## CHAPTER lxxxiv.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to Edinburgh Corporation. [20th July 1937.]

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WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936 and it is requisite that the said Order should be confirmed by Parliament: 26 Geo. 5. & 1 Edw. 8. c. 52.

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 Edinburgh Corporation Order Confirmation Act 1937. Short title.

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# SCHEDULE.

## EDINBURGH CORPORATION.

*Provisional Order to authorise the corporation of the city and royal burgh of Edinburgh to construct works to acquire lands and to borrow money to make further provision as to the superannuation scheme of the Corporation to amend the Edinburgh Corporation Acts to make provision with respect to the local government health and finance of the city and for other purposes.*

WHEREAS the lord provost magistrates and council of the city and royal burgh of Edinburgh (hereinafter referred to as "the Corporation") are vested with the municipal government of the said city and royal burgh (hereinafter referred to as "the city") and are the local authority therein:

And whereas it is expedient and would be in the public interest that the Corporation should be authorised to construct the works hereinafter in this Order described:

And whereas it is expedient that the Corporation should be authorised to acquire lands for the purposes of this Order as hereinafter in this Order provided:

And whereas the following estimates have been prepared by the Corporation for the purposes hereinafter mentioned (that is to say):—

| | £ |
|---|---|
| (1) For and in connection with the works by this Order authorised - - - | 1,500 |
| (2) For the purchase of lands - - - | 8,470 |

And whereas the said works contained 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 expedient that further provisions as hereinafter in this Order contained should be enacted in connection with the superannuation scheme of the

Corporation and that the employees of the Edinburgh Sheriff Court House Commissioners should become entitled to the benefits thereof: A.D. 1937.

And whereas it is expedient that powers should be conferred on the Corporation to raise money by the issue of bonds:

And whereas it is expedient that powers should be conferred on the Corporation to close certain streets to vehicular traffic for the purpose of enabling such streets to be used as playgrounds for children:

And whereas it is expedient that powers should be conferred on the Corporation to redeem the annual sum of three hundred and thirty pounds payable from the common good revenues to the Royal High School Endowment:

And whereas it is expedient that the Edinburgh Corporation Acts should be amended and that further powers should be conferred on the Corporation as hereinafter in this Order provided:

And whereas it is expedient that the Corporation should be authorised to borrow money for the construction of the works by this Order authorised and for the purchase of lands as hereinafter in this Order provided:

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

And whereas plans and sections describing the lines and situations and levels of the works proposed to be authorised by this Order and the lands houses and other properties which will or may be taken and acquired for the purposes thereof and of the lands houses and other properties which will or may be taken for the other purposes of this Order and also a book of reference to those plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands houses and other properties were duly deposited with the sheriff clerk of the county of Midlothian and the same 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

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under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

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

## Part I.

## Preliminary.

Short title.

1. This Order may be cited as the Edinburgh Corporation Order 1937 and the Edinburgh Corporation Acts as defined by the Edinburgh Corporation Order 1935 and this Order may be cited as the Edinburgh Corporation Acts 1924 to 1937.

Division of Order into Parts.

2. This Order is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—New works lands &c.

Part III.—Superannuation.

Part IV.—Miscellaneous.

Commencement of Order.

3. This Order shall (except as otherwise hereinafter provided) commence and have effect on and from the date of the passing of the Act confirming the same which date is hereinafter referred to as "the commencement of this Order."

Interpretation.

4. In this Order unless there be something in the subject or context repugnant to such construction the following expressions shall have the meanings hereinafter respectively assigned to them (that is to say):—

52 & 53 Vict. c. cvi.

"Act of 1889" means the Water of Leith Purification and Sewerage Act 1889;

10 & 11 Geo. 5. c. lxxxvii.

"Act of 1920" means the Edinburgh Boundaries Extension and Tramways Act 1920;

"City" means the city and royal burgh of Edinburgh;

"Corporation" means the lord provost magistrates and council of the city;

"Edinburgh Corporation Acts" means the Edinburgh Corporation Acts as defined by the Edinburgh Corporation Order 1935 and this Order;

"Order of 1924" means the Edinburgh Corporation Water Order 1924;

"Order of 1926" means the Edinburgh Corporation (Streets Buildings and Sewers) Order 1926;

"Order of 1932" means the Edinburgh Corporation Order 1932;

"Order of 1933" means the Edinburgh Corporation Order 1933;

"Order of 1935" means the Edinburgh Corporation Order 1935;

"Sheriff" means the sheriff of the Lothians and Peebles and (except where expressly limited to the sheriff) includes his substitutes or any one of them within the county of Midlothian;

"Tramways Order of 1935" means the Edinburgh Corporation (Tramways &c.) Order 1935;

and the words and expressions defined in the Edinburgh Corporation Acts as defined by the Order of 1935 shall if and when used in this Order and when not inconsistent with the above definitions or with any of the provisions of this Order respectively have the same respective meanings as in the said Edinburgh Corporation Acts.

Incorporation of Lands Clauses Acts.

5. The Lands Clauses Acts are subject to the provisions of this Order incorporated with and shall form part of this Order.

## PART II.

## NEW WORKS LANDS &C.

New works.

6. Subject to the provisions of this Order and to the powers of deviation hereinafter mentioned the Corporation may in the lines and situation and upon the lands in that behalf delineated on the deposited plans and described in the deposited book of reference and according to the levels shown on the deposited sections make construct maintain and use the works hereinafter mentioned or either of them or some part or parts thereof together with all necessary and proper works and conveniences connected therewith or incidental thereto respectively (that is to say):—

Work No. 1 A widening of the public arch or covered passageway and of a portion of the

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Part II. —*cont.*

public close called Borthwick's Close and the formation of a new public close between and connecting Borthwick's Close as widened and Old Fishmarket Close all situated wholly within the city and city parish of Edinburgh commencing at a point on the south side of High Street in the centre of Borthwick's Close thence passing in a generally southerly and south-westerly direction to a point in Old Fishmarket Close thirty-eight yards or thereabouts southwards from the south side of High Street and there terminating and the stopping up of so much of Old Fishmarket Close as lies between the south side of High Street and the termination of Work No. 1;

Work No. 2 A diversion of the public arch or covered passageway and of a portion of the public close called Old Assembly Close situated within the city and city parish of Edinburgh commencing at a point on the south side of High Street five yards or thereabouts east from the east side of Old Assembly Close thence passing southwards and westwards for a distance of thirty-three yards or thereabouts to a point on the east side of Old Assembly Close twenty-nine yards or thereabouts southwards from the south side of High Street and there terminating and the stopping up of so much of Old Assembly Close as lies between the south side of High Street and the termination of Work No. 2.

Power to deviate new works.

7. In the execution of the works authorised by this Order or either of them the Corporation may deviate laterally to any extent within the limits of deviation shown on the deposited plans applicable thereto and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding three feet in the case of Work No. 1 and six feet in the case of Work No. 2.

Period for completion of works.

8. 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 hereby granted for the execution of the same shall cease except as to so much thereof as is then completed.

PART II. —*cont.*

Vesting of portions of Old Fishmarket Close and Old Assembly Close stopped up.

9. Upon the completion of Work No. 1 the lands and solum of Old Fishmarket Close and upon the completion of Work No. 2 the lands and solum of Old Assembly Close respectively referred to in the descriptions of the said works so far as stopped up and discontinued shall be and the same are hereby vested in the Corporation freed and discharged from the public use thereof and from all other rights in and over the same.

Lands for works.

10. Subject to the provisions of this Order the Corporation may enter upon purchase take hold appropriate and use the lands houses and property shown on the deposited plans and described in the deposited book of reference or such part or parts thereof as may be required for or in connection with the works by this Order authorised.

Purchase of lands for extension of police headquarters.

11. Subject to the provisions of this Order the Corporation may for the purpose of the reconstruction and extension of the headquarters of the city police force or purposes connected therewith enter upon purchase take hold appropriate and use the lands houses and property hereinafter mentioned and shown on the deposited plans and marked thereon "Area A" and described in the deposited book of reference or any part or parts of the same The said lands houses and property are the following :—

"Area A" The lands houses and property within the city and city parish of Edinburgh situate within the area marked "Area A" delineated upon the deposited plans and bounded by a line commencing at a point in High Street fourteen yards or thereabouts northwards on a line in prolongation of the west side of Old Fishmarket Close thence extending eastwards along the centre line of High Street for a distance of thirty-five yards or thereabouts thence southwards for a distance of forty-four yards or thereabouts thence westwards for a distance of seven yards or thereabouts thence southwards along the east side of Old Assembly Close for a distance of seven yards or thereabouts thence generally westwards for a distance of thirty-three yards to a point on the west side of Old Fishmarket Close thirty-nine yards or

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PART II. —*cont.*

thereabouts southwards from the south side of High Street thence northwards along the west side of Old Fishmarket Close to the point of commencement.

Purchase of lands in connection with reclamation of foreshore at Granton.

12. Subject to the provisions of this Order the Corporation may for and in connection with the reclamation of a part of the foreshore at Granton enter upon purchase take hold appropriate and use the lands and property hereinafter mentioned and shown on the deposited plans and marked thereon "Area B" and described in the deposited book of reference or any part or parts of the same The said lands and property are the following :—

"Area B" The lands and property within the city and city parish of Edinburgh situate within the area marked "Area B" delineated upon the deposited plans and bounded by a line commencing at a point on the north side of Shore Road in prolongation of the east side of Gipsy Brae thence extending south-westwards along the north side of Shore Road for a distance of eight yards or thereabouts thence westwards for a distance of one hundred and seventy-seven yards or thereabouts thence curving in a southerly direction for a distance of one hundred yards or thereabouts thence southwards for a distance of seventy-seven yards or thereabouts to the northern boundary of Granton House grounds thence westwards along the said northern boundary for a distance of twenty-seven yards or thereabouts thence northwards for a distance of eighty-three yards or thereabouts thence curving in an easterly direction for a distance of one hundred and twenty-three yards or thereabouts thence eastwards for a distance of one hundred and eighty yards or thereabouts thence southwards for a distance of twenty-three yards or thereabouts to the point of commencement.

Application of sections of Order of 1935.

13. The following sections (that is to say) :—

23 (Underpinning or otherwise strengthening of houses and buildings near work);

25 (Corporation may take down buildings and lay out lands and sell or let those not required);

26 (Power to make subsidiary works &c.);

27 (Alterations of sewers and gas and water pipes);

28 (Alterations consequent on changing levels of streets to be made at expense of Corporation);

29 (Carriageways and footways vaults cellars &c. and ownership thereof);

30 (Corporation not to be bound to execute whole work); and

31 (Stoppage of roads during execution of works);

of the Order of 1935 shall so far as applicable apply mutatis mutandis to the works authorised by this Order and to the lands authorised to be acquired therefor and for the other purposes of this Order.

Owners may be required to sell parts only of certain lands and buildings.

14. Whereas in the exercise of the powers of this Order it may happen that portions only of certain properties shown or partly shown on the deposited plans will be sufficient for the purposes thereof and that such portions or some other portions less than the whole can be severed from the remainder of the said properties without material detriment thereto Therefore the provisions set forth in section 33 (Owners may be required to sell parts only of certain lands and buildings) of the Order of 1935 shall apply and have effect in respect of the properties mentioned in the First Schedule to this Order.

Omission or misstatement in plans or book of reference may be corrected.

15. If there be any omission misstatement or erroneous description of any lands which may be required or taken for the purposes of this Order or any of them or of the owners lessees or occupiers of any such lands shown on the deposited plans or specified in the deposited book of reference the Corporation after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to the sheriff for the correction thereof and if it appear to the sheriff that such omission misstatement or erroneous description arose from accident or mistake he shall certify the same accordingly and

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shall in such certificate state the particulars of the omission and in what respect any such matter is misstated or erroneously described and the decision of the sheriff in such matter shall be final.

Certificate to be deposited.

16. The certificate of the sheriff shall be deposited in the office at Edinburgh of the sheriff clerk of the county of Midlothian and such certificate shall be kept by such sheriff clerk along with the other documents to which it relates and thereupon the deposited plans and book of reference shall be deemed to be corrected in accordance with the certificate and the Corporation may enter upon purchase take hold and use for the purposes of this Order any lands in accordance with such certificate as if such omission misstatement or erroneous description had not been made.

Limiting period for compulsory purchase of lands.

17. 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 nineteen hundred and forty.

Power to grant servitudes &c. by agreement.

18. Persons empowered by the Lands Clauses Acts to sell and convey or discharge lands may if they think fit subject to the provisions of those Acts and of this Order grant to the Corporation 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 or any of them in over or affecting any such lands and the provisions of the said Acts with respect to lands and ground annuals or feu duties so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively.

## PART III.

### SUPERANNUATION.

Superannuation allowance in case of transfer of service.

19. Section 20 (Superannuation allowance in case of transfer of service) of the Tramways Order of 1935 shall be read as if at the end of the said section the following words were inserted (that is to say) "Provided that this section shall not apply in any case "where section 45 (Service of transferred officer or "servant) of the Order of 1933 is applicable."

Reckoning of temporary service &c. for superannuation purposes.

20. Where a person who becomes or has subsequent to the thirty-first day of October nineteen hundred and thirty-six become a contributor to the Corporation superannuation scheme was immediately prior to his becoming such a contributor employed by the Corporation either in a temporary capacity or in one of the capacities specified in headings (*a*) (*b*) and (*c*) of the definition "officer or servant" in section 41 (Definitions for Part of Order relating to superannuation) of the Order of 1933 the Corporation may within six months from such person becoming a contributor to the Corporation superannuation scheme or (in the case of a person who has become a contributor to the Corporation superannuation scheme between the thirty-first day of October nineteen hundred and thirty-six and the commencement of this Order) within six months from the commencement of this Order and on such terms and conditions as the Corporation think fit resolve with the consent of such contributor that the whole or any part of his continuous service in any one of the capacities before mentioned immediately prior to his becoming a contributor to the Corporation superannuation scheme shall be reckoned for the purpose of computing the amount of superannuation allowance which may be granted to such person.

Service after age for compulsory retirement.

21. Section 51 (Compulsory retirement) of the Order of 1933 shall be read and construed as if proviso (3) and proviso (7) of the said section were omitted therefrom and the following were inserted in lieu thereof (that is to say):—

"(3) Service after attaining the age for compulsory retirement shall not be reckoned in computing the amount of superannuation allowance:

"(7) An officer or servant who continues to hold office or employment after attaining the age for compulsory retirement shall not after attaining that age be under obligation to contribute to the superannuation fund."

Definition of Corporation for purposes of

22. Section 41 (Definitions for Part of Order relating to superannuation) of the Order of 1933 shall be read and construed as if the definition of the Corporation contained therein were omitted therefrom and the

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PART III. —*cont.*

superannuation scheme.

following were and had always been included in lieu thereof (that is to say) :—

"'The Corporation' as hereinbefore defined in this Order shall be deemed to include the board of management of the Edinburgh College of Art the Edinburgh Public Libraries Committee the lord provost magistrates and council of the city as governors and administrators of Trinity Hospital and the governors of Heriot-Watt College to the extent and effect following (that is to say) the said board of management committee governors and administrators and governors respectively shall as regards officers and servants in their employment be liable for all such obligations under this Part of this Order as the Corporation are liable for in respect of their own officers and servants and service with the said board of management committee governors and administrators and governors respectively shall be deemed to be service with the Corporation."

Superannuation of employees of Sheriff Court House Commissioners.

23.—(1) Notwithstanding anything contained in section 41 (Definitions for Part of Order relating to superannuation) of the Order of 1933 the expression "officer or servant" where it occurs in Part IV (Superannuation) of the said Order shall subject to the provisions of this Order extend and apply to officers and servants in the permanent and exclusive service of and in receipt of a salary or wages from the Edinburgh Sheriff Court House Commissioners (hereinafter in this section referred to as "the commissioners").

(2) For the purposes of this section the commissioners shall be deemed to be the employers and shall as regards officers and servants in their employment be liable to make all such contributions under Part IV (Superannuation) of the Order of 1933 as the Corporation would be liable for if such officers or servants were officers or servants of the Corporation within the meaning of the superannuation scheme.

(3) The provisions of this section shall not apply to Alexander Clark who is in the employment of the commissioners nor to any officer or servant of the commissioners who shall intimate to the clerk to the commissioners within three months from the commencement

of this Order that he elects to remain outside the provisions of the superannuation scheme.

(4) Service with the commissioners prior to the commencement of this Order shall not be reckoned for the purpose of computing the amount of superannuation allowance payable to an officer or servant of the commissioners.

Superannuation of officers or servants transferred to mental institutions. 9 Edw. 7. c. 48. 8 & 9 Geo. 5. c. 33.

24.—(1) In the event of any officer or servant who is a contributor to the Corporation superannuation fund being employed by the Corporation in a capacity in which he would be entitled to become an established officer or servant in terms of the Asylums Officers' Superannuation Act 1909 or the Asylums and Certified Institutions (Officers Pensions) Act 1918 it shall be in the option of any such officer or servant within one month from the date of his becoming employed in such capacity to elect to continue to contribute to the Corporation superannuation fund and within such period to intimate in writing such election to the town clerk.

(2) In the event of any such officer or servant exercising such option and making such intimation he shall be deemed to continue to be an officer or servant to whom the statutory provisions relating to the Corporation superannuation scheme are applicable and the provisions of the Asylums Officers' Superannuation Act 1909 and the Asylums and Certified Institutions (Officers Pensions) Act 1918 shall not apply in respect of such officer or servant.

(3) If by any public Act passed in the present session of Parliament general provision is made relating to the superannuation of officers or servants to whom this section refers the provisions of this section shall cease to have effect as from the date upon which such public Act comes into operation and in lieu thereof such public Act shall apply to the officers or servants referred to in subsection (2) of this section as if they had taken up employment as asylum employees or as employees in a certified institution and become established officers or servants within the meaning of the Asylums Officers' Superannuation Act 1909 or the Asylums and Certified Institutions (Officers Pensions) Act 1918 as the case may be on the appointed day referred to in the said public Act.

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## Part IV.

### Miscellaneous.

Filling up vacancies in Corporation.

25. Section 18 (Filling up vacancies in Corporation) of the Order of 1933 is hereby amended as follows:—

(1) The said section shall be read as if paragraph (*g*) of subsection (1) of the said section were omitted therefrom and the following paragraph were inserted in lieu thereof (that is to say) "(*g*) if such vacancy occurs within three months "before the eleventh day of October in any year "the vacancy shall be filled up at the annual "election on the first Tuesday in November in "that year unless the Corporation resolve that "the vacancy shall be filled up by an election "held under the preceding provisions of this "subsection":

(2) Subsection (2) of the said section shall be read as if the words "and the Corporation under the "provisions of the preceding subsection resolve "that the same shall not be filled up until such "annual election" were omitted therefrom and the following words were inserted in lieu thereof (that is to say) "unless the Corporation under "the provisions of the preceding subsection "resolve that the vacancy shall be filled up by "an election held under the provisions of that "subsection."

Advertising vehicles.

26. Section 200 (Advertising vehicles) of the Order of 1926 is hereby repealed and in lieu thereof the following provisions shall apply and have effect (that is to say):—

"200.—(1) In any of the following streets within the city (that is to say) Princes Street Leith Street North Bridge North Bridge Street South Bridge Waverley Bridge Lothian Road and Earl Grey Street it shall not be lawful for any person to use or cause to be used any vehicle or moveable board or structure whatever be its form or construction for the purpose exclusively or principally of displaying advertisements or announcing advertisements by means of loud-speakers gramophones or any other devices for the reproduction and amplification of sound or

to carry or cause to be carried by any person for advertising purposes any board placard picture print or notice:

"(2) Subject to the provisions of subsection (1) of this section it shall not be lawful for any person to use or cause to be used in any street within the city any vehicle or moveable board or structure whatever be its form or construction for the purpose exclusively or principally of displaying advertisements or announcing advertisements by means of loud-speakers gramophones or any other devices for the reproduction and amplification of sound (other than a board or placard carried by one man) unless such person shall have previously obtained a licence from the Corporation empowering him so to do and such licence may be granted for such period not exceeding three years and under and subject to such terms and conditions to be prescribed therein as the Corporation may deem proper:

"(3) Any person acting in contravention of any of the provisions of this section or of the terms and conditions of any licence under this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings."

Provision as to mills on Water of Leith.

27. Any reference to sections 81 (Assessment on mills and works) and 82 (Further provisions as to mills) or either of them of the Act of 1889 in the Act of 1920 or in the Edinburgh Corporation Acts shall be deemed to contain and always to have contained a reference to the Third Schedule to the Act of 1889 in addition to the said sections or either of them.

Repeal of certain provisions relating to water rates.

28.—(1) Section 63 (Domestic water rate How to be imposed) of the Order of 1924 shall be read as if the words "according to the full annual rent or value thereof as entered in the valuation roll for the year then current" occurring in the said section were omitted therefrom.

(2) The following Orders made by the Secretary of State under the Rating (Scotland) Act 1926 (that is to say):—

The Edinburgh Burgh Assessments (Application of Rating Act) Order 1927; and

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The Edinburgh Water Rates (Application of Rating Act) Order 1927;

shall cease to have effect after the commencement of this Order.

(3) Paragraph (*a*) of section 43 (As to sections 111 and 112 of Order of 1932) of the Order of 1935 is hereby repealed.

Expenditure payable out of assessments.

29. Section 108 (Expenditure payable out of assessments) of the Order of 1932 is hereby repealed and in lieu thereof the following provisions shall be deemed to have applied and had effect as from the commencement of the said Order of 1932 (that is to say):—

"108. The expenditure payable out of the burgh assessments shall except as otherwise provided consist of all expenditure required for carrying out the provisions of the Edinburgh Municipal and Police Acts or of any other Act or Order (passed or hereafter to be passed) of or relating to the Corporation or for carrying out the provisions of any public general Act in operation within the city for the time being which imposes or confers upon the Corporation powers duties or obligations."

Power to borrow by issue of bonds.

30.—(1) In addition to the other methods of borrowing specified in section 129 (Mode of raising money) of the Order of 1932 the Corporation may raise all or any moneys which they are authorised to borrow by the issue of bonds (to be called "Edinburgh Corporation bonds" and in this Order referred to as "bonds") in accordance with the provisions of this Order.

(2) The provisions set out in the Second Schedule to this Order shall have effect with regard to bonds.

(3) Bonds shall be deemed to be loan capital or funded debt within the meaning of section 8 of the Finance Act 1899 as amended by section 10 of the Finance Act 1907.

62 & 63 Vict. c. 9.
7 Edw. 7. c. 13.

(4) The provisions of section 115 of the Stamp Act 1891 (which relates to the composition for stamp duty) shall with the necessary adaptations apply in the case of bonds as if those bonds were stock or funded debt within the meaning of that section.

54 & 55 Vict. c. 39.

(5) Bonds shall be moveable or personal estate and transmissible as such and shall not be deemed to be of the nature of heritable or real estate.

(6) The provisions of section 161 (Protection of holders of Corporation securities) and section 162 (Appointment of judicial factor) of the Order of 1932 shall apply to the purposes of this section as if the said sections had been re-enacted herein.

Adoption of Burgh Police (Scotland) Act 1892 Doors to open inwards. 55 & 56 Vict. c. 55.

31.—(1) The following sections of the Burgh Police (Scotland) Act 1892 shall be deemed to have been duly adopted by the Corporation in terms of that Act and shall come into force in the city as part of this Order (that is to say) :—

161 (Doors in future to be made to open inwards);

162 (Doors opening outwards may be altered).

(2) In the said sections the following expressions shall have the meanings hereinafter respectively assigned to them (that is to say) :—

"The application of this Act" means the commencement of this Order;

"The commissioners" means the Corporation;

"The burgh" means the city.

Power to close streets to enable them to be used as playgrounds for children.

32.—(1) Subject to the provisions of this section the Corporation may by order close to vehicular traffic any street in the city which is not a classified road for a specified period on each day or on certain days for the purpose of enabling such street to be used as a playground for children.

(2) Any order made under this section shall state the hours and days during which each of the streets to which such order relates shall be closed and shall unless previously revoked continue in force for such period as may be specified in the order.

(3) Any order made under this section—

(*a*) may close a street to vehicular traffic or to any specified class or classes of such traffic;

(*b*) may contain exceptions and conditions as to the occasional use of a street closed thereby and in particular shall make provision for allowing the occasional use of the street by vehicles for the purpose of obtaining access to premises abutting on the street;

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(c) shall not come into force or have any effect—

(i) until twenty-eight days after public notice thereof has been given by the Corporation by advertisement in two local newspapers circulating in the city and by posting a copy of the order in each street to which it relates or until such subsequent date as may be mentioned in the order; or

(ii) where the order is appealed against as hereinafter in this section provided until the appeal has been disposed of or withdrawn or fails for non-prosecution thereof.

(4) The Corporation may at any time revoke the whole or any part of an order made under this section and in the case of any such revocation shall give public notice thereof in the manner provided by subsection (3) of this section.

(5) If any person acts in contravention of or fails to comply with any order in force under the foregoing provisions of this section he shall be liable to a penalty not exceeding five pounds.

(6) The Corporation may make byelaws with respect to the admission of children to a street closed by an order made under this section and for ensuring the safety of children using any such street during the hours specified in the order and generally for the good and orderly conduct and management of such street as a playground during such hours.

(7) The Corporation may during the hours specified in any order under this section for the closing of a street place and keep in position in such street or adjacent thereto temporary barriers for the purpose of preventing vehicular traffic cattle or horses from gaining access to such street.

(8) The Corporation may employ and pay such person or persons as may be required for giving effect to the provisions of this section or any order made thereunder.

(9) Any person aggrieved by an order made under this section may appeal to the sheriff against the same within twenty-eight days after public notice thereof has been given in the manner hereinbefore provided Notice of any such appeal specifying the grounds thereof shall be given to the Corporation within the said period of twenty-eight days.

(10) On any such appeal the sheriff may make such order as he thinks fit and may award expenses.

(11) For the purposes of this section the expression "classified road" means any road classified under section 17 (2) of the Ministry of Transport Act 1919 as Class I or Class II or any other class to which the Minister of Transport may declare that this section shall not apply. 9 & 10 Geo. 5. c. 50.

(12) No order made under this section shall apply to any street belonging to the Commissioners for the Harbour and Docks of Leith or to a railway company.

(13) Nothing in this section or in any order made thereunder shall prohibit or restrict the use in any street by any railway company of any vehicle for the collection or delivery of goods from or to any premises in such street or from or to any premises to which that street forms the only means of access for vehicles.

(14) For the purposes of this section the word "sheriff" shall mean the sheriff of the Lothians and Peebles and shall not include his substitutes.

Power to provide guides or marshals for children attending schools.

33.—(1) If owing to the volume or nature of the traffic on the street or streets he has to cross it is unsafe in the opinion of the Corporation for any child to proceed to or from a public primary school or a nursery school or a school clinic unless accompanied by an adult the Corporation may appoint a guide or marshal to accompany such child.

(2) The Corporation may provide such guide or marshal with an appropriate uniform and may pay him such remuneration as the Corporation think fit.

Prohibition of sale of verminous furniture &c.

34.—(1) No dealer shall sell or expose for sale any second-hand furniture mattress bed-linen or similar articles if the same are to his knowledge infested with bed bugs or if by taking reasonable precautions he could have known the same to be so infested.

(2) A dealer offending against the provisions of this section shall be liable to a penalty not exceeding five pounds.

(3) (*a*) Any officer of or other person duly authorised by the Corporation in that behalf and producing his authority if and when required to do so may enter any premises in which second-hand furniture mattresses

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PART IV. —*cont.*

bed-linen or similar articles are sold or exposed for sale for the purpose of examining whether there be any contravention of the provisions of this section.

(*b*) Every person who refuses to permit any officer or authorised representative of the Corporation to enter any premises or make any inspection which such officer or authorised representative is authorised under the provisions of this section to enter or make or obstructs any such officer or representative in the execution of his duty under such provisions shall be liable to a penalty not exceeding five pounds.

(4) In and for the purposes of this section "dealer" means any person who in the course of his business trades or deals in any of the articles referred to in this section.

Licensing of window cleaners.

35.—(1) No person shall carry on within the city the trade of window cleaner and no person employed by him shall perform the duties of window cleaning in the city without obtaining a licence from the Corporation and the provisions of section 320 (General provisions as to licences) and section 321 (Charges for licences) of the Order of 1933 shall extend and apply to all such persons.

(2) Any such licence shall be subject to such conditions as may be attached thereto by the Corporation who may make byelaws for regulating the conduct of such persons and any other matter which they may deem necessary to secure the proper conduct of such persons and ensure safety.

(3) Any person deeming himself aggrieved by the refusal of the Corporation to grant or renew a licence or by the revocation of a licence under this section may appeal to the sheriff within seven days after intimation of such refusal or revocation provided he give twenty-four hours' notice of such appeal to the town clerk and the sheriff shall dispose of such appeal in a summary manner and shall have power to make such order as he thinks fit and to award expenses.

(4) Every person who acts in contravention of any of the provisions of this section or who contravenes or fails to comply with any conditions attached to any licence granted under this section shall be guilty of an offence and shall be liable to a penalty not exceeding forty shillings.

(5) The provisions of this section shall come into operation on the first day of January nineteen hundred and thirty-eight.

As to bye-laws and penalties.

36. Sections 314 to 318 inclusive and sections 347 to 349 inclusive of the Order of 1933 shall extend and apply to any byelaws and offences under this Order.

Culverting &c. of watercourses.

37.—(1) If it is necessary in order to prevent or remove nuisance or avoid the risk of nuisance or of damage to buildings by flooding that any watercourse or ditch should be wholly or partially filled up or covered over or that a pipe drain or culvert should be substituted therefor the Corporation may by notice in writing require the owner or owners of the land on which such watercourse or ditch is situated to execute within a reasonable time to be specified in the notice such works as aforesaid as may be necessary for preventing or removing nuisance or avoiding the risk of nuisance or of damage as aforesaid.

(2) In the event of a notice under this section not being complied with within the specified time the provisions of section 206 (In default of owners &c. Corporation may execute works) of the Order of 1926 shall apply.

(3) If any difference shall arise between the Corporation and an owner as to the necessity for the works required by the Corporation to be executed under this section such difference may be determined by the sheriff summarily on the application of either party.

(4) Any person who fails to comply with a requirement of the Corporation under this section shall be liable to a penalty not exceeding five pounds and to a penalty not exceeding forty shillings for each day during which the failure to comply with such requirement continues after conviction.

(5) Nothing in this section shall apply to (*a*) the dam or mill lade leading to Gorgie mills or (*b*) any watercourse or ditch constructed by a railway company under statutory power or situated upon property belonging to a railway company for the maintenance of which they are responsible by statute or (*c*) the Water of Leith from the sea to the highest point to which the spring tides flow.

PART IV. —*cont.*

Preservation of national monument on Calton Hill.

38. The Corporation may in their discretion repair and preserve the national monument situated on the Calton Hill.

Transfer of Lauriston Farm to burgh fund account.

39. The lands and estate of Lauriston Farm vested in the Corporation as part of the common good shall by virtue of this section be and the same are hereby transferred from the common good account to the burgh fund account to the intent and effect that thereafter the said lands and estate shall be vested in the Corporation for behoof of the burgh fund account and in respect of such transfer a sum equivalent to the capital value of such lands and estate as such value shall be fixed by a valuer to be appointed by the Secretary of State shall be credited to the common good account from the burgh fund account.

Redemption of annuity by Corporation to Royal High School Endowment.

40.—(1) The Corporation may if they think fit redeem the annuity of three hundred and thirty pounds payable from the common good revenues to the Royal High School Endowment under and in terms of article 1 (3) of the Royal High School Endowment Scheme 1933 by purchasing and transferring to themselves as part of the said endowment two and one-half per centum consolidated stock of the United Kingdom of the nominal value of thirteen thousand two hundred pounds The price of the said stock shall be paid by the Corporation from the common good account.

(2) As from the date of transfer in terms of the preceding subsection the obligation on the Corporation to pay the annual sum of three hundred and thirty pounds as contained in section 334 (Payment of an annuity by Corporation for city schools) of the Order of 1933 and article 1 (3) of the Royal High School Endowment Scheme 1933 shall cease and determine and the said section 334 and article 1 (3) shall be repealed.

Financial provisions.

41. The Corporation may from time to time borrow such sums of money as may be necessary for the purposes of this Order or any of them to which capital is properly applicable and for which borrowing powers have not been otherwise granted or provided for and the provisions of the Edinburgh Corporation Acts in respect of money borrowed and to be borrowed and the security therefor and the redemption thereof by means of a sinking fund

and the provisions of section 333 (As to exercise of borrowing powers) of the Order of 1933 shall apply to money to be borrowed under the provisions of this section.

Works below high-water mark not to be constructed without consent of Board of Trade.

42. The Corporation shall not under the powers of this Order construct on under or over the shore or bed of the sea or of any creek bay arm of the sea or navigable river communicating therewith below high-water mark of ordinary spring tides any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries under secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of in writing under hand as last aforesaid and where any such work may have been constructed the Corporation shall not at any time alter or extend the same without obtaining previously to making any alteration or extension the like consent or approval If any work be commenced altered extended 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 and charge of the Corporation and the amount of such costs and charges shall be a debt due from the Corporation to the Crown and shall be recoverable accordingly.

Crown rights.

43. Nothing in this Order shall affect prejudicially any estate right power privilege or exemption of the Crown or shall subject to the provisions of this Order any lands buildings or works vested in or occupied by the Crown or any department of His Majesty's Government except to such extent as His Majesty or such department may voluntarily agree and in particular nothing herein contained shall authorise the Corporation to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land 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

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Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose.

—*cont.*

Expenses of Order.

44. All costs charges and expenses of and incident to the preparing for obtaining and confirming this Order and otherwise in relation thereto shall be paid by the Corporation out of moneys borrowed or assessments imposed by the Corporation under the powers of the Edinburgh Corporation Acts and if paid out of borrowed money shall be repaid within five years from the twenty-eighth day of May first occurring after the commencement of this Order.

The SCHEDULES referred to in the foregoing Order. A.D. 1937.

## THE FIRST SCHEDULE.

(Referred to in the section of this Order of which the marginal note is "Owners may be required to sell parts only of certain lands and buildings.")

PROPERTIES OF WHICH PORTIONS ONLY MAY BE TAKEN WITHOUT TAKING THE WHOLE.

| City and parish. | Numbers on deposited plans. |
|---|---|
| City parish of Edinburgh city and county of the city of Edinburgh and county of Midlothian. | 3 4 4 7 8 10 11 12 13 19 20 20 23 24 25 26 27. |

## THE SECOND SCHEDULE.

(Referred to in the section of this Order of which the marginal note is "Power to borrow by issue of bonds.")

PROVISIONS AS TO EDINBURGH CORPORATION BONDS.

1. Bonds shall be issued in such amounts in denominations of five pounds and multiples of five pounds and for such periods not being less than five years as the Corporation may determine.

2. (*a*) Bonds may be issued at such prices and at such rates of interest as the Corporation may from time to time determine and interest shall be payable on bonds on the fifteenth day of May and the eleventh day of November in any year If a bond becomes repayable at a date other than the fifteenth day of May or the eleventh day of November the interest on the bond from the fifteenth day of May or the eleventh day of November as the case may be until the date of repayment of the bond shall be apportioned and paid to the holder of the bond If a bond is issued on a date other than the fifteenth day of May or the eleventh day of November the interest on the bond from the date of issue until the eleventh day of November or the fifteenth day of May following

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2nd Sch. —*cont.*

the date of issue shall be apportioned and paid to the holder of the bond.

(*b*) The nominal amount of bonds issued shall not exceed in the aggregate according to the price of issue such amounts as will together produce the actual amount of money for the time being authorised to be borrowed by the Corporation.

(*c*) Where a bond has been issued at a price lower than par so much of the issue as represents the difference between the price of the bond as issued and its nominal value shall be treated as a loan authorised by a statutory borrowing power and repayable out of the revenues of the Corporation on or before the date for repayment specified in the certificate issued in respect of the bond.

3. Bonds shall be repayable at par (unless the same shall have been previously cancelled by purchase in the open market or by agreement with the bondholder) at the office of the city chamberlain on the dates specified in the certificates issued in respect of bonds and no interest shall be payable thereon in respect of any period after the date upon which the bond is repayable.

4.—(1) The city chamberlain shall keep a register (in this schedule called "the register") of all persons who are holders for the time being of bonds.

(2) The register shall contain the following particulars :—

(*a*) The name and address of each holder a statement of the denomination of the bonds held by him the price at which and the periods for which they are issued and the numbers and dates of the certificates issued to him as hereinafter provided;

(*b*) The date of registration of each holder and the date on which he ceased to be so registered.

(3) The register shall be prima facie evidence of any matter entered therein in accordance with the provisions of this Order and of the title of the persons entered therein as holders of bonds.

5.—(1) The Corporation shall issue to each holder of a bond a certificate in respect thereof duly numbered and dated and specifying the denomination of the bond and the period for which it is issued and such certificate shall be and be deemed to be validly executed notwithstanding any law or practice to the contrary if the same is sealed with the common seal of the Corporation and signed by one member of the Corporation and by the town clerk.

(2) If a certificate is worn out or damaged the Corporation on the production thereof may cancel it and issue a new certificate in lieu thereof.

(3) If a certificate is lost or destroyed the Corporation on proof thereof to their satisfaction and if they so require on receiving an indemnity against any claims in respect thereof may give a new or substitute certificate in lieu of the certificate lost or destroyed.

(4) An entry of the issue of a substituted certificate shall be made in the register.

(5) A certificate shall be in the following form or in a form substantially to the like effect :—

No. .....

CITY AND ROYAL BURGH OF EDINBURGH.

EDINBURGH CORPORATION BONDS.

.....per centum Edinburgh Corporation bond repayable at par on.....19.....at the office of the City Chamberlain City Chambers Edinburgh.

This is to certify that.....
of.....is the registered holder of a bond for.....
pounds issued by the Corporation of Edinburgh under the Edinburgh Corporation Order 1937.

Dated the.....day of.....

.....
Member of the Corporation
of the City of Edinburgh.

.....
Town Clerk.

Entered in the Register of Bonds

of date.....19.....

.....
City Chamberlain.

6. The certificate shall be prima facie evidence of the title of the person therein named his executors administrators or assignees to the bond therein specified but the want of a certificate if accounted for to the satisfaction of the Corporation shall not prevent the holder of the bond from disposing of and transferring the bond.

A.D. 1937.

2nd Sch. —*cont.*

7.—(1) The transfer of a bond shall be by deed in the following form or in a form substantially to the like effect :—

Form of Deed of Transfer.

Edinburgh Corporation Bond(s).

I/We..... in consideration of the sum of..... paid by.....(hereinafter called "the transferee") do hereby assign and transfer to the transferee.....

To hold unto the transferee his executors administrators and assignees (or as the case may be) subject to the several conditions on which I/we held the same immediately before the execution hereof and I/we the transferee do hereby agree to accept and take the said bond(s) subject to the conditions aforesaid.

As witness our hands and seals this.....day of .....:19.....

(To be signed before one witness.)

(2) A bond may be transferred in whole or in part so however that any part transferred shall not be for an amount other than an amount for which a bond may be issued by the Corporation.

(3) The deed of transfer shall be delivered to and retained by the Corporation and the city chamberlain shall enter a note thereof in a book to be called the "Register of transfers of Edinburgh Corporation bonds" (hereinafter called "the register of transfers") and shall endorse on the deed of transfer a notice of that entry.

(4) The city chamberlain shall upon receipt of the deed of transfer duly executed and properly stamped together with the certificate issued in respect of the bond unless production of such certificate has been dispensed with by the Corporation in terms of clause 6 hereof enter the name of the transferee in the register of transfers and shall issue a new certificate or certificates to the transferee or to the transferor and transferee as the case may require.

(5) Until the deed of transfer and (unless production thereof is dispensed with as aforesaid) the certificate have been delivered to the Corporation as aforesaid the Corporation shall not be affected by the transfer and the transferee shall not be entitled to receive any payment of interest on the bond.

(6) The Corporation before registering a transfer of a bond may if they think fit require evidence to their satisfaction by

statutory declaration or otherwise of the title of any person claiming to make the transfer.

8. The Corporation may close the register of transfers for a period not exceeding thirty days immediately before the fifteenth day of May and the eleventh day of November respectively in any year and notwithstanding the receipt by the Corporation during those periods of any deed of transfer the half-yearly payment of interest next falling due may be made to the persons registered as holders of bonds on the date of the closing of the register.

9.—(1) Any person becoming entitled to a bond by reason of the death or bankruptcy of a holder or by any lawful means other than a transfer may on the production of such evidence of title as the Corporation may require either be registered as holder of the bond or instead of being himself registered may make such transfer of the bond as the holder could have made and the Corporation shall issue a certificate accordingly.

(2) Until such evidence as aforesaid has been furnished to the Corporation the Corporation shall not be affected by the transmission of the bond and no person claiming by virtue thereof shall be entitled to receive any payment of interest thereon.

(3) Where two or more persons are registered as holders of a bond they shall be deemed to be joint holders with right of survivorship between them unless the contrary is stated.

10.—(1) Unless the holder of a bond otherwise requests in writing the Corporation may pay the interest thereon by posting a warrant to the holder at his address as shown in the register.

(2) The posting by the Corporation of a letter containing an interest warrant addressed to a holder as aforesaid shall as respects the liability of the Corporation be equivalent to the delivery of the warrant to the holder himself.

11. The Corporation shall not be required to pay any executors or administrators any interest on bonds held by their testator or intestate until the confirmation or the probate of the will or the letters of administration has or have been left with the Corporation for registration.

12. The Corporation before paying any interest on any bonds may if they think fit require evidence by statutory declaration or otherwise of the title of any person claiming a right to receive the interest.

13. Where two or more persons are jointly entitled to a bond any one of them may give an effectual receipt for any interest thereon unless notice in writing to the contrary has been given to the Corporation by any other of them.

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2nd Sch. —*cont.*

14. The receipt of the guardian or tutor of an infant or pupil shall be a sufficient discharge to the Corporation for any money payable to the infant in respect of a bond.

15. No notice of any trust expressed implied or constructive affecting a bond shall be entered in the register or be receivable by or shall affect the Corporation but this provision shall not prevent any holder of a bond from being described as a trustee or as possessing any official character.

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