CHAPTER clxv.

An Act for enabling the Dundee Water Commissioners to execute a Deviation in the authorised Aqueduct, Conduit, or Line of Pipes from Lintrathen to Dundee, and to make a new Reservoir and other Works; and for other purposes. [30th July 1874.]

A.D. 1874.

WHEREAS the supply of water to the burgh of Dundee and suburbs and places adjacent, within the limits of "The Dundee Water Act, 1869," (herein-after called "the first-recited Act,") is vested in the Dundee Water Commissioners (herein-after called "the Commissioners"), and the Commissioners hold and exercise, under the said Act and the Acts therein recited, the undertaking and powers, rights, and privileges of the Dundee Water Company:

32 & 33 Vict. c. xlvi.

And whereas by "The Dundee Water Extension Act, 1871," (herein-after called "the second-recited Act,") the Commissioners obtained power to take and introduce an additional supply of water to Dundee and suburbs and places adjacent from the river or water of Melgum or Melgam, adjoining the Loch of Lintrathen, and from the river or water or burn of Inzion, adjoining the said loch, and from the said loch, and the affluents of the said rivers or waters and loch, all in the county of Forfar, as well as to supply water in bulk in certain cases to public authorities and others who are beyond the limits of their ordinary supply, and to provide a supply to the persons interested in the waters taken, and for these purposes to make and maintain a reservoir and other works at Lintrathen, and certain aqueducts and other works, and to raise further money for the purposes of these works and of their undertaking:

34 & 35 Vict. c. ix.

And whereas by "The Dundee Water Amendment Act, 1872," (herein-after called "the third-recited Act,") the Commissioners obtained powers to relinquish certain aqueducts and other works authorised by the second-recited Act, and to make, lay down, and execute an aqueduct, conduit, or line of pipes from Lintrathen to Dundee, and other works and other powers:

35 & 36 Vict. c. x.

A.D. 1874.

And whereas the Commissioners have contracted for the construction of the said reservoir and other works at Lintrathen authorised by the second-recited Act, and the same are in the course of being executed:

And whereas the estimated cost of the aqueduct, conduit, or line of pipes from Lintrathen to Dundee authorised by the third-recited Act will be considerably exceeded in consequence of the great and rapid increase in the price of iron and other material, and in wages:

And whereas spinning, manufacturing, and other works in Dundee are very greatly on the increase, and the population is rapidly increasing, and alterations, extensions, and improvements in the mains within the burgh have been found necessary, and to avoid a waste as well as to give a full and pure supply and distribution of water, a reservoir in the line of the main aqueduct from Lintrathen to Dundee is desirable, and in connexion therewith a deviation in the course of the main aqueduct is expedient:

And whereas it is also expedient that the Commissioners should be authorised to raise further money for the purposes of the works authorised by the second and third recited Acts so far as not relinquished, and to be authorised by this Act, and for the general purposes of their undertaking, and that further powers should be conferred upon them to enable them to provide the additional supply of water required and intended to be given under the second and third recited Acts:

And whereas it is likewise expedient that the constitution of the Commissioners should be altered and enlarged, and the recited Acts amended, extended, and altered, and that section 38 of the first-recited Act should be repealed:

And whereas plans and sections showing the lines, situations, and levels of the works authorised by this Act, and also books of reference to the said plans containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands, houses, and other property required or which may be taken for the purposes or under the powers of this Act, were duly deposited in the offices at Forfar and Dundee respectively of the principal sheriff clerk of the county of Forfar, and are herein-after respectively referred to as the deposited plans, sections, and books of reference:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted; and be it 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 : A.D. 1874.

Short title.

1. This Act may be cited as "The Dundee Water (Additional Powers) Act, 1874," and this Act and the recited Acts shall be read together as one Act.

Provisions of certain general Acts incorporated.

2. The following Acts and parts of Acts (as far as the same respectively are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act,—

"The Lands Clauses Consolidation (Scotland) Act, 1845 :"

"The Lands Clauses Consolidation Acts Amendment Act, 1860 :"

"The Waterworks Clauses Act, 1847," except the provisions with respect to the communication pipes to be laid by the undertakers, and also the provisions with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit, and also with the exception of clauses 68, 70, and 72 :

"The Waterworks Clauses Act, 1863 :"

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 :

Provided always, as regards the said last-mentioned Act, that the said clauses and provisions shall be read as if "the works" were therein mentioned instead of "the railway," and the "boundaries of the works" instead of "the centre of the railway," and "the Commissioners" instead of "the Company."

Interpretation of terms.

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

Power to make works and take lands, &c.

4. Subject to the provisions of this Act, the Commissioners may make and maintain, in the lines or situations and according to the levels shown on the deposited plans and sections, the aqueducts, conduits, or lines of pipes, reservoir, road, and other works shown on the deposited plans, with all proper approaches, works, and conveniences connected therewith, and may enter on, take, and use such of the lands described in the deposited plans and books of reference as they require for the purposes of their undertaking.

A.D. 1874.

The works herein-before referred to and authorised by this Act are,—

1. A deviation aqueduct, conduit, or line of pipes (herein-after called "the deviation"), to commence in the parish of Auchterhouse and county of Forfar by a junction with the aqueduct, conduit, or line of pipes firstly authorised by the third-recited Act, in the public road which leads to or towards the Kirkton of Auchterhouse, alongside of and from beyond Dronley Corn Mill, and which adjoins and is immediately on the west side of the Dronley passenger station of the Caledonian Railway Company's Dundee and Newtyle Railway, and to terminate in the united parishes of Mains and Strathmartine and county of Forfar by a junction with the said authorised aqueduct, conduit, or line of pipes in the carriage road leading, at or near Downfield, from the turnpike road from the hill of Dundee to Strathmartine and Sidlaw Hill, commonly (and herein-after) called the Strathmartine Road, westwards to the village called or commonly known by the name of Americanmuir:
2. A reservoir in those two fields on the estate of Strathmartine lying between the wood or plantation on Clatto Moor (otherwise called Muir of Baldragon), adjacent to Baldragon Lodge on the north, and the strip of wood or plantation on the north-west of Brackens Farm Steading, on the said estate of Strathmartine, on the south, and a little to the west of which fields the Gorrie Burn rises, and through or between which fields it flows, and in and over parts of the said Gorrie Burn itself:
3. An aqueduct, conduit, or line of pipes to commence in the deviation firstly above described at a point in the South Auchrie Road, and to terminate in the reservoir secondly above described:
4. An aqueduct, conduit, or line of pipes to commence in the reservoir secondly above described, and to terminate by a junction with the deviation firstly before described:
5. A road to commence in and by a junction with the Strathmartine Road, and to terminate on the northmost of the aforesaid fields on the said estate of Strathmartine:
6. The diversion of the Gorrie Burn to commence at a point in the existing bed of the said Gorrie Burn sixty yards or thereabouts eastwards from its source, and to terminate at a point in the existing bed of the said Gorrie Burn five hundred and three yards or thereabouts from the said point of commencement of the said diversion:

7. The deepening of the said Gorrie Burn to commence at the point of termination of the said diversion forming Work 6, and to terminate at the point of junction of the said burn with the river or water of Dighty.

Power to erect and maintain all necessary connexion works, and to maintain and improve existing works.

5. The Commissioners may, subject to the provisions of this Act, in connexion with the works, or any of them, authorised by this Act, make, lay, erect, and maintain such embankments, dams, weirs, channels, sluices, overflows, catch-water drains, culverts, cuts, aqueducts, tunnels, bridges, roads, cisterns, gauges, main and distributing pipes, buildings, and other works and conveniences as may be necessary or expedient for effecting or carrying out the objects or purposes of the recited Acts and this Act, or any of them, and the Commissioners may also discharge into and cause to flow in the said Gorrie Burn the overflow water of the said reservoir, as also the Commissioners may, subject as aforesaid, from time to time, on or within any of their lands, or on or over any lands on or over which they by agreement have or may acquire right so to do, alter, replace, increase, and enlarge the works, conduits, aqueducts, mains, and pipes authorised by this Act, and may from time to time alter, replace, enlarge, and increase the number and size of the works, mains, and pipes from time to time in use for conveying and distributing water for the purposes of the recited Acts and this Act.

Limits of lateral deviation.

6. The Commissioners may in constructing the works by this Act authorised deviate laterally from the lines thereof as shown on the deposited plans to the extent of the limits of lateral deviation shown thereon, but not further in either case, except with the consent of the owner of the lands through or in which the deviation is made; and where any of the said works are intended to pass under or over any railway authorised by Act of Parliament, the same shall be executed so as not to obstruct or interfere with the free, uninterrupted, and safe use thereof.

Limits of vertical deviation.

7. In the construction of the works authorised by this Act, the Commissioners may deviate vertically from the levels shown on the deposited sections, in the case of the foresaid reservoir to any extent not exceeding two feet upwards and five feet downwards, and in the case of other works to any extent not exceeding five feet upwards and five feet downwards.

Provision as to powers of lateral deviation.

8. The Commissioners shall not, in connexion with the powers of lateral deviation under this Act, construct any embankment of the said reservoir of a greater height above the general surface of the ground than two feet beyond the height shown on the deposited sections.

A.D. 1874.

Power to agree for easements, &c.

9. The Commissioners may, subject to the provisions and for the purposes of this Act, take by agreement, and any person by "The Lands Clauses Consolidation (Scotland) Act, 1845," or "The Lands Clauses Consolidation Acts Amendment Act, 1860," or otherwise, enabled to sell lands, may grant to them, any easement, servitude, right, or privilege, not of water, in, over, affecting, or belonging to lands, at a price or yearly rent, feu duty, or otherwise; but in the case of a person not enabled otherwise than by the said Acts to sell lands, then subject and according to the provisions relative to the taking of lands by agreement contained in the said Acts; and for the purposes of this section any such easement, servitude, right, or privilege shall be deemed to be lands within the meaning of those Acts.

Limiting time for exercise of compulsory powers of purchase.

10. The powers of the Commissioners for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Period for completion of works.

11. If the works authorised by this Act are not completed within eight years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Commissioners for executing any work not so completed, or in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed; but nothing herein contained shall restrict the Commissioners from extending, enlarging, altering, replacing, or removing any of their engines, machinery, conduits, aqueducts, mains, or pipes, or improving their supply of water, at any time and from time to time as occasion requires, subject to the provisions of this Act.

Relinquishment of part of authorised work.

12. The Commissioners shall relinquish the construction of so much of the aqueduct, conduit, or line of pipes first authorised by the third-recited Act as lies between the commencement and termination of the deviation aqueduct, conduit, or line of pipes first before described, and such deviation aqueduct, conduit, or line of pipes shall be in substitution for the portion of work by this Act authorised to be relinquished, and, except as by this Act otherwise provided, all the powers and provisions of the third-recited Act which apply to the works thereby authorised shall, mutatis mutandis, extend and apply to the works authorised by this Act.

Supply of water to parishes through

13. The powers and provisions of the second-recited Act as to supplies of water by contract to owners and occupiers of lands and heritages, and to public authorities, shall extend and be applicable to

all parishes through which the main line of pipes from Lintrathen to Dundee, authorised by the third-recited Act and this Act, may pass, and to any owners and occupiers of lands and heritages within such parishes. — which main pipe passes.

14. It shall be lawful for the Commissioners from time to time to cause the water to be drawn or let off from the reservoir second before described, for the purpose of repairing or inspecting the state of such reservoir, or any of the dams, banks, tanks, channels, water gates, pipes, or other works appertaining thereto, or for the purpose of cleaning out such reservoir, or any part thereof, but in any such case the Commissioners shall use all convenient speed in making such repairs or in executing such cleaning. Commissioners may draw off water for repairs and cleaning of reservoir.

15. The powers to borrow money contained in the second and third recited Acts, and to grant security for such borrowed money, shall and may be exercised by the Commissioners for the purposes of this Act, as well as for the purposes of the works authorised by the second and third recited Acts, in so far as not relinquished, and of their undertaking, and the borrowed money may be applied for such several purposes. As to borrowing powers in recited Acts.

16. In addition to any money which the Commissioners have borrowed or are authorised to borrow under the recited Acts, the Commissioners may from time to time, under the authority of this Act, borrow all such sums as they think requisite for the purposes of the recited Acts and of this Act and of their undertaking, not exceeding the sum of one hundred and fifty thousand pounds, on the security of the property and works forming their undertaking, and of the several rates and charges leviable by them under the provisions of the recited Acts and this Act, and if, after having borrowed the said sums or any part thereof, the Commissioners pay off the same, except by means of the sinking fund after mentioned, it shall be lawful for them again to borrow the amount so paid off, and so from time to time. Power to borrow additional money.

17. The money authorised to be borrowed by this Act may be secured by mortgages in terms of and as provided for in the first-recited Act with regard to the money thereby authorised to be borrowed, and all the powers, forms, and provisions of the first-recited Act with regard to the borrowing of money thereby authorised, and with regard to the funding of borrowed money, shall apply to the money by this Act authorised to be borrowed, and to the transfer of the same, and of all mortgages or certificates of funded debt granted for the same, or any part thereof, but providing that the Security for borrowed money.

A.D. 1874.

deeds or certificates to be granted for the money by the second and third recited Acts and this Act, or any of them, authorised to be borrowed or funded, shall declare that they are so granted by virtue or by and under the powers of the Act or Acts in virtue of which the same shall be granted: Provided also, that all mortgages or certificates of funded debt granted or to be granted by the Commissioners in pursuance of the first-recited Act shall have priority over any mortgages or certificates to be granted in virtue of this Act, and that all mortgages or certificates of funded debt granted by the Commissioners in pursuance of the second and third recited Acts before the passing of this Act, and subsisting at the passing thereof, shall, during the continuance of such mortgages or certificates, have priority over any mortgages and certificates of funded debt granted by virtue of this Act: Provided further, that nothing contained in or done or suffered under this Act shall prejudice or affect the preference and priority of the perpetual annuities mentioned in the first-recited Act and conferred by that Act; and every judicial factor who may be appointed and acting under the provisions of sections seventy-five and seventy-six of the first-recited Act shall apply and pay over the balance of the sums received by him as such judicial factor to the several parties entitled to payment out of the said rates and charges and other income of the Commissioners, according to their respective rights and priorities.

Protection of lenders from injury.

18. Any person lending or paying money under the recited Acts or this Act to the Commissioners shall not be bound or entitled to inquire as to the observance by the Commissioners of any provisions of the recited Acts or this Act, or be bound to see to the application or be answerable for any loss or non-application of such money, or of any part thereof.

Estimates to be made up by Commissioners.

19. The estimate to be made up by the Commissioners under section forty-four of the first-recited Act, and the assessments and rates authorised and required to be levied under section forty-five of the said Act, shall not only include and be sufficient with the other rates and income of the Commissioners for the purpose of defraying the annual sums or expenditure specified in the recited Acts, but also the interest on and annuity granted in respect of any money borrowed or raised under the provisions of this Act, and the payment to the sinking fund, and the expense of maintaining and managing the additional works hereby authorised, and all other annual expenditure arising out of or consequent on the works hereby authorised.

Application of rates and charges.

20. The rates and charges levied or leviable under the authority of the recited Acts and this Act, and the other income of the Com-

missioners, whether arising under the recited Acts or this Act, shall be applied in the following order of priority; that is to say, (first) in defraying the expenses of the management and maintenance of the undertaking of the Commissioners under the recited Acts and this Act, including the salaries and other payments to the officers and servants of the Commissioners, and the annual costs, charges, and expenses of providing and supplying water, and in payment of any feu duties and ground annuals and other annual payments exigible in respect of any lands, streams, or property forming part of the said undertaking; (secondly) in payment of the perpetual annuities by section twenty-four of the first-recited Act required to be paid, and of the interest on any moneys, not exceeding in the whole the sum of eighty thousand pounds, now or hereafter borrowed under the authority of that Act, and of the annuity on any funded debt now or hereafter issued under the authority of that Act in respect of the said sum of eighty thousand pounds, or of any portion thereof; (thirdly) in payment of the interest of money which may have been or may be borrowed, and of the annuity on the funded debt which may have been or may be issued under the authority of the second and third recited Acts and this Act, or under any of them; (fourthly) in payment of the sums by the recited Acts and this Act directed to be set apart as a sinking fund; and (lastly) in payment of such portion of the cost of enlarging or increasing and renewing the number of mains and pipes, and of extending the works, mains, and pipes from time to time, as the Commissioners shall think it reasonable to charge against the revenue for the year, and of any other necessary annual expenditure.

Application of borrowed money.

21. The several sums borrowed by the Commissioners on mortgage or raised by means of certificates of funded debt under the authority of this Act shall be applied for the purposes of the recited Acts and this Act only: Provided always, that no part thereof shall be applied to purposes for which the annual revenue of the Commissioners is applicable.

Sinking fund.

22. On the expiration of seven years from the passing of this Act the Commissioners shall, in addition to the sums provided to be set apart annually as a sinking fund by section eighty-one of the first-recited Act, and section thirty-five of the second-recited Act, set apart or pay over annually to the sinking fund provided by the first-recited Act a sum equal to one per centum on the whole amount of money borrowed by them under the authority of this Act, together with an amount equal to one half of the amount of the interest which would have accrued on any mortgages granted under the

A.D. 1874.

authority of this Act that may have been previously paid off out of such sinking fund, and the said sinking fund shall be from time to time applicable to the redemption of mortgages created by this Act as well as by the recited Acts, or to the other purposes specified in section eighty-one of the first-recited Act, as the Commissioners think proper, and to no other purposes whatever, and shall be lodged, dealt with, and applied as therein provided.

Additional Commissioner.

23. The first junior magistrate of the burgh of Broughty Ferry, and his successor in office for the time being, shall, along with the magistrates and council of the royal burgh of Dundee and the chief magistrate of the said burgh of Broughty Ferry, and their successors in office for the time being, be hereafter the Commissioners under and for the purposes and for carrying into effect the provisions of the recited Acts and this Act, and sections 7 and 8 of the first-recited Act, and section 18 of the third-recited Act, are hereby amended accordingly, and the expression "the Commissioners" in the recited Acts and this Act shall be read and construed accordingly.

Repeal of section 38 of first-recited Act.

24. Section 38 of the first-recited Act is hereby repealed: Provided always, that the Commissioners shall establish and maintain, under such regulations as they may from time to time fix and determine, such and so many drinking fountains within the burgh of Dundee for the gratuitous use thereat of the inhabitants as the Commissioners shall from time to time find expedient.

Expenses of Act.

25. All costs, charges, and expenses of and incidental to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Commissioners out of the moneys to be raised under the authority of the recited Acts and this Act.

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