CHAP. CXV.

A.D. 1870.

An Act to confirm Provisional Orders under "The General Police and Improvement (Scotland) Act, 1862," relating to the Burghs of Dunfermline and Perth. [14th July 1870.]

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 General Police and Improvement (Scotland) Act, 1862," duly made the Provisional Orders which are 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 Orders should be so confirmed:

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 Orders.

1. The Provisional Orders contained in the Schedule to this Act annexed shall be and are 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 General Police and Improvement (Scotland) Supplemental Act, 1870."

A.D. 1870.

SCHEDULE referred to in this Act.

DUNFERMLINE.

General Police and Improvement (Scotland) Act, 1862.

Whereas "The General Police and Improvement (Scotland) Act, 1862," herein-after referred to as the "General Act," has been adopted in whole in the royal burgh of Dunfermline:

And whereas it is by the General Act, inter alia, enacted (clause 79), that "Whenever it appears desirable to the magistrates and council or commissioners "of police of any royal or parliamentary burgh, or to the commissioners for "executing this Act in any burgh or populous place, that provision should be "made in order the better to apply and execute therein the provisions of this "Act, in whole or part, or for the future application and execution of any "Acts in force therein, having relation to the purposes of this Act, or to the "roads or streets within such burgh or populous place, or to any other matter "or thing connected with the management and administration of the municipal "or police affairs of such burgh or populous place, or that any such Acts, or any "exemptions from rating therefrom derived, or that any Provisional Order or "Order in Council applying this Act, hereby authorized to be made, should "be wholly or partially repealed or altered," "the magistrates and council "or the commissioners of any burgh, or the magistrates and councils or com-"missioners of contiguous burghs, as the case may be, may present a petition "to one of Her Majesty's Principal Secretaries of State, praying for such pro-"vision, repeal and alteration as aforesaid, or for any of such things, and such "petition shall be supported by such evidence as the said Secretary requires:"

And whereas, since the adoption of the General Act in the said burgh of Dunfermline, the boundaries of the royalty of the said burgh have been extended under the provisions of the Act 20 and 21 Victoria, chapter 70, intituled "An Act to provide for the extension of the boundaries of burghs "in Scotland, and to remove doubts as to the right of certain persons holding "offices to be registered as voters for municipal purposes," by which last-mentioned Act it is, inter alia, enacted (section 3), that the boundaries of the burgh, as extended under the provisions thereof, shall "be the boundaries "of the burgh for all municipal purposes only, including the right of voting "for town councillors and all matters connected with police, and the district "comprehended within such boundaries shall cease to belong to or form part "of the county in which it is locally situated, and shall belong to and form "part of such burgh as regards all local purposes, rights and obligations:"

And whereas it is expedient that provision should be made for making foot pavements within the districts annexed to and comprehended within the said burgh of Dunfermline by the foresaid extension of the boundaries thereof, by means of an assessment or rate to be levied from the owners of lands or premises therein:

And whereas a petition, under the provisions of the General Act, has been presented to me, as one of Her Majesty's Principal Secretaries of State, by the magistrates and council of the said burgh, as commissioners of police under

the General Act, praying that a Provisional Order may be issued in the terms and to the effect after expressed:

And whereas due inquiry has been directed and held in respect of the matters mentioned in the said petition:

Now, therefore, in pursuance of the powers vested in me by the General Act, I, as one of Her Majesty's Principal Secretaries of State, do, by this Provisional Order under my hand and seal of office, direct that from and after the passing of any Act of Parliament confirming the same,—

1. The districts annexed to and comprehended within the royal burgh of Dunfermline by the foresaid extension of the boundaries thereof, shall be and are hereby formed into one paving district, for the purpose of making footways or foot pavements therein, which district shall, for the purposes of this Provisional Order, be called the "special paving district."

2. All foot pavements and footways within the special paving district, whether existing at the time when this Provisional Order shall come into force, or made at any time thereafter (except foot pavements or footways within the private property of any person made and used as of private right by any person or persons for his or their own benefit, or for the benefit of proprietors or shareholders of any company), shall vest in and belong to and be entirely under the management and control of the commissioners; but the commissioners shall be bound to make such compensation to the owners of lands or premises opposite which foot pavements or footways have been made by such owners, as shall be agreed upon between the commissioners and such owners respectively, or, failing agreement, as shall be determined by two persons of skill as arbiters, one to be named by the commissioners and the other by such owners respectively, or by an oversman to be named by such arbiters in the event of their differing in opinion, the said arbiters or oversman having regard to the cost of making and to the sufficiency of such foot pavements or footways; and in the event of any such owner refusing or delaying to appoint an arbiter, it shall be competent to the commissioners to apply to the sheriff to fix such compensation.

3. It shall be lawful for the commissioners from time to time to charge the owners of all the lands or premises within the special paving district, according to the yearly rent or value of such lands or premises as fixed by the valuation roll in force for the time, made up and completed in terms of the Acts for the valuation of lands and heritages in Scotland, with an assessment or rate for making foot pavements or footways within the special paving district, over and above any other assessment or rates to which such persons may be liable under the General Act, and which assessment or rate shall, for the purposes of this Order, be called the "foot pavement formation rate," and shall be leviable either from the owner or occupier of such lands or premises; but the occupier shall be entitled, on payment thereof, to deduct the same from his rent; and such rate, so far as the occupier is concerned, shall be recoverable in such and the like manner as the police assessment is authorized to be recovered under the provisions of the General Act.

4. It shall be lawful for the commissioners to borrow for the purpose of making such foot pavements or footways, and on the security of the foot pavement formation rate, such sums of money, and at such times, as the

A.D. 1870.

commissioners shall deem necessary for that purpose, and for the purpose of paying off moneys so borrowed otherwise than by means of the sinking fund, and to assign the foot pavement formation rate in security of the money to be so borrowed; and the provisions of the General Act (Part VI., section 2.) with respect to the borrowing of money, and the granting of bonds therefor, and the transference and recording of such bonds, and the appropriation, setting apart and investment of a sinking fund, shall be applicable to the borrowing of money for the purpose of making foot pavements or footways within the special paving district; and the bonds to be granted for the money so to be borrowed shall, mutatis mutandis, be in the form, as near as may be, set forth in the General Act of bonds to be granted for money borrowed for the purposes of the General Act, and shall constitute a lien over the foot pavement formation rate thereby assigned, and shall entitle the creditors therein to recover the sums thereby due from the commissioners and their officers out of the said rate.

5. The money so borrowed shall be applied in defraying the expense of making foot pavements or footways within the special paving district, and to no other purpose whatsoever; and the foot pavement formation rate shall not be liable for nor be assigned in security of the payment of any sums borrowed by the commissioners for any other purpose than the making of foot pavements or footways within the special paving district.

6. The commissioners shall, from time to time, out of the moneys to be raised by the foot pavement formation rate, or out of the moneys to be borrowed on the security thereof, as herein-before provided, make footways along the sides of the streets within the special paving district, and well and sufficiently pave the same with flat hewn or other stones, or construct the same in such other manner and form, and of such breadth, as the commissioners shall think proper.

7. The foot pavement formation rate shall, with interest thereon, at the rate of five pounds per centum per annum, from the time when the same shall be declared payable, and all expenses incurred in the recovery thereof, continue burdens on the lands or premises liable for the same or in respect of which the same shall be payable, but that only for three years from the date when the same shall be payable as against bonâ fide singular successors or heritable creditors: Provided that nothing herein contained shall affect the rights and remedies of superiors for the recovery of their feu duties and casualties.

8. The Act to be passed confirming this Provisional Order shall be construed and taken together with the General Act as one Act so far as the provisions of the General Act are consistent with this Provisional Order; and for that purpose the expression "this Act," when used in the General Act, shall be taken to include the Act to be passed as aforesaid; and words and expressions to which meanings are assigned by the General Act shall, when used in this Provisional Order, have the same respective meanings, unless there be something in the subject or context repugnant to such construction.

Given under my hand and seal this 26th day of February 1870.

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

PERTH.

General Police and Improvement (Scotland) Act, 1862.

WHEREAS by "The General Police and Improvement (Scotland) Act, 1862," (herein-after called "the recited Act,") it is, inter alia, enacted, clause 79, that "Whenever it appears desirable to the magistrates and council or commissioners of police of any royal or parliamentary burgh, or to the commissioners for executing this Act in any burgh or populous place, that provision should be made in order the better to apply and execute therein the provisions of this Act, in whole or in part, or for the future application and execution of any Acts in force therein, having relation to the purposes of this Act, or to the roads or streets within such burgh or populous place, or to any other matter or thing connected with the management and administration of the municipal or police affairs of such burgh or populous place, or that any such Acts, or any exemptions from rating therefrom derived, or that any Provisional Order or Order in Council applying this Act, hereby authorized to be made, should be wholly or partially repealed or altered," the magistrates and council "may present a petition to one of Her Majesty's Principal Secretaries of State, praying for such provision, repeal and alteration as aforesaid, or for any of such things, and such petition shall be supported by such evidence as the said Secretary requires," and that on the receipt of any such petition the Secretary of State may direct an inquiry in the district, and may issue a Provisional Order in relation to the several things mentioned in such petition, either in accordance with the prayer thereof, or with such modifications or alterations as may appear to him to be requisite:

And whereas the recited Act has been adopted in the royal burgh of Perth, and the magistrates and council of the said burgh are the commissioners of police for executing the recited Act in the said burgh (herein-after called "the commissioners"):

And whereas a petition under the provisions of the recited Act has been presented to me as one of Her Majesty's Principal Secretaries of State by the commissioners, setting forth (1.) Clause 79 of the recited Act, before quoted: (2.) That by clause 161 of the recited Act it is enacted, that "The commissioners may, at a meeting to be held for the purpose, resolve to acquire lands or premises within the burgh for the purpose of widening, enlarging, or otherwise improving any of the streets, and they may resell any parts of such lands or premises which shall not be required for such purposes, and they may also drain, repair, or otherwise improve courts and places where there may be doubt as to the liability of owners to execute such works; and in localities within the burgh when houses or other buildings are, in the opinion of the commissioners, built too close to each other, or have become waste and ruinous, or are liable to other objections on sanitary grounds, it shall also be lawful to the commissioners to resolve to acquire lands or premises for the purpose of reserving them as vacant spaces or of improving the buildings or of otherwise disposing of them so as to improve the sanitary condition of such localities; and the expense of such acquisitions and improvements shall be a

A.D. 1870.

" charge against the general improvement rate herein-before authorized to be " levied: Provided always, that the commissioners may resolve that the same " shall be charged, as they are hereby empowered to do, against the police " assessment:" (3.) That by clause 176 of the recited Act it is further enacted, that "It shall be lawful for the commissioners to agree with any person for " the making of new streets for the public use through the lands and at the " expense of such person, and to agree that such streets shall become and the " same shall accordingly become, on completion, public streets to be maintained " and repaired at the public expense, and it shall be lawful for the commis- " sioners, with the consent of two-thirds of their number, to agree with such " person to pay any portion of the expense of making such streets out of " the police assessment, and accordingly to pay the same:" (4.) That it has long been contemplated to open a public street in Perth running from the bridge over the Tay on the north to the High Street on the south, immediately to the west of and adjoining the river Tay, having an open esplanade in front of the houses to be erected on the west side of the said street; but the execution of the work has hitherto been delayed from want of the necessary funds: (5.) That in the formation of such street it will be necessary to build retaining walls, and form embankments, and to a certain extent encroach on the bed of the river, and that a plan showing the proposed line of street as well as the present state of the locality, and a relative book of reference, were produced with the said petition and referred to: (6.) That by the Act thirty-first Victoria, cap. eleven, intituled "An Act to confirm certain Provisional " Orders under the General Police and Improvement (Scotland) Act, 1862, " relating to the burghs of Perth and Brechin," a Provisional Order to enable the petitioners to form a line of street from the High Street to the South Street of Perth immediately to the west of and adjoining the river Tay, and of which the street proposed would be a continuation to the north, was confirmed, and the commissioners are now in course of constructing the said street in virtue of the said Act: (7.) That in the line of the street proposed there are lands and premises of which Sir John Stewart Richardson, Baronet, of Pitfour, is or was the owner, and he has lately advertised these for sale by private bargain, and it is rumoured is in terms to sell or has sold the whole or the larger portion of the same to Mr. Alexander Speedie, fishmonger, Perth; that the buildings on the said lands are not of great value, so that the present is a suitable opportunity of acquiring the same at such a price as will be within the power of the commissioners to pay under the assessing powers vested in them by the recited Act; and that the premises in the line of the proposed street belonging to other owners than the said Sir John Stewart Richardson or Alexander Speedie are of small value: (8.) That if the powers of the recited Act were enlarged to the extent of enabling the commissioners to form the above line of street and to pay all costs and charges out of the general improvement rate of one penny in the pound or out of the police assessment, or both or either of these rates, authorized by the recited Act to be levied, it would be the means of enabling the commissioners to carry out in its entirety a line of street which would greatly add to the amenity of the burgh, and which otherwise would require to stand in

abeyance: And the said petition prayed that a Provisional Order may be issued, providing that the commissioners may, at a meeting to be held for the purpose, resolve to acquire lands or premises, streets, accesses or vennels, within the said burgh, for the purpose of making a new street for the public use, from the Bridge of Perth on the north to the High Street on the south, and, where the said lands or premises adjoin the river Tay, that the commissioners may widen, enlarge, and improve the said street or streets by means of embankments and retaining walls, and by shutting up or acquiring, where they judge necessary, all existing streets, accesses or vennels leading to the river, or otherwise, and that the commissioners might make the said new street, and resell any part of such lands or premises, streets, accesses or vennels so to be acquired by them, which shall not be required for such purpose: Provided always, that the commissioners shall make full compensation to the owners of the said lands or premises, streets, accesses or vennels, by paying them such sums as may be mutually agreed on as the valuation of the damage the owners may sustain by the acquirement of the said lands or premises, and by shutting up the said streets, accesses or vennels, or that the said compensation may be settled in the same manner as compensation for lands to be taken under the provisions of "The Lands Clauses Consolidation (Scotland) Act, 1845," is directed to be settled, and that the said compensation and the expense of forming the said new street and the necessary embankments and retaining walls, and of acquiring and shutting up the said streets, vennels or accesses, or otherwise, should form a charge against the general improvement rate authorized to be imposed and levied under the recited Act; provided also, that the commissioners may resolve that the same or any part thereof should also be charged, as they were thereby empowered at any time to do, against the police assessment, and that the commissioners may at any time charge both rates, in proportions to be resolved on, with payment of the sums to be borrowed; and further, that it should be lawful for the commissioners to put in force the provisions of "The Lands Clauses Consolidation (Scotland) Act, 1845," in regard to the purchase and taking of lands by agreement, or otherwise than by agreement, with reference to the lands or premises, streets, accesses or vennels delineated and described as aforesaid:

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 in so far as it relates to the formation of a public street in Perth, running from the bridge over the Tay on the north to the High Street on the south, immediately to the west of and adjoining the river Tay, and to the acquiring of lands, premises, streets, accesses and vennels, and the charging of the expenses to be incurred for that purpose; and plans of the said lands, premises, streets, accesses and vennels proposed to be taken, and a book of reference thereto, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the said lands, premises, streets, accesses and vennels, have been signed by me with reference to this Order, and have been 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 recited Act, I, as one of Her Majesty's Principal Secretaries of State, do, by this Order

A.D. 1870. under my hand and seal of office, direct that from and after the passing of any Act of Parliament confirming the same:

1. Notwithstanding the terms of clauses 161 and 176 of the recited Act, the commissioners may, at a meeting to be held for the purpose in terms of the recited Act, resolve to acquire the lands, premises, streets, accesses and vennels within the said burgh delineated on the plan and described in the book of reference herein-before mentioned, for the purpose of making a new street for the public use from the Bridge of Perth on the north to the High Street on the south, and, where the said lands or premises adjoin the river Tay, including the widening, enlarging, and improving the said street or streets by means of embankments and retaining walls, and shutting up or acquiring, where they judge necessary, all existing streets, accesses or vennels leading to the river or otherwise, and making the said new street, and reselling any part of such lands or premises, streets, accesses or vennels so to be acquired by them which shall not be required by them for such purpose: Provided always, that the commissioners shall make full compensation to the owners, lessees, and occupiers of the said lands, premises, streets, accesses or vennels, by paying them such sums as may be mutually agreed on as the valuation of the damage such owners, lessees, and occupiers may sustain by the acquirement of the said lands or premises, and by shutting up the said streets, accesses or vennels, or, failing such agreement, that the said compensation shall be settled in the same manner as compensation for lands to be taken is directed to be settled under the provisions of "The Lands Clauses Consolidation (Scotland) Act, 1845;" and the said compensation and the expense of forming the said new street and the necessary embankments and retaining walls, and of acquiring and shutting up the said streets, vennels or accesses or otherwise, shall be a charge against the general improvement rate authorized to be imposed and levied under the recited Act; provided also, that the commissioners may resolve that the same or any part thereof shall be charged, as they are hereby empowered to do, against the police assessment authorized to be imposed and levied under the recited Act.

2. It shall be lawful for the commissioners to put in force the provisions of "The Lands Clauses Consolidation (Scotland) Act, 1845," and "The Lands Clauses Consolidation Acts Amendment Act, 1860," with respect to the purchase and taking of lands otherwise than by agreement, with reference to the lands, premises, streets, accesses and vennels delineated on the said plan, and described in the said book of reference as aforesaid.

3. With reference to this Order the following expressions in "The Lands Clauses Consolidation (Scotland) Act, 1845," and "The Lands Clauses Consolidation Acts Amendment Act, 1860," 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 Consolidation (Scotland) Act, 1845."

4. Sections 11, 12, and 13 of "The Harbours, Docks, and Piers Clauses Act, 1847," and sections 13, 18, and 19 of "The Railways Clauses Act, 1863,"

are incorporated with and form part of this Order; and in construing the said sections as incorporated with this Order, the words "undertakers" and "company" respectively shall mean the commissioners, the expression "harbour, dock, or pier," and the word "work" respectively shall mean the works authorized by this Order, and delineated on the said plan, and the expression "the special Act" shall mean this Order and the Act confirming the same.

5. Nothing contained in this Order, or in any of the Acts herein referred to or herewith incorporated, shall authorize the commissioners to take, use, or in any manner interfere with any portion of the shore or bed of the river Tay, or any right in respect thereof, belonging to the Queen's most Excellent Majesty in right of her Crown, without the previous consent in writing of the Board of Trade, on behalf of Her Majesty (which consent the Board of Trade may give); neither shall anything in this Order or the said Acts contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

6. Nothing in this Order contained or to be done under the authority thereof shall in any manner affect the title to any of the subjects, or any rights, powers, or authorities mentioned or reserved by sections 20, 21, and 22 of "The Crown Lands Act, 1866."

Given under my hand and seal at Whitehall, this 2nd day of April 1870.

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

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1870.