CHAPTER xii.

An Act for confirming a Provisional Order made under the "Public Health (Scotland) Act, 1867," relating to the Barony of Fraserburgh in the county of Aberdeen. A.D. 1875.

[13th May 1875.]

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:

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, Orders Confirmation Act, 1875 (No. 2)."

THE SCHEDULE.

Provisional Order relating to the Burgh of Barony of Fraserburgh, in the County of Aberdeen.

FRASERBURGH.

PUBLIC HEALTH (SCOTLAND) ACT, 1867.

(30 & 31 Vict. c. 101.)

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 10,000, 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 it is further provided by the said Act, section ninety, that upon compliance with the provisions and regulations 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 purpose for which it is required, and the names of the owners, lessees, and occupiers of such 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 the land so intended to be taken, 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 on 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 one of them:

And whereas the Commissioners of Police of the burgh of barony of Fraserburgh, in the county of Aberdeen, which contains less than 10,000 inhabitants, under "The General Police and Improvement (Scotland) Act, 1862," (hereinafter called the Commissioners,) are the local authority within the said burgh of barony under the "Public Health (Scotland) Act, 1867," and the "Public Health (Scotland) Amendment Act, 1871:" And whereas a petition under the provisions of the "Public Health (Scotland) Act, 1867," and of the "Public Health (Scotland) Amendment Act, 1871," has been presented to me, as one of Her Majesty's Principal Secretaries of State, by the Commissioners, setting forth,—(1) that the Commissioners intend, in virtue of the powers contained in the said Acts, to bring a supplementary supply of water by drainage from the farm of Bridge-end, in the parish of Aberdour and county of Aberdeen, and to convey the same by means of an aqueduct, with branch drains, appurtenances, and works, according to a plan referred to in said petition, commencing on the said farm of Bridge-end at the point therein specified, and continuing to the point of junction on the farm of Mid Ardlaw with the existing aqueduct which commences on said last-mentioned farm and leads from said point of junction to the town of Fraserburgh; (2) to bring a supply of water from the burn of Tyrie, the mill dam and the tail race of the mill of Tyrie, and from the overflow of the spring well at the heading of the farm of Mains of Tyrie, for the purpose of discharging in all not less than 10,000 gallons nor more than 11,000 gallons of water every 24 hours into the Glashiemyre Burn at the point marked A on the said plan, in fulfilment of the obligation of the Commissioners to the Reverend Alexander Henry Bridges of Ardlaw and the tenant of his farm at Mid Ardlaw and contained in the Provisional Order obtained by the Commissioners, of date the 7th day of May 1870, and in the Act confirming the same entitled "The Public Health (Scotland) Supplemental Act, 1870;" (3) to make and construct works to render the bottom of said Glashiemyre Burn water-tight, and to make and construct watering-places for cattle, and to divert the drain specified in the said petition; (4) to lay down, make, and construct a conduit, with appurtenances and works, between the points mentioned in said petition; and further setting forth that for the purpose of supplying such water to the said town, and fulfilling the said obligation, and executing the afore-mentioned works, it would be necessary for the Commissioners to acquire certain lands described on the said plan, being the plan herein-after mentioned, and also described in the book of reference herein-after mentioned, under the provisions of the "Lands Clauses Acts" with respect to the purchase and taking of lands otherwise than by agreement, and that the Commissioners had published the advertisements and served the notices required by the 90th section of the first-recited Act, and the said petition prayed that a Provisional Order might be made

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enabling the Commissioners to put in force the said provisions of the Lands Clauses Acts with respect to the said lands:

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, but subject to the conditions, alterations, and modifications after specified; and a plan describing the waterworks to be constructed, and the lands intended to be taken for the purposes thereof, and a book of reference to the said plan, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of such lands, have been signed by me with reference to this Order, and have been deposited with the sheriff clerk of the county of Aberdeen at his office at Peterhead:

Now, therefore, in virtue 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 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 within the said burgh of barony of Fraserburgh, to put in force with reference to the lands 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.

2. With reference to this Order the following expressions in the Lands Clauses Acts shall have the meanings hereby assigned to them; that is to say, the expression "promoters of the undertaking" shall mean the Commissioners; and the expression "the special Act" shall mean this Order and the Act confirming the same; 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 rights thereto.

3. The works described on the said plan shall be executed as shown thereon, but subject to the alterations and modifications after mentioned, to wit, that in lieu of the works specified in the second and third purposes set forth in said petition, in so far as these consisted of or dealt with alterations on the Glashiemyre Burn, the Commissioners shall lay a pipe along the north side of the said burn, at a distance of ten feet therefrom, to carry the supply of water referred to in the said second purpose; that six spills shall be made in the course of the said pipe, and that a trough for watering cattle shall be placed by the Commissioners in the line of said burn opposite each of said spills as delineated on said plan; that the said pipe shall be an iron or sealed-clay pipe of four inches diameter from the point marked A. to the point marked D. on the said plan, and of three inches diameter from the said point marked D. to the point marked X. on the said plan, the burn not to be puddled or otherwise interfered with except as hereinafter provided; that the said pipe shall be laid from two to three feet below the surface of the soil; that the Commissioners shall put in the said pipe and troughs and shall maintain them and the said water supply therein; that the Commissioners shall provide two overflows, one at the east and one at the west

manhole on the existing aqueduct; the level of the bottom of the overflow at the east manhole (D. on the said plan) shall be six inches above the top of the outgoing aqueduct, and the level of the bottom of the overflow from the west or upper manhole shall be one foot four inches above the top of the outgoing aqueduct; that the Commissioners shall provide for preventing water continuing above these levels; that the said Reverend Alexander Henry Bridges, or the proprietor of Ardlaw for the time, and Alexander Farquhar Robertson, or the tenant of the farm of Mid Ardlaw for the time, shall be entitled to require the Commissioners to deepen the Glashiemyre Burn to an extent sufficient to permit of the water being at all times freely discharged through said overflows at the said levels in the manholes into the said burn and no more; that the Commissioners shall, in place of the pipe proposed to be laid from the point N. to the point marked L. on the said plan, lay down a sealed pipe from the point marked N. to near the point marked D. on the said plan, parallel to the existing drain, from the point marked L. to the point marked D. on the said plan, the drain from L. to D. to remain as it is; that the said sealed pipe shall have a spender into the said Glashiemyre Burn at its junction with the aqueduct at the same level as the spender at the manhole marked D. on the said plan; that the drain or conduit mentioned in the third purpose of the petition, and delineated on the said plan as leading from near the point marked D. to near the point marked E., shall be made to discharge into the said Glashiemyre Burn at a point five yards or thereby west of the junction of the dykes at the said point marked E.; that the said supply of not less than 10,000 gallons, nor more than 11,000 gallons, authorised to be obtained from the said burn of Tyrie, the mill dam and the tail race of the mill of Tyrie, and from the overflow of the spring well at the heading of Mains of Tyrie, shall only be taken from the said mill dam in cases of emergency, when it cannot be obtained from the other sources of supply just mentioned, and that the said supply shall only be taken from the tail race and mill dam so long as the said mill of Tyrie is kept up by the Right Honourable Alexander Fraser Lord Saltoun, and his successors, as heritable proprietors thereof; and in order to enable all concerned to ascertain that the said supply of water is maintained and not exceeded, the Commissioners shall be bound to give to the said Lord Saltoun, the said Reverend Alexander Henry Bridges, and his tenant of the farm of Mid Ardlaw, and their successors or others authorised by them, access to the manhole at the point A. as delineated on said plan for the purpose of their measuring the quantity of water discharged from the inlet pipe, and the Commissioners shall be bound to place and maintain a permanent horizontal rod or bar across the mouth of the four-inch service pipe at the said manhole at A., in such a position as shall be found to indicate that the said supply of eleven thousand gallons can flow into the tank delineated on said plan under the rod or bar, and no more; that in the event of the said mill of Tyrie not being kept up by the said Lord Saltoun or his foresaids, he and they shall then be bound to return the mill-water to the course of the said burn of Tyrie, at a point above the inlet-pipe on the said burn, near the point Aa., as delineated on the said plan.

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4. The alterations and modifications of the said works set forth in section three hereof shall be executed to the satisfaction of William Boulton, civil engineer, Aberdeen, and, failing him, of any other civil engineer to be nominated by the sheriff of Aberdeen and Kincardine, on the application of the Commissioners or others interested.

Given under my hand and seal at Whitehall, this sixteenth day of February one thousand eight hundred and seventy-five.

RICHD. ASSHETON CROSS. (L.S.)

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