## CHAPTER ix.

An Act for confirming a Provisional Order made under the "Public Health (Scotland) Act, 1867," relating to the parish of Beith in the county of Ayr. [13th May 1875.] A.D. 1875.

WHEREAS a Provisional Order made by one of Her Majesty's Principal Secretaries of State, under the "Public Health (Scotland) Act, 1867," is not of any validity unless the same has been confirmed by Act of Parliament:

And whereas Her Majesty's Principal Secretary of State for the Home Department has, under the said Act, duly made the Provisional Order contained in the schedule annexed to this Act, and it is expedient that the said order should be so confirmed:

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:

Provisional Order confirmed.

**1.** The Provisional Order contained in the schedule annexed to this Act is hereby confirmed, and all the provisions contained in the said order shall, from and after the passing of this Act, have the same validity and force as they would have if enacted in the body of this Act.

Act to be a Public Act.

**2.** This Act shall be deemed to be a Public General Act of Parliament.

Short title.

**3.** This Act may be cited as the "Public Health (Scotland) Act, 1867, Orders Confirmation Act, 1875 (No. 1)."

A.D. 1875.

# THE SCHEDULE.

*Provisional Order relating to the Parish of Beith in the County of Ayr.*

## BEITH.

"Public Health (Scotland) Act, 1867."

(30 & 31 Vict. c. 101.)

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 "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;" as also 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 manu-"facturing purposes:"

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 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 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 under the provisions of the "Public Health (Scotland) Act, 1867," and of a determination made by the board of supervision for the relief of the poor in Scotland, in pursuance of section five of that Act, the parochial board of the parish of Beith, in the county of Ayr, are the local authority to execute the said "Public Health (Scotland) Act, 1867," and "The Public Health (Scotland) Amendment Act, 1871," within the said parish:

And whereas a petition under the provisions of the "Public Health (Scotland) Act, 1867," has been presented to me, as one of Her Majesty's Principal Secretaries of State, by the said parochial board, setting forth that the present supply of water to the said parish is insufficient, and to a great extent impure; that the health of the inhabitants urgently demands the introduction of a new water supply, and it would be of great advantage to the inhabitants of the said parish if the petitioners were authorised to obtain an additional supply of water under the provisions of the "Public Health (Scotland) Act, 1867;" and that the petitioners proposed under the powers and provisions of "The Lands Clauses Consolidation (Scotland) Act, 1845," and "The Lands Clauses Consolidation Acts Amendment Act, 1860," which Acts are herein termed and referred to as "the Lands Clauses Acts," to take and acquire for the purpose of supplying water for the domestic use of the inhabitants of the said parish the water of Cadgerford Burn, and of all springs and affluents thereof above the dam of a reservoir intended to be made on certain parts of the lands of Cuffhill or Little Cuffhill, on the estate of Trearne and Hessilhead, and farms of Wester Townend of Threepwood and Easter Townend of Threepwood, and of certain springs rising in the said estate to the westward of the said intended reservoir, and at a short distance therefrom; but subject to the condition that, as compensation for the taking, conducting, impounding, and appropriating of the water aforesaid, the said parochial board should as soon as they shall have completed the said reservoir, and shall have filled the same with water, and in all time thereafter, cause to flow in a continuous regular stream, and (so far as may be) equally at all hours of day and night from the said reservoir into the channel of the said Cadgerford Burn, below the dam of the said reservoir at the point where the said burn leaves the lands of Cuffhill or Little Cuffhill, a quantity of water not less than sixty thousand gallons in each and every day, and a further quantity at the rate of not less than fifteen thousand gallons in each and every day in respect of each one million cubic feet by which the storage capacity of the said reservoir, and of any other reservoir or storage to be formed on the said burn above the said point of abstraction, shall at the time exceed ten and a half millions of gallons; and also to take and acquire the lands required for the purposes of the proposed works; and that the petitioners had published the advertisements 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,

A.D. 1875.

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, I have resolved to grant the prayer thereof; and a plan describing the waterworks to be constructed, and the lands and water intended to be taken for the purposes thereof, and a book of reference to such plan, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of such lands and water, have been signed by me with reference to this Order, and have been deposited with the sheriff clerk of the county of Ayr, at his office in Kilmarnock:

Now, therefore, in pursuance of the powers vested in me by the "Public Health (Scotland) Act, 1867," I, as one of Her Majesty's Principal Secretaries of State, 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 parochial board of the parish of Beith, in the county of Ayr, as the local authority within the said parish, to put in force, with reference to the lands and water described on the said plan and in the said book of reference, the powers of the Lands Clauses Act with respect to the purchase and taking of lands otherwise than by agreement; but the said powers are granted only under the following conditions; (that is to say,)

The parochial board shall not take or conduct any water from the said Cadgerford Burn, or impound the same in their said reservoir or reservoirs, excepting at such times as there shall be flowing down the said burn, at the point where that burn leaves the lands of Cuffhill or Little Cuffhill, a quantity of water exceeding forty-one gallons and two thirds of a gallon in a minute, or excepting at such times as the parochial board are causing to flow from or out of such reservoir into the channel of the said Cadgerford Burn below the dam of the said reservoir at the said point a quantity of water not less than forty-one gallons and two thirds of a gallon in a minute.

As compensation for the taking, conducting, impounding, and appropriating of the water which the parochial board are, under the Public Health (Scotland) Act, 1867, the Public Health (Scotland) Amendment Act, 1871, the Lands Clauses Acts, and this Order, empowered to take, they shall as soon as they shall have completed the said reservoir and shall have filled the same with water, and in all time thereafter, cause to flow in a continuous regular stream, and (so far as may be) equally at all hours of day and night, from the said reservoir into the channel of the said Cadgerford Burn, below the dam of the said reservoir at the point where the said burn leaves the lands of Cuffhill or Little Cuffhill, a quantity of water not less than sixty thousand gallons in each and every day, and a further quantity at the rate of not less than fifteen thousand gallons in each and every day in respect of each one million of cubic feet by which the storage capacity of the said reservoir and of any other reservoir or storage to be formed by the parochial board on the said burn above the said point of abstraction shall at the time exceed ten and a half millions of gallons: Provided always, that such compensation water shall, during each year, from the

first day of January to the first day of January, be not less than one half of the water taken away by the parochial board during the same year, and shall throughout every such year be made to flow in a continuous regular stream as aforesaid.

The parochial board shall, before appropriating any of the waters of the said Cadgerford Burn, construct and shall for ever after maintain upon the said burn, at or above the said point where the said burn leaves the lands of Cuffhill or Little Cuffhill, and under said reservoir herein-before described, suitable measuring gauges over or through which the respective quantities of compensation water shall flow or be discharged; and such gauges shall be open to the inspection and examination of the several persons interested in the water so to flow or be discharged through or over the same; and if at any time such gauges shall be in an unfit state of repair or condition for the purpose for which they are intended, the same shall forthwith be put into a proper and efficient state of repair and condition by and at the expense of the parochial board, or if they fail so to do within seven days after notice given to them by or on behalf of any of the persons interested as aforesaid requiring the parochial board so to do, it shall be lawful for any person so interested to cause such works to be done and performed in connection with the said gauges as shall be necessary for placing them in a proper and efficient state and condition, and to recover the expenses of such works, with full costs of suit against the parochial board, in any court of competent jurisdiction.

In case of any neglect on the part of the parochial board by or in consequence of which the quantity of compensation water which they are required at the time being to cause to flow as aforesaid shall not so flow, the parochial board shall make compensation for any loss, damage, or injury sustained by any of the persons interested as aforesaid in consequence of such neglect, and such persons may respectively from time to time recover such compensation, with costs, from the parochial board by proceedings in any court of competent jurisdiction.

2. 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 parochial board of the parish of Beith, as the local authority within the said parish under the "Public Health (Scotland) Act, 1867," and "The Public Health (Scotland) Amendment Act, 1871;" 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 seventh day of December one thousand eight hundred and seventy-four.

Richd. Assheton Cross. (L.S.)

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Printers to the Queen's most Excellent Majesty. 1875.