CHAPTER cvi.

An Act to confirm a Provisional Order under the Public Health (Scotland) Act, 1867, relating to the burgh of Lochgelly, in the county of Fife. [4th July 1878.]

A.D. 1878.

WHEREAS a Provisional Order made by one of Her Majesty's Principal Secretaries of State under the Public Health (Scotland) Act, 1867, is not of any validity unless the same has been confirmed by Act of Parliament: 30 & 31 Vict. c. 101.

And whereas Her Majesty's Principal Secretary of State for the Home Department has, under the said Act, duly made the Provisional Order contained in the schedule annexed to this Act, and it is expedient that the said Order should be so confirmed:

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:

Provisional Order confirmed.

1. The Provisional Order contained in the schedule annexed to this Act is hereby confirmed, and all the provisions contained in the said Order shall, from and after the passing of this Act, have the same validity and force as they would have if enacted in the body of this Act.

Act to be a Public Act.

2. This Act shall be deemed to be a Public General Act of Parliament.

Short title.

3. This Act may be cited as the Public Health (Scotland) Act, 1867, Order Confirmation (Lochgelly) Act, 1878.

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THE SCHEDULE.

Public Health (Scotland) Act, 1867.

LOCHGELLY.

WHEREAS by the Public Health (Scotland) Act, 1867, 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 afore-"said 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;" as also that "the local authority, if they have any surplus water after fully supply-"ing what is required for domestic purposes, may supply water from such "surplus to any public baths and wash-houses 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 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 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 the Commissioners of Police of the burgh of Lochgelly, in the county of Fife, under the General Police and Improvement (Scotland) Act, 1862, (herein-after called "the Commissioners,") which burgh contains less than ten thousand inhabitants, and has no Local Act for police purposes, are the local authority within the said burgh under the Public Health (Scotland) Act, 1867:

And whereas a petition under the provisions of the Public Health (Scotland) Act, 1867, has been presented to me, as one of Her Majesty's Principal Secretaries of State, by the Commissioners, setting forth that the present water supply to the said burgh is insufficient and impure, and that it would be of great advantage to the inhabitants thereof if the petitioners were authorised to obtain a supply of water under the provisions of the said Public Health (Scotland) Act, 1867, and that for the purpose of affording such supply of water the petitioners proposed under the provisions of the said last-mentioned Act and the Lands Clauses Consolidation (Scotland) Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, which two last-mentioned Acts are herein termed and referred to as "the Lands Clauses Acts," to take land and other property for the execution of the proposed works, and works and conveniences connected therewith, and for all purposes necessary for providing such supply of water; and to intercept and divert into the reservoirs proposed to be constructed, and therein to impound the waters of the Lochornie Burn and the tributaries and affluents thereof, and all other waters and springs which the said reservoirs might intercept; and that the petitioners had published the advertisements 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, property, and waters before 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 mentioned in the said petition, I have resolved to grant the prayer thereof; and a plan describing the reservoir, service reservoir, and aqueducts, conduits, or lines of pipes to be constructed, and the lands, property, 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 the said lands, property, and waters, 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 vested in me by the Public Health (Scotland) Act, 1867, I, as one of Her Majesty's Principal Secretaries of State, do, by this Provisional Order under my hand and seal, direct that from and after the passing of any Act of Parliament confirming the same:

1. It shall be lawful for the Commissioners, as the local authority under the Public Health (Scotland) Act, 1867, within the said burgh of Loch-

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gelly to put in force with reference to the lands, property, and waters 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 land otherwise than by agreement:

2. In constructing the works described on the said plan the Commissioners 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 on said plans, to any extent not exceeding five feet upwards and five feet downwards:

3. As full compensation for the taking and appropriating of the waters which the Commissioners are, under the Public Health (Scotland) Act, 1867, the Lands Clauses Acts, and this Order, empowered to take, the Commissioners, after the intended reservoir to be situate on the Lochornie Burn is completed and filled with water, shall cause to flow from the said reservoir into the channel of the Lochornie Burn a quantity of water not less than sixty thousand gallons each day, and shall construct and for ever after maintain a suitable measuring gauge over or through which the said compensation water shall flow or be discharged; and such gauge shall be open to the inspection and examination of the several persons interested in the water so to flow or be discharged through or over the same; and if at any time such gauge shall be in an unfit state of repair or condition for the purpose for which it is intended, the same shall forthwith be put into a proper and efficient state of repair and condition by and at the expense of the Commissioners; or if they fail so to do within seven days after notice given to them by or on behalf of any of the persons interested as aforesaid requiring the Commissioners so to do, it shall be lawful for any person so interested to cause such works to be done and performed in connexion with the said gauge as shall be necessary for placing it in a proper and efficient state and condition, and to recover the expenses of such works with full costs of suit against the Commissioners in any court of competent jurisdiction:

4. And whereas the villages of Kelty and Oakfield, and district adjoining, in the parish of Beath and county of Fife, are situate between the source of the proposed water supply and the said burgh, and the said villages and district have been formed into a special water supply district under the Public Health (Scotland) Act, 1867, the said special water supply district being the district first mentioned in the minute of meeting of the local authority of the said parish of Beath held on the sixth day of July, one thousand eight hundred and seventy-seven, the Commissioners, in the event of the local authority of the said special water supply district intimating in writing to the Commissioners within two months after this Order is confirmed by Act of Parliament that they are desirous to obtain a supply of water for said district from the Commissioners, and require the Commissioners to furnish such supply, shall, at some part of their waterworks to be fixed by the Commissioners,

furnish in bulk to the local authority of the said special water supply district a supply of water whereof the quantity, not at any time exceeding twenty thousand gallons per day of twenty-four hours, unless otherwise mutually arranged, shall be specified by the said local authority, and that on such terms, and subject to such conditions, and in perpetuity, or for such period of time as may be agreed on between the Commissioners and the said local authority, and failing agreement within three months after this Order is confirmed by Act of Parliament, then on such terms and conditions, and in perpetuity, or for such period of time as shall be fixed by an engineer to be appointed by the sheriff of the county of Fife on the application of either party:

5. The expression "the special Act" in the Lands Clauses Acts 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 Lochgelly, 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 24th day of April 1878.

(L.S.) Rd. Assheton Cross.

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