CHAPTER cxv.

An Act to confirm a Provisional Order under the Public Health (Scotland) Act 1867 and any Acts amending the same relating to Dalmeny and Kirkliston Water. A.D. 1896.

[20th July 1896.]

WHEREAS Her Majesty's Secretary for Scotland has made the Provisional Order set forth in the Schedule hereunto annexed under the provisions of the Public Health (Scotland) Act 1867 and Acts amending the same and it is necessary that the said Order shall be confirmed by Parliament: 30 & 31 Vict. c. 101.

Be it therefore enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

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

2. This Act may be cited as the Dalmeny and Kirkliston Water Order Confirmation Act 1896. Short title.

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SCHEDULE.

PROVISIONAL ORDER.

WHEREAS by the Public Health (Scotland) Act 1867 it is inter alia enacted section eighty-nine that with respect to parishes (exclusive of any parts of such parishes as are situated within the district of any local authority other than the parochial boards of such parishes) "the local authority if they think it "expedient so to do may acquire and provide or arrange for a supply of water "for the domestic use of the inhabitants and for that purpose may conduct "water from any lake river or stream may dig wells make and 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" and that "the local "authority if they have any surplus water after fully supplying what is required "for domestic purposes may supply water from such surplus to any public "baths and washhouses or for trading or manufacturing purposes on such "terms and conditions as may be agreed on between the local authority and "the persons desirous of being so supplied":

And whereas it is further provided by the said Act section ninety that upon compliance with the provisions therein contained with respect to advertisements and notices the local authority may present to one of Her Majesty's Principal Secretaries of State a petition stating the land intended to be taken and the purposes for which it is required and the names of the owners lessees and occupiers of lands who have assented dissented or are neuter in respect of the taking of such land or who have returned no answer to the notice and praying that the local authority may with reference to such land be allowed to put in force the powers of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement and that upon the receipt of such petition and proof of the proper advertisements having been published and notices served the Secretary of State may direct an inquiry in the district in which the land is situate or otherwise inquire as to the propriety of assenting to the prayer of such petition and after the completion of such inquiry the Secretary of State may by Provisional Order empower the local authority to put in force with reference to the land referred to in such Order the powers of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement or any of them;

And whereas by the Secretary for Scotland Act 1885 all powers and duties vested in or imposed on the said Secretary of State by the Public Health (Scotland) Act 1867 and Acts amending the same were transferred to vested in and imposed on the Secretary for Scotland:

And whereas under the provisions of the Local Government (Scotland) Act 1889 the county of Linlithgow has been divided into districts and the District Committee of the Linlithgow District of the said county are the local authority in the room and place of the parochial boards of the parishes within the said Linlithgow District under and for the purposes of the Public Health (Scotland) Act 1867 and the Acts amending and extending the same all in terms of and in accordance with the provisions in that behalf contained in the said Local Government (Scotland) Act 1889:

And whereas a petition under the provisions of the Public Health (Scotland) Act 1867 and Acts amending and extending the same has been presented to me as Secretary for Scotland by the said Linlithgow District Committee as the local authority aforesaid setting forth among other things that in terms of the said Public Health Acts a part of the parish of Kirkliston situate within the said Linlithgow district was by a decree of the sheriff of the Lothians and Peebles dated the seventeenth day of August one thousand eight hundred and eighty-seven formed into a special water supply district under the name of "the Special Water Supply District of the parish of Kirkliston" that a part of the parish of Dalmeny situate within the said Linlithgow district was by a resolution of the local authority of the landward part of said parish dated eighteenth July one thousand eight hundred and eighty-seven formed into a special water supply district under the name of "the Special Water Supply District of the parish of Dalmeny" that the local authorities of the said parishes of Dalmeny and Kirkliston and the police commissioners of the burgh of South Queensferry as local authority of the said burgh under the said Acts having by a minute of agreement dated twenty-second February one thousand eight hundred and eighty-eight combined for the introduction of a supply of water they obtained a provisional order dated nineteenth June one thousand eight hundred and eighty-eight for a supply for the domestic use of the inhabitants and occupiers in the said special districts and burgh and adjoining or near to those places and for trading or manufacturing purposes in said districts and burgh and the adjoining districts and for the domestic use of the inhabitants and occupiers of houses and lands adjoining and near the aqueduct conduit or line of pipe constructed in terms thereof which was confirmed by "the Kirkliston Dalmeny and South Queensferry Water Supply Confirmation Act 1888" that the local authorities of the said three districts constructed the existing reservoir and other works connected therewith and laid the mains and service pipes all as authorised by the said Provisional Order and Confirmation Act and introduced a supply into the said special supply districts and the said burgh that the said Linlithgow District Committee by a resolution which was confirmed by decree of the sheriff of the Lothians and Peebles dated twenty-first May one thousand eight hundred and ninety-two extended the boundaries of the said special water supply district of the parish of Kirkliston and the

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boundaries of the said special water supply district of the parish of Dalmeny and combined the said two water supply districts in terms of the "Public Health (Scotland) Act 1867 Amendment Act 1882" under the name of the Dalmeny and Kirkliston Special Water Supply District and that by an agreement dated fifth July and twenty-sixth August and registered in the books of Council and Session tenth September one thousand eight hundred and ninety-five entered into between the said Linlithgow District Committee and the Commissioners of the said burgh of South Queensferry the said Commissioners as from fifteenth May one thousand eight hundred and ninety-five are entitled to receive from the said water works a quantity of water not exceeding sixty-six thousand gallons daily but not at any time exceeding one-third of the total available daily supply which can be obtained from the then existing water works and the said Commissioners assigned transferred and conveyed to the said District Committee their whole right title and interest in the lands and others acquired in connection with the foresaid undertaking and also in and to the said reservoir pipes apparatus and works of every description other than the pipes required for the service of the said burgh that the population in the Dalmeny and Kirkliston Special Water Supply District and the other places supplied with water from the existing works is now estimated to be seven thousand four hundred and the public works in the said district have also increased and that the water supply is now inadequate and that it would be of great advantage to the inhabitants of the district if the petitioners were authorised to obtain an additional supply of water for the inhabitants of the said district and for trading and other manufacturing purposes and for the purpose of granting supplies of water to the villages of East Calder and New Bridge in the county of Midlothian to the North British Railway Company for the use of their locomotives and to the Lords of the Admiralty for their hospital and recreation grounds at Butlaw and for Her Majesty's ships "Caledonia" and others with the exception of those lying in the Firth of Forth and claiming Queensferry as their port all under the provisions of the said Public Health Acts and that the present works are inadequate to provide storage for the supply of the said extended district and that the additional water required can be obtained by constructing a reservoir on the Morton Burn (near to but at a lower level than the petitioners existing reservoir) to store a considerable part of the flood water which overflows from or passes by the present reservoir on the Morton Burn and which the petitioners are already entitled to under the foresaid Order of 1888:

And whereas the said petition further sets forth that the petitioners propose to construct works for the purpose of affording such additional supply of water as before mentioned and to purchase and take under the powers and provisions of the Lands Clauses Acts the lands required for the purposes of the said works all which lands and works are or will be situate in the parish of Kirknewton and county of Midlothian and that the petitioners have published the advertisements and deposited the plans sections and book of reference and served the notices required by the ninetieth section of the first-recited Act and the said petition prays that a Provisional Order may be made empowering the petitioners to put in force with reference to the lands and water before mentioned

the powers of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement:

And whereas due inquiry having been directed and held in respect of the matters mentioned in the said petition I have resolved to grant the prayer thereof for the purposes aforesaid and plans describing the works to be constructed and the lands intended to be taken for the purposes thereof and of the said additional water supply and a book of reference to such plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of such lands have been signed by me with reference to this Order and will be deposited with the sheriff clerk of the county of Midlothian at his office in Edinburgh:

Now therefore in pursuance of the powers contained in the Public Health (Scotland) Act 1867 and transferred to and vested in me by the Secretary for Scotland Act 1885 I the Right Honourable Alexander Hugh Lord Balfour of Burleigh Her Majesty's Secretary for Scotland do by this Provisional Order under my hand direct that from and after the passing of any Act of Parliament confirming the same:—

Incorporation of Waterworks Clauses Acts.

1. The clauses of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes and the provisions of the Waterworks Clauses Act 1863 with respect to the security of the reservoirs constructed by the undertakers are hereby incorporated with this Order.

Interpretation.

2. The expression "the special Act" in the Lands Clauses Acts and in the clauses and provisions of the Waterworks Clauses Acts 1847 and 1863 incorporated herewith shall mean and include this Order and the expression "the promoters of the undertaking" in the Lands Clauses Acts and "the undertakers" in the said clauses and provisions of the Waterworks Clauses Acts 1847 and 1863 shall with reference to this Order mean the District Committee of the Linlithgow District of the county of Linlithgow (herein-after referred to as "the District Committee") and the word "lands" in this Order shall have the meaning assigned to it in the Lands Clauses Acts and shall include "water" and the right thereto.

District Committee may put in force the powers of the Lands Clauses Acts.

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

Lateral and vertical deviation.

4. The District Committee in constructing the works described on the said plans may deviate laterally from the lines laid down thereon to any extent not exceeding the limits of lateral deviation shown thereon and may deviate vertically from the levels of the said works as defined on the sections to any extent not exceeding five feet upwards and five feet downwards Provided always that the District Committee shall not in the exercise of the power of lateral deviation hereby given construct any embankment or retaining wall of the reservoir shown on the said plans of a greater height above the general surface of the ground than that shown on the sections and three feet in addition Provided also that if they shall exercise the powers of vertical deviation hereby

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granted they shall construct such embankment of such additional thickness at the base as shall be equal to five feet for every foot of additional height and shall make a corresponding addition to the strength of any retaining wall Provided also that they shall not raise any aqueduct culvert conduit or pipe above the surface of the ground unless so shown on the sections and then only to the extent so shown Provided further that they may erect any water tower stand pipe or other light work of any height which for the time being may be necessary or proper for the purposes of this Order.

Wayleaves.

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

Supply of water for East Calder District.

6. In the event of the District Committee taking or acquiring the water flowing from the bore-hole shown at the commencement of proposed conduit (No. 4) on the deposited plans they shall be bound if required to give the Calder District Committee of the county of Midlothian for the village of East Calder or other place or places in the said Calder District of that county a quantity of water not exceeding one-half of the water flowing from the said bore-hole (but not exceeding fifteen thousand gallons in every twenty-four hours) upon such terms and conditions as may be agreed between the district committee and the said Calder District Committee and failing agreement as may on the application of either party be fixed by the sheriff of the Lothians and Peebles.

Restriction on taking houses of labouring class.

7. The District Committee shall not under the powers of this Order purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Secretary for Scotland ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

For the purposes of this section the expression "labouring class" includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Given under my hand and seal at Whitehall this fifth day of June one thousand eight hundred and ninety-six.

(L.S.) BALFOUR OF BURLEIGH.

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