



CHAPTER lx.

An Act to confirm a Provisional Order under the Public Health (Scotland) Act 1867 and the Acts amending the same relating to Clackmannan (Alloa and Tillicoultry) Water Supply. A.D. 1897.
[3rd June 1897.]

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 the Acts amending the same and it is necessary that the said Order should 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 hereunto annexed shall be and the same is hereby confirmed. Confirmation
of Order in
schedule.
2. This Act may be cited as the Clackmannan (Alloa and Tillicoultry) Water Order Confirmation Act 1897. Short title.

A.D. 1897.

SCHEDULE.

PROVISIONAL ORDER.

WHEREAS by the Public Health (Scotland) Act 1867 it is inter alia enacted (section eighty-nine) that “with respect to the improvement of burghs
“having a population of less than ten thousand according to the census last
“taken and not having a Local Act for police purposes and with respect to
“parishes (exclusive of any parts of such parishes as are situate within the
“district of any local authority other than the parochial boards of such
“parishes)” “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 purposes 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 that “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 said Act (section ninety) that upon compliance with the provisions therein contained with respect to advertisements and notices the local authority may present to one of Her Majesty's Principal Secretaries of State a petition stating the land intended to be taken and the purposes for which it is required 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 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 to the prayer

of such petition and 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 either absolutely or with such conditions and modifications as he may think fit:

A.D. 1897.
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And whereas by the Secretary for Scotland Act 1887 all powers and duties vested in and imposed on the Secretary of State by the Public Health (Scotland) Act 1867 and Acts amending the same were transferred to vested in and imposed on the Secretary for Scotland:

And whereas the county council of the county of Clackmannan are the local authority in the water supply district after-mentioned and under the provisions of the Public Health Act part of the said county was by a decree of the sheriff of the counties of Stirling Dumbarton and Clackmannan dated the 15th day of July 1896 formed into a special water supply district:

And whereas a petition under the provisions of the said Public Health (Scotland) Act 1867 has been presented to me as Secretary for Scotland by the said local authority setting forth among other things the formation of the said water supply district in the parishes of Alloa and Tillicoultry and that the water supply of the said district is insufficient and that it would be of great advantage to the inhabitants of the said district if the petitioners were authorised to obtain a supply of water for the domestic use of the inhabitants and occupiers of houses and lands in the said special water supply district in the parishes of Alloa and Tillicoultry and in the districts and places adjoining or near to said district as the same may be extended in terms of the foresaid Acts and if they have any surplus water after fully supplying what is required for domestic purposes aforesaid of supplying water from such surplus to any public baths and wash-houses or for trading manufacturing or other purposes within the said district and the adjoining districts or for supplying water from such surplus for the domestic use of the inhabitants and occupiers of houses and lands adjoining and near the reservoir aqueduct conduits or lines of pipes as they presently exist or may hereafter be extended or in other districts and places and that for the purpose of obtaining and affording such water supply the petitioners proposed under the provisions of the Public Health (Scotland) Act and the Lands Clauses Acts to purchase and take all lands springs streams boreholes waters roads and property delineated and described on the plans deposited as herein-after mentioned or which will or may be required to be taken or used for or in connection with the intended works herein-after described and the supply of water aforesaid and that the petitioners had published advertisements and deposited the plan and served the notices required by the said Public Health Act:

And whereas the said petition prayed that a Provisional Order might be made empowering the petitioners to put in force with reference to the lands before mentioned the powers of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement:

A.D. 1897. And whereas inquiry having been directed and duly held in respect of the matters mentioned in the said petition I have resolved to grant the prayer thereof and plans and sections describing the works intended to be constructed and the lands intended to be taken for the purposes thereof and of the said water supply have been signed by me with reference to this Order and will be deposited with the sheriff clerk of the county of Clackmannan at his office in Alloa :

Now therefore in pursuance of the powers vested in me by the Public Health (Scotland) Act 1867 and the Secretary for Scotland Acts 1885 and 1887 I as Secretary for Scotland do by this Provisional Order under my hand direct that from and after the passing of any Act of Parliament confirming the same :—

1. It shall be lawful for the county council of Clackmannan as the local authority in the parishes of Alloa and Tillicoultry to put in force with reference to the lands described on the said plans and within the limits of deviation shown thereon the provisions of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement.

2. For the protection of Baron Abercromby and his successors this Order is made subject to the terms and conditions of a minute of agreement relating to compensation water the execution of works and matters of a like nature entered into between him of the first part and the said local authority of the second part dated 26th February and 3rd and 12th March 1897 and registered in the books of council and session the 25th day of March 1897.

3. In constructing altering replacing repairing and maintaining the works to be constructed by the county council 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 county council shall (unless otherwise agreed between them and the company) be subject to the following conditions viz.—

(1.) All such works affecting the said railway or any bridges banks or works thereof or any lands or property belonging to the company shall be executed at the expense of the county council 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 county council shall not enter upon or interfere with any railway work bridge bank land or property belonging to the company further or otherwise than may be necessary for constructing altering replacing repairing or maintaining any of the said works and shall not alter or interfere with the lines or levels of any such railway or work nor shall

the county council acquire any estate or interest in any lands and property belonging to 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 said works Nothing in this section shall be held to infer any admission on the part of the county council that the company has any right of property in the lands over which there are level crossings or in the roads which are carried by bridges over the railway of the company :

- (3.) The amount to be paid for the acquisition of such easement shall be settled in manner provided by the Lands Clauses Consolidation (Scotland) Act 1845 with respect to the purchase of land otherwise than by agreement :
- (4.) The works shall be constructed altered replaced repaired and maintained so that the traffic upon the railway of the company shall not in anywise be 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 county council :
- (5.) 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 of the company or the works lands or property connected therewith shall be injured or the traffic thereon impeded the county council shall compensate the company for all costs to which the company may be put in repairing such damage :
- (6.) The county council 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 said railway which interruption or accident shall have been occasioned by the acts or defaults of the county council or any of their contractors or respective servants or workmen and the amount of such damage or compensation shall be recoverable with full costs of suit from the county council by all and the same means as a simple contract debt is recoverable :
- (7.) If any difference shall at any time arise between the county council and the company or their engineers with respect to any matter arising under this section such difference shall be referred to and determined by an arbiter to be agreed on or failing agreement to be appointed by the sheriff of Stirling Dumbarton and Clackmannan on the application of either the county council or the company.

4. The local authority in constructing the works described on the said plan may deviate laterally from the lines laid down thereon to any extent not exceeding the limits of lateral deviation shown thereon and may deviate vertically from the levels of the said works as defined 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 their power of lateral deviation

A.D. 1897. hereby given construct any embankment or retaining wall of the reservoir hereby authorised of a greater height above the general surface of the ground than that shown on the deposited plans and three feet in addition 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 further 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.

The local authority may in the execution of their 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.

5. Persons empowered by the Lands Clauses Consolidation (Scotland) Act 1845 to sell and convey or dispose of lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 grant to the said local authority any servitude right or privilege 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 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.

6. The clauses of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes and the provisions of the Waterworks Clauses Act 1863 with respect to the security of the reservoirs constructed by the Undertakers are hereby incorporated with this Order.

7. In this Order the word "lands" has the meaning assigned to it in the Lands Clauses Acts and includes likewise water and the right thereto The expression "the local authority" in this Order and 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 respectively the county council of Clackmannan as the local authority under the Public Health (Scotland) Act 1867 and the expression "the special Act" in the Lands Clauses Acts with reference to this Order means this Order.

8. The local authority shall not under the powers of this Order without the consent of the Secretary for Scotland purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 ten or more houses which after the passing of the Act confirming this Order have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

For the purposes of this section the expression "labouring classes" 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 of such persons who may be residing with them. A.D. 1897.

Given under my hand and seal at Whitehall this twenty-seventh day of
March one thousand eight hundred and ninety-seven.

(L.S.)

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