 1908. | 70           | 0  | 0  |
| 35 | Mr. Cole -       | Chemist -     | Yearly tenancy from 25th March 1908.         | 12           | 10 | 0  |
|    | Madame Zadia -   | Ditto -       | Yearly tenancy March 1909 -                  | 15           | 0  | 0  |
|    | Mr. Sutton -     | Tobacconist - | Yearly tenancy - - -                         | 35           | 0  | 0  |
|    | Mr. Tarling -    | Fruiterer -   | Yearly tenancy - - -                         | 40           | 0  | 0  |
| 40 |                  |               |                                              | £227         | 10 | 0  |

A.D. 1909. Two years' agreement with the Automatic Sweetmeat Company made  
*Herne Bay.* March 1908 for machines on the pier at £90 per annum.

Agreement with Mrs. Mazzoleni for hire of store by the Pier Com-  
 pany for seven years made March 1908 at £25 per annum. (The  
 company pay rates and taxes.)

(Signed) F. W. WACHER.

Witness—

JOSEPH JUBB

Solicitor

Herne Bay.

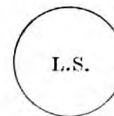
The common seal of the Herne Bay }  
 Urban District Council was hereunto  
 affixed in the presence of

PERCY E. IGGULDEN

Chairman.

JOSEPH JUBB

Clerk.



## SECOND SCHEDULE.

### I.—RATES ON VESSELS USING THE PIER.

|                                                                                                      |   |    |                  |          |
|------------------------------------------------------------------------------------------------------|---|----|------------------|----------|
| For every vessel not exceeding the burden of fifteen tons                                            | £ | s. | d.               | 20       |
| per ton                                                                                              | 0 | 0  | 4                |          |
| For every vessel exceeding the burden of fifteen tons and<br>under fifty tons - - - - -              |   |    | per ton register | 0 0 6    |
| For every vessel of the burden of fifty tons and under one<br>hundred tons - - - - -                 |   |    | per ton register | 0 0 8 25 |
| For every vessel of the burden of one hundred tons and under<br>one hundred and fifty tons - - - - - |   |    | per ton register | 0 0 10   |
| For every vessel of the burden of one hundred and fifty tons<br>and upwards - - - - -                |   |    | per ton register | 0 1 0    |
| All lighters for each trip - - - - -                                                                 |   |    | per ton          | 0 0 6 30 |
| All boats entirely open landing or taking on board goods                                             |   |    | each             | 0 0 6    |

### II.—RATES FOR GOODS AND ANIMALS SHIPPED OR UNSHIPPED AT THE PIER.

|                       |   |                |          |
|-----------------------|---|----------------|----------|
| Light goods - - - - - | - | per cubic foot | 0 0 1 35 |
| Heavy goods - - - - - | - | - per ton      | 0 2 0    |

In charging the rates on goods the gross weight or  
 measurement of all goods to be taken and for any less  
 weights measures and quantities than those above specified  
 a portion of the respective rates shall be charged.



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|                                                 | £ | s. | d. | A.D. 1909.        |
|-------------------------------------------------|---|----|----|-------------------|
| Horses - - - - - each                           | 0 | 1  | 6  | <u>Herne Bay.</u> |
| Asses mules bulls cows and oxen - - - each      | 0 | 1  | 0  |                   |
| Calves sheep and pigs - - - - - each            | 0 | 0  | 3  |                   |
| 5 Lambs dogs and other small animals - - - each | 0 | 0  | 2  |                   |

III.—RATES FOR USE OF PIER.

|    |                                                                                                                                                                                |   |   |     |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|-----|
|    | For every passenger or other person landing on the pier from or embarking from it on board of any ship vessel boat packet or passage-boat for each time any sum not exceeding  | 0 | 0 | 4   |
| 10 | For every person using the pier for the purpose of walking for exercise pleasure or any other purpose except for embarking or disembarking for each time any sum not exceeding | - | 0 | 0 2 |
|    | For every bath or sedan-chair including driver taken on the pier for each time any sum not exceeding - - -                                                                     | - | 0 | 0 4 |
| 15 | For every perambulator including driver taken on the pier for each time any sum not exceeding - - -                                                                            | - | 0 | 0 4 |
|    | For every person using the pier for the purpose of bathing any sum not exceeding - - - - -                                                                                     | - | 0 | 0 4 |
| 20 | For every master of any vessel boat or wherry using the said pier for the purpose of going to or returning from his own vessel boat or wherry an annual sum not exceeding      | - | 1 | 0 0 |

IV.—RATES ON PASSENGERS' LUGGAGE LANDED OR SHIPPED OR TRANSHIPPED AT THE PIER.

|    |                                                                                                                                                                  |   |   |   |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
|    | For every trunk portmanteau box parcel or other package within the description of luggage and not borne by the passenger not exceeding twenty-eight pounds - - - | 0 | 0 | 2 |
|    | Over twenty-eight pounds and not exceeding eighty-four pounds - - - - -                                                                                          | 0 | 0 | 4 |
| 30 | Over eighty-four pounds and not exceeding one hundred and twelve pounds - - - - -                                                                                | 0 | 0 | 5 |
|    | Over one hundred and twelve pounds and not exceeding one hundred and forty pounds - - - - -                                                                      | 0 | 0 | 6 |
|    | Over one hundred and forty pounds and not exceeding one hundred and ninety-six pounds - - - - -                                                                  | 0 | 0 | 7 |
| 35 | Over one hundred and ninety-six pounds and not exceeding two hundredweight - - - - -                                                                             | 0 | 0 | 8 |
|    | If exceeding two hundredweight for every hundredweight -                                                                                                         | 0 | 0 | 4 |
|    | And for every twenty-eight pounds weight in addition -                                                                                                           | 0 | 0 | 1 |
|    | For every four-wheeled carriage - - - - -                                                                                                                        | 0 | 4 | 0 |
| 40 | For every two-wheeled carriage - - - - -                                                                                                                         | 0 | 2 | 6 |
|    | For every bicycle or tricycle for each and every time -                                                                                                          | 0 | 0 | 2 |
|    | For every motor car - - - - -                                                                                                                                    | 0 | 5 | 0 |

40 *Pier and Harbour Provisional Orders* [9 EDW. 7.]  
(No. 2).

|                   |                                                 | £ | s. | d.  |
|-------------------|-------------------------------------------------|---|----|-----|
| A.D. 1909.        | V.—RATES FOR USE OF WEIGHING MACHINES.          |   |    |     |
| <i>Herne Bay.</i> | For goods weighed for each ton or part of a ton | - | 0  | 0 2 |

VI.—RATES FOR USE OF TRAMWAY.

|                                                                            |   |   |   |   |   |   |   |   |    |
|----------------------------------------------------------------------------|---|---|---|---|---|---|---|---|----|
| For every passenger using tramway for each time any sum not exceeding      | - | - | - | - | - | 0 | 0 | 3 | 5  |
| Light goods per cubic foot                                                 | - | - | - | - | - | 0 | 0 | 1 |    |
| Heavy goods per ton                                                        | - | - | - | - | - | 0 | 2 | 0 |    |
| For passengers' luggage rates not exceeding rates on same for use of pier. |   |   |   |   |   |   |   |   | 10 |

TRURO HARBOUR.

|               |                                                                                                                                                                                                                                |    |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| <i>Truro.</i> | <i>Provisional Order for the amendment of the Truro Harbour Order 1903 and for conferring further powers upon the Mayor Aldermen and Citizens of the city of Truro in the county of Cornwall in relation to Truro Harbour.</i> | 15 |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|

*Preliminary.*

|                                                           |                                                                                                                                                                                                                                                                                                                                                                |    |
|-----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| Short title<br>commence-<br>ment and in-<br>terpretation. | 1.—(1) This Order may be cited as the Truro Harbour Order 1909 and the Truro Harbour Order 1883 (in this Order called "the Order of 1883") as amended by the Truro Harbour Order 1903 (in this Order called "the Order of 1903") and the Order of 1903 as amended by this Order and this Order may together be cited as the Truro Harbour Orders 1883 to 1909. | 20 |
|-----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|

(2) This Order shall come into force upon the day when the Act confirming this Order is passed and that day is in this Order referred to as the commencement of this Order. 25

(3) In this Order unless the context otherwise requires the following expressions shall have the meanings herein-after assigned to them namely:—

- "The Corporation" means the mayor aldermen and citizens of the city of Truro acting by the council of that city; 30
- "The city" means the city of Truro;
- "The harbour" has the same meaning as that assigned to it by the Order of 1903.

*Undertakers.*

|              |                                                                                     |    |
|--------------|-------------------------------------------------------------------------------------|----|
| Undertakers. | 2. The Corporation shall be the undertakers for carrying this Order into execution. | 35 |
|--------------|-------------------------------------------------------------------------------------|----|

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(No. 2).

*Revival of Powers.*

A.D. 1909.

3. The powers conferred by the Order of 1903 upon the Corporation with respect to the construction of works and all the provisions of that Order in relation thereto shall be and the same are hereby  
5 revived and may be exercised and enforced and shall have effect in like manner and subject to the like restrictions and with the same consequences whether as to commencement or cesser of powers execution or completion of works or otherwise as if such powers and provisions had been contained in this Order.

*Truro.*

Revival of powers for construction of works under Order of 1903.

10

*Works.*

4. The Corporation may erect and construct upon the existing quay belonging to them and known as Worth's Quay shelters waiting rooms lavatories public conveniences ticket collectors' kiosks toll houses barriers gates turnstiles steps and such other works as they may deem  
15 expedient for the purpose of adapting and using the said quay for the mooring of passenger and other vessels and the landing on and embarking therefrom of passengers and their luggage and for the purposes of a promenade and may furnish and equip the same and may levy upon and take and receive from passengers landing on or  
20 embarking from Worth's Quay such reasonable charges for the use of such shelters waiting rooms lavatories public conveniences and other works or for admission thereto as they may from time to time think fit Provided that nothing in this section contained shall authorise or entitle the Corporation to levy upon or take or receive from any  
25 persons (other than and except such passengers as aforesaid) any charges for entering on Worth's Quay or using that quay in the same manner and to the like extent in and to which they are now entitled to use it.

Power to construct additional works.

*Rates.*

- 30 5.—(1) From and after the commencement of this Order the schedule to the Order of 1903 shall be and the same is hereby cancelled and repealed and the schedule to this Order shall be taken to be and shall be substituted for the schedule to the Order of 1903 and that Order and this Order shall be construed and have effect accordingly.  
35 (2) All dues rates and moneys leviable and becoming due before the commencement of this Order may be levied received and recovered in like manner as if this Order had not been made.

Repeal of rates under Order of 1903 and substitution of other rates.

6. The Corporation may confer vary or extinguish exemptions from and enter into compositions with any persons with respect to the payment  
40 of the rates authorised by this Order but so that no preference be in any case given to any person and that anything done under this section shall  
(89.)

Power to vary exemptions from rates and to enter into compositions &c.

A.D. 1909. not prejudice the other provisions of this Order Provided nevertheless  
 Truro. that the levying of different rates at different quays wharves and landing  
 places in the harbour shall not be deemed a preference within the meaning  
 of this Order and that the Corporation may levy such rates accordingly  
 notwithstanding the provisions of section 17 of the General Pier and 5  
 Harbour Act 1861 Amendment Act.

Power to  
 lease.

7.—(1) The Corporation may with the previous consent in writing  
 of and upon such terms conditions and restrictions and for such period  
 as may be sanctioned by the Board of Trade lease to any company  
 corporation or person the entire undertaking of the harbour or the rates 10  
 and other charges by this Order authorised to be taken.

(2) As from the date of any lease made under the last preceding  
 subsection the lessee during the continuance of and to the extent pro-  
 vided in his lease shall have and may exercise all or any of the powers  
 conferred upon the Corporation by the Truro Harbour Orders 1883 to 15  
 1909 which the Corporation have or might exercise under those Orders  
 and shall be subject to all the liabilities and obligations to which  
 the Corporation are subject and shall perform all the duties of the  
 Corporation under those Orders.

(3) No lease made under subsection (1) of this section shall be 20  
 assignable without the previous consent in writing of the Board of  
 Trade.

(4) The Corporation shall within one month after the date of any  
 lease made under this section deposit a certified copy thereof with the  
 Board of Trade and shall as from the expiration of that month be 25  
 liable to a penalty not exceeding twenty pounds for every week or part  
 of a week during which they refuse or neglect to comply with this  
 subsection.

(5) No lease made under this section shall be made in consideration  
 or part consideration of any fine premium or other capital sum. 30

(6) Nothing in this section shall exempt the Corporation from  
 their obligation to keep and render accounts and as from the date  
 of any lease made under this section all the provisions of the Acts  
 incorporated with this Order and of the Truro Harbour Orders 1883  
 to 1909 as to the keeping delivery and audit of accounts shall apply 35  
 to and be binding upon as well the lessees as the Corporation and all  
 moneys received by the Corporation under or in respect of any such  
 lease shall be deemed to be moneys levied by virtue of and income  
 received under this Order.

#### *Harbour Master.*

40

Further  
 powers to

8. In addition to the powers conferred on the harbour master by  
 the Harbours Docks and Piers Clauses Act 1847 and amending Acts it

[9 EDW. 7.] *Pier and Harbour Provisional Orders* 43  
(No. 2).

- shall be lawful for the harbour master to give directions specifying the quay wharf or landing place in such part of the harbour as is situated northward and north-westward of an imaginary straight line drawn due east (true) from Trevaster Farm House in the parish of Kea to and terminating at a point on the eastern bank of the Truro River distant seven hundred yards or thereabouts from the said farm house at which any vessel shall land or embark passengers and their luggage and no vessel shall land or embark passengers and their luggage at any quay wharf landing place or elsewhere within such part of the harbour as aforesaid except in accordance with such directions Provided that nothing in this section contained shall prevent the owner or occupier of any quay wharf or landing place not belonging to the Corporation from using the same for the landing or embarking of himself or members of his family or household or persons in his employment.

A.D. 1909.  
Truro.  
harbour  
master.

9. The harbour master may prevent the removal or sailing out of the harbour of any vessel in respect of which or the goods imported or exported therein any rates or dues are payable until evidence has been produced to him of the payment of those rates or dues.

Harbour  
master may  
prevent sail-  
ing of vessel.

20

*Finance.*

- 10.—(1) The Corporation may from time to time in addition to any other borrowing power borrow at interest not exceeding five pounds per centum per annum on the security of the rates authorised by this Order and the charges and revenue arising from the harbour and authorised by the Order of 1903 as amended by this Order (herein-after together called "the harbour revenue") and if thought fit as collateral security on the city fund and city rate of the city for the purposes following (that is to say):—

Power to  
borrow.

- (a) For the improvement of Worth's Quay and the channels thereto and for the construction erection and equipment of the works by this Order authorised a sum not exceeding in the whole one thousand pounds:  
(b) Such sum as may be required for the payment of the costs charges and expenses of this Order.

- (2) The Corporation may secure by mortgage under this section the payment with interest of any money due or to become due to any contractor for the execution of works authorised by this Order and any money so secured shall be considered to be money borrowed under this Order.

- (3) Sections 236 237 238 and 239 of the Public Health Act 1875 shall apply to all mortgages respectively made under this Order and the Order of 1903 as amended by this Order.

(89.)

F 2

A.D. 1909.

*Truro.*

(4) A person lending money to the Corporation shall not be concerned to inquire as to the observance by them of any provisions of the Order of 1903 or this Order or be bound to see to the application or be answerable for any loss or non-application of the money lent.

Periods for  
repayment of  
borrowed  
moneys.

11. All moneys borrowed by the Corporation under this Order shall be repaid within the respective periods following (in this Order called "the prescribed periods") (that is to say):—

As to moneys borrowed for the purposes (a) mentioned in the last preceding section of this Order within twenty years from the date of borrowing the same :

1C

As to moneys borrowed for the purposes (b) mentioned in the same section within five years from the commencement of this Order.

Mode of pay-  
ment off of  
moneys  
borrowed.

12. The Corporation shall pay off all moneys which may hereafter be borrowed by them on mortgage under the powers of the Order of 1903 and this Order either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by such instalments and partly by a sinking fund and the payment of the first instalment or the first payment to the sinking fund shall be made within twelve months if by yearly repayments or within six months if by half-yearly repayments after the date of borrowing the sum in respect of which the payment is made.

15

20

Sinking  
fund.

13.—(1) If the Corporation determine to repay by means of a sinking fund any moneys hereafter borrowed under the Order of 1903 or this Order the Corporation in every year shall appropriate and set apart out of the harbour revenue and the city fund and city rate such equal annual sums as will with the accumulation thereof by way of compound interest at a rate not exceeding three pounds per centum per annum (herein-after referred to as "the prescribed rate") be sufficient to pay off the principal moneys borrowed within the period by the Order of 1903 or this Order prescribed for the repayment thereof respectively.

25

30

(2) The yearly sums so appropriated and set apart shall be invested from time to time and accumulated in the way of compound interest by investing the same and the dividends interest and annual income thereof respectively in any security in which trustees are by law authorised to invest or in mortgages stocks debentures or other securities issued by any local authority as defined in section 34 of the Local Loans Act 1875 (other than securities of the Corporation and securities transferable by delivery).

40

(3) The Corporation may at any time apply the whole or part of the sinking fund in or towards the repayment of the borrowed moneys for the repayment of which it was set aside in such order and manner



[9 EDW. 7.] *Pier and Harbour Provisional Orders*  
(No. 2).

45

as they deem proper Provided that in such case they pay into such sinking fund in each year afterwards and accumulate as herein-before prescribed until the whole of such borrowed moneys is discharged a sum equal to the interest produced by the sinking fund or the part thereof so applied at the rate per centum per annum on which the equal annual payments to the sinking fund are based.

A.D. 1909.  
Truro.

(4) If and so often as the income of the sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the prescribed rate any deficiency shall be made good by the Corporation.

(5) If and so often as the income of the sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the prescribed rate 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 Corporation in addition to the payments provided for by this Order.

(7) If it appears to the Corporation 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 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 Corporation to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose Provided that if it appears to the Local Government Board that any such increase is necessary the Corporation shall increase the payments to such extent as that Board may direct.

(8) If the Corporation desire to accelerate the repayment of any loan they may increase the amounts payable to the sinking fund created to meet that loan.

(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 will in the opinion of the Local Government Board be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Corporation may reduce the payments to be made to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Local Government Board 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 will in the opinion of the Local

A.D. 1909. Government Board be sufficient to repay the loan in respect of which it is formed within the prescribed period the Corporation may with the consent of that Board discontinue the annual payments to such sinking fund until the Local Government Board shall otherwise direct.

*Truro.*

(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 Corporation with the consent of the Local Government Board may determine. 5

Sinking fund  
may be ad-  
justed in cer-  
tain events.

14. If the Corporation out of the proceeds of the sale or disposition of lands or other moneys received on capital account repay any principal moneys borrowed under the powers of the Order of 1903 or this Order the payments to any sinking fund applicable to the repayment of such principal moneys may be reduced to such extent and upon such terms as may from time to time be approved by the Local Government Board. 10

Power to  
re-borrow.

15. The Corporation may except as herein-after provided re-borrow for the purpose of paying off any moneys borrowed or re-borrowed under the Order of 1903 or this Order which have not been repaid and are intended to be forthwith repaid or in respect of any moneys which have been repaid by the temporary application of funds at the disposal of the Corporation within twelve months before the re-borrowing and which at the time of the repayment it was intended to re-borrow Provided that the Corporation shall not have power to re-borrow for the purpose of paying off any moneys repaid by instalments or annual payments or by means of a sinking fund or out of moneys derived from the sale of land or out of any capital moneys properly applicable to the purpose of such repayment other than moneys borrowed for that purpose Provided also that any moneys re-borrowed shall be deemed to form the same loan as the money for the repayment of which the re-borrowing has been made and shall be repaid within the prescribed period. 15 20 25 30

Return  
respecting  
sinking fund  
to Local  
Government  
Board.

16.—(1) The town clerk shall within twenty-one days after the 31st day of March in each year if during the twelve months next preceding the said 31st day of March any sum is required to be paid as an instalment or annual payment or to be appropriated or to be paid to a sinking fund in pursuance of the provisions of this Order or the Order of 1903 or in respect of any money raised under this Order and the Order of 1903 or either of them and at any other time when the Local Government Board may require such a return to be made transmit to the Local Government Board a return in such form as may be prescribed by that Board and if required by that Board verified by statutory declaration of the town clerk showing for the year next preceding the making of such return or for such other period as the Board may prescribe the amounts which have been paid as instalments or annual payments and the amounts which have been appropriated 35 40



[9 EDW. 7.] *Pier and Harbour Provisional Orders*  
(No. 2).

47

and the amounts which have been paid to or invested or applied for the purpose of each sinking fund (if any) for the time being subsisting and the description of the securities upon which any investment has been made and the purposes to which any portion of each such  
5 sinking fund as aforesaid or investment or of the sums accumulated by way of compound interest has been applied during the same period and the total amount (if any) remaining invested at the end of the year and in the event of his wilfully failing to make such return the town clerk shall for each offence be liable to a penalty not exceeding twenty  
10 pounds to be recovered by action on behalf of the Crown in the High Court and notwithstanding the recovery of such penalty the making of the return shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

A.D. 1909.

*Truro.*

(2) If it appears to the Local Government Board by that return or  
15 otherwise that the Corporation have failed to pay any instalment or annual payment required to be paid or to appropriate any sum required to be appropriated or to set apart any sum required for any sinking fund (whether such instalment or annual payment or sum is required by this Order or the Order of 1903 or by the Local Government Board in virtue  
20 of those Orders respectively to be paid appropriated or set apart) or have applied any portion of any sinking fund to any purposes other than those authorised the Local Government Board may by order direct that the sum in such order mentioned not exceeding double the amount in respect of which default has been made shall be paid or applied as  
25 in such order mentioned and any such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

17.—(1) Subsection (1) of section 15 of the Order of 1903 is hereby amended by the insertion after the words "the security of  
30 the rates authorised by this Order" of the words "and if thought  
" fit as collateral security on the city fund and city rate of the city  
of Truro."

Amendment  
of section 15  
of Order of  
1903.

(2) Subsections (3) and (4) of section 15 of the Order of 1903 are hereby repealed.

35 18.—(1) The Corporation if they think fit may borrow the moneys which they are by the Order of 1903 and this Order authorised to borrow or any part thereof under the powers and subject to the provisions of the Local Loans Act 1875 by means of a loan or loans to be raised by the issue of debentures or annuity certificates or partly  
40 in one way and partly in another.

Power to bor-  
row under  
Local Loans  
Act 1875.

(2) Any moneys borrowed by the Corporation in manner by this section authorised for the purposes of the Order of 1903 and this Order shall be a charge upon and shall be paid out of the rates and revenue to be derived by the Corporation under the Order of 1903 and this  
45 Order and if so thought fit by the Corporation as a collateral security

A.D. 1909. on the city fund and city rate aforesaid and such rates and revenue  
*Truro.* or revenue funds and rates as the case may be shall be the local rate  
 within the meaning and for the purposes of the Local Loans Act 1875.

(3) Every such loan shall be discharged within the periods respectively prescribed for the repayment of moneys borrowed under the Order of 1903 and this Order and where any such loan is made repayable by means of a sinking fund the provisions of this Order shall apply to such sinking fund in lieu of the provisions of section 15 of the Local Loans Act 1875. 5

Application  
 of rates and  
 revenue.

19. The Corporation shall apply the rates charges and other income and revenue which shall from time to time be derived by the Corporation under the Order of 1903 and this Order in manner and order following (that is to say):— 10

(1) In paying the expenses of the maintenance and repair of the harbour and all works buildings and conveniences connected therewith and the management and regulation of the same and in defraying all other expenses of the Corporation properly incurred in relation to the harbour: 15

(2) In paying the interest on all moneys borrowed under the Order of 1903 and this Order which are for the time being outstanding: 20

(3) In providing the requisite appropriations instalments and sinking fund payments in respect of all moneys borrowed under the Order of 1903 and this Order which are for the time being outstanding: 25

(4) In repaying to the city fund and city rate respectively all moneys and interest which may have been paid thereout respectively for the purposes of the harbour:

(5) In the general improvement of the harbour and the works buildings and conveniences connected therewith or in reduction of any principal moneys borrowed under the Order of 1903 and this Order or either of them which may for the time being be outstanding. 30

Application  
 of borrowed  
 moneys.

20. All moneys borrowed under this Order shall be applied by the Corporation only for the purposes for which the money is authorised to be borrowed by this Order and to which capital is properly applicable. 35

Repeal.

21. Subsections (2) and (3) of section 16 and sections 17 and 18 and subsection (5) of section 19 of the Order of 1903 are hereby repealed.

Costs of  
 Order.

22. All the costs charges and expenses of or incidental to the obtaining of this Order or otherwise incurred in relation thereto as taxed by the proper officer shall be paid by the Corporation. 40

[9 Edw. 7.] *Pier and Harbour Provisional Orders* 49  
(No. 2).

The SCHEDULE to which the foregoing Order refers.

A.D. 1909.

*Truro.*

I.—RATES FOR USE OF QUAYS WHARVES AND LANDING PLACES  
BELONGING TO THE CORPORATION.

- For every passenger who shall land on or embark from any *s. d.*  
5 quay wharf or landing place belonging to the Corporation  
for each time of landing or embarking any sum not exceeding 0 0½

II.—RATES ON PASSENGERS' LUGGAGE LANDED SHIPPED OR TRANSHIPPED AT  
THE QUAYS WHARVES AND LANDING PLACES BELONGING TO THE  
CORPORATION.

- 10 For every trunk portmanteau box parcel or other package *s. d.*  
within the description of luggage and not borne by passengers  
a sum not exceeding - - - - - 0 1

III.—RATES ON VESSELS USING THE HARBOUR BUT NOT SHIPPING  
UNSHIPPING OR TRANSHIPPING GOODS.

- 15 For every vessel (moved by steam or other mechanical power) *s. d.*  
employed in carrying passengers and their luggage for hire  
which shall enter or come within the harbour per ton  
register not exceeding - - - - - 0 1

IV.—RATES ON VESSELS AND BOATS USING THE HARBOUR FOR SHIPPING  
UNSHIPPING OR TRANSHIPPING GOODS.

- s. d.*  
On each coasting vessel per ton register - - - 0 2  
On each vessel from or to foreign parts per ton register - 0 3  
25 If any such vessel whether coasting or otherwise remains in  
the harbour for more than two months continuously then for  
every month or part of a month after the first two months  
per ton register - - - - - 0 1

V.—RATES ON OTHER VESSELS.

- On each wind-bound vessel remaining more than forty-eight *s. d.*  
30 hours and not breaking bulk for each week or part of a  
week after the first forty-eight hours per ton register - 0 0½  
On each vessel entering the harbour for orders or for refuge  
and remaining more than a week and not breaking bulk for  
each week or part of a week after the first week per ton  
35 register - - - - - 0 0½

(89.)

G

A.D. 1909. VI.—RATES ON TIMBER BRICKS CEMENT LIME LIMESTONE STONE  
*Truro.* MERCHANDISE AND MINERALS SHIPPED UNSHIPPED OR TRANSHIPPED WITHIN  
THE HARBOUR FOR ANY PORT OUTSIDE THE BLACK ROCK OR CARRIED  
IN VESSELS OR BOATS OR BY RAFT ABOVE VICTORIA POINT.

|                                                                                                                               | s. | d. |    |
|-------------------------------------------------------------------------------------------------------------------------------|----|----|----|
| For every fifty cubic feet of timber                                                                                          | 0  | 1½ | 5  |
| For bricks cement limestone salt and manures (other than and<br>except guano sulphate of ammonia and nitrate of soda) per ton | 0  | 1½ |    |
| For all merchandise and minerals not already paying dues<br>(including guano sulphate of ammonia and nitrate of soda)         |    |    | 10 |
| per ton                                                                                                                       | 0  | 3  |    |

In charging dues the gross measurement or weight shall be taken  
and for any less measurement or weight than above mentioned a  
proportionate amount shall be charged.

The owner or charterer of any vessel carrying materials merchandise  
and minerals as aforesaid and plying to and from the harbour shall  
be entitled to compound for the tonnage rates leviable on such vessel  
under the provisions of this Order by paying to the Corporation on  
the first day of January or on the day of the first visit of such vessel to  
the harbour in any year an amount equal to five times the tonnage rates  
on such vessel and from and after such payment the said vessel shall  
for the current year or part of a year ending the 31st day of December  
next ensuing only be free of all tonnage rates but this provision shall  
in no way affect the liability (if any) of such vessel to dues in respect  
of the materials merchandise and minerals carried by any such vessel.



# **Pier and Harbour Provisional Orders (No. 2)**

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A

**B I L L**

INTITULED

An Act to confirm certain Provisional Orders made by the Board of Trade under the General Pier and Harbour Act 1861 relating to Bognor Herne Bay and Truro.

*(Brought from the Commons 28th June 1909.)*

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Ordered to be printed 28th June 1909.

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[*Price 5½d.*]

## **Police Bill.**

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### **ARRANGEMENT OF CLAUSES.**

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**Clause.**

1. Annual contribution towards expenses of metropolitan police.
  2. Provision as to additional rate levied under 53 & 54 Vict. c. 45. s. 19 (4) in metropolitan district.
  3. Additional Assistant Commissioner of metropolitan police.
  4. Regulations by Secretary of State as to superannuation for officers of staff of metropolitan police.
  5. Pensions of widows and children of constables killed on duty.
  6. Short title.
-





[9 EDW. 7.]

*Police.*

1

A

## B I L L

INTITULED

An Act to amend the Metropolitan Police Acts, 1829 to 1899, and to make better provision for the widows and children of constables who lose their lives in the execution of their duty. A.D. 1909.

**B**E it 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:—

- 5**     **1.** In addition to the sums payable out of moneys provided by Parliament for specified services of the metropolitan police, and as salaries under the Metropolitan Police Act, 1899, there shall be paid in each year out of moneys provided by Parliament in respect of services rendered by the metropolitan police for
- 10** imperial and national purposes such sum as the Secretary of State, with the approval of the Treasury, may determine.
- 15**     **2.** The proceeds of any addition to the metropolitan police rate levied under the provisions of subsection four of section nineteen of the Police Act, 1890, shall not be reckoned as part of the sum actually raised by rates for the purposes of paragraph (k) of subsection two of section twenty-four of the Local Government Act, 1888, which regulates the amount to be paid by county councils to the receiver for the metropolitan police district and charged to the Exchequer Contribution Accounts.
- 20**     **3.** It shall be lawful for His Majesty to appoint a fit person to be a fourth Assistant Commissioner of Police of the Metropolis, and the Metropolitan Police Act, 1856, shall apply in like manner as if four Assistant Commissioners of Police of the Metropolis were therein mentioned instead of two.

Annual contribution towards expenses of metropolitan police.

Provision as to additional rate levied under 53 & 54 Vict. c.45, s. 19 (4) in metropolitan district

Additional Assistant Commissioner of metropolitan police.

A.D. 1909.  
Regulations  
by Secretary  
of State as  
to super-  
annuation  
for officers of  
staff of  
metropolitan  
police.

4.—(1) The power of the Secretary of State under the Metropolitan Police Superannuation Act, 1875, to make regulations respecting the grant to the officers to whom that Act applies of superannuation allowances, compensations, gratuities, or other allowances, on the like principles and conditions as were in force at the passing of that Act with respect to persons in the permanent civil service of the State, shall be extended so as to include a power to make such regulations on the like principles and conditions as are for the time being in force with respect to persons in the permanent civil service of the State, and to vary and revoke any such regulations. 5 10

(2) In section one of the said Act, the words “as soon as conveniently may be” shall be repealed.

Pensions of  
widows and  
children of  
constables  
killed on  
duty.

5.—(1) At the end of paragraph (6) of Part II. of the First Schedule to the Police Act, 1890 (which relates to the pensions and allowances to widows and children of constables in England), the following proviso shall be added:— 15

“Provided further that where a constable loses his life from the effects of an injury which is not accidental, the police authority shall increase the pension to the widow to a sum equal to one-third of the annual pay of the constable, and the allowance to each child to a sum equal to one-fifteenth of such pay, or, if there is no widow, to a sum not less than one-fifteenth nor more than two-fifteenths of such pay, unless the aggregate of such pension and allowances would exceed two-thirds of such pay, in which case they shall be rateably reduced; the police authority may, however, refuse so to increase the pension to the widow on the ground of her misconduct, but any such refusal shall be subject to confirmation by the Secretary of State.” 20 25

(2) At the end of paragraph 5 of Part II. of the First Schedule to the Police (Scotland) Act 1890 (which relates to the pensions and allowances to widows and children of constables in Scotland) the following proviso shall be added:— 30

“Provided further that where a constable loses his life from the effects of an injury which is not accidental, the police authority shall increase the pension to the widow to a sum equal to one-third of the annual pay of the constable and the allowance to each child to a sum equal to one-fifteenth of such pay, or, if there is no widow, to a sum not less than one-fifteenth nor more than two-fifteenths of such pay, unless the aggregate of 35 40

[9 Edw. 7.]

*Police.*

3

such pension and allowances would exceed two-thirds of such A.D. 1909.  
 pay, in which case they shall be rateably reduced; the police  
 authority may, however, refuse so to increase the pension to the  
 widow on the ground of her misconduct, but any such refusal  
 5 shall be subject to confirmation by the Secretary for Scotland."

6. This Act may be cited as the Police Act, 1909, and so Short title.  
 far as it amends the Metropolitan Police Acts, 1829 to 1899,  
 may be cited with those Acts as the Metropolitan Police Acts,  
 1829 to 1909, and, so far as it amends the Police Act, 1890,  
 10 may be cited with the Police Acts, 1839 to 1908, as the Police  
 Acts, 1839 to 1909, and so far as it amends the Police (Scotland)  
 Act, 1890, may be cited with the Police (Scotland) Acts, 1857 to  
 1890, as the Police (Scotland) Acts, 1857 to 1909.

## Police.

A

## B I L L

[AS AMENDED IN COMMITTEE]

INTITLED

An Act to amend the Metropolitan Police Acts, 1829 to 1899, and<sup>2</sup> to make better provision for the widows and children of constables who lose their lives in the execution of their duty.

*(Brought from the Commons 4th October 1909.)*

Ordered to be printed 25th October 1909.

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E. PONSOME, 116, Grafton Street, Dublin.

[Price 1d.]

(208.)

## **Police Bill.**

### **A M E N D M E N T**

**TO BE MOVED ON THIRD READING**

**BY**

**THE LORD STEWARD (*E. Beauchamp*).**

---

Clause 4, page 2, line 13, after subsection (2) insert the following new subsection—

(3) For removing doubts it is hereby declared that in subsection (2) of section five of the Metropolitan Police Courts Act, 1897 (which relates to the superannuation allowances of members of the staff of the metropolitan police courts, except police magistrates) the expression “the Superannuation Act, 1859, “ and the enactments amending the same ” includes the enactments amending that Act passed after as well as before the passing of the Metropolitan Police Courts Act, 1897.

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# Police Bill.

## A M E N D M E N T

TO BE MOVED ON THIRD READING

BY

THE LORD STEWARD (*E. Beauchamp*).

28th October 1909.

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[*Price 3d.*]

(208 a.)

[9 EDW. 7.]

*Police (Liverpool Inquiry).*

1

A

## B I L L

INTITULED

An Act to facilitate the proceedings of any Commissioner A.D. 1909.  
 who may be appointed to hold an inquiry respecting  
 the conduct of the Police of the City of Liverpool  
 in dealing with disturbances of the peace in that city  
 during the twelve months preceding the passing of  
 this Act.

**B**E it 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:—

- 5     **1.** Any Commissioner appointed by the Secretary of State Powers of  
Commis-  
sioner.  
 to inquire into the conduct of the police of the City of Liverpool  
 in dealing with disturbances of the peace in that city during the  
 period of twelve months immediately preceding the passing of  
 this Act, and into the circumstances causing such disturbances,
- 10 shall have the like powers, rights, and privileges as were con-  
 ferred by the Metropolitan Police (Commission) Act, 1906, on  
 the Commissioners referred to in that Act, and that Act shall  
 have effect as if it were herein re-enacted and in terms made  
 applicable to this Act.
- 15     **2.** This Act may be cited as the Police (Liverpool Inquiry) Short title.  
 Act, 1909.







# Police (Liverpool Inquiry).

---

A

B I L

INTITLED

An Act to facilitate the proceedings  
of any Commissioner who may  
be appointed to hold an inquiry  
respecting the conduct of the Police  
of the City of Liverpool in dealing  
with disturbances of the peace in  
that city during the twelve months  
preceding the passing of this Act.

*(Brought from the Commons 8th November 1909.)*

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Ordered to be printed 8th November 1909.

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E. PONSONBY, 116, Grafton Street, Dublin.

[Price 3d.]

(223.)

[9 EDW. 7.]      *Prisons (Scotland).*    [H.L.]

1

## A

## B I L L

## INTITULED

An Act to provide for the appointment of women as members of visiting committees for prisons in Scotland. A.D. 1909.

**B**E it 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:—

5      **1.**—(1) This Act shall extend to Scotland only, and shall be construed with the Prisons (Scotland) Act, 1877. Extent, construction, and short title.‡

(2) This Act may be cited as the Prisons (Scotland) Act, 1909, and this Act and the Prisons (Scotland) Acts, 1860 to 1904, may be cited as the Prisons (Scotland) Acts, 1860 to 1909.

10      **2.** The Secretary for Scotland may annually appoint, to be additional members of the visiting committee for any prison where female prisoners are received, a woman, or such number of women as shall not exceed one-third of the prescribed number of such committee. Appointment of women on visiting committees.





# Prisons (Scotland). [H.L.]

---

A

B I L L

INTITLED

An Act to provide for the appointment of women as members of visiting committees for prisons in Scotland.

*The Lord Pentland.*

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Ordered to be printed 29th July 1909.

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[Price  $\frac{1}{2}d.$ .]

(126.)

## **Professional Accountants Bill. [H.L.]**

---

### **MEMORANDUM.**

The object of this Bill is to organise the profession of accountant on the same lines as the professions of solicitor, surgeon or physician, veterinary surgeon, and dentist, by forming a register of qualified accountants, and prohibiting any unregistered person from taking or using any name, title, &c. stating or implying that he is a professional accountant, and from holding himself out to the public as ready to undertake for pay the business of a professional accountant.

All present and future members of the Institute of Chartered Accountants, which was incorporated by royal charter in 1880, and all members of the Society of Incorporated Accountants and Auditors, which was incorporated under section 23 of the Companies Act, 1867, in 1885, and the members of certain Scotch and Irish and Colonial institutes or societies who give notice of their intention to practise in England or Wales, and all persons who, though not members of any institute or society, were in practice, in England or Wales at the passing of the Act will be entitled to be registered. Persons not being entitled as aforesaid, but who were articulated before the passing of the Act and who pass the prescribed examinations under the Act, will also be entitled to be registered.

The Bill provides for the admission of women to membership of the Institute of Chartered Accountants and of the Society of Incorporated Accountants and Auditors, so that women will be eligible for registration.

There will be a Professional Accountants Register Committee, with power to make rules respecting registration and for the holding of examinations, and generally for the execution of the provisions of the Act, and with disciplinary powers for the protection of the public.

In case of refusal to register an applicant, and in case of the removal of a name from the register, there will be an appeal to the High Court.





## **Professional Accountants Bill. [H.L.]**

---

### ARRANGEMENT OF CLAUSES.

Clause.

1. Short title.
2. Definitions.

#### REGISTRATION.

3. Register of persons practising as professional accountants.
4. Persons entitled to be registered without examination under this Act.
5. Persons entitled to be registered on passing examinations under this Act.
6. Constitution of professional accountants' register committee.
7. Registrar and custody of register.
8. Duties and powers of the committee.
9. Power to refuse registration in certain cases.
10. Correction of register.
11. Resolution for removal of name from register.
12. Restoration of name to register.
13. Appeal from decision of committee.
14. Publication and sale of lists of persons on register.
15. Evidence of registration.
16. Notice of death of professional accountant.
17. Admission of women to membership of Institute and Society.

#### OFFENCES AND LEGAL PROCEEDINGS.

18. Prohibition of unregistered persons using title of professional accountants, &c.
19. Prohibition of persons falsely describing themselves as members of the Institute or of the Society.
20. As to registered accountants other than members of the Institute or Society.
21. Penalty for obtaining registration by false representation.

## Clause.

- 22. Penalty for wilful falsification of register.
- 23. Prosecution of offences and recovery of fines.
- 24. Restriction on prosecution.

## MISCELLANEOUS.

- 25. Application of fees and audit of accounts.
  - 26. Service of notices by post.
-

A

## B I L L

INTITULED

An Act to provide for the Registration of Professional Accountants in England and Wales; and for other relative purposes. A.D. 1909.

**B**E it 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:—

5      **1.** This Act may be cited as the Professional Accountants Act, 1909. Short title.

**2.** In this Act—

Definitions.

10      “The Institute” means the Institute of Chartered Accountants in England and Wales incorporated and regulated by a charter granted by Her late Majesty Queen Victoria in the year 1880;

“The Society” means the Society of Incorporated Accountants and Auditors incorporated in the year 1885 under section twenty-three of the Companies Act, 1867;

15      “The register” means the Register of Professional Accountants in England and Wales directed to be kept under this Act;

20      “The registrar” means the person for the time being appointed to be or to perform the duties of registrar under this Act;

“Professional accountant” means any person whose business or occupation is the performance of the functions of a professional or public accountant.

(71.)

A.D. 1909.

## REGISTRATION.

Register  
of persons  
practising as  
professional  
accountants.

**3.** A register of the names of persons practising as professional accountants in England and Wales shall be kept, subject to the provisions of this Act, by the registrar in a book to be styled the Register of Professional Accountants in England and Wales.

Persons en-  
titled to be  
registered  
without ex-  
amination  
under this  
Act.

**4.** The following persons shall (subject to the provisions of this Act herein-after contained) be entitled to be registered under this Act :—

- (1) All persons who are now members of the Institute or Society, or who from time to time shall become members either of the Institute or of the Society, and shall give notice in writing to the Professional Accountants' Register Committee by this Act constituted (hereinafter called "the committee") of their intention to practise in England or Wales:
- (2) Any person who (although not a member of the Institute or of the Society) shall within six months from the passing of this Act give notice in writing to the committee, and within twelve months from the passing of this Act prove to the satisfaction of the committee, that he was in practice as a professional accountant in England or Wales at the passing of this Act, subject nevertheless to the provisions of the section of this Act whereof the marginal note is "Power to refuse registration in certain cases":
- (3) Any person who is now or shall hereafter become a member of the Society of Accountants in Edinburgh, or of the Institute of Accountants and Actuaries in Glasgow, or of the Society of Accountants in Aberdeen, or of the Institute of Chartered Accountants in Ireland, and who shall give notice in writing to the committee of his intention to practise as a professional accountant in England or Wales:
- (4) Any person who is now or shall hereafter become a member of any institute or society of professional accountants incorporated or duly constituted under the laws of any British colony or dependency (including India), or of any territory administered under royal charter or under the laws of the United

[9 EDW. 7.]

*Professional Accountants.*

3

States of America, membership of which is considered from time to time by the committee in their absolute discretion, having regard to all the circumstances, to be a proper qualification, and who shall give notice in writing to the committee of his intention to practise as a professional accountant in England or Wales.

A.D. 1909.

5

5. Any person (not being a person entitled to be registered under the preceding provisions of this Act) shall be entitled (subject nevertheless to the provisions of the section of this Act whereof the marginal note is "Power to refuse registration in certain cases") to be registered under this Act on producing or transmitting to the registrar a certificate of the committee that he has passed such examinations as the committee shall from time to time prescribe, and on proof to the satisfaction of the committee that he has served under articles to a professional accountant practising in England or Wales, and registered or entitled to be registered under this Act (not being a member of the Institute or of the Society) for not less than five years, or, in the case of a graduate of any university in the United Kingdom, for not less than three years, and that he has attained the age of twenty-one years; such service as aforesaid having been commenced before the passing of this Act.

Persons entitled to be registered on passing examinations under this Act.

- 6.—(1) As soon as may be after the passing of this Act there shall be constituted a professional accountants' register committee, consisting of fifteen members, of whom nine shall be appointed by the council of the Institute and six shall be appointed by the council of the Society.

Constitution of professional accountants' register committee.

- (2) Three members appointed by the council of the Institute and two members appointed by the council of the Society shall retire annually, but shall be eligible for re-election by the respective councils. The members to retire in the years nineteen hundred and ten and nineteen hundred and eleven shall be determined by agreement, or, in default of agreement, by lot, and in subsequent years the members to retire shall be those who have been longest in office.

- (3) The council of the Institute or of the Society may from time to time remove any member of the committee appointed by such council (as the case may be), and may appoint in the stead of any member so removed any other member of such council.

- (4) Vacancies among the members of the committee shall be filled by the council by whom the vacating members or member

A.D. 1909. were or was appointed, but a person appointed to fill a casual vacancy shall continue in office so long only as the person in whose room he is appointed would have held office.

(5) Any member of the committee whose name shall at any time cease to be on the register shall ipso facto cease to be a member of the committee.

(6) The committee may sue and be sued in the name of the registrar.

(7) The quorum for a meeting of the committee shall, unless and until otherwise provided by a rule made by the committee, be nine.

Registrar  
and custody  
of register.

7. The secretary of the Institute for the time being shall be the registrar, and the register shall be kept at the offices of the Institute.

Duties and  
powers of the  
committee.

8. The committee shall have power--

15

(1) To frame rules--

With respect to registration of the addresses of persons registered under this Act and to notification to the registrar of any change of address;

With respect to the inspection of the register; 20

With respect to the holding of examinations, and with respect to the subjects for and the times and places of and the mode of conducting examinations, and with respect to the appointment and removal of examiners, and with respect to the remuneration, by fees or otherwise, of the examiners so appointed; 25

With respect to the certificates (if any) to be given to persons of their having passed any examination held under this Act; 30

With respect to the quorum and procedure of the committee, and with respect to any other matter or thing as to which the committee think it expedient to make rules for the purposes of this Act: 35

(2) To provide for the duties and remuneration of the registrar:

(3) To determine questions relating to the qualifications for admission to the register of persons not being

members of the Institute or of the Society or of any other institute or society in this Act mentioned or referred to: A.D. 1909.

- 5 (4) To prescribe charges and recover fees with respect to examinations and registration under this Act:

And generally to do any act or thing which may be necessary and expedient for the due and proper execution of the provisions of this Act.

- 10 **9.** The committee may refuse to register under this Act— Power to refuse registration in certain cases.
- (1) Any person who has been excluded from membership of the Institute or of the Society, or of any other institute or society in this Act mentioned or referred to:
- 15 (2) Any person who has been suspended from membership of the Institute or of the Society, or of any other institute or society in this Act mentioned or referred to, so long as the suspension continues:
- (3) Any person who is proved to the satisfaction of the committee—
- 20 (a) To have been convicted of any crime in or beyond the United Kingdom, or to have been declared by any court of competent jurisdiction in or beyond the United Kingdom to have committed any fraud;
- 25 (b) To have been guilty of any act or default discreditable to a professional accountant;
- (c) To have been adjudged bankrupt, or individually or as a partner to have made an assignment for the benefit of creditors, or to
- 30 have made any arrangement for payment of a composition to creditors;
- (d) To be following any business or occupation other than that of a professional accountant or some business which in the opinion of the
- 35 committee is incident thereto or consistent therewith: Provided that where, at the date of the passing of this Act, the practice of a professional accountant is being carried on in combination with some other business, then the
- 40 provisions of this subsection relative to the



A.D. 1909.

following or entering into any other business or occupation shall not apply to a person registered under this Act who continues to carry on that same combined business or, after the date of the passing of this Act, becomes engaged in 5 such combined business either by himself or with a partner; but nothing in this proviso shall entitle such partner (unless otherwise entitled) to carry on the combined business after such person as aforesaid shall have died or 10 ceased to practise as a professional accountant.

Correction of register.

**10.**—(1) The registrar shall from time to time insert in the register any alteration which may come to his knowledge in the name or address or description of any person registered.

(2) The registrar shall remove from the register the name 15 of every deceased person.

(3) The registrar may remove from the register the name of a person who has ceased to practise, but not (save as hereinafter provided) without the consent of that person.

(4) Where the registrar has reason to think that any person 20 registered has ceased to practise, the registrar may send by post to such person a notice inquiring whether or not he has ceased to practise or has changed his residence, and if the registrar does not, within three months after sending the notice, receive any answer thereto from such person, the registrar may, within 25 fourteen days after the expiration of the three months, send him by post in a registered letter another notice referring to the first notice, and stating that no answer thereto has been received, and if the registrar does not, within one month after sending the second notice, receive any answer thereto, such person shall, 30 for the purposes of this section, be deemed to have ceased to, practise, and his name may, with the approval of the committee, be removed accordingly.

(5) In the execution of his duties under this section the registrar shall act on such evidence as in each case appears to 35 him sufficient.

Resolution for removal of name from register.

**11.** The committee may resolve to remove from the register the name of any person which has been erroneously or fraudulently entered, and the name of any person who shall have been excluded or suspended from membership of the Institute or of 40 the Society, or of any other institute or society in this Act



mentioned or referred to, and the name of any other person (not being a member of any such institute or society) who has been guilty of any offence or misconduct or has committed any act or default which would have justified the committee in refusing  
 5 to register him under this Act, and the name of any person who has failed to pay within six months after a written demand in that behalf from the registrar any fee due from him under the provisions of this Act; and the registrar shall act in accordance with any such resolution of the committee.

A.D. 1909.

10 **12.**—(1) Where the name of a person has been removed from the register it shall not be again entered in the register except by the direction of the committee or by order of the High Court, and except in the case of suspension for which provision is  
 Restoration of name to register.

15 (2) The committee may, in any case in which they think fit, direct the registrar to restore to the register any name removed therefrom, either without fee or on payment of such fee (not exceeding the fee prescribed for admission to the register) as the committee may from time to time fix, and the registrar shall  
 20 restore the name accordingly; but no such direction shall be given in the case of a member of the Institute or of the Society, or of any other institute or society in this Act mentioned or referred to, unless such member shall have been readmitted to membership of the institute or society to which he previously  
 25 belonged.

(3) In the case of a person who has been suspended from membership of the Institute or of the Society, or of any other institute or society in this Act mentioned or referred to, the registrar may, at the expiration of the period of suspension, restore  
 30 the name to the register without a resolution of the committee: Provided that if it be proved to the satisfaction of the committee that the person suspended has, during the period of his suspension, committed any act or default which would have rendered him liable to exclusion or suspension if he had been a member, the  
 35 committee may refuse to restore the name either for a limited period or otherwise.

(4) The name of any person removed from the register at the request or with the consent of such person may (unless it might, if not so removed, have been removed by direction  
 40 of the committee) be restored to the register by the registrar,  
 (71.) B 2

A.D. 1909. with the approval of the committee, on the application of such person and on payment of such fee (not exceeding the fee prescribed for admission to the register) as the committee shall from time to time fix.

Appeal from  
decision of  
committee.

**13.** Where the committee refuse to register the name of a 5 person applying for registration under this Act, or resolve to remove the name of any person from the register, or refuse to restore the name of any person to the register, they shall, if required by the person affected, within six months after notice to him of the decision of the committee, report their 10 resolution and the grounds thereof to the High Court.

Thereupon the Court may make an order allowing or disallowing the resolution either absolutely or subject to such conditions (if any) as to time or otherwise as the Court may think fit, and the resolution shall have effect so far only as it 15 is allowed by the Court.

Rules of court may be made for the purposes of this Act.

Publication  
and sale  
of lists of  
persons on  
register.

**14.—**(1) The committee shall cause lists of all persons on the register to be from time to time, and at least once a year, printed under their direction, and published and sold. 20

(2) The lists shall contain such particulars and be arranged in such form as the committee may direct.

Evidence of  
registration.

**15.** A copy of the register for the time being, purporting to be printed and published in pursuance of this Act, shall be evidence in all cases (until the contrary be made to appear) that 25 the persons therein named are on the register, and the absence of the name of any person from such copy shall be evidence (until the contrary be made to appear) that such person is not on the register: Provided that, in the case of any person whose name does not appear in such copy, a certified copy under the hand of the 30 registrar of the entry of the name of such person in the register shall be evidence that such person is on the register.

Notice of  
death of  
professional  
accountant.

**16.** Every registrar of deaths in the United Kingdom, on receiving notice of the death of any person on the register, shall forthwith transmit by post to the registrar a certificate under his 35 hand of such death, with particulars of the time and place of death, and on the receipt of such certificate the registrar shall remove the name of such person from the register, and shall transmit to the said registrar of deaths a fee of one shilling.

17.—(1) Subject to the provisions of the charter and bye-laws of the Institute, every woman who obtains a certificate of her having passed the final examination provided for by the charter shall be entitled to be admitted an associate of the Institute; and, subject as aforesaid, every woman who, being an associate of the Institute, has, for five years next before the time of her applying to be admitted a fellow, been continuously in practice as a professional accountant shall be entitled to be admitted a fellow of the Institute.

A.D. 1909.  
Admission of  
women to  
membership  
of Institute  
and Society.

(2) Subject to the memorandum and articles of association and to the byelaws of the Society, every woman who obtains a certificate of her having passed such an examination or examinations as the council of the Society may from time to time by byelaw or otherwise determine, shall be eligible for admission as an associate of the Society; and, subject as aforesaid, every woman who being an associate of the Society, has been continuously in practice as a professional accountant for not less than three years immediately prior to her application, shall be eligible for admission as a fellow of the Society.

20

## OFFENCES AND LEGAL PROCEEDINGS.

18. From and after the thirty-first day of December nineteen hundred and nine it shall not be lawful for any person whose name is not on the register—

Prohibition  
of unregis-  
tered persons  
using title of  
professional  
accountants,  
&c.

(a) To take or use any name, title, description, or addition, by letters or otherwise, stating or implying that he is a professional accountant, or that he is in practice as a professional accountant; or

(b) To hold himself out to the public as ready to undertake for pay the business of a professional accountant, or to exercise any function prescribed by law as having to be exercised by a professional accountant.

Any person acting in contravention of this section shall be liable to a fine not exceeding twenty pounds, and to a further fine not exceeding one pound for every day on which the offence is repeated after conviction: Provided that a person who was practising as an accountant in England or Wales before the first day of January nineteen hundred and nine, and who has continued in practice, shall not be liable before the first day of January nineteen hundred and ten to any

A.D. 1909. — fine under this section except for taking or using a name, title, description, or addition, by letters or otherwise, stating or implying that he is in practice as a professional accountant.

Prohibition of persons falsely describing themselves as members of the Institute or of the Society.

**19.** From and after the thirty-first day of December nineteen hundred and nine it shall not be lawful for any person not being a member of the Institute or of the Society to take or use any title, description, or initials, by letter or otherwise, stating or implying that he is a member of the Institute or of the Society, or in any way whatsoever to hold himself out as being a member of the Institute or of the Society; and it shall not be lawful for any person not being a member of the Institute, or of some other institute or society founded by royal charter in Great Britain or Ireland, to use the description of chartered accountant, nor for any person who is not a member of the Society to use the description of incorporated accountant.

Any person acting in contravention of this section shall be liable to a fine not exceeding twenty pounds, and to a further fine of not exceeding one pound for every day on which the offence is repeated after conviction.

20

As to registered accountants other than members of the Institute or Society.

**20.** It shall not be lawful for any person registered as a professional accountant under this Act, and not being a member of the Institute or the Society, to take or use any title, description, or initials, by letters or otherwise, indicating that he is a professional accountant (other than the title, or description, of professional accountant), unless such title, description, or initials shall be approved by resolution of the committee.

25

Any person acting in contravention of this section shall be liable to a fine not exceeding ten pounds, and to a further fine not exceeding one pound for every day on which the offence is repeated after conviction.

30

Penalty for obtaining registration by false representation.

**21.** Any person who wilfully procures or attempts to procure himself to be placed on the register by making or producing, or causing to be made or produced, any false or fraudulent declaration, certificate, or representation, either in writing or otherwise, and any person aiding and assisting him therein, shall be deemed guilty of a misdemeanour, and shall on conviction thereof be liable to a fine not exceeding fifty pounds, or to be imprisoned with or without hard labour for any term not exceeding twelve months.

40

**22.** If the registrar wilfully makes or causes to be made any falsification in any matter relating to the register he shall be deemed guilty of a misdemeanour, and shall be liable to a fine not exceeding fifty pounds, or to be imprisoned with or without  
5 hard labour for any term not exceeding twelve months.

A.D. 1909.  
Penalty for wilful falsification of register.

**23.** All offences under this Act may be prosecuted and all fines may be recovered in a summary manner under the Summary Jurisdiction Acts.

Prosecution of offences and recovery of fines.

**24.** A prosecution under this Act may be instituted by the  
10 committee, but shall not be instituted by a private person without the written consent of the committee.

Restriction on prosecution.

#### MISCELLANEOUS.

**25.**—(1) All fees paid under or by virtue of this Act shall be paid to the committee; or to the registrar on behalf of the  
15 committee, and the committee shall apply the same in payment of all expenses incurred by them in or about examinations and registration, and otherwise in or about the execution of the provisions of this Act, with power for the committee to invest any moneys from time to time in their hands, and (if thought  
20 fit) to appoint trustees for that purpose, and to invest or apply the resulting income in manner aforesaid.

Application of fees and audit of accounts.

(2) The committee shall keep accounts of all their income and expenditure under this Act, and such accounts shall be audited annually by two professional accountants, one of whom  
25 shall be nominated by the president of the Institute and the other by the president of the Society.

(3) The committee shall, on the request of any person registered under this Act, supply him with a copy of such accounts without payment.

**26.**—(1) Any notice or document required by or for the purposes of this Act to be sent may be sent by post, and, when sent to any person registered under this Act, shall be deemed to be properly addressed if addressed to him at his registered address, and shall be deemed to be properly served if so addressed  
35 and put into the post.

Service of notices by post.

(2) Any notice relating to the removal by the committee from the register of the name of any member, or to the refusal by the committee to register any person, shall be sent by post as a registered letter.

**Public Houses  
Improvement Bill.**  
**[H.L.]**

---

**A M E N D M E N T S**

TO BE MOVED IN COMMITTEE

BY

THE EARL OF LYTTON.

---

*19th July 1909.*

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*[Price 3d.]*

(95 b.)



**Public Houses Improvement Bill. [H.L.]**

[AS AMENDED IN COMMITTEE.]

---

**MEMORANDUM.**

The object of this Bill is to reform the public house. At the present time the public house is, in many cases, merely a place to drink in. The owner or licensee is strictly and systematically debarred from converting his house into a place for social and pleasurable intercourse, and from providing accommodation for the supply of food and other refreshments that the public may require. In France, Belgium, and other continental countries, this class of trader has the same liberty to extend and develop his business as has the grocer, the draper, or other trader or shopkeeper, with the result that the public house or café in Paris or Brussels is a public house in fact as well as in name—a place where all classes may congregate for the purpose of refreshment, enjoyment, and recreation.

The arbitrary restrictions which the law imposes upon the publican in the United Kingdom have resulted in driving people into unregulated resorts such as clubs to obtain those things which in other countries are provided in a superior and high class style in the café. The effect of these restrictions is seen in the widespread evils of excessive and secret drinking and gambling, to check which the law provides and can provide no real remedy. In France, with free conditions as regards the sale of drink and with unrestricted hours of opening, in 1907 the total charges of drunkenness were '623; in Paris the total charges were 207. In England and Wales the convictions for drunkenness in the same period were about 200,000, more than a fourth of which were in the metropolitan police district, while in Glasgow and Edinburgh where there is Sunday closing, early closing on week days, and closing on special days, the convictions for drunkenness were 22,025 and 14,791 respectively. These figures speak for themselves. If the English public were provided with similar facilities for pleasure and recreation as are found in every flourishing continental café, it may safely be concluded that the amount of drunkenness would not have reached such high figures as these.

The Bill does not propose to take away any of the powers for the police supervision of public houses.





1

# BILL

INTITULED

A.D. 1909.

5      1. In exercising powers with respect to granting permission for structural alterations upon or extensions to premises to which an existing on licence, as defined by the Licensing Act, 1904, is attached, the licensing justices shall have regard, so far as they deem practicable, to—

10      (a) the provision of accommodation for the supply of food or light refreshments ;

          (b) the making of such premises, or any part thereof, more open, airy, commodious, or comfortable ;

          (c) the improvement or enlargement of the sanitary accommodation ;

15      (d) the substitution of the provision of chairs and tables either wholly or partly in lieu of existing bar accommodation ;

          (e) the provision of games, other than unlawful games, newspapers, music, or gardens, or any other means of reasonable recreation ;

20

Provided always that no alteration in the premises or fittings,  
the chief effect of which would be, in the opinion of the licensing  
(112.) A

A.D. 1909. — justices, materially to increase the consumption of intoxicating liquors only or would conceal from observation any part of the premises used for drinking, shall be deemed to come within the provisions of this section: Provided also that in case of refusal to sanction alterations on the last-named ground an appeal shall lie 5 to quarter sessions.

Application to Scotland. **2.** In the application of this Act to Scotland the words “licensing justices” shall be read as “licensing court,” and appeals shall be to the Court of Appeal.

Short title. **3.** This Act may be cited as the Public Houses Improve- 10 ment Act, 1909.



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# Public Houses Improvement. [H.L.]

---

A

B I L L

[AS AMENDED ON REPORT]

INTITULED

An Act to facilitate the Provision of  
Accommodation for supplying Food,  
and other Improvements in con-  
nection with Premises licensed for  
the Sale of Intoxicating Liquors by  
retail.

*The Lord Lamington.*

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Ordered to be printed 29th July 1909.

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OLIVER and BOYD, Tweeddale Court, Edinburgh; or  
E. POSSONBY, 116, Grafton Street, Dublin.

[*Price 1d.*]

(123.)

[9 EDW. 7.] *Railway Rates and Charges Provisional Order* 1  
*(Weston, Clevedon, and Portishead Light Railways).*

A

# B I L L

## INTITULED

An Act to confirm a Provisional Order made by the A.D. 1909.  
 Board of Trade under the Railway and Canal Traffic  
 Act 1888 relating to the Classification of Merchandise  
 Traffic and the Schedule of Maximum Rates and  
 Charges applicable thereto of the Weston Clevedon  
 and Portishead Light Railways Company.

**W**HEREAS under the Railway and Canal Traffic Act 1888 51 & 52 Vict.  
c. 25, s. 24.  
 the Board of Trade have made the Provisional Order set  
 out in the schedule to this Act annexed:

And whereas it is expedient that the said Provisional Order  
 5 as set out in the schedule to this Act annexed be confirmed by  
 Act of Parliament:

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  
 10 by the authority of the same as follows:--

**1.** This Act may be cited as the Railway Rates and Charges Short title.  
 (Weston Clevedon and Portishead Light Railways) Order  
 Confirmation Act 1909.

**2.** The Order as set out in the schedule to this Act annexed Confirmation  
of Order in  
schedule.  
 15 shall be and the same is hereby confirmed and all the provisions of  
 the said Order in manner and form as they are set out in the said  
 schedule shall from and after the passing of this Act have full  
 validity and effect.

---

\_\_\_\_\_

## 5

Short title.

**Commence-**  
**ment.**

**Interpreta-  
tion.**

**Schedule of maximum rates and charges for Weston Clevedon and Portishead Light Railways Company.**

15

20

25



**Railway Rates and  
Charges Provisional  
Order (Weston,  
Cleveland, and Portis-  
head Light Railways).**

---

A

**B I L L**

INTITLED

An Act to confirm a Provisional Order made by the Board of Trade under the Railway and Canal Traffic Act 1888 relating to the Classification of Merchandise Traffic and the Schedule of Maximum Rates and Charges applicable thereto of the Weston Cleveland and Portishead Light Railways Company.

*(Brought from the Commons 11th May 1909.)*

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Ordered to be printed 11th May 1909.

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PRINTERS TO THE KING'S MOST EXCELLENT MAJESTY.

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32, Abingdon Street, Westminster, S.W.; or  
OLIVER and BOYD, Tweeddale Court, Edinburgh; or  
E. PONSONBY, 116, Grafton Street, Dublin.

[*Price 3d.*]

(52.)



## **Registration of Firms Bill. [H.L.]**

---

### **ARRANGEMENT OF CLAUSES.**

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Clause.

1. Short title.
2. Commencement of Act.
3. Interpretation of terms.
4. Firms and persons to be registered.
5. Manner and particulars of registration.
6. Particulars to be signed by persons registering.
7. Time for registration.
8. Registration of changes in firm.
9. Re-registrations on change of trade name.
10. Penalty for default in registration.
11. Persons in default taking legal proceedings may be ordered by court to register.
12. Making false returns under this Act to be misdemeanor.
13. Registrar to file statement and issue certificate of registration.
14. Register and index to be kept.
15. Registrar of joint stock companies to be registrar under this Act.
16. Inspection of statements registered.
17. Power for Board of Trade to make rules.
18. Remuneration for duties under this Act.



(53.) A 2

A.D. 1909.

- (b) Every person carrying on business at any place in the United Kingdom under any trade name consisting of or containing any name or addition other than the full name of that person ;

shall register in the manner directed by this Act the name 5  
under which their or his business is or is intended to be carried  
on.

Manner and  
particulars of  
registration.

5.—(1) Registration under this Act shall be effected by sending by post or delivering to the registrar at the register office in that part of the United Kingdom in which the place 10  
of business of the firm or person registering is or is intended to be situated a statement in writing containing the following and any other prescribed particulars :—

- (a) The trade name ;
- (b) The general nature of the business ; 15
- (c) The place or places of the business ;
- (d) The full name, usual residence, and other occupation (if any) of the person or persons carrying on or intending to carry on the business ;
- (e) If the business is commenced, or any new place of 20  
business is established, after the commencement of this Act, the date of the commencement of the business or establishment of the place of business.

(2) Where a firm or person carries on business under two or more trade names, each of those trade names must be registered. 25

(3) Where a firm carries on business in the United Kingdom and also abroad, the name of any foreign partner must be included in the statement, whether he is a British subject or not.

Particulars  
to be signed  
by persons  
registering.

6. The statement required on registration must either be signed by the person or by all the members of the firm to be 30  
registered, or in the case of a firm, must be verified by a statutory declaration made by a member of the firm or intended firm.

Time for  
registration.

7. The firms and persons required to be registered as aforesaid shall register before they commence business :

Provided that if such firms or persons have carried on business 35  
before the commencement of this Act it shall be sufficient if they register within *three months* after that date.

**8.** Where a change occurs in the constitution of a registered firm, the members of the firm as reconstituted shall, within *three months* after such change, send by post or deliver to the registrar a statement thereof.

A.D. 1909.  
Registration  
of changes  
in firm.

**9.** Where a registered trade name is changed, the new name shall be registered with the prescribed particulars.

Re-registra-  
tions on change  
of trade name.

**10.**—(1) If any person by this Act required to send or deliver any statement shall make default without reasonable excuse in sending or delivering the same in manner and within the time specified by this Act, he shall, for every day during which the default continues, be liable on summary conviction to a fine not exceeding *one pound*.

Penalty for  
default in  
registration.

(2) Provided that it shall be necessary to give notice in writing to the persons making default as aforesaid of an intention to take proceedings under this section on the expiration of *seven days* from the delivery of such notice, unless registration has been effected in the meantime.

**11.** Where any firm or person by this Act required to send or deliver any statement to the registrar has therein made default, and during the default commences any legal proceeding in the trade name, or for a cause of action arising out of any dealing by such firm or person in the trade name, the court may order the firm or person in default to send or deliver to the registrar the proper statement, and may stay all proceedings until the order be complied with, or allow proceedings to be continued on an undertaking to comply with the order within a time to be limited by the court. The power by this section given to the court may in the case of the High Court be exercised by a judge at chambers, and by a master or district registrar exercising the authority or jurisdiction of a judge at chambers.

Persons  
in default  
taking legal  
proceedings  
may be  
ordered by  
court to  
register.

**12.** Every one commits a misdemeanor, and shall be liable on conviction on indictment to imprisonment with or without hard labour for a term not exceeding *two years*, who makes, signs, sends, or delivers for the purpose of registration under this Act any false statement known by him to be false.

Making false  
returns under  
this Act to  
be misde-  
meanor.

**13.** On receiving any statement made in pursuance of this Act the registrar shall cause the same to be filed, and he shall send by post or deliver a certificate of the registration thereof to the firm or person registering.

Registrar to  
file statement  
and issue  
certificate of  
registration.

A.D. 1909.  
Register and  
index to be  
kept.

**14.** At each of the register offices herein-after referred to the registrar shall keep, in proper books to be provided for the purpose, a register and an index of all the firms and persons registered, and of all the statements registered in reference thereto.

Registrar of  
joint stock  
companies to  
be registrar  
under this  
Act.

**15.** The registrar of joint stock companies shall be the registrar of firms for the purposes of this Act, and the several offices for the registration of joint stock companies in London, Edinburgh, and Dublin shall be the offices for the registration of firms carrying on business within those parts of the United Kingdom in which they are respectively situated. 5 10

Inspection of  
statements  
registered.

**16.** Any person may inspect, make extracts from, or copies of the statements filed by the registrar, in the register offices aforesaid, and there shall be paid for such inspection such fees as may be appointed by the Treasury not exceeding *one shilling* for each inspection; and any person may require a certificate of the registration of any firm or person, or a copy of or extract from any registered statement to be certified by the registrar, and there shall be paid for such certificate of registration, certified copy, or extract such fees as the Treasury may appoint not exceeding *two shillings* for the certificate of registration, and not exceeding *sixpence* for each folio of seventy-two words, or in Scotland for each sheet of two hundred words: 15 20

A certificate of registration, or a copy of or extract from any statement registered under this Act, if duly certified to be a true copy under the hand of the registrar or one of the assistant registrars (whom it shall not be necessary to prove to be the registrar or assistant registrar), shall, in all legal proceedings, civil or criminal, and in all cases whatsoever, be received in evidence. 25

Power for  
Board of  
Trade to  
make rules.

**17.—(1)** The Board of Trade may make rules (but as to fees with the concurrence of the Treasury) concerning any of the following matters:— 30

- (a) The fees to be paid on registration under this Act, so that they do not exceed the sum of *five shillings* for the registration of any one statement; 35
- (b) The forms to be used under this Act;
- (c) The duties or additional duties to be performed by any registrar under this Act;

[9 EDW. 7.]

*Registration of Firms.*

5

(d) The performance by assistant registrars and other officers of acts by this Act required to be done by the registrar ; A.D. 1909.

5 (e) Generally the conduct and regulation of registration under this Act, and any matters incidental thereto.

(2) All fees payable in pursuance of any such rules shall be applied as the Treasury may direct.

**18.** *There shall be paid out of moneys to be provided by Parliament such remuneration in respect of the duties performed* Remuneration for duties under this Act.  
 10 *under this Act as the Treasury may assign.*

# Registration of Firms. [H.L.]

---

A

**B I L L**

INTITLED

An Act for the Registration of Firms  
and Persons carrying on Business  
under Trade Names.

*The Lord Brassry.*

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Ordered to be printed 11th May 1909.

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[*Price 1d.*]

(53.)



[9 EDW. 7.]      *Remission of Surcharges (Dublin).*

1

A

# B I L L

## INTITULED

An Act to discharge certain surcharges made upon the accounts of the Municipal Corporation of Dublin. A.D. 1909.

**B**E it 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:--

5      **1.** All surcharges made at the audit of the accounts of the Municipal Corporation of Dublin for the periods respectively ended the thirty-first day of March nineteen hundred and six and the thirty-first day of March nineteen hundred and seven, in respect of payments made for the purposes of the public libraries of  
10 the city of Dublin, are hereby discharged; and any proceedings commenced or taken to recover the amount of any such surcharges are hereby annulled.

Remission of  
surcharges.

15      **2.** There shall be paid by the Corporation to the auditor all costs necessarily and properly incurred by the auditor in and about the proceedings hereby annulled.

Payment of  
auditor's  
costs.

**3.** This Act may be cited as the Remission of Surcharges (Dublin) Act, 1909.

Short title.





# **Remission of Surcharges (Dublin).**

---

A

B I L L

INTITULIED

An Act to discharge certain surcharges  
made upon the accounts of the  
Municipal Corporation of Dublin.

*(Brought from the Commons 26th July 1909.)*

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Ordered to be printed 26th July 1909.

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OLIVER and BOYD, Tweeddale Court, Edinburgh; or  
E. PONSORRY, 116, Grafton Street, Dublin.

[*Price 3d.*]

(115.)

[9 EDW. 7.] *Robert Gordon's Technical College and  
Aberdeen Endowments Trust Order Confirmation.*

1

A

## B I L L

## INTITULED

An Act to confirm a Provisional Order under the Private A.D. 1909.  
Legislation Procedure (Scotland) Act 1899 relating to  
Robert Gordon's Technical College and Aberdeen  
Endowments Trust.

**W**HEREAS His Majesty's Secretary for Scotland has after  
inquiry held before Commissioners made the Provisional  
Order set forth in the schedule hereunto annexed under the  
provisions of the Private Legislation Procedure (Scotland) Act 62 & 63 Vict.  
5 1899 and it is requisite that the said Order should be confirmed c. 47.  
by Parliament:

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  
10 and by the authority of the same as follows:—

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

**2.** This Act may be cited as the Robert Gordon's Technical Short title.  
College and Aberdeen Endowments Trust Order Confirmation Act  
15 1909.

A.D. 1909.

## S C H E D U L E.

---

### ROBERT GORDON'S TECHNICAL COLLEGE AND ABERDEEN ENDOWMENTS TRUST.

*Provisional Order for establishing Robert Gordon's Technical College in Aberdeen for amalgamating the Endowments of 5 Robert Gordon's College and the Aberdeen Educational Trust for constituting the Aberdeen Endowments Trust and transferring the Endowments to that Trust and for other purposes.*

WHEREAS by property and funds bequeathed or gifted by 10 various individuals two institutions have been established in Aberdeen for educational combined with charitable purposes and are known as Robert Gordon's College and the Aberdeen Educational Trust:

And whereas by a Provisional Order or scheme dated the 15 tenth day of June one thousand eight hundred and eighty-one (herein-after referred to as "the Order of 1881") and made in pursuance of the Endowed Institutions (Scotland) Act 1878 the President and Governors of Robert Gordon's College in Aberdeen (herein-after referred to as "the existing governors") were incor- 20 porated and were empowered to convert the then existing foundation known as Robert Gordon's Hospital in Aberdeen wholly or partly into a college or day schools to be called Robert Gordon's College in Aberdeen (herein-after called "the existing college") in which the chief subjects of instruction were to be 25 the English language and literature history and geography modern languages mathematics and the elements of physical and natural science and the existing governors were also required to apply their funds towards the maintenance and education of a certain number of boys called foundationers and in the institution of 30 bursaries for boys attending the existing college or other schools in the city and royal burgh of Aberdeen (herein-after referred to as "the city") and for assisting boys in the prosecution of their studies at the University of Aberdeen and elsewhere and in carrying on day and evening classes for boys girls and adult 35

[9 EDW. 7.] *Robert Gordon's Technical College and  
Aberdeen Endowments Trust Order Confirmation.*

3

persons for instruction in primary secondary mechanical physical or other subjects as the existing governors might think proper: A.D. 1909.

And whereas by a scheme of administration dated the seventeenth day of November one thousand eight hundred and  
5 eighty-eight (herein-after referred to as "the Order of 1888") made under the Educational Endowments (Scotland) Act 1882 which scheme was amended by an order or interlocutor under the said Act made and pronounced by the Court of Session and dated the eleventh day of December one thousand nine hundred  
10 and two (herein-after referred to as "the Order of 1902") the Aberdeen Educational Trust (herein-after referred to as "the Educational Trust") was incorporated and certain property and funds which had been from time to time bequeathed for educational and charitable purposes in the city were transferred to the  
15 Educational Trust and the following powers and obligations were by those orders conferred and imposed upon that trust (that is to say) the payment of certain annuities the carrying on of a boys' and girls' hospital school at which free meals books and stationery and clothing were to be provided and the scholars' fees paid the carrying on and the maintenance of a girls' home  
20 and school of domestic economy at which instruction books and stationery should be provided free and an allowance made for the maintenance and clothing of such girls the making of provision for free scholars for whom board might be provided the payment  
25 of school fees the provision of books and stationery for scholars at public or State-aided schools and for the education of children of certain seafaring persons and the establishment of school and other bursaries and free scholarships for higher education at public or State-aided schools or at the Aberdeen Grammar School  
30 or the existing college:

And whereas the existing governors have made provision for technical instruction at the existing college so far as their means extend and in view of the great advantages which have resulted from the establishment of colleges for technical instruction in  
35 other parts of the kingdom it is desirable and the existing governors are anxious that the technical education conducted by them should be increased and extended and be available not only for the city but also for the north of Scotland:

And whereas a scheme has been promoted for the establishment of a Technical College in Aberdeen (herein-after referred to as "the Technical College") and funds have been raised for  
40 (224.) A 2

A.D. 1909. — that purpose by local and other subscriptions and the existing governors have taken a prominent part in the promotion of the scheme :

And whereas in addition to the funds raised or to be raised for the purpose by local and other subscriptions the Scotch Education Department (herein-after referred to as "the Department") agreed to grant a sum of forty thousand pounds on condition that local contributions equivalent in value to the grant were received and that proper guarantees were given for the building and equipment of the Technical College and satisfactory arrangements made for its administration management and maintenance :

And whereas with a view to the establishment of the Technical College it is expedient that a governing body (herein-after referred to as "the governors") should be constituted and incorporated as in this Order provided with all necessary powers for constructing equipping maintaining administering and managing the Technical College :

And whereas the college buildings of the existing governors are capable of being enlarged and extended or remodelled for the purposes of the Technical College :

And whereas the existing governors are willing to transfer to the governors the existing college and buildings with certain other properties belonging to them :

And whereas it is desirable that for the purpose of extending and improving the site of the Technical College the governors should be authorised to acquire additional lands and to execute the street improvements by this Order authorised :

And whereas it is expedient that provisions should be made with respect to the future management of the primary intermediate and secondary schools of the existing governors :

And whereas school boards are now authorised by general legislation to provide free education in State-aided schools and the duties devolving on the Educational Trust in that connexion have consequently been transferred to the school board of Aberdeen (herein-after called "the school board") :

And whereas powers have been conferred on the school board under the Education (Scotland) Act 1908 with respect to the supplying of free meals and clothing in certain cases for children attending schools within their district :



[9 EDW. 7.] *Robert Gordon's Technical College and  
Aberdeen Endowments Trust Order Confirmation.*

5

A.D. 1909.

And whereas the free meals now supplied by the Educational Trust to children attending the schools within the district of the school board are provided at the King Street Institution of the Educational Trust (herein-after referred to as "the King  
5 Street Institution"):

And whereas it would be for the advantage and benefit of the children attending State-aided schools who are supplied with free meals by the Educational Trust at the King Street Institution that they should be provided with these meals by the school  
10 board at the schools which they attend or in some centre or centres suitable and convenient for such purpose and it is expedient that an annual sum from the funds of the Educational Trust available for free meals and clothing should be paid to and expended for that purpose by the school board:

15 And whereas the Educational Trust now carry on at the King Street Institution a school for instruction in domestic economy and it is expedient that that institution and the ground and property connected with it should be transferred to the governors to form the nucleus of a school for girls for instruction  
20 in domestic economy and science:

And whereas it is expedient that a body of trustees should be constituted and incorporated under the name of the Aberdeen Endowments Trust (herein-after referred to respectively as "the trustees" and "the Endowments Trust") and that the funds and  
25 property of the existing governors and of the Educational Trust so far as not by this Order transferred to the governors should be amalgamated and transferred to and vested in the Endowments Trust as provided by and for the purposes of this Order:

And whereas it is expedient that the trustees should be  
30 authorised to apply the revenues of the Endowments Trust in manner herein-after provided:

And whereas it is expedient that the Orders of 1881 1888 and 1902 should be repealed:

And whereas it is expedient that the other powers in this  
35 Order contained should be conferred on the governors and the Trustees:

And whereas a plan and section showing the lines situation and levels of the works authorised by this Order and a plan of the lands to be acquired therefor and for the other purposes  
40 of this Order and also books of reference to those plans con-

A.D. 1909. taining 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 Order were duly deposited with the principal sheriff-clerk of the county of Aberdeen and with the town clerk of the city 5 and such plans and books of reference are herein-after respectively referred to as the deposited plans sections and books of reference :

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by 10 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 :— 15

Short title.

1. This Order may be cited as Robert Gordon's Technical College and Aberdeen Endowments Trust Order 1909.

Order  
divided into  
Parts.

2. This Order is divided into Parts as follows :—

Part I.—Preliminary.

Part II.—Robert Gordon's Technical College. 20

Part III.—Aberdeen Endowments Trust.

Part IV.—General.

Part V.—Miscellaneous.

## PART I.

### PRELIMINARY.

25

Incorporation of Acts.

3. The Lands Clauses Acts except where expressly varied by this Order are incorporated with and form part of this Order.

Interpretation.

4. In this Order the several words and expressions to which meanings are assigned by the Acts incorporated herewith have 30 the same respective meanings unless there be something in the subject or context repugnant to such construction.

Further interpretation.

5. The following words and expressions in this Order have the meanings hereby assigned to them (that is to say):—

“The city” means the city and royal burgh of Aberdeen: 35

“The town council” means the lord provost magistrates and town council of the city:

[9 EDW. 7.] *Robert Gordon's Technical College and  
Aberdeen Endowments Trust Order Confirmation.* 7

"The Department" means the Scotch Education Department: A.D. 1909.

"The sheriff" means the sheriff of Aberdeen Kincardine and Banff and includes his substitutes:

5 "The governors" means the governors of Robert Gordon's Technical College incorporated by this Order:

"The Technical College" means the Technical College established under this Order:

"The existing governors" means the president and governors of Robert Gordon's College in Aberdeen:

10 "The existing college" means the college or day schools known as Robert Gordon's College in Aberdeen:

"The Endowments Trust" means the Aberdeen Endowments Trust incorporated by this Order:

15 "The trustees" means the members of the Endowments Trust:

"The Educational Trust" means the Aberdeen Educational Trust:

"The King Street Institution" means the King Street Institution of the Educational Trust:

20 "The appointed day" means the 1st day of January 1910:

"The Order of 1881" means the Provisional Order or scheme made under the Endowed Institutions (Scotland) Act 1878 constituting the President and Governors of Robert Gordon's College dated the 10th day of June 1881:

25 "The Order of 1888" means the scheme made under the Educational Endowments (Scotland) Act 1882 constituting the Aberdeen Educational Trust and approved by Order in Council dated the 17th day of November 1888:

30 "The Order of 1902" means the Order or Interlocutor dated the 11th day of December 1902 made and pronounced by the Court of Session under the Educational Endowments (Scotland) Act 1882 amending the Order of 1888:

35 "The Senatus" means the Senatus Academicus of the University of Aberdeen:

"The school board" means the school board of Aberdeen:

"The harbour commissioners" means the Aberdeen Harbour Commissioners:

*Robert Gordon's Technical College and [9 EDW. 7.]  
Aberdeen Endowments Trust Order Confirmation.*

|                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A.D. 1909.                                | <p>“The county council” means the county council of the county of Aberdeen :</p> <p>“The parish council” means the parish council of Aberdeen ;</p> <p>“The presbytery” means the presbytery of Aberdeen :</p> <p>“The incorporated trades” means the convener court of the seven incorporated trades of Aberdeen :</p> <p>“State-aided school” has the meaning assigned to that expression in the Education (Scotland) Act 1908.</p> |
| Commencement of Order.                    | 6. This Order shall except where otherwise provided come into operation on the passing of the Act confirming this Order. 10                                                                                                                                                                                                                                                                                                           |
| Repeal of Orders.                         | 7. From and after the appointed day the Order of 1881 the Order of 1888 and the Order of 1902 are hereby repealed.                                                                                                                                                                                                                                                                                                                    |
| Dissolution of existing governing bodies. | 8. The existing governors and the Educational Trust shall respectively continue in office and shall have and possess and may exercise their existing powers until the appointed day on 15 which day they shall be dissolved and shall cease to exist.                                                                                                                                                                                 |

PART II.

ROBERT GORDON'S TECHNICAL COLLEGE.

|                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Incorporation of governors of Robert Gordon's Technical College. | <p>9. For the purposes of this Order a body of governors shall be constituted under the name of “the governors of Robert Gordon's Technical College” and under that name shall be a body corporate with perpetual succession and a common seal and may sue and be sued and may purchase acquire hold and dispose of lands and other property heritable and moveable for the purposes of this Order and shall have and may exercise all the other powers rights and privileges of a body corporate. 25</p> |
| Appointment of governors of Technical College.                   | <p>10.—(1) The governors of Robert Gordon's Technical College shall consist of the following thirty persons (that is to say):—</p> <p>The lord provost of the city :</p> <p>Nine persons to be appointed by the town council : 30</p> <p>Three persons to be appointed by the school board :</p> <p>Two persons to be appointed by each of the following bodies—</p> <p>(A) The Senatus ;</p> <p>(B) The county council :</p>                                                                             |

[9 EDW. 7.] *Robert Gordon's Technical College and  
Aberdeen Endowments Trust Order Confirmation.*

9

One person to be appointed by each of the following bodies— A.D. 1909.

- (A) The harbour commissioners;
- (B) The presbytery;
- (C) The incorporated trades;
- 5 (D) The Endowments Trust; and

Nine persons to be appointed by the governors.

- (2) The persons to be appointed as governors by the town council the presbytery and the Endowments Trust shall be appointed from amongst the members of the town council the
- 10 presbytery and the Endowments Trust respectively The persons to be appointed as governors by the school board the Senatus the county council and the incorporated trades may be members of the bodies respectively appointing them or otherwise as such bodies may from time to time respectively determine The person
- 15 to be appointed as a governor by the harbour commissioners shall be one of the elected harbour commissioners acting under the Aberdeen Harbour Acts 1895 to 1907.

Any person appointed as a governor by the town council the presbytery the Endowments Trust or the harbour commissioners who ceases to be a member of the town council or

20 of the presbytery or of the Endowments Trust or one of the elected harbour commissioners respectively shall be deemed to be disqualified from continuing in office as a governor.

- (3) Subject as herein-after provided with respect to the first
- 25 governors appointed under this Order the governors shall hold office for three years and shall be eligible for re-appointment.

11.—(1) At a meeting of the town council to be held in the month of November or December one thousand nine hundred and nine the town council shall appoint nine persons to be

30 governors three of whom shall be appointed to hold office for three years three to hold office for four years and three to hold office for five years.

Appoint-  
ment of go-  
vernors by  
town council  
&c.

- (2) At a meeting of the town council to be held in the month of November or December one thousand nine hundred
- 35 and twelve and in the month of November or December in every succeeding year the town council shall appoint three persons to take the place of the governors appointed by them then ceasing to hold office.

(3) At a meeting of the school board to be held in the

40 month of November or December one thousand nine hundred

(224.) B

A.D. 1909. and nine the school board shall appoint three persons to be governors one of whom shall be appointed to hold office for three years one to hold office for four years and one to hold office for five years.

(4) At a meeting of the school board to be held in the 5  
month of November or December one thousand nine hundred  
and twelve and in the month of November or December in every  
succeeding year the school board shall appoint one person in  
place of the governor appointed by them then ceasing to hold  
office. 10

(5) At meetings of the Senatus and of the county council  
respectively to be held in the month of November or December  
one thousand nine hundred and nine each of those bodies shall  
appoint two persons to be governors to hold office for three  
years and at meetings of those bodies respectively to be held 15  
in the month of November or December one thousand nine  
hundred and twelve and in the month of November or December  
in every third year thereafter those bodies respectively shall  
appoint two persons in place of the governors appointed by  
them respectively then ceasing to hold office. 20

(6) At meetings of the harbour commissioners of the presby-  
tery and of the incorporated trades respectively to be held in  
the month of November or December one thousand nine hundred  
and nine each of those bodies shall appoint one person to be a  
governor to hold office for three years and at meetings of 25  
those bodies respectively to be held in the month of November  
or December one thousand nine hundred and twelve and in  
the month of November or December in every third year  
thereafter those bodies respectively shall appoint one person in  
place of the governors appointed by them respectively then 30  
ceasing to hold office.

(7) At the first meeting of the Endowments Trust to be  
held in the month of January one thousand nine hundred and  
ten the trustees at the time in office shall appoint one person  
to be a governor to hold office for three years and at a 35  
meeting of the Endowments Trust to be held in the month of  
January one thousand nine hundred and thirteen and in every  
third year thereafter the trustees shall appoint one person in  
place of the governor appointed by them then ceasing to hold  
office. 40



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(8) At a meeting to be held in the month of February A.D. 1909.  
one thousand nine hundred and ten the governors at the time  
in office shall appoint nine persons to be governors three of  
whom shall be appointed to hold office for three years three to  
5 hold office for four years and three to hold office for five years  
At a meeting of the governors to be held in the month of  
February one thousand nine hundred and thirteen and in the  
month of February in every succeeding year the governors  
shall appoint three persons to hold office in place of the  
10 governors appointed by them then ceasing to hold office.

12. In the event of any governor appointed by the town Casual va-  
cancies in  
council the school board the Senatus the county council the governors.  
harbour commissioners the presbytery the incorporated trades the  
Endowments Trust or the governors—

- 15 (A) dying resigning becoming bankrupt or for the space of  
six consecutive months failing without leave of absence  
from the governors to attend any meeting of the  
governors or ceasing to be a governor from any other  
cause other than retirement in ordinary rotation, or  
20 (B) being appointed during his term of office as governor  
to be lord provost ;

the town council the school board the Senatus the county council  
the harbour commissioners the presbytery the incorporated trades  
the Endowments Trust or the governors as the case may be shall  
25 respectively appoint a person as governor in his place and such  
person shall hold office for the same period as the governor in  
whose place he is appointed would have continued in office.

13. Subject to the provisions of this Order and on the appointed day there shall be by virtue of this Order transferred  
30 to and vested in the governors without the necessity of any other  
conveyance transfer assignation or other instrument the following  
funds moneys and other property :—

Transfer of  
certain pro-  
perties to  
governors of  
Technical  
College.

- 35 (A) The sum of forty thousand pounds which the Department  
has agreed to grant to the town council (on the  
conditions recited with reference to the said grant in  
the preamble to this Order) towards the cost of the  
erection of the Technical College or such part of that  
sum as may have been received by the town council  
on the appointed day with interest accrued thereon :

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- (B) The buildings of the existing college and the ground attached thereto belonging to the existing governors with the whole of the furnishings fittings apparatus appliances and effects in the buildings of the existing college or belonging thereto : 5
- (C) The annual feu duties and other rights of superiority belonging to the existing governors payable from and connected with the properties in Schoolhill Blackfriars Street and Woolmanhill described in Part I. of Schedule A to this Order : 10
- (D) The land and property belonging to the existing governors in Blackfriars Street described in Part II. of Schedule A to this Order :
- (E) The building known as Gray's School of Art in Schoolhill held by the existing governors with the furnishings 15 models casts statuary and other equipments belonging thereto :
- (F) The bequests belonging to or connected with Gray's School of Art made by—  
     James Smith of the City of Buffalo and State 20  
     of New York under his will dated the first day of  
     October one thousand eight hundred and eighty-four ;  
     Alexander Cooper Barker under his trust dis-  
     position and settlement dated the twenty-fifth day of  
     July one thousand eight hundred and ninety ; and 25  
     John Gray under his trust disposition and settle-  
     ment dated the fourteenth day of August one  
     thousand eight hundred and ninety :
- (G) The bequest to the existing governors made by Peter Williamson under his testamentary writing dated the 30 twenty-ninth day of March one thousand eight hundred and fifty-six :
- (H) The portion of the residue of the trust estate of Mrs. Christian Clark allocated by her trustees to the existing governors : 35
- (I) The buildings belonging to the educational trust in King Street with the ground attached thereto and the furnishings fittings and other effects in the buildings but excluding the portraits of founders and such of the pictures books furniture furnishings fittings and 40



effects as may be specified by the educational trust which article so specified shall become the property of the Endowments Trust : A.D. 1909.

- 5 (J) All money and other property which has been contributed subscribed or given for the Technical College :

together with all the rights powers and duties and subject to all the obligations liabilities or debts attaching to or affecting the same.

- 10 14. On the appointed day the sum of five hundred pounds gifted by Dr. Neil Arnott to the town council for the appointment of a lecturer or lecturers for instruction in natural philosophy and known as the Arnott Fund and the sum of six hundred and forty-four pounds sixteen shillings and ninepence bequeathed by Dr. Robert Beveridge by his trust settlement dated eighth  
15 March one thousand eight hundred and eighty-two and the codicil thereto dated nineteenth March one thousand eight hundred and eighty-six for the promotion of the study of science and both now vested in the town council as trustees shall be  
20 in the governors without the necessity of any other conveyance transfer assignation or other instrument and such fund and bequest shall be applied by the governors towards the objects for which they were respectively gifted and bequeathed.

Transfer of  
Arnott fund  
and Beve-  
ridge bequest  
from town  
council to  
governors  
and applica-  
tion thereof.

- 25 15.—(1) The governors shall establish in the city a college for technical instruction for the city and for the north of Scotland to be called "Robert Gordon's Technical College."

Establish-  
ment of  
Technical  
College.

- (2) Subject to the provisions of this Order the governors shall apply all the lands buildings property moneys and effects transferred to and vested in them by this Order and the revenues  
30 thereof for the purposes following :—

- (A) The purchase of lands and the execution of the works by this Part of this Order authorised and for any purposes incidental thereto :  
35 (B) The erection furnishing equipment and maintenance on the lands transferred to the governors and on any other lands which may be acquired by them of such buildings as may be necessary and suitable for carrying on schools of engineering architecture chemistry domestic economy and science artistic crafts arts  
40 and sciences commerce navigation and fisheries and

A.D. 1909.

all or any other subjects connected with technical instruction :

- (c) The provision of such apparatus models materials books and other appliances as may be requisite or necessary for the Technical College : 5
- (d) The payment of the salaries and wages of a principal and professors lecturers teachers officers and servants for and in the Technical College :
- (e) The provision at or in connexion with the Technical College or elsewhere in the city of a suitable and 10 convenient office for the administration of the business of the Endowments Trust and the accommodation of their officers and servants.

(3) Until a school of domestic economy and science is erected and provided under the powers contained in this section the 15 governors shall carry on the existing school of domestic economy at the King Street Institution in the same manner as it is conducted at the date of the passing of the Act confirming this Order.

Powers and duties of governors of Technical College.

16. The governors shall have and possess and may exercise all or any of the following powers rights and privileges :— 20

- (1) The management and administration of the Technical College :
- (2) The appointment and dismissal of the principal professors lecturers teachers officers and servants for and in the Technical College : 25
- (3) The establishment and awarding of scholarships bursaries prizes or other rewards allowances and payments to students of the Technical College :
- (4) The management control investment and disposal of all funds moneys investments bequests and gifts of money 30 or property and the income thereof transferred to and vested in them by this Order or which may hereafter be granted gifted to or acquired by them for the purposes of enabling them to establish the Technical College and to carry on technical instruction : 35
- (5) All such other powers rights and privileges as may be expedient or necessary for enabling them to carry into effect the purposes of this Order.

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17. Subject to the provisions of this Order the governors A.D. 1909.  
may enter upon take hold and use for the purposes of this Order  
all or any of the lands houses and property shown on the <sup>Power to</sup>  
deposited plans and specified and described in the deposited take lands.  
5 books of reference.

18. If there be any omission misstatement or wrong <sup>Correction of</sup>  
description of any lands or of the owners lessees or occupiers errors &c. in  
of any lands shown on the deposited plans or specified in the deposited  
deposited books of reference the governors after giving ten days' plans and  
10 notice to the owners lessees and occupiers of the lands in books of  
question may apply to the sheriff for the correction thereof and reference.  
if it appear to the sheriff that the omission misstatement or  
wrong description arose from mistake he shall certify the same  
accordingly and he shall in his certificate state the particulars  
15 of the omission and in what respect any such matter is misstated  
or wrongly described and such certificate shall be deposited with  
the principal sheriff-clerk of the county of Aberdeen and a  
duplicate thereof shall also be deposited with the town clerk of  
the City and such certificate and duplicate respectively shall be  
20 kept by such sheriff-clerk and town clerk respectively with the  
other documents to which the same relate and thereupon the  
deposited plans and books of reference shall be deemed to be  
corrected according to such certificate and the governors may  
enter upon take and use the lands in accordance with such  
25 certificate.

19. All cases of disputed compensation in respect of land <sup>Compensa-</sup>  
taken compulsorily under this Order or whereby any compen- tion to be  
sation falls under this Order to be determined under the provi- settled by  
sions of the Lands Clauses Acts shall notwithstanding anything single  
30 contained in those Acts be determined by a single arbiter to be arbiter.  
appointed by the parties or in case both parties do not concur  
in the appointment of a single arbiter it shall be in the power  
of either party to apply to the Secretary for Scotland to appoint  
a single arbiter to determine the compensation to be paid and it  
35 shall not be competent thereafter to have the same determined  
by arbiters oversman sheriff or jury acting under the last-  
mentioned Acts The said arbiter upon appointment shall be  
deemed to be a sole arbiter within the meaning of the Lands  
Clauses Acts and the provisions of those Acts with regard to  
40 arbitration shall apply accordingly and the arbiter shall notwith-  
standing anything contained in those Acts determine the amount

A.D. 1909. of the expenses in the arbitration and such determination shall  
— be final The remuneration of the said arbiter shall failing  
agreement be fixed by the Secretary for Scotland The expression  
“land” in this section includes water and any right or servitude  
to or over land or water. 5

Restriction  
on displacing  
persons of  
the labouring  
class.

20.—(1) The governors 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 April last before the passing of the Act  
confirming this Order were or have been since that date or 10  
shall hereafter be occupied either wholly or partially by persons  
belonging to the labouring class as tenants or lodgers unless and  
until—

(A) They shall have obtained the approval of the Secretary  
for Scotland to a scheme for providing new dwellings 15  
for such number of persons as were residing in such  
houses on the said fifteenth day of April or for such  
number of persons as the Secretary for Scotland shall  
after inquiry deem necessary having regard to the  
number of persons on or after that date residing in 20  
such houses and working within one mile therefrom  
and to the amount of vacant suitable accommodation  
in the immediate neighbourhood of such houses or to  
the place of employment of such persons and to all  
the circumstances of the case ; and 25

(B) They shall have given security to the satisfaction of the  
Secretary for Scotland for the carrying out of the  
scheme.

(2) The approval of the Secretary for Scotland to any  
scheme under this section may be given either absolutely or 30  
conditionally and after the Secretary for Scotland has approved  
of any such scheme he may from time to time approve either  
absolutely or conditionally of any modifications in the scheme.

(3) Every scheme under this section shall contain provisions  
prescribing the time within which it shall be carried out and 35  
shall require the new dwellings proposed to be provided under  
the scheme to be completed fit for occupation before the persons  
residing in the houses in respect of which the scheme is made are  
displaced :

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Provided that the Secretary for Scotland may dispense with the last-mentioned requirement subject to such conditions (if any) as he may see fit. A.D. 1909.

- (4) Any provisions of any scheme under this section or any conditions subject to which the Secretary for Scotland may have approved of any such scheme or of any modifications of any such scheme or subject to which he may have dispensed with the above-mentioned requirement shall be enforceable by an order of the Court of Session to be obtained by the Secretary for Scotland.
- (5) If the governors acquire or appropriate any house or houses for the purposes of this Order in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the Court of Session and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the Court may if it think fit reduce such penalty.
- (6) For the purpose of carrying out any scheme under this section the governors may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purpose of any such purchase section 145 of the Public Health (Scotland) Act 1897 shall be incorporated with this Order and shall apply to the purchase of lands by the governors for the purposes of any scheme under this section in the same manner in all respects as if the governors were a local authority within the meaning of that Act and the scheme were one of the purposes of that Act.

Nothing in this subsection shall exempt from stamp duties any instruments granted by or to or in favour of the governors in pursuance of this section.

- (7) The governors may on any lands belonging to them or purchased or acquired under this section or under any Provisional Order issued in pursuance of this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell let or otherwise dispose of such dwellings and any lands purchased or acquired as aforesaid and may apply their funds for any of the purposes of this section :



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Provided that all lands on which any buildings have been erected or provided by the governors in pursuance of any scheme under this section shall for a period of twenty-five years from the date of the scheme be appropriated for the purpose of such dwellings and every conveyance or lease of such lands and 5 buildings shall contain proper provisions to secure during such period of twenty-five years the use of the buildings on such lands for the purpose of such dwellings and shall be endorsed with notice of this enactment :

Provided also that the Secretary for Scotland may at any 10 time dispense with all or any of the requirements of this subsection subject to such conditions (if any) as he may see fit.

(8) The Secretary for Scotland may direct any inquiries to be held which he may deem necessary in relation to any scheme 15 under this section and for giving effect to any of the provisions of this section and he and any person appointed by him to hold any such inquiry shall have and may exercise for any purpose in connexion with any scheme under this section all or any of the powers vested in them respectively under the Public Health 20 (Scotland) Act 1897 in the same manner in every respect as if the preparation and carrying into effect of such scheme were one of the general purposes of that Act.

(9) The governors shall pay to the Secretary for Scotland a sum to be fixed by him in respect of the preparation and issue 25 of any Provisional Order in pursuance of this section and any expenses incurred by him in relation to any inquiries under this section including the expenses of any witnesses summoned by the person appointed to hold any such inquiry and a sum to be fixed by the Secretary for Scotland not exceeding three guineas a 30 day for the services of the person so appointed.

(10) Any houses purchased or acquired by the governors for or in connexion with any of the purposes of this Order whether purchased or acquired in exercise of the powers conferred by this Order or otherwise and whether before or after the 35 passing of the Act confirming this Order which may have been occupied by persons of the labouring class within five years before the passing of such Act shall for the purposes of this section be deemed to have been acquired under the powers of this Order and to have been occupied on the fifteenth day of 40

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April last by the same number of persons belonging to the labouring class as were occupying the said houses at the date of their acquisition. Provided that if the Secretary for Scotland is unable to ascertain the number of such persons who  
 5 were then occupying the said houses the said houses shall be deemed to have been occupied by such number of such persons as in the opinion of the Secretary for Scotland they might have been sufficient to accommodate.

(11) For the purposes of this section the expression "house"  
 10 means any house or part of a house occupied as a separate dwelling and the expression "labouring class" means mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members  
 15 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 of such persons who may be residing with them.

21. Persons empowered by the Lands Clauses Acts to sell  
 20 and convey or discharge lands may if they think fit subject to the provisions of those Acts and of this Order grant to the governors 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  
 25 Order in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges 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.

Persons  
under disa-  
bility may  
grant servi-  
tudes &c.

30 22. Subject to the provisions of this Order the governors may make and maintain in the line and according to the levels shown upon the deposited plans and sections a diversion of the street known as Crooked Lane in the city and city parish of Aberdeen commencing by a junction with Saint Andrew Street  
 35 at a point in that street thirty-two yards or thereabouts north-east of the junction of Crooked Lane with that street and terminating in Crooked Lane at a line drawn parallel to Saint Andrew Street at the distance of sixty-five yards or thereabouts south-east from the centre line of Saint Andrew  
 40 Street.

Power to  
divert  
Crooked  
Lane.

A.D. 1909.

Power to  
stop up  
portion of  
Crooked  
Lane.

23. Upon such diversion being completed and opened for public traffic the governors may stop up and discontinue as a public street the portion of Crooked Lane situated between the junction of that lane with Saint Andrew Street and a line drawn south-eastwards from a point in the south boundary of 5 the property in Crooked Lane belonging or reputed to belong to Mrs. Jane Duncan Donald or Leith at the distance of seven yards or thereabouts from the south-east corner of that property The site and soil of the portion so stopped up shall be and the same are hereby vested in the governors freed and discharged from 10 the public use thereof and all rights of way over the same shall cease :

Provided always that the governors shall not stop up and appropriate the site of the said portion of Crooked Lane unless and until they are owners in possession of all houses and lands 15 on both sides of such portion except so far as the owners lessees and occupiers of those houses and lands may otherwise agree.

Town coun-  
cil to main-  
tain diver-  
sion of  
Crooked  
Lane.

24. Upon the completion of the diversion of Crooked Lane by this Part of this Order authorised the diversion shall be and 20 become vested in the town council to the same extent and effect as the other streets in the city are vested in the town council.

Power to  
deviate. -

25. Subject to the provisions of this Order the governors may in carrying out the works by this Part of this Order 25 authorised deviate laterally to any extent within the limits of deviation defined on the deposited plans and may deviate from the levels thereof as referred to the datum line shown on the deposited sections but not to any extent exceeding two feet.

Compensa-  
tion for  
damage to  
buildings.

26. Where by reason of the execution of the works by 30 this Part of this Order authorised any house building or premises shall be damaged or otherwise injuriously affected the governors shall out of the moneys which they are authorised to apply under this Order to such works make good the damage done and pay to the owner and occupier of the house building or 35 premises such compensation as may be agreed on between the owner and occupier and the governors or failing agreement such compensation as shall be ascertained in manner prescribed by the Lands Clauses Acts with respect to the settlement of questions of disputed compensation for lands.



27. For the purposes and during the execution of the works by this Part of this Order authorised the governors may temporarily break up or cross over or under alter divert raise or stop up any streets highways roads lanes paths tramways passages  
5 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 books of reference which they may from time to time find it expedient for any of those purposes so to interfere with providing when possible a  
10 proper temporary substitute before interrupting the traffic on any such street highway road lane path tramway or passage or the flow of water gas sewage electricity or telephonic communication in any such sewer drain watercourse or pipe or apparatus and making full compensation to all persons injuriously affected  
15 by the exercise of the powers of this section Provided that nothing in this section shall extend to or 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 inter-  
20 ference with any works of any undertakers within the meaning of the Electric Lighting Act 1882 to which the provisions of section 15 of the said Act apply.
28. Where by reason of the execution of any of the works by this Part of this Order authorised the level of any street is  
25 raised or otherwise changed or any alteration of any step door or entrance into any house or building or of any pavement sewer drain or culvert adjoining or belonging to any premises in the street is rendered necessary the alteration shall be made by and at the expense of the governors out of the moneys applicable  
30 under this Order to such works.
29. The town council and the governors may make and enter into agreements with respect to the widening improvement or diversion of the streets adjoining the Technical College or any of them Any expenditure by the town council under this  
35 section shall be payable out of the city rate authorised to be levied by the Aberdeen Corporation Act 1891.
30. The powers of the governors for the compulsory purchase of lands for the purposes of this Part of this Order shall cease after the expiration of four years from the passing of the Act  
40 confirming this Order.

A.D. 1909.

Power to  
divert and  
alter streets  
&c.

Alterations  
consequent  
on changing  
levels of  
streets to be  
made at ex-  
pense of  
governors.

Agreements  
between  
town council  
and gover-  
nors as to  
street im-  
provements.

Period for  
compulsory  
purchase of  
lands.

A.D. 1909.  
Period for  
completion  
of works.

31. If the works shown on the deposited plans and authorised by this Part of this Order are not completed within five years from the passing of the Act confirming this Order then on the expiration of that period the powers by this Part of this Order granted for executing and completing such works or otherwise in relation thereto shall cease except as to so much thereof as is then completed. 5

### PART III.

#### ABERDEEN ENDOWMENTS TRUST.

Incorporation of Aberdeen Endowments Trust.

32. For the purposes of this Order a body of trustees shall be constituted under the name of "the Aberdeen Endowments Trust" and under that name shall be a body corporate with perpetual succession and a common seal and may sue and be sued and may purchase acquire hold and dispose of lands and other property heritable and moveable for the purposes of this Order and shall have and may exercise all the other powers and privileges of a body corporate. 10 15

Appointment of members of Endowments Trust.

33.—(1) The Aberdeen Endowments Trust shall be a body of trustees consisting of the following twenty-one persons (that is to say):— 20

Nine persons to be appointed by the town council:

Three persons to be appointed by the school board:

Two persons to be appointed by the parish council:

One person to be appointed by each of the following bodies— 25

(A) The Senatus;

(B) The presbytery;

(C) The incorporated trades;

(D) The Society of Advocates in Aberdeen;

(E) The governors: 30

One of the ministers of the six city churches of Aberdeen to be appointed by those ministers: and

One minister (not being a minister of the Church of Scotland) officiating within the city to be appointed by the town council. 35

(2) The trustees to be so appointed (other than the two ministers) may be members of the bodies respectively appointing

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them or otherwise as such bodies may from time to time A.D. 1909.  
 respectively determine.

(3) Subject as herein-after provided with respect to the first  
 trustees appointed under this Order the trustees shall hold  
 5 office for three years and shall be eligible for re-appointment.

34.—(1) At a meeting of the town council to be held in the month of November or December one thousand nine hundred and nine the town council shall appoint as trustees—

(A) Nine persons three of whom shall be appointed to hold  
 10 office for three years three to hold office for four  
 years and three to hold office for five years :

(B) One minister (not being a minister of the Church of  
 Scotland) officiating within the city to hold office for  
 three years.

15 (2) At a meeting of the town council to be held in the  
 month of November or December one thousand nine hundred and  
 twelve and in the month of November or December in every  
 succeeding year the town council shall appoint three persons or  
 four persons (as the case may be) in place of the trustees appointed  
 20 by them then ceasing to hold office.

(3) At a meeting of the school board to be held in the  
 month of November or December one thousand nine hundred  
 and nine the school board shall appoint three persons to be  
 trustees one of whom shall be appointed to hold office for three  
 25 years one to hold office for four years and one to hold office  
 for five years.

(4) At a meeting of the school board to be held in the  
 month of November or December one thousand nine hundred  
 and twelve and in the month of November or December in  
 30 every succeeding year the school board shall appoint one person  
 in place of the trustee appointed by them then ceasing to hold  
 office.

(5) At a meeting of the parish council to be held in the  
 month of November or December one thousand nine hundred  
 35 and nine the parish council shall appoint two persons to be  
 trustees and at a meeting of the parish council to be held in  
 the month of November or December one thousand nine hundred  
 and twelve and in the month of November or December in  
 every third year thereafter the parish council shall appoint two

Appoint-  
 ment of  
 members of  
 Endowments  
 Trust by  
 town council  
 &c.

A.D. 1909. persons in place of the trustees appointed by them then ceasing  
 — to hold office.

(6) At meetings of the Senatus of the presbytery of the incorporated trades of the Society of Advocates in Aberdeen and of the six city ministers respectively to be held in the month 5 of November or December one thousand nine hundred and nine each of those bodies shall appoint one person to be a trustee and at meetings of those bodies respectively to be held in the month of November or December one thousand nine hundred and twelve and in the month of November or December in every 10 third year thereafter those bodies respectively shall appoint one person in place of the trustee appointed by them respectively then ceasing to hold office.

(7) At the first meeting of the governors to be held in the month of January one thousand nine hundred and ten the 15 governors at the time in office shall appoint one person to be a trustee to hold office for three years and at a meeting of the governors to be held in the month of January one thousand nine hundred and thirteen and in every third year thereafter the governors shall appoint one person in place of the trustee 20 appointed by them then ceasing to hold office.

Casual  
vacancies in  
Endowments  
Trust.

35. In the event of any trustee dying resigning becoming bankrupt or for the space of six consecutive months failing without leave of absence from the trustees to attend any meeting of the Endowments Trust or ceasing to be a trustee from any 25 other cause other than retirement in ordinary rotation the body by whom such trustee was appointed shall appoint a person in his place and such person shall hold office for the same period as the trustee in whose place he is appointed would have continued in office. 30

Transfer of  
certain pro-  
perty to  
Endowments  
Trust.

36.—(1) Subject to the provisions of this Order and on the appointed day there shall be by virtue of this Order transferred to and vested in the Endowments Trust without the necessity of any other conveyance transfer assignation or other instrument the following property :— 35

- (a) All the property funds and estates belonging to the existing governors :
- (b) All the property funds and estates belonging to the Educational Trust :

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save and except the property belonging to the existing governors and the Educational Trust respectively transferred to and vested in the governors of Robert Gordon's Technical College under the section of this Order of which the marginal note is "Transfer of  
 5 certain properties to governors of Technical College" together with all the rights powers and duties and subject to all the obligations liabilities or debts attaching to or affecting the property by this section transferred. A.D. 1909.

(2) Within six months of the passing of the Act confirming  
 10 this Order the trustees shall produce to the Commissioners of Inland Revenue a King's Printers' copy of the said Act duly impressed with the ad valorem settlement duty (if any) which would be chargeable on an instrument having the same effect as this section and having a docquet engrossed thereon signed by  
 15 one or more of the trustees certifying the amount of the personal estate (if any) transferred and in default of such production the duty (if any) with interest thereon at the rate of five per centum per annum from the passing of the said Act shall be a debt due to His Majesty from the trustees and recoverable as such.

20 37. Subject to the provisions of this Order the trustees shall apply the revenues from the property and funds transferred to and vested in them by this Order after payment of the expenses of management and the burdens and taxes affecting the same and the expenditure incurred in the maintenance repair and im-  
 25 provement of buildings and other property belonging to them in manner following (that is to say):—

(A) They shall apply for the purposes of the foundations bursaries and scholarships provided for in Schedule B to this Order—

30 (1) An annual sum not exceeding one thousand seven hundred and fifty pounds towards the maintenance of and provision of books and stationery to one hundred and twenty boys to be called "Robert Gordon's Foundationers":

35 (2) An annual sum not exceeding one thousand and seventy-five pounds towards the maintenance and education of sixty girls to be called "Endowment Foundationers":

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(3) An annual sum not exceeding thirty pounds towards the maintenance and education of children to be called "Davidson's Free Scholars":

(4) An annual sum not exceeding two hundred and seventy-five pounds for bursaries to be called 5  
"Robert Gordon's Bursaries":

(5) An annual sum not exceeding eight hundred and seventy-five pounds for bursaries and scholarships to be called "Grammar School Bursaries" "Public School Bursaries" "MacRa Bursaries" and 10  
"Free Scholarships":

(6) An annual sum not exceeding one hundred pounds for providing bursaries and scholarships for students attending the evening schools of the school board or the Technical College: 15

(B) They shall pay to the school board an annual sum not exceeding one thousand four hundred pounds to be applied by the school board for the purposes specified in subsection (1) of the section of this Order of which the marginal note is "Provision as to scheme for 20  
feeding and clothing children":

(c) They shall apply—

(1) An annual sum of twenty pounds towards the support of widows of white fishers and pilots in Footdee in the city in accordance with the directions 25  
contained in the settlement of the late John Davidson goldsmith in Aberdeen dated 19th January 1803;

(2) Such sum as may be necessary for payment of the annuity to the heirs male of the late Alexander MacRa of Inverinet in accordance with 30  
the last will and testament of the late Alexander MacRa ironmonger in Bristol dated 8th November 1763;

(3) Such sum as may be necessary for the execution of the purposes of subsection (3) of the 35  
section of this Order of which the marginal note is "Provision as to scheme for feeding and clothing children":

(D) They shall pay over to the governors an annual sum not exceeding one thousand one hundred pounds to be 40



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applied by them in educating Robert Gordon's founda- A.D. 1909.  
tioners and bursars and in maintaining and managing  
the day school at the existing college :

5 (E) They shall pay over to the governors an annual sum  
not exceeding 300*l.* to be applied by them in  
carrying on the existing school of domestic economy  
at the King Street Institution until such time as a  
school of domestic economy and science is erected  
10 and provided under the powers contained in the  
section of this Order of which the marginal note is  
"Establishment of Technical College."

(F) They shall pay over the balance to the governors to be  
applied by them in the first place in making good  
any deficit arising in connexion with the maintenance  
15 and carrying on of the primary intermediate and  
secondary schools at the existing college after taking  
into account the income derived from fees grants  
from the Department and any payments made under  
the provisions of subsection (D) of this section and of  
20 section 17 (4) (b) of the Education (Scotland) Act  
1908 Any further balance which may remain after  
making good such deficit shall be applied by the  
Governors in such proportions as they may from time  
to time determine towards—

25 (1) The expense of the administration manage-  
ment and maintenance of the Technical College ; and  
(2) The providing of foundations bursaries or  
scholarships in connexion with the Technical College  
under the provisions contained in Schedule B to  
30 this Order.

38.—(1) When the trustees shall have resolved (at a special meeting called for the purpose) by a majority consisting of two-thirds of the whole trustees that the provisions relating to foundations bursaries and scholarships in the section of this Order  
35 of which the marginal note is "Application of revenues of Endowments Trust" and in Schedule B to this Order ought to be amended they may represent their views to the department who after such inquiry as they deem fit may make a scheme for the future regulation of the number amount conditions of  
40 tenure and method of award of such foundations bursaries and scholarships.

Scheme by  
department  
for regula-  
tion of foun-  
dations bur-  
saries and  
scholarships.

A.D. 1909.

(2) With a view to the making of a scheme under this section the department shall cause a draft scheme to be printed and copies sent to the town council the school board and any other governing bodies or managers of schools in the city in receipt of grant under any code or minute of the department 5 and shall at the same time cause the draft scheme to be published in such manner as the department think proper.

(3) During three months after the publication of the draft scheme the department shall receive any objections made to them in writing by any public body or persons interested and 10 any amendments proposed on the draft scheme and as soon as may be after the expiration of the said three months the department shall proceed to consider such objections and amendments.

(4) The department may thereafter make and issue a scheme 15 in accordance with the draft or any modification thereof Provided that such scheme shall be forthwith laid before both Houses of Parliament if Parliament be sitting or if not then within three weeks after the commencement of the next ensuing session of Parliament and if neither House of Parliament within 20 three months exclusive of any period of prorogation after a scheme has been laid before it presents an address praying the King to withhold his assent from such scheme or any part thereof it shall be lawful for the King in Council by Order to approve the same or any part thereof to which such address does 25 not relate The presentation of an address as aforesaid shall not prevent the making of a further scheme under the like procedure.

(5) A scheme approved by Order in Council under this section may be amended by a subsequent scheme made under the 30 like procedure.

(6) Any scheme approved by Order in Council under this section shall as from the date prescribed in such Order in Council be of the same force as if it were enacted in this Order.

#### PART IV.

35

#### GENERAL.

Chairman of  
governors  
and trus-  
tees.

39. The lord provost of the city shall be chairman of the governors and a person to be chosen at the first meeting of the trustees and annually thereafter shall be the chairman of



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the Endowments Trust In the absence of the chairman from A.D. 1909.  
any meeting of either of those bodies a chairman of such meeting  
shall be chosen from among the members present.

40. At meetings of the governors and the trustees respec- Votes at  
meetings.  
5 tively each member present shall have one vote In the case of  
equality of votes at any meeting the chairman of such meeting  
shall have a second or casting vote.

41. The first meeting of the governors and of the trustees Meetings to  
be called by  
notice.  
Quorum.  
10 shall be held in the Town House Aberdeen on the twelfth  
day of January one thousand nine hundred and ten and shall  
be called by notice previously issued by the town clerk of the  
city Every subsequent meeting shall be held at such places as  
the body to which it pertains may direct and all such meetings  
shall be called by notice issued by the clerks or secretaries of  
15 the respective bodies At all meetings of the said bodies eleven  
members shall be a quorum in the case of the governors and  
nine members in the case of the trustees.

42. The governors and the trustees respectively may from Committees  
of governors  
and trustees.  
time to time appoint committees of their number and conveners  
20 of such committees and may commit to such committees all  
such powers and give all such instructions as may appear  
expedient and may fix the quorum of every such committee.

43. The governors may if they think fit appoint as addi- Governors  
may appoint  
other persons  
on com-  
mittees.  
25 tional members of any committee charged with the organisation  
or administration of any department of the Technical College  
maintained by the governors any person or persons who are  
not governors but whom the governors deem specially fitted to  
assist in the work of the committee to which they are appointed  
Any person so appointed shall hold office for such time as the  
30 governors may determine and shall during that time hold the  
same position on the committee as if he had been a governor.

44. The governors and the trustees respectively shall be Governors  
and trus-  
tees properly  
constituted  
notwith-  
standing  
vacancies.  
held to be properly constituted and may respectively exercise  
their powers and functions and carry on their business respec-  
35 tively notwithstanding that there is any vacancy in their  
prescribed number of members or any informality in the  
appointment of the members or any of them.

45. The governors and the trustees respectively may appoint Appoint-  
ment of  
officers.  
all such officers and other persons as they may deem neces-  
40 sary for enabling them to carry into effect the provisions of

- A.D. 1909. this Order and may prescribe their duties and fix the amount of their respective salaries and remuneration All officers and other persons so appointed shall hold their appointments at the pleasure of the bodies appointing them respectively Provided that the said bodies respectively may if necessary at any time 5 make an interim appointment to any office and may also if they in any case consider it necessary procure guarantees for the fidelity of such officers and other persons of such amount and in such form and manner as the said bodies respectively may prescribe. 10
- Governors and trustees may make rules. 46. The governors and the trustees may respectively make such rules and orders for the regulation management and administration of their affairs as they may deem expedient and may from time to time rescind alter extend or vary such rules and orders or any part or parts thereof Provided that such rules 15 and orders and any alterations extensions or variations thereof shall not be inconsistent with the provisions of this Order.
- Casual profits. 47. Any moneys arising from the sale of timber or accruing in respect of mines and minerals on the estates and property of the governors and the Endowments Trust respectively or from 20 any other incidental or temporary source except casualties of superiority and similar payments shall be invested by the governors or the trustees as the case may be and shall form part of their capital funds respectively.
- Power to lease feu or sell. 48. The governors and the trustees respectively may— 25  
 (1) Lease or feu any of their heritable property :  
 (2) Sell and convey their heritable property either by public roup or private bargain :  
 (3) Sell and realise and re-invest the net proceeds of all stocks mortgages and other moveable property and 30 assign and discharge all securities which may belong to them respectively Provided that they shall respectively invest any money obtained by such sales or discharges in accordance with the provisions of the immediately succeeding section of this Order except 35 in so far as the same may be required for the repayment of debt.
- Investment of funds. 49. The governors and the trustees respectively may continue the existing investments of their trust funds or may from time

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to time realise and invest the same and any additions thereto in any security in which gratuitous trustees are or may hereafter be by any Public General Act applicable to Scotland empowered to invest trust funds. A.D. 1909.

5 50. The governors and the trustees respectively may borrow or expend out of capital moneys for the purposes of this Order to which capital may properly be applied. Provided that such moneys (if borrowed) shall be borrowed on such terms that the loan shall be extinguished within thirty years and the governors  
10 or the trustees as the case may be shall annually set aside out of revenue such sums as shall be sufficient to repay such loan or replace such expenditure of capital within thirty years from the date of such loan or expenditure. Power to borrow and expend out of capital.

51. The governors and the trustees respectively shall cause  
15 accounts to be kept of the sums of money received and expended on their behalf respectively and of their assets and liabilities in such form and manner as the department shall from time to time prescribe and after the accounts have been examined and passed by the said bodies respectively abstracts thereof respec-  
20 tively in such form as the department shall from time to time prescribe shall be transmitted to the department and after such audit as is hereafter provided shall be published in such manner as the department may prescribe. Accounts to be kept.

52. A duly qualified accountant or accountants to be appointed  
25 by the governors and the trustees respectively shall annually audit the accounts of the governors and the trustees respectively and report thereon to these respective bodies : Audit of accounts.

The said accounts shall also be audited on behalf of the department in such manner as the department may from time  
30 to time prescribe :

The cost of such audits shall be paid out of the funds of the governors and of the Endowments Trust respectively.

53. Abstracts of the accounts of the governors and of the Endowments Trust respectively shall after being audited be  
35 printed and circulated annually among the members of those bodies respectively and copies shall be supplied to any Government officer or inspector requiring the same. Abstract of accounts to be printed and circulated.

54. The trustees may pay out of their funds such reasonable sums as they may think proper to meet the outlays of committees  
40 and officers visiting and inspecting their estates. Inspection of estates.

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Leave of  
absence to  
governors  
and trust-  
tees.

55. The governors and the trustees may respectively grant leave of absence to a governor or trustee on his application and on reasonable cause shown for any period not exceeding twelve months.

#### PART V.

5

#### MISCELLANEOUS.

Vested  
interests.

56.—(1) All persons at the commencement of this Order holding any office place employment pension compensation allowance foundation bursary scholarship or emolument under or arising out of the funds of the existing governors or the Educational Trust shall continue to hold the same subject to the conditions under which they are held at the date of the passing of the Act confirming this Order and to the provisions of this Order.

(2) In lieu of continuing in office any officer of the existing governors or of the Educational Trust the governors or the trustees as the case may be may dispense with the services of any such officer and in such case may grant such compensation superannuation or allowance as shall appear reasonable to the governors or the trustees as the case may be and the governors or the trustees as the case may be may apply their funds to that purpose.

(3) If any officer is aggrieved by the refusal of the governors or of the trustees to grant any compensation superannuation or allowance or by the amount of compensation superannuation or allowance granted he may within three months after the decision of the governors or of the trustees appeal to the department who shall consider the case and determine whether any compensation superannuation or allowance and if so what amount should be granted and such determination shall be final.

Discharge to  
town council  
for grant  
from depart-  
ment.

57.—(1) The town council shall upon payment to the governors of the sum of forty thousand pounds granted to the town council by the department towards the cost of the erection of the Technical College or such part of that sum as may have been received by the town council from the department with interest accrued thereon be and they are hereby discharged of all liabilities and obligations in respect of the said sum and in respect of their acts and intromissions with the same.

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(2) The provisions of this section shall not take effect until A.D. 1909.  
 sufficient provision has been made to the satisfaction of the  
 department for the future maintenance of the Technical College.

(3) A certificate under the hand of the secretary of the  
 5 department shall be conclusive evidence that such provision has  
 been made.

58. The existing governors and the Educational Trust shall  
 transfer to the governors or the trustees as the case may be  
 within such time and in such manner as the governors or the  
 10 trustees may respectively direct all the books deeds papers plans  
 and all other documents and titles and cash balances and moveables  
 belonging to the existing governors or to the Educational Trust.

Transfer of  
books and  
moveables.

59. For the purpose of enabling the governors or the  
 Endowments Trust to complete a title if thought fit to any part  
 15 of the properties funds and estates transferred to and vested in  
 them respectively by virtue of this Order by expediting and  
 recording a notarial instrument or otherwise this Order shall be  
 deemed to be and may be used as a general disposition or  
 assignation as the case may be of such properties funds and  
 20 estates in favour of the governors or the Endowments Trust  
 respectively.

Completion  
of title to  
properties  
transferred.

60. On and from the date at which the existing governors  
 and the Educational Trust respectively have under the provisions  
 of this Order ceased to exercise any right or power of adminis-  
 25 tration and shall have made the transfer directed in the  
 section of this Order of which the marginal note is "Transfer  
 of books and moveables" those bodies and the individual members  
 thereof are hereby respectively exonerated and discharged of all  
 their actings and intromissions and of and from all obligations  
 30 claims and demands in respect of the same.

Discharge  
of existing  
governors  
and Educa-  
tional Trust.

61. All liabilities and obligations incurred or undertaken by  
 the existing governors and the Educational Trust and remaining  
 undischarged at the date when in accordance with the provisions  
 of this Order such bodies cease to exist shall as at that date  
 35 become the liabilities and obligations of the governors or the  
 trustees respectively Provided that the governors and the Endow-  
 ments Trust respectively shall have the same rights and be  
 entitled to the same privileges with reference to such liabilities  
 as are or may be possessed by the existing governors or the  
 40 Educational Trust respectively.

Liabilities of  
dissolved  
bodies.

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A.D. 1909.

Donations  
endowments  
&c. may be  
received.

62. The governors and the Endowments Trust may respectively receive donations or endowments for any of the purposes of this Order in so far as applicable to them respectively and may also receive donations or endowments for any special objects which shall not be inconsistent with or calculated to impede the 5  
due working of the provisions of this Order and may hold exercise administer and fulfil any trusts which may be confided to them and they may respectively enter into agreements with any persons who are the managers of other schools or institutions in the city or the administrators of any charity or benevolent 10  
institution within the city and who have power to enter into such agreements for the transfer of such schools and institutions or of the administration of such schools or institutions or the administration of such charity or benevolent institution as the case may be to the governors or the Endowments Trust. 15

Contribution  
by county  
council of  
Aberdeen to  
Technical  
College.

63. Whereas the county council have resolved to pay to the governors as a contribution towards the erection and equipment of the Technical College a sum of three thousand pounds and that such sum shall be paid in four equal annual instalments of seven hundred and fifty pounds each out of the county council's 20  
share of the grant under section 2 (5) of the Education and Local Taxation Account (Scotland) Act 1892 and that for the purposes of such annual payments the period of four years shall be taken as commencing on the fifth day of April one thousand nine hundred and six provided that the contribution shall only 25  
be made by the county council during the said period of four years if the said grant is allocated among local authorities in Scotland in the manner in which such grant is allocated at the date of the passing of the Act confirming this Order And whereas the county council have obtained the consent of the 30  
Secretary for Scotland to the payment of two of such instalments as if the Technical College were a scheme of public utility within the meaning of section 2 (5) of the Education and Local Taxation Account (Scotland) Act 1892 And whereas it is expedient that the county council be relieved from the obligation and 35  
necessity of obtaining the consent of the Secretary for Scotland to the payment of the other two instalments Be it enacted that the county council may and shall pay the said two instalments still to be paid without applying for or obtaining the consent of the Secretary for Scotland to such payment. 40

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64.—(1) The harbour commissioners shall pay to the governors as a contribution towards the Technical College out of their revenues a sum of one thousand pounds payable on the fifteenth day of May next after the passing of the Act confirming this  
5 Order and applicable for the general purposes of the Technical College. A.D. 1909.  
Contribution  
by Aberdeen  
Harbour  
Commis-  
sioners to  
Technical  
College.

(2) The harbour commissioners may pay to the governors as a further contribution towards the Technical College out of their revenues a sum or sums not exceeding in all four thousand  
10 pounds which shall be applied specially towards the erection or endowment or equipment of a school of navigation and marine engineering and a fishery institute in the vicinity of the harbour of Aberdeen and in aid of technical instruction in relation to  
15 navigation marine engineering and the fishing industry or one or more of the said objects payable in one or more sums or by instalments as the harbour commissioners may at any time or from time to time resolve.

(3) In lieu of the said further contribution of four thousand pounds or of some part thereof the harbour commissioners may  
20 in their option transfer to the governors any land belonging to them as a site for the erection of a school of navigation and marine engineering and fishery institute or one or more of the said objects and in transferring the said site to the governors it shall be lawful for the harbour commissioners and the governors  
25 to stipulate and to agree that in the event of the said site at any time ceasing to be used for the purpose for which the same was provided by the harbour commissioners the said site shall in the option of the harbour commissioners revert to them and the harbour commissioners shall in the event of their exercising such  
30 option be entitled to require that the said site shall with the buildings thereon be retransferred by the governors to the harbour commissioners for the purposes of the harbour undertaking the harbour commissioners in such case paying always to the governors the value of the buildings thereon belonging to  
35 the governors as the said value shall be ascertained by agreement or failing such agreement by arbiters mutually chosen or their oversman.

65. The governors may from and after the appointed day carry on the primary intermediate and secondary schools as now  
40 carried on by the existing governors at the existing college. Provision with  
respect to  
primary interme-  
diate and second-  
ary schools at  
existing college.

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Provision as  
to scheme  
for feeding  
and clothing  
children.

66.—(1) The trustees and the school board may make a scheme for the administration of the annual sum of one thousand four hundred pounds specified in the section of this Order of which the marginal note is "Application of revenues of Endowments Trust" Such scheme shall provide for the purchase 5 preparation and serving of free meals and the providing of clothing by the school board to necessitous children attending public or State-aided schools whose parents or guardians are resident within the city.

(2) In the event of the trustees and the school board 10 failing within the period of six months from the appointed day to agree upon such a scheme the terms of the scheme shall be settled by the department.

(3) Until a scheme under this section has been made and brought into operation the trustees may continue to provide 15 food and clothing to children for such period after the appointed day as may be necessary.

Provision  
with respect  
to free books  
and sta-  
tionery.

67. Whereas in Schedule B to this Order provision is made for the supply by the trustees of free books and stationery to certain of the foundationers endowment foundationers or free 20 scholars referred to in that schedule And whereas assistance in such form may become unnecessary by reason of the exercise by the school board of its powers to provide free books and stationery in all or any of the schools at which such foundationers endowment foundationers or free scholars may be pupils 25 Be it enacted that in the event of the exercise by the school board of such powers the trustees shall pay to the school board an annual sum corresponding to the amount to which the trustees may be so relieved and such sum shall form an addition to the annual sum to be paid to the school board under the 30 provisions of the section of this Order of which the marginal note is "Application of revenues of Endowments Trust."

Costs of  
Order.

68. The costs charges and expenses of preparing for obtaining and confirming this Order and incident thereto shall be paid equally by the Governors and the Endowments Trust out of any 35 funds or moneys in their hands or granted to them or subscribed for the purposes of this Order.



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The SCHEDULES referred to in the foregoing Order.

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### SCHEDULE A.

Referred to in the section of this Order of which the marginal note  
is "Transfer of certain properties to governors of Technical  
5 College."

#### PART I.

|    | Name of Street.      | Nos. of Properties. | Name of present Feuar.                                                            | Annual Feudal Duty. |
|----|----------------------|---------------------|-----------------------------------------------------------------------------------|---------------------|
|    |                      |                     |                                                                                   | £ s. d.             |
| 10 | Schoolhill - - -     | 86 to 92            | The Trustees of Alexander Hay                                                     | 13 12 6             |
|    | Blackfriars Street - | 1                   |                                                                                   |                     |
|    | Blackfriars Street - | 2 3 4 5             | Peter Stewart - - -                                                               | 10 16 0             |
|    |                      | and 6.              |                                                                                   |                     |
|    | Blackfriars Street - | 8 and 10            | William B. Cormack -                                                              | 6 12 0              |
| 15 | Blackfriars Street - | 12 and 14           | James Neil - - -                                                                  | 4 16 0              |
|    | Blackfriars Street - | 26 and 28           | The Trustees of Patrick Macdonald                                                 | 3 10 6              |
|    | Blackfriars Street - | 40 and 41           | Mrs. Margaret Wright -                                                            | 6 7 0               |
|    | Blackfriars Street - | 7 and 9             |                                                                                   |                     |
| 20 | Woolmanhill - - -    | 26 28               | Henry Ross - - -                                                                  | 4 2 0               |
|    |                      | and 30              |                                                                                   |                     |
|    | Woolmanhill - - -    | 32 and 34           | Dr. James Davidson Wy-<br>ness                                                    | 4 14 0              |
|    | Woolmanhill - - -    | 39 40 and 41        | Elizabeth Watt - - -                                                              | 9 6 8               |
| 25 | Woolmanhill - - -    | 42 and 43           | Alexander Taylor - - -                                                            | 9 18 0              |
|    | Woolmanhill - - -    | 46 to 50            | James Stephen - - -                                                               | 20 3 0              |
|    | Woolmanhill - - -    | Drill Hall          | The Territorial Force Asso-<br>ciation for the County of<br>the City of Aberdeen. | 14 0 0              |
| 30 |                      |                     |                                                                                   |                     |

#### PART II.

| Name of Street.              | Numbers of Properties. |
|------------------------------|------------------------|
| Blackfriars Street - - - - - | 18 20 22 and 24.       |
| Blackfriars Street - - - - - | Gymnasium.             |

A.D. 1909.

## SCHEDULE B.

Referred to in the section of this Order of which the marginal note is "Application of revenues of Endowments Trust."

In this schedule the expression "the schools of the governors" means and includes the primary intermediate and secondary schools 5  
carried on by the governors under the powers contained in the section of this Order of which the marginal note is "Provision with  
" respect to primary intermediate and secondary schools at existing  
" college."

## ROBERT GORDON'S FOUNDATIONERS.

10

1. (1) The qualification of Robert Gordon's foundationers except in the case of those elected by competitive examination as herein-after provided shall be that the boys are children or grandchildren of 15  
burgesses of guild or of trade of the city or boys belonging to the city who are orphans or whose parents are in receipt of weekly wages or belong to the labouring classes One-fourth at least of the 15  
boys for the time being shall be elected by competitive examination open to all boys suitable in respect of age health and character.

(2) The trustees shall provide for the maintenance of Robert Gordon's Foundationers in family with the parents or guardians of 20  
the boys or other persons approved by the trustees and for that purpose shall pay to the persons with whom such boys reside such sum of money for their lodging and maintenance as the trustees think sufficient The foundationers shall be under the supervision of 25  
the trustees and subject to such rules and regulations as they may from time to time make The foundationers shall also receive free 25  
education with books and stationery at the schools of the governors or at any public or State-aided school to be selected by the trustees.

(3) The trustees may fix and determine from time to time the age for the election and admission of boys as Robert Gordon's founda- 30  
tioners and the age at which the foundation shall terminate and also from time to time fix and determine the period or periods in each year for the election and admission of foundationers.

(4) All applicants for election and admission as Robert Gordon's foundationers shall be required to pass an entrance examination suitable 35  
to the age of each applicant and satisfactory to the trustees and the trustees may reject anyone failing to pass such examination The standard of such examination shall in no case be lower than that formerly required for the Fourth Standard of the Education (Scotland) 40  
Code except in the case of applicants under ten years of age who shall

[9 EDW. 7.] *Robert Gordon's Technical College and  
Aberdeen Endowments Trust Order Confirmation.*

39

be required to pass an examination equal to that formerly required for the Third Standard of the Education (Scotland) Code. A.D. 1909.

- (5) The number of Robert Gordon's foundationers shall be 120 and shall not be reduced below that number except by a resolution  
5 passed by a majority of the trustees present at a meeting to be called on seven days' notice and confirmed by a majority of the trustees present at a subsequent meeting called for the purpose.

ENDOWMENT FOUNDATIONERS.

- 2.—(1) The sixty girls to be selected and entered as Endowment  
10 Foundationers shall be children who have lost either parent or both parents and whose surviving parents or guardians are unable to maintain and educate them without difficulty provided that such parents or guardians are not in receipt of parochial aid.

- (2) At least one-half of the girls shall be children whose parents  
15 are or were before their death resident in the parishes of Saint Nicholas Old Machar Nigg and Banchory-Devenick in the proportion of six-tenths from Saint Nicholas two-tenths from Old Machar one-tenth from Nigg and one-tenth from Banchory-Devenick.

- (3) The remainder of the girls shall be the children of parents  
20 who are or were before their death resident in the city or in the county of Aberdeen.

- (4) In selecting the girls the trustees shall have due regard to merit as ascertained by such examination suitable to their age as the trustees may prescribe and in the case of girls who have been in  
25 attendance at school they shall give special weight to good conduct attendance and progress at school during the previous year.

- (5) The girls shall receive free education with books and stationery at a public or State-aided school to be selected by the trustees and such annual sum suitable for their maintenance and clothing as the  
30 trustees may determine.

- (6) The said annual sum shall be spent in such manner and paid to such persons and under such conditions as the trustees may direct.

- (7) The trustees at the end of every school year shall obtain from the teacher or teachers of such girls a special report as to their  
35 conduct regularity of attendance at school and their progress and no girl shall be continued on the foundation with regard to whom such report is not satisfactory.

- (8) The thirty girls enrolled as outdoor foundationers at the date of the passing of the Act confirming this Order shall be retained on  
40 the foundation until the end of the school session in which they attain the age of fourteen years and the remaining thirty girls enrolled as indoor foundationers at the date of the passing of the Act confirming

A.D. 1909. — this Order shall be retained with benefits as then enjoyed till they attain the age of sixteen years with free education books and stationery up to fourteen years and free training for domestic service books and stationery in the school of domestic economy from fourteen to sixteen years of age and an outfit at leaving. 5

(9) From and after the date of the passing of the Act confirming this Order thirty of the sixty girls may be retained on the foundation until the end of the school year in which they attain the age of fourteen years. The remaining thirty girls may be retained on the foundation until such age not exceeding sixteen years as the trustees 10 may determine and these last-mentioned thirty girls shall be entitled to receive free education with books and stationery and training in the school of domestic economy with a view to their entering on domestic service.

(10) In the event of any of the foundationers who are entitled to 15 remain till the age of sixteen years being unable owing to the state of her health to take the ordinary curriculum the trustees may provide such foundationer with instruction in such other subject or subjects as may be fitted to equip her to earn a livelihood.

#### DAVIDSON'S FREE SCHOLARS.

20

3. Davidson's Free Scholars shall be the children of seafaring persons residing in Footdee in the city.

#### ROBERT GORDON'S BURSARIES.

4. Robert Gordon's Bursaries shall be granted to boys residing in Aberdeen attending the schools of the governors or any public or State- 25 aided school in the city who shall pass an examination equal to that required to be passed by Robert Gordon's Foundationers.

While and so long as the primary intermediate and secondary schools are carried on by the governors under the powers contained in the section of this Order of which the marginal note is "Provision with 30 respect to primary intermediate and secondary schools at existing college" the bursaries shall be tenable at the schools of the governors in place of public or State-aided schools in the city.

The bursaries shall be held subject to such conditions as the trustees may from time to time prescribe. 35

#### GRAMMAR SCHOOL BURSARIES.

5. The Grammar School Bursaries shall be of two classes as herein-after provided (that is to say):—

- (A) For boys attending the Aberdeen Grammar School; and
- (B) For boys attending State-aided schools tenable at the Aberdeen 40 Grammar School.

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*Aberdeen Endowments Trust Order Confirmation.*

The trustees may attach to these bursaries the names of the respective founders of the several endowments. A.D.1909.

*Class A.*

(1) Two bursaries of twenty pounds each shall each year be awarded  
 5 by competitive examination among the scholars attending the Aberdeen Grammar School who require aid in completing their education and shall be tenable for two years.

(2) The trustees shall fix the period and conditions of the examinations for the bursaries in such manner that the scholars to whom the  
 10 bursaries are awarded may be expected to complete the curriculum of the school within two years after the scholars shall become entitled to receive the bursaries.

*Class B.*

(1) In each year there shall be awarded not less than two bursaries  
 15 for higher education of a yearly value not exceeding twenty pounds each by a competitive examination among boys attending State-aided schools in the city whose parents or guardians require aid in providing them with higher education which shall be tenable for five years at the Aberdeen Grammar School Of these bursaries (ten in number)  
 20 two shall be known by the name of the MacRa bursaries These two bursaries shall be awarded to any candidates properly qualified in the opinion of the trustees to avail themselves of the education given at the Aberdeen Grammar School who shall satisfy the trustees that they are lineal descendants of Alexander MacRa of Inverinet the great-  
 25 grandfather of Alexander MacRa ironmonger in Bristol.

(2) The trustees shall fix the age at which the boys are to be admitted to competition or they may award the bursaries to the boys who stand highest in the school bursary competition under the provisions of section 6 (2) of Schedule B to this Order.

30 PUBLIC SCHOOL BURSARIES.

6.—(1) The public school bursaries shall be each of the yearly value of not less than five pounds nor more than twelve pounds ten shillings.

(2) The bursaries shall be awarded by competitive examination  
 35 among scholars attending public or State-aided schools in the city who are not less than twelve years of age at the date of such examination and whose parents or guardians are in the opinion of the trustees in such circumstances as to require aid for giving such pupils higher education.

(224.)

F

A.D. 1909. (3) The bursaries may be tenable for three years at public or State-aided schools in the city or the schools of the governors.

(4) The bursaries shall be held subject to such conditions as the trustees may from time to time prescribe.

FREE SCHOLARSHIPS.

5

7.—(1) The boys and girls holding free scholarships (in this section called "free scholars") shall attend a public or State-aided school within the city for elementary education and shall receive free books and stationery.

(2) The free scholars shall be children whose parents or guardians 10 are in such circumstances as to require aid for providing elementary education provided that their parents or guardians are not in receipt of parochial relief.

(3) Boys and girls selected as free scholars who have not passed an examination equivalent to that formerly required for the fifth 15 standard of the Education (Scotland) Code shall be nominated by the trustees who shall have regard to merit as ascertained by evidence that the children possess such qualifications as to justify their selection.

(4) In selecting boys and girls as free scholars who have been in attendance at school during one or more school years the trustees 20 shall give special weight to their good conduct attendance and progress at school during the previous year.

(5) The amounts paid for books and stationery in respect of free scholars who have not passed an examination equivalent to that formerly required for the fifth standard shall not be paid for more than one 25 school year without such free scholars being re-appointed and the amount to be expended for such free scholars shall not exceed one-fifth of the amount to be applied under this section.

(6) Boys and girls who have passed an examination equivalent to that formerly required for the fifth standard to be proposed as free 30 scholars shall be selected by competitive examinations (to be held at such times and in such manner as the trustees may determine) which shall be open to all who are eligible in terms of this section whether they have or have not previously been free scholars and for such free scholars the school fees books and stationery may continue to 35 be paid for such period not exceeding three years as the trustees may determine.

(7) At the end of every school year the trustees shall obtain from the teacher or teachers of free scholars a special report as to their conduct regularity of attendance and progress and the books and stationery 40 shall not continue to be provided for any free scholar in regard to whom such report is not satisfactory.



[9 EDW. 7.] *Robert Gordon's Technical College and* 43  
*Aberdeen Endowments Trust Order Confirmation.*

TECHNICAL COLLEGE FOUNDATIONS BURSARIES AND SCHOLARSHIPS. A.D. 1909.

8. The foundations bursaries and scholarships in connexion with the Technical college shall be of such amount and held on such terms and conditions as may from time to time be fixed and prescribed by  
 5 the governors.

EVENING SCHOOL SCHOLARSHIPS.

9. The trustees shall expend an annual sum of one hundred pounds on free scholarships at evening classes under the school board or at the Technical College for higher education or technical instruction. These  
 10 free scholarships shall be awarded among those who have been pupils in State-aided schools within the city on the result of such examinations and under such conditions as the trustees may determine. The trustees may attach the names of the respective founders to these scholarships.

**Robert Gordon's Technical  
College and Aberdeen  
Endowments Trust  
Order Confirmation.**

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A

**B I L L**

INTITULED

An Act to confirm a Provisional Order  
under the Private Legislation Procedure  
(Scotland) Act 1899 relating to Robert  
Gordon's Technical College and Aberdeen  
Endowments Trust.

*(Brought from the Commons 8th November 1909.)*

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Ordered to be printed 8th November 1909.

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[Price 4½d.]

(224.)



## A

## B I L L

## INTITULED

An Act to amend the Judicature Acts, 1873 to 1894, with respect to the Persons in whom the power of making Rules of Court under those Acts is vested. A.D. 1909.

**B**E it 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:—

- 5      1.—(1) The persons in whom the power of making rules of court under the Judicature Acts, 1873 to 1894, is vested shall include four persons, of whom two shall be practising barristers being members of the General Council of the Bar and two shall be practising solicitors, one such solicitor being
- 10 member of the Council of the Law Society and the other being a member of the Law Society and also of a provincial Law Society, to be appointed by the Lord Chancellor for the purpose in the same manner as the four judges referred to in section nineteen of the Supreme Court of Judicature Act, 1881.
- 15      (2) Section four of the Supreme Court of Judicature (Procedure) Act, 1894, is hereby repealed.

Amendment  
of provisions  
as to rule  
committee.

44 & 45 Vict.  
c. 68.

57 & 58 Vict.  
c. 16.

2. This Act may be cited as the Judicature (Rule Committee) Act, 1909, and may be cited with the Judicature Acts, 1873 to 1894.

Short title.





## Rule Committee.

A

## B I L L

[INTITULLED

An Act to amend the Judicature Acts, 1873 to 1894, with respect to the Persons in whom the power of making Rules of Court under those Acts is vested.

(*Brought from the Commons 30th August 1909.*)

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Ordered to be printed 30th August 1909.

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[*Price 3d.*]

(141.)

[9 EDW. 7.] *St. Andrews Water Order Confirmation.* [H.L.] 1

A

# B I L L

## INTITULED

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

**W**HEREAS 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 62 & 63  
(Scotland) Act 1899 and it is requisite that the said Order Viet. c. 47.  
5 should be confirmed by Parliament:

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:—

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

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

A.D. 1909.

SCHEDULE.

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## 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.* 5

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

[9 Edw. 7.] *St. Andrews Water Order Confirmation.*

3.

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:

(81.)

A 2

A.D. 1909. 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 5 the last-mentioned Act the Secretary for Scotland orders as follows :—

Short title  
and com-  
mencement  
of Order.

1. This Order may be cited for all purposes as the 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 10 to in this Order as “the commencement of this Order.”

Interpreta-  
tion of terms.

2. In this Order the several words and expressions to which meanings are assigned by the Acts wholly or partially incor-  
porated herewith have the same respective meanings unless  
there be something in the subject or context repugnant to such 15  
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 ; 20

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

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

“The sheriff” means the sheriff of the county of Fife or 25  
any of his substitutes ;

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

Incorpora-  
tion of Acts.

3. The following Acts and parts of Acts (so far as the  
same respectively are applicable for the purposes and are not 30  
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 35  
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 : 40



[9 EDW. 7.] *St. Andrews Water Order Confirmation.*

5

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.

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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 :

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(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

A.D. 1909.

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

[9 Edw. 7.] *St. Andrews Water Order Confirmation.*

7

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.

5

(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:

10

(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:

15

(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:

20

25

(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):

30

(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.

35

40

A.D. 1909.

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 5 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 10 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 15 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 20 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 25 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 30 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 35 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 40 shown on the deposited sections in respect of the corresponding embankment or wall and five feet in addition.

[9 EDW. 7.] *St. Andrews Water Order Confirmation.*

9

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):—

A.D. 1909.  
For pro-  
tection of  
county  
council of  
Fife.

- 10 (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 :
- 15 (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 :
- 20 (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 :
- 25 (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
- 30
- 35
- 40

(S1.)

B

A.D. 1909.

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 : 10
- (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 : 15
- (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. 20 25

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 books of reference which they may from time to time find it expedient for any of those purposes so to interfere with providing when possible a proper temporary substitute before interrupting the traffic on any such 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 30 35 40



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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 Post-  
 5 master-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  
 10 of that section.

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  
 15 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  
 20 footpath to be constructed in lieu thereof has been completed and that the same is open to the public.

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  
 25 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  
 30 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  
 35 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.

11. The Town Council may subject to the provisions of this Order from and after the commencement of this Order by means  
 40 of the works by this Order authorised and by the existing water-works of the Town Council or some of them or some part or  
 (81.) B 2

A.D. 1909.

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

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

Power to take water.

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. 5 10

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. 15 20 25

Compensa-  
tion 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. 30

(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. 35

(3) The Town Council shall for the purpose of ascertaining the amount of the compensation water to be daily discharged as 40



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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

5 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.

10 (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  
15 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.

20 (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  
25 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.

30 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 books of reference as may be required for the purposes of this Order.

Power to acquire lands.

35 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  
40 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.

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 ser-  
vitude only  
for lines of  
pipes.

17. The Town Council may in lieu of acquiring any lands 5  
for the purposes of the conduits or lines of pipes by this Order  
authorised where the same are intended to be constructed under-  
ground 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 10  
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 15  
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 20  
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 25  
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 30  
been confirmed.

Power to  
acquire and  
hold lands  
for protec-  
tion of works  
and preven-  
tion of pol-  
lution.

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 35  
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 40  
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  
 5 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.

10 (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  
 15 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  
 20 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  
 25 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  
 30 purpose of making dépôts 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  
 35 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  
 40 construct any works for taking or intercepting water from any lands acquired by them after the commencement of this Order

Limiting  
powers of  
Town Coun-  
cil to ab-  
stract water.

A.D. 1909. — unless the works and the lands upon which the same are to be constructed are specified in this or some other Order or Act of Parliament.

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 5 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 10 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. 15

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 20 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 25 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 30 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 35 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 40 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 *prima facie* evidence that such injury alteration prevention abstraction consumption or use as the case may be has  
5 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  
10 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  
15 (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  
20 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  
25 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  
30 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  
35 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  
40 Court may if it think fit reduce such penalty.

(81.)

C



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 5 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 10 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 15 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. 20

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 25 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 30 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 35 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. 40

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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  
 5 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  
 10 that district.

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Contracts  
for supply-  
ing 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  
 15 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  
 20 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  
 25 within which such supply is proposed to be given.

Power to  
Town Coun-  
cil 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  
 30 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 agree-  
 35 ment 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  
 40 conveying water from any of their waterworks whether existing or by this Order authorised or for distributing and supplying

Laying  
mains in  
public roads.

(81.)

D

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 5 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 10 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 15 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 20 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 25 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 30 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 35 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 40



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

5 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;

10 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  
15 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  
20 such sinking fund shall be formed or maintained either—

Sinking  
fund.

(A) By payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed A sinking fund so formed  
25 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  
30 herein-after called an accumulating sinking fund.

(2) Every sum paid to a sinking fund and in the case of an  
35 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  
40 debenture stock stock or other securities (not being annuity

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. 5

(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 10 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 15 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 20 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 25 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 30 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 pro- 35 visions 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 40

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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  
5 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  
10 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  
15 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  
20 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  
25 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  
30 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  
35 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  
40 time to time.

Power to re-borrow.

- A.D. 1909. 42. The Town Council may accept and take from any bank  
 Town Council may borrow on cash account. 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 5 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 10 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. 15
- 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 20 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 25 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 30 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 35 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 40 sinking fund transmit to the Secretary for Scotland a return in

[9 EDW. 7.] *St. Andrews Water Order Confirmation.* 25

- 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.

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.
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.

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.

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.

A.D. 1909.  
to sinking  
fund.

Application  
of moneys  
borrowed.

Reservation  
of prior  
mortgages.

Protection  
of lender  
from in-  
quiry.

For appoint-  
ment of a  
judicial  
factor.

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 5 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 10 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. 15

# **St. Andrews Water Order Confirmation.**

[H.L.]

A

**B I L L**

INTITLED

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to St. Andrews Water.

*The Lord Pentland.*

Ordered to be printed 28th June 1909.

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[Price 3d.]

(81.)



A

## B I L L

## INTITULED

An Act to confirm an Order under the Sea Fisheries Acts 1843 to 1893 for the improvement maintenance and regulation of an oyster mussel and cockle fishery in the estuary of the River Tees. A.D. 1909.

WHEREAS the Board of Agriculture and Fisheries have made the Provisional Order set forth in the schedule hereto under the provisions of the Sea Fisheries Acts 1843 to 1893:

And whereas it is requisite that the said Order should be confirmed by Parliament:

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:—

10     **1.** The Order as altered and set out in the schedule hereto shall be and the same is hereby confirmed and all the provisions thereof shall have full validity and force. Order in  
schedule  
confirmed.

**2.** This Act may be cited as the Sea Fisheries (Tees) Provisional Order Confirmation Act 1909. Short title.

A.D. 1909,

SCHEDULE.

## SEA FISHERIES ACTS 1843 TO 1893.

## TEES FISHERY ORDER 1909.

*Order for the improvement maintenance and regulation of an oyster mussel and cockle fishery in the estuary of the River Tees.* 5

1. The following are the description and limits of the fishery comprised in this Order (hereinafter called "the Fishery") viz. so much of the foreshore and bed of the estuary of the Tees containing an area of ten square miles or thereabouts as is delineated and defined on a map sealed by the Board of Agriculture and Fisheries (hereinafter called "the Board") and marked A. 1151—1909 the external boundaries of the said fishery being shown on such map by a line coloured pink. 10

2. The limits of the fishery shall be marked out in such manner as the Board may from time to time direct. 15

3. The grantees of this Order are the Tees Conservancy Commissioners (hereinafter called "the Commissioners").

4. Save as hereinafter provided no person shall dredge or fish for or take oysters mussels or cockles within the fishery without a licence A licence in that behalf shall be granted by the Commissioners to any person applying for the same A licence shall be available only for a period of twelve months from the date specified therein and for use by the person or persons named in the licence and for the use of such vessel or boat (if any) and such instruments as may be respectively specified therein but it shall not be lawful for 25 and no licence shall authorise any person to dredge or fish for or take oysters mussels or cockles from the slag training walls or embankments of the Commissioners between sunset and sunrise and no licence shall authorise any person to dredge or fish for or take oysters mussels or cockles at any time or place or in any manner at or in 30 which it is otherwise prohibited to dredge or fish for or take oysters mussels or cockles respectively.

Licences shall be in a form approved by the Board.

Any person dredging or fishing for or taking oysters mussels or cockles within the fishery shall when required by any fishery officer 35 appointed by the Commissioners produce his licence or shall desist from fishing for and dredging and taking oysters mussels and cockles till the same is produced.



[9 EDW. 7.] *Sea Fisheries (Tees) Provisional Order.*

3

5. The grantees may from time to time appoint suspend or remove and again appoint a water-bailiff or bailiffs Every such water-bailiff shall have the following powers that is to say he may within the fishery enter any vessel or boat used for fishing therein he may  
5 examine the catches nets and fishing implements and gear of any such vessel or boat he may seize oysters or mussels illegally taken within the fishery and he may do all other lawful acts for giving effect to the provisions of this Order and of Part III. of the Sea Fisheries Act 1868. A.D. 1909.

- 10 For such purposes he shall be deemed to be a constable and shall have within the fishery the same powers and privileges and be subject to the same liabilities as a constable duly appointed has and is subject to in his constablewick at common law or by statute.

- Any person considered by a water-bailiff to have offended against  
15 any of the provisions of this Order or of any regulations made thereunder shall when required by such water-bailiff state correctly his Christian name surname and place of abode.

- Any person refusing or omitting when so required to state correctly his name and place of abode or wilfully continuing to  
20 offend after having been required by a water-bailiff to desist may be apprehended by any water-bailiff or by any person acting in the presence of and by order of a water-bailiff and conveyed before a justice of the peace to be dealt with according to law.

6. There shall be paid to the Commissioners in respect of oysters  
25 mussels and cockles dredged or taken by any person within the fishery between midnight on any day and the midnight following the royalties for the time being imposed by this Order not exceeding the amounts following (that is to say):—

- For every 132 oysters or any less number two shillings;  
30 For every cwt. of mussels or part thereof one shilling and sixpence;  
For every cwt. of cockles or part thereof sixpence.

7. The royalties payable under this Order until the same are altered in manner hereinafter appearing are as follows:—

- 35 For every 132 oysters or any less number one shilling;  
For every cwt. of mussels or part thereof sixpence.

No royalty shall be payable under this order in respect of cockles unless and until the same shall have been fixed in manner hereinafter appearing.

- 40 8. Subject to the limit in amount imposed by this Order the Commissioners may at any time fix a royalty in respect of cockles and may from time to time and whether before or after such last-mentioned royalty is fixed revise or vary any or all of the royalties for the time being

A.D. 1909. payable under or in pursuance of this Order by abolishing or re-imposing the same or by increasing or diminishing the amount thereof or otherwise.

Any such fixing revision or variation shall be effected by means of a resolution to be made subject to the same confirmation as if it were a regulation made by the Commissioners under this Order and no such resolution shall take effect until so confirmed.

The royalty prescribed by any such resolution in respect of any kind of shell fish shall until altered be the royalty for the time being imposed by the Order in respect of that kind of shell fish.

9. The whole of the moneys received by the Commissioners from licences tolls fees or otherwise under this Order shall be applied to the improvement maintenance and regulation of the fishery under the powers of the Sea Fisheries Act 1868 Provided that after providing for the expenses incurred in any year in the management and maintenance of the fishery as shown in the accounts required by article 13 the Commissioners may with the approval of the Board before making any other payment out of such moneys apply the sum of 20*l.* or any less sum in or towards payment of the sum of 20*l.* per annum which the Commissioners are under an agreement to pay to Teresa Newcomen of Kirkleatham Hall in the North Riding of the county of York widow her heirs successors and assigns by way of rentcharge on certain fisheries and rights of fishery and of fishing formerly held by the said Teresa Newcomen in consideration of the said Teresa Newcomen conveying unto the Commissioners the said fisheries and rights of fishery and of fishing such fisheries or some of them being included within the limits of the fishery.

10. For the purpose of enforcing payment of the royalties payable under this Order all oysters mussels and cockles found or deemed in manner hereinafter appearing to be found in the possession of any person who is or has immediately come from within the limits of the fishery shall be deemed to have been taken by such person within those limits until the contrary is proved and all oysters mussels and cockles found in any boat or vessel or in any cart or vehicle shall be deemed to be found in the possession of the person or persons for the time being using such boat or vessel or such cart or vehicle and all oysters mussels and cockles found or deemed to be found in the possession of more than one person shall be deemed to be found in the possession of each of such persons in equal quantities until the contrary is proved.

All oysters mussels and cockles or any of them taken within the fishery shall be deposited at such times and places as the Commissioners may with the approval of the Board prescribe for the purpose of being then and there examined counted or weighed by a water-bailiff and the royalties shall be paid in such manner and at such

[9 EDW. 7.] *Sea Fisheries (Tees) Provisional Order.*

5

times and places as the Commissioners with the approval of the Board A.D. 1909.  
may appoint.

Any person paying any royalty in accordance with this Order shall forthwith receive a receipt for the same.

- 5 The royalties payable under this Order by any person named in a licence shall be payable by and recoverable from any person or persons named in the licence.

11. The foregoing provisions of this Order shall not apply to any person dredging or fishing for or taking or removing oysters mussels  
10 or cockles at any time by the written authority of the Commissioners under the hand of their chief clerk and in accordance with the conditions contained in such authority for any scientific purposes or for stocking or breeding purposes.

12. Subject to the provisions of this article the Commissioners  
15 may from time to time make regulations to be observed within the whole or any specified part or parts of the fishery and during the whole or any specified part or parts of the year for all or any of the following purposes:—

- 20 (i) For determining the marks to be attached or affixed to or painted on vessels or boats or the sails or gear of vessels or boats used in the fishery the use of which is licensed under this Order and which are not registered under and in pursuance of the Sea Fisheries Act 1868 or the Merchant Shipping Act 1894;
- 25 (ii) For regulating or prohibiting any mode of or the use of any instrument for dredging fishing for or taking oysters mussels or cockles;
- (iii) For restricting or prohibiting either entirely or subject to any exceptions and regulations the dredging fishing for or  
30 taking of oysters mussels and cockles or any of them during any period specified in the regulation;
- (iv) For fixing the size and condition of or in which oysters mussels and cockles or any of them may not be removed from the fishery and the mode of determining such size;
- 35 (v) For providing for the re-deposit in specified localities of any oysters mussels or cockles the removal of which is prohibited by any byelaw;
- (vi) For determining the description of dredges or other fishing instruments to be used in the fishery and the marks to be  
40 affixed thereto;
- (vii) For regulating generally the time and manner of dredging fishing for or taking oysters mussels or cockles and for protecting oysters mussels or cockles from injury;

A.D. 1909.

- (viii) For providing for the protection of culch and other material for the reception of spat that is to say of the spawn or young of oysters and mussels or either of them and for the re-deposit in specified localities of such culch as may be dredged or otherwise taken up in fishing; 5
- (ix) For regulating the removal from and preventing the deposit on the fishery of five fingers otherwise star fish dogwhelks or other natural enemies of oysters mussels or cockles; 10
- (x) For revoking altering suspending or varying any regulation previously made. 10

Regulations made under this article shall not be of any effect until confirmed by the Board but when so confirmed they shall while they continue in operation have effect as and be deemed to be restrictions imposed or regulations made by this Order.

Before a regulation is confirmed it shall be advertised in such manner 15 as the Board shall direct.

Any regulation shall be revised from time to time when and as required by the Board and any regulation may at any time be cancelled by the Board and shall thereupon cease to have effect.

13. The Commissioners shall render to the Board on the 31st day 20 of August in every year accounts of their income and expenditure under this Order and all other information required by the Board with reference to the fishery in such form as the Board may from time to time require and shall allow the Board or any person appointed by them in that behalf to inspect the fishery and all books accounts and other documents in the 25 possession of the Commissioners relative to the fishery and shall give to the Board or person all such information relating thereto as they or he may require.

14. Nothing in this Order shall affect the power of the Board at any time to make an Order or Orders conferring a right or rights of several 30 oyster mussel and cockle fishery within any portion of the fishery and all the powers and provisions contained in this Order shall be subject to the power of the Board to make such Order or Orders and to any alteration which may be made thereby or consequent thereon.

15. Whereas the Commissioners of His Majesty's Woods Forests 35 and Land Revenues have consented to the making of this Order:

And whereas the consent of the lord of the manor of Wilton and owner of the Wilton estate has been given thereto:

Now therefore it is hereby provided that the power of the Commissioners to make byelaws for protecting the oyster beds cockle 40 beds and muscle or mussel beds within the fishery now vested in the Commissioners under or by virtue of the Tees Conservancy Acts 1852 to 1907 or by grant purchase or otherwise shall during the

[9 EDW. 7.] *Sea Fisheries (Tees) Provisional Order.*

7

continuance of this Order be suspended and anything in the above-mentioned Acts to the contrary notwithstanding the fishery shall subject to the provisions and during the continuance of this Order be deemed to be a public fishery and all byelaws as aforesaid made by the  
 5 Commissioners in pursuance of the powers given by those Acts or any of them shall be and they are hereby repealed so far as such byelaws relate to oysters mussels or cockles.

A.D. 1909.

16. No buildings erections embankments or other works of a permanent nature required in connection with the working and carrying  
 10 on of the fishery under the provisions of this Order shall at any time be commenced or executed by the Commissioners within the fishery without the previous sanction and approval in writing of the Board of Trade and the Commissioners of Woods nor on any foreshore forming part of the Wilton estate within the fishery without the previous sanction  
 15 and approval in writing of the owner or owners for the time being of such foreshore.

17. Subject to the provisions of section 45 of the Sea Fisheries Act 1868 and of section 2 of the Oyster and Mussel Fisheries Orders Confirmation Act 1869 (No. 2) this Order shall continue in operation  
 20 until the expiration of 60 years from its confirmation by Act of Parliament and no longer.

18. Upon the confirmation of this Order by Act of Parliament the Tees Fishery Order 1902 shall cease to operate Provided that any byelaws made by the grantees of the last-mentioned Order shall take  
 25 effect and continue in force as if they were restrictions imposed or regulations made under this Order but so that they may be altered suspended or revoked by regulation made by the Commissioners under Article 12 of this Order.

19. Save and so far as may be necessary to give effect to this Order  
 30 nothing herein contained shall in any way increase or diminish any estate right privileges powers or authorities vested in or enjoyed or exerciseable by the King's Majesty.

20. This Order may be cited as the Tees Fishery Order 1909.

Made by the Board of Agriculture and Fisheries under the Sea  
 35 Fisheries Acts 1843 to 1893 this twenty-fifth day of May nineteen hundred and nine.

(L.S.)

T. H. ELLIOTT

Secretary

Board of Agriculture and Fisheries.

# Sea Fisheries (Tees) Provisional Order

---

A

B I L L

INTITLED

An Act to confirm an Order under  
the Sea Fisheries Acts 1843 to 1893  
for the improvement maintenance  
and regulation of an oyster mussel  
and cockle fishery in the estuary of  
the River Tees.

*(Brought from the Commons 29th June 1909.)*

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Ordered to be printed 29th June 1909.

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[*Price 1d.*]

(92.)

[9 EDW. 7.] *Secretary of the Board of Agriculture and Fisheries.*

1

A

## B I L L

INTITULED

An Act to enable a second Secretary to be appointed for the Board of Agriculture and Fisheries. A.D. 1909.

**B**E it 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:—

- 5 **1.**—(1) The power of the Board of Agriculture and Fisheries to appoint a Secretary under section five of the Board of Agriculture Act, 1889, is hereby extended so as to authorise the appointment of two Secretaries, and any reference to the Secretary in any provision of the Board of Agriculture and Fisheries Acts, 1889 and 1903 (including any provision giving power to pay salaries) shall include a reference to any second Secretary appointed in pursuance of the power as so extended.
- 10 (2) One of the Secretaries of the Board of Agriculture and Fisheries shall not, by reason of his office, be incapable of being elected to or of voting in the Commons House of Parliament.
- 15

Power to  
appoint  
second Secretary to the  
Board of  
Agriculture  
and  
Fisheries.  
52 & 53 Vict.  
c. 30.  
3 Edw. 7.  
c. 31.

**2.** This Act may be cited as the Board of Agriculture and Fisheries Act, 1909, and the Board of Agriculture and Fisheries Acts, 1889 and 1903, and this Act may be cited together as the Board of Agriculture and Fisheries Acts, 1889 to 1909.

Short title.







Secretary of the Board  
of Agriculture and  
Fisheries.

---

A

B I L L

INTITLED

An Act to enable a second Secretary  
to be appointed for the Board of  
Agriculture and Fisheries.

*(Brought from the Commons 30th August 1909.)*

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Ordered to be printed 30th August 1909.

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[*Price 3d.*]

(138.)

**Shrewsbury Corporation Bill. [H.L.]**

---

**A M E N D M E N T****TO BE MOVED ON THIRD READING****BY****THE LORD AVEBURY.**

---

Clause 26, page 18, line 27, after (" therefore ") insert (" The  
" expression 'contractor' shall mean any person, company, or firm  
" habitually engaged in the carrying out of contracts pertaining  
" to the supplying, fixing, repairing, and removing of wires and  
" appliances to be used for the consumption of electrical energy ")

---

Shrewsbury  
Corporation Bill. [H.L.]

---

A M E N D M E N T

TO BE MOVED ON THIRD READING

BY

THE LORD AVEBURY.

---

15th July 1909.

---

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[*Price 3d.*]

215—1.

A  
B I L L

INTITULED

An Act to confirm a Scheme of the Charity Commissioners A.D. 1909.  
for the management of the Charity of Sir Richard  
Whittington under the management of the Mercers'  
Company of the City of London.

**W**HEREAS the Charity Commissioners for England and  
Wales in their report to His Majesty of their proceedings  
during the year one thousand nine hundred and eight have  
reported that they have approved and certified a scheme for  
5 the application of the Charity of Sir Richard Whittington under  
the management of the Mercers' Company of the City of London  
and regulated by trusts confirmed by King Henry VI. on petition  
in Parliament in the tenth year of his reign :

And whereas it is expedient that the scheme as the same  
10 is fully set out and defined in the schedule to this Act should  
be confirmed :

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  
15 and by the authority of the same as follows :—

1. The said scheme is hereby confirmed Provided always Confirmation  
of scheme.  
that nothing in this Act or in the said scheme shall be held to  
interfere with the ordinary jurisdiction over endowed charities  
now exerciseable or hereafter to become exerciseable by the High  
20 Court of Justice and the Charity Commissioners.

2. This Act may be cited as the Whittington Charity Scheme Short title.  
Confirmation Act 1909.

A.D. 1909.

## SCHEDULE.

*Scheme for the Application or Management of the  
Charity of Sir Richard Whittington under the management of  
the Mercers' Company of the City of London.*

- Administration of Charity. 1. The above-mentioned Charity and the endowments thereof 5 specified in the Schedule hereto and all other the endowments (if any) of the said Charity shall be administered and managed by the Mercers' Company of the City of London the Trustees of the Charity (acting in accordance with the ordinary practice of the Company by their Court of Assistants or otherwise) subject to and in conformity 10 with the provisions of this Scheme.
- Investment of cash. 2. All sums of cash now or at any time belonging to the Charity and in the opinion of the Trustees not needed for immediate working purposes shall (unless otherwise ordered) as soon as possible be invested under the authority of a further Order of the Charity Commissioners 15 in the name of "The Official Trustees of Charitable Funds."

## ALMSHOUSE.

- Almshouse. 3. The Almshouse buildings belonging to the Charity and the property heretofore occupied therewith shall be appropriated and used for the residence and use of the Almspeople of the Charity in conformity with the provisions of this Scheme provided that the Trustees may from time to time assign any suitable portions of the said buildings to be the residences of the Tutor Matron Nurse Gardener or other official. 20
- Absence from Almshouse. 4. No Almsperson shall be absent from the Almshouse for a 25 period exceeding 24 hours without the consent in writing of the Trustees or their authorised representative but in special cases such consent may for any sufficient reason be given retrospectively after the absence has occurred.
- Rooms not to be let. 5. No Almsperson shall be permitted to let or part with the 30 possession of the room or rooms allotted to her or except with the special permission of the Trustees to suffer any stranger to share the occupation of the same or of any part thereof.

## MANAGEMENT AND LETTING.

- Allotments Extension Act 1882. 6. The Trustees may set apart and let in allotments in the manner 35 prescribed by and subject to the provisions of the Allotments Extension Act 1882 any portion of the land belonging to the Charity other than buildings and the appurtenances of buildings.



[9 EDW. 7.]

*Sir R. Whittington's Charity.*

7. Subject as aforesaid all the property of the Charity not required to be retained or occupied for the purposes thereof shall be let and otherwise managed by the Trustees. The Trustees shall before letting any property give notice of the intention to let the same by affixing  
 5 such notice on the premises to be let or by otherwise publishing the same in such mode as they may deem most effectual. The Trustees shall not create any tenancy in reversion after more than three years of any existing term or for more than 21 years certain or for less than the improved annual value at rack-rent without the sanction of the  
 10 Charity Commissioners or a competent Court.
8. The Trustees shall provide that on the grant by them of any lease the lessee shall execute a counterpart thereof and every lease shall contain covenants on the part of the lessee for the payment of rent and the proper cultivation of the land and all other usual and proper  
 15 covenants applicable to the property comprised therein and a proviso for re-entry on non-payment of the rent or non-performance of the covenants.
9. The Trustees shall keep in repair and insure against fire all the buildings of the Charity not required to be kept in repair and insured  
 20 by the lessees or tenants thereof.

A.D. 1909.  
Management  
and letting of  
property.

Leases.

Repair and  
insurance.

## OFFICERS AND SERVANTS.

10. The Trustees may appoint at salaries to be approved by the Charity Commissioners a Tutor or Chaplain an Organist a Matron a Nurse and any other necessary officers or servants but so that in every  
 25 case the person appointed shall be dismissible at the pleasure of the Trustees.
11. The Tutor or Chaplain shall be a Clergyman of the Church of England in Priest's Orders, and shall perform such spiritual offices in connexion with the Almspeople of the Charity as may reasonably be  
 30 required of him by the Trustees. The other officers or servants shall perform such duties in connexion with the Almspeople and the Alms-house buildings or the property occupied therewith as may reasonably be required of them by the Trustees.

Appointment  
of officers.

As to Tutor.

As to other  
officers.

## APPLICATION OF INCOME.

12. The cost of repairs and insurance and all other charges and outgoings payable in respect of the property of the Charity and all the proper costs charges and expenses of and incidental to the administration and management of the Charity including the salaries of the officers and servants shall be first defrayed by the Trustees out of the  
 40 income of the Charity.
13. The net yearly income of the Charity remaining after the payments aforesaid shall be applied by the Trustees in the manner and to the objects herein-after prescribed.

Expenses of  
management.Application  
of net yearly  
income.

A.D. 1909.

*Almspeople.*

Almspeople.

14. The Trustees shall in the first place apply a sufficient part of the said net yearly income in the payment of the stipends of the Almspeople of the Charity in conformity with the provisions of this Scheme. 5

Number and  
qualifications  
of Alms-  
people.

15. The full number of Almspeople shall be 28 They shall be poor single women or widows above the age of 55 years of good character not in receipt of Poor-law relief other than medical relief and not in possession of a yearly income exceeding 20*l.* from real estate or 40*l.* from any source whatever beyond their stipends from the Charity. 10

Stipends of  
Almspeople.

16. There shall be paid to each Almsperson out of the income of the Charity by weekly or other periodical payments as the Trustees from time to time think fit such a stipend being at the rate of not more than 40*l.* a year as the Trustees may from time to time fix having regard to the needs and circumstances of the respective Almspeople and to the income and other circumstances of the Charity. 15

*Pensions and Grants.*

As to one-  
third of  
residue.

17. The Trustees shall apply one-third part of the residue of the said net yearly income in the payment of pensions and grants of such amount in each case as the Trustees in their discretion think proper to poor and indigent men and women of the said Company not in receipt of Poor-law relief other than medical relief The expression "indigent men and women of the said Company" shall in this clause mean and include indigent members of the Mercers' Company and indigent members of the families of members of the Mercers' Company. 25

As to re-  
maining two-  
thirds.

18. The Trustees shall apply the remaining two-third parts of the said residue in the payment of pensions of an amount not exceeding 40*l.* a year in each case to deserving and necessitous persons who have not during the period of one year next preceding the time of appointment received Poor-law relief other than medical relief and so that of the pensions payable under this clause one half in number shall be paid to persons being otherwise qualified as last aforesaid who have resided for not less than two years next preceding the time of their appointment in the Metropolitan Police Area. 30 35

*Provisions as to Almspeople and Pensioners.*

Saving.

19. Appointments of Almspeople and Pensioners under this Scheme shall be made without prejudice to the interests of the existing Almspeople and Pensioners of the Charity.

Power to  
Trustees to  
apply  
stipends and

20. The Trustees instead of paying the whole amount of the stipend to any Almsperson or Pensioner in money may from time to time expend the whole or any portion thereof for his or her benefit as they think fit 40

[9 Edw. 7.]

*Sir R. Whittington's Charity.*

5

The Trustees shall also be at liberty to expend a sum not exceeding 10*l.* in any case in defraying the cost of burial of any Almsperson or Pensioner. A.D. 1909.  
to pay cost of  
burial.

21. At least once in every year a notice specifying the qualifications Notices.  
5 required from candidates for appointment as Almspeople or Pensioners and the proper mode of applying for appointment shall be sufficiently published by advertisement or otherwise as the Trustees think fit.

22. Every appointment of an Almsperson or a Pensioner shall be made by the Trustees as soon as conveniently may be after the Appointments  
of Almspeople  
and Pensioners.  
10 occurrence of a vacancy.

23. The Almspeople and Pensioners shall be selected after full Selection of  
Almspeople  
and Pen-  
sioners and  
payment of  
Pensions.  
15 investigation of the character and circumstances of the applicants and inquiry whether they have shown reasonable providence and whether and to what extent they may reasonably expect assistance from relations or others.

The pensions shall be paid subject to such reasonable regulations for ascertaining the identity and good conduct of the Pensioners and their continued possession of the required qualifications as the Trustees from time to time prescribe.

20 For the purpose of this clause the Trustees may avail themselves of the agency of any Charity Organisation Society or other like agency.

24. The Trustees shall provide and keep a book in which shall be Register.  
entered the name age and description of every person appointed to be  
25 an Almsperson or a Pensioner the date of every appointment and the date and occasion of every vacancy.

25.—(1) The grant of each pension shall be made during the Removal of  
Almspeople  
and Pen-  
sioners.  
pleasure of the Trustees.

(2) Any Almsperson or Pensioner who receives Poor-law relief other Removal of  
Almspeople  
and Pen-  
sioners.  
30 than medical relief shall be removed from being an Almsperson or a Pensioner.

(3) If in the opinion of the Trustees any Almsperson or Pensioner is guilty of insobriety insubordination breach of regulations or immoral or improper conduct or is disqualified for retaining his or her appoint-  
35 ment by having become entitled to a sufficient income from sources other than the Charity or on account of mental disease (in the case of an Almsperson) or from any other cause or if in any case it appears that any Almsperson or Pensioner has been appointed without having the required qualifications the Trustees upon proof thereof to their satis-  
40 faction may remove the Almsperson or Pensioner.

(4) Upon the removal of any Almsperson or of any officer or servant having a residence in the said buildings the Trustees shall take possession of the tenement or room occupied by him or her and upon

A.D. 1909. the removal of any Almsperson or Pensioner the Trustees may proceed to appoint another Almsperson or Pensioner in his or her place.

(5) In any case of such misconduct as aforesaid the Trustees may suspend the payment of the stipend to the Almsperson or Pensioner either wholly or in part during such time as they think fit. 5

(6) Any Almsperson removed on account of mental disease and any Pensioner removed on account of receiving Poor-law relief while being detained under lawful authority as a person suffering from mental disease may on recovery be re-appointed without previous notice being given of the vacancy to be filled up and need not possess the qualifications as to residence and previous non-receipt of Poor-law relief. 10

Regulations. 26. The Trustees may from time to time prescribe such reasonable regulations as they consider expedient for the government of the Almspeople and Pensioners provided that the same shall not be at variance or inconsistent with any of the provisions of this Scheme and by such regulations may provide that the Almspeople shall render such assistance to each other and to the officers and servants of the Charity as is within their power. 15

#### GENERAL PROVISIONS.

Trustees not to be personally interested. 27. No Trustee shall take or hold any interest in any property belonging to the Charity otherwise than as a Trustee for the purposes thereof and no Trustee shall receive any remuneration or be interested in the supply of work or goods at the cost of the Charity. 20

Charity not to relieve rates. 28. The funds or income of the Charity shall not in any case be applied in aid of any rates for the relief of the poor in any Parish or place. 25

Minutes and accounts. 29. Minutes shall be kept and books of account shall be provided by the Trustees. All proper accounts in relation to the Charity shall in each year be made out and certified in such manner as the Charity Commissioners require and copies thereof shall be transmitted to the said Commissioners and published in conformity with the provisions of the Charitable Trusts Acts. 30

General power to make regulations. 30. Within the limits prescribed by this Scheme the Trustees shall have full power from time to time to make regulations for the management of the Charity and for the conduct of their business including the summoning of meetings the deposit of money at a proper bank and the custody of documents. 35

Alteration of Scheme. 31. The Charity Commissioners may upon the application of the Trustees from time to time in the exercise of their ordinary jurisdiction establish Schemes for the alteration of any provisions of this Scheme as if those provisions had been made by the founder in the case of a Charity having a founder. 40

[9 Edw. 7.]

*Sir R. Whittington's Charity.*

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32. Any question as to the construction of this Scheme or as to the regularity or the validity of any acts done or about to be done under this Scheme shall be determined conclusively by the Charity Commissioners upon application made to them for the purpose by the Trustees.

A.D. 1909.

Questions  
under  
Scheme.

## SCHEDULE OF PROPERTY.

|    | Description.                                                                | Extent<br>or Amount. |    |    | Tenant, Person liable, or<br>Persons in<br>whose Names invested. | Gross Yearly<br>Income. |    |    |
|----|-----------------------------------------------------------------------------|----------------------|----|----|------------------------------------------------------------------|-------------------------|----|----|
|    |                                                                             | £                    | s. | d. |                                                                  | £                       | s. | d. |
| 10 | <i>Real Estate.</i><br>The following properties in<br>the City of London :— |                      |    |    |                                                                  |                         |    |    |
|    | Gresham Buildings, Basing-<br>hall Street.                                  | —                    |    |    | Executors of J. Perry -                                          | 2,500                   | 0  | 0  |
| 15 | Nos. 9, 10, and 11, Basinghall<br>Street.                                   | —                    |    |    | W. H. Dunn -                                                     | 196                     | 0  | 0  |
|    | "The Bell" public house,<br>Basinghall Street.                              | —                    |    |    | Flower and Sons, Limited                                         | 80                      | 0  | 0  |
| 20 | Nos. 48 and 49, Coleman<br>Street.                                          | }                    | —  |    | Charles Morrison -                                               | 2,300                   | 0  | 0  |
|    | Nos. 17, 18, 19, and 20, King's<br>Arms Yard.                               |                      | —  |    | Joseph Ullman -                                                  | 300                     | 0  | 0  |
|    | No. 20, College Hill -                                                      |                      | —  |    | Executors of C. N. Wilde                                         | 0                       | 1  | 0  |
| 25 | Do. Easement<br>(windows).                                                  | —                    |    |    | Do. do. -                                                        | 0                       | 1  | 0  |
|    | Do. do.<br>(vent pipe).                                                     | —                    |    |    |                                                                  |                         |    |    |
| 30 | Part of No. 34 and No. 36,<br>Gresham Street.                               | }                    | —  |    | Jones, Lang, and Company                                         | 1,008                   | 0  | 0  |
|    | Nos. 18 and 19, Lawrence<br>Lane.                                           |                      | —  |    |                                                                  |                         |    |    |
|    | Nos. 26, 28, and 30, Gresham<br>Street.                                     | }                    | —  |    | J. S. Brown and Sons -                                           | 1,800                   | 0  | 0  |
| 35 | Nos. 8, 9, and 10, Mumford<br>Court.                                        |                      | —  |    |                                                                  |                         |    |    |
|    | Nos. 20 and 22, Gresham<br>Street.                                          | —                    |    |    | Abel Morrall and Com-<br>pany, Limited.                          | 70                      | 0  | 0  |
|    | No. 13, King's Arms Yard -                                                  | —                    |    |    | Hughes and Company -                                             | 69                      | 5  | 0  |
| 40 | Nos. 13 and 14, Milk Street                                                 | }                    | —  |    | C. J. Parker -                                                   | 330                     | 0  | 0  |
|    | No. 24, Gresham Street, and<br>premises in Mumford Court.                   |                      | —  |    | H. C. Knowles -                                                  | 20                      | 0  | 0  |
|    | Strip of land in rear of Nos. 11<br>and 12, Milk Street.                    |                      | —  |    | Sidney Mart -                                                    | 425                     | 12 | 0  |
| 45 | No. 2, Mitre Court -                                                        | —                    |    |    | George Mart -                                                    | 611                     | 1  | 0  |
|    | No. 3, do. -                                                                | —                    |    |    | J. Layton -                                                      | 150                     | 0  | 0  |
|    | No. 4A, Moorgate Street -                                                   | —                    |    |    | The British Bank of South<br>America.                            | 75                      | 10 | 0  |
|    | No. 2A, do. -                                                               | —                    |    |    | T. Harrison and Company                                          | 400                     | 0  | 0  |
| 50 | Nos. 1 and 2, Mumford Court                                                 | —                    |    |    | Houghton Dickson -                                               | 225                     | 0  | 0  |
|    | Nos. 3 and 4, do. -                                                         | —                    |    |    | E. Hornsby and Sons -                                            | 200                     | 0  | 0  |
|    | Nos. 1 and 3, Old Swan Lane                                                 | —                    |    |    | Joseph Harwood -                                                 | 35                      | 0  | 0  |
|    | No. 5, do. -                                                                | —                    |    |    | In hand.                                                         | —                       |    |    |
| 55 | No. 7, do. -                                                                | —                    |    |    | Tennant, Sons, and Com-<br>pany.                                 | 450                     | 0  | 0  |
|    | Nos. 9, 11, and 13, do. -                                                   | —                    |    |    |                                                                  |                         |    |    |

A.D. 1909.

| Description.                                                                       | Extent<br>or Amount. | Tenant, Person liable, or<br>Persons in<br>whose Names invested. | Gross Yearly<br>Income.            |
|------------------------------------------------------------------------------------|----------------------|------------------------------------------------------------------|------------------------------------|
|                                                                                    | £ s. d.              |                                                                  | £ s. d.                            |
| Nos. 1 and 2, Tokenhouse Yard<br>Buildings.                                        | —                    | H. Dove - - -                                                    | 3,400 0 0 5                        |
| No. 3, Tokenhouse Yard<br>Buildings.                                               | —                    | Do. - - -                                                        | 1,790 0 0                          |
| No. 4, do. do. -                                                                   | —                    | Do. - - -                                                        | 1,958 0 0                          |
| No. 13, Trinity Square -                                                           | }                    | S. Walker and Son -                                              | 290 0 0 10                         |
| No. 14, do. -                                                                      |                      |                                                                  |                                    |
| No. 101, Upper Thames Street                                                       | —                    | George Harker and Com-<br>pany. .                                | 100 0 0                            |
| No. 9, Wood Street - -                                                             | —                    | Norton and Langridge -                                           | 306 16 0                           |
| No. 8, Wood Street, and pre-<br>mises in Mitre Court.                              | —                    | M. Salaman and Company                                           | 372 0 0 15                         |
| No. 34, Milk Street (one sixth<br>interest in).                                    | —                    | F. I. Lyons and A. L.<br>Lyons.                                  | 66 13 4<br>(Total rent<br>400 0 0) |
| The following properties at<br>Highgate:—                                          |                      |                                                                  | 20                                 |
| Nos. 1, 2, and 3, Mercer's<br>Terrace, Archway Road.                               | —                    | H. F. Stanley and A. O. L.<br>Schneider.                         | 15 0 0                             |
| Do. do. (Ease-<br>ment in respect of opening<br>and window).                       | —                    | J. Fraser - - -                                                  | 0 1 0                              |
| Messuage in Thomas Street -                                                        | —                    | I. C. Hill - - -                                                 | 40 0 0                             |
| Do. do. -                                                                          | —                    | J. Fraser - - -                                                  | 15 0 0                             |
| The Almshouses belonging to<br>the Charity, with their sites<br>and appurtenances. | —                    | In hand.                                                         | —                                  |
|                                                                                    |                      |                                                                  | 30                                 |
| <i>Personal Estate.</i>                                                            |                      |                                                                  |                                    |
| Metropolitan Water (B) Stock<br>3 per cent.                                        | 3,881 19 10          | "The Official Trustees of<br>Charitable Funds."                  | 116 9 2                            |
| Do. do. -                                                                          | 3,054 11 3           | High Court of Justice<br>(Chancery Division).                    | 91 12 8 35                         |
| Do. do. -                                                                          | 1,891 5 6            | Do. do. -                                                        | 56 14 8                            |
| Do. do. -                                                                          | 11,166 8 8           | Do. do. -                                                        | 334 19 10                          |
| Do. do. -                                                                          | 9,979 17 9           | Do. do. -                                                        | 299 7 10                           |
| Do. do. -                                                                          | 20,892 1 10          | Do. do. -                                                        | 626 15 2 40                        |
| Local Loans 3 per cent. Stock -                                                    | 394 11 3             | Mercers' Company -                                               | 11 16 8                            |
| Annuities, being the gifts of:—                                                    |                      |                                                                  |                                    |
| Alderman Haydon - -                                                                | —                    | Do. - - -                                                        | 3 6 8                              |
| Richard Barnes - -                                                                 | —                    | Do. - - -                                                        | 2 12 0                             |
| Samuel Goldsmith - -                                                               | —                    | Do. - - -                                                        | 1 0 0 45                           |
| Alderman Elkin - -                                                                 | —                    | Do. - - -                                                        | 5 4 0                              |
| Alderman Barclay - -                                                               | —                    | Do. - - -                                                        | 10 8 0                             |
| Alderman Baskerville -                                                             | —                    | Do. - - -                                                        | 2 10 0                             |
| Sir John Allen - -                                                                 | —                    | Do. - - -                                                        | 0 4 8                              |





Sir R. Whittington's  
Charity.

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B I L L

INTITULED

An Act to confirm a Scheme of the  
Charity Commissioners for the  
management of the Charity of Sir  
Richard Whittington under the  
management of the Mercers' Com-  
pany of the City of London.

*(Brought from the Commons 23rd June 1909.)*

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Ordered to be printed 23rd June 1909

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[*Price 1½d.*]

(73.)



## Small Dwelling-houses in Burghs Letting and Rating (Scotland) Bill.

[AS AMENDED ON THIRD READING.]

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### ARRANGEMENT OF CLAUSES.

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Clause.

1. Short title.
  2. Interpretation.
  3. Exceptions from provisions of Act.
  4. Time limit to missives.
  5. Lawful date for termination of let.
  6. Notice to terminate tenancy.
  7. Actions of removing.
  8. Notice of removal.
  9. Removal of occupier in arrear with rent.
  10. Summary application for removing.
  11. Delay in actions of removing.
  12. Provisions as to rating.
  13. Exemptions from hypothec.
  14. Adoption of Act.
  15. Agreements in contravention of Act to be void.
  16. Saving for Removal Terms (Scotland) Acts.
  17. Saving section 72 of Waterworks Clauses Act, 1847.
  18. Extent of Act.
-



[9 EDW. 7.] *Small Dwelling-houses in Burghs Letting  
and Rating (Scotland).*

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# B I L L

[AS AMENDED ON THIRD READING]

INTITULED

An Act to amend the Law as to the Letting and Rating of small Dwelling-houses in Burghs in Scotland; and for other purposes relating thereto. A.D. 1909.

**B**E it 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:—

5     **1.** This Act may be cited as the Small Dwelling-houses in Burghs Letting and Rating (Scotland) Act, 1909. Short title.

2. In this Act—

Interpre-  
tation.

10     The expression “small dwelling-house” means a dwelling-house in a burgh entered on the valuation roll at a yearly rent or value of ten pounds or under, unless the burgh contained within the police boundaries thereof at the date of the census of nineteen hundred and one a population of twenty thousand or upwards, in which case it means a dwelling-house entered on the valuation roll at a yearly rent or value of fifteen pounds or under; and in the case of burghs with a population of five hundred thousand or upwards means a dwelling-house entered in the valuation roll at a yearly rent or value of twenty-pounds or under;

20     The expression “assessing authority” includes a town council and every other body entitled to impose an assessment except a parish council; and

The expression “assessment” includes all rates, charges, and assessments imposed, assessed, or levied by an  
(210.)

A

A.D. 1909.

assessing authority, the proceeds of which are applicable to public local purposes and which are leviable in respect of the yearly value of lands and heritages, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of an assessment;

The expression "magistrate" includes judge of police;

The expressions "owner" and "occupier" have the meanings assigned to them respectively in the Burgh Police (Scotland) Act, 1892; provided that section fifty-eight of the Burgh Police (Scotland) Act, 1903 (which limits the obligations of factors), shall apply for the purposes of this Act as if it were herein re-enacted with the substitution of this Act for the Burgh Police Acts specified in the said section.

Exceptions  
from provi-  
sions of Act.

**3.** This Act shall not apply to any dwelling-house occupied by the owner thereof, or in which the owner resides, or to any dwelling-house used as an inn or hotel, or to any dwelling-house let along with land for agricultural, pastoral, or horticultural purposes, or to any dwelling-house let in conjunction with a shop, workshop, stable, or byre; nor shall it apply to any dwelling-house let under any contract or lease current at the date when this Act comes into force in any burgh prior to the expiration of such contract or lease.

Time limit to  
missives.

**4.** No agreement, whether verbal or written, for the let of a small dwelling-house shall be binding if the same has been made more than two months prior to the commencement of such let.

Lawful date  
for termina-  
tion of let.

**5.** Notwithstanding the date of entry to any small dwelling-house all lets of such dwelling-houses, except those for a shorter period than one month, shall terminate only on the twenty-eighth day of a month, or when that day is a Sunday, on the Monday next following and all lets of small dwelling-houses for a shorter period than one month shall terminate on a Monday.

Notice to  
terminate  
tenancy.

**6.** Either the owner or the occupier may give notice of removal with a view to terminate any tenancy of a small dwelling-house on the day upon which the next payment of rent

[9 Edw. 7.] *Small Dwelling-houses in Burghs Letting  
and Rating (Scotland).* 3

falls due, or if that day is not a lawful date for the termination of a let under this Act, on the lawful date next following the said day, provided that— A.D. 1909.

5 (a) If the house be let for a period of more than three months the notice shall be given at least forty days before the said lawful date; and

10 (b) If the house be let for a period of three months or less the notice shall be given as many days before the said lawful date as shall be equivalent to at least one third of the said period; except in the case of a let for a shorter period than one month, in which case the notice shall be given at least five days before the said lawful date.

7. It shall be competent to raise any action of summary removing in respect of, or for ejection from, any small dwelling-house in the burgh police court, in which court the same procedure shall be competent as in the sheriff court in respect thereof: Provided that this section shall only apply in burghs where at the passing of this Act the sheriff court is the only court exercising jurisdiction within the burgh in respect of such actions. Actions of summary removing.

8. Notice of removal from a small dwelling-house may be given by messenger-at-arms or sheriff officer, or other competent officer of court, or by registered letter signed by or on behalf of the owner or occupier, posted at any post office within the United Kingdom in time to admit of its being delivered at the address thereon prior to or on the last date upon which by this Act such notice of removal must be given, addressed to the person entitled to receive such notice, and bearing the particular address of such person at the time, if the same be known, or if the same be not known, then at the last known address of such person, in terms of the Sheriff Courts (Scotland) Act, 1907. Notice of removal.

9. Notwithstanding anything hereinbefore contained, if the occupier of a small dwelling-house shall be in arrear with the rent of the same for a period of seven days, the owner shall be entitled to give forty-eight hours' notice of removal to such occupier. Removal of occupier in arrear with rent.

10. If any occupier shall fail to remove from a small dwelling-house upon the expiration of notice of removal in terms of this Act, any person authorised by law to pursue an action of summary removing may present to the sheriff or magistrate a summary application for removing, and a decree pronounced on (210.) Summary application for removing.

A.D. 1909. such summary application shall have the full force and effect of a decree of removing and warrant of ejection. The production of a post office letter registration receipt, or of a certificate from the messenger-at-arms or sheriff officer, or other competent officer of court shall be sufficient evidence of such notice having been 5 duly given. The production of a certificate signed by the owner that the occupier is in arrear with rent for a period of seven days shall be sufficient evidence thereof.

Delay in  
actions of  
removing.

**11.** In an action of summary removing no delay beyond forty-eight hours shall be granted by the sheriff or magistrate to 10 the occupier of a small dwelling-house, unless on cause shown (which cause the sheriff or magistrate shall state in his order granting delay), or on caution for, or consignment of, the rent due being found or made as the case may be.

Provisions  
as to rating.

**12.** Subject to the provisions of this Act, the provisions with 15 regard to the liability for and the imposition and recovery by, an assessing authority of any assessment of all Acts applicable within the respective burghs in which this Act may be in operation shall subsist in full force and effect, provided that in the application of sections three hundred and forty-five and three hundred and 20 forty-six of the Burgh Police (Scotland) Act, 1892, in any burgh which, at the date of the census of nineteen hundred and one, contained a population of fifty thousand or upwards, the following provisions shall apply and have effect (that is to say) :—

- (1) Section three hundred and forty-five of the Burgh Police 25 (Scotland) Act, 1892, shall be read and construed as if the following provision were added thereto and contained therein (that is to say) :—

Provided that where small dwelling-houses within the meaning of the Small Dwelling-houses in Burghs 30 Letting and Rating (Scotland) Act, 1909, are let for a year or longer and the rent is payable or paid more frequently or at shorter intervals than once in three months, such dwelling-houses shall be deemed, for the purposes of this section, to be let for less than a year. 35

- (2)—(i) Every assessing authority shall, in respect of the occupancy of small dwelling-houses, allow to owners from all occupiers' assessments levied on and paid by them in place of the occupiers, under and in terms of section three hundred and forty-five or section three 40

[9 EDW. 7.] *Small Dwelling-houses in Burghs Letting  
and Rating (Scotland).*

5

hundred and forty-six of the Burgh Police (Scotland) A.D. 1909.  
Act, 1892, as amended by any subsequent Act, a  
deduction to cover cost of collection and risk of loss  
on the following scale (that is to say):—

5

(A) Where the yearly rent or value entered on  
the valuation roll exceeds four pounds but does  
not exceed seven pounds, seven and one-half per  
centum ;

10

(B) Where the said yearly rent or value exceeds  
seven pounds but does not exceed ten pounds, five  
per centum ; and

(C) Where the said yearly rent or value exceeds  
ten pounds but does not exceed the limit of rental  
fixed by this Act, three per centum :

15

Provided that, after such scale of deduction has been  
in operation in any such burgh for a period of not less  
than three years, it shall be competent for the assessing  
authority, or for any ten or more persons having an  
interest, to present a petition to the sheriff for  
reconsideration of such scale, and the decision of the  
sheriff, after such intimation by advertisement or in  
such other manner as he thinks fit, and after such  
inquiry, if any, as he may deem necessary, shall be  
final, but after the expiry of a period of not less than  
five years from the date of such decision, and thereafter  
at intervals of not less than five years from the date  
of the final interlocutor by the sheriff on the recon-  
sideration of such scale, the scale may, subject to  
like procedure, be resubmitted to the sheriff for  
reconsideration.

20

25

30

(ii) Every such owner shall have relief against the occupiers  
for the full amount of such assessments without  
deduction.

35

(iii) Every such owner shall have the same claims and  
remedies for recovery from the occupiers of such  
assessments and rent as for the recovery of rent  
alone.

40

(3)—(i) Notwithstanding the payment by the owner of  
occupiers' assessments in respect of the occupancy of  
a small dwelling-house, if any small dwelling-house



A.D. 1909.

in respect of which such payment has been made shall not be let or occupied for the whole period for which assessments have been paid, the owner shall, upon lodging, on or before dates to be fixed by the respective assessing authorities, with the clerk to 5 any such authority, or with such other officer as such authority may appoint for the purpose, a claim therefor, which shall set forth the period or periods during which the small dwelling-house was not let or occupied and a declaration to the effect that no rent 10 or other consideration was due or was or is to be paid or given for such period or periods, be entitled to repayment from such authority of the proportionate amount of such assessments for the said period or periods. 15

(ii) In the case of any small dwelling-house appearing in the valuation roll as unlet, the owner, on receipt of a requisition from an assessing authority, shall forthwith furnish such authority with a return containing particulars of any period or periods during which such 20 small dwelling-house has been let or occupied, and the owner shall be liable to pay the proportionate amount of assessments for the said period or periods as if such small dwelling-house had not appeared in the valuation roll as unlet. 25

(iii) Any owner knowingly making or causing to be made any false statement in or in connexion with any claim, declaration, or return under this section, or failing to make any such return, shall be liable to a penalty not exceeding fifty pounds. 30

Exemptions  
from hypo-  
thec.

**13.** All bedding material as well as all tools and implements of trade used or to be used by the occupier of a small dwelling-house or any member of his family, as the means of his, her, or their livelihood, which are in the dwelling-house, and furniture and plenishing in a small dwelling-house to the value according 35 to the sheriff officer's inventory, of ten pounds, shall be wholly exempt from the right of hypothec of the landlord.

Adoption of  
Act.

**14.** Save as herein-after mentioned this Act shall apply from and after the twenty-eighth day of May, nineteen hundred and ten, to all small dwelling-houses within the police boundaries of 40



[9 Edw. 7.] *Small Dwelling-houses in Burghs Letting  
and Rating (Scotland).*

7

every royal, parliamentary, and police burgh in Scotland, provided A.D. 1909.  
that this Act shall not come into operation in any such burgh  
which, at the date of the census of nineteen hundred and one,  
contained within the police boundaries thereof a population not  
5 exceeding ten thousand, until it has been adopted by a resolution  
of the town council of such burgh, at a meeting called for the  
purpose at any time after the passing of this Act, after one  
month's previous notice in a newspaper published or circulating  
in the burgh.

10 Such resolution shall be intimated to the Secretary for  
Scotland and published in the Edinburgh Gazette, and shall  
come into force as from the twenty-eighth day of May immediately  
following such publication.

15 **15.** Any agreement in contravention of the provisions of this Agreements in  
contravention  
of Act to be void.  
Act shall be, and is hereby declared to be, null and void.

**16.** Nothing in this Act shall prejudice or affect the pro- Saving for  
Removal Terms  
(Scotland) Acts.  
49 & 50 Vict.  
c. 50, 53 & 54 Vict.  
c. 38.  
visions of the Removal Terms (Scotland) Act, 1886, or the  
Removal Terms (Scotland) Act, 1886, Amendment Act, 1890,  
except in so far as such provisions are inconsistent with this Act.

20 **17.** Nothing in this Act contained shall prejudice or affect Saving section  
72 of Water-  
works Clauses  
Act, 1847.  
the provisions of section seventy-two of the Waterworks Clauses  
Act, 1847.

**18.** This Act shall extend to Scotland only.

**Extent of  
Act**

**Small Dwelling-houses  
in Burghs Letting  
and Rating (Scotland).**

---

**A**

**B I L L**

[AS AMENDED ON THIRD READING]

INTITLED

An Act to amend the Law as to the  
Letting and Rating of small Dwelling-  
houses in Burghs in Scotland ; and for  
other purposes relating thereto.

*(Brought from the Commons 30th August 1909.)*

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Ordered to be printed 26th October 1909.

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E. PONSOSBY, 116, Grafton Street, Dublin.

[Price 1½d.]

(210.)

## Small Dwelling-Houses in Burghs Letting and Rating (Scotland) Bill.

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AMENDMENTS TO BE MOVED ON CONSIDERATION OF  
COMMONS AMENDMENTS TO LORDS AMENDMENTS  
AND COMMONS REASON FOR DISAGREEING WITH CERTAIN  
OF THE LORDS AMENDMENTS.

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[NOTE.—*The references are to Paper No. (216).*]

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BY THE EARL OF CAMPERDOWN.

In new clause A. inserted by the Lords—

Line 24, leave out (“levied on and”)

Line 96, after paragraph (iii) insert the following new subsection, viz.:—

- (4)—(i) If an owner who has undertaken by agreement with the occupier to pay any assessment on his behalf omits or neglects to pay it, the occupier may pay the same and deduct the amount from the rent due or accruing due to the owner, and the receipt for such assessment shall be a valid discharge of the rent to the extent of the assessment so paid.
- (ii) An owner shall not be called upon nor be liable to pay any assessment on behalf of an occupier under or in virtue of the provisions of this section until after the twentieth day of June next following the imposition of the assessment.
- (iii) All provisions of any Act with respect to notice to be given of occupiers' assessments in arrear shall apply to occupiers of premises capable of conferring any qualification or franchise, although the owners of such premises are responsible for the occupiers' assessments thereon.

Leave out new clause D. proposed by the Commons.

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(210 a.)

**Small Dwelling-Houses  
in Burghs Letting  
and Rating (Scotland)  
Bill.**

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AMENDMENTS TO BE MOVED ON CON-  
SIDERATION OF COMMONS AMEND-  
MENTS TO LORDS AMENDMENTS  
AND COMMONS REASON FOR DIS-  
AGREEING WITH CERTAIN OF THE LORDS  
AMENDMENTS

BY

THE EARL OF CAMPERDOWN.

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*10th November 1909.*

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[*Price 3d.*]

(210 a.)

## Small Dwelling-Houses in Burghs Letting and Rating (Scotland) Bill.

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### COMMONS AMENDMENTS TO LORDS AMENDMENTS AND COMMONS REASON FOR DISAGREEING WITH CERTAIN OF THE LORDS AMENDMENTS.

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[NOTE.—*The references are to Bill (143.), House Letting and Rating (Scotland) Bill, as first printed for the House of Lords.*

*The Commons Reason and Amendments are printed in italics.*]

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#### *Lords Amendment.*

Clause 2, page 2, leave out lines 17, 18, and 19, and insert (“and in the case of burghs with a population of five hundred thousand or upwards means a dwelling-house entered in the valuation roll at a yearly rent or value of twenty pounds or under;”)

*The Commons propose to amend this amendment as follows:—*

*Lines 1 and 2, leave out (“five hundred”) and insert (“fifty”)*

*Line 4, leave out (“twenty”) and insert (“twenty-one”)*

#### *Lords Amendments.*

Clause 2, page 1, line 21, leave out (“a parish council”)  
line 22, after (“assessment”) insert (“except  
“ a parish council ”)

After clause 20 insert the following new clause—

C. Nothing in this Act contained shall prejudice or affect the provisions of section seventy-two of the Waterworks Clauses Act, 1847.

Saving section  
72 of Water-  
works Clauses  
Act, 1847.

*The Commons disagree to these amendments for the following reason:—*

*Because if the arrangements for the collection of municipal rates proposed in clause 12 as amended by the Lords are*  
(216.)

A

*required for the purpose of facilitating the object of the Bill, viz., the creation of a system of short lets, similar arrangements are equally necessary for the collection of poor rates, education rates, and other rates levied by parish councils, and for the collection of water rates.*

*Lords Amendment.*

Leave out clauses 12 to 17, and insert the following new clause A.—

Provisions as  
to rating.

A. Subject to the provisions of this Act, the provisions with regard to the liability for and the imposition and recovery by, an assessing authority of any assessment of all Acts applicable within the respective burghs in which this Act may be in operation shall subsist in full force and effect, provided that in the application of sections three hundred and forty-five and three hundred and forty-six of the Burgh Police (Scotland) Act, 1892, in any burgh which, at the date of the census of nineteen hundred and one, contained a population of fifty thousand or upwards, the following provisions shall apply and have effect (that is to say):—

(1) Section three hundred and forty-five of the Burgh Police (Scotland) Act, 1892, shall be read and construed as if the following provision were added thereto and contained therein (that is to say):—

Provided that where small dwelling-houses within the meaning of the Small Dwelling-Houses in Burghs Letting and Rating (Scotland) Act, 1909, are let for a year or longer and the rent is payable or paid more frequently or at shorter intervals than once in three months, such dwelling-houses shall be deemed, for the purposes of this section, to be let for less than a year.

(2)—(i) Every assessing authority shall, in respect of the occupancy of small dwelling-houses, allow to owners from all occupiers' assessments levied on and paid by them in place of the occupiers, under and in terms of section three hundred and forty-five or section three hundred and forty-six of the Burgh Police (Scotland) Act, 1892, as amended by any subsequent Act, a deduction to cover cost of collection and risk of loss on the following scale (that is to say):—

(A) Where the yearly rent or value entered on the valuation roll exceeds four pounds but does

not exceed seven pounds, seven and one-half per centum ;

35 (B) Where the said yearly rent or value exceeds seven pounds but does not exceed ten pounds, five per centum ; and

(C) Where the said yearly rent or value exceeds  
40 ten pounds but does not exceed the limit of rental fixed by this Act, three per centum :

Provided that, after such scale of deduction has been in operation in any such burgh for a period of not less than three years, it shall be competent for the assessing authority, or for any ten or more persons having an  
45 interest, to present a petition to the sheriff for reconsideration of such scale, and the decision of the sheriff, after such intimation by advertisement or in such other manner as he thinks fit, and after such inquiry, if any, as he may deem necessary, shall be  
50 final, but after the expiry of a period of not less than five years from the date of such decision, and thereafter at intervals of not less than five years from the date of the final interlocutor by the sheriff on the reconsideration of such scale, the scale may, subject to  
55 like procedure, be resubmitted to the sheriff for reconsideration.

(ii) Every such owner shall have relief against the occupiers for the full amount of such assessments without deduction.

60 (iii) Every such owner shall have the same claims and remedies for recovery from the occupiers of such assessments and rent as for the recovery of rent alone.

(3)—(i) Notwithstanding the payment by the owner of  
65 occupiers' assessments in respect of the occupancy of a small dwelling-house, if any small dwelling-house in respect of which such payment has been made shall not be let or occupied for the whole period for which assessments have been paid, the owner shall,  
70 upon lodging, on or before dates to be fixed by the respective assessing authorities, with the clerk to any such authority, or with such other officer as such authority may appoint for the purpose, a claim

75 therefor, which shall set forth the period or periods  
 during which the small dwelling-house was not let or  
 occupied and a declaration to the effect that no rent  
 or other consideration was due or was or is to be paid  
 or given for such period or periods, be entitled to  
 80 repayment from such authority of the proportionate  
 amount of such assessments for the said period or  
 periods.

(ii) In the case of any small dwelling-house appearing in the  
 valuation roll as unlet, the owner, on receipt of a  
 requisition from an assessing authority, shall forthwith  
 85 furnish such authority with a return containing par-  
 ticulars of any period or periods during which such  
 small dwelling-house has been let or occupied, and the  
 owner shall be liable to pay the proportionate amount of  
 assessments for the said period or periods as if such  
 90 small dwelling-house had not appeared in the valuation  
 roll as unlet.

(iii) Any owner knowingly making or causing to be made any  
 false statement in or in connexion with any claim,  
 declaration, or return under this section, or failing to  
 95 make any such return, shall be liable to a penalty not  
 exceeding fifty pounds.

*The Commons propose to amend this amendment as follows :—*

*Line 5, leave out from ("that") to ("where") in line 15 and  
 insert—*

(a) *The provisions of section three hundred and forty-five  
 and three hundred and forty-six of the Burgh  
 Police (Scotland) Act, 1892, shall apply to every  
 assessment leviable within any such burgh by any  
 assessing authority other than a town council in  
 respect of the occupancy of small dwelling-houses  
 with the substitution of such assessment and autho-  
 rity for the burgh general assessment and the town  
 council respectively ;*

(b) *Section three hundred and forty-five of the Burgh  
 Police (Scotland) Act, 1892, as applying or  
 applied (whether under the existing law or under  
 the immediately preceding provision) within every  
 burgh which at the date of the Census of 1901  
 contained within the police boundaries thereof a*



( 5 )

*population of fifty thousand or upwards, and within any other burgh in which this Act is in operation, and the town council of which by resolution so decides, shall be deemed to incorporate the following provisions (that is to say) :—*

*Line 17, after (“1909”) insert (“hereinafter referred to as “small dwelling-houses”)*

*Line 21, leave out (“this section”) and insert (“section three “hundred and forty-five of the Burgh Police (Scotland) Act, 1892”)*

*Line 28, leave out (“as amended by any subsequent Act”)*

*Line 32, leave out (“exceeds four pounds but”)*

*Line 33, leave out (“seven and one-half”) and insert (“ten”)*

*Line 36, leave out (“five”) and insert (“seven and one-half”)*

*Line 59, after (“deduction”) insert (“but such assessments “shall only be recoverable by such owners from the “occupiers along with payments of rent as such payments “are fixed by the terms of let, and shall be paid by the “occupiers only in amounts proportionate to the period for “which rent is paid”)*

*After clause A., as a consequential amendment, insert the following new clause D.—*

*D. Every payment of an assessment by an owner under or in pursuance of the provisions of the immediately preceding section shall, notwithstanding any deduction which the assessing authority is required to allow therefrom, be deemed a payment of the full assessment by the occupier for the purpose of any qualification or franchise which depends on such payment. Provided that where an owner who is responsible therefor omits or neglects to pay any such assessment, the occupier may pay the same and deduct the amount from the rent due or accruing due to the owner, and the receipt for such assessment shall be a valid discharge of the rent to the extent of the assessment so paid. And provided further that all provisions of any Act with respect to notice to be given of occupiers' assessments in arrear shall apply to occupiers of premises capable of conferring any franchise as aforesaid, although the owners of such premises are responsible for the occupiers' assessments thereon.*

*Constructive  
payment of  
assessments.*

**Small Dwelling-Houses  
in Burghs Letting  
and Rating (Scotland)  
Bill.**

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COMMONS AMENDMENTS TO  
LORDS AMENDMENTS  
AND COMMONS REASON FOR  
DISAGREEING WITH CERTAIN OF THE  
LORDS AMENDMENTS.

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(216.)

## Small Dwelling-Houses in Burghs Letting and Rating (Scotland) Bill.

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COMMONS REASON FOR DISAGREEING TO ONE OF THE LORDS  
AMENDMENTS TO THE COMMONS AMENDMENTS TO  
THE LORDS AMENDMENTS, AND COMMONS AMEND-  
MENT IN LIEU OF A PREVIOUS AMENDMENT DISAGREED  
TO BY THE LORDS.

---

*Commons Amendment to Lords Amendment.*

After clause A., inserted by the Lords as a consequential amendment, insert the following new clause D.—

D. Every payment of an assessment by an owner under or in pursuance of the provisions of the immediately preceding section shall, notwithstanding any deduction which the assessing authority is required to allow therefrom, be deemed a payment of the full assessment by the occupier for the purpose of any qualification or franchise which depends on such payment: Provided that where an owner who is responsible therefor omits or neglects to pay any such assessment, the occupier may pay the same and deduct the amount from the rent due or accruing due to the owner, and the receipt for such assessment shall be a valid discharge of the rent to the extent of the assessment so paid. And provided further that all provisions of any Act with respect to notice to be given of occupiers' assessments in arrear shall apply to occupiers of premises capable of conferring any franchise as aforesaid, although the owners of such premises are responsible for the occupiers' assessments thereon.

Constructive  
payment of  
assessments.

*The Commons do not insist on this amendment, to which the Lords have disagreed, but propose to insert in lieu thereof the following new clause D., viz. :—*

*D. Every payment in pursuance of the provisions of the immediately preceding section shall be deemed a payment of the full assessment by the occupier for the purpose of any franchise which depends on such payment: Provided that where an owner who is responsible therefor omits or neglects to pay any such*

(231.)

Occupiers'  
assessments.

*assessment, the occupier may pay the same and deduct the amount from the rent due or accruing due to the owner, and the receipt for such assessment shall be a valid discharge of the rent to the extent of the assessment so paid ; and provided further that all provisions of any Act with respect to notice to be given of occupiers' assessments in arrear shall apply to occupiers of premises capable of conferring any franchise as aforesaid, notwithstanding that the owners of such premises are responsible for the occupiers' assessments thereon.*

*Lords Amendment to Commons Amendment to Lords Amendment.*

In new clause A. inserted by the Lords—

Line 96, after paragraph (iii) insert the following new subsection, viz.:—

- (4)—(i) If an owner who has undertaken by agreement with the occupier to pay any assessment on his behalf omits or neglects to pay it, the occupier may pay the same and deduct the amount from the rent due or accruing due to the owner, and the receipt for such assessment shall be a valid discharge of the rent to the extent of the assessment so paid.
- (ii) An owner shall not be called upon nor be liable to pay any assessment imposed by a parish council on behalf of an occupier under or in virtue of the provisions of this section until after the twentieth day of June next following the imposition of the assessment.
- (iii) All provisions of any Act with respect to notice to be given of occupiers' assessments in arrear shall apply to occupiers of premises capable of conferring any qualification or franchise, although the owners of such premises are responsible for the occupiers' assessments thereon.

*The Commons disagree to this amendment for the following reason :—*

*Because the amendment combined with the consequential omission of Clause D., previously inserted by the Commons, would cause financial inconvenience to parish councils, and would operate to disfranchise occupiers who pay parish rates by instalments along with the rent.*

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**Small Dwelling-Houses  
in Burghs Letting  
and Rating (Scotland)  
Bill.**

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COMMONS REASON FOR DISAGREEING  
TO ONE OF THE LORDS AMENDMENTS  
TO THE COMMONS AMENDMENTS  
TO THE LORDS AMENDMENTS, AND  
COMMONS AMENDMENT IN LIEU OF  
A PREVIOUS AMENDMENT DISAGREED TO  
BY THE LORDS.

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(231.)

**Small Holdings and Allotments  
(Scotland) Bill. [H.L.]**

---

**MEMORANDUM.**

This Bill applies to Scotland, in substance, the provisions of the Small Holdings and Allotments Act, 1907.

The only material alterations are—

- (1) The insertion of words in clauses 6 and 7 to enable a county council to resell as well as to let land compulsorily acquired :
- (2) The provisions in clause 27 (3) that land may not be compulsorily acquired—
  - (a) If the total holding of the tenant does not exceed 150 acres ; or
  - (b) During an existing lease.

## Small Holdings and Allotments (Scotland) Bill. [H.L.]

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### ARRANGEMENT OF CLAUSES.

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#### PART I. SMALL HOLDINGS.

##### *Schemes as to the Provision of Small Holdings.*

Clause.

1. Appointment of Small Holdings Commissioners.
2. Inquiries and reports by Commissioners.
3. Preparation of draft schemes.
4. Procedure as to schemes.
5. Duty of councils to carry schemes into effect.

##### *Amendments of the Small Holdings Act, 1892.*

6. Acquisition of land for small holdings to be sold or let to tenants.
7. Sale or letting of land acquired for small holdings.
8. Explanation of s. 18 (2) of Act of 1892.
9. Power to let small holdings to associations.
10. Provisions as to rules by county council.
11. Number of dwelling-houses allowed on small holding.
12. Power of county council to resume possession of holding on death of owner.
13. Amendment of s. 11 of the Act of 1892.
14. Provisions as to borrowing.

##### *Powers of Board of Agriculture and Fisheries.*

15. Power of Board to provide small holdings.
16. Power of Board to repay part of expenses incurred by council.
17. Appointment of advisory and managing committees by Board.
18. Creation of special account.

(68.)

PART II.

ALLOTMENTS.

Clause.

19. Transfer of powers, &c., under Allotments Acts.
20. Amendments of Allotments Acts.
21. Compulsory acquisition of land for allotments.
22. Powers of county councils as to allotments.
23. Expenses.

PART III.

GENERAL.

*Acquisition of Land.*

24. Procedure for compulsory acquisition of land.
25. Power of council to renew tenancy of land compulsorily hired.
26. Provisions as to voluntary leasing of land for small holdings or allotments.
27. Restrictions on the acquisition of land.
28. Grazing rights, &c., to be attached to small holdings or allotments.
29. Obligations of a county council under Public Health Act.
30. Interchange of land for small holdings and allotments.
31. Power to resume possession of land hired compulsorily.
32. Compensation for loss of employment by labourers.
33. Compensation for improvements.

*Supplemental.*

34. Small holdings and allotments committees.
35. Accounts of receipts and expenditure under the Small Holdings and Allotments Acts.
36. Co-operative societies, &c.
37. Provisions as to land acquired by Commissioners.
38. Provisions as to Commissioners.
39. Local inquiries.
40. Arbitrations and valuations.
41. Annual report to Parliament.
42. Saving for existing tenancies.
43. Interpretation.
44. Short title, commencement, extent, and repeal.

SCHEDULES.

[9 EDW. 7.] *Small Holdings and Allotments (Scotland)*. [H.L.] 1

A

# B I L L

INTITULED

An Act to amend the Law with respect to Small Holdings and Allotments in Scotland. A.D. 1909.

**B**E it 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:—

5

## PART I.

### SMALL HOLDINGS.

#### *Schemes as to the Provision of Small Holdings.*

1.—(1) With a view to extending the provision of small holdings, the Board of Agriculture and Fisheries (herein-after referred to as “the Board”) shall appoint two or more persons possessed of a knowledge of agriculture to be Small Holdings Commissioners for Scotland (herein-after referred to as “the Commissioners”), and may appoint such other officers for the purposes of this Act as the Board may, with the consent of the Treasury, determine.

Appointment  
of Small  
Holdings  
Commis-  
sioners.

(2) There shall be paid out of money provided by Parliament to the Commissioners and officers so appointed such salaries or remuneration as the Treasury may from time to time determine; and all expenses incurred by those Commissioners and officers in the execution of their duties under this Act, to such amount as may be sanctioned by the Treasury, shall (except as otherwise expressly provided by this Act) be defrayed out of money provided by Parliament.

2.—(1) The Commissioners, acting under the directions of the Board, shall ascertain the extent to which there is a demand (68.)

Inquiries and  
reports by  
Commis-  
sioners.

A

A.D. 1909. for small holdings in the several counties or would be a demand if suitable land were available, and the extent to which it is reasonably practicable, having regard to the provisions of the Small Holdings Act, 1892, as amended by this Act, to satisfy any such demand, and for that purpose shall confer with the county 5 councils and may co-operate with such other authorities, associations, and persons as they think best qualified to assist them, and take such other steps as they think necessary.

55 & 56 Vict.  
c. 31.

(2) The council of any county or parish or the town council of any burgh may make representations to the Commissioners 10 in respect of any such matters as aforesaid, and it shall be the duty of every council to furnish the Commissioners with such information and to give them such other assistance as they may reasonably require for the purposes of this section.

(3) The Commissioners shall report the information acquired 15 by them respecting any county to the Board, and shall state whether it is desirable, in the opinion of the Commissioners, that such a scheme as is herein-after mentioned should be made, and may indicate the nature of the proposals which the Commissioners consider ought to be embodied in the scheme. 20

(4) If in the course of their inquiries the Commissioners receive any information as to the existence of a demand for allotments they shall communicate the information to the councils of the county, and of the burgh or parish concerned.

Preparation  
of draft  
schemes.

**3.—**(1) Where the Board, after considering the report and 25 such representations as aforesaid as respects any county, are of opinion that it is desirable that a scheme should be made, the Board shall forward the report of the Commissioners with such modifications or observations (if any) as the Board think desirable to the county council, and it shall be the duty of the county 30 council to prepare one or more draft schemes to give effect to the report with such modifications (if any) as aforesaid, or subject to such other modifications as the Board may make after considering any representations submitted to them by the county council, and in preparing the drafts the council shall have regard 35 to the proposals (if any) of the Commissioners indicated in the report.

(2) If the county council decline to undertake this duty, or within six months after receiving the report or within such extended time as may be allowed by the Board, fail to prepare 40 such one or more draft schemes as appear to the Board desirable,

[9 Edw. 7.] *Small Holdings and Allotments (Scotland)*.

3

the Board may direct the Commissioners to prepare one or more draft schemes. A.D. 1909.

(3) A county council, if they think fit, may, without receiving any such report as aforesaid, prepare one or more draft schemes for the provision of small holdings for their county.

(4) A draft scheme under this section may specify—

- (a) the localities in which land is to be acquired for small holdings ;
- 10 (b) the approximate quantity of land to be acquired, and the number, nature, and size of the small holdings to be provided, in each locality ;
- 15 (c) whether, and to what extent, grazing or other similar rights, to be defined in the scheme, should be attached to the small holdings created in pursuance of the scheme, and, if so, the approximate quantity of land or extent and nature of the rights to be acquired for the purpose ;
- (d) the time within which the scheme or any part thereof is to be carried into effect ;

20 and the scheme may contain such incidental, consequential, or supplemental provisions (including provisions as to the subsequent variation of the scheme) as may appear necessary or proper for the purposes of the scheme.

(5) Where the Commissioners report or the county council 25 concerned are of opinion that a scheme should be made affecting two or more counties, the scheme may be prepared by the councils jointly, and may provide for joint action being taken by the councils.

4.—(1) A copy of any draft scheme under this Act shall, Procedure as  
30 if prepared by a county council be sent to the Board, and if to schemes.  
prepared by the Commissioners be sent to the Board and to any county council concerned, and the draft scheme and any modifications therein which the Board may propose to make shall be published and advertised together with notice of the time within  
35 and manner in which objections are to be sent to the Board in such manner as the Board think best adapted for informing the persons affected and for insuring publicity.

(2) The Board shall consider the draft scheme and any objections thereto duly made, and may in any case and shall,  
(68.) A 2

A.D. 1909. if the county council object to the scheme, or, in the case of a scheme prepared by the council, to any modifications therein which the Board propose to make, hold a public local inquiry, at which the county council, and such other persons as the person holding the inquiry may in his discretion think fit to allow, shall be permitted to appear and be heard. 5

(3) The Board, after considering the objections and the report of the person holding the inquiry (if any), may settle and confirm the scheme either without modification or subject to such modifications as the Board think fit, or may annul the scheme. 10

Duty of councils to carry schemes into effect.

5.—(1) It shall be the duty of a county council on which obligations are imposed by a scheme to carry them into effect within such time as may be specified in the scheme, or within such further time as may be allowed by the Board, and for that purpose the council may exercise any of the powers conferred on them by the Small Holdings Act, 1892, or by this Act. 15

(2) If the county council fail so to fulfil their obligations, the Board shall by order direct the Commissioners to take such steps as may be necessary for carrying the scheme into effect, and upon such order being made the Commissioners shall for the purpose have all the powers of a county council in relation to small holdings under the Small Holdings Act, 1892, and this Act and those Acts shall apply as if references to the Commissioners were substituted for references to a county council : 20

Provided that such expenses of the Commissioners as the Board certify to have been incurred by the Commissioners in the exercise of such powers in relation to any scheme and to be properly payable by the county council shall on demand be repaid to the Board by the county council in default out of the county fund, and shall be recoverable as a debt due to the Crown, and such sums as the Board certify to have been received by the Commissioners in respect of any land acquired shall be paid to the council. 25 30

(3) Any order made by the Board directing the Commissioners to carry a scheme into effect shall be laid before both Houses of Parliament as soon as may be after it is made. 35

(4) If it appears to the Board that the carrying out of a scheme under this Act has resulted or is likely to result in a loss, the Board may, with the consent of the Treasury, pay or undertake to pay out of the Small Holdings (Scotland) Account the whole or any part of that loss. 40



*Amendments of the Small Holdings Act, 1892.*

A.D. 1909.

**6.**—(1) A county council may, for the purpose of providing small holdings for persons who desire to buy or to lease and will themselves cultivate the holdings, purchase land, whether  
 5 situate within or without their county, by agreement, under and in accordance with the provisions of the Small Holdings Act, 1892, or take land on lease.

Acquisition of land for small holdings to be sold or let to tenants.

(2) If a county council are unable to acquire by agreement and on reasonable terms suitable land for the purpose aforesaid  
 10 they may acquire land compulsorily in accordance with the provisions of this Act relating to compulsory acquisition of land.

**7.** Land acquired by a county council for the purposes of small holdings may be adapted for sale or letting and sold or  
 15 let for small holdings under and in accordance with the provisions of the Small Holdings Act, 1892, as amended by this Act, and those provisions shall apply accordingly.

Sale or letting of land acquired for small holdings.

**8.** It is hereby declared that for the purposes of subsection (2) of section eighteen of the Small Holdings Act, 1892, the  
 20 expression "charge" means the net charge on the county rate calculated in accordance with regulations made by the Secretary for Scotland after taking into account all receipts from or on account of small holdings or otherwise under the Small Holdings Act, 1892, or this Act.

Explanation of s. 18 (2) of Act of 1892.

**9.** In addition to the power under section four of the Small Holdings Act, 1892, of letting one or more small holdings to persons working on a co-operative system, a county council shall have power, with the consent of the Board, to  
 25 let one or more holdings to any association formed for the purposes of creating or promoting the creation of small holdings, and so constituted that the division of profits amongst the members of the association is prohibited or restricted.

Power to let small holdings to associations.

**10.**—(1) The power to make rules conferred on a county council by section seven of the Small Holdings Act, 1892, shall,  
 35 subject to the provisions of that Act, extend to the making of rules prescribing the terms and conditions on or subject to which small holdings are to be sold or let by the county council.

Provisions as to rules by county council.

(2) All rules made under the said section as so extended shall be subject to confirmation by the Board.

- A.D. 1909. **11.** A county council may, if they think fit, relax the condition imposed by section nine of the Small Holdings Act, 1892, that not more than one dwelling-house shall be erected on a holding, if in their opinion such relaxation will be for the benefit of that or adjacent small holdings provided by the council, but so that the council shall not authorise more than one dwelling-house to be erected for occupation with any one small holding. 5
- Number of dwelling-houses allowed on small holding.
- Power of county council to resume possession of holding on death of owner. **12.**—(1) Where under subsection (2) or subsection (3) of section nine of the Small Holdings Act, 1892, the county council have power to cause or require a small holding to be sold, the council may, in the event of their requiring such holding for the purposes of the Small Holdings Act, 1892, or this Act, by notice in writing require the holding to be sold to themselves at such price as, in default of agreement, may be determined by arbitration. For the purposes of the completion of the title of the council to a holding so sold to them, and of the application and disposal of the price, the provisions of sections seventy-five, seventy-six, seventy-seven, and seventy-eight of the Lands Clauses Consolidation (Scotland) Act, 1845, shall apply to the sale as if the holding had been acquired by the council in virtue of that Act, and as if the price, determined as aforesaid, were the purchase-money or compensation agreed or awarded to be paid in pursuance of that Act in respect of the holding; and all expenses of and incident to the conveyance to the county council or the re-vesting in the county council of the small holding shall be paid by the county council. 10 15 20 25
- 8 & 9 Vict. c. 19. (2) A notice for the purposes of this section shall be deemed to be sufficiently served if sent by registered post addressed to the owner or the personal representatives of the deceased owner at his registered address or at his last known place of abode. 30
- (3) This section shall only apply in the case where a small holding has been sold by the county council.
- Amendment of s. 11 of the Act of 1892. **13.** In section eleven of the Small Holdings Act, 1892 (which relates to the right of purchase if a small holding is diverted from agriculture), the words “and then to the person or persons whose lands immediately adjoin the holding” shall be repealed. 35
- Provisions as to borrowing. **14.**—(1) The maximum period which may be sanctioned as the period for which money may be borrowed by a county council under the Small Holdings Act, 1892, shall, where the purpose for 40



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which the money is borrowed is the purchase of land under that Act or this Act, be eighty years. A.D. 1909.

(2) Where a loan is made by the Public Works Loans Commissioners to a county council for the purposes of the Small Holdings Act, 1892, as amended by this Act— 38 & 39 Vict.  
c. 89.

- (a) The loan shall be made at the minimum rate allowed for the time being for loans out of the local loans fund; and
- (b) If the Secretary for Scotland make a recommendation to that effect, the period for which the loan is made by the Public Works Loans Commissioners may exceed the period allowed under the Public Works Loans Act, 1875, and the Acts amending that Act, but the period shall not exceed the period recommended by the Secretary for Scotland, nor, where the purpose of the loan is the purchase of land, eighty years, or in any other case fifty years; and
- (c) As between loans for different periods, the longer duration of the loan shall not be taken as a reason for fixing a higher rate of interest.

*Powers of Board of Agriculture and Fisheries.*

**15.** The Board may, if after inquiry they think it advisable to do so with a view to demonstrating the feasibility of the establishment of small holdings in any locality, exercise the powers conferred on county councils by the Small Holdings Act, 1892, and this Act in relation to small holdings (except the powers of acquiring land compulsorily and of borrowing) and those Acts shall apply as if references to the Board were substituted for references to a county council; but the expenses of the Board shall be defrayed out of, and their receipts paid into, the Small Holdings (Scotland) Account, and no part thereof shall be paid out of any rate. Power of Board to provide small holdings.

**16.** The Board may, if they think fit, and subject to regulations made by the Board with the approval of the Treasury, repay or undertake to repay to a county council, out of the Small Holdings (Scotland) Account, the whole or any part of the expenses incurred by the council in proceedings in relation to the acquisition of land for the purposes of small holdings, and the amount so repaid shall not be treated as part of the costs incurred by the council in relation to land for the purposes of sections Power of Board to repay part of expenses incurred by council.

A.D. 1909. — four and eighteen of the Small Holdings Act, 1892, but nothing in this section shall authorise the repayment of any part of any purchase money, compensation, or rent payable in respect of the land.

Appointment  
of advisory  
and manag-  
ing com-  
mittees by  
Board.

**17.** Where the Commissioners acting in default of a county council, or the Board for the purpose of demonstrating the feasibility of the establishment of small holdings, exercise the powers of a county council under the Small Holdings Act, 1892, or this Act, the Board may appoint such advisory and managing committees as they think fit, with such powers and duties as may be conferred or imposed on them, and may, with the consent of the Treasury, pay out of the Small Holdings (Scotland) Account all reasonable travelling and out-of-pocket expenses of the members of committees so appointed :

Provided that where the expenses are incurred for the purposes of the powers exercised by the Commissioners acting in default of a county council, those expenses shall be treated as expenses incurred by the Commissioners in the exercise of the powers of the county council.

Creation of  
special ac-  
count.

**18.**—(1) For the purposes of this Act there shall be constituted an account, called “The Small Holdings (Scotland) Account.”

(2) There shall be paid to this account—

(a) Such money as may from time to time be provided by Parliament towards defraying the cost and expenses of the Board directed by this Act to be paid out of the Small Holdings (Scotland) Account; and

(b) All sums received by the Board and directed by this Act to be paid into the Small Holdings (Scotland) Account.

(3) The costs and expenses of the Board directed by this Act to be paid out of the Small Holdings (Scotland) Account shall be paid by the Board out of the money standing to that account.

(4) At the end of every financial year, accounts of the receipts and expenditure of the Small Holdings (Scotland) Account shall be made up in such form and with such particulars as may be directed by the Treasury, and shall be audited by the Comptroller and Auditor-General as public accounts in accordance with such regulations as the Treasury may make, and shall be laid before Parliament, together with his report thereon.

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(5) Payments out of, and into, the Small Holdings (Scotland) Account, and all other matters relating to the account, and to the money standing to the credit of the account, shall be paid and regulated in such manner as the Treasury direct. A.D. 1909.

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## PART II.

### ALLOTMENTS.

19.—(1) The powers of the Secretary for Scotland under the Allotments Acts, except such of those powers as relate to the finance of local authorities, shall be transferred to the Board of Agriculture and Fisheries, and, if any question arises as to whether any power is a power which has been transferred under this provision, the question shall be determined by the Secretary for Scotland, whose decision shall be final. Transfer of powers, &c., under Allotments Acts.

(2) The powers and duties of county councils under the Allotments Acts shall be transferred to parish councils in landward parishes, and in the case of parishes which are partly landward and partly burghal, or which comprise a police burgh or part of a police burgh, those powers (except the power to raise money by rate or loan, which power shall be transferred to the parish council) and duties shall be transferred to the landward committee, and those Acts and this Act shall have effect as if references to the local authority and the district thereof included references to the parish council or the landward committee and the parish and subject to such other adaptations as may be necessary. A landward committee may exercise and perform their powers and duties under the Allotments Acts and this Act without reference to and without the approval of the parish council.

(3) All property acquired and all liabilities incurred by any county council under the Allotments Acts shall, as from an appointed day fixed by the Secretary for Scotland, either generally or as respects any particular parish, by virtue of this Act be transferred to and vested in the parish council or the landward committee of the parish in respect of which the property was acquired or the liabilities incurred.

Provided that—

(a) Land acquired by a parish council or a landward committee for allotments shall not be sold, let, or exchanged under section eleven of the Allotments (Scotland) Act, 1892, without the sanction of the council of the county:

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(b) A scheme made by a parish council or landward committee for the provision of common pasture under section twelve of the Allotments (Scotland) Act, 1892, shall be submitted to the council of the county, and shall not be carried into effect unless 5 the council of the county, being satisfied of the expediency of such scheme, by order authorise it to be carried into effect :

(c) The right to inspect and take copies of the register of tenancies conferred by section fourteen of the 10 Allotments (Scotland) Act, 1892, shall extend only to ratepayers in the burgh or parish for which the allotments have been provided.

(4) Money borrowed by a parish council under sections twenty-eight and thirty-eight of the Local Government (Scotland) Act, 15 1894, for the purposes of the powers and duties transferred to or conferred on the council under this Act shall not be reckoned as part of the debt of the parish for the purpose of the limitation on borrowing under the said sections.

(5) Section one hundred and forty-two of the Public Health 20 (Scotland) Act, 1897, relating to loans by the Public Works Loan Commissioners to a local authority, shall, with the necessary adaptations, apply to a loan to a parish council under the Local Government (Scotland) Act, 1894, or to a county council lending money to a parish council under that Act, where the purpose for 25 which the loan is required by the parish council is the acquisition, improvement, or adaptation of land under the Allotments Acts as amended by this Act.

(6) Sections fifty, sixty-one, ninety-three, one hundred, one 30 hundred and one, and one hundred and twelve of the Local Government (Scotland) Act, 1889 (which relate to adjustment of property and liabilities, determination of questions, local inquiries, existing securities, and the discharge of existing debts, pending contracts, current rates, and accounts and proceedings), shall apply as if they were herein re-enacted and in terms made applicable to 35 this section, provided that in said section fifty the Secretary for Scotland shall be substituted for the Commissioners.

(7) All such byelaws, orders, and regulations of any authority whose powers and duties are transferred by this Act to any council as are in force at the time of the transfer shall, so far as they relate 40 to or are in pursuance of the powers and duties transferred, continue

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in force as if made by that council and may be revoked or altered accordingly. A.D. 1909.

20.—(1) Five acres shall be substituted for one acre in subsection (3) of section seven of the Allotments (Scotland) Act, 1892, as the limit of the extent of an allotment or allotments which may be held by one person :

Amendments  
of Allot-  
ments Acts.  
55 & 56 Vict.  
c. 54.

Provided that—

(a) the duty of a council under the Allotments Acts, as amended by this Act, to provide allotments shall not include the duty of providing allotments exceeding one acre in extent ; and

(b) any part of the land acquired by a council under the Allotments Acts or this Act which exceeds five acres may be adapted for letting and let as an allotment, if the county council are satisfied by the council that it is convenient and desirable that it should be so let and consent to such letting accordingly.

(2) The powers of improving and adapting land for allotments under the Allotments Acts shall include power to erect buildings and make adaptations of existing buildings, but so that not more than one dwelling-house shall be erected for occupation with any one allotment. No dwelling-house shall be erected for occupation with any allotment of less than one acre.

(3) A council shall have the same power of letting one or more allotments to persons working on a co-operative system or to an association formed for the purposes of creating or promoting the creation of allotments as may be exercised as respects small holdings by a county council.

21. If a council are unable to acquire land by agreement and on reasonable terms under the Allotments Acts as amended by this Act, they may acquire land compulsorily in accordance with the provisions of this Act relating to compulsory acquisition of land.

Compulsory  
acquisition  
of land for  
allotments.

22. Notwithstanding the transfer by this Act to parish councils and landward committees of the powers and duties of county councils under the Allotments Acts, the following provisions shall have effect :—

Powers of  
county  
councils  
as to allot-  
ments.

(1) It shall be the duty of a county council to ascertain the extent to which there is a demand for allotments in the several parishes (other than burghs) in the county

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or would be a demand if suitable land were available, and the extent to which it is reasonably practicable, having regard to the provisions of the Allotments Acts as amended by this Act, to satisfy the demand, and for that purpose to co-operate with such authorities, associations, and persons as they think best qualified to assist them, and take such other steps as they think necessary. 5

- (2) The council, if satisfied in relation to any parish (other than a burgh) that the circumstances are such that land for allotments should be acquired, shall pass a resolution to that effect, and thereupon the powers and duties conferred upon the parish council or the landward committee by this Act, so far as regards that parish shall be transferred to the county council, and the county council in substitution for the parish council or the landward committee, shall proceed to acquire land in accordance with the Allotments Acts and this Act, and otherwise execute those Acts in the parish: Provided that this section shall not affect the property in or any powers or duties of the parish council or the landward committee in relation to any land which, before the passing of the said resolution, was acquired by the parish council or the landward committee under the Allotments Acts and this Act. 10 15 20 25

- (3) Where the powers of the parish council or landward committee under the Allotments Acts and this Act are, by virtue of this section, transferred to the county council, the following provisions shall have effect:— 30

(a) The Allotments Acts shall apply with the modifications necessary for giving effect to this section;

(b) The county council may borrow for the purposes of this section subject to the conditions, in the manner, and on the security of the rate, subject to, in, and on the security of which the parish council might have borrowed under the Allotments Acts and this Act. The council shall have power [to charge the said rate with the repayment of the principal and interest of the loan; 35 40

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and such loan with the interest thereon shall be repaid by the parish council in like manner, and such charge shall have the like effect, as if the loan were lawfully raised and charged on that rate by the parish council; A.D. 1909.

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(c) The county council shall keep separate accounts of all receipts and expenditure under this section;

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(d) The county council may delegate to the parish council or the landward committee any powers under section six, section seven, or section eight of the Allotments (Scotland) Act, 1892 (which sections relate to the management of the allotments, and the letting and use thereof, and the recovery of the rent and of possession thereof); and, subject to the terms of the delegation, all expenses and receipts arising in the exercise of the powers so delegated shall be paid and dealt with as expenses and receipts of the parish council or the landward committee under the Allotments Acts and this Act;

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(e) The county council, on the request of the parish council or landward committee, may, by resolution passed to that effect, transfer to the parish council or landward committee all or any of the powers, duties, property, and liabilities vested in and imposed on the county council by virtue of this section as regards the district of such parish council or landward committee or any part thereof, and the property so transferred shall be deemed to have been acquired by that parish council or landward committee under the Allotments Acts, and that parish council or landward committee shall act accordingly.

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(4) (a) All expenses incurred by the county council in executing the Allotments Acts or this Act in any parish (other than a burgh) on default of a parish council or landward committee shall be paid in the first instance out of the county fund as for general county purposes, and, unless defrayed out of moneys received by the county council in respect of any land acquired under this section otherwise than by sale or

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A.D. 1909.

exchange, or out of money borrowed as before in this section mentioned, shall when the powers and duties of the parish council or landward committee under the Allotments Acts and this Act are transferred to the county council in pursuance of this section, be repaid 5 to the county council as a debt by the parish council or landward committee;

(b) All sums payable by a parish council or landward committee in pursuance of this section shall be defrayed in like manner as expenses under the Allotments 10 (Scotland) Act, 1892, are required to be defrayed;

(c) All sums received by a county council in respect of any land acquired under this section otherwise than from any sale or exchange, in so far as they are not required for the payment of expenses incurred by 15 them in respect of such land, shall be paid to the parish council or landward committee.

(5) If the Board are, in relation to any parish (other than a burgh), satisfied after holding a local inquiry at which the county council and the council of the parish, or 20 the landward committee, and such other persons as the person holding the inquiry may in his discretion think fit to allow shall be permitted to appear and be heard, that the county council have failed to fulfil their obligations under the Allotments Acts and this 25 Act, the Board may by order transfer to the Commissioners all or any of the powers of the county council under the Allotments Acts, as amended by this Act, in relation to the parish, and those Acts shall apply as if references to the Commissioners were 30 substituted for references to the county council, and with such other adaptations as may be made by the order.

Expenses.

**23.** The following subsection shall be substituted for subsection (1) of section ten of the Allotments (Scotland) Act, 35 1892:—

“All expenses incurred by a local authority under the Allotments Acts, including allowances to officers of such authority for duties under such Acts, shall be defrayed—

“(a) In the case of a burgh as if they were expenses incurred 40 for water supply under the provisions of the Public Health (Scotland) Act, 1897; and



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- 5 “(b) In the case of any parish other than a burgh out of A.D. 1909.  
the special parish rate leviable within the parish  
or landward part of the parish, under and in terms  
of section twenty-seven of the Local Government  
(Scotland) Act, 1894.”

### PART III.

#### GENERAL.

#### *Acquisition of Land.*

- 10 **24.**—(1) Where a council propose to purchase land compul- Procedure  
sorily under this Act, the council may, subject to the provisions for compul-  
of Part I. of the First Schedule to this Act, submit to the Board sory acqui-  
an order putting in force as respects the land specified in the sition of land.  
order the provisions of the Lands Clauses Acts with respect to  
the purchase and taking of land otherwise than by agreement.
- 15 (2) Where a council propose to hire land compulsorily, the  
council may submit to the Board an order for the compulsory  
hiring of the land specified in the order for a period not less  
than fourteen nor more than thirty-five years, and the provisions  
of Part I. of the First Schedule to this Act shall apply to the  
20 order in like manner as it applies to an order for compulsory  
purchase, with the substitution of “hiring” for “purchase” and  
with the modifications set out in Part II. of that schedule.
- (3) An order under this section shall be of no force unless  
and until it is confirmed by the Board, and the Board may,  
25 subject to the provisions of the First Schedule to this Act, confirm  
the order either without modification or subject to such modi-  
fications as they think fit, and an order when so confirmed shall  
become final and have effect as if enacted in this Act; and the  
confirmation by the Board shall be conclusive evidence that  
30 the requirements of this Act have been complied with, and  
that the order has been duly made and is within the powers of  
this Act.
- (4) An order under this section may provide for the con-  
tinuance of any existing servitude or the creation of any new  
35 servitude over the land authorised to be acquired, and every such  
order shall, if so required by the owner of the land to be acquired,  
provide for the creation of such new servitudes as are reasonably  
necessary to secure the continued use and enjoyment by such  
owner and his tenants of all means of access, drainage, water  
40 supply, and other similar conveniences theretofore used or enjoyed

A.D. 1909. by them over the land to be acquired: Provided that, notwithstanding anything contained in this subsection, no new servitude created by or in pursuance of such order over land hired by a council shall continue beyond the determination of such hiring.

(5) In determining the amount of any disputed compensation 5 under any such order, no additional allowance shall be made on account of the purchase or hiring being compulsory.

(6) Where land authorised to be compulsorily hired by an order under this section is subject to a heritable security, any lease made in pursuance of the order by the creditor in possession shall have the like effect as if it were a lease authorised by section six of the Heritable Securities (Scotland) Act, 1894. 10

57 & 58 Vict.  
c. 44.

(7) Where a proposal to acquire land compulsorily is made by a parish council or by a landward committee, the council or the landward committee, as the case may be, shall, instead of 15 themselves making and submitting to the Board the order, represent the case to the county council, and thereupon the county council may, on behalf of the parish council or the landward committee, exercise the powers in relation to compulsory purchase or hiring conferred on councils by this Act, and the 20 order shall be carried into effect by the county council, but the land shall be conveyed or leased to the parish council or the landward committee, and all expenses incurred by the county council shall be paid by the parish council or the landward committee, as the case may be: 25

Provided that if the parish council or the landward committee are aggrieved by the refusal of the county council to proceed under this section, the parish council or the landward committee may petition the Board, and thereupon the Board, after such inquiry as they think fit, may make such an order as 30 the county council might have made, and this subsection shall apply as if the order had been made by the county council.

(8) If, after the determination of the amount of the compensation (including in the case of land hired compulsorily the rent) to be paid to any person in respect of his interest in the 35 land proposed to be compulsorily acquired, it appears to the council that the land cannot be let for small holdings or allotments, as the case may be, at such a rent as will secure the council from loss, the council may at any time within six weeks after the determination of the amount by notice in writing withdraw any 40 notice to treat served on that person or on any other person

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interested in the land, and in such case any person on whom such a notice of withdrawal has been served shall be entitled to obtain from the council compensation for any loss or expenses which he may have sustained or incurred by reason or in consequence of the notice to treat and of the notice of withdrawal, and the amount of such compensation shall, in default of agreement, be determined by arbitration:

Provided that in every case in which the notice of withdrawal is given by the Commissioners acting in default of the council all compensation payable under this subsection shall be paid out of the Small Holdings (Scotland) Account.

25.—(1) Where a council has hired land compulsorily, for small holdings or allotments, the council may, by giving to the landlord not more than two years nor less than one year before the expiration of the tenancy notice in writing, renew the tenancy for such term, not being less than fourteen nor more than thirty-five years, as may be specified in the notice, and at such rent as, in default of agreement, may be determined by valuation by a valuer appointed by the Board, but otherwise on the same terms and conditions as the original lease, and so from time to time:

Power of council to renew tenancy of land compulsorily hired.

Provided that if on any such notice being given the landlord shall prove to the satisfaction of the Board that any land included in the tenancy is required for the amenity or convenience of any dwelling-house, then such land shall be excluded from the renewed tenancy.

(2) In assessing the rent to be paid under this section the valuer shall not take into account any increase in the value of the holding—

(a) due to improvements in respect of which the council would have been entitled to compensation, if instead of renewing the tenancy the council had quitted the land on the determination of the tenancy; or

(b) due to any use to which the land might otherwise be put during the renewed term, being a use in respect of which the landlord is entitled to resume possession of the land under this Act; or

(c) due to the establishment by the council of other small holdings or allotments in the neighbourhood; or any depreciation in the value of the land in respect of which the landlord would have been entitled to compensation if the council had so quitted the land as aforesaid.

(68.)

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- A.D. 1909. **26.**—(1) Any person having power to lease land for agricultural purposes for a limited term, whether subject to any consent or conditions or not, may, subject to the like consent and conditions (if any), lease land to a council for the purposes of small holdings or allotments for a term not exceeding thirty- 5  
five years, either with or without such right of renewal as is conferred by this Act in the case of land hired compulsorily for those purposes.
- Provisions as to voluntary leasing of land for small holdings or allotments.
- (2) The like powers of leasing may be exercised, in the case of land belonging to the Crown, by the Commissioners of 10 Woods, with the consent of the Treasury.
- 27.**—(1) No land shall be authorised by an order under this Act to be acquired compulsorily which at the date of the order is—
- Restrictions on the acquisition of land.
- (a) land being garden ground only, appurtenant to a house; 15  
or
  - (b) land within any burgh boundary; or
  - (c) land being or forming part of any market garden; or
  - (d) land being or forming part of any glebe, or any small holding under the Small Holdings Act, 1892, or any 20 allotment under the Allotments Acts; or
  - (e) land that is not either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral; or
  - (f) Land being woodland, or being or forming part of the 25 home farm of any estate, or of any policy or park, or of any pleasure ground or other land required for the amenity or convenience of any residence or farmstead; or being permanent grass park held for the purposes of a business or calling not primarily 30 agricultural or pastoral, including that of butcher, cattle-dealer, and the like, or being land used for drying or repairing fishing nets; or
  - (g) Land held and used by a local authority for purposes of public recreation; or 35
  - (h) Land acquired whether compulsorily or by agreement for any undertaking of a public nature, under the authority of any Act of Parliament or any order having the force of an Act of Parliament; or
  - (i) The site of an ancient monument or other object of 40 archæological interest.

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(2) The council in making, and the Board in confirming, an order for the compulsory acquisition of land, shall have regard to the extent of land held or occupied in the locality by any owner or tenant, and to the convenience of other property belonging to or occupied by the same owner or tenant, and shall, so far as practicable, avoid taking an undue or inconvenient quantity of land from any one owner or tenant, and for that purpose, where part only of a holding is taken, shall take into consideration the size and character of the existing agricultural buildings not proposed to be taken which were used in connection with the holding, and the quantity and nature of the land available for occupation therewith, and shall also, so far as practicable, avoid displacing any considerable number of agricultural labourers or others employed on or about the land. A.D. 1909.

(3) No land shall be authorised by an order under this Act to be acquired compulsorily for the purposes of small holdings or allotments which is or forms part of—

(a) a farm not exceeding one hundred and fifty acres occupied by a person who has no interest in any other farm; or

(b) a farm occupied subject to a lease which was in force at Whitsunday nineteen hundred and nine, so long as the lease remains in force.

**28.**—(1) The powers of a council to acquire land for small holdings or allotments shall, subject to the restrictions by this Act imposed, include power to acquire land for the purpose of attaching to small holdings or allotments provided by the council rights of grazing and other similar rights over the land so acquired. Grazing rights, &c. to be attached to small holdings or allotments.

(2) Any rights created or acquired by the council under this section shall be attached to the small holdings or allotments in such manner and subject to such regulations as the council think expedient.

(3) The powers conferred by this section shall be in addition to and not in substitution for the powers of providing common pasture conferred by section twelve of the Allotments (Scotland) Act, 1892.

**29.** Where buildings or other premises within the meaning of the Public Health (Scotland) Act, 1897, have been erected for the tenant of a small holding on land which has been hired by a council compulsorily, all duties or liabilities imposed on the owner (68.) Obligations of a county council under Public Health Act. 60 & 61 Vict. c. 38.



A.D. 1909. of such buildings or premises under any provision relating to the removal or remedy of a nuisance or the provision of a water supply contained in the said Act shall, so long as the landlord receives no rent or other consideration in respect of such buildings or other premises (and failing agreement with the landlord to the contrary) 5 be transferred to and discharged by the council, and the said Act shall be read and construed accordingly.

Interchange  
of land for  
small hold-  
ings and  
allotments.

**30.**—(1) A county council may sell or let to a town or parish council for the purpose of allotments any land acquired by them for small holdings, and a town or parish council may 10 sell or let to the county council for the purpose of small holdings any land acquired by them for allotments, and the provisions of the Lands Clauses Acts with respect to the sale of superfluous land shall not apply on any such sale.

(2) Subsection (2) of section eleven of the Allotments 15 (Scotland) Act, 1892, shall apply to the proceeds of sale under this section of land acquired for allotments.

Power to  
resume pos-  
session of  
land hired  
compulsorily.

**31.**—(1) Where land has been hired by a council compulsorily under this Act or the Allotments Acts, and the land or any part thereof at any time during the tenancy thereof by the council is 20 shown to the satisfaction of the Board to be required by the landlord to be used for building, planting, mining, or other industrial purposes, or for roads necessary therefor, it shall be lawful for the landlord to resume possession of the land or part thereof upon giving to the council twelve months' previous notice 25 in writing of his intention so to do; and, if a part only of the land is resumed, the rent payable by the council shall as from the date of resumption be reduced by such sum as in default of agreement may be determined by valuation by a valuer appointed by the Board. 30

(2) Where the land has been hired compulsorily by the Commissioners acting in default of a county council, any question as to the right of the landlord to resume possession of the land or any part thereof under this section shall be determined by an arbiter appointed by the Lord President of the Court of 35 Session.

Compensa-  
tion for loss  
of employ-  
ment by  
labourers.

**32.** Where a labourer who has been regularly employed on any land acquired by a county council for small holdings, proves to the satisfaction of the county council that the effect of the acquisition was to deprive him of his employment, and that there 40

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was no employment of an equally beneficial character available to him in the same locality, the county council may pay to him such compensation as they think just for his loss of employment or for his expenses in moving to another locality, and any sum so paid shall be treated as part of the expenses of the acquisition of the land.

**33.**—(1) Where a council has let a small holding or allotment to any tenant, the tenant shall as against the council have the same rights with respect to compensation for the improvements mentioned in paragraph (27) (i) (ii) (iii) and (iv) of the First Schedule to the Agricultural Holdings Act, 1900, as if it had been agreed in writing that the holding or allotment should be let as a market garden :

A.D. 1909.  
Compensation for improvements.

63 & 64 Vict.  
c. 50.

Provided that the tenant shall not be entitled to compensation in respect of any such improvement if executed contrary to an express prohibition in writing by the council affecting either the whole or any part of the holding or allotment ; but, if the tenant feels aggrieved by any such prohibition, he may appeal to the Board, who may confirm, vary, or annul the prohibition, and the decision of the Board shall be final.

(2) Where land has been hired by a council for small holdings or allotments, the council shall (subject in the case of land hired by agreement to any agreement to the contrary) be entitled at the determination of the tenancy on quitting the land to compensation under the Agricultural Holdings (Scotland) Acts, 1883 to 1906, for any improvement mentioned in paragraph (27) (i) (ii) (iii) and (iv) of the First Schedule to the Agricultural Holdings Act, 1900, and for any improvement mentioned in Part I. or Part II. of that schedule which was necessary or proper to adapt the land for small holdings or allotments, as if such improvements as aforesaid were improvements mentioned in Part III. of that schedule :

Provided that, in the case of land hired compulsorily, the amount of the compensation payable to the council for those improvements shall be such sum as fairly represents the increase (if any) in the value to the landlord and his successors in title of the holding due to those improvements.

(3) Subsection (5) of section seven of the Allotments (Scotland) Act, 1892, is hereby repealed.

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*Supplemental.*

Small holdings and allotments committees.

**34.**—(1) Every county council shall establish a small holdings and allotments committee, consisting either wholly or partly of members of the council, but the members of the council shall be a majority, and all matters relating to the exercise and performance by the council of their powers and duties under the Small Holdings Act, 1892, the Allotments Acts, and this Act (except the power of raising a rate or borrowing money) shall stand referred to the small holdings and allotments committee, and references in the Allotments Acts to the standing committee shall be construed as references to the small holdings and allotments committee, and the council before exercising any such powers shall, unless in their opinion the matter is urgent, receive and consider the report of the small holdings and allotments committee with respect to the matter in question, and the council may also delegate to the small holdings and allotments committee, with or without restrictions or conditions, as they think fit, any of their powers under the said Acts except the power of raising a rate or borrowing money.

(2) The small holdings and allotments committee may delegate any of their powers to sub-committees, consisting either wholly or partly of members of the committee, and in appointing any sub-committee to which is committed the powers of management of small holdings shall have regard to the advisability of including amongst the members of the sub-committee members of the councils of the parishes in which the holdings are situate, or for which they are provided, and other persons acquainted with the needs and circumstances of the area for which the sub-committee acts.

(3) Where any receipts or payments of money under this Act are entrusted by the county council to the small holdings and allotments committee, or any sub-committee thereof, the accounts of those receipts and payments shall be accounts of the county council, and made up and audited accordingly.

Accounts of receipts and expenditure under the Small Holdings and Allotments Acts.

**35.** Separate accounts shall be kept of the receipts and expenditure of a council under the Small Holdings Act, 1892, as amended by this Act, and under the Allotments Acts as amended by this Act, and any such receipts shall, subject to the provisions of those Acts, be applicable to the purposes of those



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Acts respectively, but not for any other purpose except with the consent of the Secretary for Scotland. A.D. 1909.

**36.**—(1) A county council may promote the formation or extension of, and may, subject to the provisions of this section, assist, societies on a co-operative basis, having for their object, or one of their objects, the provision or the profitable working of small holdings or allotments, whether in relation to the purchase of requisites, the sale of produce, credit banking or insurance or otherwise, and may employ as their agents for the purpose any such society as is mentioned in subsection (4) of this section. Co-operative societies, &c.

(2) The county council, with the consent of, and subject to regulations made by, the Secretary for Scotland, may, for the purpose of assisting a society make grants or advances to the society, or guarantee advances made to the society, upon such terms and conditions as to rate of interest and repayment or otherwise, and on such security, as the council think fit, and the making of such grants or advances shall be a purpose for which a council may borrow under the Small Holdings Act, 1892.

(3) Where the Board themselves provide small holdings under the provisions of this Act, they may, with respect to any such society carrying on business or intending to carry on business in the neighbourhood of those small holdings, exercise the powers of a county council under this section, and the provisions of this section shall apply accordingly, except that references to the Treasury shall be substituted for references to the Secretary for Scotland, and that the expenses and receipts of the Board under this section shall be paid out of and into the Small Holdings (Scotland) Account.

(4) The Board with the consent of the Treasury may out of the Small Holdings (Scotland) Account make grants, upon such terms as the Board may determine, to any society having as its object or one of its objects the promotion of co-operation in connection with the cultivation of small holdings or allotments.

**37.** Any land acquired by the Commissioners under this Act shall be vested in the Board, but the Board may at any time transfer the land to the council at whose expense the land was acquired, and shall so transfer the land on payment of all sums due from the council in connection therewith, and on proof to the satisfaction of the Board that the council are willing to exercise and perform their powers and duties in relation thereto. Provisions as to land acquired by Commissioners.

A.D. 1909.  
Provisions  
as to Com-  
missioners.

**38.** Anything by this Act required or authorised to be done by or to the Commissioners may be done by or to any one such Commissioner, and any document purporting to be signed by a Commissioner shall be received in evidence without proof of the appointment or handwriting of the Commissioner. 5

Local in-  
quiries.

**39.**—(1) The Board and the Commissioners and other officers of the Board shall have for the purpose of an inquiry in pursuance of this Act the same powers as the Local Government Board for Scotland and their inspectors respectively have for the purpose of an inquiry under the Public Health (Scotland) Act, 1897. 10

(2) Notices of the inquiries shall be given and published in accordance with such general or special directions as the Board may give.

Arbitrations  
and valua-  
tions.

**40.**—(1) All questions which under this Act are referred to arbitration shall, unless otherwise expressly provided by this Act, be determined by a single arbiter in accordance with the Agricultural Holdings (Scotland) Acts, 1883 to 1906. 15

(2) Where an order has been made and confirmed authorising the compulsory acquisition of land by the Commissioners acting in default of a county council the arbiter or valuer, as the case may be, shall be appointed by the Lord President of the Court of Session instead of by the Board. 20

(3) The remuneration of an arbiter or valuer appointed under this Act shall be fixed by the Board. 25

Annual re-  
port to Par-  
liament.

**41.** The Board shall make an annual report to Parliament of their proceedings, and of the proceedings of the Commissioners, under this Act, and also of the proceedings of the several county, town, and parish councils under the Small Holdings Act, 1892, the Allotments Acts, and this Act, and for that purpose every such council shall, before such date in every year as the Board may fix, send to the Board a report of their proceedings under the Small Holdings Act, 1892, the Allotments Acts, and this Act during the preceding year. 30

Saving for  
existing  
tenancies.

**42.** Nothing in this Act shall affect the rights and obligations under any tenancy created before the commencement of this Act under the Small Holdings Act, 1892, or the Allotments Acts, or shall authorise the compulsory purchase or the compulsory hiring of any holding or part of a holding to which at the time the Crofters Holdings (Scotland) Act, 1886, or any Act amending the 40

same shall apply, or of any land acquired by any crofter or cottar or other person in virtue of the Congested Districts (Scotland) Act, 1897, or any Act amending the same, or shall affect the rights or obligations under any tenancy to which such Acts or any of  
 5 them shall at the time apply.

**43.**—(1) For the purposes of the Small Holdings Act, 1892, and this Act the expression “small holding” means an agricultural holding which exceeds one acre and either does not exceed fifty acres, or, if exceeding fifty acres, is at the date of sale or letting  
 10 of an annual value as entered in the valuation roll not exceeding fifty pounds.

A.D. 1909.  
 —  
 Interpretation.

(2) For the purposes of this Act—

The expression “prescribed” means prescribed by regulations made by the Board:  
 15 The expression “Allotments Acts” means the Allotments (Scotland) Act, 1892, as amended by the Local Government (Scotland) Act, 1894:  
 The expression “landlord,” in relation to any land compulsorily hired by a council, means the person  
 20 for the time being entitled to receive the rent of the land from the council.

(3) Any notice required by this Act to be served or given may be sent by registered post.

**44.**—(1) This Act may be cited as the Small Holdings and Allotments (Scotland) Act, 1909, and, so far as it relates to small holdings, shall be construed with the Small Holdings Act, 1892, and may be cited with that Act as the Small Holdings (Scotland) Acts, 1892 and 1909, and so far as it relates to allotments, shall be construed with the Allotments Acts, and may be cited with  
 25 those Acts as the Allotments (Scotland) Acts, 1892 to 1909.

Short title, commencement, extent, and repeal.

(2) This Act shall come into operation on the first day of January one thousand nine hundred and ten.

(3) This Act shall extend to Scotland only.

(4) The enactments mentioned in the Second Schedule to  
 35 this Act are hereby repealed to the extent specified in the third column of that schedule.

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## SCHEDULES.

## FIRST SCHEDULE.

## PART I.

PROVISIONS AS TO THE COMPULSORY ACQUISITION OF LAND  
BY A COUNCIL.

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8 & 9 Viet.  
c. 33.

(1) The order shall be in the prescribed form, and shall contain such provisions as the Board may prescribe for the purpose of carrying the order into effect, and of protecting the council and the persons interested in the land, and shall incorporate, subject to the necessary adaptations, the Lands Clauses Acts and section six and sections 10  
seventy to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845, but subject to this modification, that any question of disputed compensation shall be determined by a single arbiter appointed by the Board, who shall be deemed to be an arbiter within the meaning of the Lands Clauses Acts, and the provisions of those Acts 15  
with respect to arbitration shall, subject to the provisions of this schedule, apply accordingly.

(2) The order shall be published by the council in the prescribed manner, and such notice shall be given both in the locality in which the land is proposed to be acquired and to the owners, lessees, and 20  
occupiers of that land as may be prescribed.

(3) If within the prescribed period no objection to the order has been presented to the Board by a person interested in the land, or if every such objection has been withdrawn, the Board shall, without further inquiry, confirm the order, but if such an objection has been 25  
presented and has not been withdrawn the Board shall forthwith cause a public inquiry to be held in the locality in which the land is proposed to be acquired, and the council and all persons interested in the land and such other persons as the person holding the inquiry in his discretion thinks fit to allow shall be permitted to appear and be 30  
heard at the inquiry.

(4) Before confirming the order the Board shall consider the report of the person who held the inquiry, and all objections made thereat.

(5) The arbiter shall, so far as practicable, in assessing compensation act on his own knowledge and experience, but, subject as afore- 35  
said, at any inquiry or arbitration held under this schedule the person

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holding the inquiry or arbitration shall hear, by themselves or their agents, any authorities or parties authorised by or under this Act to appear, and shall hear witnesses, but shall not, except in such cases as the Board otherwise direct, hear counsel or professional expert witnesses. A.D. 1909.

(6) The Board may, with the concurrence of the Lord President of the Court of Session, make rules fixing a scale of costs to be applicable on an arbitration under this schedule, and an arbiter under this schedule may, notwithstanding anything in the Lands Clauses Acts, determine the amount of costs, and shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been caused or incurred unnecessarily.

(7) In construing, for the purposes of this schedule or any order made thereunder, any enactment incorporated with the order, this Act, together with the order, shall be deemed to be the special Act, and the council shall be deemed to be the promoters of the undertaking.

## PART II.

### PROVISIONS AS TO THE COMPULSORY HIRING OF LAND BY A COUNCIL.

(1) The Board shall make regulations for the purpose of carrying the order into effect and of protecting the council and the persons interested in the land, and the order shall incorporate such regulations, together with such provisions of the Lands Clauses Acts and of section six and of sections seventy to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845, as may, subject to the prescribed adaptations, appear to the Board necessary or expedient for that purpose.

(2) The order authorising the land to be hired compulsorily shall determine the terms and conditions of the hiring other than the rent, and in particular—

(a) shall provide for the insertion in the lease of agreements by the council to cultivate the land in a proper manner and to pay to the landlord at the determination of the tenancy, on the council quitting the land, compensation for any depreciation of the land by reason of any failure by the council, or any person deriving title under them, to observe such agreements or by reason of any user of the land by the council or such person as aforesaid, and (unless otherwise agreed) to keep the buildings and premises leased in repair; and

(b) shall not authorise the breaking up of pasture unless the Board are satisfied that it can be so broken up without

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depreciating the value of the land, or that the circumstances are such that small holdings cannot otherwise be successfully cultivated; and

- (c) shall not except with the consent of the landlord confer on the council any right to fell or cut timber or trees or any right to take, sell, or carry away any minerals, gravel, sand, or clay, except so far as may be necessary or convenient for the purpose of erecting buildings on the land or otherwise adapting the land for small holdings or allotments, and except upon payment of compensation for minerals, gravel, sand, or clay so used.

(3) The determination of—

- (a) The amount of the rent to be paid by the council for the land compulsorily hired;
- (b) The amount of any other compensation to be paid by the council to any person entitled thereto in respect of the land or any interest therein, or in respect of improvements executed on the land or otherwise; and
- (c) Where part only of a holding held for an unexpired term is hired, the deduction to be made from the rent paid for the holding during the remainder of that term;

shall in default of agreement be by valuation by a single valuer appointed by the Board: Provided that if the land hired is in the occupation of a tenant he may by notice in writing served on the council before the determination of his tenancy require that any claim by him against the council which, under the Agricultural Holdings (Scotland) Acts, 1883 to 1906, might be referred to arbitration under those Acts shall be so referred, and in such case those claims shall be determined by arbitration under those Acts and not by valuation under this Act.

(4) The valuer, in fixing the rent to be paid for the land compulsorily hired, shall take into consideration the rent (if any) at which the land has been let and the annual value at which the land is entered in the Valuation Roll, the loss (if any) caused to the owner by severance, the terms and conditions of the hiring, and all the other circumstances connected with the land, but shall not make any allowance in respect of any use to which the land compulsorily hired might otherwise be put by the owner during the term of hiring, being a use in respect of which the owner is entitled to resume possession of the land under this Act.

(5) Any compensation awarded to a tenant in respect of any depreciation of the value to him of the residue of his holding caused



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by the withdrawal from the holding of the land compulsorily hired shall, as far as possible, be provided for by taking such compensation into account in fixing the deduction to be made from the rent paid for the holding during the remainder of the term for which it is held  
5 by the tenant. A.D. 1909.

- (6) Any person interested in any valuation shall give the valuer all such assistance, information, and explanations as he may require, and shall produce to the valuer, or give him access to, all such books, accounts, vouchers, and other documents relating to the land to be  
10 compulsorily hired as he may reasonably require for the purposes of valuation, and such expenses as the valuer certifies to have been properly incurred by any person in furnishing such assistance, information, and explanations, or otherwise, in relation to the valuation, shall be paid by the council.
- 15 (7) On the determination of any tenancy created by compulsory hiring any questions as to the amount due by the council for depreciation shall in default of agreement be determined by arbitration.



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## SECOND SCHEDULE.

## ENACTMENTS REPEALED.

| Session and Chapter.    | Short Title.                               | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------|--------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 55 & 56 Vict.<br>c. 31. | The Small Holdings Act, 1892.              | <p>Subsection (2) of section one. 5</p> <p>Section two.</p> <p>Subsection (2) of section four to "Provided that."</p> <p>In subsection (3) of section four the words "in the case of small holdings which may be let."</p> <p>Section five. 10</p> <p>In section eleven the words "and then to the person or persons whose lands immediately adjoin the holding."</p> <p>Section sixteen.</p> <p>Subsection (8) of section twenty-one. 15</p> <p>Section twenty-four.</p>                                                                                                                                                                                                                                                                                                                                                                         |
| 55 & 56 Vict.<br>c. 54. | The Allotments (Scotland) Act, 1892.       | <p>Subsections (2) and (3) and, except so far as they are applied by any other enactment, subsections (4) to (7) of section three. 20</p> <p>Section four.</p> <p>Subsection (5) of section seven.</p> <p>Subsections (1), (2), and (5) of section ten, and, except so far as it relates to burghs, the rest of that section.</p> <p>Subsection (2) of section eleven, from "Provided that" to the end of the subsection. 25</p> <p>In section twelve, the word "any," immediately before "parish," and the words "in their county" immediately after "parish."</p> <p>Section thirteen. 30</p> <p>In section fifteen the words "an election of allotment managers or."</p> <p>In section sixteen the words "and in a county the county council," and the words "the expressions 'county'" to "the Local Government (Scotland) Act, 1889." 35</p> |
| 57 & 58 Vict.<br>c. 58. | The Local Government (Scotland) Act, 1894. | <p>Subsection (5) of section twenty-four.</p> <p>Section twenty-six.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |



**Small Holdings and  
Allotments (Scotland).  
[H.L.]**

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A

**B I L L**

INTITLED

An Act to amend the Law with respect  
to Small Holdings and Allotments in  
Scotland.

*The Earl of Camperdown.*

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Ordered to be printed 25th May 1909.

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(68.)

## South African Constitution Bill. [H.L.]

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- 118. Commission of inquiry into financial relations between Union and provinces.
- 119. Security for existing public debts.
- 120. Requirements for withdrawal of money from funds.
- 121. Transfer of colonial property to the Union.
- 122. Crown lands, &c.
- 123. Mines and minerals.
- 124. Assumption by Union of colonial debts.
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- 126. Constitution of Harbour and Railway Board.
- 127. Administration of railways, ports, and harbours.
- 128. Establishment of fund for maintaining uniformity of railway rates.
- 129. Management of railway and harbour balances.
- 130. Construction of harbour and railway works.
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- 132. Controller and Auditor-General.
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136. Free trade throughout Union.
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141. Reorganisation of public departments.
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## SCHEDULE.

A  
B I L L

INTITULED

An Act to constitute the Union of South Africa.      A.D. 1909.

**W**HEREAS it is desirable for the welfare and future progress of South Africa that the several British Colonies therein should be united under one Government in a legislative union under the Crown of Great Britain and Ireland :

5      And whereas it is expedient to make provision for the union of the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony on terms and conditions to which they have agreed by resolution of their respective Parliaments, and to define the executive, legislative, and judicial powers to  
10 be exercised in the government of the Union :

And whereas it is expedient to make provision for the establishment of provinces with powers of legislation and administration in local matters and in such other matters as may be specially reserved for provincial legislation and administration :

15      And whereas it is expedient to provide for the eventual admission into the Union or transfer to the Union of such parts of South Africa as are not originally included therein :

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

I.--PRELIMINARY.

1. This Act may be cited as the South Africa Act, 1909.      Short title.

2. In this Act, unless it is otherwise expressed or implied, Definitions.  
25 the words "the Union" shall be taken to mean the Union of South Africa as constituted under this Act, and the words "Houses

A.D. 1909. — of Parliament," "House of Parliament," or "Parliament," shall be taken to mean the Parliament of the Union.

Application  
of Act to  
King's suc-  
cessors.

**3.** The provisions of this Act referring to the King shall extend to His Majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland.

5

## II.—THE UNION.

Proclama-  
tion of  
Union.

**4.** It shall be lawful for the King, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the Colonies of the Cape of Good Hope, Natal, 10 the Transvaal, and the Orange River Colony, hereinafter called the Colonies, shall be united in a Legislative Union under one Government under the name of the Union of South Africa. On and after the day appointed by such proclamation the Government and Parliament of the Union shall have full power and authority 15 within the limits of the Colonies, but the King may at any time after the proclamation appoint a governor-general for the Union.

Commence-  
ment of Act.

**5.** The provisions of this Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.

Incorpora-  
tion of colo-  
nies into the  
Union.

**6.** The colonies mentioned in section four shall become 20 original provinces of the Union under the names of Cape of Good Hope, Natal, Transvaal, and Orange Free State, as the case may be. The original provinces shall have the same limits as the respective colonies at the establishment of the Union.

Application  
of Colonial  
Boundaries  
Act, &c.

**7.** Upon any colony entering the Union the Colonial 25 Boundaries Act, 1895, and every other Act applying to any of the Colonies as being self-governing colonies or colonies with responsible government, shall cease to apply to that colony, but as from the date when this Act takes effect every such Act of Parliament shall apply to the Union.

30

## III.—EXECUTIVE GOVERNMENT.

Executive  
power.

**8.** The Executive Government of the Union is vested in the King and shall be administered by His Majesty in person or by a governor-general as His representative.

Governor-  
General.

**9.** The Governor-General shall be appointed by the King 35 and shall have and may exercise in the Union during the King's pleasure, but subject to this Act, such powers and functions of the King as His Majesty may be pleased to assign to him.

**10.** There shall be payable to the King out of the Consolidated Revenue Fund of the Union for the salary of the Governor-General an annual sum of ten thousand pounds. The salary of the Governor-General shall not be altered during his continuance in office.

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Salary of  
Governor-  
General.

**11.** The provisions of this Act relating to the Governor-General extend and apply to the Governor-General for the time being or such person as the King may appoint to administer the government of the Union. The King may authorise the Governor-General to appoint any person to be his deputy within the Union during his temporary absence, and in that capacity to exercise for and on behalf of the Governor-General during such absence all such powers and authorities vested in the Governor-General as the Governor-General may assign to him, subject to any limitations expressed or directions given by the King; but the appointment of such deputy shall not affect the exercise by the Governor-General himself of any power or function.

Application  
of Act to  
Governor-  
General.

**12.** There shall be an Executive Council to advise the Governor-General in the government of the Union, and the members of the council shall be chosen and summoned by the Governor-General and sworn as executive councillors, and shall hold office during his pleasure.

Executive  
Council.

**13.** The provisions of this Act referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the executive council.

Meaning of  
Governor-  
General in  
Council.

**14.** The Governor-General may appoint officers not exceeding ten in number to administer such departments of State of the Union as the Governor-General in Council may establish; such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Executive Council and shall be the King's ministers of State for the Union. After the first general election of members of the House of Assembly, as hereinafter provided, no minister shall hold office for a longer period than three months unless he is or becomes a member of either House of Parliament.

Appoint-  
ment of  
ministers.

**15.** The appointment and removal of all officers of the public service of the Union shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by this Act or by a law of Parliament to some other authority.

Appoint-  
ment and  
removal of  
officers.

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Transfer of executive powers to Governor-General in Council.

**16.** All powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in the Governor or in the Governor in Council, or in any authority of the Colony, shall, as far as the same continue in existence and are capable of being exercised after the establishment of the 5 Union, be vested in the Governor-General or in the Governor-General in Council, or in the authority exercising similar powers under the Union, as the case may be, except such powers and functions as are by this Act or may by a law of Parliament be vested in some other authority. 10

Command of naval and military forces.

**17.** The command in chief of the naval and military forces within the Union is vested in the King or in the Governor-General as His representative.

Seat of Government.

**18.** Save as in section twenty-three excepted, Pretoria shall be the seat of Government of the Union. 15

## IV.—PARLIAMENT.

Legislative power.

**19.** The legislative power of the Union shall be vested in the Parliament of the Union, herein called Parliament, which shall consist of the King, a Senate, and a House of Assembly.

Sessions of Parliament.

**20.** The Governor-General may appoint such times for holding 20 the sessions of Parliament as he thinks fit, and may also from time to time, by proclamation or otherwise, prorogue Parliament, and may in like manner dissolve the Senate and the House of Assembly simultaneously, or the House of Assembly alone: provided that the Senate shall not be dissolved within a period of 25 ten years after the establishment of the Union, and provided further that the dissolution of the Senate shall not affect any senators nominated by the Governor-General in Council.

Summoning of first Parliament.

**21.** Parliament shall be summoned to meet not later than six months after the establishment of the Union. 30

Annual session of Parliament.

**22.** There shall be a session of Parliament once at least in every year, so that a period of twelve months shall not intervene between the last sitting of Parliament in one session and its first sitting in the next session.

Seat of Legislature.

**23.** Cape Town shall be the seat of the Legislature of the 35 Union.

*Senate.*

Original constitution of Senate.

**24.** For ten years after the establishment of the Union the constitution of the Senate shall, in respect of the original provinces, be as follows:— 40



- (i) Eight senators shall be nominated by the Governor-General in Council, and for each original province eight senators shall be elected in the manner hereinafter provided : A.D. 1909.
- 5 (ii) The senators to be nominated by the Governor-General in Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance, by reason of their official experience or otherwise, with the reasonable wants and wishes of the coloured races in South Africa. If the seat of a senator so nominated shall become vacant, the Governor-General in Council shall nominate another person to be a senator, who shall hold his seat for ten years :
- 10
- 15 (iii) After the passing of this Act, and before the day appointed for the establishment of the Union, the Governor of each of the Colonies shall summon a special sitting of both Houses of the Legislature, and the two Houses sitting together as one body and presided over by the Speaker of the Legislative Assembly, shall elect eight persons to be senators for the province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant, the provincial council of the province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.
- 20
- 25

25. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of ten years, and unless and until such provision shall have been made— Subsequent constitution of Senate.

30

- (i) the provisions of the last preceding section with regard to nominated senators shall continue to have effect ;
- (ii) eight senators for each province shall be elected by the members of the provincial council of such province together with the members of the House of Assembly elected for such province. Such senators shall hold their seats for ten years unless the Senate be sooner dissolved. If the seat of an elected senator shall become vacant, the members of the provincial council of the province, together with the members of the House of Assembly elected for such province, shall choose a
- 35
- 40



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person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat. The Governor-General in Council shall make regulations for the joint election of senators prescribed in this section. 5

Qualifications of senators.

**26.** The qualifications of a senator shall be as follows:—

He must—

- (a) be not less than thirty years of age;
- (b) be qualified to be registered as a voter for the election of members of the House of Assembly in one of 10 the provinces;
- (c) have resided for five years within the limits of the Union as existing at the time when he is elected or nominated, as the case may be;
- (d) be a British subject of European descent; 15
- (e) in the case of an elected senator, be the registered owner of immovable property within the Union of the value of not less than five hundred pounds over and above any special mortgages thereon.

For the purposes of this section, residence in, and property 20 situated within, a colony before its incorporation in the Union, shall be treated as residence in and property situated within the Union.

Appointment and tenure of office of President.

**27.** The Senate shall, before proceeding to the dispatch of any other business, choose a senator to be the President of the 25 Senate, and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. The President shall cease to hold office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office by writing under his hand addressed 30 to the Governor-General.

Deputy President.

**28.** Prior to or during any absence of the President the Senate may choose a senator to perform his duties in his absence.

Resignation of senators.

**29.** A senator may, by writing under his hand addressed to the Governor-General, resign his seat, which thereupon shall 35 become vacant. The Governor-General shall as soon as practicable cause steps to be taken to have the vacancy filled.

Quorum.

**30.** The presence of at least twelve senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers. 40

**31.** All questions in the Senate shall be determined by a majority of votes of senators present other than the President or the presiding senator, who shall, however, have and exercise a casting vote in the case of an equality of votes. A.D. 1909.  
Voting in  
the Senate.

5

*House of Assembly.*

**32.** The House of Assembly shall be composed of members directly chosen by the voters of the Union in electoral divisions delimited as hereinafter provided. Constitution  
of House of  
Assembly.

**33.** The number of members to be elected in the original provinces at the first election and until the number is altered in accordance with the provisions of this Act shall be as follows:— Original  
number of  
members.

|    |                   |   |   |   |             |
|----|-------------------|---|---|---|-------------|
|    | Cape of Good Hope | - | - | - | Fifty-one.  |
|    | Natal             | - | - | - | Seventeen.  |
|    | Transvaal         | - | - | - | Thirty-six. |
| 15 | Orange Free State | - | - | - | Seventeen.  |

These numbers may be increased as provided in the next succeeding section, but shall not, in the case of any original province, be diminished until the total number of members of the House of Assembly in respect of the provinces herein provided for reaches one hundred and fifty, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period.

**34.** The number of members to be elected in each province, as provided in section thirty-three, shall be increased from time to time as may be necessary in accordance with the following provisions:— Increase of  
number of  
members.

(i) The quota of the Union shall be obtained by dividing the total number of European male adults in the Union, as ascertained at the census of nineteen hundred and four, by the total number of members of the House of Assembly as constituted at the establishment of the Union:

(ii) In nineteen hundred and eleven, and every five years thereafter, a census of the European population of the Union shall be taken for the purposes of this Act:

(iii) After any such census the number of European male adults in each province shall be compared with the number of European male adults as ascertained at the census of nineteen hundred and four, and in the case of any province where an increase is shown, as

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compared with the census of nineteen hundred and four, equal to the quota of the Union or any multiple thereof, the number of members allotted to such province in the last preceding section shall be increased by an additional member or an additional number of 5 members equal to such multiple, as the case may be :

(iv) Notwithstanding anything herein contained, no additional member shall be allotted to any province until the total number of European male adults in such province exceeds the quota of the Union multiplied by 10 the number of members allotted to such province for the time being, and thereupon additional members shall be allotted to such province in respect only of such excess :

(v) As soon as the number of members of the House of 15 Assembly to be elected in the original provinces in accordance with the preceding subsections reaches the total of one hundred and fifty, such total shall not be further increased unless and until Parliament otherwise provides ; and subject to the provisions of 20 the last preceding section the distribution of members among the provinces shall be such that the proportion between the number of members to be elected at any time in each province and the number of European male adults in such province, as ascertained 25 at the last preceding census, shall as far as possible be identical throughout the Union :

(vi) "Male adults" in this Act shall be taken to mean males of twenty-one years of age or upwards not being members of His Majesty's regular forces on full pay : 30

(vii) For the purposes of this Act the number of European male adults, as ascertained at the census of nineteen hundred and four, shall be taken to be—

|                             |   |         |    |
|-----------------------------|---|---------|----|
| For the Cape of Good Hope - | - | 167,546 |    |
| For Natal -                 | - | 34,784  | 35 |
| For the Transvaal -         | - | 106,493 |    |
| For the Orange Free State - | - | 41,014  |    |

Qualifica-  
tions of  
voters.

**35.**—(1) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the House of Assembly, but no such law shall 40 disqualify any person in the province of the Cape of Good Hope

who under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union is or may become capable of being registered as a voter from being so registered in the province of the Cape of Good Hope by reason of his race or colour only, unless the Bill be passed by both Houses of Parliament sitting together and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

- 10 (2) No person who at the passing of any such law is registered as a voter in any province shall be removed from the register by reason only of any disqualification based on race or colour.

- 15 **36.** Subject to the provisions of the last preceding section, the qualifications of parliamentary voters, as existing in the several Colonies at the establishment of the Union, shall be the qualifications necessary to entitle persons in the corresponding provinces to vote for the election of members of the House of Assembly: Provided that no member of His Majesty's regular forces on full pay shall be entitled to be registered as a voter.

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—  
Application  
of existing  
qualifica-  
tions.

- 37.**—(1) Subject to the provisions of this Act, the laws in force in the Colonies at the establishment of the Union relating to elections for the more numerous Houses of Parliament in such Colonies respectively, the registration of voters, the oaths or declarations to be taken by voters, returning officers, the powers and duties of such officers, the proceedings in connection with elections, election expenses, corrupt and illegal practices, the hearing of election petitions and the proceedings incident thereto, the vacating of seats of members, and the proceedings necessary for filling such vacancies, shall, mutatis mutandis, apply to the elections in the respective provinces of members of the House of Assembly.

Elections.

- (2) Notwithstanding anything to the contrary in any of the said laws contained, at any general election of members of the House of Assembly, all polls shall be taken on one and the same day in all the electoral divisions throughout the Union, such day to be appointed by the Governor-General in Council.

- 38.** Between the date of the passing of this Act and the date fixed for the establishment of the Union, the Governor in Council of each of the Colonies shall nominate a judge of any of the Supreme or High Courts of the Colonies, and the judges

Commission  
for delimita-  
tion of  
electoral  
divisions.

A.D. 1909. — so nominated shall, upon acceptance by them respectively of such nomination, form a joint commission, without any further appointment, for the purpose of the first division of the provinces into electoral divisions. The High Commissioner for South Africa shall forthwith convene a meeting of such commission at such time 5 and place in one of the Colonies as he shall fix and determine. At such meeting the Commissioners shall elect one of their number as chairman of such commission. They shall thereupon proceed with the discharge of their duties under this Act, and may appoint persons in any province to assist them or to act as assessors to 10 the commission or with individual members thereof for the purpose of inquiring into matters connected with the duties of the commission. The commission may regulate their own procedure and may act by a majority of their number. All moneys required for the payment of the expenses of such commission before the 15 establishment of the Union in any of the Colonies shall be provided by the Governor in Council of such colony. In case of the death, resignation, or other disability of any of the Commissioners before the establishment of the Union, the Governor in Council of the Colony in respect of which he was nominated 20 shall forthwith nominate another judge to fill the vacancy. After the establishment of the Union the expenses of the commission shall be defrayed by the Governor-General in Council, and any vacancies shall be filled by him.

Electoral  
divisions.

**39.** The commission shall divide each province into electoral 25 divisions, each returning one member.

Method of  
dividing pro-  
vinces into  
electoral  
divisions.

**40.**—(1) For the purpose of such division as is in the last preceding section mentioned, the quota of each province shall be obtained by dividing the total number of voters in the province, as ascertained at the last registration of voters, by the number 30 of members of the House of Assembly to be elected therein.

(2) Each province shall be divided into electoral divisions in such a manner that each such division shall, subject to the provisions of subsection (3) of this section, contain a number of voters, as nearly as may be, equal to the quota of the 35 province.

(3) The Commissioners shall give due consideration to—

- (a) community or diversity of interests ;
- (b) means of communication ;
- (c) physical features ;

- (d) existing electoral boundaries ;
- (e) sparsity or density of population ;

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in such manner that, while taking the quota of voters as the basis of division, the Commissioners may, whenever they deem  
 5 it necessary, depart therefrom, but in no case to any greater extent than fifteen per centum more or fifteen per centum less than the quota.

**41.** As soon as may be after every quinquennial census, the Governor-General in Council shall appoint a commission  
 10 consisting of three judges of the Supreme Court of South Africa to carry out any re-division which may have become necessary as between the different electoral divisions in each province, and to provide for the allocation of the number of members to which such province may have become entitled under the provisions  
 15 of this Act. In carrying out such re-division and allocation the commission shall have the same powers and proceed upon the same principles as are by this Act provided in regard to the original division.

Alteration of electoral divisions.

**42.—**(1) The joint commission constituted under section  
 20 thirty-eight and any subsequent commission appointed under the provisions of the last preceding section shall submit to the Governor-General in Council—

Powers and duties of commission for delimiting electoral divisions.

(a) a list of electoral divisions, with the names given to them  
 25 by the commission and a description of the boundaries of every such division :

(b) a map or maps showing the electoral divisions into which the provinces have been divided :

(c) such further particulars as they consider necessary.

(2) The Governor-General in Council may refer to the com-  
 30 mission for its consideration any matter relating to such list or arising out of the powers or duties of the commission.

(3) The Governor-General in Council shall proclaim the names and boundaries of the electoral divisions as finally settled and certified by the commission, or a majority thereof, and thereafter  
 35 until there shall be a re-division, the electoral divisions as named and defined shall be the electoral divisions of the Union in the provinces.

(4) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps the description shall  
 40 prevail.

(113.)

C



- A.D. 1909. **43.** Any alteration in the number of members of the House of Assembly to be elected in the several provinces, and any re-division of the provinces into electoral divisions, shall, in respect of the election of members of the House of Assembly, come into operation at the next general election held after the completion of the re-division or of any allocation consequent upon such alteration, and not earlier. 5
- Date from which alteration of electoral divisions to take effect.
- Qualifications of members of House of Assembly. **44.** The qualifications of a member of the House of Assembly shall be as follows:—  
He must— 10  
(a) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;  
(b) have resided for five years within the limits of the Union as existing at the time when he is elected; 15  
(c) be a British subject of European descent.
- For the purposes of this section, residence in a colony before its incorporation in the Union shall be treated as residence in the Union.
- Duration. **45.** Every House of Assembly shall continue for five years from the first meeting thereof, and no longer, but may be sooner dissolved by the Governor-General. 20
- Appointment and tenure of office of Speaker. **46.** The House of Assembly shall, before proceeding to the despatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant, the House shall again choose a member to be the Speaker. The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing under his hand addressed to the Governor-General. 25 30
- Deputy Speaker. **47.** Prior to or during the absence of the Speaker, the House of Assembly may choose a member to perform his duties in his absence.
- Resignation of members. **48.** A member may, by writing under his hand addressed to the Speaker, or if there is no Speaker, or if the Speaker is absent from the Union, to the Governor-General, resign his seat, which shall thereupon become vacant. 35



**49.** The presence of at least thirty members of the House of Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers. A.D. 1909.  
Quorum.

**50.** All questions in the House of Assembly shall be determined by a majority of votes of members present other than the Speaker or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes. Voting in  
House of  
Assembly.

*Both Houses of Parliament.*

**51.** Every senator and every member of the House of Assembly shall, before taking his seat, make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the following form :— Oath or  
affirmation  
of allegi-  
ance.

*Oath.*

I, A.B., do swear that I will be faithful and bear true allegiance to His Majesty *[here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being]* His *[or Her]* heirs and successors according to law. So help me God.

*Affirmation.*

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to His Majesty *[here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being]* His *[or Her]* heirs and successors according to law.

**52.** A member of either House of Parliament shall be incapable of being chosen or of sitting as a member of the other House : Provided that every minister of State who is a member of either House of Parliament shall have the right to sit and speak in the Senate and the House of Assembly, but shall vote only in the House of which he is a member. Member of  
either House  
disqualified  
for being  
member of  
the other  
House.

**53.** No person shall be capable of being chosen or of sitting as a senator or as a member of the House of Assembly who— Disqualifica-  
tions for  
being a  
member of  
either House.

(a) has been at any time convicted of any crime or offence for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than twelve months, unless he shall have received

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a grant of amnesty or a free pardon, or unless such imprisonment shall have expired at least five years before the date of his election ; or

(b) is an unrehabilitated insolvent ; or

(c) is of unsound mind, and has been so declared by a competent court ; or

(d) holds any office of profit under the Crown within the Union : Provided that the following persons shall not be deemed to hold an office of profit under the Crown for the purposes of this subsection : 10

(1) a minister of State for the Union ;

(2) a person in receipt of a pension from the Crown ;

(3) an officer or member of His Majesty's naval or military forces on retired or half pay, or an officer or member of the naval or military forces of the Union whose services are not wholly employed by the Union. 15

Vacation of  
seats.

**54.** If a senator or member of the House of Assembly —

(a) becomes subject to any of the disabilities mentioned in the last preceding section ; or 20

(b) ceases to be qualified as required by law ; or

(c) fails for a whole ordinary session to attend without the special leave of the Senate or the House of Assembly, as the case may be ; 25

his seat shall thereupon become vacant.

Penalty for  
sitting or  
voting when  
disqualified.

**55.** If any person who is by law incapable of sitting as a senator or member of the House of Assembly shall, while so disqualified and knowing or having reasonable grounds for knowing that he is so disqualified, sit or vote as a member of the Senate or the House of Assembly, he shall be liable to a penalty of one hundred pounds for each day on which he shall so sit or vote, to be recovered on behalf of the Treasury of the Union by action in any Superior Court of the Union. 30

Allowances  
of members.

**56.** Each senator and each member of the House of Assembly shall, under such rules as shall be framed by Parliament, receive an allowance of four hundred pounds a year, to be reckoned from the date on which he takes his seat : Provided that for every day of the session on which he is absent there shall be 35

deducted from such allowance the sum of three pounds : Provided further that no such allowance shall be paid to a Minister receiving a salary under the Crown or to the President of the Senate or the Speaker of the House of Assembly. A day of the session shall mean in respect of a member any day during a session on which the House of which he is a member or any committee of which he is a member meets.

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**57.** The powers, privileges, and immunities of the Senate and of the House of Assembly and of the members and committees of each House shall, subject to the provisions of this Act, be such as are declared by Parliament, and until declared shall be those of the House of Assembly of the Cape of Good Hope and of its members and committees at the establishment of the Union.

Privileges  
of Houses of  
Parliament.

**58.** Each House of Parliament may make rules and orders with respect to the order and conduct of its business and proceedings. Until such rules and orders shall have been made the rules and orders of the Legislative Council and House of Assembly of the Cape of Good Hope at the establishment of the Union shall mutatis mutandis apply to the Senate and House of Assembly respectively. If a joint sitting of both Houses of Parliament is required under the provisions of this Act it shall be convened by the Governor-General by message to both Houses. At any such joint sitting the Speaker of the House of Assembly shall preside and the rules of the House of Assembly shall, as far as practicable, apply.

Rules of  
procedure.

*Powers of Parliament.*

**59.** Parliament shall have full power to make laws for the peace, order, and good government of the Union.

Powers of  
Parliament.

**60.**—(1) Bills appropriating revenue or moneys or imposing taxation shall originate only in the House of Assembly. But a Bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties.

Money Bills.

(2) The Senate may not amend any Bills so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

(3) The Senate may not amend any Bill so as to increase any proposed charges or burden on the people.

A.D. 1909.  
Appropriation Bills.

**61.** Any Bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

Recommendation of money votes.

**62.** The House of Assembly shall not originate or pass any vote, resolution, address, or Bill for the appropriation of any part 5 of the public revenue or of any tax or impost to any purpose unless such appropriation has been recommended by message from the Governor-General during the Session in which such vote, resolution, address, or Bill is proposed.

Disagreements between the two Houses.

**63.** If the House of Assembly passes any Bill and the Senate 10 rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next session again passes the Bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it or passes 15 it with amendments to which the House of Assembly will not agree, the Governor-General may during that session convene a joint sitting of the members of the Senate and House of Assembly. The members present at any such joint sitting may deliberate and shall vote together upon the Bill as last proposed 20 by the House of Assembly and upon amendments, if any, which have been made therein by one House of Parliament and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of members of the Senate and House of Assembly present at such sitting shall be 25 taken to have been carried, and if the Bill with the amendments, if any, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting, it shall be taken to have been duly passed by both Houses of Parliament: Provided that, if the Senate shall reject or fail to pass any Bill dealing 30 with the appropriation of revenue or moneys for the public service, such joint sitting may be convened during the same session in which the Senate so rejects or fails to pass such Bill.

Royal Assent to Bills.

**64.** When a Bill is presented to the Governor-General for the King's Assent, he shall declare according to his discretion, 35 but subject to the provisions of this Act, and to such instructions as may from time to time be given in that behalf by the King, that he assents in the King's name, or that he withholds assent, or that he reserves the Bill for the signification of the King's pleasure. All Bills repealing or amending this section or any 40 of the provisions of Chapter IV. under the heading "House

[9 EDW. 7.]

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of Assembly," and all Bills abolishing provincial councils or  
 abridging the powers conferred on provincial councils under  
 section eighty-five, otherwise than in accordance with the provi-  
 sions of that section, shall be so reserved. The Governor-General  
 5 may return to the House in which it originated any Bill so  
 presented to him, and may transmit therewith any amendments  
 which he may recommend, and the House may deal with the  
 recommendation.

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**65.** The King may disallow any law within one year after  
 10 it has been assented to by the Governor-General, and such  
 disallowance, on being made known by the Governor-General by  
 speech or message to each of the Houses of Parliament or by  
 proclamation, shall annul the law from the day when the dis-  
 allowance is so made known.

Disallow-  
ance of Bills

**66.** A Bill reserved for the King's pleasure shall not have  
 15 any force unless and until within one year from the day on which  
 it was presented to the Governor-General for the King's Assent,  
 the Governor-General makes known by speech or message to  
 each of the Houses of Parliament or by proclamation that it has  
 20 received the King's Assent.

Reservation  
of Bills.

**67.** As soon as may be after any law shall have been assented  
 to in the King's name by the Governor-General, or having been  
 reserved for the King's pleasure shall have received his assent,  
 the Clerk of the House of Assembly shall cause two fair copies  
 25 of such law, one being in the English and the other in the Dutch  
 language (one of which copies shall be signed by the Governor-  
 General), to be enrolled of record in the office of the Registrar  
 of the Appellate Division of the Supreme Court of South Africa ;  
 and such copies shall be conclusive evidence as to the provisions  
 30 of every such law, and in case of conflict between the two  
 copies thus deposited that signed by the Governor-General shall  
 prevail.

Signature  
and enrol-  
ment of Acts.

## V.—THE PROVINCES.

### *Administrators.*

**68.**—(1) In each province there shall be a chief executive  
 35 officer appointed by the Governor-General in Council, who shall  
 be styled the administrator of the province, and in whose name  
 all executive acts relating to provincial affairs therein shall be  
 done.

Appoint-  
ment and  
tenure of  
office of pro-  
vincial ad-  
ministrators.



A.D. 1909.

(2) In the appointment of the administrator of any province the Governor-General in Council shall, as far as practicable, give preference to persons resident in such province.

(3) Such administrator shall hold office for a term of five years and shall not be removed before the expiration thereof 5 except by the Governor-General in Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or if Parliament be not sitting, then within one week after the commencement of the next ensuing session. 10

(4) The Governor-General in Council may from time to time appoint a deputy administrator to execute the office and functions of the administrator during his absence illness or other inability.

Salaries of administrators.

**69.** The salaries of the administrators shall be fixed and 15 provided by Parliament, and shall not be reduced during their respective terms of office.

#### *Provincial Councils.*

Constitution of provincial councils.

**70.**—(1) There shall be a provincial council in each province consisting of the same number of members as are elected in the 20 province for the House of Assembly: Provided that in any province whose representatives in the House of Assembly shall be less than twenty-five in number the provincial council shall consist of twenty-five members.

(2) Any person qualified to vote for the election of members 25 of the provincial council shall be qualified to be a member of such council.

Qualification of provincial councillors.

**71.**—(1) The members of the provincial council shall be elected by the persons qualified to vote for the election of members of the House of Assembly in the province voting in the same 30 electoral divisions as are delimited for the election of members of the House of Assembly: Provided that in any province in which less than twenty-five members are elected to the House of Assembly the delimitation of the electoral divisions and any necessary re-allocation of members or adjustment of electoral 35 divisions shall be effected by the same commission and on the same principles as are prescribed in regard to the electoral divisions for the House of Assembly.

(2) Any alteration in the number of members of the provincial council and any re-division of the province into electoral divisions 40

shall come into operation at the next general election for such council held after the completion of such re-division or of any allocation consequent upon such alteration, and not earlier. A.D. 1909.

(3) The election shall take place at such times as the administrator shall by proclamation direct, and the provisions of section thirty-seven applicable to the election of members of the House of Assembly shall mutatis mutandis apply to such elections.

**72.** The provisions of sections fifty-three, fifty-four and fifty-five relative to members of the House of Assembly, shall mutatis mutandis apply to members of the provincial councils: Provided that any member of a provincial council who shall become a member of either House of Parliament shall thereupon cease to be a member of such provincial council. Application of sections 53 to 55 to provincial councillors.

**73.** Each provincial council shall continue for three years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time. Tenure of office by provincial councillors.

**74.** The administrator of each province shall by proclamation fix such times for holding the sessions of the provincial council as he may think fit, and may from time to time prorogue such council: Provided that there shall be a session of every provincial council once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the council in one session and its first sitting in the next session. Sessions of provincial councils.

**75.** The provincial council shall elect from among its members a chairman and may make rules for the conduct of its proceedings. Such rules shall be transmitted by the administrator to the Governor-General and shall have full force and effect unless and until the Governor-General in council shall express his disapproval thereof in writing addressed to the administrator. Chairmen of provincial councils.

**76.** The members of the provincial council shall receive such allowances as shall be determined by the Governor-General in Council. Allowances of provincial councillors.

**77.** There shall be freedom of speech in the provincial council, and no member shall be liable to any action or proceeding in any court by reason of his speech or vote in such council. Freedom of speech in provincial councils.

#### *Executive Committees.*

**78.**—(1) Each provincial council shall at its first meeting after any general election elect from among its members, or (113.) Provincial executive committees.



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otherwise, four persons to form with the administrator who shall be chairman an executive committee for the province. The members of the executive committee other than the administrator shall hold office until the election of their successors in the same manner.

5

(2) Such members shall receive such remuneration as the provincial council, with the approval of the Governor-General in Council, shall determine.

(3) A member of the provincial council shall not be disqualified from sitting as a member by reason of his having been 10 elected as a member of the executive committee.

(4) Any casual vacancy arising in the executive committee shall be filled by election by the provincial council if then in session or, if the council is not in session, by a person appointed by the executive committee to hold office temporarily pending an 15 election by the council.

Right of administrator, &c. to take part in proceedings of provincial council.

**79.** The administrator and any other member of the executive committee of a province not being a member of the provincial council shall have the right to take part in the proceedings of the council, but shall not have the right to vote.

20

Powers of provincial executive committees.

**80.** The executive committee shall on behalf of the provincial council carry on the administration of provincial affairs. Until the first election of members to serve on the executive committee such administration shall be carried on by the administrator. Whenever there are not sufficient members of the executive 25 committee to form a quorum according to the rules of the committee the administrator shall, as soon as practicable, convene a meeting of the provincial council for the purpose of electing members to fill the vacancies, and until such election the administrator shall carry on the administration of provincial affairs.

30

Transfer of powers to provincial executive committees.

**81.** Subject to the provisions of this Act all powers, authorities and functions, which at the establishment of the Union are in any of the Colonies vested in or exercised by the Governor or the Governor in Council or any minister of the Colony, shall after such establishment be vested in the executive committee of the 35 province so far as such powers, authorities, and functions relate to matters in respect of which the provincial council is competent to make ordinances.

Voting in executive committees.

**82.** Questions arising in the executive committee shall be determined by a majority of votes of the members present and 40

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in case of an equality of votes the administrator shall have also a casting vote. Subject to the approval of the Governor-General in Council, the executive committee may make rules for the conduct of its proceedings.

5      **83.** Subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of public officers, the executive committee shall have power to appoint such officers as may be necessary, in addition to officers assigned to the province by the

10 Governor-General in Council under the provisions of this Act, to carry out the services entrusted to them and to make and enforce regulations for the organisation and discipline of such officers.

Tenure of  
office by  
members of  
executive  
committees.

15 **84.** In regard to all matters in respect of which no powers are reserved or delegated to the provincial council the administrator shall act on behalf of the Governor-General in Council when required to do so, and in such matters the administrator may act without reference to the other members of the executive committee.

### *Powers of Provincial Councils.*

20      **85.** Subject to the provisions of this Act and the assent of the Governor-General in Council as hereinafter provided, the provincial council may make ordinances in relation to matters coming within the following classes of subjects, that is to say:—

Powers of provincial councils.

(i) Direct taxation within the province in order to raise a revenue for provincial purposes:

(ii) The borrowing of money on the sole credit of the province with the consent of the Governor-General in Council and in accordance with regulations to be framed by Parliament :

30 (iii) Education, other than higher education, for a period of  
five years and thereafter until Parliament otherwise  
provides :

(iv) Agriculture to the extent and subject to the conditions to be defined by Parliament:

35 (v) The establishment, maintenance, and management of hospitals and charitable institutions :

(vi) Municipal institutions, divisional councils, and other local institutions of a similar nature :

(113.) D 2

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- (vii) Local works and undertakings within the province, other than railways and harbours and other than such works as extend beyond the borders of the province, and subject to the power of Parliament to declare any work a national work and to provide for its construction by arrangement with the provincial council or otherwise : 5
- (viii) Roads, outspans, pounts, and bridges, other than bridges connecting two provinces :
- (ix) Markets and pounds : 10
- (x) Fish and game preservation :
- (xi) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law or any ordinance of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section : 15
- (xii) Generally all matters which, in the opinion of the Governor-General in Council, are of a merely local or private nature in the province :
- (xiii) All other subjects in respect of which Parliament shall 20 by any law delegate the power of making ordinances to the provincial council.

Effect of provincial ordinances.

**86.** Any ordinance made by a provincial council shall have effect in and for the province as long and as far only as it is not repugnant to any Act of Parliament. 25

Recommendations to Parliament.

**87.** A provincial council may recommend to Parliament the passing of any law relating to any matter in respect of which such council is not competent to make ordinances.

Power to deal with matters proper to be dealt with by private Bill legislation.

**88.** In regard to any matter which requires to be dealt with by means of a private Act of Parliament the provincial council 30 of the province to which the matter relates may, subject to such procedure as shall be laid down by Parliament, take evidence by means of a Select Committee or otherwise for and against the passing of such law, and upon receipt of a report from such council, together with the evidence upon which it is founded, 35 Parliament may pass such Act without further evidence being taken in support thereof.

Constitution of provincial revenue fund.

**89.** A provincial revenue fund shall be formed in every province, into which shall be paid all revenues raised by or accruing to the provincial council and all moneys paid over by 40

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the Governor-General in Council to the provincial council. Such fund shall be appropriated by the provincial council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the Governor-General in Council 5 for particular purposes, then for such purposes, but no such ordinance shall be passed by the provincial council unless the administrator shall have first recommended to the council to make provision for the specific service for which the appropriation is to be made. No money shall be issued from the provincial 10 revenue fund except in accordance with such appropriation and under warrant signed by the administrator: Provided that until the expiration of one month after the first meeting of the provincial council the administrator may expend such moneys as may be necessary for the services of the province.

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15 **90.** When a proposed ordinance has been passed by a provincial council it shall be presented by the administrator to the Governor-General in Council for his assent. The Governor-General in Council shall declare within one month from the presentation to him of the proposed ordinance that he assents 20 thereto, or that he withholds assent or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until within one year from the day on which it was presented to the Governor-General in Council he makes known by proclamation 25 that it has received his assent.

Assent to provincial ordinances.

**91.** An ordinance assented to by the Governor-General in Council and promulgated by the administrator shall, subject to the provisions of this Act, have the force of law within the province. The administrator shall cause two fair copies of every 30 such ordinance, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to 35 the provisions of such ordinance, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

Effect and enrolment of ordinances.

*Miscellaneous.*

**92.**—(1) In each province there shall be an auditor of 40 accounts to be appointed by the Governor-General in Council.

Audit of provincial accounts.

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(2) No such auditor shall be removed from office except by the Governor-General in Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, and if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(3) Each such auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General in Council, with the approval of Parliament, shall determine.

(4) Each such auditor shall examine and audit the accounts of the province to which he is assigned subject to such regulations and orders as may be framed by the Governor-General in Council and approved by Parliament, and no warrant signed by the administrator authorising the issuing of money shall have effect unless countersigned by such auditor.

15

Continuation  
of powers of  
divisional  
and municipal  
councils.

**93.** Notwithstanding anything in this Act contained, all powers, authorities and functions lawfully exercised at the establishment of the Union by divisional or municipal councils or any other duly constituted local authority shall be and remain in force until varied or withdrawn by Parliament or by a provincial council having power in that behalf.

Seats of  
provincial  
government.

**94.** The seats of provincial government shall be—

|                           |   |                   |
|---------------------------|---|-------------------|
| For the Cape of Good Hope | - | Cape Town.        |
| For Natal                 | - | Pietermaritzburg. |
| For the Transvaal         | - | Pretoria.         |
| For the Orange Free State | - | Bloemfontein.     |

25

#### VI.—THE SUPREME COURT OF SOUTH AFRICA.

Constitution  
of Supreme  
Court.

**95.** There shall be a Supreme Court of South Africa consisting of a Chief Justice of South Africa, the ordinary judges of appeal and the other judges of the several divisions of the Supreme Court of South Africa in the provinces.

Appellate  
Division of  
Supreme  
Court.

**96.** There shall be an Appellate Division of the Supreme Court of South Africa, consisting of the Chief Justice of South Africa, two ordinary judges of appeal and two additional judges of appeal. Such additional judges of appeal shall be assigned by the Governor-General in Council to the Appellate Division from any of the provincial or local divisions of the Supreme Court of South Africa, but shall continue to perform their duties

35



as judges of their respective divisions when their attendance is not required in the Appellate Division. A.D. 1909.

97. The Governor-General in Council may, during the absence, illness, or other incapacity of the Chief Justice of South Africa, or of any ordinary or additional judge of appeal, appoint any other judge of the Supreme Court of South Africa to act temporarily as such chief justice, ordinary judge of appeal, or additional judge of appeal, as the case may be.

Filling of temporary vacancies in Appellate Division.

98.—(1) The several supreme courts of the Cape of Good Hope, Natal, and the Transvaal, and the High Court of the Orange River Colony shall, on the establishment of the Union, become provincial divisions of the Supreme Court of South Africa within their respective provinces, and shall each be presided over by a judge-president.

Constitution of provincial and local divisions of Supreme Court.

(2) The court of the eastern districts of the Cape of Good Hope, the High Court of Griqualand, the High Court of Witwatersrand, and the several circuit courts, shall become local divisions of the Supreme Court of South Africa within the respective areas of their jurisdiction as existing at the establishment of the Union.

(3) The said provincial and local divisions, referred to in this Act as superior courts, shall, in addition to any original jurisdiction exercised by the corresponding courts of the Colonies at the establishment of the Union, have jurisdiction in all matters—

(a) in which the Government of the Union or a person suing or being sued on behalf of such Government is a party :

(b) in which the validity of any provincial ordinance shall come into question.

(4) Unless and until Parliament shall otherwise provide, the said superior courts shall mutatis mutandis have the same jurisdiction in matters affecting the validity of elections of members of the House of Assembly and provincial councils as the corresponding courts of the Colonies have at the establishment of the Union in regard to parliamentary elections in such Colonies respectively.

99. All judges of the supreme courts of the Colonies, including the High Court of the Orange River Colony, holding

Continuation in office of existing judges.

A.D. 1909. office at the establishment of the Union shall on such establishment become judges of the Supreme Court of South Africa, assigned to the divisions of the Supreme Court in the respective provinces, and shall retain all such rights in regard to salaries and pensions as they may possess at the establishment of the 5 Union. The Chief Justices of the Colonies holding office at the establishment of the Union shall on such establishment become the Judges-President of the divisions of the Supreme Court in the respective provinces, but shall so long as they hold that office retain the title of Chief Justice of their respective provinces. 10

Appoint-  
ment and re-  
muneration  
of judges.

**100.** The Chief Justice of South Africa, the ordinary judges of appeal, and all other judges of the Supreme Court of South Africa to be appointed after the establishment of the Union shall be appointed by the Governor-General in Council, and shall receive such remuneration as Parliament shall prescribe, and their 15 remuneration shall not be diminished during their continuance in office.

Tenure of  
office by  
judges.

**101.** The Chief Justice of South Africa and other judges of the Supreme Court of South Africa shall not be removed from office except by the Governor-General in Council on an address 20 from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

Reduction in  
number of  
judges.

**102.** Upon any vacancy occurring in any division of the Supreme Court of South Africa other than the Appellate Division the Governor-General in Council may, in case he shall consider 25 that the number of judges of such court may with advantage to the public interest be reduced, postpone filling the vacancy until Parliament shall have determined whether such reduction shall take place.

Appeals to  
Appellate  
Division.

**103.** In every civil case in which, according to the law in 30 force at the establishment of the Union, an appeal might have been made to the Supreme Court of any of the Colonies from a Superior Court in any of the Colonies, or from the High Court of Southern Rhodesia, the appeal shall be made only to the Appellate Division ; except in cases of orders or judgments given 35 by a single judge, upon applications by way of motion or petition or on summons for provisional sentence or judgments as to costs only, which by law are left to the discretion of the court. The appeal from any such orders or judgments, as well as any appeal in criminal cases from any such Superior Court, or the 40 special reference by any such court of any point of law in



a criminal case, shall be made to the provincial division corresponding to the court which before the establishment of the Union would have had jurisdiction in the matter. There shall be no further appeal against any judgment given on appeal by such  
 5 provincial division except to the Appellate Division, and then only if the Appellate Division shall have given special leave to appeal.

A.D. 1909.

**104.** In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made  
 10 from the Supreme Court of any of the Colonies or from the High Court of the Orange River Colony to the King in Council, the appeal shall be made only to the Appellate Division: Provided that the right of appeal in any civil suit shall not be limited by reason only of the value of the matter in dispute or the amount  
 15 claimed or awarded in such suit.

Existing appeals.

**105.** In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from a court of resident magistrate or other inferior court to a superior court in any of the Colonies, the appeal shall be made  
 20 to the corresponding division of the Supreme Court of South Africa; but there shall be no further appeal against any judgment given on appeal by such division except to the Appellate Division, and then only if the Appellate Division shall have given special leave to appeal.

Appeals from inferior courts to provincial divisions.

**106.** There shall be no appeal from the Supreme Court of South Africa or from any division thereof to the King in Council, but nothing herein contained shall be construed to impair any right which the King in Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King  
 30 in Council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but Bills containing any such limitation shall be reserved by the Governor-General for the signification of His Majesty's pleasure: Provided that nothing in this section shall affect any right of appeal to  
 35 His Majesty in Council from any judgment given by the Appellate Division of the Supreme Court under or in virtue of the Colonial Courts of Admiralty Act, 1890.

Provisions as to appeals to the King in Council.

**107.** The Chief Justice of South Africa and the ordinary judges of appeal may, subject to the approval of the Governor-General in Council, make rules for the conduct of the proceedings of the Appellate Division and prescribing the time and

Rules of procedure in Appellate Division.

A.D. 1909. — manner of making appeals thereto. Until such rules shall have been promulgated the rules in force in the Supreme Court of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply.

Rules of procedure in provincial and local divisions.

**108.** The chief justice and other judges of the Supreme Court of South Africa may, subject to the approval of the Governor-General in Council, frame rules for the conduct of the proceedings of the several provincial and local divisions. Until such rules shall have been promulgated the rules in force at the establishment of the Union in the respective courts which become divisions of the Supreme Court of South Africa shall continue to apply therein. 5 10

Place of sittings of Appellate Division.

**109.** The Appellate Division shall sit in Bloemfontein, but may from time to time for the convenience of suitors hold its sittings at other places within the Union. 15

Quorum for hearing appeals.

**110.** On the hearing of appeals from a court consisting of two or more judges, five judges of the Appellate Division shall form a quorum, but on the hearing of appeals from a single judge, three judges of the Appellate Division shall form a quorum. No judge shall take part in the hearing of any appeal against the judgment given in a case heard before him. 20

Jurisdiction of Appellate Division.

**111.** The process of the Appellate Division shall run throughout the Union, and all its judgments or orders shall have full force and effect in every province, and shall be executed in like manner as if they were original judgments or orders of the provincial division of the Supreme Court of South Africa in such province. 25

Execution of processes of provincial divisions.

**112.** The registrar of every provincial division of the Supreme Court of South Africa, if thereto requested by any party in whose favour any judgment or order has been given or made by any other division, shall, upon the deposit with him of an authenticated copy of such judgment or order and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the division of which he is registrar. 30 35

Transfer of suits from one provincial or

**113.** Any provincial or local division of the Supreme Court of South Africa to which it may be made to appear that any civil suit pending therein may be more conveniently or fitly 40

heard or determined in another division may order the same to be removed to such other division, and thereupon such last-mentioned division may proceed with such suit in like manner as if it had been originally commenced therein.

A.D. 1909.  
local divi-  
sion to an-  
other.

- 5 **114.** The Governor-General in Council may appoint a registrar of the appellate division and such other officers thereof as shall be required for the proper dispatch of the business thereof.

Registrar  
and officers  
of Appellate  
Division.

- 115.**—(1) The laws regulating the admission of advocates and attorneys to practise before any superior court of any of the Colonies shall mutatis mutandis apply to the admission of advocates and attorneys to practise in the corresponding division of the Supreme Court of South Africa.

Advocates  
and attor-  
neys.

- (2) All advocates and attorneys entitled at the establishment of the Union to practise in any superior court of any of the Colonies shall be entitled to practise as such in the corresponding division of the Supreme Court of South Africa.

- (3) All advocates and attorneys entitled to practise before any provincial division of the Supreme Court of South Africa shall be entitled to practise before the Appellate Division.

- 20 **116.** All suits, civil or criminal, pending in any superior court of any of the Colonies at the establishment of the Union shall stand removed to the corresponding division of the Supreme Court of South Africa, which shall have jurisdiction to hear and determine the same, and all judgments and orders of any superior court of any of the Colonies given or made before the establishment of the Union shall have the same force and effect as if they had been given or made by the corresponding division of the Supreme Court of South Africa. All appeals to the King in Council which shall be pending at the establishment of the Union shall be proceeded with as if this Act had not been passed.

Pending  
suits.

## VII.—FINANCE AND RAILWAYS.

- 117.** All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation, shall vest in the Governor-General in Council. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues raised or received by the Governor-General in Council from the administration of the railways, ports, and harbours, and such fund shall be appropriated

Constitution  
of Consolida-  
ted Revenue  
Fund and  
Railway and  
Harbour  
Fund.

A.D. 1909. — by Parliament to the purposes of the railways, ports, and harbours in the manner prescribed by this Act. There shall also be formed a Consolidated Revenue Fund, into which shall be paid all other revenues raised or received by the Governor-General in Council, and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act, and subject to the charges imposed thereby.

Commission  
of inquiry  
into financial  
relations  
between  
Union and  
provinces.

**118.** The Governor-General in Council shall, as soon as may be after the establishment of the Union, appoint a commission, consisting of one representative from each province, and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should exist between the Union and the provinces. Pending the completion of that inquiry and until Parliament otherwise provides, there shall be paid annually out of the Consolidated Revenue Fund to the administrator of each province—

- (a) an amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year, 1908-9, as voted by the Legislature of the corresponding colony during the year nineteen hundred and eight;
- (b) such further sums as the Governor-General in Council may consider necessary for the due performance of the services and duties assigned to the provinces respectively.

25

Until such inquiry shall be completed and Parliament shall have made other provision, the executive committees in the several provinces shall annually submit estimates of their expenditure for the approval of the Governor-General in Council, and no expenditure shall be incurred by any executive committee which is not provided for in such approved estimates.

Security for  
existing  
public debts.

**119.** The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form a first charge on the Consolidated Revenue Fund.

35

Require-  
ments for  
withdrawal  
of money  
from funds.

**120.** No money shall be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund except under appropriation made by law. But until the expiration of two months after the first meeting of Parliament, the Governor-General in Council may draw therefrom and expend such moneys as may

40

[9 Edw. 7.]

*South African Constitution.*

31

be necessary for the public service, and for railway and harbour administration respectively. A.D. 1909.

- 121.** All stocks, cash, bankers' balances and securities for money belonging to each of the Colonies at the establishment of the Union shall be the property of the Union: Provided that the balances of any funds raised at the establishment of the Union by law for any special purposes in any of the Colonies shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided. Transfer of Colonial property to the Union.
- 122.** Crown lands, public works, and all property throughout the Union, movable or immovable, and all rights of whatever description belonging to the several Colonies at the establishment of the Union shall vest in the Governor-General in Council subject to any debt or liability specifically charged thereon. Crown lands, &c.
- 123.** All rights in and to mines and minerals, and all rights in connection with the searching for, working for, or disposing of minerals or precious stones, which at the establishment of the Union are vested in the Government of any of the Colonies, shall on such establishment vest in the Governor-General in Council. Mines and minerals.
- 124.** The Union shall assume all debts and liabilities of the Colonies existing at its establishment, subject, notwithstanding any other provision contained in this Act, to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund and other charges conferred on the creditors of any of the Colonies, and may, subject to such conditions and rights, convert, renew, or consolidate such debts. Assumption by Union of colonial debts.
- 125.** All ports, harbours, and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General in Council. No railway for the conveyance of public traffic, and no port, harbour, or similar work, shall be constructed without the sanction of Parliament. Ports, harbours, and railways.
- 126.** Subject to the authority of the Governor-General in Council, the control and management of the railways, ports, and harbours of the Union shall be exercised through a board consisting of not more than three commissioners, who shall be appointed by the Governor-General in Council, and a minister Constitution of Harbour and Railway Board.



A.D. 1909. — of State, who shall be chairman. Each commissioner shall hold office for a period of five years, but may be re-appointed. He shall not be removed before the expiration of his period of appointment, except by the Governor-General in Council for cause assigned, which shall be communicated by message to both 5 Houses of Parliament within one week after the removal, if Parliament be then sitting, or if Parliament be not sitting, then within one week after the commencement of the next ensuing session. The salaries of the commissioners shall be fixed by Parliament and shall not be reduced during their respective 10 terms of office. \*

Administra-  
tion of rail-  
ways, ports,  
and harbours.

**127.** The railways, ports, and harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union and promotion, by means of cheap transport, of the settlement of an 15 agricultural and industrial population in the inland portions of all provinces of the Union. So far as may be, the total earnings shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation, and the pay- 20 ment of interest due on capital not being capital contributed out of railway or harbour revenue, and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections one hundred and thirty and one hundred and thirty-one. The amount of interest due on such capital invested shall be paid over from the Railway and 25 Harbour Fund into the Consolidated Revenue Fund. The Governor-General in Council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of 30 four years from the establishment of the Union. During such period, if the revenues accruing to the Consolidated Revenue Fund are insufficient to provide for the general service of the Union, and if the earnings accruing to the Railway and Harbour Fund are in excess of the outlays specified herein, Parliament 35 may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the Consolidated Revenue Fund.

Establish-  
ment of fund  
for main-  
taining uni-  
formity of  
railway rates.

**128.** Notwithstanding anything to the contrary in the last preceding section, the Board may establish a fund out of railway 40 and harbour revenue to be used for maintaining, as far as may be, uniformity of rates notwithstanding fluctuations in traffic.

**129.** All balances standing to the credit of any fund established in any of the Colonies for railway or harbour purposes at the establishment of the Union, shall be under the sole control and management of the Board, and shall be deemed to have  
5 been appropriated by Parliament for the respective purposes for which they have been provided.

A.D. 1909.  
Management  
of railway  
and harbour  
balances.

**130.** Every proposal for the construction of any port or harbour works or of any line of railway, before being submitted to Parliament, shall be considered by the Board, which shall report  
10 thereon, and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board is of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the  
15 costs of working and maintenance, and of interest on the capital invested therein, it shall frame an estimate of the annual loss which, in its opinion, will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid  
20 over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund: Provided that if in any year the actual loss incurred, as calculated by the Board and certified to by the Controller and Auditor-General, is less than the estimate framed by the Board, the amount paid over in respect of that year shall  
25 be reduced accordingly so as not to exceed the actual loss incurred. In calculating the loss arising from the operation of any such work or line the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

Construction  
of harbour  
and railway  
works.

**131.** If the Board shall be required by the Governor-General in Council or under any Act of Parliament or resolution of both Houses of Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or  
35 facilities, the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General, showing, as nearly as can be ascertained, the amount of the loss incurred by reason of the provision of such services and facilities, and such amount shall be paid out  
40 of the Consolidated Revenue Fund to the Railway and Harbour Fund.

Making good  
of deficiencies  
in Railway  
Fund in cer-  
tain cases.



A.D. 1909.  
 Controller  
 and Auditor-  
 General.

**132.** The Governor-General in Council shall appoint a Controller and Auditor-General who shall hold office during good behaviour: provided that he shall be removed by the Governor-General in Council on an address praying for such removal presented to the Governor-General by both Houses of Parliament: provided further that when Parliament is not in session the Governor-General in Council may suspend such officer on the ground of incompetence or misbehaviour; and when and so often as such suspension shall take place a full statement of the circumstances shall be laid before both Houses of Parliament within fourteen days after the commencement of its next session; and if an address shall at any time during the session of Parliament be presented to the Governor-General by both Houses praying for the restoration to office of such officer he shall be restored accordingly; and if no such address be presented the Governor-General shall confirm such suspension and shall declare the office of Controller and Auditor-General to be, and it shall thereupon become, vacant. Until Parliament shall otherwise provide the Controller and Auditor-General shall exercise such powers and functions and undertake such duties as may be assigned to him by the Governor-General in Council by regulations framed in that behalf.

Compensa-  
 tion of  
 colonial  
 capitals for  
 diminution  
 of prosperity.

**133.** In order to compensate Pietermaritzburg and Bloemfontein for any loss sustained by them in the form of diminution of prosperity or decreased rateable value by reason of their ceasing to be the seats of government of their respective colonies, there shall be paid from the Consolidated Revenue Fund for a period not exceeding twenty-five years to the municipal councils of such towns a grant of two per centum per annum on their municipal debts, as existing on the thirty-first day of January nineteen hundred and nine, and as ascertained by the Controller and Auditor-General. The Commission appointed under section one hundred and eighteen shall, after due inquiry, report to the Governor-General in Council what compensation should be paid to the municipal councils of Cape Town and Pretoria for the losses, if any, similarly sustained by them. Such compensation shall be paid out of the Consolidated Revenue Fund for a period not exceeding twenty-five years, and shall not exceed one per centum per annum on the respective municipal debts of such towns as existing on the thirty-first January nineteen hundred and nine, and as ascertained by the Controller and Auditor-General. For the purposes of this section Cape Town

shall be deemed to include the municipalities of Cape Town, Green Point, and Sea Point, Woodstock, Mowbray, and Rondebosch, Claremont, and Wynberg, and any grant made to Cape Town shall be payable to the councils of such municipalities in proportion to their respective debts. One half of any such grants shall be applied to the redemption of the municipal debts of such towns respectively. At any time after the tenth annual grant has been paid to any of such towns the Governor-General in Council, with the approval of Parliament, may after due inquiry withdraw or reduce the grant to such town.

#### VIII.—GENERAL.

**134.** The election of senators and of members of the executive committees of the provincial councils as provided in this Act shall, whenever such election is contested, be according to the principle of proportional representation, each voter having one transferable vote. The Governor-General in Council, or in the case of the first election of the Senate, the Governor in Council of each of the Colonies, shall frame regulations prescribing the method of voting and of transferring and counting votes and the duties of returning officers in connection therewith, and such regulations or any amendments thereof after being duly promulgated shall have full force and effect unless and until Parliament shall otherwise provide.

Method of  
voting for  
senators, &c.

**135.** Subject to the provisions of this Act, all laws in force in the several Colonies at the establishment of the Union, shall continue in force in the respective provinces until repealed or amended by Parliament or by the provincial councils in matters in respect of which the power to make ordinances is reserved or delegated to them. All legal commissions in the several Colonies at the establishment of the Union shall continue as if the Union had not been established.

Continuation  
of existing  
colonial laws.

**136.** There shall be free trade throughout the Union, but until Parliament otherwise provides the duties of custom and of excise leviable under the laws existing in any of the Colonies at the establishment of the Union shall remain in force.

Free trade  
throughout  
Union.

**137.** Both the English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality and possess and enjoy equal freedom, rights, and privileges; all records, journals, and proceedings of Parliament shall

Equality  
of English  
and Dutch  
languages.

A.D. 1909. — be kept in both languages, and all Bills, Acts, and notices of general public importance or interest issued by the Government of the Union shall be in both languages.

Naturalisation.

**138.** All persons who have been naturalised in any of the Colonies shall be deemed to be naturalised throughout the 5 Union.

Administration of justice.

**139.** The administration of justice throughout the Union shall be under the control of a minister of State, in whom shall be vested all powers, authorities, and functions which shall at the establishment of the Union be vested in the Attorney-General of the Colonies, save and except all powers, authorities, and functions relating to the prosecution of crimes and offences, which shall in each province be vested in an officer to be appointed by the Governor-General in Council, and styled the Attorney-General of the province, who shall also discharge such other duties 15 as may be assigned to him by the Governor-General in Council: Provided that in the province of the Cape of Good Hope the Solicitor-General for the Eastern Districts and the Crown Prosecutor for Griqualand West shall respectively continue to exercise the powers and duties by law vested in them at the time of the 20 establishment of the Union.

Existing officers.

**140.** Subject to the provisions of the next succeeding section, all officers of the public service of the Colonies shall at the establishment of the Union become officers of the Union.

Reorganisation of public departments.

**141.**—(1) As soon as possible after the establishment of the 25 Union the Governor-General in Council shall appoint a public service commission to make recommendations for such reorganisation and readjustment of the departments of the public service as may be necessary. The commission shall also make recommendations in regard to the assignment of officers to the several 30 provinces.

(2) The Governor-General in Council may after such commission has reported assign from time to time to each province such officers as may be necessary for the proper discharge of the services reserved or delegated to it, and such officers on being so 35 assigned shall become officers of the province. Pending the assignment of such officers the Governor-General in Council may place at the disposal of the provinces the services of such officers of the Union as may be necessary.

(3) The provisions of this section shall not apply to any 40 service or department under the control of the Railway and Harbour Board or to any person holding office under the Board.

**142.** After the establishment of the Union the Governor-General in Council shall appoint a permanent public service commission with such powers and duties relating to the appointment, discipline, retirement, and superannuation of public officers as Parliament shall determine.

A.D. 1909.  
Public service commission.

**143.** Any officer of the public service of any of the Colonies at the establishment of the Union who is not retained in the service of the Union or assigned to that of a province shall be entitled to receive such pension, gratuity, or other compensation as he would have received in like circumstances if the Union had not been established.

Pensions of existing officers.

**144.** Any officer of the public service of any of the Colonies at the establishment of the Union who is retained in the service of the Union or assigned to that of a province shall retain all his existing and accruing rights, and shall be entitled to retire from the service at the time at which he would have been entitled by law to retire, and on the pension or retiring allowance to which he would have been entitled by law in like circumstances if the Union had not been established.

Tenure of office of existing officers.

**145.** The services of officers in the public service of any of the Colonies at the establishment of the Union shall not be dispensed with by reason of their want of knowledge of either the English or Dutch language.

Existing officers not to be dismissed for ignorance of English or Dutch.

**146.** Any permanent officer of the Legislature of any of the Colonies who is not retained in the service of the Union, or assigned to that of any province, and for whom no provision shall have been made by such Legislature, shall be entitled to such pension, gratuity, or compensation as Parliament may determine.

Compensation to existing officers who are not retained.

**147.** The control and administration of native affairs and of matters specially or differentially affecting Asiatics throughout the Union shall vest in the Governor-General in Council, who shall exercise all special powers in regard to native administration hitherto vested in the Governors of the Colonies or exercised by them as supreme chiefs, and any lands vested in the Governor or Governor and Executive Council of any colony for the purpose of reserves for native locations shall vest in the Governor-General in Council, who shall exercise all special powers in relation to such reserves as may hitherto have been exerciseable by any such Governor or Governor and Executive Council, and no lands

Administration of native affairs.

A.D. 1909. — set aside for the occupation of natives which cannot at the establishment of the Union be alienated except by an Act of the Colonial Legislature shall be alienated or in any way diverted from the purposes for which they are set apart except under the authority of an Act of the Parliament. 5

Devolution on Union of rights and obligations under conventions.

**148.**—(1) All rights and obligations under any conventions or agreements which are binding on any of the Colonies shall devolve upon the Union at its establishment.

(2) The provisions of the railway agreement between the Governments of the Transvaal, the Cape of Good Hope, and Natal, dated the second of February, nineteen hundred and nine, shall, as far as practicable, be given effect to by the Government of the Union. 10

#### IX.—NEW PROVINCES AND TERRITORIES.

Alteration of boundaries of provinces.

**149.** Parliament may alter the boundaries of any province, divide a province into two or more provinces, or form a new province out of provinces within the Union, on the petition of the provincial council of every province whose boundaries are affected thereby. 15

Power to admit into Union territories administered by British South Africa Company.

**150.** The King, with the advice of the Privy Council, may on addresses from the Houses of Parliament of the Union admit, into the Union the territories administered by the British South Africa Company on such terms and conditions as to representation, and otherwise, in each case as are expressed in the addresses and approved by the King, and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland. 20 25

Power to transfer to Union government of native territories.

**151.** The King, with the advice of the Privy Council, may, on addresses from the Houses of Parliament of the Union, transfer to the Union the government of any territories, other than the territories administered by the British South Africa Company, belonging to or under the protection of His Majesty, and inhabited wholly or in part by natives, and upon such transfer the Governor-General in Council may undertake the government of such territory upon the terms and conditions embodied in the Schedule to this Act. 30 35

## X.—AMENDMENT OF ACT.

A.D. 1909.

**152.** Parliament may by law repeal or alter any of the provisions of this Act: Provided that no provision thereof, for the operation of which a definite period of time is prescribed, shall during such period be repealed or altered: And provided further that no repeal or alteration of the provisions contained in this section or in sections thirty-three and thirty-four (until the number of members of the House of Assembly has reached the limit therein prescribed or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period) or in sections thirty-five and one hundred and thirty-seven, shall be valid unless the Bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.



A.D. 1909.

## SCHEDULE.

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1. After the transfer of the government of any territory belonging to or under the protection of His Majesty, the Governor-General in Council shall be the legislative authority, and may by proclamation make laws for the peace, order, and good government of such territory: 5  
Provided that all such laws shall be laid before both Houses of Parliament within seven days after the issue of the proclamation or, if Parliament be not then sitting, within seven days after the beginning of the next session, and shall be effectual unless and until both Houses of Parliament shall by resolutions passed in the same session request 10 the Governor-General in Council to repeal the same, in which case they shall be repealed by proclamation.

2. The Prime Minister shall be charged with the administration of any territory thus transferred, and he shall be advised in the general conduct of such administration by a commission consisting of not fewer 15 than three members with a secretary, to be appointed by the Governor-General in Council, who shall take the instructions of the Prime Minister in conducting all correspondence relating to the territories, and shall also under the like control have custody of all official papers relating to the territories. 20

3. The members of the commission shall be appointed by the Governor-General in Council, and shall be entitled to hold office for a period of ten years, but such period may be extended to successive further terms of five years. They shall each be entitled to a fixed annual salary, which shall not be reduced during the continuance of 25 their term of office, and they shall not be removed from office except upon addresses from both Houses of Parliament passed in the same session praying for such removal. They shall not be qualified to become, or to be, members of either House of Parliament. One of the members of the commission shall be appointed by the Governor-General 30 in Council as vice-chairman thereof. In case of the absence, illness, or other incapacity of any member of the commission, the Governor-General in Council may appoint some other fit and proper person to act during such absence, illness, or other incapacity.

4. It shall be the duty of the members of the commission to 35 advise the Prime Minister upon all matters relating to the general conduct of the administration of, or the legislation for, the said territories. The Prime Minister or another minister of State nominated by the Prime Minister to be his deputy for a fixed period, or, failing such nomination, the vice-chairman, shall preside at all meetings of the 40



commission, and in case of an equality of votes shall have a casting vote. Two members of the commission shall form a quorum. In case the commission shall consist of four or more members, three of them shall form a quorum. A.D. 1909.

5     5. Any member of the commission who dissents from the decision of a majority shall be entitled to have the reasons for his dissent recorded in the minutes of the commission.

6. The members of the commission shall have access to all official papers concerning the territories, and they may deliberate on any matter  
10 relating thereto and tender their advice thereon to the Prime Minister.

7. Before coming to a decision on any matter relating either to the administration, other than routine, of the territories or to legislation therefor the Prime Minister shall cause the papers relating to such matter to be deposited with the secretary to the commission, and shall  
15 convene a meeting of the commission for the purpose of obtaining its opinion on such matter.

8. Where it appears to the Prime Minister that the despatch of any communication or the making of any order is urgently required, the communication may be sent or order made, although it has not been  
20 submitted to a meeting of the commission or deposited for the perusal of the members thereof. In any such case the Prime Minister shall record the reasons for sending the communication or making the order and give notice thereof to every member.

9. If the Prime Minister does not accept a recommendation of the  
25 commission or proposes to take some action contrary to their advice, he shall state his views to the commission, who shall be at liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the Prime Minister before the Governor-General in Council, whose decision in the matter shall be final.

30     10. When the recommendations of the commission have not been accepted by the Governor-General in Council, or action not in accordance with their advice has been taken by the Governor-General in Council, the Prime Minister, if thereto requested by the commission, shall lay the record of their dissent from the decision or action taken and of  
35 the reasons therefor before both Houses of Parliament, unless in any case the Governor-General in Council shall transmit to the commission a minute recording his opinion that the publication of such record and reasons would be gravely detrimental to the public interest.

40     11. The Governor-General in Council shall appoint a resident commissioner for each territory, who shall, in addition to such other duties as shall be imposed on him, prepare the annual estimates of revenue and expenditure for such territory, and forward the same to the secretary to the commission for the consideration of the commission and of the Prime Minister. A proclamation shall be issued by the

A.D. 1909. — Governor-General in Council, giving to the provisions for revenue and expenditure made in the estimates as finally approved by the Governor-General in Council the force of law.

12. There shall be paid into the Treasury of the Union all duties of customs levied on dutiable articles imported into and consumed in the territories, and there shall be paid out of the Treasury annually towards the cost of administration of each territory a sum in respect of such duties which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average amount of the customs revenue of such territory for the three completed financial years last preceding the taking effect of this Act bore to the average amount of the whole customs revenue for all the Colonies and territories included in the Union received during the same period. 5 10

13. If the revenue of any territory for any financial year shall be insufficient to meet the expenditure thereof, any amount required to make good the deficiency may, with the approval of the Governor-General in Council, and on such terms and conditions, and in such manner as with the like approval may be directed or prescribed, be advanced from the funds of any other territory. In default of any such arrangement, the amount required to make good any such deficiency shall be advanced by the Government of the Union. In case there shall be a surplus for any territory such surplus shall in the first instance be devoted to the repayment of any sums previously advanced by any other territory or by the Union Government to make good any deficiency in the revenue of such territory. 15 20 25

14. It shall not be lawful to alienate any land in Basutoland or any land forming part of the native reserves in the Bechuanaland protectorate and Swaziland from the native tribes inhabiting those territories.

15. The sale of intoxicating liquor to natives shall be prohibited in the territories, and no provision giving facilities for introducing, obtaining, or possessing such liquor in any part of the territories less stringent than those existing at the time of transfer shall be allowed. 30

16. The custom, where it exists, of holding pitsos or other recognised forms of native assembly shall be maintained in the territories. 35

17. No differential duties or imposts on the produce of the territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the territories.

18. There shall be free intercourse for the inhabitants of the territories with the rest of South Africa subject to the laws, including the pass laws, of the Union. 40

19. Subject to the provisions of this Schedule, all revenues derived from any territory shall be expended for and on behalf of such territory :

Provided that the Governor-General in Council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and other services performed by the Union for the benefit of the whole of South Africa, so, however, that

5 that contribution shall not bear a higher proportion to the total cost of such services than that which the amount payable under paragraph 12 of this Schedule from the Treasury of the Union towards the cost of the administration of the territory bears to the total customs revenue of the Union on the average of the three years immediately preceding

10 the year for which the contribution is made.

20. The King may disallow any law made by the Governor-General in Council by proclamation for any territory within one year from the date of the proclamation, and such disallowance on being made known by the Governor-General by proclamation shall annul the law from the day

15 when the disallowance is so made known.

21. The members of the commission shall be entitled to such pensions or superannuation allowances as the Governor-General in Council shall by proclamation provide, and the salaries and pensions of such members and all other expenses of the commission shall be borne by the territories in

20 the proportion of their respective revenues.

22. The rights as existing at the date of transfer of officers of the public service employed in any territory shall remain in force.

23. Where any appeal may by law be made to the King in Council from any court of the territories, such appeal shall, subject to the

25 provisions of this Act, be made to the Appellate Division of the Supreme Court of South Africa.

24. The Commission shall prepare an annual report on the territories, which shall, when approved by the Governor-General in Council, be laid before both Houses of Parliament.

30 25. All bills to amend or alter the provisions of this Schedule shall be reserved for the signification of His Majesty's pleasure.

**South African Constitution**  
**[H.L.]**

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A

**B I L L**

[INTITULED

An Act to constitute the Union of South  
Africa.

*The Lord Privy Seal (E. Crewe).*

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Ordered to be printed 22nd July 1909.

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(113.)

# South Africa Bill. [H.L.]

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## A M E N D M E N T S

TO BE MOVED IN COMMITTEE

BY

THE LORD COURTNEY OF PENWITH.

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Clause 26, page 6, line 15, after ("subject") insert ("and if  
" representing the Province of Transvaal or Orange Free State")

Clause 44, page 12, line 16, after ("subject") insert ("and if  
" representing a constituency in the Province of Transvaal or  
" Orange Free State")

Clause 151, page 29, line 37, after ("Act") insert ("provided  
" always that no such transfer shall be made until the terms and  
" conditions of the transfer are made known to the Chiefs and  
" inhabitants of such territory, and opportunity is given them to  
" express their desires with respect to such transfer, or in support  
" of any modification in its terms and conditions")

page 38, line 29, after ("may") insert ("at the  
" expiration of ten years from the establishment of the Union")

Leave out clause 151.

**South Africa Bill.**  
**[H.L.]**

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**A M E N D M E N T S**

**TO BE MOVED IN COMMITTEE**

**BY**

**THE LORD COURTNEY OF  
PENWYTH.**

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*29th July 1909.*

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(113*a.*)

**South African Constitution Bill. [H.L.]**

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**T O B E M O V E D I N C O M M I T T E E**

**B Y**

**T H E L O R D M A C D O N N E L L .**

---

Clause 35, insert the following additional sub-clause :—

“(3) No such Bill shall be introduced into Parliament until ten years, counting from the date of the establishment of the Union, shall have elapsed.”

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**South African  
Constitution Bill.**  
[H.L.]

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**A M E N D M E N T**  
**TO BE MOVED IN COMMITTEE**  
**BY**  
**THE LORD MACDONNELL.**

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[Price 5d.]  
(113 b.)

**Summary Jurisdiction (Scotland)  
Act, 1908, Amendment Bill. [H.L.]**

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MEMORANDUM.

Owing to the phraseology of section 32 (4) of the Summary Jurisdiction (Scotland) Act, 1908, which came into operation on the 1st June 1909, a doubt has been expressed as to the competency of remanding accused persons for detention in police cells pending summary trial. This Bill is intended to make it clear that the new Act has not in this respect altered the law.

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[9 EDW. 7.] *Summary Jurisdiction (Scotland) Act, 1908,* 1  
*Amendment.* [H.L.]

## A

## B I L L

## INTITULED

An Act to remove doubts as to the manner in which A.D. 1909.  
 accused persons may be detained in custody, pending  
 trial, under the provisions of the Summary Jurisdiction  
 (Scotland) Act, 1908.

**B**E it 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:—

- 5     **1.** This Act shall extend to Scotland only, and may be Extent, cita-  
 cited as the Summary Jurisdiction (Scotland) Act, 1908, Amend- tion, and  
 ment Act, 1909, and the Summary Jurisdiction (Scotland) Act, short title.  
 1908, and this Act may be cited together as the Summary 8 Edw. 7.  
 Jurisdiction (Scotland) Acts. c. 65.
- 10     **2.** It is hereby declared that where, in any case, prior to Power to de-  
 the commencement of the Summary Jurisdiction (Scotland) Act, tain pending  
 1908, it was lawful, pending trial, to exercise the power of trial other-  
 detaining an accused person in custody, otherwise than in prison, wise than in  
 nothing contained in the said Act shall be construed as making prison.  
 15 it unlawful, or as having at any time prior to the passing of  
 this Act made it unlawful, in the like case to exercise the like  
 power of detention.





**Summary Jurisdiction  
(Scotland) Act, 1908,  
Amendment. [H.L.]**

---

A

**B I L L**

INTITLED

An Act to remove doubts as to the manner in which accused persons may be detained in custody, pending trial, under the provisions of the Summary Jurisdiction (Scotland) Act, 1908.

*The Lord Pentland.*

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Ordered to be printed 29th July 1908.

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[Price 1d.]  
(127.)



## **Superannuation Bill.**

### **ARRANGEMENT OF CLAUSES.**

Clause.

1. Superannuation allowances and additional allowances to future male civil servants.
  2. Gratuity in case of death of future male civil servants.
  3. Application to existing male civil servants.
  4. Method of calculating allowances.
  5. Power to revoke and alter warrants under 50 & 51 Vict. c. 67. s. 1.
  6. Compensation on abolition of office.
  7. Rules.
  8. Short title and construction.
-



## A

## B I L L

## INTITULED

An Act to amend the Superannuation Acts, 1834 to 1892. A.D. 1909.

**B**E it 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:—

- 5     **1.**—(1) The proportion of the annual salary and emoluments on which the scale of the superannuation allowances to be granted to male civil servants is to be calculated shall, in the case of civil servants who enter the service after the passing of this Act, be one-eightieth instead of one-sixtieth, and accordingly
- 10 section two of the Superannuation Act, 1859, shall, as respects such civil servants, have effect as if for the words "sixtieth" and "sixtieths," wherever they occur, there were substituted the words "eightieth" and "eightieths."

Superannua-  
tion allow-  
ances and  
additional  
allowances  
to future  
male civil  
servants.  
22 Vict.  
c. 26.

- (2) The Treasury may grant by way of additional allowance
- 15 to any such civil servant who retires after having served for not less than two years, in addition to the superannuation allowance (if any) to which he may become entitled or the gratuity (if any) which may be granted to him under section six of the Superannuation Act, 1859, a lump sum equal to one-thirtieth of the
- 20 annual salary and emoluments of his office multiplied by the number of completed years he has served, so, however, that the additional allowance shall in no case exceed one and a half times the amount of such salary and emoluments:

- Provided that if a civil servant retires from the service
- 25 after attaining the age of sixty-five years there shall be deducted from the amount of the additional allowance which would other-
- (139.)

A.D. 1909. — wise be payable to him one-twentieth of that amount for every completed year he has served after attaining that age.

Gratuity in  
case of death  
of future  
male civil  
servants.

2.—(1) Where a male civil servant who enters the service after the passing of this Act dies, after he has served five years or upwards, whilst still employed in the service, the Treasury 5 may grant to his legal personal representatives a gratuity equal to the annual salary and emoluments of his office :

Provided that if he dies after attaining the age of sixty-five years the amount of the gratuity which may be so granted shall be reduced by one-twentieth of that amount for every completed 10 year he has served after attaining that age.

(2) Where any such civil servant having become entitled to a superannuation allowance dies after he has retired from the service, and the sums actually received by him at the time of his death on account of such superannuation allowance, together 15 with the sum received by him by way of additional allowance, are less than the amount of the annual salary and emoluments of his office, the Treasury may grant to his legal personal representatives a gratuity equal to the deficiency.

Application  
to existing  
male civil  
servants.

3.—(1) Subject to regulations made by the Treasury, the 20 Treasury may allow any male civil servant who has entered the service before the date of the passing of this Act, and who at that date is under sixty years of age, to adopt the provisions of this Act, and in such case there may be granted to him or his legal personal representatives such superannuation and other 25 allowances and gratuity as might have been granted had he entered the service after the passing of this Act, except that the amount of the additional allowance payable on retirement shall be increased by one-half per cent. in respect of each completed year he had served at the passing of this Act. 30

(2) Nothing in this Act shall affect the right to superannuation allowance or gratuity of a civil servant who has entered the service before the passing of this Act, and who either is at that time over sixty years of age or is under sixty years of age, and does not adopt the provisions of this Act. 35

Method of  
calculating  
allowances.

4. Subject to the provisions of this Act, the provisions of the Superannuation Acts, 1834 to 1892, with respect to the qualifications for obtaining superannuation allowances and gratuities and to the manner of reckoning years of service and amount of annual salary and emoluments and to the diminution of super- 40

[9 EDW. 7.]

*Superannuation.*

3

annuation allowances and to the determination of questions by the Treasury shall apply in respect of additional allowances and gratuities under this Act in like manner as they apply in respect of superannuation allowances under those Acts. A.D. 1909.

5     **5.** A warrant framed by the Treasury under section one of the Superannuation Act, 1887, with respect to the grant of gratuities and allowances to civil servants injured in the discharge of their duty may be revoked or from time to time varied by a fresh warrant, and every such warrant shall be laid before Parliament. Power to  
revoke and  
alter war-  
rants under  
50 & 51 Vict.  
c. 67. s. 1.

10     **6.**—(1) It shall be lawful for the Treasury to grant to any person retiring or removed from the public service in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation of the department to which he belonged, by which greater efficiency and economy can be  
15 effected, such special allowance or allowances by way of compensation as on a full consideration of the circumstances of the case seem to the Treasury to be a reasonable and just compensation for the loss of office, but not exceeding in any case the amount which a civil servant would be entitled to, or which might be granted to  
20 a civil servant, if he retired on the ground of ill-health. Compensa-  
tion on  
abolition of  
office.

(2) The foregoing provision shall apply only to persons entering the service after the date of the passing of this Act, and shall apply to those persons in substitution for section seven of the Superannuation Act, 1859.

25     Nothing herein contained shall affect the application of the said section seven of the Superannuation Act, 1859, to persons who have entered the service before that date or the practice of the Treasury thereunder.

30     **7.**—(1) The Treasury may from time to time make rules for the purpose of carrying this Act into effect and for making such adaptations and modifications of the provisions of the Superannuation Acts, 1834 to 1892, and other enactments relating to superannuation allowances and pensions of persons who have served partly in the civil service and partly in some other  
35 service entitling them to a pension as may be necessary for adapting those provisions to the provisions of this Act, and for altering the rules made by the Treasury under the Superannuation Act, 1892. Rules.

(2) Before any rules made under this section come into  
40 force a draft thereof shall be laid before each House of Parliament for a period of not less than thirty days during the

A.D. 1909. session of Parliament, and if either of those Houses of Parliament before the expiration of those thirty days presents an address to His Majesty against the draft or any part thereof no further proceedings shall be taken thereon, without prejudice to the making of any new draft rules. 5

Short title  
and con-  
struction.

8. This Act may be cited as the Superannuation Act, 1909, and shall be read as one with the Superannuation Acts, 1834 to 1892, and those Acts and this Act may be cited together as the Superannuation Acts, 1834 to 1909.

## Superannuation.

A

B I L L

INTITULED

An Act to amend the Superannuation Acts, 1834 to 1892.

(Brought from the Commons 30th August 1909.)

Ordered to be printed 30th August 1909.

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E. POKEATY, 116, Grafton Street, Dublin.

[Price 1d.]

(139.)

A

## B I L L

## INTITULED

An Act to give further powers to the Railway and Canal Commission to determine differences with respect to Telegraphs (including Telephones). A.D. 1909.

**B**E it 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:—

- 5      1. Any difference between the Postmaster-General and any body or person under the Telegraph Acts, 1863 to 1908, or under any licence or agreement relating to telegraphs (including tele-  
phones) shall, if the parties to such difference have before the  
passing of this Act agreed, or hereafter agree, to such reference,  
10      be referred to the Railway and Canal Commission, and that  
Commission shall determine the same.
2. All proceedings relating to any difference directed to be  
determined by the Railway and Canal Commission under this  
Act shall be conducted by the Commission in the same manner  
15      as any other proceeding is conducted by them under the Railway  
and Canal Traffic Acts, 1873 and 1888, or any Act amending the  
same and any Order of the Commission on any such difference  
or question shall be enforceable as any other Order of the  
Commission. Provided—
- 20      (1) that any matter of difference or any question arising  
before the Commission under this Act may in the  
discretion of the Commission and with the consent of  
the parties be heard and determined by the two  
(162.)

Determina-  
tion of  
differences  
with refer-  
ence to  
telegraphs.

Procedure of  
Commission.



A.D. 1909.  
—

appointed Commissioners, whose Order shall be deemed to be the Order of the Commission; and

(2) that the costs of every proceeding before the Commission shall be in the discretion of the Commission.

Saving.

**3.** Nothing in this Act shall restrict or prejudice the operation 5 of any provision of the Telegraph Acts, 1863 to 1908, or of any other Act by which any difference is referred to the Railway and Canal Commission.

Short title.

**4.** This Act may be cited as the Telegraph (Arbitration) Act, 1909, and may be cited with the Telegraph Acts, 1863 to 10 1908.



( 2 )

BY THE LORD AMPHILL.

Clause 10, page 7, line 18, after (" may ") insert (" and on the  
" first occasion on which proceedings are contemplated by the  
" Trade Board against an employer they shall take reasonable  
" steps to ")

## Trade Boards Bill.

### A M E N D M E N T S

TO BE MOVED ON REPORT

BY

THE LORD HAMILTON OF  
DALZELL

AND

THE LORD AMPHILL.

15th September 1909.

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[Price 3d.]

(169 a.)

## Trade Boards Bill.

[AS AMENDED IN COMMITTEE.]

---

### ARRANGEMENT OF CLAUSES.

---

*Establishment of Trade Boards for Trades to which the  
Act applies.*

Clause.

1. Application of Act to certain trades.
2. Establishment of Trade Boards for trades to which Act applies.
3. General duties of Trade Boards.

*Minimum Rates of Wages.*

4. Duties and powers of Trade Boards with respect to minimum rates of wages.
5. Order giving obligatory effect to minimum rates of wages.
6. Penalty for not paying wages in accordance with minimum rate which has been made obligatory.
7. Limited operation of minimum rate which has not been made obligatory.
8. Provision for case of persons employed by piece work where a minimum time-rate but no general minimum piece-rate has been fixed.
9. Prevention of evasion.
10. Consideration by Trade Board of complaints as to infraction of minimum rates.

*Constitution, Proceedings, &c. of Trade Boards.*

11. Constitution and proceedings of Trade Boards.
12. Establishment of district trade committees.
13. Regulations to be laid before Parliament.
14. Appointed members of Trade Boards.

(169.)

A

*Appointment of Officers and other Provisions for  
enforcing Act.*

Clause.

14. Appointment of officers.
15. Powers of officers.
16. Officers to produce certificates when required.
17. Power to take and conduct proceedings.

*Supplemental.*

18. Regulations as to mode of giving notice.
19. Regulations to be laid before Parliament.
20. Interchange of powers between Government Departments.
21. Expenses of carrying Act into effect.
22. Short title and commencement.

SCHEDULE.

---

## A

## B I L L

## INTITULED

An Act to provide for the establishment of Trade Boards A.D. 1909.  
for certain Trades.

**B**E it 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 (that is to say):—

5 *Establishment of Trade Boards for Trades to which the Act applies.*

1.—(1) This Act shall apply to the trades specified in the schedule to this Act and to any other trades to which it has been applied by Provisional Order of the Board of Trade made under this section.

Application  
of Act to  
certain  
trades.

- 10 (2) The Board of Trade may make a Provisional Order applying this Act to any specified trade to which it does not at the time apply if they are satisfied that the rate of wages prevailing in any branch of the trade is exceptionally low, as compared with that in other employments, and that the other  
15 circumstances of the trade are such as to render the application of this Act to the trade expedient.

- (3) If at any time the Board of Trade consider that the conditions of employment in any trade to which this Act applies have been so altered as to render the application of this Act  
20 to the trade unnecessary, they may make a Provisional Order that this Act shall cease to apply to that trade.

- (4) The Board of Trade may submit to Parliament for confirmation any Provisional Order made by them in pursuance of this section, but no such Order shall have effect unless and until  
25 it is confirmed by Parliament.

A.D. 1909.

(5) If, while a Bill confirming any such Order is pending in either House of Parliament, a petition is presented against any Order comprised therein, the Bill, so far as it relates to that Order, may be referred to a select committee, or, if the two Houses of Parliament think fit so to order, to a joint committee of those Houses, and the petitioner shall be allowed to appear and oppose as in the case of Private Bills. 5

(6) Any Act confirming a Provisional Order made in pursuance of this section may be repealed, altered, or amended by any subsequent Provisional Order made by the Board of Trade 10 and confirmed by Parliament.

Establish-  
ment of  
Trade Boards  
for trades to  
which Act  
applies.

2.—(1) The Board of Trade shall, if practicable, establish one or more Trade Boards constituted in accordance with regulations made under this Act for any trade to which this Act applies or for any branch of work in the trade. 15

Where a Trade Board is established under this Act for any trade or any branch of a trade which is carried on to any substantial extent in Ireland, a separate Trade Board shall be established for that trade or branch of a trade in Ireland.

(2) Where a Trade Board has been established for any branch of work in a trade, any reference in this Act to the trade for which the Board is established shall be construed as a reference to the branch of work in the trade for which the Board has been established.

General  
duties of  
Trade  
Boards.

3. A Trade Board for any trade shall consider, as occasion 25 requires, any matter referred to them by a Secretary of State, the Board of Trade, or any other Government department, with reference to the industrial conditions of the trade, and shall make a report upon the matter to the department by whom the question has been referred. 30

#### *Minimum Rates of Wages.*

Duties and  
powers of  
Trade  
Boards with  
respect to  
minimum  
rates of  
wages.

4.—(1) Trade Boards shall, subject to the provisions of this section, fix minimum rates of wages for timework for their trades (in this Act referred to as minimum time-rates), and may also, if they think fit, fix general minimum rates of wages for 35 piecework for their trades (in this Act referred to as general minimum piece-rates), and those rates of wages (whether time- or piece-rates) may be fixed so as to apply universally to the



special process in the work of the trade or to any special class of workers in the trade, or to any special area. A.D. 1909.

If a Trade Board report to the Board of Trade that it is impracticable in any case to fix a minimum time-rate in accordance with this section the Board of Trade may so far as respects that case relieve the Trade Board of their duty.

(2) Before fixing any minimum time-rate or general minimum piece-rate, the Trade Board shall give notice of the rate which they propose to fix and consider any objections to the rate which may be lodged with them within three months.

(3) The Trade Board shall give notice of any minimum time-rate or general minimum piece-rate fixed by them.

(4) A Trade Board may, if they think it expedient, cancel or vary any minimum time-rate or general minimum piece-rate fixed under this Act, and shall reconsider any such minimum rate if the Board of Trade direct them to do so, whether an application is made for the purpose or not:

Provided that the provisions of this section as to notice shall apply where it is proposed to cancel or vary the minimum rate fixed under the foregoing provisions in the same manner as they apply where it is proposed to fix a minimum rate.

(5) A Trade Board shall on the application of any employer fix a special minimum piece-rate to apply as respects the persons employed by him in cases to which a minimum time-rate but no general minimum piece-rate is applicable, and may as they think fit cancel or vary any such rate either on the application of the employer or after notice to the employer, such notice to be given not less than one month before cancellation or variation of any such rate.

5.—(1) Until a minimum time-rate or general minimum piece-rate fixed by a Trade Board has been made obligatory by order of the Board of Trade under this section, the operation of the rate shall be limited as in this Act provided.

Order giving  
obligatory  
effect to  
minimum  
rates of  
wages.

(2) Upon the expiration of six months from the date on which a Trade Board have given notice of any minimum time-rate or general minimum piece-rate fixed by them, the Board of Trade shall make an order (in this Act referred to as an obligatory order) making that minimum rate obligatory in cases in which it is applicable on all persons employing labour and on all persons employed, unless they are of opinion that the

A.D. 1909. — on all persons employed, unless they are of opinion that the circumstances are such as to make it premature or otherwise undesirable to make an obligatory order, and in that case they shall make an order suspending the obligatory operation of the rate (in this Act referred to as an order of suspension). 5

(3) Where an order of suspension has been made as respects any rate, the Trade Board may, at any time after the expiration of six months from the date of the order, apply to the Board of Trade for an obligatory order as respects that rate; and on any such application the Board of Trade shall make an obligatory order as respects that rate, unless they are of opinion that a further order of suspension is desirable, and, in that case, they shall make such a further order, and the provisions of this section which are applicable to the first order of suspension shall apply to any such further order. 15

An order of suspension as respects any rate shall have effect until an obligatory order is made by the Board of Trade under this section.

(4) The Board of Trade may, if they think fit, make an order to apply generally as respects any rates which may be fixed by any Trade Board constituted, or about to be constituted, for any trade to which this Act applies, and while the order is in force any minimum time-rate or general minimum piece-rate shall, after the lapse of six months from the date on which the Trade Board have given notice of the fixing of the rate, be obligatory in the same manner as if the Board of Trade had made an order making the rate obligatory under this section. 25

The Board of Trade may revoke any such general order at any time after giving three months' notice to the Trade Board of their intention to revoke it. 30

Penalty for not paying wages in accordance with minimum rate which has been made obligatory.

**6.**—(1) Where any minimum rate of wages fixed by a Trade Board has been made obligatory by order of the Board of Trade under this Act, an employer shall, in cases to which the minimum rate is applicable, pay wages to the person employed at not less than the minimum rate clear of all deductions, and if he fails to do so shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds and to a fine not exceeding five pounds for each day on which the offence is continued after conviction therefor. 35

(2) On the conviction of an employer under this section for failing to pay wages at not less than the minimum rate to a

[9 Edw. 7.]

*Trade Boards.*

5

person employed, the court may by the conviction adjudge the employer convicted to pay, in addition to any fine, such sum as appears to the court to be due to the person employed on account of wages, the wages being calculated on the basis of the minimum rate, but the power to order the payment of wages under this provision shall not be in derogation of any right of the person employed to recover wages by any other proceedings. A.D. 1909.

(3) If a Trade Board are satisfied that any worker employed, or desiring to be employed, on time work in any branch of a trade to which a minimum time-rate fixed by the Trade Board is applicable, is affected by any infirmity or physical injury which renders him incapable of earning that minimum time-rate, and are of opinion that the case cannot suitably be met by employing the worker on piece-work, the Trade Board may, if they think fit, grant to the worker, subject to such conditions, if any, as they prescribe, a permit exempting the employment of the worker from the provisions of this Act, rendering the minimum time-rate obligatory, and while the permit is in force, an employer shall not be liable to any penalty for paying wages to the worker at a rate less than the minimum time-rate so long as any conditions prescribed by the Trade Board on the grant of the permit are complied with.

(4) On any prosecution of an employer under this section, it shall lie on the employer to prove by the production of proper wages sheets or other records of wages or otherwise that he has not paid, or agreed to pay wages at less than the minimum rate.

(5) Any agreement for the payment of wages in contravention of this provision shall be void.

7.—(1) Where any minimum rate of wages has been fixed by a Trade Board, but is not for the time being obligatory under an order of the Board of Trade made in pursuance of this Act, the minimum rate shall, unless the Board of Trade direct to the contrary in any case in which they have directed the Trade Board to reconsider the rate, have a limited operation as follows:—

Limited operation of minimum rate which has not been made obligatory.

(a) In all cases to which the minimum rate is applicable an employer shall, in the absence of a written agreement to the contrary, pay to the person employed wages at not less than the minimum rate, and in the absence of any such agreement, the person employed may recover wages at such a rate from the employer;

A.D. 1909.

(b) Any employer may give written notice to the Trade Board by whom the minimum rate has been fixed, that he is willing that that rate should be obligatory on him, and in that case he shall be under the same obligation to pay wages to the person employed 5 at not less than the minimum rate and be liable to the same fine for not doing so, as he would be if an order of the Board of Trade were in force making the rate obligatory; and

(c) No contract involving employment to which the minimum rate is applicable shall be given by a Government department or local authority to any employer unless he has given notice to the Trade Board in accordance with the foregoing provision:

Provided that in case of any public emergency the Board of 15 Trade may by order, to the extent and during the period named in the order, suspend the operation of this provision as respects contracts for any such work being done or to be done on behalf of the Crown as is specified in the order.

(2) A Trade Board shall keep a register of any notices given 20 under this section:

The register shall be open to public inspection without payment of any fee, and shall be evidence of the matters stated therein:

Any copy purporting to be certified by the secretary of the 25 Trade Board or any officer of the Trade Board authorised for the purposes to be a true copy of any entry in the register shall be admissible in evidence without further proof.

Provision for  
case of per-  
sons em-  
ployed by  
piece work  
where a  
minimum  
time-rate  
but no  
general mini-  
mum piece-  
rate has  
been fixed.

**8.** An employer shall, in cases where persons are employed on piece work and a minimum time-rate but no general minimum 30 piece-rate has been fixed, be deemed to pay wages at less than the minimum rate—

(a) in cases where a special minimum piece-rate has been fixed under the provisions of this Act for persons employed by the employer if the rate of wages paid 35 is less than that special minimum piece-rate; and

(b) in cases where a special minimum piece-rate has not been so fixed, unless he shows that the piece-rate of wages paid would yield, in the circumstances of the case, to an ordinary worker at least the same 40 amount of money as the minimum time-rate.

[9 Edw. 7.]

*Trade Boards.*

7

9. Any shopkeeper, dealer, or trader, who by way of trade makes any arrangement express or implied with any worker in pursuance of which the worker performs any work for which a minimum rate of wages has been fixed under this Act, shall  
 5 be deemed for the purposes of this Act to be the employer of the worker, and the net remuneration obtainable by the worker in respect of the work after allowing for his necessary expenditure in connection with the work shall be deemed to be wages.

A.D. 1909.

Prevention  
of evasion.

10 10.—(1) Any worker or any person authorised by a worker may complain to the Trade Board that the wages paid to the worker by any employer in any case to which any minimum rate fixed by the Trade Board is applicable are at a rate less than the minimum rate, and the Trade Board shall consider  
 15 the matter and may, if they think fit, take any proceedings under this Act on behalf of the worker.

Considera-  
tion by Trade  
Board of  
complaints  
as to infrac-  
tion of mini-  
mum rates.

(2) Before taking any proceedings under this Act on behalf of the worker, a Trade Board may bring the case to the notice of the employer, with a view to the settlement of the case  
 20 without recourse to proceedings.

*Constitution, Proceedings, &c. of Trade Boards.*

11.—(1) The Board of Trade may make regulations with respect to the constitution of Trade Boards which shall consist of members representing employers and members representing  
 25 workers (in this Act referred to as representative members) in equal proportions and of the appointed members. Any such regulations may be made so as to apply generally to the constitution of all Trade Boards, or specially to the constitution of any particular Trade Board or any particular class of Trade Boards.

Constitution  
and proceed-  
ings of Trade  
Boards.

30 (2) Women shall be eligible as members of Trade Boards as well as men.

(3) The representative members shall be elected or nominated, or partly elected and partly nominated as may be provided by the regulations, and in framing the regulations the representation  
 35 of home workers on Trade Boards shall be provided for in all trades in which a considerable proportion of home workers are engaged.

(4) The chairman of a Trade Board shall be such one of the members as the Board of Trade may appoint, and the  
 40 secretary of the Trade Board shall be appointed by the Board of Trade.

(169.)

B



A.D. 1909.

(4) The chairman of a Trade Board shall be such one of the members as the Board of Trade may appoint, and the secretary of the Trade Board shall be appointed by the Board of Trade.

(5) The proceedings of a Trade Board shall not be invalidated by any vacancy in their number, or by any defect in the appointment, election, or nomination of any member. 5

(6) In order to constitute a meeting of a Trade Board at least one third of the whole number of the representative members, and at least one appointed member must be present. 10

(7) The Board of Trade may make regulations with respect to the proceedings and meetings of Trade Boards, including the method of voting; but subject to the provisions of this Act and to any regulations so made Trade Boards may regulate their proceedings in such manner as they think fit. 15

Establish-  
ment of  
district trade  
committees.

**12.**—(1) A Trade Board may establish district trade committees consisting partly of members of the Trade Board and partly of persons not being members of the Trade Board but representing employers or workers engaged in the trade and constituted in accordance with regulations made for the purpose by the Board of Trade and acting for such area as the Trade Board may determine. 20

(2) Provision shall be made by the regulations for at least one appointed member acting as a member of each district trade committee, and for the equal representation of local employers and local workers on the committee, and for the representation of homeworkers thereon in the case of any trade in which a considerable proportion of homeworkers are engaged in the district, and also for the appointment of a standing sub-committee to consider applications for special minimum piece-rates and complaints made to the Trade Board under this Act, and for the reference of any applications or complaints to that sub-committee. 25 30

(3) A Trade Board may refer to a district trade committee for their report and recommendations any matter which they think it expedient so to refer, and may also, if they think fit, delegate to a district trade committee any of their powers and duties under this Act, other than their power and duty to fix a minimum time-rate or general minimum piece-rate. 35

(4) Where a district trade committee has been established for any area, it shall be the duty of the committee to recommend to the Trade Board minimum time-rates and, so far as they 40

think fit, general minimum piece-rates applicable to the trade in that area, and no such minimum rate of wages fixed under this Act and no variation or cancellation of such a rate shall have effect within that area unless either the rate or the variation or  
 5 cancellation thereof, as the case may be, has been recommended by the district trade committee, or an opportunity has been given to the committee to report thereon to the Trade Board, and the Trade Board have considered the report (if any) made by the committee.

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10 **13.**—(1) The Board of Trade may appoint such number of persons (including women) as they think fit to be appointed members of Trade Boards. Appointed  
members  
of Trade  
Boards.

(2) Such of the appointed members of Trade Boards shall act on each Trade Board or district trade committee as may be  
 15 directed by the Board of Trade, and in the case of a Trade Board for a trade in which women are largely employed, at least one of the appointed members acting shall be a woman :

Provided that the number of appointed members acting on the same Trade Board, or the same district trade committee at  
 20 the same time, shall be less than half the total number of members representing employers and members representing workers.

*Appointment of Officers and other Provisions for enforcing Act.*

**14.**—(1) The Board of Trade may appoint such officers as they think necessary for the purpose of investigating any com-  
 25 plaints and otherwise securing the proper observance of this Act, and any officers so appointed shall act under the directions of the Board of Trade, or, if the Board of Trade so determine under the directions of any Trade Board. Appoint-  
ment of  
officers.

(2) The Board of Trade may also, in lieu of or in addition to  
 30 appointing any officers under the provisions of this section, if they think fit, arrange with any other Government Department for assistance being given in carrying this Act into effect, either generally or in any special cases, by officers of that Department whose duties bring them into relation with any trade to which  
 35 this Act applies.

**15.**—(1) Any officer appointed by the Board of Trade under this Act, and any officer of any Government Department for the time being assisting in carrying this Act into effect, shall have power for the performance of his duties, Powers of  
officers.

40 (a) to require the production of wages sheets or other record of wages by an employer, and records of payments  
 (176.) B 2



A.D. 1909.

made to outworkers by persons giving out work, and to inspect and examine the same and copy any material part thereof;

- (b) to require any person giving out work and any out-worker to give any information which it is in his 5 power to give with respect to the names and addresses of the persons to whom the work is given out or from whom the work is received, as the case may be, and with respect to the payments to be made for the work ; 10
- (c) at all reasonable times to enter any factory or workshop, and any place used for giving out work to outworkers ; and
- (d) to inspect and copy any material part of any list of out-workers kept by an employer or person giving out 15 work to outworkers.

(2) If any person fails to furnish the means required by an officer as necessary for any entry or inspection or the exercise of his powers under this section, or if any person hinders or molests any officer in the exercise of the powers given by this 20 section, or refuses to produce any document or give any information which any officer requires him to produce or give under the powers given by this section, that person shall be liable on summary conviction in respect of each offence to a fine not exceeding five pounds ; and if any person produces any wages 25 sheet, or record of wages, or record of payments, or any list of outworkers to any officer acting in the exercise of the powers given by this section, knowing the same to be false, or furnishes any information to any such officer knowing the same to be false, he shall be liable, on summary conviction, to a fine not exceeding 30 twenty pounds, or to imprisonment for a term not exceeding three months, with or without hard labour.

Officers to  
produce cer-  
tificates  
when re-  
quired.

**16.** Every officer appointed by the Board of Trade under this Act, and every officer of any Government Department for the time being assisting in carrying this Act into effect, shall 35 be furnished by the Board or Department with a certificate of his appointment, and when acting under any or exercising any power conferred upon him by this Act shall, if so required, produce the said certificate to any person or persons affected.

Power to  
take and  
conduct pro-  
ceedings.

**17.—(1)** Any officer appointed by the Board of Trade under 40 this Act, and any officer of any Government Department for the time being assisting in carrying this Act into effect, shall have

[9 Edw. 7.]

*Trade Boards.*

11

power in pursuance of any special or general directions of the Board of Trade to take proceedings under this Act, and a Trade Board may also take any such proceedings in the name of any officer appointed by the Board of Trade for the time being acting  
 5 under the directions of the Trade Board in pursuance of this Act, or in the name of their secretary or any of their officers authorised by them.

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(2) Any officer appointed by the Board of Trade under this Act, or any officer of any Government Department for the time  
 10 being assisting in carrying this Act into effect, and the secretary of a Trade Board, or any officer of a Trade Board authorised for the purpose, may, although not a counsel or solicitor or law agent, prosecute or conduct before a court of summary jurisdiction any proceedings arising under this Act.

15

*Supplemental.*

**18.**—(1) The Board of Trade shall make regulations as to the notice to be given of any matter under this Act, with a view to bringing the matter of which notice is to be given so far as practicable to the knowledge of persons affected.

Regulations  
as to mode  
of giving  
notice.

20 (2) Every occupier of a factory or workshop, or of any place used for giving out work to outworkers, shall, in manner directed by regulations under this section, fix any notices in his factory or workshop or the place used for giving out work to outworkers which he may be required to fix by the regulations, and shall  
 25 give notice in any other manner, if required by the regulations, to the persons employed by him of any matter of which he is required to give notice under the regulations:

If the occupier of a factory or workshop, or of any place used for giving out work to outworkers, fails to comply with this  
 30 provision he shall be liable on summary conviction in respect of each offence to a fine not exceeding forty shillings.

**19.** Regulations made under this Act shall be laid as soon as possible before both Houses of Parliament, and if either House within the next forty days after the regulations have been laid  
 35 before that House resolve that all or any of the regulations ought to be annulled, the regulations shall, after the date of the resolution, be of no effect, without prejudice to the validity of anything done in the meantime thereunder or to the making of any new regulations. If one or more of a set of regulations are  
 40 annulled the Board of Trade may, if they think fit, withdraw the whole set.

Regulations  
to be laid  
before Par-  
liament.

A.D. 1909.

Interchange  
of powers  
between  
Government  
Depart-  
ments.

**20.**—(1) His Majesty may, by Order in Council, direct that any powers to be exercised or duties to be performed by the Board of Trade under this Act shall be exercised or performed generally, or in any special cases or class of cases, by a Secretary of State, and while any such Order is in force, this Act shall apply as if, so far as is necessary to give effect to the Order, a Secretary of State were substituted for the Board of Trade.

(2) Any Order in Council under this section may be varied or revoked by any subsequent Order in Council. 10

Expenses of  
carrying Act  
into effect.

**21.** There shall be paid out of moneys provided by Parliament—

- (1) Any expenses, up to an amount sanctioned by the Treasury, which may be incurred with the authority or sanction of the Board of Trade by Trade Boards 15 or their committees in carrying into effect this Act; and
- (2) To appointed members and secretaries of Trade Boards and to officers appointed by the Board of Trade under this Act such remuneration and expenses as may be 20 sanctioned by the Treasury; and
- (3) To representative members of Trade Boards and members (other than appointed members) of district trade committees any expenses (including compensation for loss of time), up to an amount sanctioned by the 25 Treasury, which may be incurred by them in the performance of their duties as such members; and
- (4) Any expenses, up to an amount sanctioned by the Treasury, which may be incurred by the Board of Trade in making inquiries, or procuring information, or taking 30 any preliminary steps with respect to the application of this Act to any trade to which the Act does not apply, including the expenses of obtaining a Provisional Order, or promoting any Bill to confirm any Provisional Order made under, or in pursuance of, the provisions 35 of this Act.

Short title  
and com-  
mencement.

**22.**—(1) This Act may be cited as the Trade Boards Act, 1909.

(2) This Act shall come into operation on the first day of January nineteen hundred and ten. 40

## SCHEDULE.

A.D. 1909.  

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### TRADES TO WHICH THE ACT APPLIES WITHOUT SPECIAL ORDER.

1. Ready-made and wholesale bespoke tailoring and any other branch  
of tailoring in which the Board of Trade consider that the system of  
5 manufacture is generally similar to that prevailing in the wholesale  
trade.
2. The making of boxes or parts thereof made wholly or partially  
of paper, cardboard, chip, or similar material.
- 3 Machine-made lace and net finishing and mending or darning  
10 operations of lace curtain finishing.
4. Hammered and dollied or tommied chain-making.

# Trade Boards.

A

B I L L

[AS AMENDED ON REPORT]

INTITLED

An Act to provide for the establishment of Trade Boards for certain Trades.

*(Brought from the Commons 19th July 1909.)*

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Ordered to be printed 16th September 1909.

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(176.)

A  
B I L L

INTITULED

An Act to confirm certain Provisional Orders made by the Board of Trade under the Tramways Act 1870 relating to Bolton Corporation Tramways Keighley Corporation Tramways Morecambe Corporation Tramways Portsmouth Corporation Tramways and Whitworth Urban District Council Tramways. A.D. 1909.

**W**HEREAS under the authority of the Tramways Act 1870 the Board of Trade have made the several Provisional Orders set out in the schedule to this Act annexed: 33 & 34 Vict.  
c. 78.

And whereas a Provisional Order made by the Board of Trade under the authority of the said Act is not of any validity or force whatever until the confirmation thereof by Act of Parliament:

And whereas it is expedient that the several Provisional Orders made by the Board of Trade under the authority of the said Act and set out in the schedule to this Act annexed be confirmed by Act of Parliament:

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.** This Act may be cited as the Tramways Orders Confirmation Act 1909. Short title.

**2.** The several Orders set out in the schedule to this Act annexed shall be and the same are hereby confirmed and all the provisions thereof in manner and form as they are set out in the said schedule shall from and after the passing of this Act have full force and validity and the dates of the same respectively shall be the date of the passing of this Act. Confirmation  
of Orders in  
schedule.

A.D. 1909.  

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SCHEDULE.  

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LIST OF ORDERS.  

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- BOLTON CORPORATION TRAMWAYS.—Order authorising the Mayor Aldermen and Burgesses of the County Borough of Bolton to construct additional tramways in the said borough. 5
- KEIGHLEY CORPORATION TRAMWAYS.—Order authorising the Mayor Aldermen and Burgesses of the Borough of Keighley to construct additional tramways in the said borough.
- MORECAMBE CORPORATION TRAMWAYS.—Order authorising the Corporation of Morecambe to construct and work tramways in the Borough of 10 Morecambe and for other purposes.
- PORTSMOUTH CORPORATION TRAMWAYS.—Order authorising the Mayor Aldermen and Burgesses of the Borough of Portsmouth to construct additional tramways in the said borough and for other purposes.
- WHITWORTH URBAN DISTRICT COUNCIL TRAMWAYS.—Order authorising 15 the Urban District Council of the Urban District of Whitworth to construct tramways in their district.



## BOLTON CORPORATION.

A.D. 1909.

*Order authorising the Mayor Aldermen and Burgesses of the County Borough of Bolton to construct additional Tramways in the said Borough.* Bolton Corporation.

5     1. This Order may be cited as the Bolton Corporation Tramways Short title.  
Order 1909.

2. The provisions of the Lands Clauses Acts (except with respect Incorporation  
to the purchase and taking of lands otherwise than by agreement and of Acts.  
with respect to the entry upon lands by the Promoters of the under-  
10 taking) and of the Tramways Act 1870 are hereby incorporated with  
this Order except where the same are inconsistent with or expressly  
varied by this Order.

3. The several words terms and expressions to which by the Acts Interpretation.  
in whole or in part incorporated with this Order meanings are assigned  
15 have in this Order the same respective meanings :

Provided that in this Order—

20     The expression “the Order of 1878” “the Act of 1891” the  
Act of 1897” “the Act of 1901” mean respectively the  
Bolton and Suburban Tramway Order 1878 the Bolton  
Corporation Tramways Act 1891 the Bolton Tramways and  
Improvement Act 1897 and the Bolton Corporation Act 1901 :  
The expression “the tramways” means the tramways and works  
by this Order authorised :

25     The expression “the Corporation tramways” has the meaning  
assigned thereto by the Act of 1901 :

The expression “the borough” means the borough of Bolton :

The expression “mechanical power” includes steam electrical  
and every other motive power not being animal power and  
the word “engine” includes motor.

30     4. The mayor aldermen and burgesses of the borough acting by Promoters.  
the council shall be the Promoters for the purposes of this Order and  
are in this Order referred to as “the Promoters.”

5. The Promoters may subject to the provisions of this Order Construction  
construct and maintain in accordance with the plans and sections of tramways.  
35 deposited at the office of the Board of Trade for the purposes of this  
Order (which plans and sections are in this Order referred to respectively  
as “the deposited plans” and “the deposited sections”) the tramways  
hereinafter described with all necessary and proper rails plates sleepers  
channels tubes cables mains wires and electric lines junctions turn-

A.D. 1909. tables turnouts crossings passing-places poles posts conduits section  
*Bolton* boxes tramway plant machinery apparatus appliances works and  
*Corporation.* conveniences connected therewith or as may be necessary or proper  
 therefor and for connecting and using the same with the Corporation  
 tramways : 5

Provided that nothing in this Order or in any Act wholly or in part incorporated herewith shall extend to or authorise any interference with any works of any undertakers under the Electric Lighting Acts 1882 and 1888 to which the provisions of section 15 of the Act of 1882 apply except in accordance with and subject to the provisions of 10 that section.

The tramways will be wholly situated within the borough and are as follows:—

Tramway No. 1 5 furlongs 2·09 chains in length (whereof 4 furlongs 5·73 chains are single line and 6·36 chains are 15 double line) commencing in Bradford Street by a junction with Tramway No. 9 constructed under the powers of the Act of 1897 thence passing along Castle Street Radcliffe Road and Hag End Brow and terminating in Hag End Brow at the north-westerly end of Lever Bridge : 20

Tramway No. 1 shall be laid as a single line except between the points hereinafter specified where it shall be laid as a double line (that is to say):—

In Castle Street between points respectively 1·55 chains and 4·73 chains south-east of the commencement of such 25 tramway ;

In Castle Street between points respectively 2 furlongs 2·91 chains and 2 furlongs 6·09 chains south-east of the commencement of such tramway :

Tramway No. 2 1 mile 1 furlong 5·76 chains in length (whereof 30 1 mile 6·22 chains are single line and 9·54 chains are double line) commencing in St. George's Road by a junction with Tramway No. 20 constructed under the powers of the Act of 1901 thence passing along Vernon Street Merehall Street Yarrow Place Portland Street Homer Street Darley Street and Eskrick 35 Street into and terminating in Halliwell Road by a junction with Tramway No. 19 constructed under the powers of the Act of 1901 :

Tramway No. 2 shall be laid as a single line except between the points hereinafter specified where it shall be laid as a double 40 line (that is to say):—

In Vernon Street between points respectively 3·18 chains and 6·36 chains north of the commencement of such tramway ;

[9 EDW. 7.]

*Tramways Orders Confirmation.*

5

In Merehall Street between points respectively 1·32 chains east and 1·86 chains north of the east side of Gaskell Street;

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*Bolton Corporation.*

5

In Darley Street between points respectively 1 chain and 4·18 chains west of the west side of Southern Street:

10

Provided that notwithstanding anything in this Order Tramway No. 2 shall not be constructed unless and until the roadway on which it is to be laid is widened so as to allow of a space of nine feet six inches intervening between the outside of the footpath and the nearest rail of the tramway on either side of the road wherever the said Tramway No. 2 will be laid as single line:

15

Tramway No. 3 7 furlongs 7·14 chains in length (whereof 6 furlongs 8·64 chains are single line and 8·50 chains are double line) commencing in Chorley Old Road by a junction with Tramway No. 1 constructed under the powers of the Act of 1891 at its termination continuing along that road and terminating at the junction with that road of Bobs Smithy Lane Ends:

20

Tramway No. 3 shall be laid as a single line except between the points hereinafter specified where it shall be laid as a double line (that is to say):—

25

In Chorley Old Road between points respectively 2·30 chains east and 2·70 chains west of Boot Lane;

30

In Chorley Old Road between points respectively 1·30 chains east and 2·20 chains west of the east side of the road leading to Horrobin Farm:

35

Tramway No. 4 A single line 9 chains in length commencing in Newport Street by a junction with Tramway No. 1 constructed under the powers of the Order of 1878 thence in a southerly direction across Trinity Street and Crook Street and along Thynne Street to Bridgeman Street and terminating in that street by a junction with Tramway No. 10 constructed under the powers of the Act of 1897 about 1 chain westward of the junction of that street and Thynne Street:

40

Tramway No. 5 A single line 2 furlongs 1·73 chains in length commencing in Manchester Road by a junction with Tramway No. 2 constructed under the powers of the Order of 1878 about 1 chain north of the junction of that road with Lower Bridgeman Street thence into and along that street to and terminating in Bradford Street by a junction about 1 chain westward of Bromwich Street with Tramway No. 9 constructed under the powers of the Act of 1897:

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 —  
*Bolton*  
*Corporation.*

Tramway No. 5A (junction tramway) A single line 1·50 chains in length commencing in Manchester Road by a junction with the before-mentioned Tramway No. 2 constructed under the powers of the Order of 1878 at a point thereon about 1 chain south of the junction of that road with Lower Bridgeman Street and terminating in Lower Bridgeman Street by a junction with Tramway No. 5 hereinbefore described. 5

Tramways to  
 form part of  
 Corporation  
 tramways.

6. Subject to the provisions of this Order the tramways shall for all purposes form part of the Corporation tramways and the Promoters and their lessees and licencees may in respect of the tramways exercise and enjoy all the like powers rights privileges and authorities which they now may or are empowered to exercise and enjoy and shall be subject and liable to the like penalties conditions restrictions and stipulations as they are subject and liable to with respect to the Corporation tramways and may demand take and recover in respect of the tramways or any part or parts thereof the like tolls rates and charges for the use thereof and for the conveyance thereon of traffic of all kinds and for the use of carriages placed and run thereon by them as they are authorised to demand and take in respect of the tramways authorised by the Act of 1901 Provided that nothing in this Order shall authorise the attachment of bracket wires and apparatus to any house or building without the consent of the owner and occupier thereof or the taking of any lands except by agreement. 10 15 20

For protec-  
 tion of  
 Postmaster-  
 General.

7.—(A) Notwithstanding anything in this Order or in any Act or Order relating to the Corporation tramways contained if any of the works authorised to be executed by this Order or the said Acts or Orders involves or is likely to involve any alteration of any telegraphic line belonging to or used by the Postmaster-General the provisions of section seven of the Telegraph Act 1878 shall apply (instead of the provisions of section thirty of the Tramways Act 1870) to any such alteration. 25 30

(B) In the event of any tramways of the Promoters being worked by electricity the following provisions shall have effect:—

(1) The Promoters shall construct their electric lines and other works of all descriptions and shall work their undertaking in all respects with due regard to the telegraphic lines from time to time used or intended to be used by His Majesty's Postmaster-General and the currents in such telegraphic lines and shall use every reasonable means in the construction of their electric lines and other works of all descriptions and the working of their undertaking to prevent injurious affection whether by induction or otherwise to such telegraphic lines or the currents therein Any difference which arises between the Postmaster-General and the Promoters as to compliance with this subsection shall be determined by arbitration: 35 40 45

- A.D. 1909.  
*Bolton Corporation.*
- 5 (2) If any telegraphic line of the Postmaster-General is injuriously affected by the construction by the Promoters of their electric lines and works or by the working of the undertaking of the Promoters the Promoters shall pay the expense of all such alterations in the telegraphic lines of the Postmaster General as may be necessary to remedy such injurious affection :
- 10 (3) Before any electric line is laid down or any act or work for working the Corporation tramways by electricity is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs) the Promoters or their agents not more than twenty-eight nor less than fourteen days before commencing the work shall give written notice to the Postmaster-General specifying the course of the line and the nature of the work including the gauge of any wire
- 15 and the Promoters and their agents shall conform with such reasonable requirements (either general or special) as may from time to time be made by the Postmaster-General for the purpose of preventing any telegraphic line of the Postmaster-General from being injuriously affected by the
- 20 said act or work Any difference which arises between the Postmaster-General and the Promoters as to any requirements so made shall be determined by arbitration :
- 25 (4) If any telegraphic line of the Postmaster-General situate within one mile of any portion of the tramway works of the Promoters is injuriously affected and he is of opinion that such injurious affection is or may be due to the construction of any such works or to the working of the Promoters' tramway undertaking the engineer-in-chief of the Post Office or any person appointed in writing by him may at all times when electrical
- 30 energy is being generated for tramway purposes at any works of the Promoters enter thereon for the purpose of inspecting the plant and the working of the same and the Promoters shall in the presence of such engineer-in-chief or such appointed person as aforesaid make any electrical tests required by the Postmaster-General and shall produce for
- 35 the inspection of the Postmaster-General the records kept by the Promoters pursuant to the Board of Trade regulations :
- 40 (5) In the event of any contravention of or wilful non-compliance with this section by the Promoters or their agents the Promoters shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues or if the telegraphic communication is wilfully interrupted not exceeding fifty pounds for every day on which such interruption continues :

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*Bolton  
Corporation.*

- (6) Provided that nothing in this section shall subject the Promoters or their agents to a fine under this section if they satisfy the court having cognisance of the case that the immediate doing of any act or the execution of any work in respect of which the penalty is claimed was required to avoid an accident or otherwise was a work of emergency and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the act or work was done a notice of the execution thereof stating the reason for doing or executing the same without previous notice : 5 10
- (7) For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such line is whether through induction or otherwise in any manner affected by such act or work or by any use made of such work : 15
- (8) For the purposes of this section and subject as therein provided sections two ten eleven and twelve of the Telegraph Act 1878 shall be deemed to be incorporated with this Order : 20
- (9) The expression "electric line" has the same meaning in this section as in the Electric Lighting Act 1882 :
- (10) Any question or difference arising under this section which is directed to be determined by arbitration shall be determined by an arbitrator appointed by the Board of Trade on the application of either party whose decision shall be final and sections thirty to thirty-two both inclusive of the Regulation of Railways Act 1868 shall apply in like manner as if the Promoters or their agents were a company within the meaning of that Act : 25 30
- (11) Nothing in this section contained shall be held to deprive the Postmaster-General of any existing right to proceed against the Promoters by indictment action or otherwise in relation to any of the matters aforesaid :
- (12) In this section the expression "the Promoters" includes any person owning working or running carriages on any of the tramways of the Promoters. 35

Use of tram-  
way posts by  
Postmaster-  
General.

8.—(1) It shall be lawful for the Postmaster-General in any street or public road or part of a street or public road in which he is authorised to place a telegraph to use for the support of such telegraph any posts and standards (with the brackets connected therewith) erected in any such street or public road by the Promoters in connection with the tramways and to lengthen adapt alter and replace such posts standards and brackets for the purpose of supporting any telegraph and from time 40



[9 Edw. 7.] *Tramways Orders Confirmation.*

9

to time to alter any telegraph so supported subject to the following conditions:—

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*Bolton  
Corporation.*

- 5 (A) In placing maintaining or altering such telegraph no obstruction shall be caused to the traffic along or the working or user of the tramways:
- 10 (B) The Postmaster-General shall give to the Promoters not less than twenty-eight days' notice in writing of his intention to exercise any of the powers of this section and shall in such notice specify the streets or public roads or parts of streets or public roads along which it is proposed to exercise such powers and the manner in which it is proposed to use the posts standards and brackets and also the maximum strain and the nature and direction of such strain Any difference as to any matter referred to in such notice shall be determined as hereinafter provided:
- 15 (C) Unless otherwise agreed between the Postmaster-General and the Promoters the Postmaster-General shall pay the expense of lengthening adapting altering or replacing under the provisions of this section any post standard or bracket and the expenses of providing and maintaining any appliances or making any alteration rendered necessary in consequence of the exercise of the powers of this section for the protection of the public or the unobstructed working or user of the tramways or to prevent injurious affection of the Postmaster-General's telegraphs or any telegraphic or telephonic line or electrical apparatus of the Promoters or by any regulations which may from time to time be made by the Board of Trade arising through the exercise by the Postmaster-General of the powers conferred by this section:
- 20 (D) Unless otherwise agreed or in case of difference determined as hereinafter provided all telegraphs shall be attached to the posts standards or brackets below the level of the trolley wires and on the side of such posts or standards farthest from the trolley wires Any difference as to the conditions of attachment shall be determined as hereinafter provided:
- 25 (E) Unless otherwise agreed no telegraph shall be attached to any post or standard placed in or near the centre of any street or public road:
- 30 (F) The Postmaster-General shall cause all attachments to posts standards or brackets used by him under the powers of this section to be from time to time inspected so as to satisfy himself that the said attachments are in a proper state of condition and repair:
- 35 (43.)
- 40

B



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Bolton  
*Corporation.*

- (g) The Postmaster-General shall make good to the Promoters and shall indemnify them against any loss damage or expense which may be incurred by them through or in consequence of the exercise by the Postmaster-General of the powers conferred upon him by this section unless such loss damage 5 or expense be caused by or arise from gross negligence on the part of the Promoters their officers or servants :
- (h) The Postmaster-General shall make such reasonable contribution to the original cost of providing and placing any post standard or bracket used by him and also to the annual cost 10 of the maintenance and renewal of any such post standard or bracket as having regard to the respective interests of the Promoters and the Postmaster-General in the use of the post standard or bracket and to all the circumstances of each case may be agreed upon between the Postmaster- 15 General and the Promoters or failing agreement determined as hereinafter provided :
- (i) The Promoters shall not be liable for any interference with or damage or injury to the telegraphs of the Postmaster-General arising through the exercise by the Postmaster-General of 20 the powers conferred by this section and caused by the maintaining and working of the tramways or by any accident arising thereon or by the authorised use by the Promoters of electrical energy unless such interference damage or injury be caused by gross negligence on the part of the 25 Promoters their officers or servants :
- (j) If it shall become necessary or expedient to alter the position of or remove any post standard or bracket the Postmaster-General shall upon receiving twenty-eight days' notice thereof at his own expense alter or remove the telegraph 30 supported thereby or at his option retain the post standard or bracket and pay the Promoters the value of the same Provided that if the Promoters or the body having the control of the street or public road object to the retention of the post standard or bracket by the Postmaster-General 35 a difference shall be determined as hereinafter provided.
- (2) Nothing in this section contained shall prevent the Promoters from using their posts standards or brackets for the support of any of their electric wires and apparatus whether in connection with their tramways or other municipal undertakings or shall take away any 40 existing right of the Promoters of permitting the use by any company or person of their posts standards or brackets in connection with the lighting of the streets or otherwise Provided that any difference between the Postmaster-General and such company or person in relation

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to the use of posts standards or brackets by the Postmaster-General and such company or person respectively shall be determined as hereinafter provided.

A.D. 1909.

*Bolton Corporation.*

(3) All differences arising under this section shall be determined in manner provided by sections four and five of the Telegraph Act 1878 for the settlement of differences relating to a street or public road.

(4) In this section—

The expression “the Promoters” includes their lessees:

The expression “telegraph” has the same meaning as in the Telegraph Act 1869:

Other expressions have the same meaning as in the Telegraph Act 1878.

9. Notwithstanding any provision in any Act or Order relating to any of the Corporation tramways the Conveyance of Mails Act 1893 shall extend and apply to the Corporation tramways as if the same had been authorised by an Act of Parliament passed after the first day of January one thousand eight hundred and ninety-three and to the Promoters as the body or person owning or working such tramways.

Conveyance of mails.

10. Notwithstanding anything in any Act or Order relating to the Corporation tramways it shall not be lawful to demand and take for any passenger travelling upon such tramways including every expense incidental to such conveyance rates or charges exceeding one penny per mile and for this purpose a fraction of a mile shall be deemed a mile.

Passengers' fares.

11. Nothing in this Order contained shall exempt the Promoters or any person using the tramways or the tramways from the provisions of any general Act relating to tramways passed before or after the commencement of this Order or from any future revision or alteration under the authority of Parliament of the maximum rates tolls or charges authorised by this Order.

Saving for general Acts.

## KEIGHLEY CORPORATION.

*Keighley Corporation.*

*Order authorising the Mayor Aldermen and Burgesses of the Borough of Keighley to construct additional Tramways in the said Borough.*

1. This Order may be cited as the Keighley Corporation Tramways Order 1909 and the Keighley Corporation Tramways Order 1903 (in this Order referred to as “the Order of 1903”) the Keighley Corporation Tramways Order 1905 and this Order may be jointly cited as the Keighley Corporation Tramways Orders 1903 to 1909.

Short and collective titles.

(43.)

B 2

A.D. 1909. 2. The provisions of the Lands Clauses Acts (except with respect  
*Keighley* to the purchase and taking of lands otherwise than by agreement and  
*Corporation.* with respect to the entry upon lands by the Promoters of the under-  
 Incorpora- taking) and of the Tramways Act 1870 are hereby incorporated with  
 tion of Acts. this Order except where the same are inconsistent with or expressly 5  
 varied by this Order.

Interpreta- 3. The several words terms and expressions to which by the Order  
 tion. of 1903 or the Acts in whole or in part incorporated therewith and  
 with this Order meanings are assigned have in this Order the same  
 respective meanings : 10

Provided that in this Order—

The expression “the tramways” means the tramways and works  
 by this Order authorised ;

The expression “the Corporation tramways” means the tramways  
 and works authorised by the Keighley Corporation Tramways 15  
 Orders 1903 to 1909 and all other tramways for the time being  
 belonging to the Corporation.

The 4. The Corporation shall be the Promoters for the purposes of this  
 Promoters. Order and are in this Order referred to as “the Promoters.”

Lands. 5. The Promoters may— 20

(A) Subject to the sanction of the Local Government Board and  
 under such conditions as they may prescribe from time to  
 time appropriate and use for any of the purposes of this  
 Order but subject to the provisions (if any) under which  
 such lands were respectively acquired any lands not 25  
 dedicated to public use from time to time vested in them :

(B) By agreement from time to time purchase and acquire for the  
 purposes of this Order such lands as they may require and  
 may from time to time sell let or dispose of any such lands  
 as may not be necessary for such purposes Provided that 30  
 all sums received by the Promoters from the sale of such  
 lands or from fines or premiums on leases of the same shall  
 be applied solely in repayment of outstanding loans and  
 that such moneys shall not be applied to the payment of  
 instalments or to payments into the sinking fund except 35  
 to such extent and upon such terms as may be approved  
 by the Local Government Board :

Provided that they shall not at any time hold for such purposes  
 more than one acre of land Provided also that nothing in this Order  
 shall exonerate the Promoters from any indictment action or other 40  
 proceeding for nuisance in the event of any nuisance being caused or  
 permitted by them upon lands appropriated or taken under the powers  
 of this section.

6. The Promoters may subject to the provisions of this Order— A.D. 1909.

(A) Construct and maintain in accordance with the plans and sections deposited at the office of the Board of Trade for the purposes of this Order (which plans and sections are in this Order referred to respectively as “the deposited plans” and “the deposited sections”) the tramways herein-after described with all proper rails plates sleepers junctions turntables turnouts works and conveniences connected therewith or for the purposes thereof:

*Keighley Corporation.*  
Construction of tramways.

(B) Erect or construct on any lands taken or appropriated under the powers of this Order any offices stables sheds workshops stores waiting rooms or other buildings yards works and conveniences for the purposes of the Corporation tramways:

Provided that nothing in this Order or in any Act wholly or in part incorporated therewith shall extend to or authorise any interference with any works of any undertakers under the Electric Lighting Acts 1882 and 1888 to which the provisions of section 15 of the Act of 1882 apply except in accordance with and subject to the provisions of that section.

The tramways will be wholly situated within the borough and are as follows:—

Tramway No. 1 (7 furlongs 1·3 chains in length whereof 4·9 chains are double line and 6 furlongs 6·4 chains are single line) commencing in Bradford Road by a junction with the existing tramway in that road at a point 20 yards south-west of the south-west side of Dalton Lane thence passing into and along Dalton Lane Marlow Street (as proposed to be widened) and Aireworth Road to and terminating in Bradford Road by a junction with the existing tramway in that road at a point 1·5 yards north-east of the north-east side of Dale Street:

Tramway No. 1 will be laid as single line except at the following places where it will be laid as double line (that is to say):—

(A) From its commencement in Bradford Road to a point in Dalton Lane 0·9 chain south-east of the south-east side of Bradford Road;

(B) In Dalton Lane from a point opposite the east side of Chesham Street to a point 1·3 chains west of the west side of Craven Road:

Tramway No. 2 (single line 8·5 chains in length) commencing in Marlow Street by a junction with Tramway No. 1 at a point opposite the north-east side of Water Street thence passing into and along Airedale Road as far as the Worth Village Council

A.D. 1909.

*Keighley  
Corporation.*

School in that road thence across land belonging to the Corporation into and along Marley Road as proposed to be widened in front of Belvoir Terrace to and along and terminating in Aireworth Road by a junction in that road with Tramway No. 1 at a point 24 yards south-east of the south-east side of Lorne Street: 5

Tramway No. 3 (single line 1 furlong 8·3 chains in length) commencing in Airedale Road by a junction with Tramway No. 2 at a point 6 yards west of the east side of Wenning Street passing along Airedale Road and thence across Marley Road to and terminating at the boundary of the land belonging to the Corporation on the north-east side of Marley Road at a point 12 yards north-west of the line of the westerly boundary wall of the gasworks of the Corporation. 10

As to opening  
for traffic of  
certain  
portions of  
tramways.

7. So much of Tramway No. 1 as is situate in Marlow Street and so much of Tramway No. 2 as is situate in Marley Road shall not be 15  
opened for traffic until those roads respectively have been widened to at least twenty-three feet.

Application  
of Order of  
1903.

8. The provisions of the Order of 1903 (except section 5 (Lands) section 7 (For the protection of the West Riding County Council) and section 8 (For the protection of the Midland Railway Company)) shall 20  
so far as they are applicable in that behalf and are not inconsistent with the provisions of this Order extend and apply mutatis mutandis to and in relation to the tramways and this Order as if the tramways had formed part of the tramways authorised by the Order of 1903.

Use of tram-  
way posts by  
Postmaster-  
General.

9.—(1) It shall be lawful for the Postmaster-General in any street 25  
or public road or part of a street or public road in which he is authorised to place a telegraph to use for the support of such telegraph any posts and standards (with the brackets connected therewith) erected in any such street or public road by the Promoters in connection with the Corporation tramways and to lengthen adapt alter and replace 30  
such posts standards and brackets for the purpose of supporting any telegraph and from time to time to alter any telegraph so supported subject to the following conditions:—

(A) In placing maintaining or altering such telegraph no obstruction shall be caused to the traffic along or the working or user 35  
of the Corporation tramways:

(B) The Postmaster-General shall give to the Promoters not less than twenty-eight days' notice in writing of his intention to exercise any of the powers of this section and shall in such notice specify the streets or public roads or parts of 40  
streets or public roads along which it is proposed to exercise such powers and the manner in which it is proposed to use the posts standards and brackets and also the maximum strain and the nature and direction of such strain Any

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difference as to any matter referred to in such notice shall be determined as hereinafter provided: A.D. 1909.

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Corporation.*

- (c) Unless otherwise agreed between the Postmaster-General and the Promoters the Postmaster-General shall pay the expense of lengthening adapting altering or replacing under the provisions of this section any post standard or bracket and the expense of providing and maintaining any appliances or making any alteration rendered necessary in consequence of the exercise of the powers of this section for the protection of the public or the unobstructed working or user of the Corporation tramways or to prevent injurious affection of the Postmaster-General's telegraphs or any telegraphic or telephonic line or electrical apparatus of the Promoters or by any regulations which may from time to time be made by the Board of Trade arising through the exercise by the Postmaster-General of the powers conferred by this section:
- (d) Unless otherwise agreed or in case of difference determined as hereinafter provided all telegraphs shall be attached to the posts standards or brackets below the level of the trolley wires and on the side of such posts or standards farthest from the trolley wires Any difference as to the conditions of attachment shall be determined as hereinafter provided:
- (e) Unless otherwise agreed no telegraph shall be attached to any post or standard placed in or near the centre of any street or public road:
- (f) The Postmaster-General shall cause all attachments to posts standards or brackets used by him under the powers of this section to be from time to time inspected so as to satisfy himself that the said attachments are in a proper condition and state of repair:
- (g) The Postmaster-General shall make good to the Promoters and shall indemnify them against any loss damage or expense which may be incurred by them through or in consequence of the exercise by the Postmaster-General of the powers conferred upon him by this section unless such loss damage or expense be caused by or arise from gross negligence on the part of the Promoters their officers or servants:
- (h) The Postmaster-General shall make such reasonable contribution to the original cost of providing and placing any post standard or bracket used by him and also to the annual cost of the maintenance and renewal of any such post standard or bracket as having regard to the respective interests of the Promoters and the Postmaster-General in the use of the post standard or bracket and to all the



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Corporation.*

circumstances of each case may be agreed upon between the Postmaster-General and the Promoters or failing agreement determined as hereinafter provided :

- (i) The Promoters shall not be liable for any interference with or damage or injury to the telegraphs of the Postmaster-General 5 arising through the exercise by the Postmaster-General of the powers conferred by this section and caused by the maintaining and working of the Corporation tramways or by any accident arising thereon or by the authorised use by the Promoters of electrical energy unless such interference 10 damage or injury be caused by gross negligence on the part of the Promoters their officers or servants :

- (j) If it shall become necessary or expedient to alter the position of or remove any post standard or bracket the Postmaster-General shall upon receiving twenty-eight days' notice 15 thereof at his own expense alter or remove the telegraph supported thereby or at his option retain the post standard or bracket and pay the Promoters the value of the same Provided that if the Promoters or the body having the control of the street or public road object to the retention 20 of the post standard or bracket by the Postmaster-General a difference shall be deemed to have arisen and shall be determined as hereinafter provided.

- (2) Nothing in this section contained shall prevent the Promoters from using their posts standards or brackets for the support of any 25 of their electric wires and apparatus whether in connection with the Corporation tramways or other municipal undertakings or shall take away any existing right of the Promoters of permitting the use by any company or person of their posts standards or brackets in connection with the lighting of the streets or otherwise Provided that any differ- 30 ence between the Postmaster-General and such company or person in relation to the use of the posts standards or brackets by the Postmaster-General and such company or person respectively shall be determined as hereinafter provided.

- (3) All differences arising under this section shall be determined 35 in manner provided by sections 4 and 5 of the Telegraph Act 1878 for the settlement of differences relating to a street or public road.

- (4) In this section—

The expression "Promoters" includes their lessees :

The expression "telegraph" has the same meaning as in the 40 Telegraph Act 1869 :

Other expressions have the same meaning as in the Telegraph Act 1878.

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## MORECAMBE CORPORATION.

A.D. 1909.

*Order authorising the Corporation of Morecambe to construct and work Tramways in the Borough of Morecambe and for other purposes.* *Morecambe Corporation.*

5     1. This Order may be cited as the Morecambe Corporation Tram- Short title.  
ways Order 1909.

2. The provisions of the Lands Clauses Acts (except with respect Incorporation of Acts.  
to the purchase and taking of lands otherwise than by agreement and  
with respect to the entry upon lands by the promoters of the under-  
10 taking) and of the Tramways Act 1870 are hereby incorporated with  
this Order except where the same are inconsistent with or expressly  
varied by this Order.

3. The several words terms and expressions to which by the Acts Interpreta-  
tion.  
in whole or in part incorporated with the Order meanings are assigned  
15 have in this Order the same respective meanings Provided that in  
this Order—

The expression "the borough" means the borough of Morecambe :

The expression "the Corporation" means the mayor aldermen and  
burgesses of the borough acting by the council :

20 The expression "the company" means the Morecambe Tramways  
Company :

The expression "the Act of 1886" means the Morecambe Tramways  
Act 1886 :

25 The expression "the Order of 1892" means the Morecambe  
Tramways (Extension) Order 1892 confirmed by the Tramways  
Orders Confirmation Act 1892 :

The expression "the Order of 1897" means the Morecambe Urban  
District Council Tramways Order 1897 confirmed by the Tram-  
ways Orders Confirmation (No. 2) Act 1897 :

30 The expression "the company's tramways" means Tramway No. 1  
authorised by the Act of 1886 and Tramway No. 3 authorised  
by the Order of 1892 :

The expression "the Corporation tramway" means the tramway  
authorised by the Order of 1897 :

35 The expression "the existing tramways" means the company's  
tramways and the Corporation tramway :

The expression "the new tramways" means the tramways by this  
Order authorised to be reconstructed and constructed :

40 The expression "the tramway undertaking" means the tramway  
undertaking of the Corporation for the time being authorised.

4. The Corporation shall be the Promoters for the purposes of Promoters.  
this Order and are in this Order referred to as "the Promoters."

A.D. 1909.

Morecambe  
Corporation.  
Lands by  
agreement.

## 5. The Promoters may—

(a) Subject to the sanction of the Local Government Board and under such conditions as they may prescribe from time to time appropriate and use for the purposes of the tramway undertaking but subject to the provisions (if any) under which such lands were respectively acquired any lands not dedicated to public use from time to time vested in them being part of their corporate estate :

(b) By agreement from time to time purchase and acquire for the purposes of the tramway undertaking such lands as they may require and may from time to time sell let or dispose of any such lands which may not be necessary for such purposes Provided that all sums received by the Promoters from the sale of such lands or from fines or premiums on leases of the same shall be applied solely in repayment of outstanding loans and that such moneys shall not be applied to the payment of instalments or to payments into the sinking fund except to such extent and upon such terms as may be approved by the Local Government Board :

Provided that they shall not at any time hold for such purposes under the provisions of this Order more than two acres of land in addition to the lands which they are already authorised to hold for the purposes of their tramway undertaking Provided always that nothing in this Order shall exonerate the Promoters from any indictment action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon lands taken or appropriated under the powers of this section.

Powers of  
Order only to  
be exercised  
in certain  
events.

6. The powers conferred upon the Promoters or their lessees by this Order so far as they affect or relate to the company's tramways shall not be exercised by them unless and until the company's tramways shall have been purchased or acquired by them.

Construction  
of tramways.

7. The Promoters may subject to the provisions of this Order construct reconstruct and maintain in accordance with the plans and sections deposited at the office of the Board of Trade for the purposes of this Order (which plans and sections are in this Order referred to as "the deposited plans" and "the deposited sections") the tramways hereinafter described with all proper rails plates junctions crossings passing places offices stables carriage houses works and conveniences connected therewith or for the purposes thereof :

Provided that nothing in this Order or in any Act wholly or in part incorporated herewith shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 and 1888 to which the provisions of section 15 of

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the Act of 1882 apply except in accordance with and subject to the provisions of that section. A.D. 1909.

*Morecambe  
Corporation.*

The tramways authorised by this Order will be wholly situate within the borough and are as follows (that is to say):—

- 5 Tramway No. 1 (partly a reconstruction of part of the existing tramways and partly a new tramway) 1 mile 1 furlong 1·41 chains in length commencing at the boundary of the borough in Marine Road 17 yards or thereabouts north-west of the north-east side of Bold Street by a junction with the existing tramway of the
- 10 company at the commencement of Tramway No. 2 described in and authorised by the Act of 1886 passing thence in a north-easterly direction along Marine Road and terminating in that road at a point opposite the west side of Clarence Street:

Tramway No. 1 will be laid as a double line throughout:

- 15 Tramway No. 2 (partly a reconstruction of part of the existing tramways and partly a new tramway) 3 furlongs 5·10 chains in length commencing in Marine Road by a junction with Tramway No. 1 at the termination thereof as hereinbefore described passing thence in a north-easterly direction along Marine Road and termi-
- 20 nating in that road at a point opposite the north-easterly corner or gable of Rossendale House:

Tramway No. 2 will be laid as a double line throughout:

- 25 Tramway No. 3 (partly a reconstruction of the Corporation tramway and partly a new tramway) 6 furlongs 5·64 chains in length commencing in Marine Road by a junction with Tramway No. 2 at the termination thereof as hereinbefore described and passing thence in an easterly direction along Marine Road and Victoria Esplanade and terminating in that esplanade at a point 2 chains or thereabouts east of the western side of the road leading from
- 30 the shore to the village of Bare and 2 chains or thereabouts east of the north-easterly corner of Bare White House:

Tramway No. 3 will be laid as a double line throughout.

8. The following sections of the Order of 1897 shall so far as the same are applicable in that behalf extend and apply as varied by this
- 35 Order to the new tramways the existing tramways and the tramway undertaking in like manner in every respect as if the new tramways the existing tramways and the tramway undertaking had been wholly authorised by the Order of 1897 and formed part of the tramways and the undertaking authorised by that Order and for the purpose of such
- 40 application the expression "the tramways" and "the undertaking" in the said provisions shall be construed to include the new tramways the existing tramways and the tramway undertaking as defined by this Order (that is to say):—

Extending to  
this Order  
certain  
sections of  
Order of  
1897.

|                               |            |                                                                               |    |
|-------------------------------|------------|-------------------------------------------------------------------------------|----|
| A.D. 1909.                    | Section 7  | (Provision as to construction of tramways).                                   |    |
|                               | Section 8  | (As to rails of tramways).                                                    |    |
| <i>Morecambe Corporation.</i> | Section 9  | (Penalty for not maintaining rails and road in good condition).               |    |
|                               | Section 10 | (Tramways to be kept on a level with surface of 5 road).                      |    |
|                               | Section 12 | (Temporary tramways may be made where necessary).                             |    |
|                               | Section 13 | (Application of road materials excavated in construction of Promoters' work). |    |
|                               | Section 14 | (Tramways not to be opened until certified by Board 10 of Trade).             |    |
|                               | Section 15 | (Traffic upon tramways).                                                      |    |
|                               | Section 16 | (Promoters' lessees not bound to carry small parcels).                        |    |
|                               | Section 17 | (Provision as to carriage of parcels in separate carriages).                  | 15 |
|                               | Section 18 | (Promoters' lessees not to use carriages constructed for use on railways).    |    |
|                               | Section 19 | (Interchange of traffic).                                                     |    |
|                               | Section 21 | (As to fares on Sundays and holidays).                                        |    |
|                               | Section 22 | (Passengers' luggage).                                                        | 20 |
|                               | Section 25 | (Payment of tolls).                                                           |    |
|                               | Section 26 | (Periodical revision of tolls).                                               |    |
|                               | Section 28 | (Mortgages to include rents).                                                 |    |
|                               | Section 29 | (Audit of accounts).                                                          |    |
|                               | Section 30 | (Protection of local authority).                                              | 25 |
|                               | Section 32 | (Power to hold patents).                                                      |    |
|                               | Section 33 | (Provisions as to arbitration).                                               |    |
|                               | Section 34 | (Form and delivery of notices).                                               |    |
|                               | Section 35 | (Power to enter into agreements with respect to traffic).                     |    |
|                               | Section 36 | (Saving for general Acts).                                                    | 30 |

Repeal of certain sections of Order of 1897.

9. Section 11 (Power to make additional crossings where necessary) section 20 (Tolls for passengers) section 23 (Cheap fares for labouring classes) and section 24 (Tolls for small parcels) of the Order of 1897 are hereby repealed.

Crossovers to be constructed in certain cases.

10. Where in any road in which a double line of the existing 35 tramways or of the new tramways is laid there shall be less width between the outside of the footpath on either side of the road and the nearest rail of the tramway than nine feet six inches the Promoters shall if and where required by the Board of Trade construct a crossover or crossovers connecting the one tramway with the other and by the 40 means of such crossover or crossovers the traffic shall when necessary be diverted from one tramway to the other.

11.—(1) The Promoters may subject to the provisions of this Order with the consent of the Board of Trade make maintain alter and remove such crossovers passing places sidings junctions and other works in addition to those particularly specified in and authorised by this Order as they find necessary or convenient for the efficient working of the existing tramways or the new tramways or any of them or for providing access to any warehouses stables or carriage houses or works of the Promoters.

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*Morecambe Corporation.*

Power to make additional crossovers and to alter tramway lines.

(2) Notwithstanding anything shown on the deposited plans the Promoters may with the consent of the Board of Trade lay down double lines in lieu of single or interlacing lines or single lines in lieu of double or interlacing lines or interlacing lines in lieu of double or single lines on any of the existing tramways or the new tramways and may with the like consent alter the position in the road of any of the said tramways or any part thereof respectively Provided that the uppermost surface thereof shall be on a level with the surface of the road.

(3) Provided that if in the construction of any works under this section any rail is intended to be laid nearer to the footpath than previously authorised in such a manner that for a distance of thirty feet or upwards (whether the alterations extend to the whole thirty feet or not) a less space than nine feet six inches would intervene between it and the outside of the footpath on either side of the road the Promoters shall not less than one month before commencing the works give notice in writing to every owner and occupier of houses shops or warehouses abutting on the place where such less space would intervene and such rail shall not be so laid if the owners or occupiers of one third of such houses shops or warehouses by writing under their hands addressed and delivered to the Promoters within three weeks after receiving the notice from the Promoters express their objection thereto.

12. In reconstructing the existing tramways or any of them the Promoters may take up and remove the existing tramways so to be reconstructed or any of them and may discontinue and suspend the traffic thereon for such period as may be necessary for reconstructing the existing tramways or any of them and may sell dispose of or utilise in such reconstruction all or any of the materials now forming the existing tramways so to be reconstructed or any of them.

Power to remove existing tramways and utilise materials.

13. The Promoters may make junctions within the borough between the new tramways or the existing tramways and any tramway of the company but only with the consent of the company and (where such junctions are laid upon any road) the provisions of the Tramways Act 1870 incorporated with this Act and of this Act with respect to the construction maintenance and working of the tramways shall apply to

Junctions with tramways which can be worked in connection with new tramways.



A.D. 1909. such junctions where laid along any road and such junctions when  
*Morecambe* made shall for all purposes be deemed to be part of the tramway  
*Corporation.* undertaking.

For protec-  
tion of Mid-  
land Railway  
Company.

14. The provisions of section 7 of the Morecambe Tramways Act  
1886 so far as the same are applicable shall apply to the construction 5  
reconstruction and maintenance of the tramways and the works of the  
Corporation connected therewith by this Order authorised.

Conveyance  
of mails.

15. Notwithstanding any provision in the Act of 1886 the Order  
of 1892 and the Order of 1897 relating to any of the existing tramways  
the Conveyance of Mails Act 1893 shall extend and apply to both the 10  
existing tramways and the new tramways as if the same had been  
authorised by an Act of Parliament passed after the first day of January  
one thousand eight hundred and ninety-three and to the Corporation  
as the body or person owning or working such tramways.

Passengers'  
fares

16.—(1) The Promoters' lessees may demand and take for every 15  
passenger travelling upon the existing tramways or the new tramways  
or any part or parts thereof including every expense incidental to such  
conveyance tolls or charges not exceeding one penny per mile and for  
this purpose the fraction of a mile shall be deemed a mile.

(2) Provided that the Promoters' lessees may appoint stages upon 20  
the existing and new tramways not less than half a mile in length  
and may demand and take from every passenger travelling upon the  
existing and new tramways including every expense incidental to the  
conveyance of such passenger any tolls or charges not exceeding one  
penny for each two stages (or portion of that distance) travelled and 25  
for this purpose the fraction of a stage shall be deemed a stage.

Cheap fares  
for labouring  
classes.

17.—(1) The Promoters' lessees at all times upon the existing tram-  
ways and after the opening of the new tramways for public traffic upon  
those tramways shall and they are hereby required to run a proper  
and sufficient service of carriages for artisans mechanics and daily 30  
labourers each way every morning and every evening (Sundays Christmas  
Day and Good Friday always excepted) at such hours not being later  
than eight in the morning or earlier than five in the evening respec-  
tively as may be most convenient for such workmen going to and  
returning from their work at tolls or charges not exceeding one half- 35  
penny for every mile or fraction of that distance In the event of  
stages of not less than half a mile in length being appointed under  
the section of this Order of which the marginal note is "Passengers'  
fares" two such stages (or portion of that distance) shall for the  
purposes of this section be deemed a mile and a fraction of a stage be 40  
deemed a stage On Saturdays the Promoters' lessees in lieu of running  
such carriages after five o'clock in the evening shall run the same at  
such hours between noon and two o'clock in the afternoon as may be  
most convenient for the said purposes.

(2) If complaint is made to the Board of Trade that such proper and sufficient service is not provided the Board after considering the circumstances of the locality may by order direct the Promoters' lessees to provide such service as may appear to the Board to be reasonable. A.D. 1909.  
*Morecambe Corporation.*

- 5 (3) The Promoters' lessees shall be liable to a penalty not exceeding five pounds for every day during which they fail to comply with any order under this section.

18. The Promoters' lessees may demand and take in respect of any small parcels conveyed by them on the existing tramways and the  
10 new tramways including every expense incidental to such conveyance any tolls or charges not exceeding the tolls and charges following:—  
For any parcel not exceeding seven pounds in weight threepence:  
For any parcel exceeding seven pounds and not exceeding fourteen pounds in weight fivepence:  
15 For any parcel exceeding fourteen pounds and not exceeding twenty-eight pounds in weight sevenpence:  
For any parcel exceeding twenty-eight pounds and not exceeding fifty-six pounds in weight ninepence;  
20 Provided that no parcel under fifty-six pounds in weight exceed four feet in length or measure more than twelve cubic feet.

19. Notwithstanding anything in the Tramways Act 1870 to the contrary the Corporation may place and run carriages on and may  
work and may demand and take tolls and charges in respect of the  
25 existing tramways and of the new tramways and in respect of the use of such carriages and may provide such stables buildings carriages trucks horses harness apparatus plant appliances and conveniences as may be requisite or expedient for the convenient working or user of the said tramways by animal power and in such case the several pro-  
30 visions in this Order contained relating to the working of the existing tramways or of the new tramways and the taking of tolls and charges therefor shall extend and apply mutatis mutandis to and in relation to the Corporation and the Corporation may work such tramways and demand and recover such tolls and charges accordingly but nothing  
35 in this section shall empower the Corporation to create or permit a nuisance or to manufacture any such plant appliances and conveniences required for the working or user of the said tramways.

20. The regulations authorised by the Tramways Act 1870 to be made by the promoters of any tramway and their lessees may with  
40 respect to any tramways or portions of tramways for the time being belonging to and worked by the Corporation be made by the Corporation alone.

- 21.—(1) Subject to the provisions of this Order the Promoters may—  
Working agreements.



A.D. 1909.

*Morecambe  
Corporation.*

- (a) Enter into and carry into effect contracts and agreements with the company or any person authorised (whether expressly or otherwise) to enter into such contracts or agreements and owning or working any tramways in the borough or in any adjacent district which can be worked with any of the existing tramways or with any of the new tramways with respect to—

(i) The formation of junctions between the existing tramways or the new tramways and the tramways belonging to the company or to such person ; 10

(ii) The working running over using maintaining and managing by either of the contracting parties of the tramways or any of the tramways of the other and the fixing collecting apportionment and distribution of the rates and profits arising therefrom or of a rent for the same ; 15

(iii) The supply under any agreement for the tramways of either of the contracting parties being worked and used by the other of animal power or of carriages and plant necessary for the purposes of such agreement ;

(iv) The management regulation interchange collection transmission and delivery of traffic coming from or destined for the undertakings of the contracting parties ;

(v) The appointment of officers and servants and generally all such matters as may be deemed desirable for enabling the tramways of the contracting parties to be worked in connection : 25

- (b) Confirm subject to this section any such contracts and agreements entered into before the confirmation of this Order.

(2) Any contract or agreement under this section shall be submitted to and be subject to the approval of the Board of Trade. 30

*Portsmouth  
Corporation.*

## PORTSMOUTH CORPORATION.

*Order authorising the Mayor Aldermen and Burgesses of the Borough of Portsmouth to construct additional Tramways in the said Borough and for other purposes.*

Short title. 1. This Order may be cited as the Portsmouth Corporation Tramways Order 1909. 35

Incorporation of Acts. 2. The provisions of the Lands Clauses Acts (except with respect to the purchase and taking of lands otherwise than by agreement and

with respect to the entry upon lands by the Promoters of the undertaking) and of the Tramways Act 1870 are hereby incorporated with this Order except where the same are inconsistent with or expressly varied by this Order. A.D. 1909.  
*Portsmouth Corporation.*

- 5     3. The several words terms and expressions to which by the Tramways Act 1870 meanings are assigned have in this Order the same respective meanings. Provided that in this Order— Interpretation.

10     The expressions "the tramways" and "the undertaking" mean respectively the tramways and works and the undertaking by this Order authorised;

   The expressions "the Act of 1898" and "the Order of 1900" mean respectively the Portsmouth Corporation Tramways Act 1898 and the Portsmouth Corporation Tramways Order 1900; and

15     The expression "the Corporation" means the mayor aldermen and burgesses of the borough of Portsmouth acting by the Council.

4. The Corporation shall be the Promoters for the purposes of this Order and are in this Order referred to as "the Promoters." The Promoters.

   5. The Promoters may subject to the provisions of this Order construct and maintain in accordance with the plans and sections deposited Construction of tramways.  
20 at the office of the Board of Trade for the purposes of this Order (which plans and sections are in this Order respectively referred to as "the deposited plans" and "the deposited sections") the tramways hereinafter described with all proper rails plates sleepers junctions turntables turn-outs crossings passing-places tubes wires stables carriage  
25 houses sheds buildings works apparatus and conveniences connected therewith or for the purposes thereof. Provided that nothing in this Order or in any Act wholly or in part incorporated therewith shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 and 1888 to  
30 which the provisions of section 15 of the Act of 1882 apply except in accordance with and subject to the provisions of that section:

   The tramways authorised by this Order will be wholly situate in the parish and borough of Portsmouth and are—

35     Tramway No. 1 commencing in Victoria Road North by a junction with the existing tramway in that road at a point thirty-seven yards or thereabouts south-west of the centre of Fratton Bridge passing thence across the south approach of Fratton Bridge and north end of Fawcett Road into and along Goldsmith Avenue and terminating at a point in that avenue in a line with the  
40     western sides of Milton Road and Eastney Road:

   Tramway No. 1 will be a double line except at the following place where it will be laid as a single line:—

   In Goldsmith Avenue between a point forty-eight yards or thereabouts east of the eastern side of Prince Albert Street and

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Portsmouth  
Corporation.

a point in a line with the western sides of Milton Road and Eastney Road :

Tramway No. 1 will be 7 furlongs 4·93 chains in length of which 7 furlongs 3·57 chains will be double line and 1·36 chains single line :

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Provided that the Promoters shall construct the portion of Tramway No. 1 opposite the premises at the corner of Victoria Road North and Fawcett Road so that at no part thereof for a distance of thirty feet or upwards shall a less space than nine feet six inches intervene between the outside of the footpath and the nearest rail of the tramway :

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Tramway No. 1A commencing in Fawcett Road by a junction with the existing tramway in that road at a point forty-seven yards or thereabouts south of the centre of Fratton Bridge and terminating by a junction with Tramway No. 1 hereinbefore described at a point thirteen yards or thereabouts east of a line drawn between the eastern side of Fratton Bridge and the eastern side of Fawcett Road :

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Tramway No. 1A will be 1·12 chains in length and will be double line throughout.

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For protec-  
tion of Lon-  
don and South  
Western and  
London  
Brighton and  
South Coast  
Railway  
Companies.

6. For the protection of the London and South Western Railway Company and the London Brighton and South Coast Railway Company (in this section referred to as "the railway companies") the following provisions shall apply and have effect viz.:—

- (1) The Promoters shall not in working Tramway No. 1 obstruct or interfere with the free ingress and egress of persons vehicles or goods at the existing entrances to or exits from the railways works or property of the railway companies :
- (2) The Promoters shall not construct any works in connection with any portion of Tramway No. 1 passing over the railways of the railway companies or within ten yards thereof respectively until plans drawings and specifications (hereinafter referred to as "the said plans") describing materials to be used in and the manner of construction of the said tramway shall have been delivered to the engineers of the railway companies (hereinafter referred to as "the railway engineers") and have been examined and approved in writing by them and such works shall not in any way interfere with or damage the structure of the bridge carrying Goldsmith Avenue over the railway of the railway companies and one week's notice shall be given to the railway engineers before the commencement of any works :
- (3) In the event of the railway engineers failing to approve the said plans for twenty-one days after the delivery thereof

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the same shall be referred for settlement as hereinafter provided and the works shall be executed and subsequently maintained by the Promoters at their sole expense and under the superintendence of the railway engineers in accordance with the said plans:

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Portsmouth  
*Corporation.*

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(4) If and whenever the Promoters do not maintain the said works in accordance with the said plans the railway companies may in case such failure continues at the expiration of fourteen days' notice in writing to the Promoters to execute the requisite repairs and maintenance (or in case of emergency without notice) make do and execute any works which may from time to time be requisite in that behalf and the sums so expended in that behalf by the railway companies shall be repaid to them by the Promoters and in default of repayment the amount of such expenditure may be recovered with full costs by the railway companies from the Promoters in any court of competent jurisdiction:

(5) The Promoters shall bear and on demand pay to the railway companies all reasonable costs of the superintendence by them of the construction of so much of Tramway No. 1 as is laid on the bridge carrying Goldsmith Avenue over the railway of the railway companies and repairs thereof and the Promoters shall indemnify the railway companies or either of them as the case may be against all claims and compensate them for any injury which may from time to time happen to the property or works of the railway companies or to any person or persons using their railway in consequence of or during the construction and maintenance of the said works or the working of the said tramways and the appointment by the railway companies of any inspector or watchman shall not relieve the Promoters from any liability in connection therewith:

(6) Any additional expense caused to the railway companies in reference to the maintenance of the structure of the bridge or road or any other works occasioned or alterations rendered necessary thereby shall be borne and paid by the Promoters:

(7) The railway companies shall be at liberty to divert or stop Tramway No. 1 temporarily if and so far as may be required for the purpose of executing repairs alterations extensions or widenings of the bridge carrying Goldsmith Avenue over the railway and the Promoters shall indemnify the railway companies against any claim in respect thereof:

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*Portsmouth  
Corporation.*For protec-  
tion of Post-  
master-  
General.

- (8) Any difference which may arise between the railway companies and the Promoters touching any of the matters referred to in this section shall be decided by the Board of Trade.

7.—(A) Notwithstanding anything in the Act of 1898 the Order of 1900 or this Order contained if any of the works authorised to be executed by the Act of 1898 the Order of 1900 or this Order involves or is likely to involve any alteration of any telegraphic line belonging to or used by the Postmaster-General the provisions of section 7 of the Telegraph Act 1878 shall apply (instead of the provisions of section 30 of the Tramways Act 1870) to any such alteration.

(B) In the event of any tramways of the Promoters being worked by electricity the following provisions shall have effect:—

- (1) The Promoters shall construct their electric lines and other works of all descriptions and shall work their undertaking in all respects with due regard to the telegraphic lines from time to time used or intended to be used by His Majesty's Postmaster-General and the currents in such telegraphic lines and shall use every reasonable means in the construction of their electric lines and other works of all descriptions and the working of their undertaking to prevent injurious affection whether by induction or otherwise to such telegraphic lines or the currents therein Any difference which arises between the Postmaster-General and the Promoters as to compliance with this subsection shall be determined by arbitration:

- (2) If any telegraphic line of the Postmaster-General is injuriously affected by the construction by the Promoters of their electric lines and works or by the working of the undertaking of the Promoters the Promoters shall pay the expense of all such alterations in the telegraphic lines of the Postmaster-General as may be necessary to remedy such injurious affection:

- (3) Before any electric line is laid down or any act or work for working the tramways of the Promoters by electricity is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs) the Promoters or their agents not more than twenty-eight nor less than fourteen days before commencing the work shall give written notice to the Postmaster-General specifying the course of the line and the nature of the work including the gauge of any wire and the Promoters and their agents shall conform with such reasonable requirements (either general or special) as may from time to time be made by the Postmaster-General for the purpose of preventing any tele-

graphic line of the Postmaster-General from being injuriously affected by the said act or work Any difference which arises between the Postmaster-General and the Promoters as to any requirement so made shall be determined by arbitration :

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*Portsmouth Corporation.*

- 5 (4) If any telegraphic line of the Postmaster-General situate within one mile of any portion of the tramway works of the Promoters is injuriously affected and he is of opinion that such injurious affection is or may be due to the construction of any such works or to the working of their undertaking the engineer-in-chief of the Post Office or any person appointed in writing by him may at all times when electrical energy is being generated for tramway purposes at any works of the Promoters enter thereon for the purpose of inspecting the Promoters' plant and the working of the same and the Promoters shall in the presence of such engineer-in-chief or such appointed person as aforesaid make any electrical tests required by the Postmaster-General and shall produce for the inspection of the Postmaster-General the records kept by the Promoters pursuant to the Board of Trade regulations :
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- 15
- 20 (5) In the event of any contravention of or wilful non-compliance with this section by the Promoters or their agents the Promoters shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues or if the telegraphic communication is wilfully interrupted not exceeding fifty pounds for every day on which such interruption continues :
- 25
- (6) Provided that nothing in this section shall subject the Promoters or their agents to a fine under this section if they satisfy the court having cognisance of the case that the immediate doing of any act or the execution of any work in respect of which the penalty is claimed was required to avoid an accident or otherwise was a work of emergency and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the act or work was done a notice of the execution thereof stating the reason for doing or executing the same without previous notice :
- 30
- 35
- (7) For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such line is whether through induction or otherwise in any manner affected by such act or work or by any use made of such work :
- 40



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*Portsmouth  
Corporation.*

- (8) For the purposes of this section and subject as therein provided sections 2 10 11 and 12 of the Telegraph Act 1878 shall be deemed to be incorporated with this Order :
- (9) The expression "electric line" has the same meaning in this section as in the Electric Lighting Act 1882: 5
- (10) Any question or difference arising under this section which is directed to be determined by arbitration shall be determined by an arbitrator appointed by the Board of Trade on the application of either party whose decision shall be final and sections 30 to 32 both inclusive of the Regulation 10 of Railways Act 1868 shall apply in like manner as if the Promoters or their agents were a company within the meaning of that Act :
- (11) Nothing in this section contained shall be held to deprive the Postmaster-General of any existing right to proceed against 15 the Promoters by indictment action or otherwise in relation to any of the matters aforesaid :
- (12) In this section the expression "the Promoters" includes any person owning working or running carriages on any of the tramways of the Promoters : 20
- (13) Section 30 of the Act of 1898 and section 8 of the Order of 1900 so far as it applies to the first-mentioned section are hereby repealed.

Use of tram-  
way posts by  
Postmaster-  
General.

8.—(1) It shall be lawful for the Postmaster-General in any street or public road or part of a street or public road in which he is autho- 25 rised to place a telegraph to use for the support of such telegraph any posts and standards (with the brackets connected therewith) erected in any such street or public road by the Promoters in connection with the tramways and to lengthen adapt alter and replace such posts standards and brackets for the purpose of supporting any telegraph 30 and from time to time to alter any telegraph so supported subject to the following conditions :—

- (A) In placing maintaining or altering such telegraph no obstruction shall be caused to the traffic along or the working or user of the tramways: 35
- (B) The Postmaster-General shall give to the Promoters not less than twenty-eight days' notice in writing of his intention to exercise any of the powers of this section and shall in such notice specify the streets or public roads or parts of streets or public roads along which it is proposed to exercise 40 such powers and the manner in which it is proposed to use the posts standards and brackets and also the maximum strain and the nature and direction of such strain Any



difference as to any matter referred to in such notice shall  
be determined as hereinafter provided :      A.D. 1909.

*Portsmouth  
Corporation.*

- 5      (c) Unless otherwise agreed between the Postmaster-General and  
the Promoters the Postmaster-General shall pay the expense  
of lengthening adapting altering or replacing under the  
provisions of this section any post standard or bracket and  
the expenses of providing and maintaining any appliances  
or making any alteration rendered necessary in consequence  
10      of the exercise of the powers of this section for the protection  
of the public or the unobstructed working or user of the  
tramways or to prevent injurious affection of the Postmaster-  
General's telegraphs or any telegraphic or telephonic line  
or electrical apparatus of the Promoters or by any regulations  
15      which may from time to time be made by the Board of  
Trade arising through the exercise by the Postmaster-General  
of the powers conferred by this section :
- 20      (d) Unless otherwise agreed or in case of difference determined as  
hereinafter provided all telegraphs shall be attached to the  
posts standards or brackets below the level of the trolley  
wires and on the side of such posts or standards farthest  
from the trolley wires. Any difference as to the conditions  
of attachment shall be determined as hereinafter provided :
- 25      (e) Unless otherwise agreed no telegraph shall be attached to any  
post or standard placed in or near the centre of any street  
or public road :
- 30      (f) The Postmaster-General shall cause all attachments to posts  
standards or brackets used by him under the powers of  
this section to be from time to time inspected so as to satisfy  
himself that the said attachments are in a proper state of  
condition and repair :
- 35      (g) The Postmaster-General shall make good to the Promoters and  
shall indemnify them against any loss damage or expense  
which may be incurred by them through or in consequence  
of the exercise by the Postmaster-General of the powers  
conferred upon him by this section unless such loss damage  
or expense be caused by or arise from gross negligence on  
the part of the Promoters their officers or servants :
- 40      (h) The Postmaster-General shall make such reasonable contribution  
to the original cost of providing and placing any post  
standard or bracket used by him and also to the annual  
cost of the maintenance and renewal of any such post  
standard or bracket as having regard to the respective  
interests of the Promoters and the Postmaster-General in  
the use of the post standard or bracket and to all the  
45      circumstances of each case may be agreed upon between the

A.D. 1909.

*Portsmouth  
Corporation.*

Postmaster-General and the Promoters or failing agreement determined as hereinafter provided:

- (1) The Promoters shall not be liable for any interference with or damage or injury to the telegraphs of the Postmaster-General arising through the exercise by the Postmaster-General of 5 the powers conferred by this section and caused by the maintaining and working of the tramways or by any accident arising thereon or by the authorised use by the Promoters of electrical energy unless such interference damage or injury be caused by gross negligence on the part of the Promoters 10 their officers or servants:

- (j) If it shall become necessary or expedient to alter the position of or remove any post standard or bracket the Postmaster-General shall upon receiving twenty-eight days' notice thereof at his own expense alter or remove the telegraph supported 15 thereby or at his option retain the post standard or bracket and pay the Promoters the value of the same. Provided that if the Promoters or the body having the control of the street or public road object to the retention of the post standard or bracket by the Postmaster-General a difference 20 shall be deemed to have arisen and shall be determined as hereinafter provided.

- (2) Nothing in this section contained shall prevent the Promoters from using their posts standards or brackets for the support of any of their electric wires and apparatus whether in connection with their 25 tramways or other municipal undertakings or shall take away any existing right of the Promoters of permitting the use by any company or person of their posts standards or brackets in connection with the lighting of the streets or otherwise. Provided that any difference between the Postmaster-General and such company or person in relation to the 30 use of the posts standards or brackets by the Postmaster-General and such company or person respectively shall be determined as hereinafter provided.

- (3) All differences arising under this section shall be determined in manner provided by sections 4 and 5 of the Telegraph Act 1878 35 for the settlement of differences relating to a street or public road.

- (4) In this section—

The expression "the Promoters" includes their lessees:

The expression "telegraph" has the same meaning as in the Telegraph Act 1869:

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Other expressions have the same meaning as in the Telegraph Act 1878.

As to alteration of tramway lines &c.

9. The power of the Promoters under section 19 of the Act of 1898 to make additional crossovers &c. and to alter tramway lines shall [from

[9 EDW. 7.]

*Tramways Orders Confirmation.*

33

and after the date of this Order be as regards any of the tramways of the Promoters subject to the consent of the Board of Trade.

10. Notwithstanding anything in any Act or Order relating to the tramways of the Promoters it shall not be lawful to demand or take for  
 5 any passenger travelling upon any of such tramways including every expense incidental to such conveyance rates or charges exceeding one penny per mile and for this purpose the fraction of a mile shall be deemed a mile.

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*Portsmouth Corporation.*  
*Passengers' fares.*

11. Subject to the provisions of and the amendments made by this  
 10 Order the hereinafter mentioned provisions of the Order of 1900 and the provisions thereby applied shall so far as the same are applicable extend and apply to the tramways and undertaking by this Order authorised in like manner in every respect as if the tramways and undertaking  
 15 by this Order authorised formed part of the tramways and tramway undertaking authorised by the Act of 1898 and the Order of 1900 and for the purpose of such application the expressions "the tramways" and "the tramway undertaking" and "the undertaking" in the said provisions shall be construed to include the tramways and the undertaking as defined by this Order.

*Extending to this Order certain provisions of the Order of 1900.*

- 20 The provisions of the Order hereinbefore referred to are :—

Section 5 (Lands).

Section 8 (Extending to this Order certain provisions of the Act of 1898).

Section 9 (Tolls rates and charges).

- 25 Section 10 (Cheap fares for labouring classes).

Section 11 (Mechanical power works to be subject to section 30 of Tramways Act 1870).

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WHITWORTH URBAN DISTRICT COUNCIL.

*Whitworth Urban District Council.*

- Order authorising the Urban District Council of the Urban*  
 30 *District of Whitworth to construct Tramways in their District.*

*Preliminary.*

1. This Order may be cited as the Whitworth Urban District Council  
 Tramways Order 1909.

Short title.

2. The provisions of the Lands Clauses Act (except with respect  
 35 to the purchase and taking of lands otherwise than by agreement and with respect to the entry upon lands by the Promoters of the undertaking) and of the Tramways Act 1870 are hereby incorporated with this Order except where the same are inconsistent with or expressly varied by this Order.

*Incorporation of Acts.*

(43.)

E

A.D. 1909.  
*Whitworth  
 Urban Dis-  
 trict Council.*  
 Interpreta-  
 tion.

3. The several words terms and expressions to which by the Acts in whole or in part incorporated with this Order meanings are assigned have in this Order the same respective meanings:

Provided that in this Order—

The expression “the district” means the urban district of Whitworth in the county of Lancaster: 5

The expression “the council” means the council of the district:

The expression “the tramways” means the tramways and works by this Order authorised or (as the case may be) any part thereof: 10

The expression “the undertaking” means the undertaking by this Order authorised:

The expression “mechanical power” includes steam electrical and every other motive power not being animal power and the word “engine” includes motor. 15

Promotion.

4. The council shall be the Promoters for the purposes of this Order and are in this Order referred to as “the Promoters.”

Lands.

5. The Promoters may—

(A) Subject to the sanction of the Local Government Board and under such conditions as they may prescribe from time to time appropriate and use for any of the purposes of this Order but subject to the provisions (if any) under which such lands were respectively acquired any lands not dedicated to public use from time to time vested in them: 25

(B) By agreement from time to time purchase and acquire for the purposes of the undertaking such lands as they may require and may from time to time sell let or dispose of any such lands which may not be necessary for such purposes Provided that all sums received by the Promoters from the sale of such lands or from fines or premiums on leases of the same shall be applied solely in repayment of outstanding loans and that such moneys shall not be applied to the payment of instalments or to payments into the sinking fund except to such extent and upon such terms as may be approved by the Local Government Board: 30 35

Provided that they shall not at any time hold for such purposes more than five acres of land Provided also that nothing in this Order shall exonerate the Promoters from any indictment action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon lands appropriated or taken under the powers of this section. 40

*Construction of Tramways.*

A.D. 1909.

*Whitworth  
Urban Dis-  
trict Council.  
Construction  
of tramways.*

6. The Promoters may subject to the provisions of this Order—

5 (A) Construct and maintain in accordance with the plans and sections deposited at the office of the Board of Trade for the purposes of this Order (which plans and sections are in this Order referred to respectively as “the deposited plans” and “the deposited sections”) the tramways hereinafter described with all proper rails plates sleepers junctions turntables turnouts works and conveniences connected therewith or for the purposes thereof:

10 (B) Erect or construct on any lands taken or appropriated under the powers of this Order any offices stables sheds workshops stores waiting-rooms or other buildings yards works and conveniences for the purposes of the undertaking:

15 Provided that nothing in this Order or in any Act wholly or in part incorporated therewith shall extend to or authorise any interference with any works of any undertakers under the Electric Lighting Acts 1882 and 1888 to which the provisions of section 15 of the Act of 1882 apply except in accordance with and subject to the provisions of that  
20 section.

The tramways authorised by this Order will be wholly situate within the district and are as follows (that is to say):—

Tramway No. 1 (2 miles 7 furlongs 0·70 chain in length whereof 1 mile 7 furlongs 3·90 chains are single line and 7 furlongs  
25 6·80 chains are double line) commencing in Market Street Healey in the said township or parish and urban district of Whitworth by a junction with the existing tramway of the Rochdale Corporation at a point 2·90 chains northward of the northern side of Ending Rake and passing thence in a northerly direction into  
30 and along Market Street Whitworth Market Street Facit and Market Street Shawforth and terminating therein by a junction with Tramway No. 2 hereinafter described at a point opposite the north-eastern side of Land Gate.

35 The whole of the above-mentioned Tramway No. 1 will be laid as a single line except at the following places where it will be a double line (that is to say):—

In Market Street Healey—

- (A) Between points respectively 5·60 chains and 2 furlongs 3 chains from the commencement of the tramway:
- 40 (B) Between points respectively 3 furlongs 4 chains and 3 furlongs 7 chains from the commencement of the tramway:
- (C) Between points respectively 4 furlongs 5·60 chains and 4 furlongs 8·60 chains from the commencement of the tramway:

(43.)

E 2

A.D. 1909.

*Whitworth  
Urban Dis-  
trict Council.*

- (D) Between points respectively 1 furlong 1 chain and 8 chains southward of the eastern side of Old Road :
- (E) Between points respectively 1·20 chains and 4·20 chains north-eastward from the eastern side of Old Road :
- (F) From a point in line with the northern side of Albert Street 5 for 3 chains in a northerly direction.

## In Market Street Whitworth—

- (G) Between points respectively 1·30 chains southward to a point 1 furlong ·90 chain northward from the northern side of Hall Street : 10
- (H) Between points respectively 1·30 chains south-westward from the south-eastern side of South Street to a point ·70 chain north-eastward from the south-eastern side of Middle Street :
- (I) Between points respectively 1·90 chains south-westward and 3·60 chains north-eastward from the north-eastern side of Tong Lane : 15
- (J) Between points respectively 1 chain south-westward and 2 chains north-westward from the south-western side of Ethel Street. 20

## In Market Street Facit—

- (K) Between points respectively 1 chain south-westward and 2 chains north-eastward from the northern side of Edward Street :
- (L) Between points respectively ·50 chain south-westward and 2·50 chains north-eastward from the south-western side of Station Road : 25
- (M) Between points respectively 4 chains and 1 furlong 2·70 chains northward from the southern side of Buxton Avenue :
- (N) Between points respectively 3 chains and 6 chains north-eastward from the north-eastern side of Oak Street : 30
- (O) Between points respectively 4 chains and 1 chain south-westward from the south-western side of Land Gate.

Tramway No. 2 (7 furlongs 0·70 chain in length whereof 4 furlongs 9·20 chains are single line and 2 furlongs 1·50 chains are double line) wholly in Market Street Shawforth in the said township or parish of Whitworth commencing by a junction with Tramway No. 1 at a point opposite the north-eastern side of Land Gate and terminating at the boundary of the urban district of Whitworth and the borough of Bacup. 40

The whole of the above-mentioned Tramway No. 2 will be laid as a single line except at the following places where it will be a double line (that is to say) :—



In Market Street Shawforth—

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trict Council.*

- 5 (A) Between points respectively 6·30 chains and 9·30 chains north-eastward from the north-eastern side of Land Gate :
- (B) Between points respectively 6·60 chains and 9·60 chains north-westward from the northern side of Quarry Street :
- (C) Between points respectively 70 chain south-eastward and 9·30 chains south-westward from the northern side of Peel Terrace :
- 10 (D) Between points respectively 1 furlong 6·70 chains north-westward and 1 furlong 9·20 chains north-westward from the northern side of Peel Terrace :
- (E) From a point 2 chains or thereabouts south-eastward from the urban district boundary to the termination of the tramway at the boundary of the urban district.

- 15 7. The tramway shall be constructed on a gauge of four feet eight-and-a-half inches but carriages and trucks adapted for use on railways shall not be run on the tramways. Gauge of tramways.

8. In addition to the requirements of section 26 of the Tramways Act 1870 the Promoters shall lay before the Board of Trade a plan showing the proposed mode of constructing laying down and renewing such tramways and a statement of the materials intended to be used therein and the Promoters shall not commence the construction laying down and renewal of any of the tramways or part of any of the tramways respectively until such plan and statement have been approved by the Board of Trade and after such approval the works shall be executed in accordance in all respects with such plan and statement and under the superintendence and to the reasonable satisfaction of the surveyor of the road authority as provided by the said section. Provisions as to construction of tramways.
- 20
- 25

9. The rails of the tramways shall be such as the Board of Trade may approve. Rails of tramways.
- 30

- 10.—(1) The Promoters shall at all times maintain and keep in good condition and repair and so as not to be a danger or annoyance to the ordinary traffic the rails of the tramways and the substructure upon which the same rest and if the Promoters at any time fail to comply with this provision or with the provisions of section 28 of the Tramways Act 1870 they shall be liable to a penalty not exceeding five pounds and to a penalty not exceeding five pounds for every day on which such non-compliance continues. Penalty for not maintaining rails and roads.
- 35

- (2) In case it is represented in writing to the Board of Trade by the road authority of any district in which the tramways or any portion thereof are or is situate or by twenty inhabitant ratepayers of the district that the Promoters have made default in complying with the provisions in this section contained or with any of the requirements of section 28
- 40



A.D. 1909. of the Tramways Act 1870 the Board of Trade may if they think fit  
*Whitworth* direct an inspection by an officer to be appointed by the said Board  
*Urban Dis-* and if the officer reports that the default mentioned in such represen-  
*trict Council.* tation has been proved to his satisfaction then and in every such case  
a copy of such report certified by a secretary or an assistant secretary 5  
of the Board of Trade may be adduced as evidence of such default  
and of the liability of the Promoters to such penalty or penalties in  
respect thereof as is or are by this section imposed.

Tramways to be kept on level of surface of road. 11. If the Promoters or any other road authority hereafter alter  
the level of any road along or across which any part of the tramways 10  
is laid or authorised to be laid the Promoters may and shall from  
time to time alter or (as the case may be) lay their rails so that the  
uppermost surface thereof shall be on a level with the surface of the  
road as altered.

Crossovers to be constructed in certain cases. 12. Where in any road in which a double line of tramway is laid 15  
there shall be less width between the outside of the footpath on either  
side of the road and the nearest rail of the tramway than nine feet  
six inches the Promoters shall if and where required by the Board of  
Trade construct a crossover or crossovers connecting the one tramway  
with the other and by the means of such crossover or crossovers the 20  
traffic shall when necessary be diverted from one tramway to the other.

Power to make additional crossovers and to double tramway lines. 13.—(1) The Promoters may subject to the provisions of this Order  
with the consent of the Board of Trade make maintain alter and remove  
such crossovers passing places sidings junctions and other works in  
addition to those particularly specified in and authorised by this Order 25  
as they find necessary or convenient for the efficient working of the  
tramways or for providing access to any warehouses stables or carriage-  
houses or works of the Promoters.

(2) Notwithstanding anything shown on the deposited plans the  
Promoters may with the consent of the Board of Trade lay down double 30  
lines in lieu of single or interlacing lines or single lines in lieu of  
double or interlacing lines or interlacing lines in lieu of double or  
single lines on any of the tramways and may with the like consent  
at any time alter the position in the road of any of the tramways or  
any part thereof Provided that the uppermost surface thereof shall 35  
be on a level with the surface of the road.

(3) Provided that if in the construction of any works under this  
section any rail is intended to be so laid that for a distance of 30 feet  
or upwards a less space than nine feet six inches would intervene  
between it and the outside of the footpath on either side of the road 40  
the Promoters shall not less than one month before commencing the  
works give notice in writing to every owner and occupier of houses  
shops and warehouses abutting on the place where such less space  
would intervene and such rail shall not be so laid if the owners or

[9 EDW. 7.]

*Tramways Orders Confirmation.*

39

occupiers of one-third of such houses shops or warehouses by writing under their hands addressed and delivered to the Promoters within three weeks after receiving the notice from the Promoters express their objection thereto.

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Whitworth  
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trict Council.

- 5 (4) In places where the Promoters may not be the road authority the construction of any works under this section shall be subject to the approval of that authority.

- 10 14. When by reason of the execution of any work affecting the surface or soil of any road along or across the carriage-way of which any of the tramways are or is laid it is in the opinion of the Promoters necessary or expedient temporarily to remove or discontinue the use of such tramway or any part thereof the Promoters may construct in the same or any adjacent road and maintain so long as occasion may require a temporary tramway or temporary tramways in lieu of the tramway or part of the tramway so removed or discontinued subject in places in which the Promoters may not be the road authority to the approval of the road authority and to such regulations as that authority may make.

Temporary  
tramways  
may be made  
when neces-  
sary.

- 20 15. The Promoters may erect and maintain shelters or waiting-rooms for the accommodation of passengers and may with the consent of the local authority and road authority use for that purpose portions of the public streets or roads.

Shelters or  
waiting-  
rooms.

- 25 16. Any paving metalling or material excavated by the Promoters in the construction of the tramways from any road under their jurisdiction or control shall absolutely vest in and belong to the Promoters and may be dealt with and removed disposed of by them in such manner as they may think fit.

Application  
of road  
materials  
excavated in  
construction  
of works.

- 30 17. The tramways shall not be opened for public traffic until they have been inspected and certified to be fit for such traffic by the Board of Trade.

Tramways  
not to be  
opened until  
certified by  
Board of  
Trade.

*Motive Power.*

18. The carriages used on the tramways may be moved by animal power or subject to the following provisions by mechanical power (that is to say):—

Provisions as  
to motive  
power.

- 35 (1) The mechanical power shall not be used except with the consent of and according to a system approved by the Board of Trade:
- 40 (2) The Board of Trade shall make regulations (in this Order referred to as "the Board of Trade regulations") for securing to the public all reasonable protection against danger arising from the use under this Order of mechanical power on the tramways and for regulating the use of electrical power:

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trict Council.*

- (3) The Promoters or any person using any mechanical power on the tramways contrary to the provisions of this Order or of the Board of Trade regulations shall for every such offence be liable to a penalty not exceeding ten pounds and also in the case of a continuing offence to a further penalty not exceeding five pounds for every day during which such offence is continued after conviction thereof: 5

- (4) The Board of Trade if they are of opinion—

(A) that the Promoters or such person have or has made default in complying with the provisions of this Order or of the Board of Trade regulations whether a penalty in respect of such non-compliance has or has not been recovered; or 10

(B) that the use of mechanical power as authorised under this Order is a danger to the passengers or the public; 15  
may by order either direct the Promoters or such person to cease to use such mechanical power or permit the same to be continued only subject to such conditions as the Board of Trade may impose and the Promoters or such person shall comply with every such Order. In every such case the Board of Trade shall make a special report to Parliament notifying the making of such Order. 20

**Mechanical  
power works.**

19. For the purpose of working the tramways by mechanical power the Promoters and their lessees subject to the provisions of this Order (and as to the lessees subject to the terms of their lease) may— 25

(A) construct provide maintain and use on any lands appropriated or acquired by them under the powers of this Order stations for transforming electrical power with all necessary or proper machinery dynamos engines buildings works and conveniences: 30

(B) place construct erect lay down make and maintain on above or below the surface of any street or road within the district posts brackets electric conductors wires boxes apparatus subways tunnels cables tubes and openings:

(C) with the consent of the owners and occupiers of any houses or buildings within the district affix to such houses or buildings or maintain brackets wires and apparatus. 35

**Mechanical  
power works  
to be subject  
to Tramways  
Act 1870.**

20. All works to be executed by the Promoters or their lessees in any street or road for working the tramways by mechanical power in pursuance of the powers of this Order shall be deemed to be works of a tramway subject in all respects (save as by this Order otherwise expressly provided) to the provisions of the Tramways Act 1870 as in this Order incorporated as if they had been therein expressly mentioned 40

Provided always that nothing in this Order contained shall authorise the opening or breaking up of any street or road outside the district.

21. Subject to the provisions of this Order the Board of Trade may make byelaws with regard to any of the tramways upon which mechanical power may be used for all or any of the following purposes (that is to say):—

- For regulating the use of any bell whistle or other warning apparatus fixed to the engine or carriages;
- 10 For regulating the emission of smoke or steam from engines used on the tramways;
- For providing that engines and carriages shall be brought to a stand at the intersection of cross streets and at such places and in such cases of horses being frightened or of impending danger as the Board of Trade may deem proper for securing safety;
- 15 For regulating the entrance to exit from and accommodation in the carriages used on the tramways and the protection of passengers from the machinery of any engine used for drawing or propelling such carriages;
- 20 For providing for the due publicity of all byelaws and Board of Trade regulations in force for the time being in relation to the tramways by exhibition of the same in conspicuous places on the carriages and elsewhere.

Any person offending against or committing a breach of any of the byelaws made by the Board of Trade under the authority of this Order shall be liable to a penalty not exceeding forty shillings.

22. The provisions of the Tramways Act 1870 relating to the making of byelaws by the local authority with respect to the rate of speed to be observed in travelling on the tramways shall not authorise the local authority to make any byelaws sanctioning a higher rate of speed than that authorised by the Board of Trade regulations at which engines are to be driven or propelled on the tramways under the authority of this Order but the byelaws of the local authority may restrict the rate of speed to a lower rate than that so authorised.

23. The following provisions shall apply to the use of electrical power under this Order unless such power is entirely contained in and carried along with the carriages:—

- (1) The Promoters shall employ either insulated returns or uninsulated metallic returns of low resistance;
- 40 (2) The Promoters shall take all reasonable precautions in constructing placing and maintaining their electric lines and circuits and other works of all descriptions and also in working their undertaking so as not injuriously to affect by fusion or electrolytic action any gas or water pipes or

(43.)

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*Whitworth  
Urban District Council.*  
Byelaws.

*Amendment  
of Tramways  
Act 1870 as  
to byelaws  
by local  
authority.*

*Special provisions as to  
use of electrical power.*

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Urban Dis-  
trict Council.*

other metallic pipes structures or substances or to interfere with the working of any wire line or apparatus from time to time used for the purpose of transmitting electrical power or of telegraphic telephonic or electric signalling communication or the currents in such wire line or apparatus: 5

- (3) The electrical power shall be used only in accordance with the Board of Trade regulations and in such regulations provision shall be made for preventing fusion or injurious electrolytic action of or on gas or water pipes or other metallic pipes structures or substances and for minimising as far 10 as is reasonably practicable injurious interference with the electric wires lines and apparatus of other parties and the currents therein whether such lines do or do not use the earth as a return :
- (4) The Promoters shall be deemed to take all reasonable precau- 15 tions against interference with the working of any wire line or apparatus if and so long as they adopt and employ at the option of the Promoters either such insulated returns or such uninsulated metallic returns of low resistance and such other means of preventing injurious interference with 20 the electric wires lines and apparatus of other parties and the currents therein as may be prescribed by the Board of Trade regulations and in prescribing such means the Board shall have regard to the expenses involved and to the effect thereof upon the commercial prospects of the undertaking: 25
- (5) At the expiration of two years from the passing of the Act confirming this Order the provisions of this section shall not operate to give any right of action in respect of injurious interference with any electric wire line or apparatus or the currents therein unless in the construction erection main- 30 tenance and working of such wire line and apparatus all reasonable precautions including the use of an insulated return have been taken to prevent injurious interference therewith and with the currents therein by or from other electric currents: 35
- (6) If any difference arises between the Promoters and any other party with respect to anything hereinbefore in this section contained such difference shall unless the parties otherwise agree be determined by the Board of Trade or at the option of the Board by an arbitrator to be appointed by the Board 40 and the costs of such determination shall be in the discretion of the Board or of the arbitrator as the case may be:
- (7) In this section the expression "the Promoters" includes any person owning working or running carriages over the tram- 45 ways.



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*Whitworth  
Urban Dis-  
trict Council.*Alteration of  
telegraph  
lines of Post-  
master-  
General.For protec-  
tion of Post  
Office tele-  
graph lines.

24. Notwithstanding anything in this Order contained if any of the works by this Order authorised involves or is likely to involve any alteration of any telegraphic line belonging to or used by His Majesty's Postmaster-General the provisions of section 7 of the Telegraph Act 1878 shall apply (instead of the provisions of section 30 of the Tramways Act 1870) to any such alteration.

25. In the event of any of the tramways being worked by electricity the following provisions shall have effect:—

- 10 (1) The Promoters shall construct their electric lines and other works of all descriptions and shall work the undertaking in all respects with due regard to the telegraphic lines from time to time used or intended to be used by the Postmaster-General and the currents in such telegraphic lines and shall use every reasonable means in the construction of their
- 15 electric lines and other works of all descriptions and the working of the undertaking to prevent injurious affection whether by induction or otherwise to such telegraphic lines or the currents therein Any difference which arises between the Postmaster-General and the Promoters as to compliance with this sub-section shall be referred to arbitration :
- 20 (2) If any telegraphic line of the Postmaster-General is injuriously affected by the construction by the Promoters of their electric lines and works or by the working of the undertaking the Promoters shall pay the expenses of all such alterations in the telegraphic lines of the Postmaster-General as may be necessary to remedy such injurious affection :
- 25 (3) Before any electric line is laid down or any act or work for working the tramways by electricity is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs) the Promoters or their agents not more than twenty-eight nor less than fourteen days before commencing the work shall give written notice to the Postmaster-General specifying the course of the line and the nature of the work including the gauge of any wire and the Promoters and their agents shall conform with such
- 30 reasonable requirements (either general or special) as may be made by the Postmaster-General for the purpose of preventing any telegraphic line of the Postmaster-General from being injuriously affected by the said act or work Any difference which arises between the Postmaster-General and the Promoters as to any requirement so made shall be referred to arbitration :
- 35 (4) If any telegraphic line of the Postmaster-General situate within one mile of any portion of the works by this Order authorised
- 40

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trict Council.*

is injuriously affected and he is of opinion that such injurious affection is or may be due to the construction of any such works or to the working of the undertaking the engineer-in-chief of the Post Office or any person appointed in writing by him may at all times when electrical energy is being generated for the purposes of this Order at any works of the Promoters enter thereon for the purpose of inspecting the plant and the working of the same and the Promoters shall in the presence of such engineer-in-chief or such appointed person as aforesaid make any electric tests required by the Postmaster-General and shall produce for the inspection of the Postmaster-General the records kept by the Promoters pursuant to the Board of Trade regulations :

- (5) In the event of any contravention of or wilful non-compliance with this section by the Promoters or their agents the Promoters shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues or if the telegraphic communication is wilfully interrupted not exceeding fifty pounds for every day on which such interruption continues :
- (6) Provided that nothing in this section shall subject the Promoters or their agents to a fine under this section if they satisfy the court having cognisance of the case that the immediate doing of any act or the execution of any work in respect of which the penalty is claimed was required to avoid an accident or otherwise was a work of emergency and that they forthwith served on the Postmaster or Sub-Postmaster of the postal telegraph office nearest to the place where the act or work was done a notice of the execution thereof stating the reason for doing or executing the same without previous notice :
- (7) For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such line is whether through induction or otherwise in any manner affected by such act or work or by any use made of such work :
- (8) For the purposes of this section and subject as therein provided sections 2 10 11 and 12 of the Telegraph Act 1878 shall be deemed to be incorporated with this Order :
- (9) The expression "electric line" has the same meaning in this section as in the Electric Lighting Act 1882 :
- (10) Any question or difference arising under this section which is directed to be referred to arbitration shall be determined



by an arbitrator appointed by the Board of Trade on the application of either party whose decision shall be final and sections 30 to 32 both inclusive of the Regulation of Railways Act 1868 shall apply in like manner as if the Promoters or their agents were a company within the meaning of that Act :

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trict Council.*

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(11) Nothing in this section contained shall be held to deprive the Postmaster-General of any existing right to proceed against the Promoters by indictment action or otherwise in relation to any of the matters aforesaid :

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(12) In this section the expression "the Promoters" includes any person owning working or running carriages over any of the tramways of the Promoters.

26.—(1) It shall be lawful for the Postmaster-General in any street or public road or part of a street or public road in which he is authorised to place a telegraph to use for the support of such telegraph any posts and standards (with the brackets connected therewith) erected in any such street or public road by the Promoters in connection with the tramways and to lengthen adapt alter and replace such posts standards and brackets for the purpose of supporting any telegraph and from time to time to alter any telegraph so supported subject to the following conditions :—

Use of tram-  
way posts by  
Postmaster-  
General.

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20

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(A) In placing maintaining or altering such telegraph no obstruction shall be caused to the traffic along or the working or user of the tramways :

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(B) The Postmaster-General shall give to the Promoters not less than twenty-eight days' notice in writing of his intention to exercise any of the powers of this section and shall in such notice specify the streets or public roads or parts of streets or public roads along which it is proposed to exercise such powers and the manner in which it is proposed to use the posts standards and brackets and also the maximum strain and the nature and direction of such strain Any difference as to any matter referred to in such notice shall be determined as hereinafter provided :

35

(c) Unless otherwise agreed between the Postmaster-General and the Promoters the Postmaster-General shall pay the expense of lengthening adapting altering or replacing under the provisions of this section any post standard or bracket and the expense of providing and maintaining any appliances or making any alteration rendered necessary in consequence of the exercise of the powers of this section for the protection of the public or the unobstructed working or user of the tramways or to prevent injurious affection of the Postmaster-

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trict Council.*

General's telegraphs or any telegraphic or telephonic line or electrical apparatus of the Promoters or by any regulations which may from time to time be made by the Board of Trade arising through the exercise by the Postmaster-General of the powers conferred by this section :

5

- (D) Unless otherwise agreed or in case of difference determined as hereinafter provided all telegraphs shall be attached to the posts standards or brackets below the level of the trolley wires and on the side of such posts or standards farthest from the trolley wires Any difference as to the conditions of attachment shall be determined as hereinafter provided : 10
- (E) Unless otherwise agreed no telegraph shall be attached to any post or standard placed in or near the centre of any street or public road :
- (F) The Postmaster-General shall cause all attachments to posts standards or brackets used by him under the powers of this section to be from time to time inspected so as to satisfy himself that the said attachments are in a proper state of condition and repair : 15
- (G) The Postmaster-General shall make good to the Promoters and shall indemnify them against any loss damage or expense which may be incurred by them through or in consequence of the exercise by the Postmaster-General of the powers conferred upon him by this section unless such loss damage or expense be caused by or arise from gross negligence on the part of the Promoters their officers or servants : 20 25
- (H) The Postmaster-General shall make such reasonable contribution to the original cost of providing and placing any post standard or bracket used by him and also to the annual cost of the maintenance and renewal of any such post standard or bracket as having regard to the respective interests of the Promoters and the Postmaster-General in the use of the post standard or bracket and to all the circumstances of each case may be agreed upon between the Postmaster-General and the Promoters or failing agreement determined as hereinafter provided : 30 35
- (I) The Promoters shall not be liable for any interference with or damage or injury to the telegraphs of the Postmaster-General arising through the exercise by the Postmaster-General of the powers conferred by this section and caused by the maintaining and working of the tramways or by any accident arising thereon or by the authorised use by the Promoters of electrical energy unless such interference damage or injury be caused by gross negligence on the part of the Promoters their officers or servants : 40 45

- (j) If it shall become necessary or expedient to alter the position of or remove any post standard or bracket the Postmaster-General shall upon receiving twenty-eight days' notice thereof at his own expense alter or remove the telegraph supported thereby or at his option retain the post standard or bracket and pay the Promoters the value of the same Provided that if the Promoters or the body having the control of the street or public road object to the retention of the post standard or bracket by the Postmaster-General a difference shall be deemed to have arisen and shall be determined as hereinafter provided.
- (2) Nothing in this section contained shall prevent the Promoters from using their posts standards or brackets for the support of any of their electric wires and apparatus whether in connection with their tramways or other undertakings or shall take away any existing right of the Promoters of permitting the use by any company or person of their posts standards or brackets in connection with the lighting of the streets or otherwise Provided that any difference between the Postmaster-General and such company or person in relation to the use of the posts standards or brackets by the Postmaster-General and such company or person respectively shall be determined as hereinafter provided.
- (3) All differences arising under this section shall be determined in manner provided by sections 4 and 5 of the Telegraph Act 1878 for the settlement of differences relating to a street or public road.
- (4) In this section—  
 The expression "the Promoters" includes their lessees;  
 The expression "telegraph" has the same meaning as in the Telegraph Act 1869;  
 Other expressions have the same meaning as in the Telegraph Act 1878.
27. The tramways may be used for the purpose of conveying passengers animals goods minerals and parcels.
28. The Promoters' lessees shall not be bound to carry unless they think fit any animals goods minerals or parcels other than passengers' luggage not exceeding twenty-eight pounds in weight.
29. In case the Promoters' lessees carry animals goods minerals or parcels they may and when required by the Promoters shall carry the same in separate carriages or separate parts of carriages set apart for that purpose Provided that this provision shall not apply to the carriages of passengers' luggage not exceeding twenty-eight pounds in weight.

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Urban Dis-  
trict Council.**Traffic upon  
tramways.**Promoters'  
lessees not  
bound to carry  
animals goods  
&c.**Provisions as  
to carriage of  
animals  
goods &c.*

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*Rates.*

*Whitworth  
Urban Dis-  
trict Council.  
Passengers'  
fares.*

30.—(1) The Promoters' lessees may demand and take for every passenger travelling upon the tramways including every expense incidental to such conveyance any rates or charges not exceeding one penny per mile and for this purpose a fraction of a mile shall be deemed 5 a 'mile.

(2) Provided that the Promoters' lessees may appoint stages upon the tramways not less than half a mile in length and may demand and take for every passenger travelling upon the tramways including every expense incidental to the conveyance of such passenger any rates or charges not exceeding one penny for each two stages (or portion of that distance) travelled and for this purpose the fraction of a stage shall be deemed a stage. 10

*As to fares on  
Sundays and  
holidays.*

31. The Promoters' lessees shall not take or demand on Sunday or any public or local holiday any higher rates or charges than those levied 15 by them on ordinary week days.

*Passengers'  
luggage.*

32. Every passenger travelling upon the tramways may take with him his personal luggage not exceeding twenty-eight pounds in weight without any charge being made for the carriage thereof All such luggage is to be carried by hand and not to occupy any part of a seat nor to be 20 of a form or description to annoy or inconvenience other passengers.

*Cheap fares  
for labouring  
classes.*

33.—(1) The Promoters' lessees at all times after the opening of the tramways for public traffic shall and they are hereby required to run a proper and sufficient service of carriages for artisans mechanics and daily labourers each way every morning and every evening (Sundays Christmas Day Good Friday and public holidays always excepted) at such hours not being later than eight in the morning or earlier than five in the evening respectively as may be most convenient for such workmen going to and returning from their work at fares not exceeding one halfpenny for every mile or fraction of that distance On Saturdays 30 the Promoters' lessees in lieu of running such carriages after five o'clock in the evening shall run the same at such hours between noon and two o'clock in the afternoon as may be most convenient for the said purposes.

(2) If complaint is made to the Board of Trade that such proper 35 and sufficient service is not provided the Board after considering the circumstances of the locality may by order direct the Promoters' lessees to provide such service as may appear to the Board to be reasonable.

(3) The Promoters' lessees shall be liable to a penalty not exceeding five pounds for every day during which they fail to comply with any 40 order under this section.

*Rates and  
charges for  
animals  
goods &c.*

34. The Promoters' lessees may demand and take in respect of any animals goods minerals or parcels conveyed by them on the tramways including every expense incidental to such conveyance any rates or

charges not exceeding the rates and charges specified in the schedule to this Order annexed subject to the regulations in that behalf therein contained.

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trict Council.*

35. The rates and charges by this Order authorised shall be paid  
5 to such persons and at such places upon or near to the tramways and  
in such manner and under such regulations as the Promoters' lessees  
may by notice to be annexed to the list of rates and charges appoint.

Payment of  
rates.

36. If at any time after three years from the opening for public  
traffic of the tramways or any portion thereof or after three years from  
10 the date of any order made in pursuance of this section in respect of  
the tramways or any portion thereof it is represented in writing to the  
Board of Trade by the Promoters or by their lessees or by twenty  
ratepayers of the district that under the circumstances then existing  
all or any of the rates and charges demanded and taken in respect of  
15 the traffic on the tramways or on such portion should be revised the  
Board of Trade may (if they think fit) direct an inquiry by a referee  
to be appointed by the said Board in accordance with the provisions  
of the Tramways Act 1870 and if the referee reports that it has been  
proved to his satisfaction that all or any of the rates or charges should  
20 be revised the said Board may make an order in writing ordering  
modifying reducing or increasing all or any of the rates and charges  
to be demanded and taken in respect of the traffic on the tramways or  
on such portion of the tramways in such manner as they think fit and  
thenceforth such order shall be observed until the same is revoked or  
25 modified by an order of the Board of Trade made in pursuance of this  
section Provided always that the rates and charges prescribed by any  
such order shall not exceed in amount the rates and charges by this  
Order authorised Provided also that a copy of this section shall be  
annexed to every table or list of rates published or exhibited by the  
30 Promoters or their lessees.

Periodical  
revision of  
rates and  
charges.*Miscellaneous.*

37. Notwithstanding anything in the Tramways Act 1870 to the  
contrary the Promoters may place and run carriages on and may work  
and may demand and take tolls and charges in respect of the tramways  
35 and in respect of the use of such carriages and may provide such stables  
buildings carriages trucks horses harness engines machinery apparatus  
steam cable electric and other plant appliances and conveniences as  
may be requisite or expedient for the convenient working or user of  
the said tramways by animal or mechanical power and in such case  
40 the several provisions in this Order contained relating to the working  
of the tramways and the taking of rates and charges therefor shall  
extend and apply mutatis mutandis to and in relation to the Promoters  
and the Promoters may work such tramways and demand and recover

Power to  
Promoters to  
work tram-  
ways.



A.D. 1909. such rates and charges accordingly but nothing in this section shall  
*Whitworth* empower the Promoters to create or permit a nuisance or to manufacture  
*Urban Dis-* any such plant appliances and conveniences required for the working or  
*trict Council.* user of the said tramways.

**Regulations.** 38. The regulations authorised by the Tramways Act 1870 to be 5  
 made by the Promoters of any tramway and their lessees may with  
 respect to any tramways or portions of tramways for the time being  
 belonging to and worked by the Promoters be made by the Promoters  
 alone.

**Working** 39.—(1) Subject to the provisions of this Order the Promoters 10  
**agreements.** may—

(A) Enter into and carry into effect contracts and agreements with  
 any person authorised (whether expressly or otherwise) to  
 enter into such contracts or agreements and owning or  
 working any tramways connecting with any of the tramways 15  
 of the Promoters with respect to—

(i) The construction and equipment of the tramways by  
 this Order authorised ;

(ii) The formation of junctions between the tramways 20  
 and the tramways belonging to such person ;

(iii) The working running over using maintaining and  
 managing by either of the contracting parties of the tram-  
 ways or any of the tramways of the other and the fixing  
 collecting apportionment and distribution of the rates and  
 profits arising therefrom or of a rent for the same ; 25

(iv) The supply under any agreement for the tramways  
 of either of the contracting parties being worked and used  
 by the other of motive power or of engines carriages and  
 plant necessary for the purpose of such agreement Pro-  
 vided that no electrical energy shall be supplied or shall 30  
 continue to be supplied by the Promoters under this section  
 in any district in which any local authority company or  
 person shall be supplying energy under statutory authority  
 without the consent in writing of such local authority  
 company or person ; 35

(v) The management regulation interchange collection  
 transmission and delivery of traffic coming from or destined  
 for the undertakings of the contracting parties ;

(vi) The appointment of officers and servants and  
 generally all such matters as may be deemed desirable 40  
 for enabling the tramways of the contracting parties to  
 be worked in connection :

- (B) Confirm subject to this section any such contracts and agreements entered into before the confirmation of this Order. A.D. 1909.  
*Whitworth  
Urban Dis-  
trict Council.*
- (2) Any contract or agreement under this section shall be submitted to and be subject to the approval of the Board of Trade.
- 5 (3) In this section the word "tramways" includes light railways and parts of tramways and light railways.
40. The Promoters may include in any mortgage of the local rate made by them under section 20 of the Tramways Act 1870 the moneys coming to them out of the rents reserved under any lease made under  
10 the authority of the Tramways Act 1870 or this Order and the rates charges and sums authorised to be taken or received by them under the provisions of this Order. Mortgages to  
include rents  
and rates.
41. All orders regulations and byelaws made and consents and certificates given by the Board of Trade under the authority of this  
15 Order shall be signed by a secretary or an assistant secretary of the Board and when purporting to be so signed the same shall be deemed to be duly made in accordance with the provisions of this Order and to be orders and regulations within the meaning of the Documentary Evidence Acts 1868 and 1882 and may be proved accordingly. Orders &c. of  
Board of  
Trade.
- 20 42. Any penalty under this Order or under any byelaws or regulations made under this Order may be recovered in manner provided by the Summary Jurisdiction Acts. Recovery of  
penalties.
43. Sections 246 and 250 of the Public Health Act 1875 and section 58 (1) of the Local Government Act 1894 shall apply to the  
25 accounts of the receipts and expenditure of the Promoters and of their committees and officers with respect to the tramways and the undertaking and to the audit thereof as if such accounts related to receipts and expenditure under the Public Health Act 1875. Audit of  
accounts.
44. Section 265 (Protection of local authority and their officers from personal liability) of the Public Health Act 1875 is hereby  
30 incorporated with this Order and in construing that section for the purposes of this Order the expression "this Act" where used in that section shall mean this Order. Protection  
of local  
authority.
45. The Promoters may subject to the provisions of this Order (but  
35 only for the purposes of the undertaking and not so as to acquire any exclusive rights therein) acquire and hold any patent or other rights and any licences to use patent rights relating to the use of electrical power. Power to  
hold patent  
rights.
46. With respect to notices and to the delivery thereof by or to the  
40 Promoters the following provisions shall have effect (that is to say):—  
(43.) Form and  
delivery of  
notices.



A.D. 1909.

Whitworth  
Urban Dis-  
trict Council.

- (1) Every notice consent or approval shall be in writing and if given by the Promoters or by any local or road authority or company shall be signed by their clerk or secretary :
- (2) Notices and other documents required or authorised to be served under this Order may be served in the same manner as notices under the Public Health Act 1875 are by section 267 of that Act authorised to be served Provided that in the case of any authority or company any such notice or other document shall be delivered or sent by post in a prepaid letter addressed to the clerk to the authority at his office or to the secretary of the company at their registered or principal office.

Provisions as  
to arbitration.

47. Where under the provisions of the Tramways Act 1870 and this Order any matter in difference is referred to the arbitration of any person nominated by the Board of Trade the provisions of the Arbitration Act 1889 shall apply to every such arbitration as if the arbitration were pursuant to a submission.

Saving for  
general Acts.

48. Nothing in this Order contained shall exempt the Promoters or any person using the tramway or the tramways from the provisions of any general Act relating to tramways passed before or after the commencement of this Order or from any future revision or alteration under the authority of Parliament of the maximum rates or charges authorised by this Order.

## SCHEDULE.

### MAXIMUM RATES AND CHARGES FOR ANIMALS GOODS &c. 25

| <i>Animals.</i>                                          |          | Per Mile. |      |
|----------------------------------------------------------|----------|-----------|------|
|                                                          |          | s.        | d.   |
| For every horse mule or other beast of draught or burden | -        |           |      |
|                                                          | per head | 0         | 4 30 |
| For every ox cow bull or head of cattle                  | -        | 0         | 3    |
| For every calf pig sheep or other small animal           | -        | 0         | 1½   |

### *Goods and Minerals.*

|                                                                                                                                                                                                     |   |   |   |   |   |   |   |         |   |   |    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|---|---------|---|---|----|
| For all coals coke culm charcoal cannel limestone chalk lime salt sand fireclay cinders dung compost and all sorts of manure and all undressed materials for the repair of public roads or highways | - | - | - | - | - | - | - | per ton | 0 | 2 | 35 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|---|---------|---|---|----|

[9 EDW. 7.]

*Tramways Orders Confirmation.*

53

|    |                                                                                                                                                                                                                                                                                                                                                                              | Per Mile. | A.D. 1909.                                |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-------------------------------------------|
|    |                                                                                                                                                                                                                                                                                                                                                                              | s. d.     | Whitworth<br>Urban Dis-<br>trict Council. |
| 5  | For all iron iron ore pig iron bar iron rod iron sheet iron hoop<br>iron plates of iron slabs billets and rolled-iron brick slag and<br>stone stones for building pitching and paving tiles slates<br>and clay (except fireclay) and for wrought iron not otherwise<br>specifically classed herein and for heavy iron castings including<br>railway chairs - - - - - per ton | 0 2½      |                                           |
| 10 | For all sugar grain corn flour hides dyewoods earthenware timber<br>staves deals and metals (except iron) nails anvils vices and<br>chains and for light iron castings - - - per ton                                                                                                                                                                                         | 0 3       |                                           |
|    | For cotton and other wools drugs and manufactured goods and<br>all other wares merchandise fish articles matters or things -<br>per ton                                                                                                                                                                                                                                      | 0 4       |                                           |
| 15 | For every carriage of whatever description - - -                                                                                                                                                                                                                                                                                                                             | 1 0       |                                           |

*Small Parcels.*

|    |                                                                                                                                                                                                                                                                        | Any<br>Distance. |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
|    |                                                                                                                                                                                                                                                                        | s. d.            |
| 20 | For any parcel not exceeding seven pounds in weight - - -                                                                                                                                                                                                              | 0 3              |
|    | For any parcel exceeding seven pounds and not exceeding<br>fourteen pounds in weight - - - - -                                                                                                                                                                         | 0 4              |
|    | For any parcel exceeding fourteen pounds and not exceeding<br>twenty-eight pounds in weight - - - - -                                                                                                                                                                  | 0 6              |
| 25 | For any parcel exceeding twenty-eight pounds but not exceeding<br>fifty-six pounds in weight - - - - -                                                                                                                                                                 | 0 9              |
|    | For any parcel exceeding fifty-six pounds in weight such sum<br>as the Promoters may think fit.                                                                                                                                                                        |                  |
| 30 | Provided always that articles sent in large aggregate quantities<br>although made up in separate parcels such as bags of sugar coffee meal<br>and the like shall not be deemed small parcels but that term shall<br>apply only to single parcels in separate packages. |                  |

*For the Carriage of single Articles of great Weight.*

|    |                                                                                                                                                                                                                                                           | Per Mile. |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
|    |                                                                                                                                                                                                                                                           | s. d.     |
| 35 | For the carriage of any iron boiler cylinder or single piece of<br>machinery or single piece of timber or stone or other single<br>article the weight of which including the carriage exceeds<br>four tons but does not exceed eight tons such sum as the |           |
| 40 | Promoters may think fit not exceeding - - - per ton                                                                                                                                                                                                       | 1 0       |
|    | For the carriage of any single piece of timber stone machinery<br>or other single article the weight of which with the carriage<br>exceeds eight tons such sum as the Promoters may think fit.                                                            |           |

A.D. 1909.

*Regulations as to Tolls.**Whitworth  
Urban Dis-  
trict Council.*

A fraction of a mile beyond an integral number of miles shall be deemed a mile.

For a fraction of a ton the Promoters may demand and take tolls and charges according to the number of the quarters of a ton in such fraction and if there be a fraction of a quarter of a ton such fraction shall be deemed a quarter of a ton. 5

With respect to all articles except stone and timber the weight shall be determined according to the imperial avoirdupois weight.

With respect to stone and timber fourteen cubic feet of stone forty cubic feet of oak mahogany teak beech or ash and fifty cubic feet of any other timber shall be deemed one ton weight and so in proportion for any smaller quantity. 10



**Trawling in Prohibited  
Areas (Prevention)  
Bill.**

---

**AMENDMENT**

**TO BE MOVED IN COMMITTEE**

**BY**

**THE LORD EVERSOLEY.**

13th July 1909.

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**[Price 3d.]**

**(72 b.)**

[9 EDW. 7.] *Trawling in Prohibited Areas (Prevention).*

1

A

**B I L L**

[AS AMENDED IN COMMITTEE]

INTITULED

An Act to prohibit the landing and selling in the United Kingdom of fish caught in prohibited areas of the sea adjoining Scotland or Ireland. A.D. 1909.

**B**E it 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:—

- 5     **1.** From and after the passing of this Act it shall not be lawful to land or sell in the United Kingdom any fish caught by the methods of fishing known as beam trawling and otter trawling within prohibited areas as defined in this Act; and fish so caught within such areas shall be added to the table of pro-
- 10 hibitions and restrictions contained in section forty-two of the Customs Consolidation Act, 1876, and upon being brought to land in the United Kingdom shall be dealt with as goods imported and brought into the United Kingdom contrary to the said prohibitions and restrictions.
- 15     **2.** If a trawling or other vessel shall have been employed—
- (a) in fishing by the methods and within the areas aforesaid; or
- (b) in taking on board fish caught by the methods and within the areas aforesaid,
- 20 within two months prior to the landing or selling, or attempt to land or sell, fish therefrom in the United Kingdom, any fish on board such trawling or other vessel shall for the purposes of this Act be presumed to have been caught by the methods and within the areas aforesaid.
- (106.)

Landing and  
selling of fish  
illegally  
caught pro-  
hibited.

39 & 40 Viet.  
c. 36.

Presumption  
that fish are  
illegally  
caught.

A.D. 1909. — board such trawling or other vessel shall for the purposes of this Act be presumed to have been caught by the methods and within the areas aforesaid.

Fishery  
Board to  
notify.

3. The Fishery Board for Scotland shall from time to time notify to the Commissioners of Customs and Excise or to the officer or officers of Customs and Excise stationed at such ports as may be deemed necessary, the names, numbers, or other means of identification of all vessels with regard to which the said Board are satisfied that on the date or dates specified in such notification such vessels were employed in fishing by the methods and within the areas aforesaid, or in taking on board fish caught by the methods and within the areas aforesaid, and such notification shall be in such form and regulated by such procedure as may be prescribed by the Secretary for Scotland, and shall be sufficient warrant for such Commissioners or officers to enforce the prohibitions and restrictions provided in section one hereof in the case of any vessel from which within two months of the latest date specified in the notification fish is landed or sold or attempted to be landed or sold in the United Kingdom.

Saving.

4. Nothing in this Act shall affect or derogate from the provisions of section eight of the Herring Fishery (Scotland) Act, 1889. Provided that in any case where fish have been forfeited in pursuance of the provisions of this Act, proceedings shall not be taken for a penalty under that Act.

Definition of  
prohibited  
area.  
52 & 53 Vict.  
c. 23.

5. In this Act the expression "prohibited area" means—

- (1) Any waters within which the methods of fishing known as beam trawling and otter trawling are prohibited by the Herring Fishery (Scotland) Act, 1889, or any byelaw made thereunder, but does not include any such waters within three miles from low-water mark of any part of the coast of Scotland, unless such waters form part of an area which, as defined for the purposes of the said Act or byelaw, extends more than three miles from low-water mark as aforesaid;
- (2) Any waters within which the use of the method of fishing known as beam trawling or other trawling in or from any steamer or steamship or vessel propelled by steam is prohibited by any byelaw made under section three of the Steam Trawling (Ireland) Act, 1889, but does not include any such



[9 EDW. 7.] *Trawling in Prohibited Areas (Prevention).*

3

form part of an area which, as defined for the purposes of the byelaw, extends more than three miles from low-water mark as aforesaid. A.D. 1909.

6. This Act in its application to prohibited areas of the sea adjoining Ireland shall be subject to the following modifications :—

Application  
to prohibited  
areas adjoin-  
ing Ireland.

- (a) A reference to the Lord Lieutenant shall be substituted for the reference to the Secretary for Scotland ;
- (b) A reference to the Department of Agriculture and Technical Instruction for Ireland shall be substituted for the reference to the Fishery Board for Scotland ;
- (c) Nothing in this Act shall affect or derogate from the provisions of section four of the Steam Trawling (Ireland) Act, 1889, or section one of the Fisheries (Ireland) Act, 1901. Provided that in any case where fish have been forfeited in pursuance of the provisions of this Act, proceedings shall not be taken for a penalty under either of those sections ; and
- (d) References to the methods of fishing known as beam trawling and otter trawling shall, as regards any prohibited area of the sea adjoining Ireland, be construed as references to any method of fishing prohibited by the byelaw relating to the area. Provided that nothing in this Act shall operate to prohibit the landing or selling of fish caught in any such area by the use of any such method in or from any vessel other than a steamer, steamship, or vessel propelled by steam.

7. This Act may be cited as the Trawling in Prohibited Areas Prevention Act, 1909. Short title.

# **Trawling in Prohibited Areas (Prevention).**

---

A

**B I L L**

[AS AMENDED BY THE STANDING  
COMMITTEE]

INTITULIED

An Act to prohibit the landing and  
selling in the United Kingdom of  
fish caught in prohibited areas of the  
sea adjoining Scotland or Ireland.

*(Brought from the Commons 23rd June 1909.)*

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Ordered to be printed 20th July 1909.

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E. POMEROY, 116, Grafton Street, Dublin.

[Price  $\frac{3}{4}d.$ .]

(110.)

## Trawling in Prohibited Areas (Prevention) Bill.

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### A M E N D M E N T S

#### TO BE MOVED ON REPORT.

---

#### BY THE LORD PENTLAND.

Clause 1, page 1, lines 15 to 18, leave out (" Provided that  
" nothing in this Act shall operate to impose liability to any other  
" penalties under the Customs Consolidation Act, 1876, in respect  
" of the importation of prohibited goods ")

---

#### BY THE LORD EVERSLEY.

Clause 3, page 2, line 9, after (" satisfied ") insert (" upon the  
" reports of the officers in command of their cruisers, or of His  
" Majesty's cruisers, or of any of their Fishery Officers on shore ")

After clause 5, insert the following new clause :

.—(1) This Act so far as Scotland is concerned shall cease to be in force on the first day of January one thousand nine hundred and thirteen, provided that if within one month preceding that date the Secretary for Scotland shall be of opinion that trawling has practically ceased to be carried on in the Moray Firth, he may by Order in Council, with the consent of His Majesty, direct that the Act shall continue in force as regards Scotland notwithstanding this clause, and in such case the Act shall continue in force as regards Scotland until Parliament shall otherwise provide.

(2) The byelaw of the Scotch Fishery Board prohibiting trawling in the Moray Firth beyond the three mile limit from low water mark shall remain and continue in force so long only as this Act shall remain in force as regards Scotland.

---

# **Trawling in Prohibited Areas (Prevention).**

---

A

**B I L L**

[AS AMENDED ON REPORT]

INTITLED

An Act to prohibit the landing and  
selling in the United Kingdom of  
fish caught in prohibited areas of the  
sea adjoining Scotland or Ireland.

*(Brought from the Commons 23rd June 1909.)*

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Ordered to be printed 29th July 1909.

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E. POWERS, 116, Grafton Street, Dublin.

[Price 3d.]

(125.)

## Trawling in Prohibited Areas (Prevention) Bill.

---

### A M E N D M E N T S

TO BE MOVED ON REPORT

BY

THE LORD EVERSLEY.

*[To be substituted for the Amendments previously circulated.]*

---

Clause 3, page 2, line 1, leave out (" shall ") and insert (" may ")

line 19, after ( " Kingdom " ) insert  
 (" Provided that where it is possible for the Fishery Board to  
 " take proceedings under the Herring Fishery (Scotland) Act,  
 " for penalties against the master or owner of any British vessel  
 " for fishing within the areas aforesaid, they shall notify such  
 " vessel to the Commissioners of Customs and Excise, as provided  
 " by this clause ")

After clause 5 insert the following new clause :

.—(1) This Act shall cease to be in force on the first day of January one thousand nine hundred and twelve, provided that if within one month preceding that date the Secretary for Scotland certifies his opinion that trawling has practically ceased to be carried on in the Moray Firth ; it shall be lawful for His Majesty in Council to direct that the Act shall continue in force as regards Scotland, notwithstanding this clause, and in such case the Act shall continue in force as regards Scotland until Parliament shall otherwise provide.

(2) The byelaw of the Scotch Fishery Board prohibiting trawling in the Moray Firth beyond the three mile limit from low water mark shall be in force so long only as this Act shall be in force as regards Scotland.

---

# **Trawling in Prohibited Areas (Prevention) Bill.**

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## **A M E N D M E N T**

**TO BE MOVED ON THIRD READING**

**BY**

**THE LORD EVERSLLEY.**

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*29th July 1909.*

---

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[*Price 3d.*]

(1257)

A

## B I L L

## INTITULED

An Act to declare the Law relating to the duties of Trustees to keep and furnish Accounts of their Trust property. A.D. 1909.

**B**E it 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:—

5 **1.**—(1) It is part of the duty of a trustee, in the absence of special circumstances,— Duty of trustee with regard to accounts.

(a) to keep clear and accurate accounts of the trust, and preserve for a reasonable time all vouchers relating thereto, so that the accounts and vouchers may be at all reasonable times ready for production;

10 (b) to furnish at all reasonable times particulars of the trust property to the extent of his interest therein to any beneficiary requiring the same;

15 (c) to permit at all reasonable times any beneficiary, by himself or his duly authorised agent, to inspect and take copies of or extracts from the accounts, vouchers, and other documents of the trust so far as they relate to his estate or interest in the trust property.

20 (2) Any expenses incurred in furnishing particulars or in producing accounts or documents for inspection on the demand of a beneficiary shall, subject to the terms of the trust, be borne by the beneficiary requiring the same, unless the court otherwise orders.

25 **2.**—(1) The accounts of every trust shall, unless the trust otherwise provides,— What records the trust accounts shall contain.

(a) be kept separate and apart from all other accounts;

(227.)



A.D. 1909.

(b) show by entries made therein, as far as practicable in order of date, all property received by or come into the hands or under the control of the trustee, and all investments made and all property and all investments disposed of or parted with, and all moneys received or paid by or on behalf of the trustee in respect of the trust, and from or to whom and on what account such moneys were received or paid;

(c) distinguish, when necessary and so far as practicable, capital from income, and moneys received or paid in respect of real estate from moneys received or paid in respect of personal estate.

(2) This clause does not apply to income receivable by a beneficiary, either direct or through a banker or other agent, in pursuance of authority in that behalf given by the trustee at the request or with the concurrence of the beneficiary.

Act not to  
be retrospec-  
tive.

3.—(1) Nothing in this Act contained shall increase or alter the liability of any trustee for anything done or left undone before the commencement of this Act or shall subject the trustee to any criminal proceedings for breach of any duty hereby defined or imposed.

(2) Nothing in this Act contained shall limit or affect the discretion of the court to relieve a trustee from liability for anything done or undone.

Definitions.

4.—(1) In this Act, unless the context otherwise requires, the word "trustee" shall include an executor or administrator, and the word "trust" shall include the duties of an executor or administrator; and the word "beneficiary" shall include every person who might lawfully apply to the court to execute the trust; and the expression "trust property" shall include all real and personal property, whether in the nature of rents, profits, and income or in the nature of capital, for which a trustee is answerable under the trust, and the expression "expenses" shall include costs and charges.

Exclusion of  
certain offi-  
cials.

(2) This Act shall not apply to the Public Trustee, or to the Official Trustee of Charity Lands, or to the Official Trustees of Charitable Funds, or to a trustee or administrator of any charity to which section sixty-one of the Charitable Trusts Act, 1853, as amended by any subsequent enactment, applies, or to a judicial trustee or to a trustee in bankruptcy.

[9 EDW. 7.]

*Trustees' Accounts.*

3

A.D. 1909.

Extent of Act.

5. This Act shall not extend to Scotland.

6. This Act may be cited as the Trustee Act, 1909.

Short title.

7. This Act shall come into operation on the first day of January nineteen hundred and ten.

Commence-  
ment of Act.

## Trustees' Accounts.

^

### B I L L

#### INTITULED

An Act to declare the Law relating to the duties of Trustees to keep and furnish Accounts of their Trust property.

(*Brought from the Commons 24th November 1909.*)

Ordered to be printed 24th November 1909.

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E. PONSOMBY, 116, Grafton Street, Dublin.

[*Price 3d.*]

(227.)

## **Vehicles on Highways Bill. [H.L.]**

---

### **MEMORANDUM.**

This Bill applies to all vehicles, whether automobile or not, driven on all roads used by the public. It proposes to deal with the most serious dangers and inconveniences which arise from the modern development of road traffic, by providing for the mapping out of the roads of the United Kingdom into three divisions, marked by appropriate sign-posts.

It will be the duty of the local authority under the general control of the Local Government Board to put up sign-posts on all roads, indicating the maximum speed in the area, and also to mark dangerous places.

It fixes the following maximum speed limits in the respective divisions:—

- (a) Ten miles an hour in or near rural villages or at dangerous places or where so required by the Local Government Board;
- (b) Twenty miles an hour in or near towns;
- (c) Thirty miles an hour in the open country.

Racing and speed competitions on public roads are forbidden irrespective of any speed limit; it is declared to be an offence to drive a vehicle in any place or at any time recklessly or negligently, or at a speed or in a manner which is dangerous to the public. Where the driver committing an offence is the servant or under the control of a person who is in the vehicle when the offence is committed, that person also may be convicted of an offence.

Vehicles mechanically propelled and capable of being driven more than ten miles an hour are required to carry speedometers.

The use of hooters, horns, and other loud instruments of warning by persons driving vehicles is prohibited, with a view to preserve the due use of roads for all persons.



## **Vehicles on Highways Bill. [H.L.]**

### **ARRANGEMENT OF CLAUSES.**

---

Clause.

1. Driving to the danger of the public.
  2. Regulations as to driving of vehicles on highways.
  3. Procedure for schemes.
  4. Public notification and erection of sign-posts.
  5. Prohibition of certain instruments of warning.
  6. Certain vehicles to carry a speedometer.
  7. Responsibility for offences.
  8. Failure of offender to give true name and address.
  9. Penalties.
  10. Saving of liability.
  11. Application to servants of Crown.
  12. Application to Scotland.
  13. Application to Ireland.
  14. Interpretation.
  15. Repeal, commencement, and short title.
-





## A

## B I L L

## INTITULED

An Act to amend the Law with respect to the use of Vehicles on Highways. A.D. 1909.

**B**E it 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:—

- 5      1.—(1) If any person drives a vehicle on a public highway—
- (a) in or near any rural village or at or near any place Driving to  
the danger  
of the public.  
         indicated by a sign-post as dangerous, including  
         dangerous corners, cross-roads, and precipitous places,  
10      or within any limits or place referred to in a special  
         regulation made by the Local Government Board  
         with a view to the safety of the public, at a speed  
         exceeding ten miles an hour; or
- (b) in or near any town other than a rural village at a  
         speed exceeding twenty miles an hour; or
- 15      (c) in the open country at a speed exceeding thirty miles  
         an hour,
- he shall be guilty of an offence under this Act, but a person  
         shall not be convicted of an offence under this subsection merely  
         on the opinion of one witness as to the rate of speed nor, except
- 20      where the offence charged is driving at a speed exceeding thirty  
         miles an hour, if the sign-posts required by this Act to be set up  
         denoting the respective speed areas and dangerous places have not  
         been set up or are proved not to be reasonably distinguishable by  
         a person driving a vehicle on the highway.
- 25      (2) Notwithstanding the provisions of subsection (1) of this  
         section, if any person drives a vehicle on a public highway—
- (a) recklessly; or
- (b) negligently; or
- (10.)

A.D. 1909.

(c) at a speed; or

(d) in a manner,

which is dangerous to the public, that person shall be guilty of an offence under this Act.

(3) As from the passing of this Act, if any person drives a vehicle on a public highway in competition with any other vehicle, or for the purpose of racing or for any wager, he shall be guilty of an offence under this Act.

(4) Where a person is prosecuted for an offence under this section he shall not be convicted unless he is warned of the intended prosecution at the time the offence is committed, or unless notice of the intended prosecution is sent to him or to the owner of the vehicle within such time after the offence is committed, not exceeding twenty-one days, as the court think reasonable.

15

(5) Any police constable may apprehend without warrant the driver of any vehicle who commits an offence under this section within his view if he refuses to give his name and address, or, if being required by law to produce his licence or ticket on demand, he refuses to do so, or if the vehicle being by law required so to do does not bear the prescribed mark or marks of identification.

Regulations  
as to driving  
of vehicles  
on high-  
ways.

2.—(1) The Local Government Board shall as soon as may be after the passing of this Act make general regulations with respect to the use of vehicles on highways to secure compliance with the provisions of this Act, and such regulations shall prescribe generally the classes of places and limits within which the respective speeds mentioned in this Act shall not be exceeded, and the form of draft schemes to be submitted to the Board under this Act.

30

(2) The Local Government Board may, if they think fit, make special regulations under this section of a local nature and limited in their application to particular places with a view to the safety of the public, and within any limits or place referred to in any such special regulation a person shall not drive a vehicle at a speed exceeding ten miles an hour.

(3) All regulations made in pursuance of this section shall be forthwith laid before both Houses of Parliament, and sections one and two of the Rules Publication Act, 1893 (which provide for representations by public bodies respecting draft rules and for the making of provisional rules in certain cases), shall apply to such regulations.

56 & 57 Vict.  
c. 66.

3.—(1) Each local authority within the meaning of this A.D. 1909.  
 Act shall, within three months after the passing thereof or within  
 such extended time as may be allowed by the Local Government Procedure  
 Board, submit to the Board a draft scheme in the prescribed for schemes.  
 5 form, showing the places and limits in their district within  
 which, in accordance with the regulations made by the Board  
 under this Act, and, in the opinion of the local authority, the  
 respective speeds mentioned in this Act should be fixed as the  
 maximum speeds.

10 (2) If the local authority decline to submit a draft scheme,  
 or within three months after the passing of this Act, or within  
 such extended time as may be allowed by the Local Government  
 Board, fail to submit a draft scheme, or, after a scheme has  
 been confirmed by the Board, refuse or neglect to carry the  
 15 scheme into effect as required by this Act, the Board shall  
 make an order requiring the local authority in default to comply  
 with the provisions of this Act within a time fixed by the order,  
 and such order may be enforced by mandamus.

(3) The draft scheme shall be published and advertised,  
 20 together with notice of the time within and manner in which  
 objections are to be sent to the Local Government Board, in such  
 manner as the Board think best adapted for ensuring publicity.

(4) The Local Government Board shall consider the draft  
 scheme and any objections thereto duly made, including objec-  
 25 tions made by the local authority to any alterations therein which  
 the Board propose to make, of which alterations due notice shall  
 be sent to the local authority by the Board, and may settle and  
 confirm the scheme either without alteration or with such  
 alterations as the Board think fit.

30 (5) The Local Government Board may if they think fit either  
 after an application by the local authority concerned or otherwise,  
 order any scheme under this Act to be revoked, altered, or  
 amended, and it shall be the duty of the local authority to submit  
 to the Board within the time limited by the order a new draft  
 35 scheme or an amendment of an existing scheme, and the provi-  
 sions of this Act relating to the making and carrying into effect  
 of schemes shall apply to the proceedings under every such order  
 made by the Board.

(6) Subsections (1) and (5) of section eighty-seven of the  
 40 Local Government Act, 1888 (which relates to local inquiries), 51 & 52 Vict.  
 shall apply for the purpose of the carrying out by the Local c. 41.  
 Government Board of any of their duties under this Act.

A.D. 1909.

Public notification and erection of sign-posts.

**4.**—(1) The local authority shall give public notice of any scheme under this Act affecting their district, as confirmed by the Local Government Board, limiting the speed of vehicles within any limits or place.

(2) It shall be the duty of the local authority to carry into effect the provisions of a scheme, within such time as may be specified in the scheme or within such further time as may be allowed by the Local Government Board, by causing to be set up and maintained, subject to regulations as to position, size, and colours to be made by the Board, the necessary sign-posts denoting the respective speed areas and dangerous places.

Prohibition of certain instruments of warning.

**5.** As from the passing of this Act a person driving a vehicle on a public highway shall not use for giving warning of the approach or position of the vehicle any horn or other instrument or signal which would unreasonably cause any person or vehicle to divert from, or be interrupted in, their lawful course upon or near such highway, and if any person acts in contravention of this provision he shall be guilty of an offence under this Act.

Certain vehicles to carry a speedometer.

**6.** Every vehicle propelled by mechanical power and capable of being driven at a speed exceeding ten miles an hour shall carry a speedometer so constructed as to indicate the speed at which the vehicle is moving, and so placed as to be visible to the driver of such vehicle; and if any person drives any such vehicle on a public highway in contravention of this provision, he shall be guilty of an offence under this Act.

Responsibility for offences.

**7.** If an offence under this Act is committed by any person who is the servant or subject to the control of another person who is in the vehicle when such offence is committed, that other person also shall be guilty of an offence under this Act.

Failure of offender to give true name and address.

**8.** If the driver of any vehicle who commits an offence under this Act refuses to give his name or address, or gives a false name or address, he shall be guilty of an offence under this Act, and it shall be the duty of the owner of the vehicle, if required to give any information which it is within his power to give, and which may lead to the identification and apprehension of the driver, and if the owner fails to do so, he shall also be guilty of an offence under this Act.

Penalties.

**9.**—(1) A person guilty of an offence under this Act shall be liable on summary conviction, in respect of the first offence, to a fine not exceeding twenty pounds, and in respect of any subsequent

[9 Edw. 7.]

*Vehicles on Highways.*

5

offence, to a fine not exceeding fifty pounds, or, in the discretion of the court, to imprisonment for a period not exceeding three months, and, in addition to any punishment which may be awarded under this Act, a conviction for an offence under this  
 5 Act in relation to any vehicle for the driving of which a licence is by law required shall, for the purposes of the suspension of such licence and for a declaration that the person convicted is disqualified for obtaining such a licence, have the like effect as a conviction under any Act under which the person convicted  
 10 holds the licence.

A.D. 1909.

(2) Any person adjudged to pay a fine exceeding twenty shillings under this Act may appeal against the conviction in the same manner as he may appeal if ordered to be imprisoned without the option of a fine.

15 **10.** Save as expressly provided in this Act, nothing therein shall affect any liability of the driver or owner of a vehicle by virtue of any statute or at common law.

Saving of liability.

**11.** It is hereby declared that this Act applies to persons in the public service of the Crown.

Application to servants of Crown.

20 **12.** In the application of this Act to Scotland—

Application to Scotland.

(1) a reference to the Secretary for Scotland shall be substituted for a reference to the Local Government Board; and

25 (2) the road authority of any county or of any royal, parliamentary, or police borough, shall be the local authority within the meaning of the provisions of this Act which relate to the rate of speed and the erection of sign-posts; and

30 (3) a reference to subsections one and three of section ninety-three of the Local Government (Scotland) Act, 1889, shall be substituted for a reference to subsections one and five of section eighty-seven of the Local Government Act, 1888; and

52 &amp; 53 Vict. c. 50.

35 (4) the reference to sections one and two of the Rules Publication Act, 1893, shall not apply, but notice of the proposal to make regulations under section two of this Act shall be published in the Edinburgh Gazette, and any representations or suggestions made in writing by a public body interested to the

A.D. 1909.

Secretary for Scotland, shall be taken into consideration before the regulations are finally settled. Where the Secretary for Scotland certifies that on account of urgency or any special reason any regulation should come into immediate operation, it shall 5 be lawful for him to make any such regulations to come into operation forthwith as provisional regulations, but such provisional regulations shall only continue in force until rules have been made in accordance with the foregoing provisions; and 10

- (5) any fine under this Act shall be recoverable by imprisonment in terms of the Summary Jurisdiction Acts; and
- (6) any person convicted of an offence under this Act and ordered to be imprisoned without the option 15 of a fine or adjudged to pay a fine exceeding ten pounds shall have a right of appeal against the conviction.

Application  
to Ireland.**13.** In the application of this Act to Ireland—

- (1) a reference to the Local Government Board for Ireland 20 shall be substituted for a reference to the Local Government Board; and
- (2) Subsections one and three of Article thirty-two of the Local Government (Application of Enactments) Order, 1898, shall be substituted for subsections 25 one and five of section eighty-seven of the Local Government Act, 1888; and
- (3) Section twenty-three of the Summary Jurisdiction (Ireland) Act, 1851 (which gives a right of appeal), shall apply in respect of convictions for offences 30 under this Act as if any term of imprisonment without the option of a fine were substituted for a term of imprisonment exceeding one month; and
- (4) Sections one to three inclusive of the Criminal Evidence Act, 1898, shall extend to Ireland in the case of a 35 person charged with an offence under this Act.

51 & 52 Viet.  
c. 41.14 & 15 Viet.  
c. 92.61 & 62 Viet.  
c. 36.Interpreta-  
tion.**14.** In this Act, unless the context otherwise requires,—

- (1) the expression “vehicle” includes every sort of carriage in whatever manner the same may be drawn or propelled;



[9 Edw. 7.]

*Vehicles on Highways.*

7

(2) The expression "public highway" includes every road- A.D. 1909.  
way to which the public have access: —

(3) The expression "local authority" means—

5

(a) As respects the City of London, the mayor,  
aldermen, and commons of the city of London in  
common council assembled; and

10

(b) As respects a municipal borough, with a popu-  
lation of over ten thousand according to the last  
census taken before the passing of this Act, the  
council of the borough; and

(c) As respects any other area, the county  
council.

**15.**—(1) Sections one, nine, and ten, and subsection (3) of section eighteen of the Motor Car Act, 1903, shall be repealed as  
15 from the commencement of this Act. Repeal, com-  
mencement,  
and short  
title.

(2) This Act, except as otherwise provided, shall come into  
operation on the first day of May nineteen hundred and ten. 3 Edw. 7.  
c. 36.

(3) This Act may be cited as the Vehicles on Highways  
Act, 1909.



**Vehicles on Highways.**  
**[H.L.]**

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**A**  
**B I L L**

**INTITLED**

An Act to amend the Law with respect  
to the use of Vehicles on Highways.

*The Lord Willoughby de Broke.*

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Ordered to be printed 9th March 1909.

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(10.)

## **Water Supplies Protection Bill. [H.L.]**

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### **MEMORANDUM.**

The objects of the Bill are as follows :—

1. To provide that no water undertakers shall sink wells or construct works for obtaining their supply unless such wells and works and the sites thereof have been expressly approved by Parliament.

2. To amend the law with regard to underground water by providing that wherever private supplies are injured by the abstraction of water for public supply (by means of future works) the owner shall be entitled to compensation.

3. To provide that where (by means of future works) water is taken from any district for supply to communities outside that district, the district whence the water is taken and through which it is conveyed, shall be entitled to demand a share of such water for its own needs upon terms to be agreed or fixed by the Local Government Board.



## **Water Supplies Protection Bill. [H.L.]**

### **ARRANGEMENT OF CLAUSES.**

---

Clause.

1. Short title.
2. Application and extent of Act.
3. Restriction on user of land for wells.
4. Compensation for injury by abstraction of water.
5. Right of supply in bulk from water in transit.
6. As to existing obligations.
7. Definitions.

**SCHEDULE.**



## A

## B I L L

## INTITULED

An Act to determine the rights and liabilities of persons supplying water under the authority of Parliament in certain cases. A.D. 1909.

**B**E it 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:—

5      1. This Act may be cited as the Water Supplies Protection Act, 1909. Short title.

2. This Act shall not extend to Scotland or Ireland.

Application and extent of Act.

3. Notwithstanding anything contained in any Act of Parliament or Provisional Order, no authorised undertaker shall, after the passing of this Act, sink any well upon or construct any other works for taking or intercepting water from any land unless those works and the lands upon which the same are to be constructed are specified in an Act of Parliament. Restriction on user of land for wells.

4.—(1) Notwithstanding anything contained in any Act of Parliament or Provisional Order, if any private water supply situate within any protected area (as defined by this Act) shall be diminished, or injured subsequently to the construction or enlargement after the passing of this Act of any works of an authorised undertaker, that authorised undertaker shall (in default of proof that such diminution or injury has not been caused by such works) make full compensation for such diminution or injury and for any loss or damage occasioned thereby to the owner of such supply and to all persons entitled to use the same, and such compensation may be by money payment or by the reinstatement or improvement of the water supply or by

Compensation for injury by abstraction of water.

A.D. 1909. — affording a new supply, or partly by one and partly by another or others of such methods as (in default of agreement) may be determined by arbitration as herein-after provided.

(2) For the purposes of this section authorised undertakers shall have power to supply water outside their limits of supply 5 and to execute and do all such works and things as may be necessary.

(3) Any difference or question arising under this section shall be referred to and determined by arbitration in manner provided by the Arbitration Act, 1889. 10

(4) Any award made by an arbitrator under this section ordering the reinstatement or improvement of the water supply, or the affording of a new supply, may be enforced by mandamus.

Right of supply in bulk from water in transit.

**5.**—(1) Where an authorised undertaker by works constructed or enlarged after the passing of this Act takes water from or 15 conveys water through any county district or any part of a county district for supply outside such county district, the district council of such county district may demand a supply of water in bulk for use and for supply for use within the county district or any part thereof, and the authorised undertaker shall, subject 20 as herein-after provided, afford such supply in such quantity and at such price and upon such terms and conditions as (in default of agreement) may be determined as herein-after directed :

Provided that water so supplied shall not be used or supplied for use in such part (if any) of the county district as is within 25 the limits of supply of any authorised undertaker (not being the authorised undertaker upon whom the demand is made) except with the consent in writing of such authorised undertaker, which consent shall not be unreasonably withheld.

(2) Any difference or question arising under this section 30 shall be determined upon the application of any party concerned by the Local Government Board, who shall hold an inquiry into the subject-matter at which all parties concerned shall be entitled to be heard, and the said Board, after holding such inquiry and considering all the circumstances of the case, may make such 35 order as they think fit.

(3) Any such order may (in particular) determine all or any of the following matters so far as the same or any of them are in question (that is to say) :—

(a) May determine whether a supply of water is or is not 40 to be afforded under this section, and in the former case



in what quantity at what price and upon what terms and conditions the same is to be afforded; and A.D. 1909.

5 (b) May determine whether any consent required by this section is or is not being unreasonably withheld, and may dispense with such consent either absolutely or upon terms; and

(c) May determine how the costs of any of the parties attending the inquiry shall be borne.

10 (4) The provisions of sections two hundred and ninety-four, two hundred and ninety-five, and two hundred and ninety-six of the Public Health Act, 1875, as set out in the schedule to this Act, shall apply to inquiries and orders under this section.

(5) Any order made by the Local Government Board under this section may be enforced by mandamus.

15 **6.** Except so far as is expressly by this Act provided nothing in this Act shall operate to relieve any authorised undertaker from any obligation or disability or from any action, suit, claim, demand, or liability to which but for the passing of this Act he would be or become liable. As to existing obligations.

20 **7.** In this Act, if not inconsistent with the context,— Definitions.

The expression “authorised undertaker” means any local authority, company, body, or person authorised by Act of Parliament, or Provisional Order confirmed by Act of Parliament, to take water for purposes of distribution and supply;

25 The expression “private water supply” includes rivers, springs, streams, ditches, ponds, wells, and bore pipes, and the water flowing or percolating into or being therein and owned or used by any person not being an authorised undertaker;

30 The expression “owner” includes a lessee or tenant;

The expression “protected area” means the area within a radius of two and a half miles from the works constructed or enlarged as in subsection (1) of section four of this Act mentioned;

35 The expression “county district” includes every urban district, whether a county borough or not, and every rural district;

40 The expression “district council” includes the council of every county district.

A.D. 1909.

## SCHEDULE.

### THE PUBLIC HEALTH ACT, 1875, SECTIONS 294, 295, AND 296.

294. The Local Government Board may make orders as to the costs of inquiries or proceedings instituted by, or of appeals to the said Board under this Act, and as to the parties by whom or the rates out of 5 which such costs shall be borne; and every such order may be made a rule of one of the superior courts of law on the application of any person named therein.

295. All orders made by the Local Government Board in pursuance of this Act shall be binding and conclusive in respect of the matters to 10 which they refer, and shall be published in such manner as that Board may direct.

296. Inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the Board, have in relation to witnesses and their examination, the production of papers and accounts, 15 and the inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts.



**Weeds and Agricultural  
Seeds (Ireland) Bill.**

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**A M E N D M E N T**

**TO BE MOVED IN COMMITTEE**

**BY**

**THE LORD DENMAN.**

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*4th October 1909.*

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(163 *6.*)

## **Weeds and Agricultural Seeds (Ireland) Bill.**

[AS AMENDED IN COMMITTEE.]

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### ARRANGEMENT OF CLAUSES.

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#### PART I.

Clause.

1. Definition of noxious weeds by the Department of Agriculture.
2. Destruction of noxious weeds.
3. Entry on premises.
4. Notices.

#### PART II.

##### AGRICULTURAL SEEDS.

5. Power to examine and take samples of agricultural seeds.
6. Testing of agricultural seeds and publication of results.

#### PART III.

##### GENERAL.

7. Obstruction of officers.
  8. Prosecution of offences.
  9. Interpretation.
  10. Extent, commencement, and short title.
-



[9 EDW. 7.] *Weeds and Agricultural Seeds (Ireland).*

1

A

# B I L L

[AS AMENDED IN COMMITTEE]

INTITULED

An Act to prevent the spread of Noxious Weeds in Ireland, and to make provision for the testing of Agricultural Seeds. A.D. 1909.

**B**E it 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:—

5

## PART I.

**1.**—(1) The Department of Agriculture and Technical Instruction for Ireland (in this Act referred to as “the Department”) may, with the consent of the council of any county, make an order declaring that throughout the county all plants of any species to which this section applies are noxious weeds for the purposes of this Part of this Act.

Definition of noxious weeds by the Department of Agriculture.

(2) The species of plants to which this section applies are ragwort, charlock, coltsfoot, thistle, and dock, and the order may include all or any of those species.

**15** (3) The consent of the county council shall be signified by a resolution passed at a meeting of the council, and a copy of the resolution under the seal of the council shall be accepted as sufficient evidence of such consent.

**20** (4) The Department may, and at the request of the county council, shall revoke or alter any order made under this section.

**2.**—(1) Where the Department are satisfied that there are noxious weeds growing upon any land, they may serve upon (198.)

Destruction of noxious weeds.

A



A.D. 1909, the occupier of the land a notice in writing requiring him to cut down or destroy those weeds in the manner and within the time specified in the notice.

(2) If any occupier upon whom a notice is served under this section fails to carry out the requirements of the notice 5 within the time therein specified, he shall be guilty of an offence under this Act, and shall be liable on summary conviction to a penalty not exceeding, for the first offence, five pounds, and for the second or any subsequent offence, ten pounds.

Entry on  
premises.

**3.** Any officer of the Department shall have power at all 10 reasonable hours to enter upon any land for the purpose of ascertaining whether any noxious weeds are growing thereon.

Notices.

**4.—(1)** Any notice which the Department are authorised to serve under this Act shall be sufficiently authenticated if signed by the secretary or other officer of the Department. 15

(2) Any such notice may be served by delivering the same or a true copy thereof either to or at the usual or last-known residence of the person to whom it is addressed, or where addressed to the occupier of premises then to some person on the premises, or, if there is no person on the premises who can 20 be so served, then by fixing the same or a true copy thereof on some conspicuous part of the premises; it may also be served by sending the same or a true copy thereof by post addressed to a person at such residence or premises as above mentioned.

(3) Any such notice may be addressed by the description 25 of the "occupier" of the premises (naming them) in respect of which the notice is served without further name or description.

## PART II.

### AGRICULTURAL SEEDS.

Power to  
examine and  
take samples  
of agricultural  
seeds.

**5.—(1)** Any officer of the Department shall have power at 30 all reasonable hours to enter the shop, store, or other premises of any person who sells or exposes or keeps for sale agricultural seeds for sowing, and to examine and take samples of any agricultural seeds that are upon the premises.

(2) The person on whose premises a sample of agricultural 35 seeds is taken under this section shall, if the officer requires, give the name and address of the person from whom he procured the seeds; and if he refuses to give such name and address, or

[9 Edw. 7.] *Weeds and Agricultural Seeds (Ireland).*

3

wilfully gives a false name or address, he shall be guilty of an offence under this Act and shall be liable on summary conviction to a penalty not exceeding ten pounds. A.D. 1909.

6. The Department may cause any sample of agricultural seeds taken under this Act to be tested for purity and germination, and may publish in such manner as they think fit the results of the tests and the names and addresses of the persons upon whose premises the samples were taken, and of the persons from whom the seeds were stated to have been procured. Testing of agricultural seeds and publication of results.

10

### PART III.

#### GENERAL.

7. If any person refuses to allow any officer of the Department to enter any land or premises which he is entitled to enter under this Act, or obstructs or impedes him in the execution of his duty, he shall be guilty of an offence under this Act and shall be liable on summary conviction to a penalty not exceeding five pounds. Obstruction of officers.

8.—(1) Offences under this Act may be prosecuted, and penalties recoverable under this Act may be recovered in a summary manner. Prosecution of offences.

(2) All penalties recovered under this Act shall, notwithstanding any provision in any other Act, be paid to the Department, and shall be applied in aid of the expenses of the Department in the execution of this Act.

9. In this Act, unless the context otherwise requires—

Interpretation.

The expression “noxious weed” means any plant declared by an order of the Department under this Act to be a noxious weed in any county to which the order applies:

The expression “agricultural seeds” means the seeds of grass, clover, flax, cereals, turnips, rape, mangel, carrots, cabbage, or parsnips:

The expression “occupier” shall be deemed to include—

(a) in the case of any public road, the county or district council by whom the road is maintained;

A.D. 1909.

(b) in the case of any land the occupier of which (being an individual) is absent from Ireland, any agent or other person entrusted with the management of the land on his behalf.

Extent, com-  
mencement,  
and short  
title.

**10.** This Act shall apply to Ireland only and shall come into operation on the first day of January nineteen hundred and ten, and may be cited as the Weeds and Agricultural Seeds (Ireland) Act, 1909.

## **Weeds and Agricultural Seeds (Ireland).**

A

**B I L L**

[AS AMENDED IN COMMITTEE]

INTITULÉD

An Act to prevent the spread of  
Noxious Weeds in Ireland, and to  
make provision for the testing of  
Agricultural Seeds.

*(Brought from the Commons 10th September 1909.)*

Ordered to be printed 13th October 1909.

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[Price 1d.]

(198.)

**Weeds and Agricultural Seeds  
(Ireland) Bill.**

---

A M E N D M E N T  
TO BE MOVED ON REPORT  
BY  
THE LORD DENMAN.

---

Clause 1, page 1, line 20, leave out ("or alter")

---

# **Weeds and Agricultural Seeds (Ireland) Bill.**

---

## **A M E N D M E N T**

**TO BE MOVED ON REPORT**

**BY**

**THE LORD DENMAN.**

---

*19th October 1909.*

---

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*[Price ½d.]*

*(198 a.)*

**Weeds and Agricultural Seeds  
(Ireland) Bill.**

---

**A M E N D M E N T**

**TO BE MOVED ON THIRD READING**

**BY**

**THE LORD DENMAN.**

---

Clause 1, page 1, line 20, leave out ("or alter")

---

# **Weeds and Agricultural Seeds (Ireland) Bill.**

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## **A M E N D M E N T**

**TO BE MOVED ON THIRD READING**

**BY**

**THE LORD DENMAN.**

*20th October 1909.*

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[*Price ½d.*]

(198 b.)



[9 EDW. 7.] *Wild Animals in Captivity Protection (Scotland)*. 1

A

# B I L L

## INTITULED

An Act to extend the Wild Animals in Captivity  
Protection Act, 1900, to Scotland. A.D. 1909.

**B**E it 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 :—

- 5     **1.** Section five of the Wild Animals in Captivity Protection Act, 1900, is hereby repealed. Application of 63 & 64 Vict. c. 33 to Scotland.
- 2.** This Act may be cited as the Wild Animals in Captivity Protection (Scotland) Act, 1909. Short title.





**Wild Animals in  
Captivity Protection  
(Scotland).**

---

A

**B I L L**

INTITULED

An Act to extend the Wild Animals  
in Captivity Protection Act, 1900,  
to Scotland.

*(Brought from the Commons 10th September 1909.)*

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Ordered to be printed 10th September 1909.

---

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[*Price 3d.*]

(164.)

**Wild Animals in Captivity Protection  
(Scotland) Bill.**

---

A M E N D M E N T

TO BE MOVED IN COMMITTEE

BY

THE LORD PENTLAND.

---

Clause 1, page 1, line 6, after (" repealed ") insert (" and the  
" said Act shall apply to Scotland with the substitution of the  
" Cruelty to Animals (Scotland) Acts, 1850 and 1895, for  
" the Cruelty to Animals Acts, 1849 and 1854 ")

---

**Wild Animals in  
Captivity Protection  
(Scotland) Bill.**

---

**A M E N D M E N T**

**TO BE MOVED IN COMMITTEE**

**BY**

**THE LORD PENTLAND.**

**5th October 1909.**

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[*Price 3d.*]

[9 EDW. 7.] *Wild Animals in Captivity Protection (Scotland)*. 1

A

# B I L L

[AS AMENDED IN COMMITTEE]

INTITULED

An Act to extend the Wild Animals in Captivity Protection Act, 1900, to Scotland. A.D. 1909.

**B**E it 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:—

- 5      **1.** Section five of the Wild Animals in Captivity Protection Act, 1900, is hereby repealed, and the said Act shall apply to Scotland with the substitution of the Cruelty to Animals (Scotland) Acts, 1850 and 1895, for the Cruelty to Animals Acts, 1849 and 1854. Application of 63 & 64 Vict. c. 33 to Scotland.
- 10      **2.** This Act may be cited as the Wild Animals in Captivity Protection (Scotland) Act, 1909. Short title.







# **Wild Animals in Captive Protection (Scotland).**

---

A

**B I L L**

[AS AMENDED IN COMMITTEE]

INTITLED

An Act to extend the Wild Animals  
in Captivity Protection Act, 1900,  
to Scotland.

*(Brought from the Commons 10th September 1909.)*

---

Ordered to be printed 11th October 1909.

---

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[Price  $\frac{3}{4}d.$ ]

(194.)

[9 EDW. 7.] *Workmen's Compensation (Anglo-French Convention).* 1

A

# B I L L

INTITULED

An Act to authorise the making of such modifications in the Workmen's Compensation Act, 1906, in its application to French Citizens, as may be necessary to give effect to a Convention between His Majesty and the President of the French Republic. A.D. 1909.

**W**HEREAS His Majesty the King and the President of the French Republic have concluded the Convention set out in the Schedule to this Act, but effect cannot be given to the Convention unless certain modifications are made in the Workmen's Compensation Act, 1906, so far as it applies to workmen who are French citizens.

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. His Majesty may, by Order in Council, make such modifications in the Workmen's Compensation Act, 1906, in its application to workmen who are French citizens, as appear to him to be necessary to give effect to the said Convention; and the Workmen's Compensation Act, 1906, shall apply to such workmen, subject to the modifications contained in the Order.
2. This Act may be cited as the Workmen's Compensation (Anglo-French Convention) Act, 1909.

Power to make modifications in Workmen's Compensation Act in its application to French citizens.  
Short title.

A.D. 1909.

SCHEDULE.

CONVENTION SIGNED AT PARIS THE 3RD DAY OF JULY, 1909.

ARTICLE 1.

British subjects who meet with accidents arising out of their employment as workmen in France, and persons entitled to claim through or 5  
having rights derivable from them, shall enjoy the benefits of the compensation and guarantees secured to French citizens by the legislation in force in France in regard to the liability of employers in respect of such accidents.

Reciprocally, French citizens who meet with accidents arising out of 10  
their employment as workmen in the United Kingdom of Great Britain and Ireland, and persons entitled to claim through or having rights derivable from them, shall enjoy the benefits of the compensation and guarantees secured to British subjects by the legislation in force in the United Kingdom of Great Britain and Ireland in regard to compensation 15  
for such accidents, supplemented as specified in Article 5.

ARTICLE 2.

Nevertheless, the present Convention shall not apply to the case of a person engaged in a business having its head-quarters in one of the two Contracting States, but temporarily detached for employment in the 20  
other Contracting State, and meeting with an accident in the course of that employment, if at the time of the accident the said employment has lasted less than six months. In this case the persons interested shall only be entitled to the compensation and guarantees provided by the law of the former State. 25

The same rule shall apply in the case of persons engaged in transport services and employed at intervals, whether regular or not, in the country other than that in which the headquarters of the business are established.

ARTICLE 3.

The British and French authorities will reciprocally lend their good offices to facilitate the administration of their respective laws as aforesaid. 30

ARTICLE 4.

The present Convention shall be ratified, and the ratifications 35  
shall be exchanged at Paris, as soon as possible.

It shall be applicable in France and in the United Kingdom of Great Britain and Ireland to all accidents happening after one month from the time of its publication in the two countries in the manner prescribed by their respective laws, and it shall remain binding until 40  
the expiration of one year from the date on which it shall have been denounced by one or other of the two Contracting Parties.

[9 EDW. 7.] *Workmen's Compensation (Anglo-French Convention).* 3

ARTICLE 5.

A.D. 1909.

Nevertheless, the ratification mentioned in the preceding Article shall not take place till the legislation at present in force in the United Kingdom of Great Britain and Ireland in regard to workmen's  
5 compensation has been supplemented, so far as concerns accidents to French citizens arising out of their employment as workmen, by arrangements to the following effect:—

- (a) That the compensation payable shall in every case be fixed by an award of the County Court.
- 10 (b) That in any case of redemption of weekly payments the total sum payable shall, provided it exceeds a sum equivalent to the capital value of an annuity of 4*l.* (100 fr.), be paid into Court, to be employed in the purchase of an annuity for the benefit of the person entitled thereto.
- 15 (c) That in those cases in which a lump sum representing the compensation payable shall have been paid by the employer into the County Court, if the injured workman returns to reside in France, or if the dependants resided in France at the time of his death or subsequently return to reside in  
20 France, the total sum due to the injured workman or to his dependants shall be paid over through the County Court to the "Caisse Nationale Française des Retraites pour la Vieillesse," who shall employ it in the purchase of an annuity according to its tariff at the time of the payment; and  
25 further, that in the case in which a lump sum shall not have been paid into Court, and the injured workman returns to reside in France, the compensation shall be remitted to him through the County Court at such intervals and in such way as may be agreed upon by the competent authorities of the  
30 two countries.
- (d) That in respect of all the acts done by the County Court in pursuance of the legislation in regard to workmen's compensation, as well as in the execution of the present Convention, French citizens shall be exempt from all expenses and fees.
- 35 (e) That at the beginning of each year His Majesty's principal Secretary of State for the Home Department will send to the "Département du Travail et de la Prévoyance sociale" a record of all judicial decisions given in the course of the preceding year under the legislation in regard to workmen's  
40 compensation in the case of French citizens injured by accident in the United Kingdom of Great Britain and Ireland.

# Workmen's Compensation (Anglo- French Convention).

---

A

## B I L L

INTITLED

An Act to authorise the making of such modifications in the Workmen's Compensation Act, 1906, in its application to French Citizens, as may be necessary to give effect to a Convention between His Majesty and the President of the French Republic.

*(Brought from the Commons 30th August 1909.)*

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Ordered to be printed 30th August 1909.

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[Price  $\frac{3}{4}d$ .]

(145.)



[9 EDW. 7.] *Wortley Congregational Chapel Charity.*

1

A

# B I L L

INTITULED

An Act to confirm a Scheme of the Charity Commissioners for the management of the Charity consisting of the Bethel Congregational Chapel and Trust Property at Wortley in the City of Leeds. A.D. 1909.

**W**HEREAS the Charity Commissioners for England and Wales in their report to His Majesty of their proceedings during the year one thousand nine hundred and eight have reported that they have approved and certified a scheme for the management of the charity consisting of the Bethel Congregational Chapel and trust property at Wortley in the city of Leeds comprised in the following instruments or one or more of them namely an indenture of appointment and grant dated the twentieth day of January one thousand eight hundred and seventeen an indenture of declaration of trust dated the twentieth day of January one thousand eight hundred and seventeen the Wortley Common award dated the thirty-first day of March one thousand eight hundred and forty-seven an indenture of conveyance dated the fifth day of June one thousand eight hundred and eighty and an indenture of declaration of trust dated the sixth day of June one thousand eight hundred and eighty :

And whereas it is expedient that the scheme as the same is fully set out and defined in the schedule to this Act should be confirmed :

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 said scheme is hereby confirmed Provided always that nothing in this Act or in the said scheme shall be held to  
(153.)

Confirmation  
of scheme.

A

2                    *Wortley Congregational Chapel Charity.* [9 EDW. 7.]

A.D. 1909. — interfere with the ordinary jurisdiction over endowed charities  
now exerciseable or hereafter to become exerciseable by the  
High Court of Justice and the Charity Commissioners.

Short title.        2. This Act may be cited as the Wortley Congregational  
Chapel Scheme Confirmation Act 1909. 5

## SCHEDULE.

A.D. 1909.

*Scheme for the Application or Management of the Charity  
consisting of the Bethel Congregational Chapel and  
Trust property at Wortley in the City of Leeds.*

5 1. The above-mentioned charity and its endowments consisting of  
the above-mentioned chapel and trust property comprised in the above-  
mentioned instruments or one or more of them shall be administered  
and managed by a body of Trustees constituted as herein-after men-  
tioned subject to and in conformity with the provisions of this scheme  
10 under the title of the Bethel Congregational Charity herein-after called  
the charity.

2. The following persons shall be the first Trustees under this  
scheme :—

15 Henry Weaver Thomas Kaye Diggle William Jackson George  
Robinson Thomas Scholes John Richard Lockwood William  
Rainforth Fred Fleetwood William King Joseph Henry North  
John Speight William Hesling Arthur Daniel and Albert Cliff.

3. The said chapel and trust property are hereby vested in the  
said persons hereby constituted the first Trustees under this scheme  
20 their heirs executors administrators and assigns according to the legal  
nature of the premises.

4. The Trustees shall permit the chapel buildings for the time being  
belonging to the charity to be used occupied and enjoyed as a place  
for the public worship of God and for preaching the Gospel of the  
25 Lord Jesus Christ according to the principles and usages for the time  
being of Protestants of the Congregational Denomination commonly  
called Independents being Pædobaptists under the direction of the  
Christian Church for the time being assembling for worship in the  
said buildings and for the instruction of children and adults and for  
30 the promotion of such other charitable purposes whether religious or  
philanthropic as the said church shall from time to time direct.

5. The Trustees shall permit to officiate in the said buildings as  
stated minister or pastor of the said church such person or persons  
only as shall be of the denomination aforesaid being Pædobaptists  
35 and shall (except in the case of the present minister or pastor) be  
chosen and elected by special resolution of the church and no person  
shall be permitted to officiate as minister or pastor in the said buildings  
who shall be guilty of immoral conduct or shall cease to be of the

A.D. 1909. denomination aforesaid or be removed from his office by a special resolution of the said church.

6. The Trustees shall permit such occasional ministers or other persons to officiate in the said buildings as the stated minister or pastor of the said church for the time being (if any) or if there be no such minister or pastor as the deacon or deacons of the said church for the time being or any committee from time to time appointed by the said church for the purpose shall appoint unless any such appointment shall be negated by a resolution of the church.

7. The Trustees shall permit the deacon or deacons of the said church or other person or persons appointed for the purpose by the said church to receive all moneys contributed or subscribed and also the net rents arising from any lease of property of the charity and any other money which may come to the hands of the Trustees in connexion with the premises in the nature of income and after payment thereof of the expenses of repairing and insuring the premises and the interest or instalments including principal and interest and other moneys (if any) payable in respect of any mortgage or debt secured on the premises or incurred in the erection completion repair alteration enlargement or improvement of the said buildings and premises to pay such sum for the support of the minister or pastor of the said church as the said church shall have determined and to apply the remainder in payment of the incidental and other expenses attending the maintenance of divine worship on the said premises and for the other purposes of the charity as the said church shall direct. Provided nevertheless that moneys contributed or subscribed for any specified purpose shall not be subject to this clause but shall be applied for such specified purpose.

8. The Trustees shall from time to time under the direction of the church permit the buildings for the time being belonging to the charity to be repaired altered enlarged or taken down and rebuilt so as to render the same better adapted for the purposes of the charity and shall under the like direction from time to time permit the erection of additional buildings.

9. Except as regards any property of the charity which for the time being is registered as a place of meeting for religious worship with the Registrar-General of Births Deaths and Marriages in England and is bonâ fide used as a place of meeting for religious worship and except as regards such other property (if any) of the charity as for the time being by virtue of any provision of the Charitable Trusts Acts 1853 to 1894 is exempt from the operation of those Acts the Trustees shall not make or grant otherwise than with the approval of the Charity Commissioners any sale exchange mortgage or charge of

[9 EDW. 7.] *Wortley Congregational Chapel Charity:*

5

the charity estate or any lease thereof in reversion after more than three years of any existing term or for any term of life or in consideration wholly or in part of any fine or for any term of years exceeding twenty-one years. A.D. 1909.

5      10. Subject to the restrictions contained in the last preceding clause hereof it shall be lawful for the Trustees without the necessity of obtaining the consent of the church to raise by mortgage of the property of the charity or by a deposit of the title deeds thereof such sum or sums of money as in the exercise of their discretion they think  
10 proper for the purpose of paying off any debt or debts incurred or to be incurred in the erection or completion of the buildings for the time being belonging to the charity and not provided for by voluntary subscriptions.

11. Subject to the said restrictions herein-before contained the  
15 Trustees shall whenever required by a special resolution of the church with the consent in writing of the Trustees or a majority of the Trustees sell mortgage enfranchise or demise for any term of years the trust premises or any part thereof or exchange the same or any part thereof  
20 accordance with the directions of the said church. The Trustees shall stand possessed of the moneys arising from any such mortgage sale or exchange and any other moneys which may come to their hands in connexion with the trust premises in the nature of capital after paying all costs and expenses incurred in relation thereto upon trust  
25 to lay out and apply the same in or towards the enlargement rebuilding improvement or repair of the said buildings and premises or in or towards the purchase of other premises of any tenure or towards any of the other purposes or objects of the charity in such manner as the said church shall by special resolution direct but so that any premises  
30 so purchased or so taken in exchange whether freehold copyhold customary or leasehold shall be situate within twenty miles of the premises now belonging to the charity and shall be held by the Trustees upon the same trusts and subject to the same powers and provisions as are herein declared concerning such last-mentioned premises. If any  
35 difference shall arise as to whether moneys coming into the hands of the Trustees are capital or income the decision of the Trustees shall be conclusive.

12. Notwithstanding anything herein-before contained if the said church is dissolved or dispersed or (unless the church shall have  
40 removed within the meaning of clause 18 hereof) if the regular public worship of God in the said buildings is discontinued for six calendar months together or if the number of the members of the said church entitled to vote at a special meeting as herein-after provided for shall be reduced to fifteen or under the Trustees may in their discretion

(153.)

A 3

A.D. 1909. but subject to the said restrictions herein-before contained either let or mortgage or sell the trust premises or any part thereof and pay and apply the net proceeds of such letting mortgage or sale remaining after payment of such expenses for such religious purposes not tending to the promulgation of doctrines inconsistent with those of the denomination 5 aforesaid and in such manner as the committee of the Congregational Union or Association of the county in which the trust premises are situate shall direct in writing signed by the secretary of the said committee and if there shall be no such committee in existence or such committee shall fail so to signify its directions within six months 10 after being requested so to do in writing by the Trustees then as shall be directed by the committee of the Congregational Union of England and Wales in manner aforesaid.

13. Upon any mortgage lease sale enfranchisement or exchange purporting to be made in pursuance of any trust or power herein 15 contained no mortgagee lessee purchaser or other person dealing bonâ fide with the Trustees shall be bound or concerned to inquire whether the occasion for executing or exercising such trust or power has arisen or as to whether any special or other meeting of the said church has been held or as to the competency or regularity of any such meeting 20 or of any requisition or resolution passed or purporting to have been passed thereat or as to whether the said church has been dissolved or any of the said other events have taken place or (except as regards the said restrictions contained in clause 9 hereof) otherwise as to the propriety or regularity of any such mortgage lease sale enfranchisement 25 or exchange and notwithstanding any impropriety or irregularity in such mortgage lease sale enfranchisement or exchange the same shall as regards a purchaser mortgagee lessee or other person as aforesaid (except as regards the said restrictions) be deemed to be within the aforesaid trusts or powers and be valid accordingly. 30

14. The following provisions as to the appointment of new Trustees and as to the discharge and retirement of Trustees by way of variation of the statutory provisions shall have effect:—

- (I) The full number of Trustees shall be fifteen and that number shall as far as possible be kept up : 35
- (II) No person shall be appointed a Trustee who is not a member of a Congregational church and any Trustee who ceases to be a member of such a church or who becomes bankrupt or remains out of the United Kingdom for more than twelve consecutive calendar months shall ipso facto cease 40 to be a Trustee of the charity :
- (III) A new Trustee may be appointed in the place of any Trustee who through death retirement or any other cause ceases to



[9 EDW. 7.] *Wortley Congregational Chapel Charity.*

7

be a Trustee or who desires to be discharged from the trusts of the charity or who refuses or is unfit to act or is incapable of acting therein: A.D. 1909.

- 5 (IV) The power of appointing new Trustees of the charity shall be vested in the said church such power to be exercised by resolution of a special meeting of the said church:
- 10 (V) Any one of the Trustees may when there are more than five Trustees retire from the trusts of the charity on giving two calendar months' notice in writing of his intention so to do to the then pastor and deacons or one of the deacons of the said church (if there shall be such pastor or deacon) and to each of the other Trustees for the time being and upon the termination of such two months the Trustee giving the notice shall cease to be a Trustee to all intents and purposes provided that any notice sent by post to the last known usual place of abode in England of any Trustee shall be sufficient notice to him hereunder.
- 15
- 20 15. All the trusts powers discretions and authorities hereby given to or vested in the Trustees shall be exercisable by a majority of the Trustees as fully and effectually in all respects as the same might have been exercised by the Trustees.
- 25 16. The following provisions shall apply to every special meeting of the said church:—
- 30 (A) The meeting shall be convened by the minister or pastor or deacons or committee for the time being of the said church or by the authority of the Trustees or of one-fifth in number of the members of the said church entitled to vote at such meeting by notice announcing the place day and hour of the meeting and the business or matter to be transacted or considered and such notice shall be given at each service held on the premises on the two Lord's days immediately preceding such meeting:
- 35 (B) The meeting shall be fixed for and held not earlier than the Wednesday next following the second of such two Lord's days:
- 40 (C) The only persons who shall be entitled to attend and vote at such meeting shall be those who whether male or female have attained the age of twenty-one years and have been members of the said church during at least the six calendar months next preceding the meeting:
- (D) No votes shall be given by proxy but votes may be given by ballot or otherwise as the said church may direct:



A.D. 1909.

- (E) The term "a special resolution" in this scheme means a resolution passed at a special church meeting by a majority consisting of not less than two-thirds of the persons present and voting on the question before the meeting and the same shall be binding upon all the members of the said church whether present or not at such meeting: 5
- (F) Except where a special resolution is hereby expressly required a resolution passed at a special meeting by a simple majority of the persons voting on the question before the meeting shall be binding on all the members of the said church whether present or not at such meeting: 10
- (G) The proceedings and resolutions of the meeting shall be evidenced by a minute thereof under the hand of the chairman who shall have a casting vote and such minute shall be conclusive evidence that any resolution therein expressed to have been passed was passed at a meeting duly convened and held and by the requisite majority and it shall further be presumed that the person subscribing such minute as chairman was duly appointed to the office. 15

17. Except where it is hereby expressly provided that a special resolution of the said church or a resolution of a special meeting thereof is requisite the affairs of the said church and the provisions of this scheme may in all respects be managed and carried out under the direction of the members of the said church at ordinary meetings of the said church to which meetings the provisions of the last preceding clause hereof shall not apply but the same shall be held and regulated according to the ordinary practices and usages of Congregational Churches which practices and usages shall also apply to special meetings of the said church subject to the provisions of such last preceding clause hereof. 20 25 30

18. In the event of the removal of the said church to another locality the powers hereby vested in the said church in regard to the trust premises shall not thereby be suspended or in any manner impaired or affected.

19. The Charity Commissioners may from time to time in the exercise of their ordinary jurisdiction establish schemes for the alteration of any provisions of this scheme as if those provisions had been made by the founder in the case of a charity having a founder. 35



# **Wortley Congregational Chapel Charity.**

---

A

**B I L L**

INTITULED

An Act to confirm a Scheme of the Charity Commissioners for the Management of the Charity consisting of the Bethel Congregational Chapel and Trust Property at Wortley in the City of Leeds.

*(Brought from the Commons 30th August 1909.)*

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Ordered to be printed 30th August 1909.

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[*Price 1s4d.*]

(153.)

## Yorkshire Registries Amendment Bill. [H.L.]

[AS AMENDED IN COMMITTEE.]

---

### MEMORANDUM.

By virtue of the Yorkshire Registries Act, 1884, the county councils of each of the three ridings of Yorkshire are required to maintain offices for the registration of deeds, and section 37 of the Act provides for the appointment by the county councils of registrars.

The qualifications prescribed by that section are that the person appointed shall be a barrister or solicitor of not less than seven years' standing and in actual practice at the time of such appointment, or a person who shall for a period of at least five years have discharged the duties of deputy registrar under any of the previously existing Registry Acts, or partly under those Acts and partly under the Act of 1884; and the section further provides that no registrar shall follow any other calling or profession during the time he holds his appointment.

The appointment as registrar of a person not following any other calling or profession necessarily involves the payment of a considerable salary, and it is felt that an economy without loss of efficiency of administration would in the case of one at least of the ridings result from the office of registrar being held by the clerks or deputy clerks of the county councils of the ridings.

The office of clerk or deputy clerk of a county council is held to be a calling or profession within the meaning of section 37 of the Act of 1884, and the object of the Bill is to remove this disability and enable clerks and deputy clerks of the county councils to be appointed as registrars.



A

## B I L L

[AS AMENDED IN COMMITTEE]

INTITULED

An Act to amend the Yorkshire Registries Act, 1884.      A.D. 1909.

**BE** it 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:—

5      **1.** In this Act the expression “the principal Act” means the Yorkshire Registries Act, 1884, and expressions to which meanings are assigned by the principal Act have in this Act the same respective meanings. Interpre-  
tation.

10      **2.**—(1) Section thirty-seven of the principal Act shall be read and have effect as if there were added at the end of sub-  
section (1) thereof the words “except for such period and upon  
“ and subject to such terms and conditions as may in each case be  
“ approved by the Lord Chancellor.” Amending  
47 & 48 Vict.  
c. 54. s. 37.

15      (2) A person who shall for a period of at least five years have discharged the duties of a deputy registrar under the principal Act shall, for the purposes of the said section thirty-seven as amended by this Act, be deemed to be qualified for appointment as registrar.

20      **3.** For the purposes of the principal Act as amended by the Yorkshire Registries Amendment Act, 1885, and by this Act the expression “probate” shall be construed as if the words “with  
“ the Will annexed” had been omitted from the definition of  
that expression in section three of the principal Act. Amending  
definition of  
“probate.”

25      **4.** This Act may be cited as the Yorkshire Registries Amendment Act, 1909; and the principal Act, the Yorkshire Registries Amendment Act, 1885, and this Act may be cited together as the Yorkshire Registries Acts, 1884 to 1909. Short title.

(133.)

A





655

# Yorkshire Registries Amendment. [H.L.]

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B I L L

[AS AMENDED IN COMMITTEE]

INTITLED

An Act to amend the Yorkshire  
Registries Act, 1884.

*The Lord Newbunholme.*

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Ordered to be printed 5th August 1909.

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(133.)

[9 EDW. 7.] *Zetland Masonic Sick and Widows and  
Orphans Fund Order Confirmation.* [H.L.]

1

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## B I L L

INTITLED

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to the Zetland Masonic Sick and Widows and Orphans Fund. A.D. 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:—

- 10     **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 Zetland Masonic Sick and Widows and Orphans Fund Order Confirmation Act 1909. **Short title.**

A.D. 1909.

## S C H E D U L E.

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### ZETLAND MASONIC SICK AND WIDOWS AND ORPHANS FUND.

*Provisional Order to establish a Fund for relief during sickness of such members of Masonic Lodge Morton No. 89 of Lerwick as may join the said Fund and for providing payments to the Widows and Orphan Children of such members and for other purposes.* 5

WHEREAS the Masonic Lodge Morton No. 89 of Lerwick was established by Charter in or about the year seventeen hundred and sixty-two and is still in existence as No. 89 on the roll of the Grand Lodge of Scotland: 10

And whereas in or about the year eighteen hundred and nine certain of the members of the said Morton Lodge established a society under the name of "the Masonic Widows and Orphans Fund of Zetland": 15

And whereas the said Morton Lodge shortly thereafter contributed certain sums towards the said Fund and donations were also given by individual members of the said lodge and from these sources and from subscriptions and entrance moneys of contributors a considerable sum of capital gradually accumulated after satisfying the annuities and other payments exigible from the Fund: 20

And whereas the said Fund had originally no formal written constitution but in the year eighteen hundred and thirty-four rules and regulations were prepared for the management of the Fund under the Friendly Societies Act 10 Geo. IV. chap. 56 and were certified by the Registrar of Friendly Societies on nineteenth March eighteen hundred and thirty-four as in conformity to law and the provisions of the said Act: 25 30

And whereas the nature constitution and purposes of the said Fund are set forth in the said rules and regulations as follows:—

" This society shall be established as a friendly society in terms of the Act of the 10th George IV. chap. 56 and shall be denominated 'The Masonic Widows and 35

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Orphans Fund Order Confirmation.*

3

Orphans Fund of Zetland' Derived from the entry A.D. 1909.  
moneys and quarterly payments of its members from  
fines forfeitures and donations it shall increase progres-  
sively and be considered a Fund from which relief is  
5 to be afforded to the widows and orphans of such  
members of Morton Lodge as shall join it The purposes  
of the society are therefore declared to be the following  
to which and the necessary expense of management the  
whole Fund shall be applied videlicet—(First) For the  
10 relief of the widows of members during their widow-  
hood (Second) for the relief of children of members  
failing of widows while such children are under fourteen  
years of age all according to the particular provisions  
hereinafter inserted " \* \* \* "Members of Morton  
15 Lodge alone shall be entitled to become contributors to  
this Fund and they shall be admissible on the terms  
herein-after specified":

And whereas it was further provided by the said rules and  
regulations that all members of Morton Lodge who desired to  
20 become contributors to the said Fund and whom the directors  
should approve of should pay entry money according to a scale  
specified in the said rules and regulations:

And whereas the said Fund was several years administered  
in accordance with the said rules and regulations and with the  
25 laws for the time being regulating friendly societies:

And whereas for upwards of the last fifty years no new  
entrant has joined the said Fund and all the officials and members  
of the said Fund and all the annuitants who have ever had  
claims upon the said Fund have died:

30 And whereas according to the said rules and regulations any  
contributor failing to make payment of his quarterly contributions  
for two entire years forfeited to the Fund the sum which he had  
formerly contributed to it and his family's rights were likewise  
forfeited and the defaulting contributor could only be restored by  
35 re-entering and paying anew the entry money and the quarterly  
contributions for a period of seven years:

And whereas in or about the year eighteen hundred and  
seventy an effort was made to dissolve the society and divide  
the funds among the few then surviving members but was not  
40 carried out:

(5.)

A 2

A.D. 1909.

And whereas a judicial factor was thereafter on twenty-seventh October eighteen hundred and seventy-one appointed by the Court of Session on the said Fund on the petition of the two last surviving members thereof:

And whereas the said judicial factor on account of claims 5 intimated to him in connexion with the said Fund and of applications made to him for admission as members to the said Fund on twenty-third August eighteen hundred and seventy-two instituted an action of multiplepoinding in the Court of Session:

And whereas after sundry steps and procedure the Court 10 inter alia repelled the claims of the claimants in so far as they claimed a share of the funds as on a dissolution but sustained the claims of the widows to the extent of authorising payment of their annuities and found "that the whole free funds of the " society will remain under the hands of and be administered 15 " by the judicial factor under his act and warrant until the " society be rehabilitated and be capable of resuming the " management of its own affairs or until it be legally dissolved " and its funds disposed of as accords" and quoad ultra dismissed the process and all claims therein so far as not 20 thereby disposed of:

And whereas the said judicial factor was discharged in the year eighteen hundred and eighty-one and the late Hon. Francis Jeffrey Moncreiff C.A. Edinburgh was thereupon appointed judicial factor on the said Fund: 25

And whereas after the death of the said last-mentioned judicial factor Thomas Patrick Laird C.A. Edinburgh was on seventh November nineteen hundred appointed judicial factor on the said Fund:

And whereas as at thirty-first December nineteen hundred 30 and seven the said Fund amounted to three thousand three hundred and seventy-five pounds twelve shillings and fivepence:

And whereas owing to all the office-bearers and all the members of the said Fund having died no meeting can be convened and no one can be admitted as a member thereof and no 35 means of administering the said Fund and applying the same to the purposes for which it was contributed in terms of the foresaid rules and regulations are available:

And whereas the foresaid rules and regulations are in various respects not now suitable or appropriate to meet the 40 present circumstances and conditions:

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5

And whereas it would greatly increase the usefulness of the said Fund if a sick allowance such as is usually provided by modern friendly societies were instituted in connexion therewith: A.D. 1909.

And whereas members of the said Morton Lodge are desirous to join the said Fund under new conditions:

And whereas it is expedient that the original Masonic Widows and Orphans Fund of Zetland should be dissolved and that a body should be incorporated to be called "The Masonic Sick and Widows and Orphans Fund of Zetland" to which the property and funds with all accrued interest thereon of or belonging to the said original Fund including the whole property and the funds now in the hands of the said Thomas Patrick Laird or to which he has right as judicial factor foresaid should be transferred for the purposes of this Order:

And whereas the said objects cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary for Scotland orders as follows:—

1. This Order may be cited as the Zetland Masonic Sick and Widows and Orphans Fund Order 1909 and shall come into operation at the date of the passing of the Act confirming the same which date is herein referred to as "the commencement of this Order."

Short title.

2. In this Order unless there be something repugnant to such construction in the subject or context the words and expressions following shall have the meanings hereby severally assigned to them:—

Interpretation.

"The Fund" means the Corporation of the Masonic Sick and Widows and Orphans Fund of Zetland the members of which are incorporated by this Order;

"The members" mean the members of the Fund;

"The old Fund" means the Masonic Widows and Orphans Fund of Zetland established as a friendly society in terms of the Act 10 George IV. chap. 56 the rules and regulations of which were registered under the said Act on nineteenth March one thousand eight hundred and thirty-four;

A.D. 1909.

"Morton Lodge" means the Masonic Lodge Morton Lerwick  
No. 89 on the roll of the Grand Lodge of Scotland ;  
 "The directors" mean the directors of the Fund ;  
 "The president" means the president of the Fund ;  
 "The treasurer" means the treasurer of the Fund ; 5  
 "The clerk" means the clerk of the Fund ;  
 "The rules" mean the rules set forth in the schedule an-  
 nexed to this Order and any alteration thereof or addi-  
 tion thereto which may hereafter be duly made under  
 the provisions of this Order. 10

Incorporation.

3. Subject to the provisions of this Order all persons who  
 are at the commencement of this Order or who may thereafter  
 become members of Morton Lodge shall be eligible for admission  
 as members of the Fund and the members admitted in terms  
 of this Order shall be and they are hereby incorporated by the 15  
 name of "The Masonic Sick and Widows and Orphans Fund of  
 Zetland" and by that name shall be a body corporate with per-  
 petual succession and a common seal and may sue and be sued  
 and may purchase acquire hold and dispose of lands and other  
 property heritable and movable for the purposes of this Order 20  
 and shall have all the other privileges of a body corporate.

Application  
for member-  
ship.

4. Every application for admission as a member of the  
 Fund shall be made to the directors through the clerk and shall  
 be granted or refused by the directors.

Condition as  
to health.

5. A person shall not be admitted as a member of the Fund 25  
 unless he is in the opinion of the directors of sound constitution  
 and in a good state of health.

Application  
of property.

6. The property of the Fund shall be applied to and for  
 the purposes of this Order and no other purpose.

Transfer to  
Fund.

7.--(1) Subject to payment to the said Thomas Patrick Laird 30  
 as judicial factor foresaid of all sums due to and expenses  
 incurred or to be incurred by him as certified by the Accountant  
 of the Court of Session the said Thomas Patrick Laird or other  
 person in whom any stocks shares debentures or securities regis-  
 tered in the books of any corporation or company and forming 35  
 part of the funds or property of the old Fund are at the com-  
 mencement of this Order vested for and on behalf of the old Fund  
 shall if and when requested by the Fund and at the expense of  
 the Fund transfer to the Fund all such stocks shares debentures  
 and securities and all interests and rights therein and shall do 40



and concur in doing at the like expense all acts and things necessary or proper for effectually vesting such stocks shares debentures and securities interests and rights in the Fund. A.D. 1909.

(2) Subject to payment of stamp duty as provided in the immediately following section and except as provided in the immediately preceding subsection of this section all property securities and assets heritable and movable belonging to the old Fund and all rights obligations claims and demands relative thereto shall by virtue of this Order ipso facto and without any conveyance or transfer other than this Order be deemed and taken to be validly transferred to and vested in the Fund to the same effect as if particular dispositions or assignations of the same as the case may be had been granted in favour of the Fund and this Order shall be and be deemed to be a valid title thereto and shall not be challengeable or open to objection on the ground that any of the property securities and assets are not specifically described herein provided that the old Fund or the said Thomas Patrick Laird as judicial factor foresaid were in truth entitled to or to the benefit of such property securities or assets.

(3) Without prejudice to the immediately preceding subsection the said Thomas Patrick Laird as judicial factor foresaid and all other persons holding property or securities for or under obligation to the old Fund shall be bound at the request and expense of the Fund to make and do and concur in making and doing all deeds and acts for making up and completing a title in name of the Fund or its assignees to the said property and securities for the purpose of enabling the Fund or its assignees if thought fit to complete a title to any part of the said property or securities by expediting and recording a notarial instrument or otherwise This Order shall be deemed to be and may be used as a general disposition or assignation as the case may be of such property and securities in favour of the Fund.

(4) Subject to the provisions of subsection (1) of this section all moneys in the hands of the said Thomas Patrick Laird as judicial factor foresaid forming part of the old Fund and all books titles and other instructions and vouchers of the property and assets forming part of the old Fund in the hands of or held for it by the said judicial factor or others shall be handed over by the holders thereof to the Fund and a receipt of the Fund shall be a good and effectual receipt and acquittance to the holders of the same for the delivery thereof.

A.D. 1909.

(5) Within one month after the commencement of this Order or as soon thereafter as the Act confirming the same is printed by the King's Printers a petition by or on behalf of the said Thomas Patrick Laird shall be presented to the Court of Session craving that the said judicial factor be recalled that the accounts 5 of the said Thomas Patrick Laird's intromissions as judicial factor foresaid be remitted to the Accountant of the Court of Session for audit and report and that the said Thomas Patrick Laird as judicial factor foresaid should be discharged and after receiving the report of the said Accountant the Court of Session 10 upon being satisfied that the said Thomas Patrick Laird is entitled to his discharge are hereby authorised and required to exoner and discharge him and his representatives of the whole actings intromissions and management had by him as judicial factor foresaid and to grant warrant for delivery of his bond of 15 caution.

Payment of stamp duty.

8. Within one month after the commencement of this Order or as soon thereafter as the Act confirming the same is printed by the King's printers a copy of the said Act shall be produced to the Commissioners of Inland Revenue and they shall 20 thereupon fix and assess the amount that would have been payable for stamp duty if the transfer made by subsection (2) of the last preceding section of this Order had been made by deed in the case of all property which apart from such statutory authority requires to be transferred by deed The amount of stamp 25 duty so fixed by the said Commissioners shall be paid to them within fourteen days from the time the same is assessed and fixed and if not so paid the same shall be a debt due by the Fund to His Majesty and be recoverable by the Commissioners of Inland Revenue from the Fund with interest at the rate of five per centum 30 per annum during nonpayment On the amount so fixed being paid to the Commissioners they shall cause the copy of the Act so produced to them to be stamped with the amount of stamp duty so paid Upon their being satisfied that all stamp duty under this Order and on any particular disposition or assignation of the 35 aforesaid property securities or assets which may be executed has been paid they shall cause the said copy of the Act to be impressed with an adjudication stamp.

Transfer of obligations of old Fund.

9. As at the commencement of this Order all the obligations of the old Fund and all debts due by it shall become obligations 40 and debts of the Fund and shall be a primary charge on the

[9 EDW. 7.] *Zetland Masonic Sick and Widows and  
Orphans Fund Order Confirmation.*

9

property of the Fund and all liabilities of the old Fund and of its president treasurer clerk and directors and of the said judicial factor shall be extinguished and the old Fund and its president treasurer and clerk and directors are hereby as at the commencement of this Order absolutely finally and for ever exonerated and discharged of their actings transactions intrusions and management and of all omissions if any in relation to or with its funds without prejudice nevertheless to the operation and enforcement of the section of this Order of which the marginal note is "Transfer to Fund."

A.D. 1909.

10 10. The Fund and its affairs shall be managed by seven directors (including a president a treasurer and a clerk) who shall be residents in Shetland and any four of whom shall constitute a quorum.

Management  
of Fund.

15 11. Francis Hardie Halcrow Lerwick shall be the first president Robert Bruce Hunter banker Lerwick shall be the first treasurer and John William Laurenson draper Lerwick shall be the first clerk of the Fund They shall hold office till the ordinary general meeting of the members to be held in the year  
20 nineteen hundred and ten when they shall retire.

First presi-  
dent trea-  
surer and  
clerk.

12. The first directors of the Fund shall be the following persons Francis Hardie Halcrow Joseph Gray John William Laurenson Robert Bruce Hunter David Laurenson Arthur James Smith and William Stout all in Lerwick and the said directors  
25 shall be held as having been admitted members of the Fund The first meeting of the directors shall be held on fourteen days' notice and within three months after the commencement of this Order The said first meeting shall be called and the time and place thereof fixed by the director first named in this  
30 Order whom failing by the director second named therein whom failing by the director third named therein or failing them or any of them by any director.

First direc-  
tors and their  
first meeting.

13. A general meeting of the members (in this Order called "the ordinary general meeting") shall be held at Lerwick  
35 annually in the month of February.

Ordinary  
general  
meeting.

14. At the ordinary general meeting to be held in the year nineteen hundred and ten the said first directors shall retire and seven directors shall be elected in their places by the members of the Fund from their own number but the directors  
40 so retiring shall be eligible for re-election At every ordinary

Retirement  
of first direc-  
tors.

(5.)

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A.D. 1909. general meeting of the Fund after the meeting in nineteen hundred and ten two of the directors shall retire and two members shall be elected in their places The two directors who shall retire at such meeting shall be those who have been longest in office since their last election but as between persons who became directors 5 at the same time those to retire shall be determined by lot Retiring directors shall be eligible for re-election.

Appointment of president treasurer and clerk. 15. The members shall at the ordinary general meeting to be held in the year nineteen hundred and ten and at every ordinary general meeting thereafter appoint from among the 10 directors a president a treasurer and a clerk each of whom shall hold office for one year from his appointment with such remuneration to the treasurer and clerk as the members may fix Former presidents treasurers and clerks shall always be eligible for re-election. 15

Casual vacancies. 16. In the event of any casual vacancy occurring in the office of president treasurer clerk or auditor the same may be filled up by the directors and in the event of any casual vacancy occurring in the directorate (including the first directors) the remaining directors shall fill up the same from the members and any 20 person so appointed shall continue in office as director president treasurer clerk or auditor so long as the person in whose place he has been appointed would have been entitled to hold office.

Securities and deeds. 17. Subject to the section of this Order of which the marginal note is "Transfer to Fund" the securities in which 25 the property of the Fund may be invested shall be taken in the corporate name of the Fund and all deeds whether relating to heritable or movable property or of whatever other nature shall be valid and effectual if signed by two directors and the president and sealed with the seal of the Fund. 30

Minutes of meetings. 18. The clerk under the supervision of the directors shall keep accurate minutes of the meetings of the members and of the directors the whole of which shall be engrossed by him in a minute book which shall be produced by him at each meeting of the members as well as at each meeting of the directors and 35 at all other reasonable times.

Accounts. 19. The treasurer under the supervision of the other directors shall keep books containing true accounts of the sums of money received and expended on behalf of the Fund and of the assets credits liabilities and transactions of the Fund and subject to 40

any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the directors such accounts shall be open to the inspection of the members. A.D. 1909. —

20. The treasurer shall have the immediate charge of the funds under the superintendence of the other directors He shall collect the contributions and fines and shall lodge in bank in name of the Fund whatever sums may remain in his hands He shall not retain in his possession more than five pounds at any time for a longer period than two days All cheques or orders for money shall be signed by the treasurer and countersigned by any three of the directors. Treasurer's duties.

21. The treasurer under the supervision of the other directors shall as soon as may be after the eleventh day of November in each year prepare—(First) a statement of accounts showing the whole income and expenditure of the Fund for the year ending the eleventh day of November preceding and (second) a statement of the whole assets of the Fund as at that date The statements as prepared by the treasurer and the accounts kept by him with the vouchers thereof shall be examined and audited in each year by an auditor to be appointed in the manner prescribed in the section of this Order the marginal note of which is "Appointment of auditor" and the said statement accounts and vouchers shall be submitted to the auditor not later than one month before the annual general meeting. Yearly statements and audit.

22. The first auditor shall be appointed by the first directors and shall act until the ordinary general meeting in the year nineteen hundred and ten Subsequent auditors shall be appointed by the members at the ordinary general meeting in each year and shall hold office for the year following The auditor or auditors shall be eligible for re-election. Appointment of auditor.

23. The remuneration of the first auditor shall be fixed by the first directors and the remuneration of subsequent auditors by the members. Remuneration of auditors.

24. The business of the ordinary general meeting shall be to receive and consider the statements of accounts together with the auditor's report thereon and the report of the directors on the affairs of the Fund and to elect directors to appoint a president treasurer clerk and auditor and to fix the remuneration of the last three officers and to transact any other business competent. Business of ordinary meetings.



- A.D. 1909. 25. The directors shall meet as often as they find necessary  
 ——— for the dispatch of business on a previous written notice of at  
 Directors' least forty-eight hours signed by the clerk stating the object of  
 meetings. such meeting.
- Chairman of 26. The president shall act as chairman of the meetings 5  
 meetings. both of the members and of the directors and shall have a  
 deliberative and also (in the case of an equality of votes) a  
 casting vote In the event of the president not being present at  
 the hour of meeting of the members or of the directors those  
 present may elect one of their own number to be chairman with 10  
 the powers which would have belonged to the president as the  
 chairman of such meeting.
- Extraordi- 27. The directors may whenever they think fit and shall on  
 nary meet- the written requisition of not less than twenty members convene  
 ings. a general meeting at which only the business specified in the 15  
 notice convening the meeting shall be transacted All such  
 meetings shall be called extraordinary general meetings and may  
 be adjourned from time to time.
- Notice of 28. The clerk shall give fourteen days' notice to the members  
 meetings. of the ordinary general meeting and of any extraordinary general 20  
 meeting In the case of an extraordinary general meeting the  
 clerk shall specify in the notice the nature of the business to  
 be transacted.
- Quorum at 29. The quorum at any general meeting of the members  
 meetings. shall be as follows—If the members do not exceed thirty the 25  
 quorum shall be five members personally present and one shall  
 be added to make a quorum for every additional ten members  
 but in no case shall more than nine be required to form a quorum.
- Decisions at 30. Every question submitted to a meeting shall be decided  
 meetings. in the first instance by a show of hands. 30
- Declaration 31. At any meeting of the members unless a poll is demanded  
 by chairman by at least three members a declaration by the chairman that a  
 of decisions. resolution has been carried or lost and an entry to that effect  
 in the minute book of the Fund shall be conclusive evidence of  
 the fact. 35
- Votes for 32. At all meetings of the members every member shall be  
 members. entitled to one vote Votes may be given either by proxy or  
 personally The instrument appointing a proxy shall be in  
 writing under the hand of the appointer and no person shall be  
 appointed a proxy who is not a member of the Fund. 40

33. The instrument appointing a proxy shall be deposited A.D. 1909.  
at the office or address of the treasurer not less than twenty-  
four hours before the time of holding the meeting at which the  
person named in such instrument proposes to vote and no  
5 instrument appointing a proxy shall be valid after the expiration  
of twelve months from the date thereof.

Proxy to be  
deposited  
with trea-  
surer.

34. A notice requiring to be given to any member or bene-  
ficiary may be given either personally or by sending it through  
the post prepaid and addressed to such member or beneficiary at  
10 his ordinary or last known address As regards those members  
or beneficiaries who have no known address in the United  
Kingdom a notice posted up in Morton Lodge at Lerwick shall  
be deemed to be given to them at the expiration of four days  
after it is so posted up Any notice sent by post shall be  
15 deemed to have been given on the third day following that on  
which the same is posted and in proving such giving of notice  
it shall be sufficient to prove that the notice was properly  
addressed and put prepaid into the post office.

Notices.

35. Subject to the provisions of this Order the payments to  
20 which the members or their widows or children as the case may  
be shall be entitled shall be—(First) A weekly allowance payable  
to members during sickness calculated on the scale herein-after  
in this section set forth and (second) payment of the sum of  
twenty pounds to the widow or children of members on the  
25 member's death.

Benefits to  
sick mem-  
bers and  
widows or  
children of  
members.

The said sick allowance shall be as follows:—

At the rate of ten shillings per week for the first twenty-  
six weeks' sickness;

30 At the rate of five shillings per week for the second  
twenty-six weeks' sickness; and

At the rate of two shillings and sixpence per week for  
any further period of sickness:

Provided that if an interval of less than twelve months shall  
intervene between any two periods during which such allowance  
35 is paid the said periods shall be reckoned as one.

36. The treasurer or clerk or any person appointed by the  
directors for that purpose may from time to time visit members  
on the sick list and shall have power to call in at any time a  
qualified medical practitioner to report on the state of health of  
Members on  
sick list may  
be visited or  
reported on  
and allow-  
ance paid or

A.D. 1909. any such member and sick allowance shall be continued or discontinued according to the report received from such practitioner which shall be final In the event of any such member refusing to admit such representative of the Fund or to be examined by the practitioner so called in the sick allowance of such member 5 shall be discontinued during such refusal.

When and to whom sum due at death of member payable.

37. Upon the death of a member of the Fund being intimated to the treasurer and certified as required by the rules the sum of twenty pounds shall be paid to his widow or should the deceased member not be survived by a widow to the child or 10 children (if any) of such member surviving at the date of his death in equal shares should there be more than one such child Said sum shall be paid as soon as convenient after receipt of such intimation and certificate but under deduction of all sums (if any) due by the deceased member to the Fund. 15

Production of certificate of death of member.

38. The Fund shall not pay any sum of money upon the death of a member whose death is or ought to be entered in any register of deaths except upon the production of a certificate of that death under the hand of the Registrar of Deaths or other person having the care of the register of deaths in which 20 such death is or ought to be entered (unless such death is a death at sea or is the result of an accident and the body cannot be found).

Conditions of payment if member is or has been in poorhouse workhouse or asylum.

39. If a member is in a poorhouse workhouse or lunatic asylum at the charge of any public authority no sick allowance 25 shall be paid other than such sums as may be required for keeping up his membership unless he has a wife or children dependent on him for support in which case the amount of his sick allowance shall be paid for their relief and maintenance and on such member's death the sum of twenty pounds shall be paid 30 to the widow whom failing to the child or children (if any) of such member and shall not be paid to such public authority.

Imposition of members and consequences.

40. Any member who shall impose upon the Fund by alleging that he is sick and incapable of work when he is wholly or partially employed or who shall allow sick allowance to be paid 35 to him after recovery shall be required to repay the amount paid to him during his employment or after his recovery and shall not be entitled to receive any sick allowance during the twelve calendar months after the date of the demand for such repayment. 40



[9 Edw. 7.]      *Zetland Masonic Sick and Widows and  
Orphans Fund Order Confirmation.*

15

41. If the sum of twenty pounds payable to the widow or children of a deceased member as herein-before provided is not claimed within three months (or where a member dies beyond the United Kingdom within six months) after the date of the death of any such member the Fund shall not be liable therefor. Provided that the directors shall have power in their sole discretion to make payment of the said sum to the widow or children of any deceased member although not claimed within the period above specified if the special circumstances appear to them to excuse the failure so to claim.
42. The production by the Fund of a receipt for any sum payable to or in respect of the death of a member signed by any person being either the widow or a child or children of the member shall be final and conclusive evidence that to the extent acknowledged in such receipt all claims and demands whatsoever against the Fund in respect of such member's death have been effectually discharged.
43. The executor of a deceased member as such executor shall have no claim to the sum of twenty pounds payable to the widow or children of a deceased member and it shall not be necessary for such widow or children to produce confirmation before payment.
44. All allowances and payments payable to members or widows or children of members from the Fund shall be strictly alimentary and shall not be assignable or transferable by them nor capable of being anticipated nor liable for or affectable by or subject to their debts or deeds nor subject to arrestment or other diligence at the instance of their creditors but shall be paid to the members or widows or children or the legal guardians or persons nominated by the father or failing nomination by him by the mother on behalf of the children entitled thereto for the sole and exclusive alimentary use and benefit of such members or widows or children and no sum shall vest in members their widows or children till actual payment thereof is made.
45. In the event of a member dying predeceased by his wife and leaving a child or children in minority but above pupillarity and no guardian or other person having been nominated as aforesaid the directors shall in their sole discretion be entitled to pay the said sum of twenty pounds or the proper share thereof to such child or children without the appointment
- A.D. 1909.  
Within what time claims must be made.
- Evidence of payment.
- Executor as such to have no claim and confirmation not necessary.
- Payments alimentary.
- Payments to minors.

A.D. 1909. or concurrence of any curator and the receipt of such child or children shall be a full discharge to the Fund In the event of such child or children being in pupillarity and of there being no nomination of a guardian or other person as aforesaid the directors shall in their sole discretion be entitled to pay the said 5 sum of twenty pounds or the proper share thereof to any person with whom such child or children may be living to be applied for behoof of such child or children The receipt of such person shall be a full discharge to the Fund and the Fund and the directors shall not be in any way responsible for the due appli- 10 cation of said money Provided that the directors in lieu of paying the said money to such person may themselves apply said money for behoof of such pupil child or children in such way as they in their sole discretion may think most expedient.

Payments to 46. The payment of the sum of twenty pounds payable on 15  
and identity the death of a member or the proper share thereof shall be  
and age of made on personal application at the office of the treasurer of  
applicants. the Fund or on transmission to the treasurer of a written appli-  
cation for such payment by the person entitled thereto and in  
any case on production of such evidence of identity age and 20  
title as the directors may require.

Cost of man- 47. All expenses relating to or incurred in the manage-  
agement &c. ment or administration of the Fund or obtaining possession of  
the funds thereof or otherwise in carrying the provisions of this  
Order into effect shall be paid by the Fund. 25

Deposit with 48. In lieu of the provisions of section 3 of the Life Assur-  
Accountant ance Companies' Act 1870 and of section 1 of the Life Assurance  
of Court. Companies' Act 1871 and of section 1 of the Life Assurance  
Companies' Act 1872 in so far as these Acts may be applicable  
to the Fund the directors shall within three months after the 30  
commencement of this Order deposit the sum of five hundred  
pounds with the Accountant of the Court of Session to be  
invested by him in one or more of the investments or securities  
in or upon which trustees are by the Trusts (Scotland) Acts  
1861 to 1898 and the Colonial Stock Act 1900 authorised to 35  
invest trust funds the directors choosing the particular invest-  
ment or securities and receiving the income therefrom and the  
Accountant of the Court of Session shall return such deposit to  
the directors so soon as evidence is submitted to him that the  
assets of the Fund inclusive of the said deposit amount in value 40  
to the sum of three thousand five hundred pounds And for

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the purposes of this Order the expression "the Accountant of the Court of Session" shall in the provisions herein-before in this section referred to be read instead of and be held to be substituted for the expression "the Accountant General of the Court of Chancery." A.D. 1909.

49. No director president treasurer or clerk of the Fund shall be liable for the acts receipts neglects defaults or frauds of any other director president treasurer clerk or of any agent officer or servant of the Fund or for joining in any receipts or other act for conformity or for any loss or expense happening to the Fund through the insufficiency or deficiency of any title to property acquired by the order of the directors for or on behalf of the Fund or for the depreciation insufficiency or deficiency of any investment or security in or upon which any of the assets of the Fund shall be invested or of the titles thereto or for any loss or damage arising from the bankruptcy insolvency or fraud of any person with whom any moneys securities or effects shall have been deposited or for any other loss damage or misfortune whatever which shall happen in the execution or intended execution of the duties of his office or in relation thereto unless the same happen through his own fault or fraud. Indemnity.

50. On the commencement of this Order the old Fund shall be and is hereby dissolved. Dissolution of old Fund.

51. The directors shall provide a seal for the fund and make such regulations as they shall think fit for the use and custody thereof. Seal.

52. The moneys belonging to the Fund shall from time to time be laid out and invested according to the law at the time applicable to the investment of trust funds in Scotland. Investment of funds.

53. The directors shall have power to sell by public roup or private bargain any estate heritable or movable belonging to the Fund and no person contracting with the directors shall have any concern with the application of any moneys that may be paid to the directors but shall be fully exonerated and secured by a receipt or discharge executed in accordance with the provisions of this Order. Power to sell by public roup or private bargain.

54. At Martinmas nineteen hundred and ten and at Martinmas in every fifth year thereafter the assets and liabilities of the Fund including the estimated risks and contributions shall Quinquennial investigation.

(5.) C

A.D. 1909. in the interests of the members and beneficiaries be valued by a valuer to be named by the directors. The said valuer shall be a Fellow of the Faculty of Actuaries in Scotland. In his report there shall be presented a vidimus of the assets and obligations of the Fund with a statement of his opinion whether 5 for the quinquennium then beginning any alteration should be made on the contributions. This report shall be laid by the directors before the members at the first general meeting thereafter. Copies of said report shall be deposited with the clerk and shall be made accessible by him to each member of the 10 Fund for perusal and a copy of the said report shall be furnished to any member of the Fund on payment of the usual copying fees therefor.

Rules. 55. The rules contained in the schedule annexed to this order shall be the rules of the Fund until duly altered in virtue 15 of the following section.

Power to alter rules. 56. The members may by special resolution from time to time alter or rescind any of the said rules and make and thereafter alter or rescind new or further rules for managing regulating and administering the Fund and the affairs thereof that 20 is by resolution passed at a general meeting of the members by a majority of three-fourths of those members present personally or by proxy and confirmed by a majority of members so present at another general meeting of the members held at an interval of not less than seven days nor more than one 25 month from the date of the previous meeting. Provided always that such alterations shall not be repugnant to the laws of Scotland or inconsistent with the provisions of this Order and shall not take effect until approved of in writing by the Registrar of Friendly Societies in Scotland. 30

Settlement of disputes. 57. In the event of any dispute arising between the Fund and any member of the Fund or between the Fund and any beneficiary the same shall be determined in a summary manner by the sheriff and his decision shall be final.

Costs of Order. 58. All costs charges and expenses of or incident to or 35 connected in any way with the preparing applying for obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Fund out of their funds.

## SCHEDULE.

A.D. 1909.

RULES OF THE CORPORATION OF THE MASONIC SICK AND WIDOWS  
AND ORPHANS FUND OF ZETLAND.

- (1) Applicants under twenty-one years of age shall not be admitted  
5 members without the consent of their parents or guardians. Consent of guardians to minors' admission.
- (2) No person shall be admitted as a member of the Fund who  
is above fifty-five years of age. Age limit.

- (3) Every member of the Fund shall pay annual contributions to  
the Fund according to the following scale videlicet:— Scale of contributions.

| 10 | Age next Birthday. | Annual Contribution. | Age next Birthday. | Annual Contribution. |
|----|--------------------|----------------------|--------------------|----------------------|
|    |                    | £ s. d.              |                    | £ s. d.              |
|    | 20 - -             | - 0 15 8             | 38 - -             | - 1 6 2              |
|    | 21 - -             | - 0 16 0             | 39 - -             | - 1 7 1              |
| 15 | 22 - -             | - 0 16 5             | 40 - -             | - 1 8 0              |
|    | 23 - -             | - 0 16 10            | 41 - -             | - 1 8 11             |
|    | 24 - -             | - 0 17 3             | 42 - -             | - 1 9 11             |
|    | 25 - -             | - 0 17 8             | 43 - -             | - 1 11 0             |
|    | 26 - -             | - 0 18 2             | 44 - -             | - 1 12 1             |
| 20 | 27 - -             | - 0 18 8             | 45 - -             | - 1 13 4             |
|    | 28 - -             | - 0 19 2             | 46 - -             | - 1 14 8             |
|    | 29 - -             | - 0 19 9             | 47 - -             | - 1 16 0             |
|    | 30 - -             | - 1 0 4              | 48 - -             | - 1 17 6             |
|    | 31 - -             | - 1 0 11             | 49 - -             | - 1 19 1             |
| 25 | 32 - -             | - 1 1 6              | 50 - -             | - 2 0 8              |
|    | 33 - -             | - 1 2 2              | 51 - -             | - 2 2 4              |
|    | 34 - -             | - 1 2 11             | 52 - -             | - 2 4 2              |
|    | 35 - -             | - 1 3 8              | 53 - -             | - 2 6 0              |
|    | 36 - -             | - 1 4 5              | 54 - -             | - 2 8 0              |
| 30 | 37 - -             | - 1 5 3              | 55 - -             | - 2 10 0             |

The said contributions shall be payable quarterly.

- (4) The directors may provide a form of application requiring  
such information as to age health or otherwise as they may think  
advisable which shall be filled up and signed by every applicant for  
35 admission to the Fund. They may also require any applicant to produce  
a certificate by a qualified medical practitioner named or approved of  
by them with reference to the state of the applicant's health. Directors may provide form of application and require medical certificate.

- (5) Every person before being admitted shall produce a certificate  
of his age or otherwise satisfy the directors as to his age and until  
40 he does so and is approved of by the directors and has made the first  
Production of age certificates.

(5.)

D



A.D. 1909. payment (being a quarter's subscription or a proportion thereof) he shall not be held to be or enrolled as a member of the Fund.

Payment of  
first contri-  
bution or  
share thereof.

(6) Every person before being admitted shall pay for the quarter in which he enters a proportional part of the annual contribution applicable to his age calculated from the date of his entry to the quarterly term of payment first occurring thereafter for the period between his entry and such quarterly term. 5

Dates of  
quarterly  
payments.

(7) The quarterly contributions shall be paid on the four following days in each year viz.—the second February fifteenth May twelfth August and eleventh November and for every delay of one month in payment of each of these quarterly contributions subsequent to the said respective days a fine of twopence shall be incurred by the members so delaying and each contributor failing to make good his full quarterly payments and fines for two entire years if he reside in Shetland for three years if in any other part of Great Britain or Ireland and for five years if outside the United Kingdom shall forfeit to the Fund every sum which he may have formerly contributed to it and he and his widow and children shall cease to have any right or interest in the Fund Provided that if at the date of a member's death the period above specified within which he might pay up his quarterly payments and fines shall not have expired his widow or failing her his children on paying within the said period the said quarterly payments and fines due at his death shall have right to obtain payment of the sum payable on his death. 10 15 20

Annual gene-  
ral meeting.

(8) The ordinary general meeting of the members shall be held within Lodge Morton (at which place in the absence of any special reason to the contrary all meetings shall be held) on Candlemas second of February or on the day preceding if Candlemas shall fall on a Sunday. 25

Sick allow-  
ances.

(9) No member shall be entitled to sick allowance for a period of less than two working days or for any period of more than seven days preceding the date of his application. 30

No member shall be entitled to sick allowance unless (a) he applies therefor through the treasurer with a certificate from a qualified medical practitioner stating the nature of the disease and that he is unfit for his usual work and (b) he is not indebted to the Fund in respect of any contribution or fine. 35

Sick allowance shall be paid (a) to members resident in Lerwick on the Friday or Saturday of each week for the period up to and including the previous Thursday on application by such member therefor and (b) to members resident outside of Lerwick by post fortnightly such members paying postages and commissions. 40

A member who is on the sick list shall from time to time if and when required furnish to the treasurer a certificate as to the state of

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Orphans Fund Order Confirmation.*

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his health signed by a qualified medical practitioner Any member A.D. 1909.  
failing so to do shall forfeit all claims to sick allowance during the  
period of his default.

5 A member who is on the sick list shall within two days after he  
becomes able to resume work send notice in writing to the treasurer  
and shall forfeit and pay to the Fund the sum of twopence per day  
for every day thereafter on which he fails so to do.

(10) Any person who shall be expelled from Morton Lodge for Members ex-  
misconduct shall not in consequence of such expulsion alone cease to pelled from  
10 be a member of the Fund or forfeit his rights therein. Morton  
Lodge.

(11) In the event of any member of the Fund having wilfully Forfeiture of  
misrepresented his age or having produced a false certificate of birth benefits.  
such member and his widow and children shall forfeit all benefit in  
the Fund.



**Zetland Masonic Sick  
and Widows and  
Orphans Fund Order  
Confirmation. [H.L.]**

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A

**B I L L**

INTITULED

An Act to confirm a Provisional Order  
under the Private Legislation Pro-  
cedure (Scotland) Act 1899 relating  
to the Zetland Masonic Sick and  
Widows and Orphans Fund.

*The Lord Pentland.*

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(5.)









