



CHAPTER xcix.

An Act to confirm a Provisional Order under the Public Health (Scotland) Act 1867 and any Acts amending the same relating to Kelty Water. A.D. 1896.
[20th July 1896.]

WHEREAS Her Majesty's Secretary for Scotland has made the Provisional Order set forth in the Schedule hereunto annexed under the provisions of the Public Health (Scotland) Act 1867 and Acts amending the same and it is necessary that the said Order shall be confirmed by Parliament: 30 & 31 Vict.
c. 101.

Be it therefore 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:—

1. The Provisional Order contained in the schedule hereto annexed shall be and the same is hereby confirmed. Confirmation
of Order
in schedule.
2. This Act may be cited as the Kelty Water Order Confirmation Act 1896. Short title.

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SCHEDULE.

PROVISIONAL ORDER.

WHEREAS by the Public Health (Scotland) Act 1867 (herein-after called "the Act of 1867") it is inter alia enacted (section 89) with respect to parishes (exclusive of any parts of such parishes as are situated within the district of any local authority other than the parochial boards of such parishes) as follows:—

" (1) The local authority if they think it expedient so to do may acquire
" and provide or arrange for a supply of water for the domestic use of
" the inhabitants and for that purpose may conduct water from any
" lake river or stream may dig wells make and maintain reservoirs may
" purchase take upon lease hire construct lay down and maintain such
" waterworks pipes and premises and do and execute all such works
" matters and things as shall be necessary and proper for the aforesaid
" purpose and may themselves furnish a supply of water or contract or
" arrange with any other person to furnish the same and for the pur-
" poses aforesaid the local authority shall be held to have all the powers
" and rights given to promoters of undertakings by the Lands Clauses
" Acts Provided always that they shall make reasonable compensation
" for the water so taken by them and for the damage which may be
" done to any lands by reason of the exercise of the powers hereby
" conferred in terms of the said Acts" and "(3) the local authority if
" they have any surplus water after fully supplying what is required
" for domestic purposes may supply water from such surplus to any
" public baths and wash-houses or for trading or manufacturing
" purposes on such terms and conditions as may be agreed on between
" the local authority and the persons desirous of being so supplied":

And whereas it is further provided by the Act of 1867 (section 90) that upon compliance with the provisions therein contained with respect to advertisements and notices the local authority may present a petition to one of Her Majesty's Principal Secretaries of State stating the land intended to be taken and the purposes for which it is required and the names of the owners lessees and occupiers of land who have assented dissented or are neuter in respect of the taking of such land or who have returned no answer to the notice and praying that the local authority may with reference to such land be allowed to put in force the powers of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement and that upon the receipt of such petition and upon due proof of the proper advertisements having been published and notices served the Secretary of State may direct an inquiry in the district in which the land is situate or otherwise inquire as to the propriety of assenting

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to the prayer of such petition and that after the completion of such inquiry the Secretary of State may by Provisional Order empower the local authority to put in force with reference to the land referred to in such Order the powers of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement or any of them :

And whereas by the Local Government (Scotland) Act 1889 the Dunfermline District Committee of the County Council of the County of Fife (hereinafter called "the District Committee") are the local authority under the Act of 1867 and Acts amending that Act within the Dunfermline district of the said county formed in pursuance of the said Local Government (Scotland) Act 1889 in the room and place of the parochial boards of the several parishes within the said district :

And whereas the District Committee duly formed into a special water supply district under the provisions of the Act of 1867 part of the parish of Beath in the county of Fife which parish is situate within the said Dunfermline district comprehending the village of Kelty and places adjacent thereto under the name of the special water supply district of Kelty :

And whereas the Public Health (Scotland) Amendment Act 1891 has by a resolution passed by the County Council of the County of Fife taken effect within the said Dunfermline district of the said county and is in force therein :

And whereas by the Secretary for Scotland Act 1885 all powers and duties vested in or imposed on one of Her Majesty's Principal Secretaries of State by the Act of 1867 and Acts amending the same were transferred to vested in and imposed on the Secretary for Scotland :

And whereas a petition under the provisions of the Act of 1867 has been presented to me as the Secretary for Scotland by the District Committee as the local authority aforesaid setting forth among other things that the present supply of water to the said special water supply district of Kelty has been for some time past defective and insufficient and in consequence of the increasing population is becoming more so and that it would be of great local advantage and conducive to the public health if the Petitioners were enabled to provide and obtain a more abundant and wholesome supply of water for the domestic use of the inhabitants and occupiers of houses and lands within the said special water supply district and for public baths and wash-houses and for trading or manufacturing purposes under the provisions of the Act of 1867 and that for the purpose of affording such supply of water the Petitioners proposed to construct the works shown on the plans herein-after mentioned and under the provisions of the said last-mentioned Act and the Lands Clauses Acts to purchase and take the lands situate within the parish of Cleish in the county of Kinross and the parishes of Beath and Dunfermline in the county of Fife or some of them delineated on the said plans and described in the book of reference thereto also herein-after mentioned or such of them as will or may be required to be taken or used for the purposes of the said works and the said water supply :

And whereas the said petition further set forth that the Petitioners published the advertisements and deposited the plans and sections and book of reference and served the notices required by the said section 90 of the Act of 1867 and prayed that a Provisional Order might be made in pursuance of the provisions

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A.D. 1896. of that Act empowering the Petitioners to put in force with reference to the lands above-mentioned the powers of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement :

And whereas due inquiry having been directed and held in respect of the matters contained in the said petition I have resolved to grant the prayer thereof (subject to certain modifications) and plans and sections describing the works to be constructed and also the lands springs streams waters roads and other property intended to be taken for the purposes thereof and of the said water supply and a book of reference to such plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of such lands have been signed by me with reference to this Order and will be deposited with the sheriff clerk of the county of Fife at his offices in Cupar and Dunfermline respectively and with the sheriff clerk of the county of Kinross at his office in Kinross :

Now therefore in pursuance of the powers contained in the Act of 1867 and transferred to and vested in me by the Secretary for Scotland Act 1885 I the Right Honourable Alexander Hugh Lord Balfour of Burleigh Her Majesty's Secretary for Scotland do by this Provisional Order under my hand and seal direct that from and after the passing of an Act of Parliament confirming the same :—

Local authority may put in force powers of Lands Clauses Acts.

1. It shall be lawful for the District Committee as the local authority aforesaid to put in force with reference to the lands delineated and described on the said plans and in the said book of reference the powers of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement.

Powers of lateral and vertical deviation.

2. In constructing the works described on the said plans the District Committee may deviate laterally from the lines laid down thereon to any extent not exceeding the limits of lateral deviation shown thereon and where the line of any work shown on the said plans passes along any road and limits of lateral deviation are not marked thereon they may deviate laterally from the line thereof as laid down on the said plans to the extent of the boundaries of the road 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 may deviate vertically from the levels of the said works as shown on the said sections to any extent not exceeding five feet upwards and five feet downwards Provided always that they shall not in the exercise of the power of lateral deviation hereby given construct the intended embankment shown on the said plans of a greater height above the general surface of the ground than that shown on the said sections and three feet in addition Provided also that if they shall exercise the powers of vertical deviation hereby granted they shall construct such embankment of such additional thickness at the base as shall be equal to five feet for every foot of additional height and shall make a corresponding addition to the strength of any retaining wall Provided also that they shall not raise any aqueduct culvert conduit or pipe above the surface of the ground unless so shown on the sections and then only to the extent so shown Provided also

that they may erect any water tower stand-pipe or other like work of any height which for the time being may be necessary or proper for the purposes of this Order. A.D. 1896.

3. The District Committee may in the execution of the aforesaid works take wayleaves easements servitudes or other limited rights over lands and other property subject to such conditions as may be agreed on with the persons interested. Power to take wayleaves &c.

4. The District Committee may make lay down erect and maintain all such embankments catchwaters dams weirs sluices gauges filters and filtering beds tanks cisterns pipes cuts bye-washes channels tunnels and all other works and conveniences connected with the said works shown on the said plans as may be necessary or convenient for the purposes of such works and a supply of water for the domestic use of the inhabitants of the said special water supply district of Kelty and for sanitary and other purposes but not for manufacturing or trading purposes and may from time to time within the said special water supply district make lay down and maintain all such aqueducts conduits main and distributing pipes valves gauges scours pressure pipes catchwater drains and all other works and conveniences necessary or proper for conducting distributing and supplying water within the said district and may also 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 extend alter replace enlarge and increase the number and size of their works mains and pipes for the better conveying distributing and supplying water to the said district. Incidental works.

5. The quantity of water to be taken and appropriated by the District Committee by means of their intended works herein-before mentioned for the purposes of the aforesaid water supply shall not exceed one hundred and sixty-two thousand five hundred gallons in each day of twenty-four hours and they shall allow the whole remaining water which may be gathered by means of the embankment and other works shown on the said plans (subject to the regulation thereof as herein-after provided) to flow into the lade or stream which runs between Loch Glow and the Gairney Burn which remaining water (herein-after called "compensation water") shall be deemed to be full compensation to all lands mills works and other properties on the Loch or River Leven and to the owners lessees and occupiers thereof for and in respect of the water to be intercepted taken and appropriated for the purposes of the said water supply Reserving always to the proprietors of Loch Glow and Helen Curror of Nivingstone and Archibald Steuart of Dowhill the claims (if any) competent to them against the District Committee by reason of the execution of the aforesaid works and the taking and appropriation by the District Committee of the water to be taken and appropriated by them as aforesaid. Water to be taken by District Committee and compensation water.

6. The District Committee shall construct and at all times maintain in sufficient repair a suitable and efficient self-recording meter through which the said quantity of one hundred and sixty-two thousand five hundred gallons of water to be taken and appropriated by the District Committee as aforesaid in every day of twenty-four hours shall flow or be delivered and which meter shall be open to the inspection of all persons legally interested in the waters Self-recording meter to be maintained.

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A.D. 1896. flowing down the Gairney Burn including the proprietors for the time being of the estates of Nivingstone and Dowhill and of Loch Leven and the trustees acting under the Act of the seventh and eighth years of the reign of His Majesty King George the Fourth Chapter one hundred and five.

Sluice for compensation water and regulation thereof.

7. The sluice through which the compensation water shall pass into the aforesaid lade or stream shall be maintained by the District Committee and shall from time to time be regulated by a proper person to be appointed and paid by the District Committee according to the instructions of a committee of five persons to be appointed annually by the whole riparian heritors between Loch Glow and the mouth of the River Leven at a meeting to be held for the purpose in Kirkcaldy on the second Wednesday in the month of August in each year so that after making provision for the supply of water herein-before provided to the District Committee the compensation water may pass according to the rights and requirements of such heritors. In case of any difference arising in regard to the adjustment of such rights and requirements or to the regulation of the said sluice the same shall be determined by an arbiter to be appointed by the sheriff of Fife and Kinross on the application of any party interested whose decision shall be final.

Raising of embankment by River Leven trustees.

8. The District Committee shall consent in so far as it may be competent to them to do so to the raising by the River Leven trustees of the embankment to be constructed by the District Committee and to any corresponding alteration of the relative works so as to intercept a greater quantity of water in Loch Glow than can be intercepted by the works of the District Committee provided that the expense and subsequent maintenance of such raising and alteration shall be borne by the said trustees. Provided further that the execution of such raising and alteration shall be carried out at the sight and to the satisfaction of an engineer to be appointed by the sheriff of Fife and Kinross on the application of the District Committee and that the said trustees shall pay the costs and expenses to be thereby incurred to such engineer and shall also pay and satisfy and indemnify the District Committee against all claims which may arise to the owners of Loch Glow or other parties interested by or in consequence of such raising and alteration.

Restriction on taking houses of labouring class.

9. The District Committee shall not under the powers of this Order purchase or acquire in any district within the meaning of the Act of 1867 ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Secretary for Scotland ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

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

10. In constructing altering replacing repairing and maintaining the works to be constructed by the District Committee for the purposes of this Order where they will pass along or under or over the railway of the North British Railway Company (herein-after called "the company"), the District Committee shall (unless otherwise agreed upon between them and the company) be subject to the following conditions videlicet:—

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For protection
of the North
British Rail-
way Company.

- (1.) All such works affecting the said railway or any of the bridges banks or works thereof or any lands or property belonging to the company shall be executed at the expense of the District Committee under the superintendence and to the reasonable satisfaction of the principal engineer of the company and according to plans and specifications to be previously submitted to such engineer and reasonably approved by him in writing provided that if such engineer shall not have expressed his approval or disapproval of the said plans and specifications within one month after the same shall have been submitted to him he shall be deemed to have approved thereof.
- (2.) The works shall be constructed altered replaced repaired and maintained so that the traffic upon the railway shall not be in anywise impeded or interfered with and such maintenance shall be effected under the superintendence and to the reasonable satisfaction of the engineer of the company and in all things at the expense of the District Committee.
- (3.) If by reason of the construction altering replacing repairing or maintaining of the works or any of them or the failure of any of the works or of the maintenance thereof the railway or the works lands or property connected therewith shall be injured or the traffic thereon impeded the District Committee shall compensate the company for all costs to which the company may be put in repairing the said damage.
- (4.) The District Committee shall also indemnify the company for any damage or compensation which may be recovered against them by reason of the interruption of the traffic on their railway or by reason of any accident on the railway which interruption or accident shall have been occasioned by the acts or defaults of the District Committee or any of their contractors or their respective servants or workmen and the amount of such damage or compensation shall be recoverable with full costs of suit from the District Committee by all and the same means as a simple contract debt is recoverable.
- (5.) The District Committee shall not acquire any estate or interest in the lands and property of the company other than a perpetual easement or right of constructing altering replacing repairing and maintaining on along under or over such lands and property the works to be constructed by them and described on the plans in this Order before mentioned.
- (6.) The amount to be paid for the acquisition of such easement shall be settled in the manner provided by the Lands Clauses Consolidation (Scotland) Act 1845 with respect to the purchase of lands otherwise than by agreement.
- (7.) If any difference shall at any time arise between the District Committee and the company or their engineer with respect to any matter arising under this section such difference shall be referred to and determined by

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an engineer to be agreed on or failing agreement to be appointed by the sheriff of Fifeshire on the application of either the District Committee or the company.

Reservation
of certain
rights of
proprietors
of estates sur-
rounding
Loch Glow.

11. Nothing herein contained shall deprive the proprietors for the time being of the estates surrounding Loch Glow of any rights of access to and of boating and fishing on the said loch at present possessed by them which rights are hereby reserved. Provided that the District Committee and their engineers servants or others acting under their control may at all times have access to and enter upon the said loch for the purposes of examining and repairing the aforesaid meter and sluice and other works to be constructed by the District Committee.

Interpretation.

12. The expression "the special Act" in the Lands Clauses Acts and in the clauses and provisions of the Waterworks Clauses Acts 1847 and 1863 by the Public Health (Scotland) Amendment Act 1891 incorporated with the Act of 1867 shall mean and include this Order and the Act confirming the same the expression "the Promoters of the Undertaking" in the Lands Clauses Acts and "the Undertakers" in the said clauses and provisions of the Waterworks Clauses Acts 1847 and 1863 shall with reference to this Order mean the District Committee the expression "the limits of the special Act" in the said clauses and provisions of the Waterworks Clauses Act 1847 shall with reference to this Order mean the limits of the said special water supply district and the word "lands" in this Order shall have the meaning assigned to it in the Lands Clauses Acts and shall include water and the right thereto.

Given under my hand and seal at Whitehall this twentieth day of May
in the year one thousand eight hundred and ninety-six.

(L.S.)

BALFOUR OF BURLEIGH.

Printed by EYRE and SPOTTISWOODE,

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