CHAP. cxlvi.

An Act to confirm a Provisional Order under the "Public Health (Scotland) Act, 1867," relating to the Burgh of Crieff. [24th July 1871.]

A.D. 1871.

WHEREAS the Secretary of State for the Home Department, being one of Her Majesty's Principal Secretaries of State, has, under the provisions of the "Public Health (Scotland) Act, 1867," duly made the Provisional Order which is contained in the Schedule to this Act annexed, and it is provided by the said Act that no such Order shall be of any validity unless the same has been confirmed by Act of Parliament, and it is expedient that the said Order should be so confirmed:

30 & 31 Vict. c. 101.

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:

Confirmation of Provisional Order.

1. The Provisional Order contained in the Schedule to this Act annexed shall be and is hereby confirmed, and all the provisions thereof shall, from and after the passing of this Act, be valid and have the like force and effect as if the same were specially enacted in this Act.

Short title.

2. This Act may be cited as "The Public Health (Scotland) Supplemental Act, 1871."

A.D. 1871.

SCHEDULE referred to in this Act.

CRIEFF.

Public Health (Scotland) Act, 1867.

(30 & 31 Vict. c. 101.)

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 pur- "pose 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 90, 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 purposes 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 any of them, and either absolutely or with such conditions and modifications as he may think fit:

And whereas the commissioners of police of the burgh of Crieff in the county of Perth (which burgh contains less than ten thousand inhabitants), under "The General Police and Improvement (Scotland) Act, 1862," 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 of police of the said burgh, and as the local authority of the said burgh, setting forth that the present supply of water to the said burgh is insufficient, and that it would be of great advantage to the inhabitants if the petitioners were authorised to obtain an additional supply of water under the provisions of the said "Public Health (Scotland) Act, 1867," and that for the purpose of supplying water for the domestic use of the inhabitants of said burgh it would be necessary to take and acquire 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," (1) water to an extent not exceeding thirty-six thousand cubic feet daily from Loch Turret, situate wholly on the property of Sir Patrick Keith Murray, Baronet, of Ochtertyre, and within the united parish of Monzievaird and Strowan and county of Perth, to be conveyed in a conduit or line of pipe to commence in said loch at a point six yards or thereabout northwards from the north-east end of the waste weir in the dam-dyke of said loch, and to terminate in a service reservoir to be constructed on lands commonly called the Knock of Crieff, belonging to the trustees of the late Lady Willoughby De Eresby, and from said service reservoir to be conveyed in a conduit or line of pipe terminating in the High Street of said burgh at a point eighty-five yards or thereabout in a westerly direction from the County Court Room in said street; and (2) that for the purpose of supplying such water to the said burgh it would be necessary for the petitioners to acquire certain lands and water, described on the plan and 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 petitioners 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 empowering the petitioners to put in force, with reference to the lands, loch, and water therein mentioned, the said provisions of the Lands Clauses Acts:

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 waterworks to be constructed, and the lands, loch, and water intended to be taken for the purposes thereof, 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, loch, and water, have

A.D. 1871.

been signed by me with reference to this Order, and will be deposited with the sheriff clerk of the county of Perth at his office in Perth:

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, direct, that from and after the passing of any Act of Parliament confirming the same—

1. It shall be lawful for the commissioners of police of the said burgh of Crieff, and, as such, the local authority within the said burgh, to put in force, with reference to the lands, loch, and water described on the said plan and in the said book of reference, the powers and provisions of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement.

2. The words "promoters of the undertaking" in the Lands Clauses Acts, and the words "the local authority" in this Order, shall severally be held to mean and include the commissioners of police of the said burgh, and as such the local authority within the said burgh, under the "Public Health (Scotland) Act, 1867;" and the expression "Special Act" in the Lands Clauses Acts 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 right thereto.

3. But this Provisional Order is granted under the following conditions, which shall be taken as part of the Order, viz.:—

(A.) As compensation to the millowners and occupiers of mills and water powers on Turret Burn for the abstraction by the local authority from the natural flow of water from Loch Turret to an extent not exceeding thirty-six thousand cubic feet of water daily, from which flow the supply of water for driving the said mills is derived, the storage of water in the said loch shall be increased by heightening the existing damdyke already erected by the said Sir Patrick Keith Murray, Bart., and his predecessors, over its entire length, and by extending the same at each end thereof, so as to raise the water in the loch to the extent of two feet above the level of the present damdyke, or by erecting a new and sufficient damdyke or embankment in place of the existing damdyke (if that shall be found necessary) so as to raise the water in the loch to the height before mentioned, that is, two feet above the level of the top of the present dyke.

(B.) A cast-iron pipe of not more than twelve inches internal diameter, and of a thickness not exceeding one inch, shall be placed through the damdyke into Loch Turret, to secure the supply of water required by the local authority, the level of the lower side of the outside diameter of the said pipe to be placed nineteen inches below the present level of the sill of the existing sluices, and the level of the sill of the said existing sluices shall be lowered to the level of the upper side of the outside diameter of the said cast-iron outlet pipe which is to supply the water to the burgh of Crieff.

(C.) The sluices at Loch Turret for the use of the mills on Turret Burn shall either be of the same description as at present, or shall be

altered by the local authority to a vertical sluice or sluices, as may be determined by the millowners and their tenants, and failing the millowners and their tenants agreeing among themselves as to the description of the said sluices, then the same shall be fixed by James Leslie, civil engineer, Edinburgh.

(D.) At the lower end of the cast-iron outlet pipe there shall be placed a measuring chest, so constructed as to insure that no more than thirty-six thousand cubic feet of water per diem shall pass to the burgh of Crieff.

(E.) There shall be placed on said outlet pipe a valve to regulate the flow from the loch, and prevent any overflow from the said measuring chest, so as to retain in the loch the water not required to pass for the burgh.

(F.) If the local authority consider that a less quantity than thirty-six thousand cubic feet of water per diem will supply the wants of the burgh, then the sluice valve shall be regulated by the local authority so as to restrict the flow to the quantity required for the wants of the burgh, the local authority to be sole judges of the quantity so required from time to time, but not to exceed the said quantity of thirty-six thousand cubic feet of water per diem.

(G.) The foregoing arrangements shall be carried out at sight of the said James Leslie.

(H.) The damdyke, and the embankments, sluices, and other works to be formed at the loch, shall be constructed and executed at the expense of the local authority to the satisfaction of the said James Leslie, whom failing, one appointed by him, and the said works shall be maintained in proper repair by the local authority in all time coming.

(I.) The local authority shall in all time coming have the sole right and privilege of using the said sluice or sluices for the purpose of securing for the use of the mills and properties on Turret Burn the storage water above the sill of the said sluice or sluices, or of giving such sole right and privilege to the owners of properties on the said burn and their tenants for that purpose.

(K.) The right to be granted by Sir Patrick Keith Murray to the local authority over the said loch, damdyke, and sluices shall be a right of perpetual servitude and use only, and the local authority shall have no right of property in or to Loch Turret, or any part of the lands adjacent or on which the said damdyke and sluices or embankments are placed, or through which the conduit or line of pipe shall be carried, but only the power to erect, maintain, and use the damdyke, embankments, sluices, and conduits or line of pipe as aforesaid, or to erect, maintain, and use new damdykes, embankments thereon, conduits or line of pipe, if such shall at any time be found necessary to raise the water of the loch to the height before mentioned, and shall, on their own responsibility, protect the said works.

(L.) The local authority and the proprietors or occupants of mills shall have no right to enter upon the estate and lands of Ochtertyre, belonging to the said Sir Patrick Keith Murray, except for the purpose of

A.D. 1871.

examining and repairing the works or for regulating the said sluice or sluices, and that only by the usual road thereto.

(M.) The local authority shall make compensation to the said Sir Patrick Keith Murray and his successors for the water so to be abstracted, land to be taken, and all other claims, in terms of a separate agreement and nomination of arbiter to that effect.

(N.) The Right Honorable Lord Elphinstone, the Right Honorable Lord Colville, and Alexander Dundas Ross Wisheart Baillie Cochrane of Lamington, Esquire, as trustees of the late Right Honorable Lady Willoughby De Eresby, proprietors of the mills and waterfalls at Milnab Dalirie, and others; Sir Patrick Keith Murray, Bart., as heir of entail in possession or proprietor of that part of the entailed estate of Ochtertyre which includes the mills and falls of water on Turret Burn passing through said estate; Charles Hunter of Elmbank, Whalley Grange, near Manchester, Edward Lewis of Manchester, banker, and Frederick William Grafton of Manchester, calico printer, trustees for executing the trust created by a contract of marriage entered into between James Forrest Balmain and Miss Henrietta Hunter, proprietors in trust of the lands of Ibert and Dalvreck, and mills and falls of water on Turret Burn, belonging to the said lands; John McLeish and John McNab, trustees on the insolvent estate of James McEwan and Sons, manufacturers, Dalirie, and James Mitchell, manufacturer at North Bridgend of Crieff, all owners of mills and water powers on Turret Burn aforesaid, and their respective successors, shall have the perpetual right and privilege of using the said sluice or sluices in the said damdyke for the use of the said properties and mills, so as to secure therefor the storage of water above the sill of the said sluice or sluices when altered as aforesaid; and Mrs. Drummond, widow of the late John Drummond, distiller at Hosh, liferentrix, and Mrs. Janet Drummond or Hutton, widow, Margaret Drummond, Agnes Lothian Drummond, and Mrs. Catherine Drummond or Rodger, heirs portioners of the said John Drummond, and fiars in right of a building lease granted by the deceased Sir Patrick Murray, Bart., to the said John Drummond, for ninety-nine years from Martinmas 1835; George Morgan, millwright at Turret Bank Mills, holding right under a building lease dated 10th and 13th December 1867, granted by the said Sir Patrick Keith Murray to him for the period of forty years from Whitsunday 1867, and as tenant of the mills above the bridge of Hosh; John McCallum, tenant of the distillery and other subjects at Hosh, and also as tenant of the mills of Ibert and Dalvreck; Peter McIldowie, tenant of the mills of Milnab, Thomas Wright and Son, tenants of the Bark Mill at Dalirie, and John Herron, tenant of the Bone Mill there, all leaseholders, tenants, or occupiers of mills and water power on the said Turret Burn, shall, during the subsistence of their respective leases now current, have the right and privilege of using the said sluice or sluices for the mills and water powers occupied by them as aforesaid, so as to secure to the mills the storage of water above the sill of the said

sluice or sluices as aforesaid, the said owners and tenants paying the wages of the person to be appointed by them for opening and shutting the said sluice or sluices.

(o.) The said owners and their successors in the said lands and mills shall conjunctly and severally, except in the case of Sir Patrick Keith Murray, as after mentioned, in all time coming, and the said lease-holders, tenants, and occupants shall jointly and severally, during the existence of their current leases, pay to the local authority the sum of ten pounds annually for the privilege of permitting water to issue in time of drought through the said sluices into the ordinary bed of the Turret Burn, for the use of the said mills as aforesaid, payable at such times, and, as regards the said tenants and occupants, in such proportions as the said James Leslie shall determine, and the said Sir Patrick Keith Murray shall be bound as proprietor to guarantee such annual payment as shall be fixed by the said James Leslie to be paid by the said tenants of the mills on his property but no farther, and always without prejudice to the foresaid separate deed of agreement and nomination of arbiter, and any decree founded thereon.

(p.) In constructing the works described on the said plan, the local authority may deviate from the line laid down thereon to any extent within the limits of deviation shown on the plan, but so as not to interfere with the provisions and stipulations herein contained.

(q.) The tenants or occupants of mills for the time being at work on Turret Burn shall meet annually on the second Tuesday of May, at twelve o'clock noon, within the County Court Room, Crieff, when the majority of those present shall frame regulations determining the manner in which the said sluice or sluices for the use of said properties and mills on the Turret Burn shall be worked for the ensuing year; and failing such regulations being made then or within eight days thereafter, the same shall be made by the sheriff of the county of Perth, on the application of any party interested therein.

Given under my hand and seal at Whitehall, this second day of June 1871.

H. A. Bruce. (L.S.)

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1871.