



CHAPTER iv.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Acts 1899 and 1933 relating to Campbeltown Harbour Water and Gas. A.D. 1935.

[20th December 1935.]

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) Acts 1899 and 1933 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.
23 & 24
Geo. 5. c. 37.
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 hereunto annexed is hereby confirmed. Confirmation of Order in schedule.

2. This Act may be cited as the Campbeltown Harbour Water and Gas Order Confirmation Act 1935. Short title.

A.D. 1935.

SCHEDULE.

CAMPBELTOWN HARBOUR WATER AND GAS.

Provisional Order to make provision as to the maximum tolls rates duties and charges leviabie at the harbour of Campbeltown to empower the provost magistrates and councillors of the royal burgh of Campbeltown to purchase certain waterworks of the Duke of Argyll and to authorise them to borrow further moneys for the purposes of their water and gas undertakings and for other purposes.

WHEREAS by the Campbeltown Burgh and Harbour Act 1876 (39 & 40 Vict. c. clxvii) (hereinafter referred to as "the Act of 1876") the harbour of Campbeltown including all the piers quays wharves and other works thereof (hereinafter referred to as "the harbour") was transferred to and vested in the provost magistrates and councillors of the royal burgh of Campbeltown (hereinafter referred to as "the Corporation" and "the burgh" respectively) and the Corporation were authorised to levy and make in respect of the harbour the maximum tolls rates duties and charges specified in the Fifth Schedule to the Act of 1876 :

And whereas by the Campbeltown Harbour and Gas Order 1925 (hereinafter referred to as "the Order of 1925") it was enacted that the tolls rates duties and charges specified in the schedule to the Order of 1925 should in respect of the harbour be substituted for the tolls rates duties and charges specified in the Fifth Schedule to the Act of 1876 and the said Fifth Schedule to the Act of 1876 was repealed as from the commencement of the Order of 1925 but it was provided by the Order of 1925 that unless and except as Parliament might thereafter otherwise allow the said provisions of the Order of 1925 authorising the said substituted tolls rates duties and charges and repealing the Fifth Schedule to the Act of 1876 should cease to have effect on the expiration of ten years from the commencement of the Order of 1925 :

And whereas the Fifth Schedule to the Act of 1876 by which are specified the maximum tolls rates duties and charges which would in pursuance of the said provisions of

the Order of 1925 be leviable by the Corporation in respect of the harbour on the expiration of the said period of ten years does not provide sufficiently for the present requirements of the harbour : A.D. 1935.
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And whereas it is expedient in order to enable the Corporation after the expiration of the said period of ten years to levy tolls rates duties and charges adequate to provide for the efficient maintenance of the harbour that the limitation aforesaid imposed by the Order of 1925 as to the period of operation of the powers of the Corporation to levy the tolls rates duties and charges specified in the schedule to the Order of 1925 should be repealed and that the Corporation should be authorised to continue to levy the tolls rates duties and charges specified in the schedule to the Order of 1925 subject to the deductions by this Order prescribed :

And whereas by section 53 of the Act of 1876 the Corporation were empowered to purchase by agreement from the then Duke of Argyll for such consideration and on such terms and conditions as might be mutually agreed upon the waterworks constructed by him and described in the Third Schedule to the Act of 1876 :

And whereas negotiations are at present proceeding between the present Duke of Argyll and the Corporation for the purchase by the Corporation in accordance with the said section 53 of the Act of 1876 of the said waterworks or part thereof :

And whereas certain additional waterworks have been constructed by the predecessors of the present Duke of Argyll in connection with and in substitution for certain of the said waterworks described in the Third Schedule to the Act of 1876 by which additional waterworks or some of them together with certain of the said waterworks described in the Third Schedule to the Act of 1876 water is conveyed to a tank erected by the Corporation and used by them for the supply of the burgh certain of the said waterworks described in the Third Schedule to the Act of 1876 and additional waterworks being also used by His Grace for the supply of water to manufactories and distilleries in the burgh :

And whereas it is expedient that the Corporation should be empowered to purchase by agreement from the present Duke of Argyll or his successors the said additional waterworks in this Order described together with all rights

A.D. 1935. — powers and privileges vested in him with reference thereto and that upon the completion of the purchase and transference to the Corporation of the said additional waterworks and of the waterworks connected therewith described in the Third Schedule to the Act of 1876 the Corporation should be empowered to supply water to manufactories and distilleries in the burgh and that the Campbeltown Harbour and Burgh Act 1846 and the Act of 1876 should be amended as in this Order provided and that the provisions of the agreement entered into between the now deceased John Douglas Edward Henry Duke of Argyll and the former magistrates and town council of Campbeltown dated twenty-eighth January and second February eighteen hundred and forty-six and registered in the books of council and session third August eighteen hundred and seventy-six and of the lease entered into between the now deceased George Douglas Edward Campbell Duke of Argyll and the former magistrates and town council of Campbeltown dated eleventh May and tenth June and registered in the books of council and session second July all in the year eighteen hundred and sixty-seven so far as reserving to the said last mentioned Duke of Argyll and his successors the exclusive right of supplying water for manufactories distilleries and other works situated within or in the immediate vicinity of the burgh should be annulled :

And whereas it is expedient that the Corporation should be authorised to borrow moneys to pay the purchase price of the said waterworks described in the Third Schedule to the Act of 1876 or such of the said waterworks as may be purchased by the Corporation and of the said additional waterworks in the event of a sale being arranged and also to defray the costs and expenses incidental to the purchase and to the transfer of the said waterworks and additional waterworks to the Corporation :

And whereas it is expedient that the Corporation should be authorised to borrow further moneys for the general purposes of their water undertaking as in this Order provided :

And whereas by the Act of 1876 the Corporation were authorised to purchase the undertaking of the Campbeltown Gas Company which was a private joint stock company constituted by a contract of co-partnery and which was supplying gas in the burgh without statutory powers :

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And whereas in pursuance of such authority the Corporation purchased the undertaking of the said company and have since carried on the undertaking and are now supplying gas in the burgh and it is expedient that the Corporation should be authorised to borrow further moneys for the purposes of their gas undertaking as in this Order provided :

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Acts 1899 and 1933 :

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

1. This Order may be cited as the *Campbeltown Harbour Water and Gas Order 1935* and this Order and the *Campbeltown Burgh Acts 1846 to 1925* may be cited together as the *Campbeltown Burgh Acts 1846 to 1935*. Short title and citation.

2. This Order shall except as otherwise expressly provided commence and have effect from the date of the passing of the Act confirming this Order which date is hereinafter referred to as “the commencement of this Order.” Commencement.

3. In this Order unless there be something in the subject or context repugnant to such construction the following expressions shall have the meanings hereinafter respectively assigned to them (that is to say) :— Interpretation.

“ Act of 1846 ” means the *Campbeltown Harbour and Burgh Act 1846* ;

“ Act of 1876 ” means the *Campbeltown Burgh and Harbour Act 1876* ;

“ Agreement of 1846 ” means the agreement entered into between the now deceased John Douglas Edward Henry Duke of Argyll and the former magistrates and town council of Campbeltown dated twenty-eighth January and second February eighteen hundred and forty-six and registered in the books of council and session third August eighteen hundred and seventy-six ;

“ Agreement of 1878 ” means the agreement entered into between George Douglas Glassell Campbell Duke of Argyll on the first part and Charles

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—

Colville Greenlees esquire provost David McEachran and William Hunter junior bailies and John Greenlees treasurer all of the burgh of Campbeltown on the second part dated twenty-third and twenty-seventh May eighteen hundred and seventy-eight;

“ Burgh ” means the royal burgh of Campbeltown;

“ Corporation ” means the provost magistrates and councillors of the burgh;

“ The duke ” means His Grace Niall Diarmid Duke of Argyll and includes his successors;

“ The harbour ” means and comprehends the harbour of Campbeltown within the limits defined by the Act of 1846 and includes all the piers and quays thereof;

“ The harbour undertaking ” means and includes the harbour and the right to levy tolls rates duties and charges and all other rights conferred on or vested in the Corporation in respect of the harbour by the Campbeltown Burgh Acts 1846 to 1925 and this Order and the entire undertaking of the Corporation in connection with the harbour;

“ Lease of 1867 ” means the lease entered into between the now deceased George Douglas Edward Campbell Duke of Argyll and the former magistrates and town council of Campbeltown dated eleventh May and tenth June and registered in the books of council and session second July all in the year eighteen hundred and sixty-seven;

“ Order of 1925 ” means the Campbeltown Harbour and Gas Order 1925;

“ Sheriff ” means the sheriff of the county of Argyll and includes his substitutes;

“ Statutory securities ” means any security in which trustees in Scotland are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money but does not include securities of the Corporation;

“ Water limits ” means the limits for the time being of the Corporation for the supply of water;

“ Water undertaking ” means the water undertaking of the Corporation as from time to time authorised. A.D. 1935. —

4.—(1) The proviso to section 3 (Harbour rates and charges) of the Order of 1925 (the effect of which proviso is to limit the operation of that section to a period of ten years from the commencement of the Order of 1925) is hereby repealed and section 7 (Repeal) of the Order of 1925 shall be read and have effect as if the words “ Subject to the provisions of this Order ” were omitted therefrom. This subsection shall be deemed to have come into operation on the tenth day of December nineteen hundred and thirty-five. Harbour rates and charges.

(2) Notwithstanding anything contained in section 3 (Harbour rates and charges) of the Order of 1925 as amended by this section the harbour rates shall in the case of each person liable to pay the same not exceed a sum arrived at by deducting from the maximum harbour rates an amount equal to fifteen per centum thereof.

(3) The said deductions except in so far as they relate to rates on passengers or to rates levied during the months of June July August and September on passenger vessels which trade regularly to the harbour in accordance with advertisements shall be deemed to be reductions in charges made by the Corporation in connection with the user of the harbour for the purposes of the preamble to subsection (1) of section 136 of the Local Government Act 1929.

(4) For the purposes of subsection (2) of this section the expression “ maximum harbour rates ” means the rates which would be payable by each person liable to pay the harbour rates if the rates levied were those specified in the schedule to the Order of 1925 and the expression “ harbour rates ” means the tolls rates duties and charges which the Corporation are authorised to levy in respect of the harbour.

5.—(1) The Corporation may (if they think fit) provide a reserve fund in respect of the harbour undertaking by setting aside out of the revenue of the harbour undertaking such an amount as they may from time to time think reasonable and investing the amounts set aside in statutory securities and accumulating them until the fund so formed amounts to the maximum reserve Reserve fund for harbour undertaking.

A.D. 1935. fund for the time being prescribed by the Corporation in respect of the harbour undertaking not exceeding a sum of five thousand pounds.

(2) The said fund shall be applicable to meet any deficiency at any time happening in the income of the Corporation from the harbour undertaking or any extraordinary claim or demand at any time arising against the Corporation in respect of the harbour undertaking or for payment of the cost of renewing any part of the works forming part thereof or for any extension of the said works or for dredging the harbour or otherwise for the benefit of the harbour undertaking and so that if the fund be at any time reduced it may thereafter be restored again to the prescribed maximum and so from time to time as often as such reduction happens.

(3) Resort may be had to the reserve fund under the foregoing provisions although the fund may not at the time have reached or may have been reduced below the prescribed maximum.

(4) The expression "harbour purposes" in section 91 (Application of rates) of the Act of 1876 shall include contributions to the reserve fund.

Power to purchase waterworks of Duke of Argyll.

6.—(1) The Corporation may by agreement with the duke purchase the duke's waterworks (that is to say):—

- (a) The waterworks described in the Third Schedule to the Act of 1876 or such of the said works as may be agreed upon; and
- (b) The waterworks and undertaking described in the schedule to this Order or such part thereof as may be agreed upon;

together with all rights powers and privileges vested in the duke with reference thereto on such terms and conditions as may be mutually agreed upon between the duke and the Corporation.

(2) On the completion of the purchase and transfer of the duke's waterworks to the Corporation—

- (i) The duke's waterworks shall for all purposes form part of the water undertaking and the Corporation may maintain alter repair renew or discontinue the duke's waterworks or any of them or any portion thereof;
- (ii) Section 63 (Corporation may supply water for other than domestic purposes) of the Act of

1876 shall be read and have effect as if the words "other than manufactories and distilleries" wherever those words occur in the said section were omitted therefrom and it shall be lawful for the Corporation to supply water for manufactories distilleries and other works within the water limits at such rates upon such terms and conditions and by measure or otherwise as shall be agreed upon between the Corporation and the person desiring the supply. Provided always that as far as possible the rate for such supply of water shall be uniform to all persons in the same circumstances and requiring the same extent of supply. Provided also that the supply for domestic purposes within the limits of supply shall be and continue to be sufficiently provided before the Corporation supply water for any other purpose. In the event of disagreement either as to the ability of the Corporation to give any supply under the said section 63 of the Act of 1876 as amended by this section (including any supply to a manufactory distillery or other work as aforesaid) or as to the rates terms or conditions on or in respect of which any such supply is to be given the same shall be fixed by the sheriff upon summary application by either of the parties and the decision of the sheriff shall be final;

- (iii) So much of the agreement of 1846 and of the lease of 1867 as provided that the former Duke of Argyll and his successors should have the exclusive right of supplying the distilleries manufactories and other works situated within or in the immediate vicinity of the burgh with water shall be annulled and section 126 (Lease of supply of water from the Duke of Argyll) of the Act of 1846 (which section is set out in the First Schedule to the Act of 1876) and articles third and fifth of the agreement of 1878 shall be read and construed and have effect accordingly;
- (iv) Section 113 (Trustees may eventually supply water for manufacturing purposes) of the Act of 1846 (which section is set out in the First

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Schedule to the Act of 1876) shall be read and have effect as if the words "other than those belonging to the said Duke and his successors" were omitted therefrom and section 64 (Provision as to supply for manufacturers &c.) of the Act of 1876 and section 128 (In the event of a deficient supply to manufactories by the Duke of Argyll trustees may afford such supply) and section 129 (Power to the Duke of Argyll to open the streets of the said burgh) of the Act of 1846 (which sections are set out in the First Schedule to the Act of 1876) shall be repealed.

Borrowing
for water-
works and
gasworks.

7.—(1) The Corporation may from time to time in addition to any existing borrowing power possessed by them borrow at interest for the purposes mentioned in the first column of the following table the respective sums mentioned in the second column thereof and they shall pay off all moneys so borrowed within the respective periods from the date or dates of borrowing (each of which is in this Order referred to as the "prescribed period") mentioned in the third column thereof (namely)—

1.	2.	3.
Purpose.	Amount.	Period for repayment.
For the purchase of the Crosshill Waterworks described in the Third Schedule to the Act of 1876 or part thereof from the duke and of the waterworks and undertaking described in the schedule to this Order and for defraying the costs and expenses incident to such purchase and to the transfer of the same to the Corporation (other than the costs charges and expenses of this Order).	The sum requisite	Fifty years.
For the general purposes of the water undertaking (including the construction of filters water tanks enlargement of reservoirs and the extension and enlargement of water mains).	£30,000 - -	Thirty years.

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1.	2.	3.	A.D. 1935.
Purpose.	Amount.	Period for repayment.	
For cooking and heating appliances and meters in connection with the gas undertaking of the Corporation.	£4,000 - -	Ten years.	
For paying the costs charges and expenses of this Order.	The sum requisite	Five years from the commencement of this Order.	

(2) (a) The Corporation may also with the consent of the Secretary of State (but not otherwise) borrow such further money as may be necessary for the general purposes of the water undertaking.

(b) Any money borrowed under this subsection shall be repaid within such period and by such method as may be prescribed by the Secretary of State.

(3) In relation to any consent to be given by the Secretary of State to the borrowing of money under subsection (2) of this section the Secretary of State shall have and may exercise all the powers of section 93 of the Local Government (Scotland) Act 1889 :

Provided that for the purposes of this provision the sum of five guineas shall be substituted for the sum of three guineas in that section mentioned.

8. The provisions contained in the sections of the Order of 1925 the numbers and marginal notes of which are set forth in this section shall so far as applicable extend and apply to money borrowed under the authority of this Order as if the said provisions were re-enacted in this Order—

Section 5 (Mode of repayment off of moneys borrowed);

Section 6 (Sinking fund).

9. All costs charges and expenses of and incident to the preparing for obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Corporation from and out of moneys to be borrowed for that

Application of provisions of Order of 1925 to borrowed moneys.

Costs of Order.

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A.D. 1935. — purpose under this Order or the revenue of their harbour gas and water undertakings and shall be allocated among these undertakings as the Corporation may deem expedient.

The SCHEDULE referred to in the foregoing Order.

(Referred to in the section of the Order of which the marginal note is "Power to purchase waterworks of Duke of Argyll.")

The water pipe commencing in the reservoir known as Crosshill Loch (being the pond or reservoir Work No. 1 described in the Third Schedule to the Act of 1876) passing through the tunnel (being Work No. 4 described in the Third Schedule to the Act of 1876) and terminating in the burgh together with all branches therefrom and connections therewith valves meters and apparatus as presently existing and used for the supply of water to manufactories distilleries and other works in the burgh and the pipe and apparatus connected therewith connecting the said water pipe with the existing water tank of the Corporation at or near the exit of the said tunnel and all future additions thereto and extensions thereof and apparatus connected with the said works and also the lands comprising the site of the said works so far as vested in the duke and all rights servitudes and wayleaves used and enjoyed by the duke in connection with the said works.

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