CHAPTER xxvi.

An Act to enable the Edinburgh and District Water Trustees to abandon their authorised Alnwick Hill Service Reservoir, and to construct the same on another site, with relative works, and to divert certain conduits; and for other purposes. [11th June 1877.]

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WHEREAS an Act was passed in the 32nd and 33rd year of the reign of Her Majesty Queen Victoria, intituled "The Edinburgh and District Waterworks Act, 1869," (herein-after called "the Act of 1869,") by which certain Trustees were appointed and incorporated under the name of "The Edinburgh and District Water Trustees," for supplying water to the city of Edinburgh, town and port of Leith, town of Portobello, and districts and places adjacent, and for transferring to the trust the undertaking and powers of the Edinburgh Water Company, which water company had been re-incorporated by and acted under an Act passed in the 19th and 20th year of the reign of Her said Majesty, intituled "The Edinburgh Water Company's Act, 1856," by which Act the previous Acts of Parliament of the said water company were, with certain reservations, repealed; and under an Act of the 26th and 27th year of the reign of Her said Majesty, intituled "The Edinburgh Water Company's Amendment Act, 1863," and by the Act of 1869, in consideration of the annuities granted to the shareholders of the said Edinburgh Water Company, and the other payments and considerations in the said Act mentioned, the whole undertaking of the said water company was, on the fifteenth day of May one thousand eight hundred and seventy, transferred to and vested in, and has since been managed and administered by, the said Edinburgh and District Water Trustees:

32 & 33 Vict. c. cxliv.

19 & 20 Vict. c. xci.

26 & 27 Vict. c. clxxxvii.

And whereas the said Trustees obtained an Act of the 37th and 38th year of the reign of Her present Majesty, intituled "The

37 & 38 Vict. c. clvi.

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Edinburgh and District Waterworks (Additional Supply) Act, 1874," (herein-after called "the Act of 1874,") and another Act of the 39th and 40th year of the reign of Her said Majesty, intituled "The Edinburgh and District Waterworks Act, 1876," (herein-after called "the Act of 1876"):

39 & 40 Vict. c. xxxiii.

And whereas the work called in the Act of 1874 the Alnwick Hill Service Reservoir was intended to be situated on the lands of Walter James Little Gilmour of Liberton, who entertained certain objections to the proposed site of the same, and an agreement was entered into between him and the Trustees for effecting a change of the said site to another part of his lands, with a relative change on the conduits connected therewith, and other works; and certain progress has been made in carrying the said agreement into effect, but it is found necessary that powers be taken to carry out the objects of the same, and the relative purposes:

And whereas plans and sections of the waterworks and other works proposed to be constructed and maintained under the authority of this Act, and also a book of reference thereto containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands and other property in or upon which the same are intended to be constructed, or which may be taken for the purposes of this Act, have been deposited with the sheriff clerk of the county of Edinburgh, and of the county of the city of Edinburgh:

But such purposes 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; that is to say,

Short title.

1. This Act may be cited for all purposes as "The Edinburgh and District Waterworks Act, 1877."

Construction of Act.

2. The word "Trustees" shall in this Act mean the Trustees for the time being constituted and incorporated by the Act of 1869, as amended by the Act of 1874; and the other words and expressions construed in the said Acts shall, if and when used in this Act, respectively have the meaning attached to them in the Act of 1869, the Act of 1874, and the Act of 1876.

Certain provisions of general Acts herein named incorporated.

3. "The Lands Clauses Consolidation (Scotland) Act, 1845," and "The Lands Clauses Consolidation Acts Amendment Act, 1860," shall be incorporated with and form part of this Act; and

also in so far as regards the reservoir, filter bed, and clear water tank hereby authorised, the clauses of "The Railways Clauses Consolidation (Scotland) Act, 1845," with respect to the temporary occupation of lands near the railway during the construction thereof, and with respect to the crossing of roads and other interference therewith; and in construing the said Acts and clauses for the purposes of this Act, the word "company" shall mean the Trustees, and the word "railway" shall mean the proposed reservoir, filter bed, and clear water tank, and the words "centre of the railway" shall mean any part of the said reservoir, filter bed, and clear water tank.

Certain provisions of 10 & 11 Vict. c. 16. incorporated.

4. "The Commissioners Clauses Act, 1847," with the exceptions specified in the Act of 1869, and excepting so far as varied by that Act and this Act, shall be and the same is hereby incorporated with this Act.

Certain provisions of 10 & 11 Vict. c. 17. and 26 & 27 Vict. c. 93. incorporated.

5. The provisions of "The Waterworks Clauses Acts, 1847 and 1863," with the exceptions specified in the Act of 1869, but not including among such exceptions the provisions as to the construction of the waterworks, which provisions are herewith incorporated, and except in regard to the provisions as to the security of reservoirs and any matter or thing otherwise provided for in the Act of 1869, the Act of 1874, the Act of 1876, and this Act, shall be incorporated with this Act and applied to the works hereby authorised to be made and executed.

Power to make waterworks.

6. Subject to the provisions of this Act the Trustees are hereby authorised to make, construct, and maintain the waterworks hereby authorised, and all necessary works and conveniences connected therewith, in the lines, and on the levels, and upon the lands delineated on the said plans and sections, and described in the book of reference, and to enter upon and compulsorily take and use such of the lands and other property delineated on the said plans and described in the said book of reference as shall be necessary for these purposes, and to take and impound the waters authorised by the Act of 1874 to be taken and impounded in the Alnwick Hill Service Reservoir as described in the said Act in the Alnwick Hill Reservoir by this Act authorised for purposes of the said Act and this Act, and to discharge water when necessary from the said works into the burn known as St. Catherine's Burn adjoining the same, making compensation to the owners, occupiers, and all other persons interested in the said burn, and in the lands adjacent thereto, for all damage, if any, that may be sustained by them by reason of the discharge of such water into the said burn, as such damage shall be ascertained in manner provided in the clauses as

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to construction of waterworks contained in the aforesaid Waterworks Clauses Act, 1847.

Works to be executed.

7. The works by this Act authorised to be executed shall include,—

A reservoir (to be called "Alnwick Hill Reservoir") to be situate in the field on the east side of the road leading from Alnwick Hill to Howdenshall, the north-westerly corner of the said reservoir being at a point 37 yards or thereby from the south-east corner of Alnwick Hill Reformatory, and extending in a southerly direction nearly parallel to the said road from the said point 333 yards or thereby, and in an easterly direction 100 yards or thereby in breadth, with a filter bed along the east side of and adjoining the eastern embankment of the said reservoir measuring 200 yards or thereby in length and 58 yards in breadth or thereby, and with a covered clear water tank on the east side of and adjoining the said filter bed 112 yards or thereby in length and 40 yards or thereby in breadth; together with a deviation of the authorised aqueduct, conduit, or line of pipes described as the "Conduit No. 2" of the Act of 1874 as authorised to be deviated by the Act of 1876 from a point on such authorised deviation 333 yards or thereby from the termination thereof, and terminating in the said intended reservoir; and also a deviation of the aqueduct, conduit, or line of pipes called "Conduit No. 3" of the Act of 1874, commencing at the clear water tank before mentioned and terminating at a point on the authorised line of such "Conduit No. 3," 620 yards or thereby from its commencement in the authorised reservoir; all which works are situate in the parish of Liberton and county of Edinburgh.

Together with such embankments, dams, sluices, filters, pipes, cuts, channels, and other works and conveniences connected therewith as may be necessary or proper.

Power of deviation in constructing works.

8. In constructing the works by this Act authorised it shall be lawful for the Trustees to make lateral deviations from the line of such works, and from the lands and property to be taken, not exceeding the limits of lateral deviation marked on the said plans, and to make vertical deviations from the levels of the reservoir, filter bed, and clear water tank as shown on the said sections, to any extent not exceeding five feet downwards and three feet upwards, and to any extent not exceeding ten feet in respect of other works; but the Trustees shall not, in the exercise of the powers of lateral deviation hereby given, construct any embankment shown on the deposited plans of a greater height above the general

surface of the ground than that before mentioned; and if they shall deviate above the height, as shown on the deposited section, they shall construct the embankment in each case of such additional thickness at the base as shall be equal to five feet for every additional foot of height.

Power to take easements, &c.

9. All persons empowered by "The Lands Clauses Consolidation (Scotland) Act, 1845," to sell or convey or release lands, may, if they think fit, subject to the provisions of that Act and of "The Lands Clauses Consolidation Acts Amendment Act, 1860," and of this Act, grant to the Trustees any easement or servitude, right or privilege, required in the execution of their works authorised by this Act, in, over, or affecting any such lands, and the provisions of the said Acts with respect to lands or feu duties, so far as the same are applicable in this behalf, shall extend and apply to such grants, and to such easements or servitudes, rights and privileges, as aforesaid respectively; and failing agreement such easements or servitudes, rights or privileges, shall be subject to the provisions of the said Acts, as if the same were lands and property to be taken and used under the said Acts.

Powers for compulsory purchases limited.

10. The powers hereby granted for the compulsory purchase of lands and other property, so far as beyond the powers of the Act of 1874 and the Act of 1876, shall not be exercised after three years from the passing of this Act.

Period for completing works.

11. After the expiration of seven years from the passing of this Act, all the powers for completing the works by this Act authorised shall cease to be exercised, except as to so much thereof as are then completed: Provided that nothing herein contained shall prevent the Trustees from enlarging, extending, and improving their works and the supply of water therefrom in other respects.

For protection against accidents from reservoirs and embankments.

12. The provisions in the Act of 1874 for protection against accidents from reservoirs or embankments shall extend and be applied to the reservoir and works by this Act authorised.

Abandonment of portion of works authorised.

13. The Trustees shall abandon the construction of the works described in the fourth place of section 9 of the Act of 1874 called the Alnwick Hill Service Reservoir, and relinquish all lands and property proposed to be taken for the said purpose by the said Act, within the limits of deviation shown on the plans deposited with reference thereto, and also shall, in so far as superseded by the deviations or diversions respectively by this Act authorised, abandon the construction of the aqueduct, conduit, or line of pipe called "Conduit No. 2," described as the sixth of the works authorised by the said Act, and the deviation or diversion of the said "Conduit No. 2," authorised in the third place of section 7 of the Act of

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1876, and also the "Conduit No. 3," described as the seventh of the works authorised in the said section 9 of the Act of 1874, and relinquish all lands and property proposed to be taken for such two conduits, aqueducts, or lines of pipe, or within the limits of deviation thereof, in so far as superseded as aforesaid, but reserving such lands and property authorised to be taken by the Act of 1874 or the Act of 1876 for the purposes of the said Acts before mentioned as may be required for the works by this Act authorised.

Compensation for damage to land by entry, &c. for purposes of works abandoned.

14. The abandonment by the Trustees under the authority of this Act of the works before described shall not prejudice or affect the right of the owner, lessee, or occupier of any land, subject to the provisions of this Act, to receive compensation for any damage occasioned by the entry of the Trustees on such land for the purpose of surveying and taking levels, or setting out of the line of works, and, subject as aforesaid, shall not prejudice or affect the right of the owner, lessee, or occupier of any land which may have been temporarily occupied by the Trustees to receive compensation for such temporary occupation, or for any loss, damage, or injury which may have been sustained by such owner, lessee, or occupier by reason thereof, or of the exercise as regards such land of any of the powers contained in "The Waterworks Clauses Acts, 1847 and 1863," or the Act of 1874 or Act of 1876: Provided always, that nothing herein contained shall entitle any owner, lessee, or occupier of any lands to compensation for any alleged damage by the works of the Trustees under authority of the Act of 1874 or the Act of 1876 on such lands which may be taken for the purposes of the said Acts or this Act.

Compensation to be made in respect of portions of works abandoned.

15. Where before the passing of this Act any contract may have been entered into or notice given by the Trustees for the purchasing of any land for the purposes of or in relation to any portions of the works authorised to be abandoned by this Act, the Trustees shall, subject to the provisions of this Act, and where such land shall not be taken for the purposes of this Act, be released from all liability to purchase or to complete the purchase of any such lands; but, notwithstanding, full compensation shall, where such land is not taken for the purposes of this Act, be made by the Trustees to the owners, lessees, and occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice; and the amount and application of the compensation shall be determined in manner provided by "The Lands Clauses Consolidation (Scotland) Act, 1845," as amended by any subsequent Act, for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Application of certain provisions of Acts of 1874 and 1876 to works under this Act.

16. The whole provisions of the Act of 1874 and the Act of 1876 applicable to the Alnwick Hill Service Reservoir and works, and to the "Conduit No. 2" and "Conduit No. 3," shall be applicable to the Alnwick Hill Reservoir and works and the diversions of the said "Conduit No. 2" and "Conduit No. 3" authorised by this Act, except in so far as they are inconsistent with or varied by this Act.

Application of borrowing powers under Acts of 1874 or 1876.

17. The Trustees may apply, for the purposes of this Act, any sum or sums of money which they are authorised to borrow under the Act of 1874 and Act of 1876, or one or other of them; and the sums so borrowed and applied shall be subject to all and the same provisions as if the same were borrowed under the said Acts or one or other of them for the purposes of the same.

Form of mortgage.

18. In borrowing money under the Act of 1874 and the Act of 1876, the mortgages and transfers of the same shall be in the forms appended to the Act of 1874 as nearly as may be, and shall be deemed to include the purposes of the Act of 1876 and this Act, and it shall not be necessary in any mortgages which may be hereafter granted under the powers of the Trustees to refer therein to the objects for which the money is borrowed.

Recited Acts applied.

19. All the powers vested in the Trustees by the recited Acts with reference to their undertaking, in so far as they are not repealed or superseded by this Act, shall be and the same are hereby, in so far as applicable, extended and applied to the works hereby authorised.

Application of any Public Act not to be prevented.

20. Nothing in this Act contained shall operate to prevent or obstruct the application to the works vested in the Trustees by the Act of 1869, or to be executed under authority of the Act of 1874, or Act of 1876, or this Act, of any Public Act in regard to waterworks that may be passed during the present or any future session of Parliament.

Expenses of Act.

21. All costs, charges, and expenses incurred preparatory to and in applying for, obtaining, and passing this Act, or in any way incidental thereto, shall be paid by the Trustees out of the rates to be levied by them under the authority of the Act of 1869, the Act of 1874, or the Act of 1876, and other revenues of the trust, or moneys to be borrowed on the security of the same, or which shall be in or come into the hands of the Trustees.

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