CHAPTER cxiv.

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

A.D. 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:—

Confirmation of Order in schedule.

1. The Provisional Order as amended and contained in the schedule hereto annexed shall be and the same is hereby confirmed.

Short title.

2. This Act may be cited as the Culter Water Order Confirmation Act 1896.

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SCHEDULE.

PROVISIONAL ORDER.

WHEREAS by the Public Health (Scotland) Act 1867 it is inter alia enacted section eighty-nine that 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) "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 main-"tain 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 washhouses 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 the names of the owners lessees and occupiers of lands 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 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 whereas by the Secretary for Scotland Act 1885 all powers and duties vested or imposed on the said 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 Aberdeen District Committee of the County Council of the county of Aberdeen are the local authority in the room and place of the parochial boards of the parishes within the Aberdeen district of the said county of Aberdeen under and for the purposes of the Public Health (Scotland) Act 1867 and the Acts amending and extending the same all in terms of and in accordance with the provisions in that behalf contained in the Local Government (Scotland) Act 1889:

And whereas a petition under the provisions of the Public Health (Scotland) Act 1867 and Acts amending and extending the same has been presented to me as Secretary for Scotland by the said Aberdeen District Committee as the local authority aforesaid with consent and concurrence of the said county council setting forth among other things that a portion of the parish of Peterculter in the said county including the village of Culter has been formed into a special water supply district in pursuance of the provisions of the Public Health (Scotland) Act 1867 under the name of the Culter Special Water Supply District conform to resolution of the said district committee as local authority therein dated fourteenth August one thousand eight hundred and ninety-three and confirmed by decree of the sheriff substitute of Aberdeen Kincardine and Banff at Aberdeen dated twenty-ninth March one thousand eight hundred and ninety-five and that the present water supply is insufficient and unwholesome 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 domestic purposes and for trading and manufacturing and other purposes under the provisions of the said Public Health (Scotland) Act 1867 and that the petitioners proposed to construct works for the purpose of affording such supply of water and to purchase and take under the powers and provisions of the Lands Clauses Acts the lands and water required for the purposes of the said water supply and the said works all which lands water and works are or will be situate in the parishes of Peterculter and Skene in the county of Aberdeen and that the petitioners had published the advertisements and deposited the plans sections and book of reference and served the notices required by the ninetieth section of the first-recited Act and the said petition prayed that a Provisional Order might be made empowering the petitioners to put in force with reference to the lands and water before mentioned the powers of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement:

And whereas due inquiry having been directed and held in respect of the matters mentioned in the said Petition at which inquiry certain modifications and alterations of the works delineated on the deposited plans were agreed to I have resolved to grant the prayer of the said petition and a plan describing the works to be constructed and the lands and water intended to be taken for the purposes thereof and of the said water supply and a book of reference to such plan containing the names of the owners or reputed owners lessees or

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reputed lessees and of the occupiers of such lands and water have along with amended plans showing the modifications and alterations of the said works been signed by me with reference to this Order and will be deposited with the Sheriff Clerk of the County of Aberdeen at his office in Aberdeen:

Now therefore in pursuance of the powers contained in the Public Health (Scotland) Act 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 direct that from and after the passing of any Act of Parliament confirming the same:—

1. The expression "the special Act" in the Lands Clauses Acts shall mean and include this Order and the expression "the promoters of the Undertaking" in the Lands Clauses Acts shall with reference to this Order mean the Aberdeen District Committee of the County Council of the County of Aberdeen (herein-after referred to as "the District Committee") 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.

2. The District Committee may subject to the provisions of this Order put in force with reference to the lands described on the plans and in the book of reference the provisions of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement.

3. The District Committee shall not under the powers of this Order acquire the lands numbered on the deposited plans 17 17A 18 18 19 20 21 22 23 25 25 25 in the Parish of Skene or 1 1A 51 52 in the Parish of Peterculter.

4. The District Committee shall not construct the embankment on the Leuchar Burn in the Parish of Peterculter being part of the Work No. 2 on the deposited plans but may construct the works shown on the plans as amended.

5. The District Committee in constructing the works described on the plans 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 sections to any extent not exceeding five feet upwards and five feet downwards Provided always that the substituted reservoir or compensation dam shown on the amended plans shall be constructed so as to be capable of containing not less than seven million gallons of water Provided further that the District Committee shall not in the exercise of the power of lateral deviation 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 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 standpipe or other light work of any height which for the time being may be necessary or proper for the purposes of this Order.

6. The District Committee may in the execution of their works take way-leaves easements servitudes or other limited rights over lands and other property subject to such conditions as may be agreed on with the persons interested.

7. For the protection of the Lord Provost Magistrates and Town Council of the City and Royal Burgh of Aberdeen (herein-after called "the Town Council") the following provisions shall unless otherwise agreed between the District Committee and the Town Council apply and have effect that is to say :—

(1) The aqueduct conduit or line of pipes (Work No. 6) by this Order authorised shall be carried over the aqueduct of the Town Council in connection with the City Waterworks (herein-after referred to as "the City Aqueduct") in such line at such level and in such manner as shall be determined by the Engineer of the Town Council ;

(2) The District Committee shall not enter upon or interfere with the lands through which the Town Council have a servitude right of way-leave for the city aqueduct except in so far as may be necessary for constructing maintaining or repairing any works of the District Committee to be laid through such lands and shall only acquire such an easement or servitude through such lands as may be required for making maintaining and repairing the Works of the District Committee in accordance with the provisions of this Order ;

(3) All the works of the District Committee for laying down and constructing or subsequently maintaining repairing or renewing the said aqueduct conduit or line of pipes and any other mains pipes sewers and works of the District Committee which may in any way interfere with the city aqueduct or the lands through which the town council have a servitude right of way-leave for the city aqueduct shall be executed and subsequently maintained repaired and renewed by and at the expense of the District Committee under the superintendence and to the satisfaction of the engineer of the town council and according to plans and sections and of such design and materials as shall be previously approved by such engineer ;

(4) If any injury to the city aqueduct shall arise from or be in any way due to the works or operations of the District Committee or the bursting leakage or failure of the said aqueduct conduit or line of pipes or any other mains pipes sewers or works of the District Committee the District Committee shall forthwith make good such injury at their own expense or in the event of their failure so to do the town council may execute such works as may be requisite and in such case the District Committee shall repay to the town council all costs and expenses loss or damage incurred or sustained by them in respect thereof ;

(5) If any difference shall arise between the District Committee and the town council or between their respective engineers as to any plans or

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sections or as to the mode of executing any works or as to any costs loss or damage provided for under this section such difference shall be determined by an engineer to be appointed by the sheriff of the county of Aberdeen on the application of either the District Committee or the town council.

8. The District Committee shall as soon as the waterworks described on the said plans are completed so far as to be able to afford the supply of compensation water hereinafter mentioned cause to be discharged from the said substituted reservoir or compensation dam down the Burn of Ord a regular and continuous flow of water of not less than forty-five thousand gallons in every day of twenty-four hours which quantity of water shall subject to the provisions of this Order and the power of the Culter Mills Paper Company Limited to regulate the outflow of the said compensation water referred to in the agreement first mentioned in clause 10 of this Order be deemed to be full compensation to all owners lessees and occupiers of lands mills works and other properties and all other persons for the water intercepted and appropriated under this Order.

9. The District Committee shall construct and at all times maintain in sufficient repair a suitable measuring weir or gauge at the outflow channel of the said substituted reservoir or compensation dam on the said Burn of Ord over or through which the said quantity of compensation water shall flow or be delivered and which weir or gauge shall be open to the inspection of all persons legally interested in the waters flowing down the Burn of Ord the Leuchar Burn and the Culter Burn.

10. Whereas the following agreements relating to the lands to be taken the situation and character of the works the compensation water to be provided and matters of a like nature were made in the course of the said enquiry and have since been registered in the books of Council and Session at Edinburgh now this Order is made and granted subject to the terms and conditions of the said agreements that is to say :—

(First) An agreement between the said District Committee and the Culter Mills Paper Company Limited incorporated under the Companies Acts 1862 to 1880 dated tenth and eleventh and registered in the books of the Lords of Council and Session at Edinburgh the twenty-first days of February one thousand eight hundred and ninety-six.

(Second) An agreement between the Society of Advocates in Aberdeen incorporated by Royal Charter and the said District Committee dated seventeenth and nineteenth March and registered in the books of Council and Session at Edinburgh the twenty-fifth May one thousand eight hundred and ninety-six.

(Third) Minutes of agreement between the District Committee of the first part Mrs. Jean Smith or Downie proprietrix of the lands of Wester Ord in the parish of Skene and county of Aberdeen with consent of Alexander Gavin tenant of said lands and the said Alexander Gavin for his own interest of the second part and Miss Isabella Anderson heritable proprietrix of one pro indiviso half of the lands and estate of the Lasts in the parish of Peterculter and county of Aberdeen and the trustees acting under contract of marriage

between James Marshall Doctor of Medicine and Mrs. Rachel Troup or Marshall his spouse heritable proprietors of the other pro indiviso half of said lands and estate of the Lasts with the consent and concurrence of John Watt and George Yeats their tenants as therein set forth and the said John Watt and George Yeats for their own interest of the third part dated 17th 20th 24th 27th and 30th March and 1st April and registered in the books of Council and Session at Edinburgh the twenty-fifth May 1896.

(Fourth) Agreement between the District Committee and Alexander Forbes Irvine of Drum in the county of Aberdeen a minor with consent of Mrs. Mary Agnes Ramsay or Forbes Irvine his curatrix dated thirteenth and fifteenth days of April and registered in the books of Council and Session at Edinburgh the twenty-fifth May 1896.

(Fifth) Agreement between the District Committee and Miss Jean Fowler residing at Easter Ord in the parish of Skene and county of Aberdeen dated thirteenth and fifteenth days of April and registered in the books of Council and Session at Edinburgh the twenty-fifth May 1896.

11. The District Committee shall not under the powers of this Order purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 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" includes 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 such persons who may be residing with them.

Given under my hand and seal at Whitehall this twenty-ninth day of April one thousand eight hundred and ninety-six.

L.S.

Balfour of Burleigh.

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