CHAPTER cix.

An Act to confirm a Provisional Order under the Public Health (Scotland) Act, 1867, and Acts amending the same, relating to Motherwell Water. [26th July 1889.]

A.D. 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 Motherwell Water Supply Confirmation Act, 1889. Short title.

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SCHEDULE.

MOTHERWELL WATER.

Public Health (Scotland) Act, 1867, *and Acts amending the same.*

Provisional Order.

Whereas by the Public Health (Scotland) Act, 1867, it is enacted, section eighty-eight, that "with respect to burghs having a population of ten thousand "or upwards, according to the census last taken, or having a local Act for "police purposes, it shall be lawful for the local authority, if they think it "expedient so to do, to contract or arrange with any water company "established by Act of Parliament for a supply of water; or where there "is no such company, themselves to provide a supply of water to such "extent as may be necessary for the sanitary and other public purposes of this "Act":

Whereas by the said Act it is, inter alia, enacted, section eighty-nine, 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 whereas, by the Public Health (Scotland) Amendment Act, 1871, section one, it is provided:—"That when the local Act for police purposes of any burgh "does not make suitable and sufficient provision for a supply of water for the "domestic use of the inhabitants, or does not authorise an assessment to be "levied for that purpose (as to which questions the decision of the sheriff on a "requisition made to him by ten inhabitants shall be final) then such burgh "shall be held to come under the provisions contained in sections eighty-nine

" and ninety-four of the said first recited Act," (the Public Health (Scotland) Act, 1867), "and not under those contained in sections eighty-eight and ninety-five of the said Act."

And whereas it is further provided by the said first-recited 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 lands, 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 the Police Commissioners of the burgh of Motherwell, in the parishes of Dalzell and Hamilton, and county of Lanark, acting under the General Police and Improvement (Scotland) Act, 1862, which is in force within the said burgh are the local authority within the said burgh under the said Public Health (Scotland) Act, 1867 (and who are herein-after called "the Commissioners"), and which burgh has no local Act for police purposes:

And whereas a petition under the provisions of the Public Health (Scotland) Act, 1867, and the Public Health (Scotland) Amendment Act, 1871, and the Public Health (Scotland) Act, 1867, Amendment Act, 1882, has been presented to me, as Secretary for Scotland, by the Commissioners, as the local authority aforesaid, setting forth, among other things, that the petitioners in 1877 introduced a supply of water into the burgh of Motherwell, and that the population of the said burgh has since then greatly increased, and now numbers about 17,698, and that the industries within the burgh have also largely increased, and it has become a large centre of trade and manufacture, and largely consists of an industrial population, and that the supply of water to the said burgh has for several years proved inadequate to its necessities and requirements, and that it would be of great advantage to the inhabitants of the said burgh if the petitioners were authorised to obtain an additional supply of water for the domestic use of the said inhabitants, and for trading and manufacturing and other purposes, under the provisions of the said Public Health (Scotland) Act, 1867, and Acts amending the same; and that the petitioners proposed to construct works for the purpose of affording such supply of water, and to purchase and take, under the powers and provisions of the Lands Clauses Consolidation

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(Scotland) Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, which Acts are herein termed and referred to as "The Lands Clauses Acts," the lands and water required for the purposes of the said water supply and the said works, all which lands, water and works are or will be situate in the parishes of Carluke and Carstairs, and county of Lanark, and that the petitioners had 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 prayed that a Provisional Order might 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, and a plan, describing the works to be constructed and the lands and waters 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 and water, have been signed by me with reference to this Order, and will be deposited with the sheriff clerk of the county of Lanark, at his office in Lanark:

48 & 49 Vict. c. 61.

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 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—

1. The expression "the special Act" in the Lands Clauses Acts and in the provisions of the Waterworks Clauses Act, 1863, herein after incorporated 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; 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.

2. 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.

3. The Commissioners may put in force, with reference to the lands and water described on the said plan and in the said book of reference, the provisions of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement.

4. The Commissioners, in constructing the works described on the said plan, 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 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 deposited plan 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 light work of any height, which for the time being may be necessary or proper for the purposes of this Order.

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

6. 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 the Act confirming 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" 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 eighth day of April, 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
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