CHAPTER vii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Dumfries and Maxwelltown Bridge. [5th March 1925.]

A.D. 1925.

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

62 & 63 Vict. c. 47.

Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

Confirmation of Order in schedule.

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

Short title.

2. This Act may be cited as the Dumfries and Maxwelltown Bridge Order Confirmation Act 1925.

[*Price* 1*s. Net.*]

A.D. 1925.

SCHEDULE.

DUMFRIES AND MAXWELLTOWN BRIDGE.

Provisional Order to authorise the Town Councils of Dumfries and Maxwelltown to construct a bridge over the River Nith and for other purposes.

WHEREAS the royal burgh of Dumfries in the county of Dumfries is under the government for municipal purposes of the provost magistrates and councillors of the said royal burgh and the burgh of Maxwelltown in the county of the stewartry of Kirkcudbright is under the government for municipal purposes of the provost magistrates and councillors of the burgh of Maxwelltown and the town councils of the said burghs are in this Order called "the Town Councils":

And whereas in order to meet the requirements of the traffic it is expedient that the Town Councils should be authorised to construct and maintain a new bridge between the said burghs over the River Nith and a road in connection therewith as by this Order provided:

And whereas it is expedient that the Town Councils should be authorised to borrow money as provided by this Order for the purposes of this Order:

And whereas estimates have been prepared by the Town Councils for and in relation to the purposes hereinafter mentioned in respect of which they are by this Order authorised to borrow money and such estimates are as follows:—

	£
For and in connection with the purchase of lands and servitudes and for and in connection with the construction of the road and the bridge and approaches authorised by this Order - - - - - - -	25,000

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

And whereas it is expedient that the other provisions contained in this Order should be enacted:

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

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

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

Short title.

1. This Order may be cited as the Dumfries and Maxwelltown Bridge Order 1925.

Incorporation of Acts.

2. The Lands Clauses Acts so far as they are applicable for the purposes of and are not inconsistent with or varied by this Order are hereby incorporated with and form part of this Order.

Interpretation.

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

"The Dumfries Town Council" means the provost magistrates and councillors of the royal burgh of Dumfries;

"The Maxwelltown Town Council" means the provost magistrates and councillors of the burgh of Maxwelltown;

"The Town Councils" means the Dumfries Town Council and the Maxwelltown Town Council or where the context so requires either of such Town Councils;

"The committee" means the joint committee to be formed in pursuance of the provisions of the

A.D. 1925.

section of this Act of which the marginal note is "Provisions of Order to be executed by committee of the Town Councils";

"The tribunal" means the tribunal to whom any question of disputed purchase money or compensation is referred in pursuance of the Acquisition of Land (Assessment of Compensation) Act 1919;

"The Roads and Bridges (Scotland) Acts" means the Roads and Bridges (Scotland) Act 1878 and any Act amending the same;

"High-water mark" means high-water mark of ordinary spring tides Admiralty datum.

Power to acquire lands.

4. Subject to the provisions of this Order the Town Councils may enter on take 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 construction of the works authorised by this Order or for the purpose of providing space for the erection of buildings adjoining Work A and the approaches of the bridge Work B authorised by this Order Provided that no right in the common lands known as the Dock Park shall be acquired by the Town Councils other than a right of user for the purposes of Work B authorised by this Order.

Period for compulsory purchase of lands.

5. The powers of the Town Councils for the compulsory purchase of lands under this Order shall cease after the expiration of three years from the commencement of this Order.

Correction of errors in plans and book of reference.

6. If there be any omission mis-statement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Town Councils after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to the sheriff of Dumfries and Galloway at Dumfries or at Kirkcudbright as the case may be for the correction thereof and if it appear to the sheriff that the omission mis-statement or wrong description arose from mistake he shall certify the same accordingly and he shall in his certificate state the particulars of the omission and in what respect any such matter is mis-stated or wrongly

described and such certificate shall be deposited with the principal sheriff clerk of the county of Dumfries or with the principal sheriff clerk of the county of the stewartry of Kirkcudbright as the case may be and such certificate shall be kept by such principal sheriff clerk with the other documents to which the same relates and thereupon the deposited plans or book of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the Town Councils to take the lands and execute the works in accordance with such certificate. A.D. 1925.

Benefits to be set off against compensation.

7. In estimating the amount of compensation or purchase money to be paid by the Town Councils under this Order the benefits accruing to the person to whom the same shall be paid by reason of the construction of the works authorised by this Order or either of them or of the widening or improvement of any existing street in connection with the construction of such works or either of them shall be fairly estimated and shall be set off against the said compensation or purchase money.

Compensation in case of recently acquired interest.

8. For the purposes of determining any question of disputed compensation payable in respect of lands taken under the powers of this Order the tribunal shall not award any sum of money for or in respect of any improvement alteration or building made or for or in respect of any interest in the land created after the nineteenth day of March nineteen hundred and twenty-four if in the opinion of the tribunal the improvement alteration or building or the creation of the interest in respect of which the claim is made was not reasonably necessary and was made or created with a view to obtaining or increasing compensation under this Order.

Power to purchase additional lands by agreement.

9. The Town Councils in addition to any other lands acquired by them in pursuance of this Order may by agreement purchase take on lease acquire and hold further lands for the purposes of this Order but the quantity of lands held by the Town Councils in pursuance of this section shall not at any time exceed five acres Provided that the Town Councils shall not create or permit the creation or continuance of any nuisance on any such lands.

Persons under disability

10. Persons empowered by the Lands Clauses Acts to sell and convey or discharge lands may if they think

A.D. 1925.

may grant servitudes &c.

fit subject to the provisions of those Acts and of this Order grant to the Town Councils any servitude right or privilege (not being a servitude right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Order in over or affecting any such lands and the provisions of the said Acts with respect to lands feu duties ground annuals and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively.

Power to retain sell &c. lands.

11. Notwithstanding anything in the Lands Clauses Acts or in any other Act or Acts to the contrary the Town Councils may retain hold and use for such time as they may think fit or may sell lease excamb or otherwise dispose of in such manner and for such consideration and purpose and on such terms and conditions as they may think fit and either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands acquired by them under this Order.

Power to construct works.

12. Subject to the provisions of this Order the Town Councils may make and maintain in the lines and according to the levels shown on the deposited plans and sections and within the limits shown on the deposited plans from time to time and alter or re-build the works hereinafter described together with all necessary or proper works and conveniences connected therewith or incident thereto.

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

Work A A road wholly in the parish of Troqueer and burgh of Maxwelltown in the county of the stewartry of Kirkcudbright commencing by a junction with the existing highway leading from Newabbey to Dumfries at a point distant 327 yards or thereby measuring in a northerly direction from the gate entrance to Broomlands and terminating by a junction with Pleasance Avenue at a point 20 yards or thereby from the existing termination of the said avenue measuring in an easterly direction;

Work B A bridge across the River Nith with approaches thereto commencing in the said parish burgh and county at the intersection of the centre lines of Troqueer Road and Pleasance Avenue and terminating in the royal burgh of Dumfries in the parish and county of Dumfries at the intersection of the centre lines of St. Michael Street and Broom's Road.

Limits of deviation.

13. In the construction of the works authorised by this Order the Town Councils may deviate from the lines thereof as shown on the deposited plans to any extent not exceeding the limits of lateral deviation shown on those plans and from the levels thereof as shown on the deposited sections to any extent not exceeding three feet either upwards or downwards :

Provided that no deviation either lateral or vertical below high-water mark shall be made without the consent in writing of the Board of Trade.

Subsidiary works.

14. Subject to the provisions of this Order and within the limits of deviation shown on the deposited plans the Town Councils may in connection with the works authorised by this Order and for the purposes thereof make junctions and communications with any existing streets roads or footways which may be intersected or interfered with by or be contiguous to such works and may make diversions widenings or alterations of the lines or levels of any existing streets for the purpose of connecting the same with such works or of crossing under or over the same or otherwise and may alter divert or stop up all or any part of any drain sewer channel or gas water or electricity main or pipe wire or apparatus within the said limits the Town Councils providing a proper substitute before interrupting the flow of sewage in any drain sewer or channel or of any gas or water in any main or pipe or of electricity or telephonic communication in any wire or apparatus and making compensation for any damage done by them in the execution of the powers of this section :

Provided that the Town Councils shall not alter divert or otherwise interfere with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General except under and subject to the provisions of the said Act.

A.D. 1925.

For protection of Postmaster-General.

15.—(1) The Town Councils shall in constructing the bridge and the approaches thereto (Work B) under the powers of this Act provide for the accommodation of the telegraphic lines of the Postmaster-General a space not less than one foot nine inches wide by one foot deep in the footway of the said bridge and approaches The accommodation shall be provided in accordance with plans sections and particulars to be previously submitted to and approved by the Postmaster-General Provided that if within one month of the receipt of the said plans sections and particulars the Postmaster-General shall not have intimated to the Town Councils his disapproval thereof or made any requirements with respect thereto he shall be deemed to have approved the same.

(2) The expression "telegraphic line" shall have the same meaning in this section as in the Telegraph Act 1878.

Power to alter steps doors &c.

16. If in consequence of the execution of any of the works by this Order authorised the levels of any of the streets squares closes or thoroughfares in the burghs of Dumfries or Maxwelltown or either of them shall be raised or otherwise changed or any steps doors or entrances to or in any house or building or any pavement sewer drain or culvert belonging to any house or building in the said burghs or either of them shall require alteration the work or alteration thereby rendered necessary shall be made by and at the expense of the Town Councils and the Town Councils shall also make compensation to the owners of any such house or building for any damage done thereto by any such works or alterations.

Stoppage of roads during execution of works.

17. Subject to the provisions of this Order the Town Councils may during the execution of the works by this Order authorised stop up temporarily the carriageway or footway of any street road or bridge as may be necessary and for that purpose may put up bars posts and other erections Provided that the Town Councils shall before stopping up any footway under this section provide a temporary substitute therefor with access therefrom to any houses.

Works below high-

18. Subject to the provisions of this Order any of the works authorised by this Order to be constructed

on over or under tidal lands below high-water mark shall be constructed only in accordance with such plans and sections and subject to such restrictions and regulations as previous to such works being commenced have been approved by the Board of Trade in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade.

water mark to be subject to approval of Board of Trade.

Any alteration or extension of any such works shall be subject to the like approval.

If any such work be commenced or completed contrary to the provisions of this section the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the cost of the Town Councils and the amount of such cost shall be a debt due from the Town Councils to the Crown and shall be recoverable as a Crown debt or summarily.

Lights on works during construction.

19. The Town Councils shall at or near the bridge and the works below high-water mark hereby authorised during the whole time of the constructing altering or extending the same exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Board of Trade from time to time require or approve.

If the Town Councils fail to comply in any respect with the provisions of this section they shall for each day in which they so fail be liable to a penalty not exceeding twenty pounds.

Permanent lights on works.

20. The Town Councils shall at or near the bridge and the works below high-water mark hereby authorised after completion of the said works exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

If the Town Councils fail to comply in any respect with the provisions of the present section they shall for each day in which they so fail be liable to a penalty not exceeding twenty pounds.

A.D. 1925.

Survey of works by Board of Trade.

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

Abatement of work abandoned or decayed.

22. If a work constructed by the Town Councils on in over through or across tidal lands or tidal water is abandoned or suffered to fall into decay the Board of Trade may abate and remove the work or any part of it and restore the site thereof to its former condition at the expense of the Town Councils and the amount of such expense shall be a debt due from the Town Councils to the Crown and be recoverable as a Crown debt or summarily.

Provision against danger to navigation.

23. In case of injury to or destruction or decay of the bridge or works below high-water mark or any part thereof the Town Councils shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time be directed by the Commissioners of Northern Lighthouses and shall apply to the said Commissioners for directions as to the means to be taken and the Town Councils shall be liable to a penalty not exceeding ten pounds for every calendar month during which they omit so to apply or refuse or neglect to obey any direction given in reference to the means to be taken.

Vesting of works.

24. Work A authorised by this Order shall after the completion thereof be and become vested in the Maxwelltown Town Council and Work B authorised by this Order shall after the completion thereof be and become vested in the Town Councils jointly in the proportions in which the capital expenditure for the said work is found by each of the Town Councils.

Period for completion of works.

25. If the works authorised by this Order are not completed within five years from the commencement of this Order then on the expiration of that period the powers by this Order granted to the Town Councils for executing the said works or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

A.D. 1925.

Title to lands.

26. The lands which the Town Councils are authorised to take and acquire under the powers of this Order shall vest as follows :—

The lands which may be taken for the purpose of constructing Work A authorised by this Order shall vest in the Maxwelltown Town Council;

The lands purchased and the right of user of the common lands known as the Dock Park acquired for the purposes of Work B authorised by this Order shall vest in the Town Councils jointly in the proportions in which the capital expenditure for the said work is found by each of the Town Councils.

The said common lands shall at all times remain the property of the burgh of Dumfries as part of the patrimonial common good rights of the said burgh and if at any time the approach of the said Work B in the said burgh over the said Dock Park shall cease to be used the said right of user of the said common lands by the Town Councils shall also cease and no compensation shall in such case be paid therefor to the Town Councils.

As to servitudes over Dock Park.

27. The Town Councils may remove the clothes-poles which are upon the part of the Dock Park within the limits of land to be acquired shown on the deposited plans and may re-erect the same upon other convenient parts of the Dock Park and thereupon all persons entitled to the servitude of drying clothes upon the part of the Dock Park within the said limits shall be entitled to exercise that servitude on the part of the Dock Park upon which such clothes-poles shall have been re-erected.

Provisions of Order to be executed by committee of the Town Councils.

28. The provisions of this Order which are to be executed by the Town Councils jointly shall be executed on their behalf by a committee of the Town Councils constituted as follows :—

Twelve members to be elected by the Dumfries Town Council from among themselves;

Four members to be elected by the Maxwelltown Town Council from among themselves.

First and subsequent elections of members.

29.—(1) The Provost of the Royal Burgh of Dumfries and the Provost of the Burgh of Maxwelltown shall each call a meeting of the town council of his burgh within one month after the commencement of this Order and each town council shall at such meeting

A.D. 1925.

elect from among themselves the number of members of the committee whom they are by this Order authorised to elect to hold office until the annual meeting for the election of magistrates for their burgh for the year 1925.

(2) Each town council shall at the annual meeting for the election of magistrates for their burgh for the year 1925 elect from among themselves the number of members of the committee whom they are by this Order authorised to elect to hold office until the next annual meeting for the election of magistrates and so on at every such annual meeting.

Provision where failure to elect members.

30. If either town council fail to elect members of the committee at the meeting of the town council to be called in pursuance of sub-section (1) of the section of this Order of which the marginal note is "First and subsequent elections of members" in terms of this Order it shall be competent nevertheless for the other members of the committee to carry this Order into execution and if either town council fail to elect members in terms of this Order at any subsequent annual meeting for the election of magistrates the then existing members of the committee representing such town council shall if still qualified continue in office until their successors are appointed.

Members to be disqualified on ceasing to be members of town council.

31. If a member of the committee elected by a town council ceases to be a member of such town council or becomes disqualified as such member he shall also cease to be a member of and to represent the town council upon the committee except in the case where he only goes out of office by rotation as a member of such town council and is thereupon re-elected.

Occasional vacancies.

32. If any member of the committee dies or resigns or is disqualified or ceases to be a member of the committee for any reason other than the expiry of the period for which he was elected the town council whom he represented may if they think fit at any time after the happening of such vacancy appoint a member of the committee in his place and every member of the committee so appointed shall continue in office only so long as the person in whose place he is appointed would have been entitled to continue in office.

Appointment of members

33. Whenever an appointment of a member of the committee has been made the clerk to the town council

by whom the appointment was made shall by writing under his hand certify the appointment to the committee and shall forthwith on the first appointment transmit the certificate to the town clerk of Dumfries and on every subsequent appointment to the clerk to the committee. to be certified to committee.

34. The committee shall hold their first meeting in the year nineteen hundred and twenty-five at the town hall in Dumfries on such day within fourteen days after the meetings to be called in pursuance of subsection (1) of the section of this Order of which the marginal note is "First and subsequent elections of members" as shall be fixed by the provosts of the said burghs and at such hour as the said provosts shall fix and other meetings of the committee (including their annual meetings) shall be held on such days at such times and at such places as the committee may from time to time appoint. First and other meetings of committee.

35. In addition to the meetings to be held by appointment of the committee the chairman of the committee for the time being or any three or more members of the committee may at any time by writing addressed and sent to the clerk require a special meeting to be convened and the clerk shall convene a meeting accordingly. Power to call special meetings.

36. Any act of the committee or of any of the members thereof shall not be invalidated or be illegal by reason of any irregularity in the appointment of any member of the committee or by reason of any person not qualified or ceasing to be qualified acting as a member of the committee or by reason of any failure or omission on any occasion on the part of a town council to appoint any member of the committee or by reason of any other irregularity error or failure or omission in or about any appointment or in or about any matter preliminary or incidental thereto. Error failure &c. not to invalidate acts done &c.

37. The first meeting of the committee shall be convened by the town clerk of Dumfries and every subsequent meeting shall be convened by the clerk to the committee and every meeting shall be convened by circular delivered to each member of the committee or sent by post to or delivered at his residence three clear days at least before the day of the meeting. As to convening meetings.

38. The number of members of the committee present to constitute a meeting of the committee shall be seven. Quorum.

A.D. 1925.

Officers of Board.

39. The committee shall annually elect a chairman at the first meeting of the committee and may appoint and may remunerate a clerk an engineer a treasurer and such other officers clerks and servants as they from time to time think requisite and all officers and servants so appointed shall be removable by the committee at their pleasure No member of the committee or of either of the Town Councils shall be an officer of the committee but the same person may be and continue an officer of the committee and of either of the Town Councils.

Power to borrow.

40.—(1) The Town Councils respectively may from time to time independently of any other borrowing power borrow at interest for and in connection with the purposes mentioned in the first column of the following tables the respective sums mentioned in the second column thereof and in order to secure the repayment thereof and the payment of interest thereon they may mortgage or charge the respective revenues assessments and rates mentioned in the third column of the said tables and they shall pay off all moneys so borrowed within the respective periods (each of which is in this Order referred to as "the prescribed period") mentioned in the fourth column thereof (namely) :—

TABLE I.—BORROWING POWERS OF THE DUMFRIES TOWN COUNCIL.

1	2	3	4
Purpose.	Amount.	Charge.	Period for repayment.
(*a*) For the purchase of land and common rights for and for the construction of the bridge and approaches Work B authorised by this Order.	£ 15,750	The assessment of the burgh under the Roads and Bridges (Scotland) Acts.	Fifty years from the date or dates of borrowing.
(*b*) For paying the part of the costs charges and expenses of this Order payable by the Dumfries Town Council.	The sum requisite.	The assessment of the burgh under the Roads and Bridges (Scotland) Acts.	Five years from the commencement of this Order.

Table II.—Borrowing Powers of the Maxwelltown Town Council.

1	2	3	4
Purpose.	Amount.	Charge.	Period for repayment.
(*a*) For the purchase of land for and for the construction of Work A authorised by this Order.	£ 4,000	The assessment of the burgh under the Roads and Bridges (Scotland) Acts.	Fifty years from the date or dates of borrowing.
(*b*) For the purchase of land and common rights for and for the construction of Work B authorised by this Order.	5,250	The assessment of the burgh under the Roads and Bridges (Scotland) Acts.	Fifty years from the date or dates of borrowing.
(*c*) For paying the part of the costs charges and expenses of this Order payable by the Maxwelltown Town Council.	The sum requisite.	The assessment of the burgh under the Roads and Bridges (Scotland) Acts.	Five years from the commencement of this Order.

(2) (*a*) The Town Councils or either of them may also with the consent of the Secretary for Scotland but not otherwise borrow such further money as may be necessary for any of the purposes of this Order Provided that in respect of any further money required for the purpose of Work B authorised by this Order three-fourths thereof shall be borrowed by the Dumfries Town Council and one-fourth thereof shall be borrowed by the Maxwelltown Town Council unless the Town Councils otherwise agree.

(*b*) In order to secure the repayment of any money borrowed under this subsection and the payment of interest thereon the town council borrowing the same may mortgage or charge such revenue assessment or rate as may be prescribed by the Secretary for Scotland.

(*c*) Any money borrowed under this subsection shall be repaid within such period (in this Order referred

A.D. 1925.

to as "the prescribed period") and by such method as may be prescribed by the Secretary for Scotland.

(*d*) Section 93 of the Local Government (Scotland) Act 1889 shall apply with respect to any consent to be given by the Secretary for Scotland under this section.

Town Councils to raise money on requisition by committee.

41. Subject to the provisions of this Order each of the Town Councils shall upon receipt of a requisition from the committee from time to time raise so much of the money as they are authorised to borrow under this Order for the purposes of Work B by this Order authorised as shall be stated in such requisition and the sum so stated shall be paid to the treasurer of the committee within three months after the receipt of such requisition.

Adoption of Burgh Police (Scotland) Act 1903—Power to borrow temporarily.

42. In the application to the Town Councils of section 49 (Power to borrow temporarily) of the Burgh Police (Scotland) Act 1903 the expression "any public general Act" shall include this Order.

Power to re-borrow.

43.—(1) Each of the Town Councils shall have power—

(*a*) To borrow for the purpose of paying off any moneys previously borrowed under this Order which are intended forthwith to be repaid; or

(*b*) To borrow in order to replace moneys which during the previous twelve months have been temporarily applied from other funds of the town council so re-borrowing in repaying moneys previously borrowed under this Order and which at the time of such repayment it was intended to replace by borrowed moneys.

(2) Any moneys borrowed under this section shall for the purposes of repayment be deemed to form part of the original loan and shall be repaid within that portion of the period prescribed for the repayment of that loan which remains unexpired and the provisions which are for the time being applicable to the original loan shall apply to the moneys borrowed under this section.

(3) The Town Councils shall not have power to borrow for the purpose of making any payment to a sinking fund or of paying any instalment or making any annual payment which has or may become due in respect of borrowed moneys.

(4) The Town Councils shall not have power to borrow in order to replace any moneys previously borrowed which have been repaid—

(*a*) By instalments or annual payments; or

(*b*) By means of a sinking fund; or

(*c*) Out of moneys derived from the sale of land; or

(*d*) Out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose.

Mode of repayment of borrowed money.

44. The Town Councils shall pay off all money borrowed by them under this Order either by means of a sinking fund formed under the provisions of this Order or by equal yearly or half-yearly instalments of principal or of principal and interest combined or partly by one of those methods and partly by another or others of them.

Sinking fund.

45.—(1) If the Town Councils or either of them determine to repay by means of a sinking fund any moneys borrowed by virtue of this Order such sinking fund shall be formed or maintained either—

(*a*) By payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed A sinking fund so formed is hereinafter called a non-accumulating sinking fund; or

(*b*) By payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate not exceeding four per centum per annum or such other rate as the Secretary for Scotland may from time to time allow will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed A sinking fund so formed is hereinafter called an accumulating sinking fund.

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in securities

A.D. 1925.

in which trustees are by law for the time being authorised to invest or in mortgages bonds debentures debenture stock stock or other securities (not being annuity certificates or securities payable to bearer) duly issued by any local authority other than the town council borrowing or be deposited in bank the town council being at liberty from time to time to vary and transpose such investments.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the town council borrowing towards the equal annual payments to the fund.

(4) The town council borrowing may at any time apply the whole or any part of any sinking fund in or towards the discharge of the money for the repayment of which the fund is formed Provided that in the case of an accumulating sinking fund the said town council shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5) (*a*) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the town council concerned.

(*b*) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any such excess may be applied towards such annual payments.

(6) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under this Order shall be paid by the town council concerned in addition to the payments provided for by this Order.

(7) If it appears to the Secretary for Scotland or to the town council concerned at any time that the amount in the sinking fund with the future payments thereto in

accordance with the provisions of this Order together with the probable accumulations thereon (in the case of an accumulating sinking fund) will not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of such town council to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose Provided that if it appears to the Secretary for Scotland that any such increase is necessary such town council shall increase the payments to such extent as the Secretary for Scotland may direct.

(8) If the Town Councils or either of them desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Order together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Secretary for Scotland be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the town council concerned may reduce the payments to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Secretary for Scotland be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed.

(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Secretary for Scotland be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the town council concerned may with the consent of the Secretary for Scotland discontinue the annual payments to such sinking fund until the Secretary for Scotland shall otherwise direct.

(11) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose or purposes as the town council concerned with the consent of the Secretary for Scotland may determine.

A.D. 1925.

Protection of lenders from inquiry.

46. A person lending money to either of the town councils under this Order shall not be bound to inquire as to the observance by them of any provisions of this Order or be bound to see to the application or be answerable for any loss misapplication or non-application of the money lent or any part thereof.

Town Councils not to regard trusts or bound to see to application of moneys.

47. The Town Councils shall not be bound to see to the execution of any trust whether express implied or constructive to which any loan or security for loan given by them respectively may be subject but the receipt of the person in whose name any loan or security for loan stands in the register of bonds of the town council concerned shall be a sufficient discharge to such town council in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not such town council have had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered on their register and the town council shall not be bound to see to the application of the money paid on any such receipt or be answerable or accountable for any loss misapplication or non-application of any such money.

Application of money borrowed.

48. Money borrowed by the Town Councils under this Order shall be applied only for the purposes of this Order to which capital is properly applicable and for which it is authorised to be borrowed.

For appointment of judicial factor.

49. Any bond-holder or mortgagee of either of the town councils under this Order may enforce payment of arrears of interest or principal or principal and interest due on a bond or mortgage against the town council giving such bond or mortgage by the appointment of a judicial factor In order to authorise the appointment of a judicial factor in respect of arrears of principal the amount owing to the bond-holder or mortgagee by whom the application for a judicial factor is made shall not be less than two thousand pounds.

Annual return to Secretary for Scotland with respect to

50. The treasurers of each of the town councils shall within three months after the expiration of each financial year during which any sum is by this Order required to be paid as an instalment or to be set apart for a sinking fund by the town council of which he is treasurer

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

Sinking fund.

51.—(1) The cost of maintaining and lighting the bridge and approaches Work B authorised by this Order in any year shall be borne by the Town Councils in the same proportions as the valuations of the burgh of Dumfries and the burgh of Maxwelltown bear to each other according to the valuation roll in force for the time being.

Maintenance and lighting of bridge.

(2) Upon the completion of the bridge and approaches Work B authorised by this Order the committee shall in every year prior to the month of September prepare an estimate of the cost of maintaining and lighting the bridge and approaches for the year beginning on the fifteenth day of May next ensuing and shall lay such estimate before each of the town councils with a requi-

A.D. 1925.

sition for payment of the proportion of such estimate due in such year from such town council The amount of the share of each town council shall be paid to the treasurer of the committee within two months after receipt of such requisition.

(3) Upon the completion of the road Work A by this Order authorised the cost of maintaining and lighting the same shall be borne by the Maxwelltown Town Council.

(4) All costs under this section shall be defrayed out of the assessment of the burghs respectively under the Roads and Bridges (Scotland) Acts.

Crown rights.

52. Except as in this Order expressly provided nothing herein shall affect prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained shall authorise the Town Councils 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 Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent the said Commissioners and Board are hereby respectively authorised to give).

Crown minerals.

53. Sections 71 to 78 (both inclusive) of the Railways Clauses Consolidation (Scotland) Act 1845 as amended by the Mines (Working Facilities and Support) Act 1923 shall in the case of any minerals in relation to which His Majesty is the mine owner or royalty owner and which are under the management of the Commissioners of Woods apply as if those Commissioners were the mine owners or royalty owners as the case may be and so that any compensation payable by the Town Councils to or for the benefit of His Majesty as the mine owner or royalty owner or payable to the Town Councils by His Majesty as such owner shall be payable to or by the Commissioners of Woods as the case may be and in the said application of those provisions the term "Company" shall mean the Town Councils and the term "railway" shall mean the said lands and works.

A.D. 1925.

54. Subject to the provisions of this Order nothing herein contained shall prejudice the rights of the Nith Navigation Commissioners under the Act 51 George III. c. 147.

For protection of Nith Navigation Commissioners.

55. For the protection of William Johnston horse dealer Dumfries the following provisions of this section shall have effect :—

For protection of William Johnston.

(*a*) The Town Councils shall not be entitled to acquire compulsorily any land belonging at present to William Johnston horse dealer Dumfries except the area of land belonging at present to the said William Johnston required for the surface of the road Work A by this Order authorised and footways on either side of the said road;

(*b*) In the event of the Town Councils acquiring the said area of land required for the surface of the said road and footways the price payable therefor shall be two hundred pounds sterling which shall include all claims for severance damage and the Town Councils shall pay the costs of the conveyance of the said area of land;

(*c*) The line of the said road after passing through the glebe shall run as nearly as possible due west to New Abbey Road The said line shall be determined by agreement and failing agreement by an engineer mutually chosen by the parties whom failing by an engineer appointed by the Sheriff of Dumfries and Galloway on the application of either party;

(*d*) The Town Councils shall form the said road so far as passing through the said land with footways on either side of the nature provided for under section 17 subsection 5 of the Burgh Police (Scotland) Act 1903 and the Maxwelltown Town Council shall maintain the said road as a public road and the said William Johnston shall not be liable for any part of the cost of construction of the said road or footway or the maintenance thereof but the Maxwelltown Town Council notwithstanding anything done under this subsection shall with regard to the footways of the said road be entitled at any time thereafter

A.D. 1925.

to put in force against all owners of building sites which may be given off by the said William Johnston or his successors for building thereon fronting the said road the provisions of sections 141 and 142 of the Burgh Police (Scotland) Act 1892 or any other powers possessed by the said town council with reference to the footways of streets;

(*e*) The Maxwelltown Town Council shall erect and maintain good and sufficient fences along both sides of the said road with gates where required so as to enclose any land belonging to the said William Johnston adjoining the said road Provided that the provisions of this subsection shall be for the protection of the said William Johnston only and shall not be for the protection of feuars from him in the said land.

Costs of Order.

56. The costs charges and expenses preliminary to and of and incidental to the preparing for obtaining and confirming this Order or otherwise in relation thereto shall be paid as to three-fourths by the Dumfries Town Council and as to one-fourth by the Maxwelltown Town Council out of any funds (not being in the nature of capital) rates or revenues belonging to them respectively or under the control of the said respective town councils or out of moneys borrowed for that purpose under this Order.

Printed by EYRE and SPOTTISWOODE, LTD.,
FOR
WILLIAM RICHARD CODLING, Esq., C.V.O., C.B.E., the King's Printer of Acts of Parliament.

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
Adastral House, Kingsway, London, W.C. 2; 28, Abingdon Street, London, S.W. 1;
York Street, Manchester; 1, St. Andrew's Crescent, Cardiff;
or 120, George Street, Edinburgh;
or through any Bookseller.