



## CHAPTER xvii.

An Act to enable the Water of Leith Purification and Sewerage Commissioners to construct additional Works and to borrow additional Money and for other purposes. A.D. 1893.  
[29th April 1893.]

**W**HEREAS by the Water of Leith Purification and Sewerage Act 1889 (hereinafter referred to as "the Act of 1889") certain persons were appointed and incorporated under the name of "the Water of Leith Purification and Sewerage Commissioners" (who are hereinafter called "the Commissioners") to provide for the purification of the Water of Leith and the tributaries thereof in the county of Midlothian and the construction of works in connection therewith:

And whereas the Commissioners proceeded to execute the works authorised and required by the Act of 1889 and have nearly completed the greater part of the same:

And whereas it is expedient that the Commissioners should be authorised to construct and maintain the additional works hereinafter mentioned:

And whereas the Commissioners have expended on the works authorised by the Act of 1889 the sum of two hundred and four thousand pounds but the cost thereof has proved greater than was anticipated when the said works were authorised:

And whereas for carrying out the powers of the Act of 1889 and for completing the works thereby authorised and required and for executing the additional works hereinafter mentioned it is expedient that the Commissioners should be authorised to raise a further sum of money and that other provisions should be made in regard to the same:

And whereas it is expedient that the powers of the Commissioners should be extended and that the further powers and provisions hereinafter mentioned should be made:

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And whereas plans and sections showing the lines and levels of the works authorised by this Act and the lands and heritages which may be taken for the purposes or under the powers of this Act and a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of such lands and heritages were duly deposited with the principal sheriff clerk of the county of Midlothian and which plans sections and book of reference are in this Act referred to as the deposited plans sections and book of reference :

But such purposes cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and 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 (that is to say) :—

Short title.

1. This Act may be cited for all purposes as the *Water of Leith Purification and Sewerage (Additional Powers) Act 1893*.

Incorporation of Acts.

2. The Lands Clauses Acts shall be incorporated with and form part of this Act and also the clauses of the *Railways Clauses Consolidation (Scotland) Act 1845* with respect to the temporary occupation of lands near the railway during the construction thereof and other interference therewith but such clauses and provisions shall apply only to the branch sewer conduit or line of pipes by this Act authorised and in construing the said clauses of the last-mentioned Act for the purposes of this Act the word "Company" shall mean the Commissioners the word "railway" the works authorised by this Act and the words "centre of the railway" any part of the works authorised by this Act.

Interpretation.

3. The words and expressions construed in the Act of 1889 shall if and when used in this Act respectively have the meanings attached to them in the said Act unless there be something in the subject or context repugnant to such construction and the word "undertaking" in the Act of 1889 and in this Act shall include the works authorised by this Act.

Power to make additional works.

4. Subject to the provisions of this Act and of the Act of 1889 the Commissioners may and in the lines and in accordance with the levels shown on the deposited plans and sections make and maintain the branch sewer conduit or line of pipes hereinafter described or some part or parts thereof and may enter upon acquire take and use such of the lands and heritages shown on the deposited plans and



described in the deposited book of reference as may be required for that purpose. Provided always that the Commissioners may if they think fit take and acquire but by agreement only an easement or servitude in or over all or any of such lands and heritages so far as they may consider it requisite and sufficient for the construction and maintenance of the works hereinafter mentioned. The works referred to are the following:—

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A branch sewer conduit or line of pipes commencing in the parish of St. Cuthberts and terminating in the parish of Cramond all in the county of Midlothian:

Together with all necessary and convenient outlets walls embankments tunnels dams arches culverts sewers dykes ventilating shafts offlets manholes cleansing shafts bye-washes pits tanks cuts outfalls sluices weirs roads approaches fences and other works and conveniences.

5. The Commissioners may connect the said branch sewer conduit or line of pipes with any existing sewer or branch sewer conduit or line of pipes belonging or which may hereafter belong to them or be under their control and may maintain the same as part of their undertaking.

Sewer to be connected with existing works.

6. If there be any omission mis-statement or erroneous description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Commissioners after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to the sheriff for the correction thereof and if it appear to the sheriff that the omission mis-statement or erroneous description arose from accident or mistake he shall certify the same accordingly and shall in such certificate state the particulars of the omission and in what respect any such matter is mis-stated or erroneously described and the decision of the sheriff in such matter shall be final. The certificate of the sheriff shall be deposited in the office at Edinburgh of the principal sheriff clerk of the county of Midlothian and a duplicate thereof shall be deposited with the session clerk of the parish in which the lands to which such certificate relates are situate and such certificate and duplicate shall be kept by such sheriff clerk and session clerk respectively along with the other documents to which they relate and thereupon the deposited plans and book of reference shall be deemed to be corrected in accordance with the certificate and the Commissioners may enter on purchase take hold and use for the purposes of this Act any

Omission or mis-statement in plans or book of reference may be corrected.

Certificates to be deposited.

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A.D. 1893. lands in accordance with such certificate as if such omission misstatement or erroneous description had not been made.

For protection of Caledonian Railway Company.

7. Section 42 of the Act of 1889 shall extend and apply to the works authorised by this Act so far as the same affect the railways and works of the Caledonian Railway Company.

Limiting period for compulsory purchase of lands.

8. The powers of the Commissioners for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the commencement of this Act.

Power to deviate.

9. The Commissioners may in constructing the works by this Act authorised deviate laterally from the lines thereof as shown on the deposited plans to the extent of the lateral deviation shown thereon and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding ten feet downwards and three feet upwards. Provided that such last-mentioned deviation of three feet upwards shall not be exercised except with the consent of the owner of the lands where an easement or servitude only is required for the purpose of laying the said branch sewer.

Agreement powers.

10. The Commissioners may enter into and carry into effect agreements with any person with respect to the construction and maintenance and use of the works authorised by this Act or any part thereof or for connecting the same with any other sewers or drains and they may also take over on such terms and conditions as may be agreed upon any sewers which are or might be connected with the works of the Commissioners and maintain the same as part of their undertaking.

Power to take easements &c. by agreement.

11. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Commissioners any easement servitude right or privilege not being an easement of water required for the purposes of this Act in or over or affecting any such lands and the provisions of the said Acts with respect to lands and ground annuals or feu duties so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements servitudes rights and privileges as aforesaid respectively.

Confirmation of agreement.

12. The agreement as set forth in the schedule to this Act made between the Commissioners and Sir James Ramsay Gibson Maitland Baronet is hereby confirmed.

Owners may be required to sell parts only of

13. And whereas in the exercise of the powers of this Act it may happen that portions only of the lands houses buildings or manufactories shown on the deposited plans may be sufficient for the



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purposes of this Act and that such portions may be severed from the remainder of the said properties without material detriment thereto Therefore notwithstanding section ninety of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and other persons interested in the lands houses buildings or manufactories numbered on the deposited plans 16 17 18 and 19 in the parish of Cramond and whereof portions only are required for the purposes of this Act may (if such portions can in the opinion of the jury arbiters or other authority to whom the question of disputed compensation shall be submitted be severed from the remainder of such properties without material detriment thereto) be required to sell and convey to the Commissioners such portions only without the Commissioners being obliged or compellable to purchase the whole or any greater portion of such properties the Commissioners always paying for the portions taken by them and making compensation for any damage sustained by the owners of such properties and other persons interested therein by severance or otherwise Provided always that the branch sewer conduit or line of pipes authorised by this Act shall not be so deviated as to touch the buildings numbered on the deposited plans 17 18 and 19 in the parish of Cramond without consent of the owners lessees and occupiers of such buildings.

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 ———  
 certain  
 properties.

14. If the works shown on the deposited plans and authorised by this Act are not completed within five years from the commencement of this Act then on the expiration of that period the respective powers by this Act granted to the Commissioners for executing the works not so completed shall cease except as to so much thereof as is then completed and the maintenance repair and renewal of the same.

Period for  
 completion  
 of works.

15. The Commissioners shall not under the powers of this Act 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 subsequently so occupied.

Restriction  
 on taking  
 houses of  
 labouring  
 class.

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.

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Additional  
power to  
borrow on  
mortgage.

**16.** In addition to the money authorised to be borrowed under the Act of 1889 the Commissioners may from time to time borrow on mortgage or otherwise such further sums as they think requisite for the purpose of completing such of the works as they have been authorised or required to construct by the Act of 1889 and for the construction of the works and carrying out of the powers authorised by this Act and for the purposes of their undertaking not exceeding the sum of seventy-five thousand pounds and all the provisions as to the security reborrowing borrowing on cash account application for a judicial factor and extinction by means of a sinking fund contained in the Act of 1889 with reference to the sums thereby authorised to be borrowed shall apply to the additional sums to be borrowed under this Act in all respects as if such additional sums were borrowed under the Act of 1889 Provided always that (without prejudice and in addition to the sums set apart under the Act of 1889 for the extinction of the moneys borrowed under that Act until the date after mentioned) the sums to be set apart as a sinking fund for extinction of the moneys borrowed and to be borrowed under the Act of 1889 and this Act cumulatively shall commence from and after the fifteenth day of May one thousand eight hundred ninety-four and shall include the amount of interest which would have been payable on any sums paid off by means of such sinking fund.

Borrowing  
power for  
current  
expenses.

**17.** The powers conferred on the Commissioners by section eighty-seven of the Act of 1889 enabling them to borrow for current expenses as in that section provided shall be held to be in addition to any sums authorised to be borrowed by this Act.

Saving  
existing  
securities.

**18.** Nothing in this Act contained shall prejudice or affect the priority of the several sums borrowed or any annuity debentures mortgages or assignments in security granted or to be granted by the Commissioners under the Act of 1889 and the same shall be as valid and effectual in all respects as if this Act had not been passed.

Application  
of forms of  
mortgage &c.

**19.** In borrowing money after the passing of this Act under either the Act of 1889 or this Act and in repaying any money borrowed the mortgages and transfers and discharges of the same shall as nearly as may be be in the forms appended to the Act of 1889 All such mortgages shall mention the Act under the powers of which the same are granted.

Amendment  
of s. 72 of  
Act of 1889.

**20.** Section seventy-two of the Act of 1889 shall be read as if the words "at or prior to the first day of August" occurring therein were omitted therefrom and the words "on or prior to the second Monday in July" were inserted in lieu thereof.



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**21.** All the provisions of the Act of 1889 in so far as not repealed or altered by or are not inconsistent with this Act shall be and the same are hereby so far as applicable extended and applied to the powers and purposes of this Act.

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Application  
of recited  
Act.

**22.** All costs charges and expenses incurred preparatory to and in applying for obtaining and passing this Act or in any way incidental thereto shall be paid by the Commissioners,

Expenses of  
Act.

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THE SCHEDULE.

MINUTE OF AGREEMENT between SIR JAMES RAMSAY GIBSON MAITLAND of Barnton Sauchie and Bannockburn Baronet on the one part and the WATER OF LEITH PURIFICATION AND SEWERAGE COMMISSIONERS incorporated by the Water of Leith Purification and Sewerage Act 1889 and acting under the powers conferred upon them by the said Act and other Acts incorporated therewith and all other powers enabling them on that behalf on the other part.

WHEREAS the second parties are applying to Parliament for powers to construct a sewer commencing at the village of Blackhall in the parishes of Cramond Corstorphine and St. Cuthberts and ending by a junction with an existing sewer of the city of Edinburgh which leads into the sewers of the Commissioners as the same is shown on plans which have been deposited with reference to the Bill promoted by the second parties in the present session of Parliament for the common use and accommodation of the said village of Blackhall and other properties situated along the line of the said sewer the said parties have agreed and hereby agree as follows:—

*First.*—In consideration of the payment and other prestations and subject to the terms and conditions aftermentioned the first party agrees to grant to the second parties a perpetual right of wayleave for constructing and maintaining a sewer in the line shown on the said deposited plans or as the same may be altered within the line of deviation shown on said plans and extending to \_\_\_\_\_ yards or thereby in length and of the uniform width of nine feet through the lands of Craigleith Drylaw Mains and Swordstone belonging to him with entry as at the term of Whitsunday next and with all necessary access to the said subjects for the purpose of constructing repairing and maintaining said sewer and others Declaring that subject only to the rights hereby granted the property of and full use of the said ground shall remain with the first party.

*Second.*—The second parties agree to pay the first party for the rights hereby granted a price which shall be calculated at the rate of two shillings and sixpence per lineal yard of the length of the said sewer and that at date of first breaking ground.

*Third.*—The second parties take upon themselves to settle and to relieve the first party and his foresaids from all claims competent to tenants in respect of damage occasioned by the second parties' operations during the construction alteration or repair of the sewer.



*Fourth.*—The said sewer shall be constructed of not less than twelve inches in diameter and the top of the casing of the sewer shall at no point be placed less than two and a half feet below the surface of the ground so as not to interfere with the use of the surface for agricultural or other cultivation and the second parties shall always be bound to restore the surface of the ground which they may disturb in the course of their operations and to restore the field drains that may be interfered with and make good any damage they may do to fences and roads. A.D. 1893.

*Fifth.*—The second parties shall free and relieve the first party and his foresaids from all taxation whether under present or future statutes in respect of the said sewer and the first party and his foresaids shall relieve the second parties of all such taxation and other parish and public burdens in respect of the ownership and occupation of the lands belonging to him through which said sewer is to pass.

*Sixth.*—The first party and his foresaids and their feuars shall have right to connect the drains from their houses and buildings with the said sewer without charge except ordinary assessment according to the rate leviable within the drainage district of the second parties as defined by their Act all such connections being made at the site and to the satisfaction of the second parties' engineers for the time being fourteen days' notice at least being given to the clerk to the second parties before any such connections are made. The second parties shall free of expense to the first party effect a junction between the drains of Craigleith Hill House and Steading brought to said sewer with their said sewer.

*Seventh.*—The first party may construct houses buildings or other erections over the said sewer such previous written notice being given to the Commissioners as would enable them to execute such works as they may deem necessary at their own expense for the protection of such sewers.

*Eighth.*—The second parties shall pay the whole expenses of this Agreement.

*Ninth.*—The second parties hereby agree that in the event of the said Bill being passed into law they will not exercise their compulsory powers thereunder to the effect of acquiring compulsorily any further lands or other property or materials from the first party or his foresaids.

*Tenth.*—It is hereby declared that this Agreement is made subject to such alterations as Parliament may think fit to make thereon and the same shall be scheduled to and confirmed by the Bill. And in the event of the Bill not being passed in the present session of Parliament this Agreement and all that may follow thereon shall be null and void except that the second parties shall remain bound to implement the eighth clause hereof. In witness whereof these presents written on this and the preceding page by Robert Muil clerk to John Clerk Brodie and Sons of Edinburgh Writers to the Signet are subscribed in duplicate by the said Sir James Ramsay Gibson Maitland at Edinburgh on the sixth day of March in the year eighteen hundred and ninety-three before these witnesses William Rattray Bruce clerk to the said John Clerk Brodie and Sons and David Shiress Whitson apprentice to Sir Thomas

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Dawson Brodie Baronet Writer to the Signet Edinburgh and by William Percival Lindsay Writer to the Signet Edinburgh as authorised by and for and on behalf of the Water of Leith Purification and Sewerage Commissioners foresaid also at Edinburgh on the said sixth-day of March in the year last mentioned before these witnesses William Nelson Stewart and James John Steedman both clerks to Messrs. J. K. and W. P. Lindsay Writers to the Signet Edinburgh.

WM. R. BRUCE Witness.

J. R. G. MAITLAND.

DAVID S. WHITSON Witness.

For the Water of Leith Purification

W. NELSON STEWART Witness.

and Sewerage Commissioners

JAMES J. STEEDMAN Witness.

W. PERCIVAL LINDSAY Clerk.

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