



## CHAPTER x.

An Act for enabling the Dundee Water Commissioners to A.D. 1872.  
relinquish certain Works for supplying Water to Dundee  
and suburbs and places adjacent, authorised by "The  
Dundee Water Extension Act, 1871," and to make new  
and other Works in substitution thereof; and for other  
purposes. [13th May 1872.]

**W**HEREAS the supply of water to the burgh of Dundee and 32 & 33 Vict.  
suburbs and places adjacent, within the limits of "The c. xlvi.  
Dundee Water Act, 1869," is vested in the Dundee Water  
Commissioners (herein-after called the Commissioners); and the  
Commissioners hold and exercise under that Act and the Acts  
therein recited the undertaking and powers, rights, and privileges  
of the Dundee Water Company :

And whereas by "The Dundee Water Extension Act, 1871," the  
Commissioners obtained power to take and introduce an additional  
supply of water to Dundee and suburbs and places adjacent from  
the river or water of Melgum or Melgam, adjoining the Loch of  
Lintrathen, and from the river or water or burn of Inzion, adjoining  
said loch, and from the said loch and the affluents of said rivers or  
waters and loch, all in the county of Forfar, as well as to supply  
water in bulk in certain cases to public authorities and others who  
are beyond the limits of their ordinary supply, and to provide a  
supply to the persons interested in the waters taken; and for these  
purposes to make and maintain the additional reservoirs, aqueducts,  
and other works therein described; and to raise further money for  
the purposes of these works and of their undertaking :

And whereas it would be attended with advantage and con-  
venience to the public and the Commissioners, and would save  
expense, if the Commissioners were authorised to make and maintain  
certain aqueducts, conduits, or lines of pipes, and a service or  
distributing reservoir (all herein-after called new works), in substi-  
tution for the works 8, 9, 10, 11, 12, 13, 14, and 15, authorised by

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and described in the said last-mentioned Act, for which works no lands, houses, or other property have hitherto been taken under the powers of the said Act; and it is expedient that the borrowing and other powers of the said last-mentioned Act should apply to and be available to the Commissioners for the said new works; and also that all or some of the other powers and provisions of the said last-mentioned Act with regard to the said works now to be relinquished should extend and apply to the said new works:

And whereas it is also expedient that the constitution of the Commissioners should be altered and enlarged, and the said recited Acts amended:

And whereas plans and sections describing the lands, houses, and other property intended to be taken for the purposes of this Act, and the lines, situations, and levels of the several new works intended to be made and maintained under the authority of this Act, and the lands in or through which the same are so intended to be made and maintained, with a book of reference to the said plans containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the said lands, houses, and other property, have been deposited for public inspection in the offices at Forfar and Dundee respectively of the principal sheriff clerk of the county of Forfar, and in the offices at Perth and Dunblane respectively of the principal sheriff clerk of the county of Perth, and which are in this Act referred to as the deposited plans, sections, and book of reference:

And whereas the objects aforesaid cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as "The Dundee Water Amendment Act, 1872."

Provisions of general Acts herein named incorporated.

2. The following Acts and parts of Acts (as far as the same respectively are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act:

"The Lands Clauses Consolidation (Scotland) Act, 1845:"

"The Lands Clauses Consolidation Acts Amendment Act, 1860:"

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

“The Waterworks Clauses Act, 1863:”

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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:

Provided always, as regards the said last-mentioned Act, that the said clauses and provisions shall be read as if “new works” were therein mentioned instead of “the railway,” and the “boundaries of new works” instead of “the centre of the railway,” and “the Commissioners” instead of “the Company.”

3. The several words and expressions to which by the Acts wholly or partly incorporated herewith meanings are assigned shall in this Act have the same respective meanings, unless there be something in the subject or context repugnant to such construction.

Interpre-  
tation of  
terms.

4. Subject to the provisions of this Act, the Commissioners may make and maintain, in the lines or situations and according to the levels shown on the deposited plans and sections, the aqueducts, conduits, or lines of pipes, reservoir and other works shown on the deposited plans, with all proper approaches, works, and conveniences connected therewith, and may enter on, take, and use such of the lands described in the deposited plans and book of reference as they require for the purposes of their undertaking.

Power to  
make works  
and take  
lands, &c.

The new works herein-before referred to and authorised by this Act are—

1. An aqueduct, conduit, or line of pipes, to commence in the parish of Lintrathen and county of Forfar, in the intended reservoir firstly authorised by and described in the second-recited Act, and to terminate in the parish of Dundee and county of Forfar in the distributing reservoir of the Commissioners at Stobbsmuir:
2. A reservoir in the parish of Dundee and county of Forfar in a field on the easterly slope of Dundee Law:
3. An aqueduct, conduit, or line of pipes in the parish of Dundee and county of Forfar, to commence in the said aqueduct, conduit, or line of pipes firstly before described, in the public road known as and called the Clepington Road, and to terminate in the distributing reservoir of the Commissioners on the north side of the Dundee Law, known as and commonly called the Lawton Reservoir:
4. An aqueduct, conduit, or line of pipes in the parish of Dundee and county of Forfar, to commence in the said aqueduct, conduit, or line of pipes thirdly before described, and to terminate in the intended reservoir secondly above described:

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5. An aqueduct, conduit, or line of pipes in the parish of Dundee and county of Forfar, commencing in the reservoir secondly before described, and terminating in Hill Street, Dundee.

Power to erect and maintain all necessary connexion works, and to maintain and improve existing works.

5. The Commissioners may, subject to the provisions of this Act in connexion with the works or any of them authorised by this Act, make, lay, erect, and maintain such embankments, dams, weirs, channels, sluices, catchwater drains, culverts, cuts, aqueducts, tunnels, bridges, roads, cisterns, gauges, main and distributing pipes, buildings, and other works and conveniences as may be necessary or expedient for effecting or carrying out the objects or purposes of this Act or any of them; as also the Commissioners may, subject as aforesaid, from time to time, on or within any of their lands, or on or over any lands on or over which they by agreement have or may acquire right so to do, alter, replace, increase, and enlarge the works, conduits, aqueducts, mains, and pipes authorised by this Act, and may from time to time alter, replace, enlarge, and increase the number and size of the works, mains, and pipes from time to time in use for conveying and distributing water for the purposes of the recited Acts and this Act.

Notice to be served before breaking up public roads, and roads to be broken up under superintendence.

6. Before any public road shall be opened or broken up for the purposes of this Act by the Commissioners, they shall give to the persons under whose control or management such road may be, or their clerk or surveyor, notice in writing of their intention to open or break up the same six days at least before the commencement of such operation; and every such road shall be opened or broken up under the superintendence of the persons so having the control or management of the same as aforesaid, or their officer, if such persons or their officer choose to attend.

Roads broken up to be reinstated without delay.

7. When the surface or soil of any public road shall be opened or broken up by the Commissioners, they shall with all convenient speed complete the work on account of which the same shall be opened or broken up, and carry away the rubbish occasioned thereby, and shall in the meantime cause the place where such surface or soil shall be so opened or broken up to be fenced and guarded, and set up and maintain upon or against the part of the said surface or soil so broken up or opened a sufficient light during every night during which such surface or soil shall be continued open or broken up, and shall, after replacing and making good the road which shall have been so broken up, keep the same in good repair for three months thereafter, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

8. If the Commissioners shall fail to give notice of intention to break up any public road as herein-before required, or shall break up any such road without having given such notice, or shall make any delay in completing any such work or in carrying away the rubbish so occasioned as aforesaid, or in causing to be fenced, guarded, or lighted the place where such surface shall have been broken up, they shall forfeit a sum not exceeding five pounds for every such offence, and a further sum not exceeding five pounds for each day during which such delay shall continue.

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Penalty for delay in reinstating roads.

9. Where the line of any work shown on the deposited plans passes along any road, and limits of lateral deviation are not marked thereon, the Commissioners may, in constructing the works, deviate laterally from the line thereof, as laid down on those plans, to the extent of the boundaries of the road, and elsewhere the Commissioners may, in constructing the works by this Act authorised, deviate laterally from the lines thereof, as shown on the deposited plans, to the extent of the limits of lateral deviation shown thereon, but not further in either case, except with the consent of the owner of the lands through or in which the deviation is made; and where any of the said works are intended to pass under or over any railway authorised by Act of Parliament, the same shall be executed so as not to obstruct or interfere with the free, uninterrupted, and safe use thereof.

Limits of lateral deviation.

10. In the construction of the works authorised by this Act, the Commissioners may deviate vertically from the levels shown on the deposited sections, in the case of the reservoir before described to any extent not exceeding five feet, and in the case of other works to any extent not exceeding five feet upwards or five feet downwards.

Limits of vertical deviation.

11. The Commissioners may, subject to the provisions of this Act, take by agreement, and any person by "The Lands Clauses Consolidation (Scotland) Act, 1845," or "The Lands Clauses Consolidation Acts Amendment Act, 1860," or otherwise enabled to sell lands, may grant to them, any estate, easement, servitude, interest, right, or privilege, not of water, in, over, affecting, or belonging to lands, at a price or yearly rent, feu duty, or otherwise; but in the case of a person not enabled otherwise than by the said Acts to sell lands, then subject and according to the provisions relative to the taking of lands by agreement contained in the said Acts; and for the purposes of this section, any such estate, easement, servitude, interest, right, or privilege shall be deemed to be lands within the meaning of those Acts.

Power to agree for easements, &c.

12. Subject to the provisions of this Act, the agreement between the Commissioners and the Right Honourable David Graham

Agreement with Lord

A.D. 1872.

Airlie confirmed.

Drummond Ogilvy, Earl of Airlie, dated the fifteenth day of March one thousand eight hundred and seventy-two, and set forth in the schedule to this Act annexed, is hereby confirmed, and shall be carried into effect by the said parties thereto respectively: Provided that nothing in this Act contained shall prejudice, alter, or affect the agreement between the Commissioners and the said Earl of Airlie, dated the thirty-first day of March and third day of April one thousand eight hundred and seventy-one, which is annexed to and confirmed by the second-recited Act, except in so far as the last-mentioned agreement is expressly altered by the agreement confirmed by this Act.

Powers for compulsory purchases limited.

**13.** The powers of the Commissioners for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Period for completion of works.

**14.** If the works authorised by this Act are not completed within ten years from the passing of this Act, then, on the expiration of that period, the powers by this Act granted to the Commissioners for executing any work not so completed, or in relation thereto, shall cease to be exercised except as to so much thereof as is then completed; but nothing herein contained shall restrict the Commissioners from extending, enlarging, altering, replacing, or removing any of their engines, machinery, conduits, aqueducts, mains, or pipes, or improving their supply of water at any time, and from time to time as occasion requires, subject to the provisions of this Act.

Relinquishment of certain works.

**15.** The Commissioners shall relinquish the construction of the works 8, 9, 10, 11, 12, 13, 14, and 15 authorised by and described in the second-recited Act.

New works to be in substitution for those relinquished.

**16.** The new works hereby authorised shall be in substitution for the works by this Act authorised to be relinquished, and, except as by this Act otherwise provided, all the powers and provisions of the second-recited Act which apply to the said works so authorised to be relinquished shall, mutatis mutandis, extend and apply to the new works authorised by this Act.

Borrowing powers.

**17.** The powers to borrow money contained in the said second-recited Act, and to grant security for such borrowed money, shall and may be exercised by the Commissioners for the purposes of the new works and of this Act, as well as for the purposes of the said second-recited Act, in so far as not now relinquished, and of their undertaking; and the borrowed money may be applied for such several purposes: Provided always, that the Commissioners shall not borrow under the authority of the second-recited Act an amount exceeding two hundred and twenty thousand pounds in all.

18. The chief magistrate of the burgh of Broughty Ferry, and his successor in office for the time being, shall, along with the magistrates and council of the royal burgh of Dundee, and their successors in office for the time being, as representing and for and on behalf of the community of the said burgh, be hereafter the Commissioners under and for the purposes and for carrying into effect the provisions of the recited Acts and this Act; and sections 7 and 8 of "The Dundee Water Act, 1869," are hereby amended accordingly; and the expression "the Commissioners" in the recited Acts and this Act shall be read and construed accordingly.

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Additional  
Commissioner.

19. All costs, charges, and expenses of and incidental to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Commissioners out of the moneys to be raised under the authority of the recited Acts and this Act.

Expenses  
of Act.

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SCHEDULE referred to in the foregoing Act.

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AGREEMENT between the Dundee Water Commissioners, incorporated by "The Dundee Water Act, 1869," herein-after called "the Commissioners," of the first part, and the Right Honourable David Graham Drummond Ogilvy, Earl of Airlie, heir of entail in possession of the entailed lands and estates of Lintrathen, Alyth, and Cortachy, and heritable proprietor of the lands and estate of Auchterhouse, of the second part.

WHEREAS by agreement, dated thirty-first March and third April eighteen hundred and seventy-one, entered into between the parties hereto, and annexed to and confirmed by "The Dundee Water Extension Act, 1871" (herein-after called "the said Act"), they made certain arrangements with regard to certain lands, waters, and other property to be taken by the first parties from the second party under the powers and for the purposes of the said Act: And whereas the first parties are promoting a Bill in the present session of Parliament, intituled "An Act for enabling the Dundee Water Commissioners to "relinquish certain works for supplying water to Dundee and suburbs and "places adjacent, authorised by 'The Dundee Water Extension Act, 1871,' "and to make new and other works in substitution thereof; and for other "purposes:" And whereas by the said Bill it is proposed to authorise the Commissioners to relinquish the construction of the works eight, nine, ten, eleven, twelve, thirteen, fourteen, and fifteen authorised by and described in the said Act, and to substitute therefor the new works specified in the said Bill, and inter alia the work therein first specified, being an aqueduct, conduit, or line of pipes, to commence in the parish of Lintrathen and county of Forfar, in the intended reservoir firstly authorised by and described in the said Act, and to terminate in the parish of Dundee and county of Forfar, in the distributing reservoir of the Commissioners at Stobbsmuir: And whereas power was taken by the said Act and by article third of the said agreement to take and receive from the second party a perpetual easement, servitude, right, and privilege in, over, and affecting the second party's lands therein mentioned, in so far as the same might be required and taken for constructing and maintaining the said work eight: And whereas the said work first described in the said Bill will pass to certain extents and for certain distances over, through, and upon the lands of the second party; and with the view of settling all questions of compensation which might arise under the intended Act to follow on the said Bill, the parties hereto have agreed as underwritten: Therefore the Commissioners and the said second party do hereby, subject to the passing of the said intended Act, and subject to the approval of Parliament being obtained hereto



by the intended Act, agree and bind and oblige themselves and himself respectively as follows; viz., A.D. 1872.

First. Inasmuch as the said work eight of the said Act is to be relinquished, and inasmuch as the said work first of the said Bill is to be substituted for it, article third of the said agreement, which is applicable to the said work eight, is hereby renounced and discharged.

Second. The Commissioners shall take and the second party shall grant to them a perpetual easement, servitude, right, and privilege in, over, and affecting the lands shown on the deposited plans applicable to the said Bill, in so far as such lands belong to the second party, and may be required and taken for constructing or laying and maintaining in cutting the said work first described in the said Bill; and for and in respect thereof the Commissioners shall pay to the second party the sum of fifty-two pounds ten shillings per acre of lands so taken or used other than in the parish of Auchterhouse, and the sum of one hundred pounds per acre of lands so taken or used in the said parish of Auchterhouse.

Third. The amount of damages and compensation to be paid by the Commissioners to the second party for such parts and portions of the second party's lands as may be required and taken for constructing or laying and maintaining in embankment the said work first described in the said Bill, and for and in respect of all damages by intersection consequent on the said embankment, shall be fixed and ascertained by the award of Alexander Bell, farmer, Balnuthie, near Dundee, whom failing, John Collier, farmer, Panlathie, near Arbroath, to whom in their order the said compensation and damages by intersection are hereby submitted accordingly.

Fourth. The several sums payable under article second shall be paid and deposited in return for a disposition and conveyance, creating, conveying, and constituting a perpetual easement, servitude, right, and privilege in, over, and affecting the lands that may be required and taken as aforesaid; and such disposition and conveyance shall be granted and delivered within three months after possession is given or taken of the said lands for the purposes of the said intended Act; and the said agreed-on price for said easement, servitude, right, and privilege shall bear interest at and after the rate of five per centum per annum from the date of such possession till payment. And the sums payable under article third of this agreement shall be paid and deposited in return for a disposition and conveyance of the lands to be taken and acquired as aforesaid, and which disposition and conveyance shall be granted and taken within three months of the date of the award fixing the price and intersectional damages, and shall bear interest at the rate of five per centum per annum from the date of possession being given and taken of said lands for the purposes of the said intended Act.

Fifth. The second party shall accept of the foresaid agreed-upon payments in full of the worth and value of all that is to be taken from and granted and conveyed by him as aforesaid, and of all claims and demands at his instance, or which might arise to him under the intended Act, or the compulsory taking of the foresaid lands for the purposes of the foresaid intended works, or under this agreement.

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Sixth. The second party shall not be bound to allow or sustain as a deduction from the foresaid amounts of compensation, or any of them, any rebate or drawback of interest thereon during the currency of any existing leases to tenants of the said lands or any of them; but nothing herein contained shall relieve the second party from allowing to such tenants any abatement of rent to which they may be entitled under their leases or by virtue of section 112 of "The Lands Clauses Consolidation (Scotland) Act, 1845."

Seventh. Section twenty-one of the said Act shall, so far as the second party is concerned, apply to the work first mentioned in the said Bill, in the same manner and to the same effect as it would have done to any of the works specified in the said Act.

Eighth. The Commissioners shall, when required by the second party, supply water from the said work first described in the said Bill at the same rates and charges as those exacted by them for the time within the burgh of Dundee, and under the same conditions and regulations, in so far as these may be applicable, to all houses and buildings already erected or to be erected by the second party or his successors or his or their feuars on the lands and estate of Auchterhouse; but this provision shall not apply to any houses or buildings which cannot be supplied by gravitation from the works authorised by the intended Act following upon the said Bill; and the second party shall be entitled to form and provide at his own expense all works necessary for that purpose, and which shall be made and maintained to the satisfaction of the engineer of the Commissioners for the time being; and the necessary pipes, cranes, ball-cocks, and other appurtenances shall be laid down, supplied, and maintained at the expense of the second party or his heirs or successors, and the necessary way-leave shall be given or provided and maintained by him or them; provided that the said supply shall not prejudicially affect or restrict the supply of water from time to time required within the limits of the Commissioners compulsory supply as defined by their existing Acts.

Ninth. All charges and expenses incurred and to be incurred by the second party with respect to the said Bill and the intended Act and this agreement, and carrying the same respectively into effect, shall be borne and paid by the Commissioners. In witness whereof these presents, written on this and the two preceding pages of stamped paper by Alexander Wilson, junior, clerk to Pattullo and Thornton, solicitors in Dundee, are duly executed (along with a duplicate thereof) as follows, viz., the same are sealed with the common seal of the Commissioners, and subscribed by James Yeaman, Provost of Dundee, and Thomas Buchan, Duncan Macdonald, and Hugh Ballingall, town councillors of Dundee, being four of the Commissioners, and by William Hay, town clerk of Dundee, clerk to the Commissioners, all for, and in name, and on behalf of, and as duly authorised by the Commissioners, at Westminster, on the fifteenth day of March eighteen hundred and seventy-two years, before these witnesses, Thomas Thornton, solicitor in Dundee, and the said Alexander Wilson, junior; and the same are also subscribed by the said Earl of Airlie, at Westminster, on the day, month, and year last mentioned, before these witnesses, the said Thomas Thornton and the said Alexander Wilson, junior; declaring that the word "virtue" deleted on the twenty-seventh line, counting

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from the top of page first hereof, the words "Commissioners shall be entitled to take, and the," deleted in the first line of article third hereof, and the word "Act" deleted between the word "said" and the word "intended," in the last line of article fourth hereof, were all duly deleted before subscription. A.D. 1872.

THOS. THORNTON, witness.  
A. WILSON, jr., witness.  
THOS. THORNTON, witness.  
A. WILSON, jr., witness.



JAS. YEAMAN, Commissioner.  
THOMAS BUCHAN, Commissioner.  
D. MACDONALD, Commissioner.  
HUGH BALLINGALL, Comr.  
WILLIAM HAY, Clerk.  
AIRLIE.

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