CHAPTER xlix.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to the London Midland and Scottish Railway (Hotel Water). A.D. 1930.

[15th April 1930.]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by one of His Majesty's Principal Secretaries of State under the provisions of the Private Legislation Procedure (Scotland) Act 1899 as read with the Secretaries of State Act 1926 and it is requisite that the said Order should be confirmed by Parliament: 62 & 63 Vict. c. 47. 16 & 17 Geo. 5. c. 18.

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 Provisional Order contained in the schedule hereto annexed is hereby confirmed. Confirmation of Order in schedule.

2. This Act may be cited as the London Midland and Scottish Railway (Hotel Water) Order Confirmation Act 1930. Short title.

[*Price 6d. Net.*] A 1

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SCHEDULE.

LONDON MIDLAND AND SCOTTISH RAILWAY (HOTEL WATER).

Provisional Order to authorise the London Midland and Scottish Railway Company to construct waterworks and other works to acquire lands and for other purposes.

WHEREAS the London Midland and Scottish Railway Company (in this Order referred to as "the Company") are the proprietors of an hotel and relative offices connected therewith which in virtue of the Caledonian Railway Act 1923 the Company as successors of the Caledonian Railway Company are empowered to carry on as part of their undertaking and also are the proprietors or superiors of certain dwelling-houses in the parish of Blackford in the county of Perth:

And whereas the water supply available for such hotel and dwelling-houses is insufficient:

And whereas the Dunfermline district committee of the county council of the county of Fife have agreed to afford to the Company a supply of water from their reservoir at Glendevon in the county of Perth and the central district committee of the county council of the county of Perth have agreed and consented for the purpose of such supply to the construction of the work hereinafter described by the Company in the portion of the public highway leading from Yetts of Muckhart to Crieff necessary for such purpose and it is expedient that such agreement as set out in the schedule to this Order should be confirmed:

And whereas such hotel and dwelling-houses are not situate within the area of supply of any water supply undertakers:

And whereas it is expedient that the Company should be empowered to lay down and maintain the work hereinafter described:

And whereas a plan and section showing the line and levels of the work authorised by this Order and a book of reference to the plan containing 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 sheriff clerk for the county of Perth and are in this Order respectively referred to as the deposited plan section and book of reference:

And whereas it is expedient that the other powers contained in this Order should be conferred upon the Company:

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the Private Legislation Procedure (Scotland) Act 1899:

Now therefore in pursuance of the powers contained in the last-mentioned Act as read with the Secretaries of State Act 1926 the Secretary of State orders as follows:—

Short title.

1. This Order may be cited for all purposes as the London Midland and Scottish Railway (Hotel Water) Order 1930.

Incorporation of Acts.

2. The Lands Clauses Acts and 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 are incorporated with this Order provided that in the construction of those provisions the word "railway" shall mean the work authorised by this Order.

Interpretation.

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

Work.

4. Subject to the provisions of this Order the Company may construct maintain and use in the lines and situations and according to the levels shown on the

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deposited plan and section the work hereinafter described with all proper works and conveniences in connection therewith and may enter upon take hold appropriate acquire and use such of the lands and properties shown on the deposited plan and described in the deposited book of reference as they may require for the purposes of the said work The work hereinbefore referred to is situate in the county of Perth and is the following (that is to say) :—

A conduit or line of pipes situate partly in the parish of Glendevon and partly in the parish of Blackford commencing in the parish of Glendevon by a junction with the existing water main or aqueduct of the Dunfermline district committee of the county council of the county of Fife in the public road from Yetts of Muckhart to Crieff at a point one hundred yards or thereby eastward from the point where the Leas Burn crosses the said public road near Glenhead thence proceeding along the said road in a north north-westerly direction of four miles seven hundred and four yards or thereby and terminating in the parish of Blackford on the said public road at a point three hundred and forty yards or thereby southward from the junction of the said road with the road leading to Auchterarder by Muirtown.

Power to deviate.

5. The Company may in constructing the work by this Order authorised deviate laterally from the line and position thereof as shown on the deposited plan relating thereto to the extent of the limits of lateral deviation shown thereon and where on any road no such limits are shown the boundaries of such road shall be deemed to be such limits and the Company may also deviate vertically from the levels of the work as shown on the deposited section to any extent not exceeding five feet upwards and to any extent downwards :

Provided that except for the purpose of crossing over a stream or over the railway of the Company no part of the pipes shall be raised above the surface of the ground unless and except so far as is shown on the deposited section.

Correction of errors in deposited plan and book of reference.

6. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plan or specified in the deposited book of reference the Company after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to the sheriff of the county in which the said lands are situate for the correction thereof and if it appears 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 of the omission and in what respect any such matter is misstated or wrongly described and the decision of the sheriff in such matter shall be final The certificate of the sheriff shall be deposited in the office of the sheriff clerk of the said county and a duplicate thereof shall also be deposited with the clerk of the parish council of any parish in which the lands affected thereby are situate and such certificate and the duplicate respectively shall be kept by such clerks along with the other documents to which the same relate and thereupon the deposited plan and book of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the Company to take the lands and execute the work in accordance with such certificate.

Company may acquire servitudes only in certain cases.

7.—(1) The Company may in lieu of acquiring any lands for the purposes of the works authorised by this Order where the same are intended to be constructed underground acquire such servitudes only in such lands as they may require for such purposes and may give notice to treat in respect of such servitudes describing the nature thereof and the provisions of the Lands Clauses Acts shall apply to and in respect of the acquisition of such servitudes as fully as if the same were lands within the meaning of those Acts.

(2) As regards any lands in respect of which the Company have acquired servitudes only under the provisions of this section the Company shall not be required or entitled to fence off or sever such lands from the adjoining lands but the owners or 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 been made.

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(3) Provided always that nothing in this section contained shall authorise the Company to acquire by compulsion any such servitude in any case in which the owner in his particulars of claim shall require the Company to acquire the lands in respect of 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 provision.

Persons under disability may grant servitudes &c.

8. Persons empowered by the Lands Clauses Acts to sell and convey or discharge lands may if they think fit subject to the provisions of those Acts and of this Order grant to the Company 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 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.

Period for compulsory purchase of lands.

9. The powers of the Company for the compulsory purchase of lands for the purposes of this Order shall cease after the expiration of three years from the commencement of this Order.

Period for completion of work.

10. If the work authorised by this Order is not completed within five years from the commencement of this Order then on the expiration of that period the powers by this Order granted to the Company for making and completing the said work or otherwise in relation thereto shall cease except as to so much thereof as is then completed but nothing herein contained shall restrict the Company from maintaining using extending enlarging altering replacing relaying increasing adding to or removing the said work at any time and from time to time as occasion may require.

Power to alter roads &c. temporarily.

11. For the purposes and during the execution of the work by this Order authorised and in maintaining the same and subject to the provisions of this Order the Company may from time to time in or upon any of the lands shown on the deposited plan and described in the deposited book of reference break up or cross over or under alter temporarily stop up or divert any highways roads lanes paths bridges passages sewers drains watercourses gas pipes and water pipes and telegraphs telephones and apparatus 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 highway road lane path bridge or passage or the flow or passage of water gas sewage or electricity in or through any such sewer drain stream watercourse pipe or apparatus and making full compensation to all persons injuriously affected by anything done under the provisions of this section Provided that nothing in this section shall extend to or authorise any interference with any telegraphic line (as defined by the Telegraph Act 1878) or other property of the Postmaster-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 Electricity (Supply) Acts 1882 to 1926 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with and subject to the provisions of that section.

As to private rights of way over lands taken compulsorily.

12. All private rights of way over any lands which shall under the powers of this Order be acquired compulsorily shall as from the date of such acquisition be extinguished Provided that the Company shall make full compensation to all persons interested in respect of any such rights 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.

Single arbiter.

13. In all cases of disputed purchase money or compensation arising under this Order in respect of land to be taken compulsorily or otherwise which fall to be determined under the provisions of the Lands Clauses Acts it shall unless the Company and the other party or parties to the dispute concur in the appointment of a single arbiter in terms of such Acts be in the power of the Company or such other party or parties to apply to the Secretary of State to appoint a single arbiter to determine the purchase money or compensation to be paid and it 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 arbitration shall apply

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accordingly and the arbiter shall notwithstanding anything contained in the said Acts determine the amount of expenses in the arbitration and such determination shall be final The remuneration of the said arbiter shall failing agreement be fixed by the Secretary of State.

Costs of arbitration in certain cases.

14. The tribunal to whom any question of disputed purchase money or compensation under this Order is referred shall if so required by the Company award and declare whether a statement in writing of the amount of compensation claimed has been delivered to the Company by the claimant giving sufficient particulars and in sufficient time to enable the Company to make a proper offer and if the tribunal shall be of opinion that no such statement giving sufficient particulars and in sufficient time shall have been delivered and that the Company has been prejudiced thereby the tribunal shall have power to decide whether the claimant's costs or any part thereof shall be borne by the claimant:

Provided that it shall be lawful for the Lord Ordinary on the Bills or the sheriff of the county in which the lands are situate in respect of which the claim has arisen to permit any claimant after seven days' notice to the Company to amend the statement in writing of the claim delivered by him to the Company in case of discovery of any error or mistake therein or for any other reasonable cause such error mistake or cause to be established to the satisfaction of the judge or sheriff after hearing the Company if they object to the amendment and such amendment shall be subject to such terms enabling the Company to investigate the amended claim and to make an offer de novo and as to postponing the hearing of the claim and as to costs of the inquiry and otherwise as to such judge or sheriff may seem just and proper under all the circumstances of the case:

Provided also that this section shall be applicable only in cases where the notice to treat under the Lands Clauses Consolidation (Scotland) Act 1845 either contained or was endorsed with a notice of the effect of this section.

Confirmation of agreement.

15. The minute of agreement among the Dunfermline district committee of the county council of the county of Fife of the first part the Company of the second part and the central district committee of the county council

of the county of Perth of the third part set out in the schedule hereto is hereby confirmed and made binding on the parties thereto.

Power to Company to apply funds.

16. The Company may appropriate and apply to all or any of the purposes of this Order and for or towards the general purposes of their undertaking being in each case purposes to which capital is properly applicable any of the moneys which they have raised or are authorised to raise and which are not required for the purposes to which they are made specially applicable.

Provision as to general Railway Acts.

17. Nothing in this Order contained shall exempt the Company from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies passed before or after the passing of the Act confirming this Order.

Costs of Order.

18. All costs charges and expenses of and incident to the preparing for obtaining and confirming this Order or otherwise in relation thereto shall be paid by the Company.

The SCHEDULE referred to in the foregoing Order.

MINUTE OF AGREEMENT between THE DUNFERMLINE DISTRICT COMMITTEE of the COUNTY COUNCIL of the COUNTY OF FIFE (hereinafter called "the Water Authority") of the first part THE LONDON MIDLAND AND SCOTTISH RAILWAY COMPANY formed and incorporated by the North Western Midland and West Scottish Group Amalgamation Scheme 1923 under and in terms of the Railways Act 1921 (hereinafter called "the Railway Company") of the second part and the CENTRAL DISTRICT COMMITTEE of the COUNTY COUNCIL of the COUNTY OF PERTH (hereinafter called "the Road Authority") of the third part.

WHEREAS the Water Authority are the proprietors of a reservoir for the supply of water at Glendevon in the county of Perth which reservoir and relative works connected therewith

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have been constructed by the Water Authority under the powers contained in the Dunfermline District Water Orders 1904 1913 and 1918 :

And whereas the Railway Company are the proprietors of the hotel and relative offices connected therewith and also are the proprietors or superiors of certain dwelling-houses all situated on lands belonging to the Railway Company in the parish of Blackford in the county of Perth :

And whereas the Railway Company have approached the Water Authority with the view to procuring a supply of water for the said hotel and said other properties situated in the parish of Blackford belonging to the Railway Company and certain terms and conditions have been negotiated between the Water Authority and the Railway Company with reference to the said supply which subject to the terms and provisions of the Dunfermline District Water Orders 1904 1913 and 1918 the Water Authority are prepared to afford from their said reservoir :

And furthering considering that in order to take such supply of water the Railway Company will require to construct and lay down a water main connecting with the Water Authority's main pipe at a point in the neighbourhood of the entrance to the private access road to Glendevon Reservoir and also that the Railway Company will require to erect at a point to be agreed a meter-house for the installation of a meter in connection with the said supply :

And whereas the said water pipe will be laid in under or along the public highway leading from Yetts of Muckhart to Crieff northwards from Glenhead in which the Road Authority are interested :

And now considering that it is right and proper that the terms and conditions for the said supply should be reduced to writing and that the parties hereto for their respective rights and interests should enter into formal agreement as to the said terms and conditions :

Now therefore the said parties have hereby agreed and do hereby agree as follows videlicet :—

First The Water Authority shall so long as there is surplus water available from their said reservoir afford to the Railway Company a supply of water from the said reservoir for the said hotel and other subjects situated in the parish of Blackford belonging to the Railway Company.

Second The supply shall be given at Glenhead near the entrance to the private access road belonging to the Water Authority and leading to Glendevon Reservoir and the Railway

Company shall at their own expense lay and provide to the reasonable satisfaction of the Water Authority's engineer a suitable main with the necessary valves to convey the water from that point to the said subjects belonging to the Railway Company.

Third The Railway Company shall erect to the reasonable satisfaction of the Water Authority's district engineer a meter-house on a site to be agreed between the parties and the Water Authority shall provide and fit an efficient meter for measuring the said supply and the Railway Company shall pay to the Water Authority an annual rent equal to 10 per cent. of the cost of said meter and the installation thereof including the connections therefrom to the said main to be laid by the Railway Company which annual rent shall be paid in addition to the charges hereinafter stipulated in respect of the said supply.

Fourth The Water Authority shall maintain and keep in repair the said meter and connections and shall at the expense of the Railway Company effect all necessary repairs and replacements to the said meter and connections due to causes other than fair tear and wear and the Water Authority or their representative shall have on all reasonable and necessary occasions access to the said meter for the purpose of inspecting and reading the same and for carrying out necessary repairs and replacements The Railway Company shall keep in repair to the reasonable satisfaction of the said district engineer the meter-house and they shall take all necessary steps to protect the meter and its fittings against damage by frost the Railway Company shall be entirely responsible for the maintenance of the said main from its junction with the said main belonging to the Water Authority.

Fifth The Road Authority for all right and interest competent to them in the matter agree and consent to the said supply being given by the Water Authority to the Railway Company and they further agree and consent to the Railway Company laying the said main in under or along the said public highway under the administration of the Road Authority provided always that (1) the said main shall be laid in such position as shall be agreed between the Railway Company and the Road Authority's district road surveyor and under his direction and supervision (2) the west side of said highway shall be supported by a concrete trough wherever this may be required by the Road Authority's district road surveyor and (3) all parts of the road which in the opinion of the Road Authority's surveyor have been rendered dangerous in consequence of the Railway Company's operations shall be fenced by them to the satisfaction of the Road Authority's surveyor and also on the further condition that the surface of the said highway or the margins thereof so far as disturbed in the laying of the said main shall be restored

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by the Railway Company to the reasonable satisfaction of the said district road surveyor and that free of all expense to the Road Authority and on the further condition that the Railway Company shall be entirely responsible for the existence of the said main in under or along the said highway and they shall be bound to relieve the Road Authority of any claims which may arise as a consequence of the presence of the said main in under or along the said highway and of any damage which may be caused to the highway or any properties adjoining the same due to the presence of the said main The Railway Company shall have at all times the right of access to the said main where it passes in under or along the said highway for the purpose of working on the said main but in carrying out any such work the Railway Company oblige themselves to cause as little disturbance as possible and they shall be bound to restore the surface of the said highway or the margins thereof to the reasonable satisfaction of the said district road surveyor and where any such work shall be carried out on the said main in under or along the said highway intimation shall be given to the said district road surveyor before the work is commenced and the Railway Company shall take all proper and reasonable precautions for protecting the users of the highway and they shall conform to the requirements of the said district road surveyor in any measures for the protection of such users and while such operations are in progress the Railway Company shall assume complete liability for any accidents which may arise in consequence of their working and they shall relieve the Road Authority entirely of all such liability and any questions relating thereto and the Road Authority shall be entitled to make good at the expense of the Railway Company all damage to said highway caused by the Railway Company's operations ordinary tear and wear excepted.

Sixth Nothing in this agreement contained shall interfere with the right of the Road Authority to alter the level of or divert widen or improve in any manner they think fit the said highway along which said main shall be laid and the Railway Company shall forthwith on receiving notice in writing under the hand of the clerk or surveyor to the Road Authority alter the position of said main in the manner and to the extent prescribed by said notice.

Seventh Nothing in this agreement contained shall interfere with the right of the Road Authority at any time or times to remove alter or rebuild any county bridge or the approaches thereto or culvert over near or attached to which said main is carried in the same manner as they might have removed altered or rebuilt any such bridge or the approaches thereto or culvert if this agreement had not been entered into and such main had not been laid over or near or attached to such bridge or culvert and in the event of any such bridge or the approaches thereto

or culvert over or near or attached to which said main is laid being removed altered or rebuilt as aforesaid the Railway Company shall at their own expense alter so far as the Road Authority may reasonably require the position of such main.

Eighth The Road Authority shall not be liable for or in respect of any damage or any injury done to said main by reason of its 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 said highway or from the passage of the traffic on said highway or in repairing any county bridge or the approaches thereto or culverts connected therewith.

Ninth The Water Authority shall afford to the Railway Company a supply of water up to the quantity of fifty million gallons per annum the Railway Company shall pay to the Water Authority a fixed minimum annual payment of five hundred pounds sterling said payment shall entitle the Railway Company to a supply of twenty million gallons per annum the Railway company shall draw such supply at the rate of at least one million gallons per month but shall have the right in any one month to draw up to the maximum quantity of 4,166,666 gallons For quantities taken in excess of the said supply of twenty million gallons in any year the Railway Company shall pay to the Water Authority at the rate of 6d. per 1000 gallons Accounts for the said supply shall be rendered to the Railway Company half-yearly at Whitsunday and Martinmas and shall be payable to the Water Authority in each case within twenty-one days from the date of rendering.

Tenth The terms and conditions for the said supply shall subsist and be binding on the parties for a period of thirty years from and after the term of Whitsunday 1930 or from and after such date as the supply of water shall have been commenced and in any event not later than from and after the term of Martinmas 1930.

Eleventh In the event of the Railway Company requiring a supply of water in excess of fifty million gallons per annum the Water Authority will be prepared to consider affording such additional supply provided that surplus water is available at Glendevon Reservoir.

Twelfth For the purposes of this agreement it is agreed that the hotel and other property of the Railway Company described in the preamble of this agreement are lands and heritages lying adjacent or near to the lines of pipes or works of the Water Authority and that the Railway Company are the owners and occupiers of such lands and heritages lying adjacent or near to the said lines of pipes or works of the Water Authority within

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the meaning of section 37 (Power to supply water by agreement beyond limits of supply) of the Dunfermline and District Water Order 1904.

Thirteenth The Railway Company shall forthwith make application to the Secretary of State for Scotland for a Provisional Order to confirm this agreement and this agreement shall be scheduled to such Provisional Order subject to such alterations as Parliament may think fit to make therein If any material alterations be made on this agreement or in the event of the said Provisional Order not being passed and confirmed by Parliament as law the said agreement shall be held as pro non scripto.

Lastly The Parties hereto bind and oblige themselves to implement and perform their respective parts of the premises to each other and they respectively consent to the registration hereof for preservation and execution :

In witness whereof these presents typewritten on this and the seven preceding pages are under the declaration that the word "reasonable" was interlined between the third and fourth lines of Article Second on page second hereof so as to come in and read between the words "the" and "satisfaction" in said fourth line before subscription executed as follows namely they are subscribed for and on behalf of the said Dunfermline district committee of the county council of the county of Fife by Robert Walker Wallace of Halbeath the chairman by Charles William Laing Ross residing at Ash Braes Kincardine-on-Forth a member and by George James Sherriff solicitor Dunfermline clerk all of the said Dunfermline district committee as duly authorised by and at a meeting of the said committee held within the Justice of the Peace Court Room County Buildings Dunfermline on Second April nineteen hundred and twenty-nine before these witnesses Alexander Fairgrieve clerk to Messrs. A. & W. Burt solicitors Dunfermline and Harry Fairlie Hodge district engineer Dunfermline they are subscribed on behalf of the said London Midland and Scottish Railway Company by Charles Ker LL.D. C.A. and James Whiteford Murray two directors of the Scottish local committee of the said Railway Company at Glasgow on the fourth day of the said month and year last mentioned before these witnesses James Wilson writer in Glasgow and David Calderwood McAlpine clerk to the said Railway Company in the office of the secretary to the said Scottish local committee at three hundred and two Buchanan Street Glasgow And they are subscribed for and on behalf of the said central district committee of the county council of the county of Perth by the Right Honourable Alan David Murray Earl of Mansfield Ard Choille Perth the chairman by William Forbes McLaren Balrudderie Rumbling Bridge a member and by Stephen Graham

Mickel solicitor Crieff clerk all of the said central district committee as duly authorised by and at a meeting of the said committee held at Crieff on the ninth day of said month and year last mentioned before these witnesses William Kirkland road surveyor Crieff and Mollie Innes Gordon typist to the said Stephen Graham Mickel.

(Sgd.) ALEXANDER FAIRGRIEVE
Witness.

(Sgd.) H. F. HODGE
Witness.

(Sgd.) JAMES WILSON
Witness.

(Sgd.) DAVID C. McALPINE
Witness.

(Sgd.) WILLIAM KIRKLAND
Witness.

(Sgd.) MOLLIE I. GORDON
Witness.

(Sgd.) ROBERT W. WALLACE
Chairman.

(Sgd.) C. W. L. ROSS
Member.

(Sgd.) GEORGE J. SHERRIFF
Clerk.

(Sgd.) JAMES W. MURRAY.

(Sgd.) CHARLES KER.

(Sgd.) MANSFIELD.

(Sgd.) W. F. McLAREN.

(Sgd.) S. GRAHAM MICKEL
Clerk.

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