CHAPTER iii.

An Act to empower the District Board of Lunacy for the landward portion of Midlothian and county of Peebles to construct waterworks for the supply of water to their Rosslynlee Asylum to make provision for the cost of such works and for other purposes. [23rd May 1898.]

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WHEREAS the counties of Edinburgh and Peebles were in the year one thousand eight hundred and fifty-eight created into a lunacy district in pursuance of the provisions of the Lunacy (Scotland) Act 1857: 20 & 21 Vict. c. 71.

And whereas the said lunacy district was in the year one thousand eight hundred and seventy subdivided by the General Board of Lunacy in virtue of the powers conferred upon it by the said Act into two districts the one consisting of the parishes of the city of Edinburgh St. Cuthbert's and Canongate North Leith South Leith and Duddingston and known as the Edinburgh city or urban district and the other of the remaining parishes of the county of Midlothian and of the county of Peebles and known as the Midlothian and Peebles district and a board was elected for each of the said districts in terms of the said Act (the Board for the latter of the said two districts being designed as the District Board of Lunacy for the landward portion of Midlothian and county of Peebles and being herein-after called "the District Board"):

And whereas in pursuance of the provisions of the said Act the District Board in or about the year one thousand eight hundred and seventy-four provided fitted up and furnished the Midlothian and Peebles District Asylum known as Rosslynlee Asylum for the said Midlothian and Peebles District (herein-after called "the asylum") having accommodation for about two hundred patients:

And whereas the District Board have now found it necessary to make considerable additions to and alterations on the asylum in consequence of the large increase in the number of pauper lunatics

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belonging to the said district and the consequent overcrowding of the asylum and which additions and alterations have been approved by the General Board of Lunacy :

And whereas the present water supply of the asylum is obtained from certain springs and streams in the neighbourhood thereof and such supply is insufficient for affording an adequate supply of water to the asylum and it is expedient that the District Board should be authorised to construct new waterworks and obtain a further supply of water for the use of the asylum :

And whereas it is expedient that the District Board should be empowered to acquire land and to construct a reservoir and the other works in connection with the said additional supply of water :

And whereas it is expedient that the expense of the works by this Act authorised and of the lands to be acquired by the District Board under the authority of this Act and the expense of this Act should be apportioned among and assessed upon the landward parts of the counties of Midlothian and Peebles and upon the burghs of Musselburgh and Peebles within the district of the District Board as if such expenses had been expenses incurred under the provisions of the Lunacy (Scotland) Act 1857 :

And whereas it is expedient that the District Board should be authorised to borrow money on the security of such assessments for the purposes of this Act:

And whereas plans and sections showing the lines and levels of the works authorised by this Act and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act have been deposited with the principal sheriff clerk of the county of Midlothian in his office at Edinburgh 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 :—

Short title.

1. This Act may be cited as the Midlothian and Peebles District Board of Lunacy (Water Supply) Act 1898.

Incorporation of Acts.

2. The following Acts and parts of Acts (so far as the same respectively are applicable for the purposes and are not inconsistent

with the provisions of this Act) are hereby incorporated with and form part of this Act:—

The Lands Clauses Acts:

Clauses 2 and 3 of the Waterworks Clauses Act 1847 and also the clauses and provisions of that Act—

With respect to the construction of waterworks;

With respect to the construction of works for the accommodation of lands adjoining waterworks;

With respect to mines;

With respect to the breaking up of streets for the purpose of laying pipes;

With respect to the provision for guarding against fouling the water of the Undertakers;

With respect to the recovery of damages not specially provided for and of penalties and to the determination of any other matter referred to justices or to the sheriff; and

With respect to access to the special Act:

The provisions of the Waterworks Clauses Act 1863 with respect to the security of the reservoir constructed by the Undertakers:

And 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 and the crossing of roads and other interference therewith.

Interpretation.

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

The expression "the General Board" means the General Board of Commissioners in Lunacy for Scotland constituted by the Lunacy (Scotland) Act 1857;

The expression "the District Board" means the Midlothian and Peebles District Board of Lunacy for the landward portion of Midlothian and county of Peebles;

The expression "the district" means the district of the District Board;

The expression "the asylum" means the Midlothian and Peebles District Asylum known as Rosslynlee Asylum;

The expression "the special Act" means this Act;

The expression "schoolmaster" means the clerk of the parish council or person acting as such clerk;

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The expression "the sheriff" means the sheriff of the sheriffdom of the Lothians and Peebles;

The expressions "the Undertakers" "the Company" and "the promoters of the undertaking" mean the District Board.

Power to construct works and acquire lands.

4. Subject to the provisions of this Act the District Board may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works herein-after described with all necessary and proper works and conveniences connected therewith and may enter upon take and use such of the lands and streams and waters delineated on the said plans and described in the deposited books of reference as may be required for that purpose:

The works herein-before referred to and authorised by this Act are situate in the county of Midlothian and are—

(1) A storage reservoir (Work No. 1) (herein-after called "the reservoir") commencing at a point in the fence or hedge separating the fields numbered 214 and 217 on the Ordnance Survey map of the $\frac{1}{2500}$ scale of the parish of Lasswade published at Southampton in one thousand eight hundred and ninety-four thirty yards or thereby measured along said fence in an easterly direction from the south-west corner of the said field No. 217 and terminating in an embankment to be formed in the fields numbered 215 and 217 on the said map which said embankment will commence at a point one hundred and forty yards or thereby measured in a south-easterly direction from the north-west corner of said field No. 215 and one hundred yards or thereby measured in a southerly direction from the most northerly point of said field No. 215 and which will terminate at a point in said field No. 217 two hundred and ten yards or thereby measured in a north-easterly direction from the south-west corner of the said field No. 217 and eighty-three yards or thereby measured in a northerly direction from the north-west corner of the said field No. 215:

(2) Filters and pure water tank (Work No. 2) to be situated in the said field No. 217 at a point three hundred and sixty yards or thereby measured in an easterly direction from the south-west corner of said field No. 217 and two hundred and sixty yards or thereby measured in a southerly direction from the north-east corner of the said field No. 217:

(3) A road of access (Work No. 3) to the reservoir and the filters and pure water tank before described commencing at a point at the said south-west corner of the said field No. 217 and terminating at the said pure water tank:

(4) An aqueduct conduit or line of pipes (Work No. 4) from the reservoir to a point in the grounds occupied by the asylum ex adverso and close to the most northerly corner of the main building of the asylum.

Power to make and maintain embankments &c.

5. The District Board may subject to the provisions of this Act and in connection with the principal works herein-before described make and maintain all necessary and proper embankments dams weirs bridges roads approaches ways wells tanks basins gauges filter beds fountains standpipes sluices outlets outfalls drains discharge pipes adits shafts tunnels aqueducts culverts cuts channels conduits mains pipes junctions valves engines buildings apparatus and other conveniences in connection with the said works or any of them or necessary or convenient for diverting impounding taking collecting storing conducting distributing and regulating the supply of water for the purposes herein-after mentioned and for compensating all persons whose supply of water may be affected by or in consequence of the works herein-before described or the other powers of this Act and for inspecting maintaining repairing altering cleansing managing and using the said several works but nothing in this Act shall exonerate the District Board from any indictment action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them under the powers of this section.

Temporary occupation of lands.

6. The provisions with respect to the temporary occupation of lands of the Railways Clauses Consolidation (Scotland) Act 1845 as incorporated with this Act shall apply only to the reservoir authorised by this Act and works immediately connected therewith and the provisions of sections 25 and 26 of that Act shall apply also to all the other works by this Act authorised and for the purposes of this Act those provisions shall be read as if the reservoir and works were therein mentioned instead of the railway and the boundaries of the reservoir and works instead of the centre of the railway and the prescribed limits shall be two hundred yards from such boundaries.

Limits of lateral and vertical deviation.

7. Subject to the provisions of this Act the District Board may in the construction of the works by this Act authorised deviate from the lines thereof as shown on the deposited plans to any extent not exceeding the limits of deviation defined on the said plans and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding in the case of the reservoir three feet upwards and three feet downwards and not exceeding three feet upwards and ten feet downwards as regards the other works by this Act authorised Provided that the District

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Board shall not in the exercise of the powers of deviation hereby conferred construct the embankment or retaining wall of the reservoir so that the height thereof above the general surface of the ground shall be more than three feet greater than the height of the corresponding embankment or retaining wall above the general surface of the ground shown on the deposited sections or raise any part of the pipes above the surface of the ground which are not shown to be so on the deposited sections and then only to the extent so shown.

Power to alter roads &c. temporarily.

8. During the execution of the several works which the District Board are by this Act authorised to make and subject to the provisions of this Act the District Board may alter or stop up temporarily any roads lanes paths bridges passages sewers drains watercourses gas pipes water pipes and electric apparatus in any of the lands shown on the deposited plans and specified in the deposited books of reference which they may from time to time find it expedient for any of those purposes so to interfere with the District Board doing as little damage as possible and providing substitutes for any sewers drains gas pipes or water pipes or electric or other machinery or apparatus so interfered with and making full compensation to all persons injuriously affected by the exercise of the powers of this section Provided that nothing in this section shall extend to authorise any interference with electric apparatus or other property of Her Majesty's Postmaster-General Provided also that nothing in this section shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 to 1890 otherwise than in accordance with the provisions of section 15 of the Electric Lighting Act 1882.

Power to take servitudes &c. by agreement.

9. Persons empowered by the Lands Clauses Acts to sell and convey or dispose of lands may if they think fit subject to the provisions of those Acts and of this Act grant to the District Board any servitude right or privilege (not being a servitude of water in which other than parties to the agreement have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and annual feu duties or ground annuals so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively.

Power to acquire servitude only for lines of pipes.

10. The District Board may in lieu of acquiring any lands for the purpose of the aqueduct conduit or line of pipes by this Act authorised acquire such servitudes and rights in such lands as they

may require for the purpose of making maintaining cleansing and repairing the same and may give notice to treat in respect of such servitudes and rights and may in such notice describe the nature thereof and the several provisions of the Lands Clauses Acts (inclusive of those with regard to limited owners and to arbitration and the summoning of a jury) shall apply to such servitudes and rights as fully as if the same were lands within the meaning of such Acts:

Provided that nothing herein contained shall authorise the District Board to acquire by compulsion any such servitude in any case in which the owner in his particulars of claim shall require the District Board to acquire the lands in respect of which they have given notice to treat for the acquisition of a servitude only and every notice to treat for the acquisition of a servitude shall be endorsed with notice of this proviso:

Provided that as regards any lands used by the District Board for the purpose of such aqueduct conduit or line of pipes the District Board shall not (unless they give notice to treat for and have acquired such lands and not merely servitudes therein) be required or entitled to fence off or sever such lands from the adjoining lands but the owners or occupiers for the time being shall at all times after the completion of the works have the same rights of passing over such lands for all purposes of or connected with the use or enjoyment of the adjoining lands as if such lands had not been used by the District Board.

Power to divert and impound water of streams springs &c.

11. Subject to the provisions of this Act the District Board may divert intercept impound take appropriate store use and distribute for the purposes of the asylum and the other purposes of this Act the waters of the burn or stream which flows through the lands of Newbigging Farm and of all or some of the affluents of that stream or burn which waters now flow into and along the Shiel or Dalhousie Burn and also all streams springs and water flowing into or arising within the site of the reservoir and which can be collected by the reservoir or which may be found in or under any of the lands acquired under the provisions of this Act or belonging to the District Board.

Compensation water.

12. As compensation to all millowners and other persons interested for the waters to be taken intercepted abstracted and appropriated for the purposes of this Act the District Board shall before they commence to supply water to the asylum from the reservoir by this Act authorised cause to be discharged from the reservoir into the course of the Shiel or Dalhousie Burn a daily quantity of water amounting to thirty-nine thousand seven hundred and eighty gallons which shall be discharged in a continuous

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and uniform flow during the whole period of twenty-four hours of each day.

District Board to construct gauge.

13.—(1) The District Board shall erect and construct and for ever maintain a proper and sufficient measuring gauge over or through which the said quantity of compensation water which the District Board are by the provisions of this Act bound to discharge from the reservoir shall flow or be discharged and such gauge shall be at all times open to the inspection examination and testing of all parties having a legal interest in the water so to flow or be discharged through or over the same and of their respective agents.

(2) Whenever such gauge shall be out of repair inaccurate or insufficient and the District Board shall fail to repair and make good the same within fourteen days after notice in writing by any party having a legal interest in the water flowing or discharged through or over the same or by his agent then the District Board shall be liable to pay to the party complaining a penalty not exceeding five pounds for every day on which such gauge shall remain in a state of disrepair or inefficiency after the lapse of the period before mentioned which penalty may be recovered in any court of competent jurisdiction.

Restriction on taking houses of labouring class.

14. The District Board shall not under the powers of this Act purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1897 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" means 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.

Period for compulsory purchase of lands.

15. The powers of the District Board for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Period for completion of works.

16. If the works authorised by this Act are not completed within five years from the passing of this Act then on the expiration of such period the powers by this Act granted to the District Board

for executing the same or in relation thereto shall cease except as to so much thereof as is then completed but nothing herein contained shall restrict the District Board from extending enlarging altering or renewing any of their conduits mains engines machinery weirs tanks pipes and other waterworks from time to time as occasion requires for supplying water to the asylum.

Power to hold lands needful to prevent fouling and to protect water.

17. The District Board may hold any lands acquired by them under this Act and which they may deem necessary for the purpose of preventing the fouling of the water of any stream flowing into any of their waterworks or for the protection of their waterworks against nuisances encroachments or injury and so long as such lands shall be so held they shall not be deemed to be superfluous lands within the meaning of the Lands Clauses Acts but the District Board shall not create or permit a nuisance on the lands while so held by them nor erect any buildings thereon except such buildings and works as may be incident to or connected with their waterworks.

For protection of reservoir from pollution.

18. The District Board may on any lands or in any stream or watercourse to which they now have right or which they may hereafter acquire under the powers of this Act or otherwise construct all such drains channels and other works as they think necessary or desirable for preventing sewage or polluting liquids from entering or polluting any reservoir conduit or watercourse of the District Board or any waters flowing into the same.

Cost of works to be deemed expenses incurred in pursuance of the Lunacy (Scotland) Act 1857.

19. All the costs to be incurred by the District Board in constructing and completing the waterworks by this Act authorised and in acquiring the lands authorised to be purchased by the District Board under this Act together with the costs charges and expenses of and incident to the preparing for obtaining and passing of this Act if the District Board so determine shall be ascertained apportioned raised and levied in such and the like manner as the expense of providing any new asylum for the district or making any enlargement or alteration of the asylum is directed by sections 53 and 54 of the Lunacy (Scotland) Act 1857 to be ascertained apportioned raised and levied and as if such costs had been expenses for those purposes or some of them.

Power to District Board to borrow.

20. The District Board may from time to time borrow on the security of the assessments to be levied under the Lunacy (Scotland) Act 1857 and this Act all or any of the moneys required for the purposes of this Act as if the same had been borrowed in pursuance of section 61 of the Lunacy (Scotland) Act 1857 and all the provisions of that Act with reference to moneys borrowed under

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that Act shall apply to the moneys borrowed under this Act as if they had been moneys borrowed under the authority of that Act.

Surplus funds of District Board may be applied to purposes of Act.

21. The District Board may apply to any of the purposes of this Act to which capital is properly applicable any funds belonging to them and which may not be required for the purposes for which the same were authorised to be borrowed.

Application of moneys borrowed.

22. All sums borrowed by the District Board under the authority of this Act shall be applied by the District Board only to purposes of this Act to which capital is properly applicable.

Protection of lender from inquiry.

23. No person lending money to the District Board shall be bound to inquire as to the observance by the District Board of any provision of the Lunacy (Scotland) Act 1857 or this Act or be bound to see to the application or be answerable for any loss or non-application of such money or any part thereof.

Costs of Act.

24. The costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be levied and raised in manner herein-before provided or be paid by the District Board out of any funds or moneys belonging to them.

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