

[26 GEO. 5.]

*Dundee Corporation
Order Confirmation Act, 1935.*

[Ch. v.]



CHAPTER v.

An Act to confirm a Provisional Order under the
Private Legislation Procedure (Scotland) Acts
1899 and 1933 relating to Dundee Corporation.
[20th December 1935.]

A.D. 1935.

WHEREAS the Provisional Order set forth in the
schedule hereunto annexed has after inquiry held
before Commissioners been made by one of His Majesty's
Principal Secretaries of State under the provisions of the
Private Legislation Procedure (Scotland) Acts 1899 and
1933 as read with the Secretaries of State Act 1926 and it
is requisite that the said Order should be confirmed by
Parliament :

62 & 63 Vict.

c. 47.

23 & 24

Geo. 5. c. 37.

16 & 17

Geo. 5. c. 18.

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 :—

1. The Provisional Order contained in the schedule
hereunto annexed is hereby confirmed.

Confirmation
of Order in
schedule.

2. This Act may be cited as the Dundee Corporation
Order Confirmation Act 1935.

Short title.

A.D. 1935.

SCHEDULE.

DUNDEE CORPORATION.

Provisional Order to empower the Dundee Corporation to construct additional waterworks to extend their limits of compulsory water supply to transfer to the Corporation communication pipes or parts thereof under streets and for other purposes.

WHEREAS the lord provost magistrates and councillors of the city and royal burgh of Dundee (hereinafter called "the Corporation" and "the city" respectively) are vested with the municipal and police administration thereof and are the local authority within the city under the Public Health (Scotland) Acts 1897 to 1907 and are also the local authority and road authority within the city under the Tramways Act 1870 and also the local authority under the Housing (Scotland) Acts 1925 and 1930 :

And whereas the Corporation are vested with the water undertaking of the city by which water is supplied to the burgh of Dundee and suburbs and places adjacent within the limits of supply and of compulsory supply as defined by the Dundee Water Act 1869 and extended by the Dundee Water Act 1882 the Dundee Water Act 1891 the Dundee Water Order 1905 and the Dundee Corporation and Water and Gas Order 1925 :

And whereas in consequence of the increase in the number of houses within the limits of supply and of compulsory supply and in order to provide for the increasing requirements of districts now in process of development and for the better supply of the central and western parts of the area of supply it is necessary that the Corporation should be authorised to acquire the lands and construct and maintain the works hereinafter described :

And whereas it is expedient that as from the date in this Order specified in that behalf communication pipes and apparatus laid down at that date together

with the liability for the maintenance repair and renewal thereof should to the extent mentioned in this Order be transferred to the Corporation and that the Corporation should be exclusively entitled to provide lay down maintain repair and renew to the extent so mentioned the communication pipes and apparatus for the purposes of supplies of water which the Corporation are required on or after that date to furnish : A.D. 1935.

And whereas it is expedient that the limits for the compulsory supply of water by the Corporation as specified under the said Acts and Orders should be extended as in this Order provided and that the other provisions in this Order in reference to the water undertaking of the Corporation should be enacted :

And whereas estimates have been prepared by the Corporation for the purchase of lands and for the construction of the works by this Order authorised and such estimates are as follows :—

	£
Purchase of land - - - -	1,000
Servitude for works <i>e.g.</i> wayleaves for water pipes - - - -	1,800
New access roads - - - -	1,200
Mains cast iron - - - -	31,000
Reservoirs Service Mass concrete walls - - - -	15,000

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

And whereas it is also expedient that the Corporation should be authorised to raise further money for the purposes of the works to be authorised by this Order and for the general purposes of their water undertaking :

And whereas it is expedient and would be of public advantage that the Corporation should be authorised to redeem the annuities created under the provisions of the Dundee Water Acts and also the annuities created under the provisions of the Dundee Gas Acts :

And whereas it is expedient that the further powers in reference to municipal and police administration and otherwise in this Order contained should be conferred

A.D. 1935. on the Corporation and that the other provisions in this Order contained should be enacted :

And whereas plans and sections showing the lines and levels of the works authorised by this Order and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands and other property required or which may be taken for the purposes or under the powers of this Order were duly deposited in the offices at Forfar and Dundee respectively of the sheriff clerk of the sheriffdom of Perth and Angus and are hereinafter respectively referred to as the deposited plans sections and book of reference :

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Acts 1899 and 1933 :

Now therefore in pursuance of the powers contained in the last-mentioned Acts as read with the Secretaries of State Act 1926 the Secretary of State orders as follows :—

Division of
Order into
Parts.

1. This Order is divided into Parts as follows :—
 - Part I.—Preliminary.
 - Part II.—Works and lands.
 - Part III.—Water supply.
 - Part IV.—Municipal and police administration.
 - Part V.—Electricity.
 - Part VI.—Financial.
 - Part VII.—Miscellaneous.

PART I.

PRELIMINARY.

Short title
and com-
mencement
of Order.

2. This Order may be cited for all purposes as the Dundee Corporation Order 1935.

The Dundee Corporation Acts 1871 to 1934 and this Order may be cited together as the Dundee Corporation Acts 1871 to 1935.

The Dundee Water Acts 1869 to 1934 and this Order so far as relating to water and water purposes may be cited together as the Dundee Water Acts 1869 to 1935.

The Dundee Gas Acts 1868 to 1934 and this Order so far as relating to gas and gas purposes may be cited together as the Dundee Gas Acts 1868 to 1935. A.D. 1935.

The Dundee Electricity Acts and Orders 1890 to 1934 and this Order may be cited together as the Dundee Electricity Acts and Orders 1890 to 1935.

3. In this Order terms words and expressions to which meanings are assigned by the Acts wholly or partly incorporated with this Order shall subject to the provisions of this Order have the same respective meanings unless there be something in the subject or context repugnant to such construction. Further in this Order the following words and expressions shall have the several meanings by this section assigned to them unless there be something in the subject or context repugnant to such construction (that is to say) :—

Interpreta-
tion.

“ the city ” means the city and royal burgh of Dundee ;

“ the Corporation ” means the lord provost magistrates and councillors of the city ;

“ the Act of 1869 ” means the Dundee Water Act 1869 ;

“ the Water Acts ” means the Dundee Water Acts 1869 to 1934 ;

“ the Act of 1871 ” means the Dundee Water Extension Act 1871 ;

“ the Act of 1882 ” means the Dundee Water Act 1882 ;

“ the Act of 1891 ” means the Dundee Water Act 1891 ;

“ the Order of 1905 ” means the Dundee Water Order 1905 ;

“ the Order of 1907 ” means the Dundee Corporation Order 1907 ;

“ the Order of 1911 ” means the Dundee Water Order 1911 ;

“ the Order of 1920 ” means the Dundee Corporation Order 1920 ;

“ the Order of 1925 ” means the Dundee Corporation and Water and Gas Order 1925 ;

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- “ the Order of 1926 ” means the Dundee Corporation Order 1926 ;
- “ the Order of 1927 ” means the Dundee Corporation Order 1927 ;
- “ the Order of 1930 ” means the Dundee Corporation (General Powers) Order 1930 ;
- “ the Order of 1932 ” means the Dundee Corporation Order 1932 ;
- “ the Order of 1934 ” means the Dundee Corporation Order 1934 ;
- “ the water undertaking ” means the undertaking of the Corporation under and authorised by the Water Acts ;
- “ the sheriff ” means the sheriff of Perth and Angus and shall include his substitutes ;
- “ the limits of supply ” means the limits within which the Corporation are for the time being authorised to supply water ;
- “ Daily penalty ” means a penalty for every day on which any offence is continued after conviction therefor.

Incorporation of
general
Acts.

4. 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 hereby incorporated with and form part of this Order (namely) :—

- (1) The Lands Clauses Acts :
- (2) The Waterworks Clauses Act 1847 except—
 - (a) Clauses 37 68 70 and 72 ;
 - (b) The clauses and provisions with respect to the communication pipes to be laid by the undertakers ;
 - (c) The clauses and provisions with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit :
- (3) The Waterworks Clauses Act 1863 :

- (4) The clauses and provisions of the Railways A.D. 1935.
Clauses Consolidation (Scotland) Act 1845 with
respect to the temporary occupation of lands
near the railway during the construction thereof :

Provided always as regards the said last-mentioned Act that the said clauses and provisions thereof shall be read so as to apply only to the Works Nos. 1 and 5 by this Order authorised and the works immediately connected therewith and as if the works were therein referred to instead of "the railway" and as if the boundaries of the said works were therein mentioned instead of "the centre of the railway" and as if the Corporation were therein mentioned instead of "the company."

PART II.

WORKS AND LANDS.

5. Subject to the provisions of this Order the Corporation may make and maintain in the lines and situations and according to the levels shown on the deposited plans and sections the works hereinafter described and shown upon the deposited plans with all proper approaches works and conveniences connected therewith and may enter on take and use such of the lands described in the deposited plans and book of reference as they may require for those purposes. Power to make works.

The works hereinbefore referred to and authorised by this Order are—

- (1) A covered service reservoir (Work No. 1) in the parish of Monifieth and county of Angus in the north-east and south-east corners respectively of the two fields forming part of the farm of Balmossie and numbered 673 and 394 respectively on the Ordnance survey map (scale 1/2500 being 25·344 inches to the mile) of the said parish published in 1902 :
- (2) A conduit or line of pipes (Work No. 2) commencing in the parish of Dundee Combination and county of the city of Dundee on and by a junction with the existing line of pipes belonging to the Corporation in the public road known as Kingsway at a point one hundred yards or thereabouts east of the road leading from Dundee to

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Forfar and thence proceeding via Kingsway and the public road leading from Dundee to Arbroath to a point six hundred and thirty-three yards or thereabouts east of the centre line of Balmossie Farm service road and thence via the lands of Balmossie and terminating in the service reservoir referred to in the hereinbefore described Work No. 1 :

- (3) A conduit or line of pipes (Work No. 3) commencing in the parish of Monifieth and county of Angus at a point of outlet from the hereinbefore mentioned service reservoir (Work No. 1) and thence proceeding by way of the lands of Balmossie and Grange and the public road known as Grange Road and terminating by a junction with the existing line of pipes of the Corporation in the burgh of Monifieth and county of Angus at a point in the public road known as Ferry Road leading from Broughty Ferry to Monifieth three yards or thereabouts east of the westmost boundary line of the said Grange Road :
- (4) A road (Work No. 4) in the parish of Monifieth commencing in and by a junction with the road commonly known as the Dundee-Arbroath road at a point six hundred and thirty-three yards or thereabouts east of the centre line of Balmossie Farm service road and terminating in the grounds of the service reservoir (Work No. 1) firstly above described :
- (5) A covered service reservoir (Work No. 5) in the parish of Liff and Benvie and county of Angus in the south-east corner of the field forming part of the farm of Gowriehill and numbered 674 on the Ordnance survey map (scale 1/2500 being 25·344 inches to the mile) of the said parish published in 1902 :
- (6) A conduit or line of pipes (Work No. 6) commencing in the parish of Dundee Combination and county of the city of Dundee by a junction with the existing line of pipes of the Corporation at a point seven yards or thereabouts west of the centre line of the north abutment of the railway bridge conveying the Dundee-Newtyle branch of the London Midland

and Scottish Railway over the road known as Kingsway and continuing westwards along the said Kingsway for a distance of two thousand seven hundred and ten yards or thereabouts and thence in a southerly direction through the lands of Camperdown Charleston and Gowriehill and terminating in the covered service reservoir referred to in the hereinbefore mentioned Work No. 5 :

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- (7) A line of pipes (Work No. 7) commencing in the parish of Liff and Benvie and county of Angus at the point of outlet from the hereinbefore mentioned service reservoir (Work No. 5) and terminating by a junction with the existing line of pipes of the Corporation in the parish of Liff and Benvie and county of Angus at a point in the public road known as the Perth Road leading from Dundee to Perth two hundred and sixty yards or thereabouts east of the east line of the south abutment of the bridge conveying the Dundee-Newtyle branch of the London Midland and Scottish Railway over the said Perth Road :
- (8) A road (Work No. 8) in the parish of Liff and Benvie commencing in and by a junction with the service or access road leading from the farm steading of Menzieshill to the farm steading of Gowriehill at a point five hundred and forty-five yards or thereabouts west of the east line of Menzieshill Farm steading and terminating in the grounds of the service reservoir (Work No. 5) fifthly above described.

6. Where the line of any work shown on the deposited plans passes along any road and the limits of lateral deviation are not marked thereon the Corporation may in constructing the works deviate laterally from the lines thereof as laid down on those plans to the extent of the boundaries of the road and elsewhere the Corporation may in constructing the works by this Order authorised deviate laterally from the lines thereof as shown on the deposited plans to the extent of the limits of lateral deviation shown thereon.

Limits of
lateral
deviation.

7. In the construction of the works authorised by this Order the Corporation may deviate vertically from the levels shown on the deposited sections in the case of

Limits of
vertical
deviation.

A.D. 1935. — the works Nos. 1 and 5 to any extent not exceeding five feet upwards or downwards and in the case of works Nos. 2 3 6 and 7 to any extent not exceeding five feet upwards or seven feet downwards Provided as follows (that is to say) :—

The Corporation shall not construct any embankment or wall of any reservoir of a greater height above the general surface of the ground than that shown on the deposited sections in respect of the corresponding embankment or wall and three feet in addition ;

Except for the purpose of crossing over a stream no part of the pipes shall be raised above the surface of the ground unless and except so far as is shown on the deposited sections.

Powers as regards maintenance and extension of works and construction of subsidiary works.

8. The Corporation may subject to the provisions of this Order in connection with the works or any of them authorised by this Order make lay erect and maintain such embankments dams weirs channels sluices catch-water drains culverts cuts aqueducts tunnels bridges roads cisterns gauges scour pipes mains and distributing pipes buildings dwelling-houses for servants and other works and conveniences as may be necessary or expedient for effecting or carrying out the objects or purposes of this Order or any of them and the Corporation may subject as aforesaid from time to time on or within any of their lands or on or over any lands on or over which they by agreement have or may acquire right so to do alter replace enlarge and increase the number and size of the works (other than impounding reservoirs) conduits aqueducts mains and pipes authorised by the recited Acts and this Order and may from time to time alter replace enlarge and increase the number and size of the works mains and pipes from time to time in use for conveying and distributing water for the purposes of the recited Acts and this Order but nothing in this section shall exonerate the Corporation from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them Provided that any telegraphs telephone posts wires and other works made erected or maintained by the Corporation shall not be used in contravention of the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869.

9. The Corporation may use the existing access farm or service roads on the lands of Invergowrie Balgay and Balmossie for the purposes of access to or construction maintenance repair extension or enlargement of the works by this Order authorised and may also make temporary roads for the purposes of construction maintenance repair extension or enlargement of the said works over the said lands subject to agreement with the proprietors thereof as to the upkeep maintenance and repair of the said roads and in respect of payment of compensation for surface damage.

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Power to use existing access farm or service roads and to make temporary roads.

10.—(1) The Corporation may in lieu of acquiring any lands for the purposes of the works authorised by this Order where the same are intended to be constructed underground acquire such servitudes and rights only in such lands as they may require for such purposes and may give notice to treat in respect of such servitudes and rights describing the nature thereof and the provisions of the Lands Clauses Acts shall apply to and in respect of the acquisition of such servitudes and rights as fully as if the same were lands within the meaning of those Acts.

Corporation may acquire servitudes only in certain cases.

(2) As regards any lands in respect of which the Corporation have acquired servitudes and rights only under the provisions of this section the Corporation shall not be required or entitled to fence off or sever such lands from the adjoining lands but the owners or occupiers for the time being shall subject to such servitudes and rights have the same rights to use and cultivate the said lands at all times as if this Order had not been confirmed.

(3) Provided always that nothing in this section contained shall authorise the Corporation to acquire by compulsion any such servitudes and rights in any case in which the owner in his particulars of claim shall require the Corporation to acquire the lands in respect of which they have given notice to treat for the acquisition of a servitude or right only and every notice to treat for the acquisition of a servitude or right shall be endorsed with notice of this provision.

11. The Corporation may establish and maintain such wires and apparatus for the transmission of messages and other communications wholly or partially by means

Power to establish communication with

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works by
means of
electricity.

of electricity or by telephone (which wires and apparatus are in this section called "any such apparatus as aforesaid") as they think expedient or necessary for the better execution of any of the powers or authorities for the time being vested in them and in relation to any such apparatus as aforesaid for the purposes of the Telegraph Act 1863 the Corporation shall be in the like position in all respects as a company authorised by special Act of Parliament to construct and maintain telegraphs would be or might have been under that Act but nothing in this Order shall authorise the Corporation to work any such apparatus as aforesaid in consideration of any money payment or any valuable consideration or for any purpose other than the execution of their powers and authorities aforesaid or in contravention of any exclusive privilege by law vested for the time being in the Postmaster-General or of the Wireless Telegraphy Acts 1904 to 1926 or to place any such apparatus as aforesaid in over along or across any railway without the consent of the owners or lessees of or company or person working such railway or to construct any such apparatus as aforesaid which shall interfere in any way with any telegraphic line in the possession or under the control of the Postmaster-General or of any owner or lessee of or company or person working any railway and the Corporation shall within forty-eight hours of the service on them of a notice in writing by the Postmaster-General in that behalf remove or alter to the satisfaction of the Postmaster-General any such apparatus as aforesaid which in the opinion of the Postmaster-General interferes or will interfere with the efficient or convenient maintaining working or user of any telegraphic line which the Postmaster-General has constructed or desires to construct and in default of such removal or alteration as aforesaid the Postmaster-General may remove or alter any such apparatus as aforesaid at the expense of the Corporation. In this Order the expression "telegraphic line" has the same meaning as in the Telegraph Act 1878.

Period for
completion
of works.

12. If the works 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 by this Order granted to the Corporation for executing any works not so completed or in relation thereto shall cease except as to so much thereof as is then completed

but nothing herein contained shall restrict the Corporation from extending enlarging altering replacing increasing or removing any of their engines machinery conduits service reservoirs filter-beds aqueducts mains or pipes or improving their supply of water at any time and from time to time as occasion requires subject to the provisions of this Order.

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13. Subject to the provisions of this Order the Corporation may enter upon take appropriate and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for the purposes of the works authorised by this Order.

Power to
acquire
lands.

14. The powers of the Corporation for the compulsory purchase of lands for the purposes of this Order shall cease on the thirty-first day of December one thousand nine hundred and thirty-eight.

Period for
compulsory
purchase of
lands.

15. The sections hereinafter specified of the Act and Orders hereinafter mentioned shall so far as applicable and not varied by or inconsistent with the provisions of this Order extend and apply mutatis mutandis to the several works authorised by this Order and to the lands to be acquired by the Corporation under the authority of this Order and to the Corporation and all other persons in respect thereof in the same manner as fully and effectually as if these sections had been re-enacted in this Order with reference thereto (that is to say) :—

Application
of sections
of former
Act and
Orders.

Of the Act of 1871—

Section 27 (Commissioners may draw off water for repairs and cleaning of reservoirs).

Of the Order of 1905—

Section 9 (For protection of waterworks from pollution);

Section 10 (Power to agree for servitudes &c.);

Section 12 (Power to acquire and hold lands for protection of works and prevention of pollution).

Of the Order of 1911—

Section 9 (Power to alter roads &c. temporarily);

Section 10 (Reservoir to be enclosed by wire fences);

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- Section 13 (Notice to be served before breaking up public roads and roads to be broken up under superintendence);
- Section 14 (Roads broken up to be reinstated without delay);
- Section 15 (Penalty for failure to give notice and for delay in reinstating roads);
- Section 22 (Lands may be planted with trees);
- Section 26 (Lands for extraordinary purposes);
- Section 27 (Limiting powers of Commissioners to abstract water);
- Section 28 (Nuisance);
- Section 31 (New works to form part of water undertaking).

For pro-
tection of
London
Midland and
Scottish
Railway
Company.

16. For the protection of the London Midland and Scottish Railway Company (in this section referred to as "the company") the following provisions shall notwithstanding anything contained in this Order or shown on the deposited plans and sections and unless otherwise agreed apply and have effect (that is to say):—

- (1) The Corporation shall not for the purposes of the works authorised by this Order and the works in connection therewith (hereinafter referred to as "the said works") acquire any land or property of the company but the Corporation may purchase and take and the company shall at the request of the Corporation sell and grant such servitudes or rights of using so much of the land or property of the company as may be necessary for the construction maintenance and use of the said works over into through or under the railways works and property of the company in accordance with the provisions of this section and the Corporation shall pay to the company in respect of any such servitudes or rights such sum as shall in case of dispute be determined by arbitration under and in accordance with the provisions of the Lands Clauses Acts with respect to the settlement of cases of disputed compensation under those Acts:
- (2) Before constructing any part of the said works or any subsequent repairs thereof in under or affecting any of the railways works and property

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of the company the Corporation shall submit to the company plans sections working drawings and specifications thereof showing the line and level of and the manner in which such works or operations are to be carried out and the mode of execution thereof for the approval of the company which approval shall not be unreasonably withheld and shall be deemed to have been given unless the company signify their disapproval within twenty-one days after submission of the said plans sections working drawings and specifications for approval. Provided always that in case of bursts or leaks or other emergencies the Corporation may proceed with repairs after giving such notice as is reasonably practicable :

- (3) The said works shall be constructed carried on and completed and thereafter maintained repaired and renewed by the Corporation in strict conformity with the plans sections working drawings and specifications so approved at the sole risk and cost of the Corporation and under the supervision and to the reasonable satisfaction of the engineer of the company and at such times as the said engineer may reasonably require :
- (4) The said works shall be constructed and maintained so as not to cause any injury or damage to the railways or other property of the company or any interruption to the passage or conduct of traffic over such railways or at any station thereon and if any injury damage or interruption arises from the acts or operations of the Corporation or from the bursting leakage or failure of the said works all such injury or damage shall forthwith be made good by the company at the reasonable expense of the Corporation and the Corporation shall indemnify the company from all claims for or arising out of any such injury damage or interruption :
- (5) The Corporation shall not for the purposes of the said works without the previous consent in writing of the company enter upon or alter or interfere with the railways works and property of the company further or otherwise than may

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be necessary for constructing maintaining and renewing the said works so far as the same may be laid in upon or under the railways works and property of the company and the Corporation shall not at any time enter upon the property of the company without first giving fourteen days' notice in writing to the company except for the purposes of inspection or in cases of emergency in which case such notice as is reasonably practicable shall be given :

- (6) The Corporation shall be liable for and shall pay to the company all reasonable expenses which the company may incur or to which the company may be put in connection with or in consequence of the construction of the said works so far as upon or affecting the railways works or property of the company or the subsequent maintenance renewal use alteration replacing or repair of the said works including (without prejudice to the said generality) any reasonable expense the company may incur in employing for the protection of their railways works and property or their servants or the servants or employees of the Corporation or the servants or employees of the contractors of the Corporation of a reasonably sufficient number of inspectors signalmen watchmen and others and for superintendence of the said works and for all extra precautions for the safety and working of the company's traffic during the construction maintenance renewal use alteration replacing or repair of the said works :
- (7) The said works and the subsequent maintenance renewal alteration replacing or repair thereof in so far as the same affect the railways works and property of the company shall when commenced be carried out and completed by the Corporation with all due dispatch and so as not to injure or alter or interfere with (except so far as may be necessary for carrying out the said works) or endanger the structure or stability of any of the railways works and property of the company and should any damage or injury to the said railways works and property or interruption to or impediment of or interference with the passage or

conduct of traffic on the railways of the company be caused by or be in any way owing to the said works or the failure or defect of the said works the Corporation shall at their own cost and free of all expense to the company execute and do all such works as may be necessary to make good the damage or injury and remove such interruption impediment or interference as the case may be or the company at their option may execute all such works and do all such things as may be necessary to make good such damage or injury or to remove or prevent such interruption impediment or interference and for any of such purposes may enter upon the works or property of the Corporation and the Corporation shall on demand repay to the company all reasonable expenses incurred by them in connection therewith :

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- (8) The Corporation shall before carrying out the said works construct such temporary or permanent works as may be reasonably necessary to support the railway or to enable as far as possible the trains of the company to pass without the necessity of slackening speed and in the event of the Corporation constructing the said works at a lower level than the foundations of any bridge or other structure of the company any underpinning which may be reasonably necessary to ensure the stability of such bridge or structure in consequence of the carrying out of the said works shall (on the company giving at least seven days' notice thereof to the Corporation) be executed by the company but in all things at the expense of the Corporation :
- (9) The Corporation shall make reasonable compensation to the company for all loss or damage caused by the said works or any operations of the Corporation or any interruption impediment or interference to or with the railways works or property of the company and the Corporation shall also free relieve and indemnify the company from all damages or compensation which may be recovered from them in respect of any damage injury or loss which may be suffered by

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the employees of the company or any passengers owners of merchandise traders or owners of property adjoining the said works or any other person or persons by reason of any such operations interruption impediment or interference or by reason of any accident so far as such interruption impediment interference or accident shall have been occasioned by or through the acts or default of the Corporation or those for whom they are responsible :

- (10) The construction maintenance or repair of the said works or anything which may be done in connection therewith shall not prevent the company from maintaining and repairing and whenever in their discretion thought necessary reconstructing altering renewing deviating widening or enlarging any of the lines of railway or other works or property belonging to them without interference on the part of the Corporation and without incurring any liability to them or to any person using the said works for any loss injury damages or expenses which may arise from such maintenance repair reconstruction alteration renewal deviation widening or enlarging Provided that any extra expense which the company may incur in such maintenance repair renewal deviation widening enlarging alteration or reconstruction by reason of the existence of the said works shall be paid by the Corporation :
- (11) In the event of the company doing any of the acts referred to in the immediately preceding subsection they shall do so in such manner as to cause as little damage and interference as practicable to and with the works of the Corporation and shall give (except in the case of emergency in which case such notice as is reasonably practicable shall be given) fourteen days' previous notice in writing to the Corporation before commencing any such operations as may affect any of the said works :
- (12) If any difference shall arise between the company and the Corporation respecting the matters and provisions aforesaid or any of them such

difference shall be settled by an arbiter to be agreed upon between parties or in case of difference to be appointed on the application of either party by the sheriff :

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- (13) For the purposes of this section the word "sheriff" shall mean the sheriff of Perth and Angus and shall not include his substitutes.

17. The following provisions shall have effect for the benefit and protection of the county council of the county of Angus (in this section called "the county council") unless otherwise agreed in writing between the county council and the Corporation (that is to say) :—

For protection of county council of Angus.

- (1) A clear and sufficient carriageway shall be kept for the passage of carriages and traffic along every highway road and bridge during any interference therewith by the Corporation and in case of default in compliance with this provision the county council may by their own servants and workmen clear any such carriageway and may recover the expenses of and incident thereto from the Corporation :

- (2) Nothing in this Order shall interfere with the right of the county council to alter the level of or deviate or improve in any manner they may think fit any highway or road in or across which any pipe of the Corporation shall be laid or to renew widen or improve any bridge on or near which any such pipe shall be laid and the Corporation shall at their own expense forthwith on receiving notice in writing under the hand of the clerk to the county council so to do alter the position of the said pipes in the manner and to the extent prescribed by such notice :

- (3) The Corporation shall make full compensation to the county council for all damage and injury losses and expenses whatsoever which they may from time to time sustain including reparation to third parties by reason or in consequence of the bursting or giving way of the reservoirs or of the conduits or lines of pipes by this Order authorised and of the flooding that may be thereby occasioned or consequent upon or arising from the construction or existence of the said

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works and shall indemnify the county council from all liability including reparation to third parties in respect of such loss or damage :

- (4) The county council shall not except in the case of their negligence be liable for any damage (other than wilful damage) which the Corporation may sustain through the acts of the county council in constructing reconstructing improving enlarging repairing or maintaining any road street or bridge or other work or through the use of steam rollers or road scarifiers of a reasonable weight or through the reasonable exercise of any right function power or privilege vested or to be vested in the council :
- (5) The Corporation shall not in the construction repair maintenance or use of the conduits or lines of pipe authorised by this Order discharge or emit any water steam or other thing which may cause danger or avoidable nuisance to the traffic on any road or street under the jurisdiction of the county council :
- (6) All works of the Corporation which may interfere with any road street bridge or other property under the jurisdiction of or vested in the county council shall be carried out under the superintendence and to the reasonable satisfaction of a qualified person appointed by and responsible to the county council and all such works shall be completed with all reasonable expedition and so as to cause as little interference with or damage to such road street bridge or other work or property or interruption to the user thereof as circumstances admit :
- (7) The Corporation in opening or breaking up the surface of a road or street under the jurisdiction of the county council shall not without the consent of the county council have a greater length open or broken up at one time in any road or street than is reasonably necessary to enable the work to be carried out in a practical and economical way and the Corporation shall complete their operations as expeditiously as

possible and restore the surface of such road or street or the portion thereof so opened or broken up to the reasonable satisfaction of the county council and shall maintain the same for twelve months from the date which the county council or their surveyor shall certify to be the date on which such road or street or portion thereof as aforesaid has been restored to their or his satisfaction. The Corporation shall efficiently fence off light and watch all portions of roads and streets so opened or broken up as aforesaid until the surface has been restored as aforesaid :

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- (8) If any difference arise between the county council and the Corporation touching subsections (2) to (7) inclusive of this section or anything to be done or not to be done thereunder such difference shall be determined by an arbiter to be appointed by the sheriff of Perth and Angus on the application of either party and the decision of the said arbiter shall be binding and conclusive on all parties :
- (9) The provisions of this section shall apply only to the conduits or lines of pipes by this Order authorised and shall not apply to the renewal or repair of any works of the Corporation heretofore constructed or authorised or affect the powers which the Corporation presently possess in connection with their existing works.

18. Nothing in this Order shall—

- (a) extend to or authorise any interference with any works of any undertakers within the meaning of the Electricity (Supply) Acts 1882 to 1935 to which the provisions of section 15 of the Electric Lighting Act 1882 or of section 17 of the schedule to the Electric Lighting (Clauses) Act 1899 apply except in accordance with and subject to the provisions of those sections; or
- (b) prevent or affect the exercise by any such undertakers or by the Corporation of any rights or powers under those provisions.

Saving
rights
under
Electricity
(Supply)
Acts.

A.D. 1935.

PART III.

WATER SUPPLY.

Interpre-
tations in
Part III
of Order.

19. In this Part of this Order the following words and expressions shall have the several meanings by this section assigned to them unless there be something in the subject or context repugnant to such construction (that is to say):—

“Street” means any square court alley highway lane road thoroughfare or passage within the limits of supply (whether the same be or be not dedicated to public use) in which a service main of the Corporation is for the time being laid;

“Service pipe” means so much of any pipe for conveying water from a service main of the Corporation to any house building or premises as is subject to water pressure from such a main;

“Stopcock” means a stopcock which is fitted on a service pipe and every part of which is situate in a street;

“Communication pipe” means so much of any service pipe as extends from a service main of the Corporation to—

(a) the point of junction with the stopcock (if any) fitted on such pipe; or

(b) where a stopcock is not fitted on such pipe a point two feet from the boundary of the street or from the point at which such pipe enters the premises in or under the street whichever of these points is the nearer to the service main as the case may be;

and includes the ferrule or maincock at the junction of such pipe with such service main but excludes—

(a) the junction of such pipe with the stopcock (if any); and

(b) any such stopcock together with the box containing the same and the cover to such box;

“Supply pipe” means so much of any service pipe as is not a communication pipe;

“The appointed day” means the sixteenth day of May one thousand nine hundred and thirty-six; A.D. 1935.

“Consumer” means in relation to any supply of water which the Corporation are required to furnish the person entitled to require and requiring that supply.

20. As on and from the appointed day so much of every service pipe existing at that date as constitutes at that date a communication pipe shall by virtue of this Order be transferred to and belong to the Corporation and the rights and obligations of the Corporation with reference to the maintenance repair renewal and removal of pipes laid down by them shall extend and apply to all communication pipes so transferred to them as if such communication pipes had been laid down by the Corporation. Provided that nothing in this section shall affect the provisions of the section of this Order the marginal note whereof is “Provision in case of deficient supplies of water to dwelling-houses.”

Transfer of communication pipes to Corporation.

21.—(1) For the purpose of any supply of water which the Corporation shall be required on or after the appointed day to furnish for any purpose the Corporation shall notwithstanding anything contained in any other Act or Order relating to them have the exclusive right to provide and lay down and shall (at the request of a consumer who has laid the supply pipe and paid or tendered the water rate or portion of water rate payable in respect of the premises to be supplied) provide and lay down with all reasonable dispatch the communication pipe with any other necessary and proper apparatus. Provided that if the Corporation so require the consumer shall deposit with the Corporation before they commence to lay down such communication pipe and apparatus such a sum as the Corporation may deem reasonably necessary to meet the expense of providing and laying down the same.

As to communication pipes for supplies required after the appointed day.

(2) The reasonable cost incurred by the Corporation in providing and laying down any such communication pipe and apparatus as aforesaid shall be borne by the consumer and the amount of such cost or so much (if any) thereof as shall not be covered by any sum deposited with the Corporation as aforesaid (as the case may be) shall upon the completion of the laying down of such communication

A.D. 1935. — pipe and apparatus be repaid to the Corporation by the consumer and shall be recoverable by the Corporation in like manner as the water rate payable in respect of the premises supplied or to be supplied is recoverable.

(3) All communication pipes (with any such apparatus as aforesaid) provided and laid down by the Corporation in accordance with the provisions of this section shall belong to the Corporation and the rights and obligations of the Corporation with reference to the maintenance repair renewal and removal of pipes laid down by them shall extend and apply to such communication pipes and apparatus.

Provision
in case of
deficient
supplies of
water to
dwelling-
houses.

22. In any case in which on or after the appointed day the supply of water to any dwelling-house or houses within the limits of supply is deficient by reason of the inadequate capacity of the service pipe or pipes conveying the supply thereto and the enlargement of such pipe or pipes or the provision of an additional service pipe or pipes for the better supply of such dwelling-house or houses is required by the consumer or by the Corporation under or pursuant to section 75 of the Order of 1907 (As to deficient supply of water to dwelling-houses) the provisions of the section of this Order of which the marginal note is "As to communication pipes for supplies required after the appointed day" shall apply to the provision and laying down of so much of each of such enlargement or additional pipe or pipes as constitutes a communication pipe as if such dwelling-house or houses had not theretofore been supplied with water by the Corporation. Provided that this section shall not apply in the case of a communication pipe laid down by the Corporation under the provisions of this Order.

Extension
of powers of
Corporation
of breaking
up streets.

23. On and from the appointed day the powers and obligations of the Corporation with reference to the opening breaking up and reinstatement of streets whether within or beyond the limits of supply for the purpose of laying pipes shall extend and apply to the laying down maintaining repairing renewing and removing by them of communication pipes and other apparatus under the provisions of this Order.

Certain pro-
visions of
Waterworks
Clauses Act

24. On and from the appointed day the powers of laying pipes conferred by sections 48 to 52 of the Waterworks Clauses Act 1847 and the provisions of those

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sections with reference to such pipes shall within the limits of supply apply to the supply pipe for any supply of water which the Corporation shall be required on or after that day to furnish for any purpose.

—
1847 to
apply to
supply
pipes.

25.—(1) For the purpose of complying with any obligation under this Order to maintain repair or renew any service pipe or any apparatus fitted thereon the person for the time being liable to maintain the same shall have the like power to open the ground or break up the pavement of any street as is conferred upon him by sections 48 to 52 of the Waterworks Clauses Act 1847 in relation to the laying of such pipes as are referred to in those sections.

As to
breaking
up ground
for main-
taining
pipes and
laying
down &c.
communi-
cation pipes.

(2) As from the appointed day no person other than the Corporation shall be entitled to open or break up any street for laying down any communication pipe or any apparatus fitted thereon or for maintaining repairing renewing or removing any communication pipe transferred by this Order to or laid down by the Corporation or any apparatus fitted on any such communication pipe.

26.—(1) Notwithstanding anything contained in any other Act or Order—

Main-
tenance of
communi-
cation pipes
and supply
pipes.

(a) The person who immediately before the appointed day was responsible for the maintenance repair and renewal of or entitled to remove any service pipe shall as on and from that date cease to be responsible for the maintenance repair or renewal of or to be entitled to remove so much of such pipe as constitutes a communication pipe transferred to the Corporation by virtue of this Order; and

(b) No person other than the Corporation shall be responsible for the maintenance repair renewal or removal of so much of any service pipe as constitutes a communication pipe transferred to the Corporation as aforesaid or laid down by the Corporation pursuant to this Order :

Provided that nothing in the foregoing subsections shall affect the provisions of the section of this Order of which the marginal note is "Provision in case of deficient supplies of water to dwelling-houses."

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(2) Nothing in this Order shall alter or affect any right or obligation of any person—

- (a) before the appointed day to provide lay down maintain repair or renew or remove any service pipe; or
- (b) on and after the appointed day to provide lay down maintain repair renew or remove any supply pipe; or
- (c) to open the ground or open or break up the pavement of any street for any such purpose as aforesaid;

which would have existed if this Order had not been passed.

As to
stopcocks.

27.—(1) Any stopcock fitted after the appointed day shall be placed in the street or footway as near as is reasonably practicable two feet from the point at which the service pipe passes the boundary of the street or the point at which such pipe enters any premises in or under the street whichever of these points is the nearer to the service main.

(2) The box containing any such stopcock shall be in conformity with the byelaws of the Corporation with respect to the supply of water and apparatus to be used for the purposes of supply.

Corporation
to make
connections
with service
mains or
pipes.

28.—(1) Notwithstanding anything in any Act or Order relating to the Corporation the Corporation shall have the exclusive right of executing any works on any service main of the Corporation for connecting therewith any service pipe and on the request of the consumer the Corporation shall (subject to the provisions so far as applicable of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying mains) execute on any such service main any work and supply all fittings and materials which shall be necessary to connect such service main with the service pipe of such consumer.

(2) (a) Any reasonable expenses incurred by the Corporation under this section shall be repaid to them by the consumer and shall be recoverable by the Corporation in like manner as the water rate payable in respect of the premises supplied is recoverable.

(b) The Corporation shall not be under any obligation to supply or continue to supply water by means of any such service pipe until all sums payable to them by the consumer in respect thereof pursuant to this subsection shall have been paid to them.

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29. In addition to the powers of inspection vested in the Corporation under section 57 of the Waterworks Clauses Act 1847 the officers of the Corporation appointed for the purpose may at all reasonable times between the hours of four p.m. and seven p.m. enter any premises other than dwelling-houses supplied with water by the Corporation for the purpose of examining if there is any waste or misuse thereof :

Inspection
of premises
supplied
with water.

Provided that such right of entry shall as regards any premises owned or occupied by a railway company extend to five p.m. and no longer.

30. Subject to the provisions of this Order the limits of compulsory supply specified in the Act of 1869 as extended by the Act of 1882 the Act of 1891 the Order of 1905 and the Order of 1925 are hereby further extended to and shall comprise and include the following additional areas (viz.) :—

Extension
of com-
pulsory
limits of
supply.

Extension on the north-west in the county of Angus commencing at the point of intersection of the existing limits of compulsory supply with the municipal and police burgh boundary of the city of Dundee as fixed under the Dundee Corporation Order 1932 two hundred and ninety yards or thereby north of the centre line of Liff Road measured along the said boundary thence proceeding along the said boundary to the point of intersection of the said boundary with the existing limits of compulsory supply south of St. Mary's Farm steading thence in a south-easterly and south-westerly direction along the line of existing limits of compulsory supply to the point of commencement ;

Extension on the north in the county of Angus commencing at the point of intersection of the existing limits of compulsory supply with the municipal and police burgh boundary of the city of Dundee as fixed under the Dundee Corporation Order 1932 eighty yards or thereby

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—

east of the junction of the Dundee Forfar and Trottick roads thence in an easterly and southerly direction along the said burgh boundary to the point of intersection of the said boundary with the existing limits of compulsory supply two hundred and ninety yards or thereby east of the road leading to Douglas Bleachfield and thence in a westerly and southerly direction to the point of commencement.

PART IV.

MUNICIPAL AND POLICE ADMINISTRATION.

Power to
erect police
call boxes
and shelters.

31.—(1) The Corporation may erect or fix police telephone call boxes and shelters or boxes for the use of police officers in such positions in any street footpath or public place within the city as they think fit :

Provided that nothing in this section shall authorise the transmission of any telegram which is within the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869.

(2) Any person who shall knowingly and improperly use or cause to be used by means of any false or malicious statement message or otherwise any telephone in any such police telephone call box shall be liable to a penalty not exceeding five pounds.

(3) Provided that the Corporation shall not under the powers of this section erect or fix any such police telephone call boxes and shelters or boxes for the use of police officers (a) in or upon any bridge carrying a street over a railway of a railway company or the approaches thereto or under any bridge carrying a railway of a railway company over a street or (b) in any street belonging to and repairable by a railway company and forming the approach to any station or depot of a railway company or (c) so as to obstruct the access to or exit from any station or depot of a railway company constructed and maintained under statutory authority except in each case with the consent in writing of such railway company but such consent shall not be unreasonably withheld and

any question as to whether such consent is unreasonably withheld shall be referred to the arbitration of a single arbiter to be appointed failing agreement by the Minister of Transport or (d) on the footway fronting property used as dwelling-houses except with the consent in writing of the owners and occupiers of such property or (e) in any street footpath or public place within the jurisdiction of the Trustees of the Harbour of Dundee except in each case with the consent in writing of such trustees but such consent shall not be unreasonably withheld and any question as to whether any such consent is unreasonably withheld shall be referred to the arbitration of a single arbiter to be appointed failing agreement by the Minister of Transport :

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Provided further that any person the use or enjoyment of whose property is interfered with by the erection or fixing of any such police telephone call box or shelter or box for the use of police officers may appeal to the sheriff within one month after the erection or fixing thereof and the sheriff shall have power to make such order for the removal or alteration of the position thereof as the sheriff may think fit.

32.—(1) The owners of all common stairs and common passages and of waterclosets and washhouses used in common shall have the same provided with proper means of ventilation to the satisfaction of the sanitary inspector of the Corporation and shall keep the same and all common ventilating shafts in repair and shall as often as may be required by the Corporation and to their satisfaction repair cleanse and paint the same and the owners of all premises occupied as dwelling-houses let for shorter periods than six months shall distemper and properly cleanse such premises and every part and pertinent thereof to the satisfaction of the sanitary inspector and as often as may be required by him and any owner failing to do so shall be liable to a penalty not exceeding forty shillings.

Common stairs &c. to be cleansed by owners.

(2) Section 243 (Incorporation of clauses of Police Act) of the Act of 1882 in its application to the city of section 354 (Common stairs to be ventilated and houses let for short periods to be cleansed) of the General Police and Improvement (Scotland) Act 1862 is hereby repealed.

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—
Penalty for
want of
cleanliness
in meat and
provision
shops &c.

33.—(1) Every occupier of any shop or other premises used for the sale preparation or storage of butcher meat poultry game fish butter meal bread or any other article of food which by its nature will be liable to contamination by contact with unclean conditions who does not keep such shop or other premises clean and in good condition shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding ten shillings.

(2) Every person who uses any cart basket or other article or thing for the disposal or sale of any article of food which by its nature will be liable to contamination by contact with unclean conditions who does not keep the same clean and in good condition shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding ten shillings.

Prevention
of nuisance
arising from
smoke.

34.—(1) Every person who so uses or causes or permits or suffers to be used within the city any furnace or fire (except a household fire) as that smoke issues therefrom unless he proves that he uses the best practicable means for preventing smoke and has carefully attended to and managed such furnace or fire so as to prevent as far as possible the escape of smoke therefrom shall be liable to a penalty not exceeding forty shillings in respect of any such act or omission and to a further penalty not exceeding five pounds in respect of every day or part of a day during which such act or omission continues after the imposition of the first-mentioned penalty or in respect of every act or omission of a like nature which occurs within one month after such imposition Provided that where the emission of black or brown smoke from any furnace or fire is caused by excessive careless or inefficient firing or by the mismanagement of any furnace or fire the liability for the said penalty shall be incurred on conviction without service of any notice or requirement for its discontinuance or remedy being necessary.

(2) Nothing in this Order contained shall affect prejudicially the operation of the Smoke Nuisance Abatement (Scotland) Act 1857 or the Smoke Nuisance (Scotland) Abatement Amendment Acts 1861 and 1865 or the provisions of the Public Health (Scotland) Act 1897 relating to the prevention of nuisance arising from smoke.

Registra-
tion of ice-
cream
dealers &c.

35.—(1) (a) No person shall carry on the business of a manufacturer or vendor of or dealer in ice-cream within the city unless he be registered by the Corporation.

(b) No premises shall be used for the manufacture for sale or sale of ice-cream unless such premises are registered by the Corporation. A.D. 1935.

(c) Any person who offends against the provisions of this subsection shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

(2) (a) The Corporation may refuse to register any such person or premises or (after giving one month's notice in writing to the person registered or in whose name any such premises are registered) may revoke the registration of any such person or premises as regards any person on the ground that the public health is or is likely to be endangered by any act or default of the person who is registered or who seeks to be registered as a manufacturer or vendor of or dealer in ice-cream in relation to the quality storage or distribution of the ice-cream and as regards any premises on the ground that the premises are not suitable to be used for the purposes aforesaid :

Provided that before refusing or revoking such registration the Corporation shall serve upon the applicant for registration or the person registered or in whose name such premises are registered a notice to appear before them not less than seven days after the date of the notice to show cause why the Corporation should not for reasons to be specified in the notice refuse to register or revoke the registration of the person or premises.

(b) If the Corporation refuse to register or revoke the registration of any such person or premises they shall deliver to the person applying for such registration or the person registered or in whose name the premises are registered a statement in writing of the ground or grounds on which such refusal or revocation is based. Notice of the right to appeal next hereinafter mentioned shall be endorsed on every such statement.

(c) Any person aggrieved by any such refusal or revocation may appeal to the sheriff provided that such appeal be made within fourteen days from the date of the delivery of the statement referred to in the immediately preceding paragraph.

(d) Any person so appealing shall give written notice of such appeal and of the grounds thereof to the town clerk before lodging his appeal.

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(e) On any such appeal the sheriff may by order confirm the refusal or revocation or direct the Corporation to register the person or premises or to retain them on the register and the Corporation shall comply with any such direction.

(3) In this section the expression "ice-cream" includes any preparation sold under the name of ice-cream or any similar name whether containing milk or cream or not.

(4) The Corporation may make a charge not exceeding five shillings in respect of the registration of any person or premises under this section.

(5) The provisions of this section shall not in any way affect the operation of the Factory and Workshop Act 1901.

(6) The provisions of this section shall not apply to any premises used as a club hotel or restaurant or as railway refreshment rooms nor to the sale of ice-cream upon any premises used as a theatre or other place of public amusement unless ice-cream is actually manufactured upon such premises.

Regulation
of tents
vans &c.

36.—(1) It shall not be lawful for any person without the consent of the Corporation—

(a) to let or use or permit to be used any land situate within the city for occupation by any tent van shed or similar structure used or intended to be used for human habitation; or

(b) to place or keep on any land situate within the city any such tent van shed or similar structure;

and such consent may be given for such period and on such conditions as the Corporation think fit Provided that consent shall not be required by any person in respect of—

(i) any tent van shed or similar structure placed or kept by the occupier of a dwelling-house upon any land connected therewith and used by him or members of his household;

(ii) any tent van shed or similar structure provided by or belonging to or used by—

(a) any duly constituted religious or charitable society or body to the main objects of

which the provision ownership or use of tents vans sheds or similar structures is merely subsidiary; A.D. 1935.

(b) any association incorporated by royal charter or any organisation constituted by any such last-mentioned association in pursuance of their charter; or

(c) any duly constituted society or body operating throughout Great Britain who by their rules undertake responsibility for the management of the camping grounds provided by or belonging to them or used by their members and for the good conduct of their members when in camp;

(iii) any tent van shed or similar structure used or intended to be used for human habitation where such use shall not exceed a period of three months in any period of twelve months;

(iv) any tent van shed or similar structure erected or to be erected on the property of a railway company for railway purposes;

(v) any tent van shed or similar structure used or intended to be used for human habitation by a person whose regular employment or occupation is that of a roundabout proprietor or travelling showman (not being a pedlar or hawker) Provided that the period during which such tent van shed or similar structure is so used in the city shall not exceed a period of six months in any period of twelve months and that such tent van shed or similar structure is only used in connection with his employment or occupation.

(2) Any person aggrieved by the withholding by the Corporation of consent under the provisions of this section may within twenty-one days from the date of the decision of the Corporation appeal to the sheriff and the sheriff may make such order and on such terms and conditions as to the sheriff may seem just.

(3) If any person offend against any of the foregoing provisions of this section he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

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(4) Section 73 (Tents and vans used for human habitation) of the Public Health (Scotland) Act 1897 shall in its application to the city be extended so as to authorise the Corporation to make byelaws with respect to the number of tents vans sheds or similar structures used or intended to be used for human habitation to be permitted on any land the area to be allotted to each such tent van shed or similar structure and the provision of adequate lighting of such land or area and precautions against fire and sections 183 to 187 of the said Act shall extend and apply to any byelaws made by the Corporation under this section.

Derelict
petrol
tanks.

37.—(1) Where a tank or other fixed container which has been used for the storage of petroleum spirit and is no longer used for that purpose is kept on any premises the occupier of the premises shall take all such steps as may be reasonably necessary to prevent danger from such vessels.

(2) Any officer of the Corporation duly authorised by them may on producing a copy of his authority purporting to be signed by the town clerk require the occupier of any premises on which is situate any tank or other fixed container which has been used for the storage of petroleum spirit and is no longer used for that purpose to show him such vessel and permit him to ascertain whether steps have been taken to comply with the provisions of this section.

(3) Any person failing to comply after due warning with the provisions of subsection (1) of this section and any person who obstructs any such officer as aforesaid in carrying out his duty under subsection (2) thereof shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(4) In this section the expression "petroleum spirit" has the meaning assigned to it by the Petroleum (Consolidation) Act 1928.

Personal
weighing
machines.

38.—(1) In this section the expression "personal weighing machine" means any weighing machine which is used or exposed for use in the city for the purpose of ascertaining the weight of a person (a) for the use of which a charge is made or (b) which is kept in any shop premises or place in the city to which the public have access.

(2) The owner or the person in charge of any personal weighing machine which is false or unjust shall be liable to a penalty not exceeding forty shillings or in the case of a second or any subsequent offence five pounds and the machine shall be liable to be forfeited. A.D. 1935.

(3) A personal weighing machine shall not be used or exposed for use unless it has been examined and approved by an inspector of weights and measures of the Corporation and has been marked with a distinguishing mark by such inspector.

(4) If any person forges or counterfeits or removes any such distinguishing mark as is referred to in the last preceding subsection of this section he shall be liable to a penalty not exceeding five pounds and if after the expiry of twelve months from the commencement of this Order any person knowingly exposes for use any personal weighing machine without such mark or with such forged or counterfeit mark thereon he shall be liable to a penalty not exceeding five pounds.

(5) (a) Any inspector of weights and measures of the Corporation may at all reasonable times inspect and examine any personal weighing machine in the city and may seize and detain any such machine which is liable to be forfeited under the provisions of this section and may for the purposes of such inspection and examination enter any place (whether open or enclosed) where he has reasonable cause to believe that there is a personal weighing machine which he is authorised to inspect and examine.

(b) Any person who neglects or refuses to produce for such inspection any personal weighing machine in his possession or on his premises or refuses to permit any such inspector of weights and measures to examine the same or obstructs the entry of such inspector or otherwise obstructs or hinders him from acting under this section shall be liable to a penalty not exceeding five pounds or in the case of a second offence ten pounds.

(6) The Corporation may make byelaws—

(a) Generally with respect to the examination and inspection of personal weighing machines and the distinguishing marks to be fixed on personal weighing machines under this section

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—

and the circumstances and conditions under which such marks may be affixed or cancelled;

- (b) With respect to the tests to be applied for the purpose of ascertaining the accuracy and efficiency of personal weighing machines;
- (c) For fixing the fees to be paid to the Corporation for the examination approval and marking of personal weighing machines under this section or for the examination of such personal weighing machines as are found to be incorrect or defective; and
- (d) For fixing the limits of error to be allowed on examination and approval or on inspection and examination of any personal weighing machine under this section.

Publication
of byelaws
as to
personal
weighing
machines.

39. The following provisions shall apply to byelaws made under the immediately preceding section of this Order (that is to say) :—

- (1) The Corporation shall during two successive weeks give notice of any proposed byelaws by advertisement once weekly in one or more newspapers published and circulating in the city the last advertisement being published not less than one month before such byelaws are submitted to the Board of Trade as hereinafter in this section provided :
- (2) Any person interested shall be entitled within one month from the date of the said last advertisement to lodge with the town clerk objections to such byelaws :
- (3) The Corporation shall after the expiry of one month from the date of the said last advertisement send to the Board of Trade a copy of such byelaws and of such objections thereto (if any) which may have been lodged and the Board of Trade may hear any person who shall have lodged such objections and they may approve disallow or alter such byelaws :
- (4) No such byelaws shall come into operation until they have been approved of by the Board of Trade who before giving such approval may direct one of their inspectors or other person to

be appointed by them to inquire into and report on such byelaws and any objections thereto and the Board of Trade shall have the same powers as regards expenses as are conferred on the Secretary of State by section 93 of the Local Government (Scotland) Act 1889 : and

A.D. 1935.

- (5) The Corporation shall in one or more newspapers published and circulating in the city publish in full such byelaws when approved of by the Board of Trade and shall also supply gratis to every person applying to the town clerk for the same a copy of any proposed byelaws or of any byelaws approved of by the Board of Trade :
- (6) Byelaws confirmed by the Board of Trade under the provisions of this section shall not require confirmation allowance or approval by the sheriff.

PART V.

ELECTRICITY.

40.—(1) The Corporation may for the purpose of supplying electricity to the occupier of any part of any building occupied in flats or separate dwellings or other premises entering by a common stair or other access and belonging to one or more owners fit up lay and maintain mains wires and apparatus in or under such common stair or other access with branches to connect with each separate flat dwelling or premises without the consent of any other owner or occupier as the case may be doing as little damage as may be and making good any damage done Provided that any difference there-ament between any owner or occupier on the one hand and the Corporation on the other hand shall failing agreement be determined by an arbiter to be appointed by the sheriff on the application of either party.

Power to
fix mains
&c. in
tenements.

(2) The provisions of this section shall apply whether such separate flat dwelling or premises has immediate access to such common stair or not.

41. Where a separate transformer is provided at the expense of the Corporation for the purpose of affording a supply of electricity to any consumer the Corporation may subject to the provisions of the agreement under

As to use of
trans-
formers.

A.D. 1935.

— which the transformer was provided use such transformer for the purpose of affording a supply of electricity to other consumers so long as such use does not prejudice or interfere with the supply for which such transformer was originally provided so however that the powers conferred by this section shall not enable the Corporation to extend the transformer so provided beyond the limits of the original site thereof.

PART VI.

FINANCIAL.

Power to
borrow
additional
money.

42.—(1) The Corporation may from time to time (in addition to any moneys they are now authorised to borrow or raise) borrow or raise for the several purposes of this Order sums not exceeding the amounts hereinafter mentioned for the respective purposes following (that is to say) :—

- (a) For the purchase of lands and servitudes the sum of two thousand pounds;
- (b) For the construction of service reservoirs including service roads the sum of fifteen thousand pounds;
- (c) For supply mains to and from the said service reservoirs the sum of thirty thousand pounds;
- (d) And with the sanction of and subject to the conditions as to period of repayment and otherwise prescribed by the Secretary of State such further sums as may be requisite for the purposes of the Water Acts and of this Order so far as relating to water and of the water undertaking;
- (e) In respect of the costs charges and expenses of and incidental to the preparing and applying for and the issue of this Order and the confirmation thereof by Parliament or otherwise in relation thereto such sum as may be necessary;
- (f) The Secretary of State shall have and may exercise in relation to any such sanction as aforesaid all the powers of section 93 of the Local Government (Scotland) Act 1889 and such sanction shall be subject to such conditions (if any) as the Secretary of State may consider proper :

Provided that for the purposes of this provision the sum of five guineas shall be substituted for the sum of three guineas in that section mentioned.

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(2) All moneys borrowed under this section shall be applied only to the purposes for which they are authorised to be borrowed being in every case purposes to which capital is properly applicable.

(3) If having borrowed any money under the powers of this section the Corporation pay off the same or any part thereof otherwise than by instalments or by means of a sinking fund as in this Part of this Order prescribed or out of the proceeds of the sale of lands or other moneys received by them on capital account (not being borrowed money) they may re-borrow the same and so on from time to time Provided that all moneys so re-borrowed shall for the purposes of repayment be deemed part of the original loan and shall be repaid within the period prescribed for the repayment of the moneys in lieu of which such re-borrowing has been made.

43. Section 4 (Burgh fund) and section 5 (Annual estimates) of the Order of 1934 and the provisions of the Order of 1926 shall except as otherwise by this Order provided extend and apply to this Order in the same way and to the same effect as if the purposes of this Order were purposes of the said sections and Order :

Certain provisions of former Orders as to borrowing to apply.

Provided that section 321 (Repayment of money borrowed other than that now due by instalments or sinking fund in sixty years) of the Dundee Police and Improvement Consolidation Act 1882 in its application to all moneys to be borrowed or raised for the purposes mentioned in subsection (1) (a) (b) and (c) of the section of this Order the marginal note of which is "Power to borrow additional money" shall be read and have effect as if the maximum period for the repayment thereof respectively was forty years in accordance with the said section 321 as amended by section 22 of the Order of 1930 Any money borrowed for paying any costs charges and expenses under subsection (e) of the said section of this Order shall be repaid within five years from the commencement of this Order.

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Redemption
of water
annuities.

44. The Corporation may at any time by resolution passed at an ordinary or special meeting of the Corporation determine to pay off and redeem the annuities created under the provisions of the Water Acts or the balance thereof remaining unredeemed for the time and on such resolution being passed such annuities shall be redeemable by the Corporation by the method and on the terms following that is to say upon transfer to the registered holders of such annuities of such an amount of two and a half per centum consolidated stock of the United Kingdom that the interest thereon will equal the amount of the annuity held by them or upon consignment in bank in the names of the registered holders of such annuities of a sum equal to the price of such stock in accordance with the provisions of this Order.

Provisions
for carrying
out
redemption
of water
annuities.

45. In the event of the Corporation resolving in terms of the immediately preceding section to redeem the water annuities therein referred to the following provisions shall have effect :—

- (1) The Corporation shall as soon as may be after passing such resolution publish a notice of the same in the Edinburgh Gazette and once in each of two consecutive weeks in one or more newspapers circulating in the city and they shall also cause a notice (in this section referred to as "the notice of redemption") to be given to every holder of any such annuity or annuities by sending the same by post in a registered letter to the address of such holder as entered in the register or to his last known address :
- (2) The notice of redemption shall set forth the terms of such resolution and shall state the method and the terms of the redemption prescribed in the immediately preceding section and this section :
- (3) On or before a day (in this section referred to as "the transfer day") to be named in the notice of redemption every holder of any such annuity or annuities shall transmit or deliver to the Corporation or to a nominee of the Corporation to be named in the notice of redemption the

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annuity certificate or certificates registered in his name and the Corporation shall thereupon transmit or deliver to him an acknowledgement in writing of the receipt of such annuity certificate or certificates and an obligation to register in his name or in the name of his nominee consolidated stock of the amount and in the manner hereinafter in this section mentioned :

- (4) The transfer day shall be a date not less than three months from the date of the notice of redemption :
- (5) In the event of the loss of any certificate for any such annuity the production of proof of such loss shall be held to be equivalent to the delivery to the Corporation or their nominee of such certificate :
- (6) Where in terms of this section a holder of any such annuity or annuities shall have on or before the transfer day transmitted or delivered to the Corporation or to the nominee of the Corporation the annuity certificate or certificates registered in his name or shall have produced proof of the loss of the same as aforesaid the Corporation shall as soon as may be after the transfer day transfer or cause to be transferred to the name of such holder or to the name of any nominee whom he may appoint by writing transmitted or delivered to the Corporation before the transfer day such an amount of two and a half per centum consolidated stock of the United Kingdom that the interest thereon will equal the amount of the annuity held by him and the Corporation shall also pay to such holder the amount of annuity accrued in respect of the certificate or certificates delivered up to the Corporation less the amount of any accrued interest on such stock :
- (7) In the event of the registered holder of any certificate for any such annuity failing to deliver such certificate to the Corporation or their nominee or to produce proof of its loss as aforesaid on or before the transfer day the Corporation shall as soon as may be after the transfer day consign in any bank in Scotland

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incorporated by royal charter or by or under Act of Parliament in the name or to the credit of such holder a sum sufficient to purchase such an amount of two and a half per centum consolidated stock of the United Kingdom that the interest thereon will equal the amount of the annuity held by him and that at the closing official selling price of such stock mentioned in the official list of the London Stock Exchange for the day for which that list is issued last preceding the transfer day such sum to be paid to him on production and delivery to such bank of such certificate or certificates or on production to such bank of proof of the loss of the same and the Corporation shall also cause a notice to be sent by post in a registered letter to such holder stating that such sum has been placed to his credit as aforesaid and specifying the name of the bank in which the same is placed. Provided always that the sum lodged in any such bank as aforesaid for the redemption of the annuity or annuities named in such notice shall be at the risk of the Corporation for six months only from the date of such notice and after the expiry of such six months such sum if allowed to remain in such bank shall remain there at the risk of the person or persons entitled to the annuity or annuities referred to in such notice and for the redemption of which such sum shall have been so lodged in the bank as hereinbefore provided :

- (8) The delivery to the Corporation or their nominee of the annuity certificate or certificates or the production of proof of the loss of the same in terms of this section or in the case of any annuity certificate or certificates which have not been delivered or proof of the loss of the same has not been produced as aforesaid the receipt of the bank for the payment or deposit of the sum referred to in the immediately preceding subsection shall be sufficient discharge to the Corporation and thereupon the said annuity or annuities shall whether the annuity certificate or certificates have or have not been produced and delivered up as aforesaid be

deemed to be and shall be redeemed and an entry of the redemption of such annuity or annuities shall be made in the register of annuities and such annuity or annuities shall be wholly extinguished and thereupon the liability of the Corporation to pay or provide for the payment of such annuity or annuities shall cease and determine and the water undertaking and the whole lands estates properties and revenues of the Corporation shall be freed and discharged thereof.

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46.—(1) The Corporation may at any time by resolution passed at any ordinary or special meeting of the Corporation determine to pay off and redeem the annuities created under the provisions of the Gas Acts or the balance thereof remaining unredeemed for the time and on such resolution being passed such annuities shall be redeemable by the Corporation by the method and on the terms following (that is to say) Upon transfer to the registered holders of such annuities of such an amount of two and a half per centum consolidated stock of the United Kingdom that the interest thereon will equal the amount of the annuity held by them or upon consignment in bank in the names of the registered holders of such annuities of a sum equal to the price of such stock in accordance with the provisions of this Order.

Redemption
of gas
annuities.

(2) The provisions of the section of this Order of which the marginal note is "Provisions for carrying out redemption of water annuities" shall apply mutatis mutandis for the carrying out of the redemption of the said gas annuities.

47.—(1) Subject to the provisions of this Order and of section 25 (Provision as to surplus electricity revenue) of the Order of 1934 the Corporation may establish and administer such reserve depreciation or renewal funds for such of their departments or undertakings as from time to time shall seem to the Corporation to be necessary or desirable Provided that the amount from time to time standing to the credit of any reserve depreciation or renewal funds shall not exceed one-tenth of the aggregate capital expenditure of the particular department or undertaking.

Creation of
reserve or
renewal
funds.

A.D. 1935.

(2) The Corporation may (unless the amounts so set aside are used under the provisions of section 54 (Power to use sinking fund &c. instead of borrowing) of the Order of 1926) invest the same in Government securities or in any other securities in which trustees by the law of Scotland are for the time being authorised to invest.

(3) Any reserve depreciation or renewal fund which has been provided in respect of any of the departments or undertakings of the Corporation and which is in existence on the fifteenth day of May one thousand nine hundred and thirty-six shall be carried to and form part of any reserve depreciation or renewal fund provided under this section in respect of such department or undertaking.

(4) Any reserve depreciation or renewal fund provided under this section may be applied—

- (a) In making good to the burgh fund any deficiency at any time happening in the income of the Corporation from the department or undertaking in connection with which it is formed; or
- (b) In meeting any extraordinary claim or demand at any time arising against the Corporation in respect of that department or undertaking; or
- (c) (Subject in the case of the electricity undertaking to the consent of the Electricity Commissioners) in or towards the payment of the cost of constructing renewing extending and improving any works forming part of the undertaking or otherwise for the benefit thereof;

and so that if that fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens.

(5) Resort may be had to a reserve depreciation or renewal fund provided under this section although such fund may not at the time have reached or may have been reduced below the prescribed maximum.

(6) Section 79 (Reserve funds) of the Order of 1927 and section 38 (Amendment of section 79 of the Dundee Corporation Order 1927) of the Order of 1934 are hereby repealed and subsection (1) of section 7 of the schedule to the Electric Lighting (Clauses) Act 1899 as amended by section 43 of and the Fifth Schedule to the Electricity

(Supply) Act 1926 shall be deemed to have ceased to be incorporated with any of the Acts or Orders relating to the electricity undertaking of the Corporation. A.D. 1935.
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48.—(1) Subject to the provisions of this Order the Corporation may from time to time advance by way of loan to the Corporation as trustees for the Fleming Trust (hereinafter referred to as “the trustees”) and the trustees may borrow such sum or sums of money as the trustees are desirous of borrowing from the Corporation not exceeding in the whole the sum of twenty-five thousand pounds and that upon the security of any property rents revenues or funds belonging to the trustees. As to loans to Fleming Trustees.

(2) Any sum or sums which the Corporation shall resolve to loan as aforesaid may be loaned from the loans fund according to the rules and regulations applicable to the loans fund as contained in the Fifth Schedule to the Order of 1926 Part II paragraphs 11 and 12.

(3) The following provisions shall apply to moneys raised by the Corporation for the purpose of this section and as to the payments of interest and principal in respect thereof:—

(a) The sum shall be advanced by the Corporation to the trustees for a period not exceeding forty years with a provision for repayment by equal yearly or half-yearly instalments of principal or otherwise as the Corporation and the trustees may agree in terms of paragraph 2 (b) (iii) of the Fifth Schedule to the Order of 1926;

(b) All sums received for principal shall be applied in the manner directed in clause 3 of the Fifth Schedule to the Order of 1926 the marginal note whereof is “Capital moneys paid into the loans fund”;

(c) If any sum payable to the Corporation for principal shall not have been received within six months of the time appointed for the payment thereof a like sum shall be raised by means of the Public Health General Assessment and applied or invested in place thereof by the Corporation and if after such application or investment the sum or any part thereof shall be received by the Corporation the same shall be carried to the credit of the housing revenue account.

A.D. 1935.
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Expendi-
ture on
Caird Hall.

49.—(1) The Corporation shall have power and shall be deemed at all times to have had power to provide or contribute towards the expenses of any concert or other entertainment given in the Caird Hall and to charge for admission to any such concerts or entertainments provided by themselves.

(2) Any expenditure by the Corporation in exercise of the powers under the preceding subsection to an extent not exceeding two hundred and fifty pounds in any one year and any other expenses incurred by the Corporation in respect of the maintenance and use of the Caird Hall over and above the receipts of the Corporation in respect thereof shall be regarded as expenditure for one of the purposes referred to in the First Schedule to the Order of 1934.

PART VII.

MISCELLANEOUS.

Extension
of time for
purchase of
lands under
Dundee Cor-
poration
(Improve-
ments and
Tramways)
Act 1913.

50. The period limited by section 30 (Limitation of time for compulsory purchase of lands) of the Dundee Corporation Improvements and Tramways Act 1913 as extended by the Dundee Corporation (Improvements and Tramways) Act 1913 (Extension of Time) Order 1919 the Order of 1920 the Order of 1925 and the Order of 1930 is hereby extended so far as regards Works Nos. 1 to 7 (both inclusive) authorised by the said Act for a further period of five years to expire on the fourth day of July one thousand nine hundred and forty.

Extension
of time for
street works
in Order of
1925.

51. The period limited by section 8 (Period for completion of street works) of the Order of 1925 is hereby extended so far as regards Works 2 3 4 and 7 authorised by the said Order for a further period of ten years to expire on the fifth day of March one thousand nine hundred and forty-five.

Extension
of time for
purchase of
lands under
Order of
1925.

52. The period limited by section 18 (Limitation of time for compulsory purchase of lands) of the Order of 1925 as extended by the Order of 1930 is hereby extended so far as regards Works 2 3 4 and 7 authorised by the said Order for a further period of three years to expire on the fifth day of March one thousand nine hundred and thirty-eight.

53. The period limited by section 25 (Period for completion of street works) of the Order of 1927 is hereby extended for a further period of five years to expire on the twenty-second day of December one thousand nine hundred and forty.

Extension of time for completion of street works under Order of 1927.

54. The construction and maintenance of the piece of tramway line in Lindsay Street within the city between Ward Road and Nethergate with the consent of the Minister of Transport under section 45 of the Order of 1907 is hereby sanctioned and confirmed.

As to tramway line in Lindsay Street.

55. All proceedings for the recovery of penalties imposed or authorised to be imposed by or under the provisions of this Order or of any byelaws made in pursuance of this Order shall be proceeded with and be conducted under and in conformity with the Summary Jurisdiction (Scotland) Acts.

As to penalties and recovery thereof.

56. 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 land 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 heritages subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Crown Lands or of the Board of Trade respectively without the consent in writing of the Commissioners of Crown Lands or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose.

Crown rights.

57. Nothing contained in this Order shall alter prejudice or affect the saving provisions contained in sections 330 (Saving rights of the Crown) 331 (Saving rights under Crown Lands Act) and 333 (Saving rights of magistrates and town council of Dundee) of the Dundee Police and Improvement Consolidation Act 1882 but such saving provisions shall apply to this Order and for the purposes thereof.

Saving provisions in Act of 1882.

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Saving
clause for
Dundee
Harbour.

58. Nothing contained in this Order or in any Act incorporated in whole or in part with this Order shall repeal alter diminish or affect any rights interests titles dues powers jurisdictions immunities privileges exemptions and authorities of the Trustees of the Harbour of Dundee secured under any statutes of and relating to the said trustees and their harbour undertaking or under any of the Acts public local or private relating to the Corporation.

Costs of
Order.

59. The costs charges and expenses of and incident to the preparing and applying for and the issue of this Order and the confirmation thereof by Parliament or otherwise in relation thereto shall be paid by the Corporation and charged to the various departments of the Corporation in such proportions as the Corporation shall hereafter decide :

Provided that any money borrowed for the purposes of this section shall be borrowed in accordance with the section of this Order of which the marginal note is "Certain provisions of former Orders as to borrowing to apply."

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