CHAPTER iii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Irvine Burgh. [29th March 1911.]

A.D. 1911.

WHEREAS His Majesty's Secretary for Scotland has after inquiry held before Commissioners made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament:

62 & 63 Vict. c. 47.

Be it therefore enacted by the King'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 Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed.

Short title.

2. This Act may be cited as the Irvine Burgh Order Confirmation Act 1911.

A.D. 1911.

SCHEDULE.

IRVINE BURGH.

Provisional Order for empowering the Corporation of the Burgh of Irvine to construct a bridge across the River Irvine with roads of access thereto to borrow money and for other purposes.

WHEREAS the provost magistrates and councillors of the burgh of Irvine (in this Order respectively called "the Corporation" and "the burgh") acting under the Burgh Police (Scotland) Acts 1892 to 1903 (in this Order called "the Police Acts") and the Roads and Bridges (Scotland) Act 1878 are the local and road authority within the burgh and the police affairs of the burgh are administered and managed by the Corporation under the Irvine Burgh Act 1881 (in this Order called "the Act of 1881") and the Police Acts and Acts or Orders amending the same:

And whereas the Act of 1881 was by section 5 and Schedule III. of the Burgh Police (Scotland) Act 1892 expressly saved and is now in force in the burgh:

And whereas it is expedient that the Corporation should be empowered to construct the bridge and other works herein-after described:

And whereas estimates have been prepared by the Corporation for the construction of the said bridge and other works as follows:—

	£
Purchase of land and servitudes - - -	930
Roads of access - - - - -	1670
Bridge - - - - - -	2400

And whereas the said works are permanent works and it is expedient that the cost thereof should be spread over a term of years:

And whereas it is expedient to authorise the Corporation to levy rates and assessments and to borrow money and to acquire lands for the purposes of this Order:

And whereas it is expedient to amend section 21 of the Act of 1881 in the manner herein-after provided:

And whereas it is expedient that the further powers in this Order contained should be conferred on the Corporation:

And whereas plans and sections showing the lines and levels of the works authorised by this Order and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Order were duly deposited in the offices at Ayr and Kilmarnock respectively of the principal sheriff clerk of the county of Ayr and are herein-after respectively referred to as the deposited plans sections and books of reference:

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary for Scotland orders as follows:—

Short title.

1. This Order may be cited as the Irvine Burgh Order 1911.

Commencement of Order.

2. This Order shall commence and have effect at and from the date of the passing of the Act confirming the same which date is herein-after referred to as "the commencement of this Order."

Incorporation of Acts.

3. The following Acts and parts of Acts (so far as the same respectively are applicable for the purposes and are not inconsistent with the provisions of this Order) are incorporated with this Order viz.:—

The Lands Clauses Acts;

The provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and with respect to the crossing of roads and other interference therewith and in the said Act "the Company" shall mean the Corporation and "the railway" shall mean the works authorised by this Order and "the centre of the railway" shall mean any part of the works authorised by this Order; and

The Commissioners Clauses Act 1847 so far as the same is incorporated in the Act of 1881.

A.D. 1911.

Interpretation.

4. In this Order the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith and the words and expressions in the Act of 1881 have subject to the provisions of this Order the same respective meanings unless there be something in the subject or context repugnant to such construction And in this Order the expressions—

"The Act of 1881" means the Irvine Burgh Act 1881;

"The Act of 1896" means the Irvine Burgh Improvement Act 1896;

"The Police Acts" means the Burgh Police (Scotland) Acts 1892 to 1903;

"The sheriff" means the sheriff of the county of Ayr or any of his substitutes.

Power to construct works.

5. Subject to the provisions of this Order the Corporation may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works herein-after described with all necessary and proper works and conveniences connected therewith and may enter upon take hold and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for such purposes or in connexion therewith The works herein-before referred to and authorised by this Order are the following (that is to say):—

A road of access Work No. 1 wholly situate in the burgh of Irvine and parish of Dundonald commencing on the highway leading from Irvine to Ayr at a point fifty-three yards or thereby measuring in a north-westerly direction from the south-west corner of Fullarton Cottage and terminating on the south-west bank of the River Irvine at a point one hundred and sixty-nine yards or thereby measured in a southerly direction from the north-east corner of the Irvine Parish Church Manse garden:

A bridge Work No. 2 across the River Irvine commencing in the burgh of Irvine and parish of Dundonald at the point of termination of Work No. 1 above described and terminating on the north-east bank of the River Irvine in the burgh and parish of Irvine at a point one hundred and thirty-seven yards or thereby measuring in a south-easterly direction from the north-east corner of the Irvine Parish Church Manse garden:

A.D. 1911.

A road of access Work No. 3 to the said bridge wholly situate in the burgh and parish of Irvine commencing at the point of termination of Work No. 2 above described and terminating at a point five yards or thereby measuring in a north-easterly direction from the north-east corner of the Irvine Parish Church Manse garden:

Together with all requisite embankments abutments approaches gates channels walls piers roads footways carriageways sewers drains and other works and conveniences in connexion with the said works before described or any of them as may be necessary or expedient and the Corporation may deepen dredge scour clean alter and improve from time to time the bed shore and banks of the River Irvine at or near and above and below the proposed bridge all which works and the lands houses and other property which may be taken for the purposes thereof are situate in the county of Ayr.

Omission or mis-statement in plans &c. may be corrected.

6. If there be any omission mis-statement or erroneous description of any lands or the buildings thereon or of the owners lessees or occupiers of any lands or buildings shown on the deposited plans or specified in the deposited books of reference the Corporation after giving ten days' notice to the owners lessees and occupiers of the lands or buildings in question may apply to the sheriff for the correction thereof and if it appear to the sheriff that such 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 matters shall be final.

Certificates to be deposited.

7. The certificate of the sheriff shall be deposited in the office at Ayr of the sheriff clerk of the county of Ayr and duplicates thereof in the office at Kilmarnock of the said sheriff clerk and with the clerk to the parish council of the parish in which the lands or buildings to which such certificate relates are situate and the certificate and duplicates respectively shall be kept by such sheriff clerk and clerks to the parish councils respectively with the other documents to which they relate and thereupon the deposited plans and books of reference shall be deemed to be corrected in accordance with the certificate and the Corporation may enter on purchase take hold and use for the purposes of this Order any lands or buildings in accordance

A.D. 1911.

with such certificate as if such omission mis-statement or erroneous description had not been made.

Period for compulsory purchase of lands.

8. The powers of the Corporation for the compulsory purchase of lands and houses for the purposes of this Order shall cease after the expiration of three years from the commencement of this Order.

Period for completion of works.

9. If the works shown on the deposited plans and authorised by this Order are not completed within seven years from the commencement of this Order then on the expiration of that period the powers granted to the Corporation by this Order for executing the works not so completed or in relation thereto shall cease except as to so much thereof as is then completed.

Power to grant servitudes &c. by agreement.

10. Persons empowered by the Lands Clauses Acts or otherwise to sell and convey or discharge lands may if they think fit subject to the provisions of those Acts and of this Order grant to the Corporation for the purposes and subject to the provisions of this Order any servitude interest right or privilege (not being a servitude interest right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Order in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges 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 servitudes interests rights and privileges as aforesaid respectively.

Owners may be required to sell parts only of certain properties.

11. And whereas in the exercise of the powers of this Order it may happen that portions only of the lands houses buildings or manufactories shown on the deposited plans may be sufficient for the purposes of this Order or any of them and that such portions may be severed from the remainder of the said properties without material detriment thereto Therefore notwithstanding section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and other persons interested in the lands houses buildings or manufactories described in the schedule to this Order annexed and whereof portions only are required for the purposes of this Order 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 Corporation such portions only without the Corporation being obliged or compellable to purchase the whole or any greater portion of such properties the Corporation 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.

Power to alter roads &c. temporarily.

12. For the purposes of and during the execution of the works herein-before described the Corporation may temporarily cross divert alter or stop up any roads streets highways lanes bridges footpaths passages ways and rights of way and the said River Irvine and all rivers streams pipes sewers drains watercourses telegraphic or telephonic or electric wires or tubes or mains or other apparatus and gas and water pipes in any of the lands shown on the deposited plans and specified in the deposited books of reference which they from time to time find it expedient for any of those purposes so to interfere with providing when possible a proper temporary substitute before interrupting the traffic on any such roads streets and others as aforesaid or the flow of water gas sewage or electricity and making full compensation to all persons injuriously affected by anything done under the provisions of this section Provided always that nothing in this section shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 to 1909 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with and subject to the provisions of that section.

Lateral and vertical deviations.

13. In executing the works herein-before described or any of them the Corporation may deviate laterally from the respective lines thereof shown on the deposited plans to any extent within the limits of deviation shown thereon and may deviate from the levels thereof as referred to the datum line shown on the deposited sections to any extent not exceeding five feet Provided that the Corporation shall make compensation to any person whose property is injuriously affected by the exercise of the said powers of vertical deviation Provided also that no deviation either lateral or vertical below high-water mark shall be made without the consent in writing of the Board of Trade.

A.D. 1911.

Power to make subsidiary works.

14. Subject to the provisions of this Order and within the limits shown on the deposited plans the Corporation may for the purposes of the works authorised by this Order make junctions and communications with any existing streets roads highways footpaths ways and rights of way which may be intersected or interfered with by the same or be contiguous thereto and for the purpose of such junctions or communications may alter the lines or levels of existing streets roads highways footpaths ways and rights of way and may remove stop up alter divert enclose or appropriate all or any part of any streets roads highways lanes bridges footpaths courts passages ways and rights of way sewers drains watercourses telegraphic or telephonic or electric wires or tubes or mains or other apparatus and gas or water pipes or other property within the limits aforesaid Provided always that they shall first provide a proper substitute before interrupting the flow of water or sewage in any watercourse drain or sewer or removing any telegraphic apparatus or interfering with any gas or water pipe Provided further that nothing in this Order shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 to 1909 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with and subject to the provisions of that section.

For protection of Postmaster-General.

15. The Corporation shall not in the execution of any of the works by this Order authorised remove divert alter stop up or otherwise interfere temporarily or otherwise with any telegraphic or telephonic wire tube main or other apparatus belonging to or used by the Postmaster-General except under and subject to the provisions of the Telegraph Act 1878.

Damage to buildings to be compensated for by Corporation.

16. Where by reason of the alteration of the level of any street or the execution of any other work by this Order authorised any house building or premises is or are damaged or otherwise injuriously affected the Corporation shall make good the damage done and pay to the owner and occupier of the house building or premises such compensation as may be agreed on between the owner and occupier and the Corporation or failing their agreement such compensation shall be ascertained apportioned and recovered under the Lands Clauses Acts as in cases of disputed compensation for lands.

Corporation to maintain bridge &c.

17. On the proposed bridge and roads of access authorised by this Order being completed the same shall thereupon become

and be deemed to be public streets falling to be kept up and maintained in accordance with the provisions of the Police Acts.

As to alteration of streets sewers &c.

18. If in consequence of the execution by the Corporation of any of the works by this Order authorised the levels of any street road or lane shall be raised or otherwise changed or if any alterations of any pavement sewer drain or culvert adjoining or belonging thereto shall be rendered necessary such alteration shall be made by and at the expense of the Corporation.

Form in which Corporation may take and grant conveyances.

19. The Corporation may take the titles to property acquired by them under this Order in the form and manner provided by the Titles to Land Consolidation (Scotland) Act 1868 and the Conveyancing (Scotland) Act 1874 and the Town Councils (Scotland) Act 1900 in the name of "the provost magistrates and councillors of the burgh of Irvine" and may grant conveyances of property mortgages and bonds and other deeds and instruments under the same name and in the manner provided by the said Acts and the Police Acts and all such conveyances mortgages bonds deeds and instruments shall be deemed to be sufficiently executed if executed in manner provided by the Town Councils (Scotland) Act 1900.

Purchase of lands by agreement.

20. In addition to the lands and houses which the Corporation are by this Order authorised to take compulsorily they may from time to time by agreement purchase and acquire for the purpose of the works by this Order authorised any other lands and houses not exceeding three acres but nothing in this Order shall exempt the Corporation from any action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them on any lands so acquired.

As to works below high-water mark.

21. The Corporation shall not under the powers of this Order construct any works on any part of the shore of the River Irvine where and so far up the same as the tide flows and reflows without the previous consent of the Board of Trade to be signified in writing and then only according to such plan and under such restrictions and regulations as the said Board approve of such approval being signified as last aforesaid and where any such work shall have been constructed with such consent as aforesaid the Corporation shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals and if any such work shall be commenced or completed without such consent and approval the Board of Trade may abate and

A.D. 1911.

remove the same and restore the site thereof to its former condition at the costs of the Corporation and the amount of such costs shall be a debt due to the Crown and recoverable against the Corporation accordingly.

Power to borrow money.

22. The Corporation may (in addition to any other moneys which they have borrowed or are otherwise authorised to borrow) from time to time borrow and re-borrow at interest any sums of money not exceeding the following sums (that is to say):—

(A) For the purpose of executing the works authorised by this Order and the purchase of lands in connexion therewith any sum or sums of money not exceeding in the whole five thousand pounds; and

(B) For paying the costs of this Order the amount necessary:

And (1) in security of the money borrowed and interest thereon for the purpose of executing the works authorised by this Order and the purchase of lands in connexion therewith the Corporation may make and grant mortgages bonds or other writs of and may assign the burgh improvement rate authorised to be imposed by section 25 of the Act of 1896 the marginal note of which is "Burgh improvement rate" which rate the Corporation are hereby authorised to impose levy and apply for the purposes of this Order and (2) in security for the money borrowed and interest thereon for paying the costs of this Order the Corporation may make and grant mortgages bonds or other writs of and may assign the said burgh improvement rate the rates leviable under the Act of 1881 the assessments leviable under the Police Acts and other rates or assessments which they are authorised to levy or all or any of those rates or assessments as the Corporation may determine.

Application of money borrowed.

23. The money borrowed by the Corporation on mortgage or cash account or otherwise under the authority of this Order shall be applied only to purposes to which capital is properly applicable.

For appointment of a judicial factor.

24. The mortgagees of the Corporation under this Order may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a judicial factor. In order to authorise the appointment

of a judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than two thousand pounds.

Application of sections of Acts of 1896 and 1881.

25. The provisions of the following sections of the Act of 1896 and of the Act of 1881 the numbers and marginal notes of which are respectively—

Of the Act of 1896—

Section 25 (Burgh improvement rate);
Section 26 (Application of rate); and

Of the Act of 1881—

Section 155 (Corporation may re-borrow);
Section 158 (Corporation may borrow on credit of a cash account);
Section 162 (Streets improvement sinking fund);
Section 163 (Provision applicable to sinking funds);
Section 164 (Protection of lenders);
Section 166 (Saving for existing mortgages);
Section 170 (Mortgages to be personal estate); and
Section 174 (Application of sinking funds);

shall so far as applicable and subject to the provisions of this Order apply to this Order as fully and effectually as if the said sections were set out at length herein and all mortgages granted under the powers of this Order shall refer to the title of this Order Provided that sections 25 and 26 of the Act of 1896 and section 162 of the Act of 1881 shall for the purposes of this Order be read as if those sections applied to the bridge and works by this Order authorised and the rate of interest specified in section 162 of the Act of 1881 at which the accumulation of the sinking fund is to be calculated were three per cent. instead of four per cent. and the period within which the sums borrowed under the authority of this Order for the purpose of executing the works authorised thereby are to be paid off were fifty years instead of sixty years.

Annual return to Secretary for Scotland with respect to sinking fund.

26. The Corporation shall within two months after the expiration of each year during which any sum is by this Order required to be set apart for a sinking fund transmit to the Secretary for Scotland a return in such form as may be

A.D. 1911.

prescribed by the Secretary for Scotland and verified by statutory declaration if so required by him showing the amount which has been so set apart in respect of that year and also showing the investments of the said sinking fund and the purposes to which any portion of such sinking fund and the interest or income thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any default in making such return the Corporation shall be liable to a penalty not exceeding twenty pounds which shall be recoverable by the Secretary for Scotland as a debt to the Crown is recoverable If it appear to the Secretary for Scotland by any such return or otherwise that the Corporation have failed to set apart the sum required for the sinking fund or to invest the same as required by law or have applied any portion of the moneys set apart for that fund or any interest or income thereof to any purposes other than those authorised the Secretary for Scotland may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund and such order shall be enforceable by decree of either division of the Inner House of the Court of Session in Scotland pronounced in a summary application presented for that purpose.

Partial repeal of section 21 of Act of 1881.

27. From and after the commencement of this Order section 21 of the Act of 1881 shall be read and construed as if the words "and the majority of the town council shall constitute a quorum" were omitted therefrom and those words are hereby repealed.

Survey of works by Board of Trade.

28. If at any time the Board of Trade deems it expedient for the purposes of this Order to order a survey and examination of a work constructed by the Corporation on in over through or across tidal lands or tidal water or of the intended site of any such work the Corporation shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Corporation to the Crown and be recoverable as a Crown debt or summarily.

Abatement of work abandoned or decayed.

29. If a work constructed by the Corporation on in over through or across tidal lands or tidal water is abandoned or suffered to fall into decay the Board of Trade may abate and remove the work or any part of it and restore the site thereof

to its former condition at the expense of the Corporation and the amount of such expense shall be a debt due from the Corporation to the Crown and be recoverable as a Crown debt or summarily. A.D. 1911.

Crown rights.

30. Nothing in this Order shall affect prejudicially any estate right power privilege or exemption of the Crown or shall subject to the provisions of this Order any lands buildings or works vested in or occupied by the Crown or any department of His Majesty's Government except to such extent as His Majesty or such department may voluntarily agree and in particular nothing herein contained shall authorise the Corporation to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent the said Commissioners and Board are hereby respectively authorised to give).

Expenses of Order.

31. The costs charges and expenses of and incident to the preparing for obtaining and confirming this Order or otherwise in relation thereto shall be paid by the Corporation out of the common good or out of any rates or assessments which they are authorised to levy in such proportions as the Corporation may determine or out of money borrowed for that purpose under the authority of this Order Provided that if the said costs charges and expenses be paid out of borrowed money the same shall be repaid within five years from the commencement of this Order.

A.D. 1911.

SCHEDULE referred to in the foregoing Order.

LANDS HOUSES BUILDINGS AND MANUFACTORIES OF WHICH PORTIONS ONLY MAY BE TAKEN WITHOUT TAKING THE WHOLE.

Parish.	Numbers on deposited Plans.	Description of Property.
Parish of Dundonald - - -	3	Field.
	4	Footpath.
	5	Field.

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