CHAPTER xli.

An Act to confirm a Provisional Order made by the Secretary for Scotland under the Public Health (Scotland) Act, 1867, relating to Wemyss, and Buckhaven Methil and Innerleven Water. [3rd July 1894.]

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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: 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:—

Confirmation of Order in schedule.

1. The Order set out in the schedule hereunto annexed shall be and the same is hereby confirmed.

Short title.

2. This Act may be cited as the Wemyss, and Buckhaven Methil and Innerleven Water Supply Confirmation Act, 1894.

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SCHEDULE.

WEMYSS, AND BUCKHAVEN METHIL AND INNERLEVEN WATER SUPPLY.

PUBLIC HEALTH (SCOTLAND) ACT, 1867 (30 & 31 Vict. c. 101.).

Provisional Order.

Whereas by the Public Health (Scotland) Act, 1867 (herein-after called "the Act of 1867") (section 89), it is, inter alia, enacted as follows:—"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, and with respect to parishes (exclusive of any "parts of such parishes as are situated within the district of any local "authority other than the parochial boards of such parishes) (1) 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 "(3) The local authority, if they have any surplus water after fully supplying "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 Act of 1867 (section 90), that upon compliance with the provisions therein contained with respect to advertisements and notices, the local authority may present a petition to one of Her Majesty's Principal Secretaries of State, 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 Consolidation (Scotland) Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860 (both herein-after called "the Land Clauses Acts"), with respect to the purchase and taking of land otherwise than by agreement, and that upon the receipt of such petition, and upon due 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 population of the burgh of Buckhaven, Methil, and Innerleven, in the county of Fife, is less than ten thousand according to the census last taken, and the said burgh has no local Act for police purposes:

And whereas on the twenty-ninth day of September, one thousand eight hundred and seventy, the parochial board of the parish of Wemyss, in the county of Fife, then the local authority of that parish, formed a portion of the said parish into a special water supply district under the Act of 1867, which district was called the special water supply district of East Wemyss:

And whereas on the thirty-first day of August, one thousand eight hundred and eighty-five, the parochial board of the parish of Markinch, in the county of Fife, then the local authority of that parish, formed a portion of the then parish of Markinch into a special water supply district under the Act of 1867, and which district was called the special water supply district of Innerleven:

And whereas by the Public Health (Scotland) Act, 1867, Amendment Act, 1882 (herein-after called "the Act of 1882"), section 3, it is, inter alia, enacted (1) that where there shall exist within the district of any local authority, to which the provisions of the seventy-sixth and eighty-ninth sections of the Act of 1867 respectively apply, a special water supply district, it should be competent to such local authority, upon requisition as therein provided, to meet and consider the propriety of altering the boundaries of such special water supply district, and to resolve upon such alteration of boundaries being effected either (1) by enlarging or limiting the said boundaries, or (2) by combining two or more such special water supply districts, or portions thereof, or (3) by enlarging or limiting the said boundaries, and combining two or more such special water supply districts, or portions thereof:

And whereas the Kirkcaldy District Committee of the County Council of the county of Fife (herein-after called "the District Committee") are, in pursuance of the Local Government (Scotland) Act, 1889, the local authority in the room and place of the parochial boards of the said parishes of Wemyss and Markinch, under the Act of 1867, and Acts amending that Act:

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And whereas on the thirtieth day of July, one thousand eight hundred and ninety-two, the District Committee resolved that the boundaries of the said special water supply district of East Wemyss, formed as aforesaid, should be altered (first) by enlarging such boundaries so as to include the remainder of the parish of Wemyss, but excepting therefrom (A) that portion of the parish of Wemyss which, prior to the making of the order of the Boundary Commissioners for Scotland, of date the twenty-fourth day of November, one thousand eight hundred and ninety, and confirmed by Order in Council of date the twelfth day of January, one thousand eight hundred and ninety-one, and published in the Edinburgh Gazette of date the twenty-seventh day of January, one thousand eight hundred and ninety-one, formed part of the parish of Markinch, and comprehends the said special water supply district of Innerleven; and (B) that portion of the said parish of Wemyss outwith the said special water supply district of Innerleven, situate within the police burgh of Buckhaven, Methil, and Innerleven; and (second) by combining the said special water supply district of East Wemyss as so enlarged with the said special water supply district of Innerleven, formed as aforesaid, with the exception of that portion of the special water supply district of Innerleven as was then, and is now, situated within the police burgh of Buckhaven, Methil, and Innerleven; and that such combined district should be thereafter called "the combined special water supply district of Wemyss":

And whereas on the twenty-third day of August, one thousand eight hundred and ninety-two, the Commissioners of Police of the burgh of Buckhaven, Methil, and Innerleven (herein-after called "the Commissioners"), as the local authority of that burgh, resolved in terms of the said section 3 of the Act of 1882 to alter the boundaries of the special water supply district of Buckhaven, formed by the parochial board of Wemyss, then the local authority therein, at a meeting held on the tenth day of January, one thousand eight hundred and sixty-eight, by enlarging such boundaries and defining the boundaries of such special water supply district to be as follows: commencing at low-water mark at a point immediately to the south of the south corner, formerly William Scott's, now Alexander Patrick's feu; then westerly by said low-water mark until a point is reached twenty feet south-west of the westmost pier of Buckhaven Harbour; then northerly by and in a line of the eastern water's edge of the Den Burn until it touches the north fence of the Buckhaven section of the North British Railway; thence eastwards by said fence until the branch line leading into Muiredge Colliery is reached; thence northerly by the west fence of said line until a point is reached opposite to the north-westmost corner of the hearse house in Brown's wood yard; then eastward by the north fence of Brown's feu until the fence on the west side of the old public road, and which now leads into the Buckhaven Railway goods yard, is reached; thence southward until the north fence of the said Buckhaven Railway is again reached; thence eastward by said north fence until a point is reached in line with the south-east corner of Muiredge Plantation; thence northward by said plantation until a point is reached in line with the fence at the top of the ridge of the hill lying immediately to the north of the railway and of the

low road leading to Methil; thence by and in line with said fence eastwards until the road leading to Methil is reached; thence across said road and by and in line with the fence on the ridge of the field lying to the east of said road until the road leading to Mary Pit is reached; thence across said road and easterly by and in line with the fence running eastwards from said road until the north-eastmost point of the eastmost feu in Innerleven or Dubbieside is reached, and there touches the boundary line of what was formerly the detached portion of the parish of Markinch; thence in a southerly and westerly direction along said boundary till the north-westmost corner of Innerleven Feus (within the formerly detached portion of Markinch) is reached; and then in a south and easterly direction along said boundary in a straight line to low water mark; thence westerly by said low-water mark until a point is reached opposite to and in line with the east face of the eastmost wall of Methil Dock; thence northwards in line and along said fence until the northmost rail of the line of railway running from Leven to Buckhaven is reached; thence along said northmost rail in a westerly direction until a point is reached one hundred and forty feet from the east side of the bridge carrying the railway over the road from Buckhaven Links to Methil; thence by a straight line due south to low-water mark; thence by said low-water mark westwards to the foresaid point immediately to the south of the south-east corner of the said William Scott's, now Alexander Patrick's feu; and thereafter by combining such special water supply district as so enlarged with the said special water supply district of Innerleven, with the exception of that portion of the special water supply district of Innerleven which is now situate outwith the police burgh of Buckhaven, Methil, and Innerleven, such combined district to be thereafter called "the combined special water "supply district of Buckhaven, Methil, and Innerleven":

And whereas by the Secretary for Scotland Act, 1885, all powers and duties vested in or imposed on one of Her Majesty's Principal Secretaries of State by the Act of 1867, and Acts amending the same, were transferred to, vested in, and imposed on the Secretary for Scotland:

And whereas a petition under the provisions of the Act of 1867 has been presented to me as the Secretary for Scotland, by the District Committee and the Commissioners as the local authorities aforesaid, setting forth among other things that the supply of water to the said combined special water supply districts is insufficient, and that it would be of great local advantage and conducive to the public health if the Petitioners were enabled to provide and obtain a more abundant and better supply of water for the domestic use of the inhabitants and occupiers of houses and lands within the combined special water supply district of Wemyss and the combined special water supply district of Buckhaven, Methil, and Innerleven, and adjoining or near to those districts, and for public baths and wash-houses, and for trading or manufacturing purposes within the said combined special water supply districts, or adjoining or near thereto, and for a supply to the inhabitants and occupiers of houses and lands adjoining or near to any part of the intended works herein-after described, and to the local authority of the burgh of Markinch, and to any other special water supply district or districts

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adjoining or near to the said intended works for domestic, trading, manufacturing, and other purposes, under the provisions of the Act of 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 Acts, to purchase and take the lands, springs, streams, waters, roads, and property delineated on the plan and described in the book of reference thereto, both herein-after mentioned, or such of them as will or may be required to be taken or used for the purposes of the said water supply, and for or in connection with the execution of the following works, which are more particularly delineated and described on the said plan (that is to say) :—

1st. A reservoir to be situated on the Conland Burn, and on the lands adjacent thereto, commencing at a point in the said burn one thousand one hundred and ten yards or thereabout, and terminating by an embankment to be formed across the said burn at a point five hundred and seventy-seven yards or thereabout, both measured in a north-westerly direction, from the north-west corner of Coul Farm Steading, together with a byewash channel commencing at a point in the said burn one thousand one hundred and thirty yards or thereabout, and terminating at a point in the said burn five hundred yards or thereabout, both measured in a north-westerly direction, from the said north-west corner of Coul Farm Steading, and together with a road of access to said reservoir commencing by a junction with the public road called Balfarg Road, number thirty-six of the list of highways in the Kirkcaldy district of the county of Fife, seventy yards or thereabout south-west from Coul Mains, and terminating at or near the proposed embankment of said reservoir; which reservoir and byewash channel and road of access will be situated in the parishes of Falkland, Leslie, and Markinch, or some of them, all in the county of Fife;

2nd. An aqueduct, conduit, or line of pipes commencing in said parish of Markinch, in the reservoir above described, at a point near the intended embankment thereof, and terminating in the parish of Wemyss, in the county of Fife, in the existing service reservoir of the Wemyss Waterworks at Earl's Seat, which aqueduct, conduit, or line of pipes will be situated in, or will pass from, in, through or into the said parishes of Markinch, Leslie, and Wemyss, or one of them;

Together with such embankments, dams, sluices, weirs, gauges, filters and filtering beds, tanks, cisterns, cuts, road of access, and all other works and conveniences connected therewith, as may be necessary or convenient for the purposes of said works, and the giving of such supply of water;

And to intercept and divert into the said intended works, or some of them, the waters of the stream called the Conland Burn, and of any affluents thereof above the embankment forming the point of termination of the intended reservoir herein-before mentioned, or so much of the said waters as may be required for the purposes aforesaid:

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And whereas the said petition further sets forth that the Petitioners had published the advertisements, and deposited the plan and sections and book of reference, and served the notices required by the said section ninety of the Act of 1867, and prayed that a Provisional Order might be made, in pursuance of the provisions of that Act, empowering the Petitioners to put in force, with reference to the lands, springs, streams, waters, roads, and property above 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 contained in the said petition, I have resolved to grant the prayer thereof, and a plan and sections of the said intended works above described, and also describing the lands, springs, streams, waters, roads, and other property 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, springs, streams, waters, roads, and other property, 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 offices at Cupar and Kirkcaldy respectively:

Now, therefore, in pursuance of the powers contained in the Act of 1867, and transferred to and vested in me by the Secretary for Scotland Act, 1885, I, as the Secretary for Scotland, do, by this Provisional Order, under my hand and seal, direct that from and after the passing of an Act of Parliament confirming the same:

Local authorities may put in force powers of Lands Clauses Acts.

1. It shall be lawful for the District Committee and the Commissioners, as the local authorities aforesaid, to put in force, with reference to the lands, springs, streams, waters, roads, and other property delineated and 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 lands otherwise than by agreement. Provided that none of the waters of the Conland Burn or of any affluents thereof shall be intercepted or diverted under the powers of this Order so far as they flow into or through or past any of the lands of the Rothes Estate.

Powers of lateral and vertical deviation.

2. In constructing the works herein-before and on the said plan described, the District Committee and the Commissioners may, where the line of any work shown on the said plan passes along any road and limits of lateral deviation are not marked thereon, deviate laterally from the line thereof as laid down on the said plan to the extent of the boundaries of the road, and elsewhere may deviate laterally from the lines laid down on the said plan to the extent of lateral deviation shown thereon, but not further in either case except with the consent of the owner of the lands through or on which the deviation is made; and may deviate vertically from the levels of the said works, as shown on the said 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 herein-before described of a

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greater height above the general surface of the ground than that shown on the said sections, 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 like work of any height which for the time being may be necessary or proper for the purposes of this Order.

Power to take wayleaves, &c.

3. The District Committee and the Commissioners may, in the execution of the aforesaid works, take wayleaves, easements, servitudes, or other limited rights over lands and other property, subject to such conditions as may be agreed on with the persons interested.

Compensation water.

4. The District Committee and the Commissioners shall, as soon as the waterworks herein-before mentioned and described on the said plan are completed, and water is supplied thereby to the said combined special water supply districts, discharge into, or allow to flow down the Conland Burn below the reservoir, being Work No. 1 herein-before described, a regular and continuous flow of water of not less than two hundred thousand gallons in every day of twenty-four hours, which quantity of water shall be deemed to be full compensation to all owners, lessees, and occupiers of lands, mills, works, and other properties, and to all other persons, for the water intercepted, taken, and appropriated under this Order.

Measuring gauge to be maintained.

5. The District Committee and the Commissioners shall construct, and at all times maintain in sufficient repair, a suitable measuring gauge on the Conland Burn, over or through which the said quantity of compensation water shall flow or be delivered, and which gauge shall be open to the inspection of all persons legally interested in the waters flowing down the Conland Burn.

For the protection of the North British Railway Company.

6. The following provisions for the protection of the North British Railway Company (herein-after called "the North British Company") shall (unless otherwise agreed between the District Committee and the Commissioners and the North British Company) apply and have effect, that is to say:—

(1.) The aqueduct, conduit, or line of pipes specified and described in this Order, where the same is intended to cross the Leslie Branch Railway and the Leven and East of Fife Branch Railway of the North British Company, as shown on the said plan, shall be carried under both those branch railways by means of an arch or culvert to be constructed for such purpose, if so required by the engineer of the North British Company, in such position within the limits of deviation, and at such depth under the said railways, and in such manner as shall be determined by such engineer.

(2.) In laying down the aqueduct, conduit, or line of pipes in the road underneath the bridge carrying the company's main line of railway,

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situate five hundred yards or thereabouts southward of their station at Markinch, the work shall be executed under the superintendence and to the reasonable satisfaction of the engineer of the North British Company.

(3.) All the works of the District Committee and the Commissioners which may in any way affect any railway of the North British Company, or any bridge or other work or any lands or property belonging to that Company, shall be executed at the expense of the District Committee and the Commissioners, under the superintendence and to the reasonable satisfaction of the engineer of the North British Company, and according to plans and specifications to be previously submitted to such engineer and approved by him in writing. Provided that if such engineer shall not have expressed his approval or disapproval of the said plans and specifications within one month after the same shall have been submitted to him, he shall be deemed to have approved thereof.

(4.) The District Committee and the Commissioners shall not enter upon or interfere with any railway, work, or land or property belonging to the North British Company, further or otherwise than may be necessary for constructing, maintaining, or effecting repairs to any works of the District Committee and the Commissioners which may be laid under or across any such railway, work, land, or property, and they shall not alter or interfere with the lines or levels of any such railway or work, and they shall only acquire an easement or servitude through or in any land or property of the North British Company.

(5.) The works shall be constructed, altered, replaced, repaired, and maintained so that the traffic upon the railway of the North British Company shall not in anywise be impeded or interfered with, and such maintenance shall be effected under the superintendence and to the satisfaction of the engineer of the North British Company, and in all things at the expense of the District Committee and the Commissioners.

(6.) If, by reason of the construction, altering, replacing, repairing, or maintaining of the works, or any of them, or the failure of any of the works, or of the maintenance thereof or otherwise, the railway of the North British Company, or the works, land, or property connected therewith, shall be injured, or the traffic thereon impeded, the District Committee and the Commissioners shall compensate the North British Company for all costs to which that company may be put in repairing such damage.

(7.) The District Committee and the Commissioners shall also indemnify the North British Company for any damage or compensation which may be recovered against them by reason of the interruption of the traffic on their railway, or by reason of any accident on the said railway, which interruption or accident shall have been occasioned by the acts or defaults of the District Committee and the Commissioners or any of their contractors, or their respective servants or workmen, and the amount of such damage or compensation shall be recoverable with full costs from the District Committee and the Commissioners by all and the same means as a simple contract debt is recoverable.

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(8.) If any differences shall at any time arise between the District Committee and the Commissioners and the North British Company or their engineer with respect to any matter arising under this section, such difference shall be referred to and determined by an engineer to be agreed on, or, failing agreement, to be appointed by the Sheriff of Fifeshire, on the application of either the District Committee and the Commissioners or the North British Company.

Restriction on taking houses of labouring class.

7. The District Committee and the Commissioners shall not, under the powers of this Order, purchase or acquire 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 and 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 of such persons who may be residing with them.

Part of Waterworks Clauses Act, 1863, incorporated.

8. 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.

Interpretation.

9. The expression "the special Act" in the Lands Clauses Acts and in the provisions of the Waterworks Clauses Act, 1863, incorporated herewith, shall mean and include this Order, and the Act confirming the same, and the expression "the Promoters of the undertaking" in the Lands Clauses Acts and "the Undertakers" in the said provisions of the Waterworks Clauses Act, 1863, shall, with reference to this Order, mean the District Committee and 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.

Given under my hand and seal at Whitehall, this twenty-second day of March, in the year one thousand eight hundred and ninety-four.

(L.S.) GEORGE OTTO TREVELYAN.

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