CHAPTER cviii.

An Act to confirm a Provisional Order under the Public Health (Scotland) Act, 1867, relating to Leven Water. A.D. 1889.

[26th July 1889.]

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: 30 & 31 Vict. c. 101.

And whereas it is necessary that the said Order should be confirmed by Parliament:

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 Order set out in the schedule hereunto annexed shall be and the same is hereby confirmed. Order in Schedule confirmed

2. This Act may be cited as the Leven Water Supply Confirmation Act, 1889. Short title

A.D. 1889.

Leven Water.

SCHEDULE.

LEVEN WATER.

Public Health (Scotland) Act, 1867 (30 & 31 Vict. c. 101.)

Provisional Order.

WHEREAS by the Public Health (Scotland) Act, 1867, it is inter alia enacted (section 89) that with respect to the improvement of Burghs having a population of less than ten thousand according to the census last taken, and not having a local Act for police purposes, "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 90) that upon compliance with the provisions therein-before contained with respect to advertisements and notices, the local authority may present a petition to one of Her Majesty's Principal Secretaries of State, 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 land 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 one of Her Majesty's Principal Secretaries 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 the Commissioners of Police of the Burgh of Leven in the county of Fife under the General Police and Improvement (Scotland) Act, 1862 (herein-after called "the Commissioners"), which burgh has a population of less than ten thousand, and has no local Act for police purposes, are the local authority within the said burgh under the Public Health (Scotland) Act, 1867, and Acts amending the same:

And whereas a petition under the provisions of the Public Health (Scotland) Act, 1867, has been presented to me by the Commissioners as the local authority aforesaid, setting forth among other things that the present water supply to the said burgh was insufficient and impure, and that it would be of great local advantage if the Commissioners were authorised to obtain a more abundant and better supply of water for the domestic use of the inhabitants and occupiers of houses and lands in the said burgh and district adjoining or near thereto, and for public baths and washhouses, and trading, manufacturing, and other purposes, and that it would also be expedient were the Commissioners enabled to furnish a supply of water by means of the works herein-after described or some of them, to the inhabitants and occupiers of houses and lands adjoining, or near to any part of the aqueducts, conduits, or lines of pipes herein-after described, for the domestic and other uses of such inhabitants and occupiers, on such terms as may be agreed on between them and the Commissioners, and to the local authority of the parish of Largo for the domestic, trading, manufacturing, and other uses of the inhabitants and occupiers of houses and lands within that parish, on such terms as may be agreed on between such local authority and the Commissioners: and that for the purpose of providing such supplies of water the Commissioners proposed under the provisions of the said Public Health (Scotland) Act, 1867, and the Lands Clauses Consolidation (Scotland) Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, which two last-mentioned Acts are in this order termed and referred to as "the Lands Clauses Acts" to purchase and take the lands, springs, streams, waters, roads, and property delineated and described on the plan herein-after mentioned, or such of them as will or may be required to be taken or used for or in connection with the execution of the following works, and for all purposes necessary for providing the aforesaid supplies of water (that is to say):—

(1.) A reservoir to be situate on the Hatton Burn and Pratis Burn and on the lands adjacent thereto, commencing at a point in the Hatton Burn, five hundred and fifty yards or thereabouts measured in a northerly direction along the course of that stream from and above the point where it is joined by the Pratis Burn, and at a point in the Pratis Burn, four hundred yards or thereabouts measured in a westerly direction along the course of

A.D. 1889.

Leven Water.

that stream from and above the said point where it joins the Hatton Burn, and terminating by an embankment to be formed across the Hatton Burn, three hundred yards or thereabouts, measured in a south-easterly direction, measuring along the course of that stream from and below the said point where it is joined by the Pratis Burn, together with a bye-wash channel, commencing at a point in the said Hatton Burn, six hundred yards or thereabouts measured along the course of that stream from and above the point where it is joined by the Pratis Burn, and terminating in the said stream at a point three hundred and ninety yards or thereabouts measured along the course of the said stream from and below the point where it is joined by the Pratis Burn, which intended reservoir, embankment, and bye-wash channel will be wholly situate in the parish of Largo, and in the county of Fife :

(2.) An aqueduct, conduit, or line of pipes (conduit No. 1), commencing in the parish of Largo, and county of Fife, in the said intended reservoir at or near the said proposed embankment above described, and terminating at the existing filters of the Leven Police Commissioners in the parish of Scoonie and county of Fife :

(3.) An aqueduct, conduit, or line of pipes (conduit No. 2), commencing in the said intended reservoir at or near the said proposed embankment above described, and terminating in the main street of the Kirkton of Largo at or near the east end thereof, which conduit, No. 2, will be wholly situate in the said parish of Largo :

Together with such embankments, dams, weirs, sluices, gauges, filters, and filtering beds, tanks, cisterns, pipes, cuts, channels, tunnels, and all other works and conveniences connected therewith as may be necessary or convenient for the purposes of said works, and the giving of such supply of water :

and to intercept and divert into the said intended works or some of them, and therein and thereby to impound, convey, and distribute for the purposes aforesaid the waters of the said Hatton Burn and Pratis Burn, and the tributaries and affluents thereof above the point of termination of the said intended reservoir or so much of the said waters as may be required for the said undertaking :

And whereas the said petition further set forth that the Commissioners had published the advertisements, and served the notices required by section 90 of the said Public Health (Scotland) Act, 1867, and prayed that a provisional order might be made in pursuance of the provisions of that Act, empowering the Commissioners to put in force with reference to the lands, springs, streams, waters, roads, and other property above-mentioned the powers of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement :

And whereas due inquiry having been directed and held in respect of the matters contained in the said petition, I have resolved to grant the prayer thereof, and a plan and sections of the said intended works above described, and also describing the lands, springs, streams, waters, roads, and other property intended to be taken for the purposes thereof, and of the said water supply, and a book of reference to such plan, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of such lands, springs, streams,

waters, roads, and other property, have been signed by me with reference to this order, and have been deposited with the sheriff clerk of the county of Fife at his office in Cupar:

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, as the Secretary for Scotland, do by this provisional order under my hand and seal direct, that from and after the passing of an Act of Parliament confirming the same:— 48 & 49 Vict. c. 61.

Commissioners may put in force powers of Lands Clauses Acts.

1. It shall be lawful for the Commissioners as the local authority aforesaid to put in force with reference to the lands, springs, streams, waters, roads, and other property delineated and described on the said plan, and in the said book of reference, the powers of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement.

Powers of lateral and vertical deviation.

2. In constructing the works herein-before and on the said plan described, the Commissioners may deviate laterally from the lines laid down on the said plan, 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 said sections to any extent not exceeding five feet upwards, and five feet downwards: Provided always, that they shall not, in the exercise of the power of lateral deviation hereby given, construct any embankment or retaining wall of the reservoir hereby authorised of a greater height above the general surface of the ground, than that shown on the said sections, and five feet in addition: Provided also, that if they shall exercise the powers of vertical deviation hereby 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 may erect any water-tower, stand-pipe, or other like work of any height which for the time being may be necessary or proper for the purposes of this order.

Power to take wayleaves, &c.

3. The Commissioners may in the execution of the aforesaid 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.

Restriction on taking houses of labouring class.

4. The Commissioners shall not under the powers of this order without the consent of the Secretary for Scotland, purchase or acquire in any district within the meaning of the Public Health (Scotland) Act, 1867, ten or more houses, which, after the passing of this order, have been, or on the fifteenth day of December last were, occupied, either wholly or partially, by persons belonging to the labouring class as tenants or lodgers.

For the purposes of this section, the expression "labouring class" means and 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 of such persons who may be residing with them.

Leven Water.

Part of Waterworks Clauses Act, 1863, incorporated.

5. 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.

6. The expression "the special Act" in the Lands Clauses Acts and in the provisions of the Waterworks Clauses Act, 1863, incorporated herewith shall mean and include this order, and the expression "the Promoters of the Undertaking" in the Lands Clauses Acts shall with reference to this order, mean the Commissioners as the local authority within the said burgh of Leven, under the Public Health (Scotland) Act, 1867, 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.

Given under my hand and seal at Whitehall, this third day of May one thousand eight hundred and eighty-nine.

(L.S.) LOTHIAN.

Printed by EYRE and SPOTTISWOODE,
FOR
T. DIGBY PIGOTT, Esq., the Queen's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
EYRE AND SPOTTISWOODE, EAST HARDING STREET, FLEET STREET, E.C.; or
ADAM AND CHARLES BLACK, 6, NORTH BRIDGE, EDINBURGH; or
HODGES, FIGGIS, & Co., 104, GRAFTON STREET, DUBLIN.