S.14
Box 3

1.
DISP.
by
CAROLINE E. M. JOHNSTONE and OTHERS
To
PROVOST, MAGISTRATES and COUNCILLORS of BURGH of ALVA.

Reg: Sas:
CLACKMANNAN
Vol. 245
Fol. 115

AT EDINBURGH, the Fifteenth day of December in the year One thousand nine hundred and twenty two between the hour of ten and ten thirty forenoon the Disposition underwritten, with Warrant of Registration thereon, was transmitted by Post and presented by J. Lambert, Register of Sasines, and is with said Warrant of Registration recorded as follows, vizt :- .....

WE, THE PARTIES FOLLOWING VIZT :- (First) MISS CAROLINE ELIZABETH MARY JOHNSTONE of ALVA residing at the Myretoun, Menstrie, heritable proprietrix in liferent of the subjects hereinafter disponed which form part and portion of the lands and Estate of Alva and others as aftermentioned and (Second) HENRY BERESFORD JOHNSTONE, sometime of the British Legation, Adis Ababa, Abyssinia, afterwards of His Britannic Majesty's Embassy, Tangiers, and presently of the British Consulate

General Tangiers, MRS AMY OCTAVIA WAUCHOPE or JOHNSTONE, Widow of James Henry L'Estrange Johnstone of The Hangingshaw, Selkirk, sometime Captain afterwards Major in the Royal Engineers, and ARCHIBALD ROBERT CRAUFURD PITMAN, Writer to the Signet, Edinburgh, original and assumed Trustees acting under the Trust Disposition and Settlement, granted by the said James Henry L'Estrange Johnstone dated Tenth April Eighteen hundred and ninety seven and registered in the Books of Council and Session on Nineteenth January Nineteen hundred and seven and as such Trustees heritably vest in the fee of the said subjects hereinafter disponed and ACTING HEREIN at THE REQUEST and WITH CONSENT and CONCURRENCE of (First) me the said MRS AMY OCTAVIA WAUCHOPE or JOHNSTONE, as an individual, and I, the said MRS AMY OCTAVIA WAUCHOPE or JOHNSTONE for myself my own right and interest in the premises as Executrix and universal legatory of the late John Andrew Johnstone the eldest son of the said James Henry L'Estrange Johnstone and (Second) LIEUTENANT HENRY JAMES JOHNSTONE of the Royal Navy, second son of the said James Henry L'Estrange Johnstone, and the immediate younger brother and heir-at-law of the said John Andrew Johnstone (who was killed in action in France upon Twentieth May Nineteen hundred and fifteen, and who had never married) AND I THE SAID HENRY JAMES JOHNSTONE for any and all right and interest competent to me in the premises, AND we THE WHOLE GRANTERS HEREOF AND

CONSENTERS HERETO (who are hereinafter referred to generally as the proprietors of the Alva Estate) all with joint consent and assent CONSIDERING THAT WHEREAS by Section One hundred and three of the Public Health (Scotland) Act 1897 (hereinafter referred to as "the said Public Health Act") which Section occurs in Part VI of that Act it is provided that the Local Authority shall have power to construct within their district, and also when necessary for the purpose of outfall or distribution or disposal or treatment of sewage, without their district, such sewers as they may think necessary for keeping their district properly cleansed and drained; AND WHEREAS by Section One hundred and forty four of said Act it is provided that a Local Authority may, for any of the purposes of inter alia said Part VI thereof in terms of the Lands Clauses Acts, and whether by Agreement or otherwise, purchase any lands within or without their district; AND WHEREAS by Section One hundred and thirty nine of said Act it is provided that it shall be lawful for the Local Authority to borrow for the purpose of acquiring, making, enlarging or re-constructing sewers and on the security of the Assessments therein mentioned such sums of money and at such times as the Local Authority shall deem necessary for that purpose, and to assign the said Assessments in security of the money to be so borrowed; AND WHEREAS by Section Twelve of said Act it is provided that the Local Authority

to execute said Act in Burghs subject to the provisions of the Burgh Police (Scotland) Act 1892 shall be the Town Council or Burgh Commissioners; AND WHEREAS the Local Authority under the said Public Health Act in the Burgh of Alva are now the Provost, Magistrates and Councillors of that Burgh in virtue of Section Eight of the Town Councils (Scotland) Act 1900; AND WHEREAS by Section Two hundred and nineteen of the Burgh Police (Scotland) Act 1892 it is provided that the Commissioners shall from time to time cause to be made under the streets or elsewhere such main and other sewers as shall be necessary for the effectual draining of the Burgh, and by Section Two hundred and thirty six of said Act of 1892 it is provided that it shall be lawful for the Commissioners to borrow for the purpose of making, purchasing, enlarging, ventilating, re-constructing and maintaining sewers and on the security of the rates therein mentioned such sums of money and at such times as the Commissioners shall deem necessary for that purpose, and to assign the said rates in security of the money to be so borrowed; AND WHEREAS in virtue of said Section Eight of said Act of 1900 the said Provost, Magistrates and Councillors of the Burgh of Alva now exercise the rights, powers, authorities and duties of the former Commissioners of the Burgh of Alva under said Act of 1892; AND WHEREAS by Section Two of the Burgh Sewerage, Drainage and Water Supply (Scotland) Act 1901 it

is provided that in any Burgh the expense incurred either before or after the passing of that Act for sewerage and drainage within the same, or for the purposes thereof, together with the interest thereof, shall be paid out of a Sewer Assessment which the Town Council of the Burgh shall raise and levy on and within such Burgh in manner therein mentioned; AND WHEREAS the proprietors of the Alva Estate were desirous of selling the lands and others of which the subjects hereinafter disponed are part, and were in negotiation with intending purchasers of inter alia the mines, metals and minerals hereinafter disponed who desired to purchase them for the purpose of working the same; AND WHEREAS the said Provost, Magistrates and Councillors were advised by a Mining Expert that if the said minerals were worked under or near the sewers or drains which drain the said Burgh the ground in which these drains were situated would sink considerably and the drainage system of the Burgh would be destroyed: AND WHEREAS the said proprietors were not prepared to sell any less portion of the said mines, metals and minerals than those hereinafter disponed; AND WHEREAS the said Provost, Magistrates and Councillors offered for the said mines, metals and minerals, and other rights in connection with the drainage system of said Burgh all hereinafter disponed, and for the subjects known as the Back Brae in the said Burgh the sum of FOUR THOUSAND POUNDS STERLING which

offer the said proprietors accepted and agreed to give, without any additional charge, the servitude right of wayleave for gas main pipe and branches therefrom hereinafter mentioned; AND WHEREAS it has been agreed upon between the said proprietors and the said Provost, Magistrates and Councillors that the proportions of the said sum of Four thousand pounds Sterling applicable to the subjects hereinafter disponed and to the said Back Brae should be taken to be THREE THOUSAND SEVEN HUNDRED POUNDS STERLING and THREE HUNDRED POUNDS STERLING respectively; AND WHEREAS a separate conveyance of the said Back Brae has been or is being granted by the said proprietors in favor of the said Provost, Magistrates and Councillors; AND NOW SEEING that the said Provost, Magistrates and Councillors have now and formerly made payment of the said sum of Three thousand seven hundred pounds Sterling as the price of the subjects hereinafter disponed at our request to FRANCIS JOHN GORDON BORTHWICK, Writer to the Signet, of Number Nine Hill Street, Edinburgh, IAN MACINTYRE, Writer to the Signet, also of Number Nine Hill Street, Edinburgh, and the said ARCHIBALD ROBERT CRAUFURD PITMAN as the Committee nominated and appointed for the purposes therein specified in a Deed of Nomination and Authority granted by me the said Caroline Elizabeth Mary Johnstone and us the said Trustees of the said James Henry L'Estrange Johnstone with consent therein mentioned dated the Fourteenth and

Twenty eighth days of May and the Fourth and Sixteenth days of June and registered in the Books of Council and Session the Twenty first day of June all in the year Nineteen hundred and twenty and the receipt of which sum or price the said Francis John Gordon Borthwick, Ian MacIntyre and Archibald Robert Craufurd Pitman as the Committee foresaid by their subscription hereto hereby acknowledges, THEREFORE we the granters hereof have sold and do hereby SELL and DISPONE to the said The Provost, Magistrates and Councillors of the Burgh of Alva and their assignees whomsoever, heritably and irredeemably ALL and WHOLE the whole mines, metals and minerals including the whole coal, fireclay and ironstone, but specially excluding all stone (except ironstone) gravel, sand and clay (under reservation to the proprietors of said Alva Estate and their disponees of the fullest rights of working and removing the said excluded stone, gravel, sand and clay by works from the surface only, but under declaration that in the exercise of these reserved rights, the rights of sewage and drainage after referred to shall not be interfered with) within ALL and WHOLE the area lying within the Parishes of Alva, Tillicoultry and Alloa and County of Clackmannan delineated within a red border line on the plan annexed and signed by us as relative hereto bounded said area as follows vizt:- On the north (commencing at Damsburn) by other lands belonging to said Alva Estate taken along

the centre line of the old road along the foot of the Ochil Hills leading from Menstrie to Alva from Damsburn to the feu or leasehold of the Manse sometime of the Eadie United Presbyterian Church now of the Eadie United Free Church in Alva, on the east, and again on the north by that feu or leasehold, again on the east by the Johnstone Public Park, the feu or leasehold of Wilson Brothers, Manufacturers, Alva, the main road through the Burgh of Alva known at this point as West Stirling Street, other subjects belonging to said Alva Estate along the line of the boundary of the said Burgh across Cobblecrook Loan, along the west side of the field to the east of the Brick Works and by the property belonging to the North British Railway Company to the south side of the Railway, again on the north and north east by the property of the said Railway, again on the north by Brook Street and Greenhead Road leading north easterly towards Brookfield Mills, on the west by the road on the east side of said Brookfield Mills, the foresaid main road leading through the said Burgh of Alva here known as East Stirling Street, and the road to the Alva Cemetery, again on the north west and west by said Cemetery, again on the north by the road leading south easterly to Burnside Farm, on the northwest and again on the east by subjects belonging to said Alva Estate surrounding the Farm House and Steading of Burnside, again on the north by other lands belonging to said Alva Estate

extending along the north boundary of Burnside Farm, ~~against~~ again on the east by other lands belonging to said Estate southwards to the highroad leading from Alva to Tillicoultry, again on the north by lands belonging to said Estate taken along the north side of the said highroad, again on the east by the said highroad and by land part of the Alva Estate presently known as the Tillicoultry Public Park on the southeast and northeast by the property known as the Oak Mills, again on the southeast by the Tillicoultry Burn, generally on the south by the River Devon to a point where the Dams Burn enters that River, again on the west by the Dams Burn and generally on the west by the properties of the Distillers Company Limited and Messrs. Addie & Alexander and the public road leading to the Dams, again on the north by other lands belonging to said Alva Estate lying on the ~~north side of~~ the foresaid Railway, again on the west by the said Dams Burn to the point where the description began; Which area of ground hereinbefore described is part and portion of ALL and WHOLE the lands and estate of Alva and others lying sometime partly in the County of Stirling and partly in the County of Clackmannan and now wholly in the County of Clackmannan being the subjects particularly described in the Notarial Instrument in favor of the said Henry Beresford Johnstone, Mrs Amy Octavia Wauchope or Johnstone and Archibald Robert Craufurd Pitman, as Trustee foresaid,

recorded in the Division of the General Register of Sasines applicable to the County of Clackmannan, on the Thirtieth day of April Nineteen hundred and seven; Together with the whole rights of the proprietors of said Alva Estate quoad the subjects hereby disponed in and to a Lease for the period of twenty one years from Martinmas Nineteen hundred and six dated Fourth and Fifteenth August Nineteen hundred and six between one of the Commissioners of His Majesty's Woods, Forests and Land Revenues and me the said Miss Caroline Elizabeth Mary Johnstone and the said James Henry L'Estrange Johnstone of one-tenth part of certain minerals which in said Lease are said to pertain to His Majesty in the lands and Barony of Alva and others; Together also with (but without prejudice to any rights the said Provost, Magistrates and Councillors may have thereto at common law or under Statute) the existing sewers and drains situated in the said lands and Estate of Alva and others contained within the said red border line on the said plan annexed and signed as relative hereto which carry the sewage of the said Burgh of Alva, including the Ditch known as the Cobblecrook Ditch and the existing settling tank there, together with a servitude right of wayleave for all of the same and a right of free access thereto for the purpose of inspecting, repairing, renewing or otherwise maintaining said sewers and drains and the said Ditch and settling tank and all other usual and

necessary purposes, but upon payment (without prejudice always to the common law or statutory rights of the said Provost, Magistrates and Councillors if any) to the proprietors of the surface of such surface damages as may be occasioned by any of these operations; And Together also with a servitude right of wayleave free of rent or other charge in so far as the said proprietors of said Alva Estate have power to grant the same for the existing gas main pipe belonging to the said Provost, Magistrates and Councillors leading from the said Burgh of Alva westwards to the Village of Menstrie and existing branches therefrom; Which subjects hereby disponed are so disponed subject to all existing rights of wayleave, access and egress, through and over roads, alley-ways or the like traversing or intersecting the subjects hereby disponed, so far as underlying the lands of Burnside, and also with and under the following prohibition and declaration vizt:- Neither the said Provost, Magistrates and Councillors nor their foresaids shall be entitled at any time or in any way to work the said mines, metals and minerals hereby disponed; Declaring that in the event of a contravention of this prohibition it shall be in the option of any owner of the surface under which such contravention occurs to call upon the said Provost, Magistrates and Councillors or their successors as owners of the minerals under that surface to convey the said mines, metals and

minerals under ~~the~~ that surface to the owner of such surface without any consideration being paid therefor; WHICH PROHIBITION and DECLARATION shall be recorded as part of these presents, or inserted in any Notarial or other Instrument to follow hereon, and shall be inserted or validly referred to in terms of law in all future writs and titles of the subjects hereby disponed; With entry at the term of Martinmas Nineteen hundred and twenty two; And we assign the writs and in respect that the writs specified in the Inventory hereto annexed and signed by us as relative hereto and other writs relating to the subjects hereby disponed in the possession of said proprietors of Alva Estate relate also to other subjects than those hereby disponed and are not herewith delivered we bind and oblige the said proprietors and their successors to make the same, so long as in their possession, furthcoming to the said disponees and their foresaids on all necessary occasions on the usual receipt and obligation for re-delivery, and to take any party or parties to whom the said writs may be ultimately delivered bound in a similar obligation; And we assign to the said disponees and their foresaids all right competent to said proprietors quoad the subjects hereby disponed to demand exhibition or delivery of all other writs and titles relating to the subjects hereby disponed; And we assign the rents; And we bind and oblige the said proprietors to free and relieve the said disponees

and their foresaids of all feuduties, casualties and public burdens due and exigible prior to the said term of entry; And we also bind and oblige the said proprietors and their successors as proprietors of the surface of the subjects hereby disponed from the said term of entry and in all time coming to free and relieve the said disponees and their foresaids of all Land Tax, Crown Duty, Feuduty, Heritor's Assessments and Minister's Stipend, and of the rent of One pound ten shillings payable under said Lease from His Majesty of certain minerals in favor of the then proprietors of Alva Estate dated Fourth and Fifteenth August Nineteen hundred and six, and also of all Casualties or Compensation for Redemption of Casualties or annual sums payable in respect of the Redemption of Casualties exigible in respect of the subjects hereby disponed; And I the said Miss Caroline Elizabeth Mary Johnstone grant Warrandice, and we the said Trustees acting under the foresaid Trust Disposition and Settlement granted by the said deceased James Henry L'Estrange Johnstone, and I the said Mrs Amy Octavia Wauchope or Johnstone as an individual, and as Executrix and Universal Legatory foresaid, and I the said Henry James Johnstone all grant warrandice from our own respective facts and deeds only, And we the said ~~Trs~~ Trustees bind the Trust Estate of the said deceased James Henry L'Estrange Johnstone and the parties beneficially interested therein in absolute warrandice;

BUT EXCEPTING from said Warrandice the rights competent to the North British Railway Company or other Railway Company as now the owners of the lands disponed in Disposition by the said James Johnstone of Alva in favor of the Alva Railway Company dated the Seventh and recorded in the Particular Register of Sasines for the Shires of Stirling &c. the Twelfth both days of January Eighteen hundred and sixty three; And we bind and oblige the said proprietors of Alva Estate so long as they are proprietors of the surface and the mines, metals and minerals thereunder and their successors and disponees or assignees in said surface and mines, metals and minerals thereunder that they shall not in all time coming work the mines, metals and minerals within the said Burgh of Alva so far as not included and comprehended under this Conveyance; Which obligation is hereby declared a real lien and burden upon the said surface and minerals thereunder so far as not included and comprehended under this Conveyance and shall be enforceable by the said disponees and their foresaids and which surface and minerals form part and portion of ALL and WHOLE the foresaid Lands and Estate of Alva and others in the County of Clackmannan particularly described in the foresaid Notarial Instrument in favor of us the said Henry Beresford Johnstone, Mrs Amy Octavia Wauchope or Johnstone and Archibald Robert Craufurd Pitman, as Trustees foresaid, recorded as aforesaid, and as

such is appointed to be inserted or validly referred to in terms of law in all future deeds of transmission, Decrees, Instruments and other writs of or relating to said surface and minerals thereunder so far as not included and comprehended as aforesaid, otherwise such deeds, Decrees, Instruments and writs shall be void and null; And we further bind and oblige the said proprietors of Alva Estate, so long as they are proprietors of the surface or any part thereof delineated within the foresaid red border line on the foresaid plan annexed and signed as relative hereto and their successors and disponees or assignees in that surface or any part thereof to free and relieve the said Provost, Magistrates and Councillors and their successors in the subjects hereby disponed of all claims by the owners of the surface or their tenants for damages in respect of mineral workings prior to the said term of entry, which last above written obligation is hereby declared a real lien and burden upon the said surface, the proprietors of which are taken bound to implement the same, and shall be enforceable by the said disponees hereunder and their foresaids, and as such is appointed to be inserted or validly referred to in terms of law in all future deeds of transmission, Decrees, Instruments and other writs of or relating to the said surface delineated within the said red border line on the said plan annexed and signed as relative hereto otherwise such Deeds, Decrees,

Instruments and writs shall be void and null; And we consent to registration hereof for preservation. IN WITNESS WHEREOF these presents are subscribed by us the proprietors of the Alva Estate (the signature of us the Trustees of the said deceased James Henry L'Estrange Johnstone being by two of our number, being a majority and quorum of us as Trustees foresaid) and by the said Committee all in their various capacities foresaid as follows:- by me the said Mrs Amy Octavia Wauchope or Johnstone at London on Tenth November Nineteen hundred and twenty two before these witnesses Major Douglas Coles, Lovat Scouts residing at Beke Billingshurst, Sussex, and Mrs Rachel Octavia Coles (signing "Rachel Coles") his wife; by me the said Henry James Johnstone at London on the Eighteenth day of the month and year last above mentioned before these witnesses Miss Alice Crick, Sixty seven Yeomans Row, London, and Miss Rose White, Fourteen Thirsk Road, Lavender Hill, London; by me the said Miss Cal. Caroline Elizabeth Mary Johnstone at the Myretoun, Menstrie, on the Twentieth day of the month and year last above mentioned before these witnesses Miss Emily Sophie L'Estrange and Miss Joan Cameron, Tablemaid, both residing there; by the said Francis John Gordon Borthwick and Ian MacIntyre both at Edinburgh on the Twenty seventh day of the month and year last above mentioned before these witnesses David Samson, Solicitor, and William Anderson, Law Clerk, both of Nine Hill

Street, Edinburgh; and by me the said Archibald Robert Crauf rd Pitman at Edinburgh on the Twenty ninth day of month and year last above mentioned before ese witnesses Catherine Taylor Scott and Gertrude Maxwell, both clerks to J. & F. Anderson, Writers to the Signet, Edinburgh; Declaring that the word "Rachel" twice occurring in the twenty second line of this page is typewritten partly on erasure. (Signed) C E M Johnstone Amy O Johnstone A. R. C. Pitman Amy O Johnstone Henry J. Johnstone Francis J. G. Borthwick Ian MacIntyre Emily S. L'Estrange. Witness. Joan Cameron Witness Douglas Coles Major Witness C. T. Scott, Witness Gertrude Maxwell, Witness Douglas Coles Major Witness Rachel Coles Witness Alice Crick Witness Rose White Witness David Samson Witness William Anderson Witness .....

Register on behalf of the Provost, Magistrates and Councillors of the Burgh of Alva in the Register of the County of Clackmannan. (Signed) Archibald & Brown Wri Stirling, Agents.

Collated by Robt. I. Gillon. Typed by

Collated by D Graham Mary H. M. Hannah.

Extracted by me having commission to that effect from the Keeper of the Records of Scotland.

A A Davie

05-11/14B

Disposition

Recorded: 15-12-1922