CHAPTER lx.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Kirkcaldy Corporation. [26th July 1910.]

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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 Kirkcaldy Corporation Order Confirmation Act 1910.

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SCHEDULE.

KIRKCALDY CORPORATION.

Provisional Order to authorise the Corporation of the Burgh of Kirkcaldy to construct and work additional tramways in and adjacent to the Burgh to authorise the Dysart Corporation to contribute to the working of the said tramways to extend the limits for compulsory supply of water by the Waterworks Commissioners of Kirkcaldy and Dysart to authorise the Corporation to acquire lands for the extension of their gasworks to confer further powers on the Corporation in relation to their electricity and gas undertakings to raise additional money for harbour purposes and to purchase and maintain as open spaces the strand of seashore and waste ground adjoining and for other purposes.

WHEREAS the burgh of Kirkcaldy in the county of Fife is a royal burgh under the municipal administration of the provost magistrates and council thereof (herein-after called "the burgh" and "the Corporation" respectively):

And whereas by the Kirkcaldy and Dysart Waterworks Act 1867 (herein-after called "the 1867 Water Act") the limits for the compulsory supply of water by the said commissioners were declared to be the parliamentary burghs of Kirkcaldy and Dysart:

And whereas by the Kirkcaldy Burgh and Harbour Act 1876 (herein-after called "the 1876 Act") the limits for the compulsory supply of water as defined by the 1867 Water Act were extended so as to include such portions of the burgh as extended by the 1876 Act as were not then situated within the said limits:

And whereas the boundaries of the burgh have since been extended by the sheriff of Fife under the Burgh Police (Scotland) Act 1892 conform to deliverance dated the tenth and recorded in the sheriff court books of Fife twenty-ninth July one thousand eight hundred and ninety-three and it is expedient that the said limits should be extended so as to include therein such portions of the burgh as are beyond the same:

And whereas by the Kirkcaldy Corporation and Tramways Act 1899 (herein-after called "the 1899 Act") the Corporation were authorised to construct and work certain tramways in the burgh and in the adjoining burgh of Dysart:

And whereas by the Kirkcaldy Corporation Order 1904 (herein-after called "the 1904 Order") the period for the completion of tramways Nos. 6 and 7 authorised by the 1899 Act which tramways are the tramways Nos. 1 and 2 by this Order authorised was extended till first August one thousand nine hundred and seven:

And whereas these tramways have not been constructed:

And whereas it is expedient that the Corporation should be authorised to construct and work the said tramways:

And whereas the Corporation have entered into an agreement with the provost magistrates and councillors of the burgh of Dysart (herein-after called "the Dysart Corporation") whereby in respect that the working of the said tramways will be a public advantage to the burgh of Dysart and in respect of the maintenance by the Kirkcaldy Corporation of a considerable portion of the road within the burgh of Dysart under the provisions of the Tramways Act 1870 the Dysart Corporation undertakes to make an annual contribution to the Corporation of one hundred and fifty pounds a year for ten years:

And whereas it is expedient that the Dysart Corporation should be authorised to make the said contribution out of the common good of the burgh of Dysart the burgh general assessment and the roads and bridges assessment of that burgh or any of them:

And whereas by the 1904 Order the Corporation were empowered to make and maintain certain works for improving and extending the harbour of Kirkcaldy and to borrow for that purpose the sum of one hundred and forty thousand pounds:

And whereas a considerable portion of the harbour works which the Corporation were authorised to execute under the 1904 Order have not yet been constructed and the moneys which the Corporation were authorised to borrow under the 1904 Order are insufficient for the completion thereof and it is expedient that the Corporation should be authorised to borrow a further sum of money to enable them to complete the said works and for the general purposes of the harbour undertaking:

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And whereas the Corporation supply electricity within the burgh under and by virtue of the powers conferred on them by the Kirkcaldy Electric Lighting Order 1899 and it is expedient that they should be authorised to supply electrical fittings as in this Order provided:

And whereas the Corporation recently adopted the Burghs Gas Supply (Scotland) Act 1876 and have entered into a contract for the purchase of the undertaking of the Kirkcaldy Gas Light Company Limited under the said Act:

And whereas it is expedient that the Corporation should be authorised to purchase additional lands for the purposes of their gas undertaking and that the further powers in this Order contained should also be conferred on the Corporation in regard to the said gas undertaking:

And whereas the loans contracted by the Corporation in connection with their electricity undertaking have in terms of the schedule annexed to the Electric Lighting (Scotland) Act 1890 been contracted on the security of the burgh general assessment:

And whereas owing to the Corporation having entered into a contract to acquire the gas undertaking doubts have arisen as to the application of the said schedule annexed to the Electric Lighting (Scotland) Act 1890 which doubts it is expedient to remove:

And whereas the seashore has from time immemorial been used by the inhabitants of the burgh for purposes of walking and recreation:

And whereas immediately adjoining the seashore on the landward side there are spaces of strand and waste ground which for many years have been lying waste:

And whereas it would be of public and local advantage that the Corporation should be authorised to acquire the said strand and waste ground and maintain the same as open spaces for public resort and recreation:

And whereas plans and sections showing the lines situations and levels of the tramways authorised by this Order and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the land and property which may be used for tramway purposes under the powers of this Order were duly deposited with the sheriff clerk for the county of Fife at his offices at Cupar and Kirkcaldy and also with the town clerk of Kirkcaldy at his

office in Kirkcaldy and also with the town clerk of Dysart at his office in Dysart and are in this Order referred to as the tramway deposited plans sections and book of reference:

And whereas plans of the lands proposed to be acquired for the gas undertaking and plans of the strand and waste ground adjoining proposed to be acquired and books of reference to such plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of such lands were duly deposited with the sheriff clerk for the county of Fife at his offices in Cupar and Kirkcaldy and also with the town clerk of Kirkcaldy at his office in Kirkcaldy and are in this Order referred to respectively as the gas deposited plans and book of reference and the strand deposited plans and book of reference:

And whereas estimates have been prepared showing that the Corporation will or may require to borrow the following sums for the following purposes:—

Tramways.

Tramway No. 1.

	£
Permanent way including overhead system and feeders and paving - - - -	100

Tramway No. 2.

	£
Permanent way including overhead system and feeders and paving - - - -	8,900
	£9,000

Harbour.

	£
Jetties and concrete banks - - -	7,000
Railways and coal loading scheme - -	9,500
Paving and macadam - - - -	3,500
Warehouses offices &c. - - - -	3,000
Cranes motors and other apparatus - -	5,000
Engineers' fees - - - -	2,000
	£30,000

Strand.

Purchase of strand and waste ground - -	£1,430

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

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

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

Short title and commencement.

1. This Order may be cited as the Kirkcaldy Corporation Order 1910 and shall come into operation at the date of the passing of the Act confirming the same which date is herein-after referred to as "the commencement of this Order."

Order divided into Parts.

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

I.—Preliminary.

II.—Water and Cemetery.

III.—Tramways.

IV.—Electricity.

V.—Gas.

VI.—Electricity and Gas.

VII.—Strand Purchase.

VIII.—Gas and Strand Purchase.

IX.—Financial.

Part I.

Preliminary.

Interpretation.

3. In this Order the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated with this Order have the same respective meanings unless there be something in the subject or context repugnant to such construction Provided that in the Acts wholly or partially incorporated herewith the following words and expressions have for the purposes of this Order the meanings hereby assigned to them (that is to say):—

"The promoters of the undertaking" "the undertakers" and "the company" respectively mean the Corporation.

In this Order unless there be something in the subject or context repugnant to such construction the following words and expressions shall have the following meanings (that is to say):—

"The burgh" means the municipal burgh of Kirkcaldy as constituted at the commencement of this Order;

"The Corporation" means the provost magistrates and councillors of the burgh;

"The county" means the county of Fife;

"Sheriff" means the sheriff of the county or any of his substitutes;

"The tramways" means the tramways authorised by this Order;

"The Corporation tramways" means the tramways and also the existing tramways belonging to the Corporation;

"The harbour" means the harbour of Kirkcaldy;

"Harbour revenue" means and includes all moneys received for or in relation to the harbour other than borrowed moneys and other moneys which ought to be carried to the account of capital.

Part II.

Water and Cemetery.

Limits of compulsory supply of water extended.

4. From and after Whitsunday one thousand nine hundred and eleven the limits for the compulsory supply of water as defined in the 1867 Water Act and extended by the 1876 Act shall be and are hereby extended so as to include such portions of the burgh as are not at present situated within the said limits and all the provisions of the Kirkcaldy and Dysart Waterworks Acts 1867 to 1908 applicable to the present limits for compulsory supply shall apply to the extended limits in the same manner and to the same effect in all respects as if they formed part of the present limits for compulsory supply.

Cemetery.

5. The cemetery provided by the Corporation as the parochial board under the provisions of the Burial Ground (Scotland) Act 1855 shall be managed by the Corporation for behoof of the first and second wards of the burgh and the burial grounds assessment shall be leviable over that area.

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Part III.

Tramways.

Incorporation of portions of Tramways Act 1870.

6. Section 3 (Interpretation of terms) section 19 (Local authority may lease or take tolls) and Parts II. and III. of the Tramways Act 1870 so far as they are applicable for the purposes of and are not varied by or inconsistent with this Order are hereby incorporated with and form part of this Part of this Order.

Power to make tramways.

7. Subject to the provisions of this Order the Corporation may make form lay down work use and maintain the tramways herein-after described in the lines and according to the levels and within the limits of deviation shown on the tramway deposited plans and sections and in all respects in accordance with those plans and sections with all proper rails plates works and conveniences connected therewith Provided that nothing in this Order shall authorise any interference with electric lines and works of any undertakers under the Electric Lighting Acts 1882 to 1909 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with and subject to the provisions of that section.

The tramways herein-before referred to and authorised by this Order are—

Tramway No. 1 (1·2 chains in length single line) situate wholly in the parish of Kirkcaldy and Dysart and burgh of Kirkcaldy commencing in St. Clair Street by a junction with an existing tramway belonging to the Corporation passing in a south-easterly direction along Saint Clair Street thence into and along Dysart Road to and terminating by a junction with Tramway No. 2:

Tramway No. 2 (1 mile 1 furlong 3·5 chains in length whereof 1 mile 0 furlong 3·5 chains will be single and 1 furlong will be double line) situate wholly in the parish of Kirkcaldy and Dysart commencing in the burgh of Kirkcaldy by a junction with an existing tramway belonging to the Corporation in Dysart Road passing thence in an easterly direction along Dysart Road and thence into and along the road or street known as the Town Head and thence into and along Normand Road

and terminating therein in the burgh of Dysart at a point 0·8 chain measured in a southerly direction from the centre of the mineral railway crossing Normand Road.

The whole of the said tramways are situated in the parish of Kirkcaldy and Dysart and county of Fife Tramway No. 1 is wholly situated within the burgh of Kirkcaldy Tramway No. 2 as to 1 furlong 3·5 chains is situated in the burgh of Kirkcaldy and as to 1 mile in the burgh of Dysart.

As to electrical works &c.

8.—(1) The Corporation may in under or over the surface of the streets or roads in which the tramways by this Order authorised will be situate or in which it may be necessary so to do in order to connect the tramways with any generating station construct lay down erect maintain renew and repair electric wires conductors posts tubes boxes and other electrical apparatus and may make and maintain openings and ways for the purpose of working the tramways by electrical power and may for that purpose subject to the provisions contained in Part II. of the Tramways Act 1870 and to the provisions of this Order open and break up any such street or road and any sewers drains water or gas pipes tubes wires telephonic and telegraphic apparatus therein or thereunder Provided as follows:—

(A) All posts and apparatus erected by the Corporation under the powers of this Order in any street or road shall be of such design as the local authority may approve and shall be placed in such position as the local authority and road authority may approve Provided that no post or other apparatus shall be erected on the carriageway except with the consent of the Board of Trade:

(B) The route in which any electrical apparatus is to be laid or erected for the purpose of connecting the tramways with a generating station shall be approved by the local authority and the road authority within whose jurisdiction each portion of the route is situate.

(2) Nothing in this section shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 to 1909 to which the provisions of section 15 of the Electric Lighting Act 1882 apply.

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Temporary tramways may be made when necessary.

9. When by reason of the execution of any work affecting the surface or soil of any road along or across the carriageway of which any of the tramways are or is laid it shall in the opinion of the road authority be expedient temporarily to remove or discontinue the use of such tramway or any part thereof the Corporation may with the consent of the road authority and subject to such conditions as the road authority may impose construct in the same or any adjacent road and (so long as occasion may require) maintain a temporary tramway in lieu of the tramway or part of the tramway so removed or discontinued.

If any difference arises between the Corporation and the road authority with respect to any conditions or with respect to the mode of constructing any temporary tramway under the authority of this section the same shall be settled by arbitration under this Order.

Corporation may reduce footpath for constructing tramway.

10. The Corporation may increase the roadway of any street in which any of the tramways are authorised to be laid to such extent as may be necessary to leave a space of nine feet and six inches between the outside of the footpath on each or either side of such street and the nearest rail of the tramway by reducing the width of the footpath on each or either side of such street Provided that any footpath shall not be reduced in width without the consent of the local authority and the road authority or other person in whom it is vested nor to such an extent as to be less than six feet wide.

Shelters or waiting rooms.

11. The Corporation may erect and maintain shelters or waiting rooms for the accommodation of passengers and may with the consent of the local authority and road authority use for that purpose portions of the public streets or roads.

Incorporation of certain sections of 1899 Act.

12. The following sections of the 1899 Act (that is to say):—

Section 9 (Inspection by Board of Trade);
Section 12 (Gauge and rails of tramways);
Section 17 (Power to Corporation to work tramways);
Section 18 (Rates for passengers);
Section 19 (Passengers' luggage);
Section 22 (As to fares on Sundays or holidays);
Section 25 (Provisions as to motive power);
Section 31 (Temporary use of omnibuses);
Section 34 (Application of money from sale);

Section 35 (Statement and balance-sheet and estimates to be laid before Corporation);

Section 36 (Application of tramway revenue);

Section 37 (Byelaws);

Section 38 (Amendment of Tramways Act 1870 as to byelaws by Corporation);

Section 39 (Orders &c. of Board of Trade);

Section 40 (Recovery of penalties);

Section 41 (Agreements for construction &c. of tramways);

Section 42 (Lease of tramways &c);

shall so far as the same are applicable in that behalf and are not inconsistent with the provisions of this Order extend and apply mutatis mutandis to and in relation to the tramways.

Width of carriages.

13. So much of section 34 of the Tramways Act 1870 as limits the extent of the carriage used on any tramway beyond the edge of the wheels of such carriage shall not apply to carriages used on the Corporation tramways but no carriage or engine shall exceed six feet three inches in width or such other width as may from time to time be prescribed by the Board of Trade.

Plan of proposed mode of construction.

14. In addition to the requirements of section 26 of the Tramways Act 1870 the Corporation shall lay before the Board of Trade and the road authority a plan showing the proposed mode of constructing laying down and renewing such tramways and a statement of the materials intended to be used therein and the Corporation shall not commence the construction laying down and renewal of any of the tramways or part of any of the tramways respectively until such plan and statement have been approved by the Board of Trade and after such approval the works shall be executed in accordance in all respects with such plan and statement and under the superintendence and to the reasonable satisfaction of the surveyor of the road authority as provided by section 26 of the said Act.

Penalty for not maintaining rails and roads.

15.—(1) The Corporation shall at all times maintain and keep in good condition and repair and so as not to be a danger or annoyance to the ordinary traffic the rails of the tramways by this Order authorised and of all other tramways of the

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Corporation and the substructure upon which the same rest and if the Corporation at any time fail to comply with this provision or with the provisions of section 28 of the Tramways Act 1870 they shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding five pounds The tramways of the Corporation for the purposes of this section include any tramways purchased by the Corporation or taken on lease by them during the continuance of any such lease.

Board of Trade may on complaint inspect tramways.

(2) In case it is represented in writing to the Board of Trade by the road authority of any district in which the tramways or any portion thereof are or is situate or by twenty inhabitant ratepayers of such district that the Corporation have made default in complying with the provisions in this section contained or with any of the requirements of section 28 of the Tramways Act 1870 the Board of Trade may if they think fit direct an inspection by an officer to be appointed by the said Board and if the officer reports that the default mentioned in such representation has been proved to his satisfaction then and in every such case a copy of such report certified by a secretary or an assistant secretary of the Board of Trade may be adduced as evidence of such default and of the liability of the Corporation to such penalty or penalties in respect thereof as is or are by this section imposed.

Tramways to be kept on level of surface of road.

16. If and whenever after the commencement of this Order any road authority alters the level of any road along or across which any part of the tramways is laid or authorised to be laid the Corporation may and shall from time to time alter or (as the case may be) lay their rails so that the uppermost surface thereof shall be on a level with the surface of the road as altered.

Sanitary authority to have access to sewers.

17. Every sanitary authority shall at all times have free access to and communication with all their sewers and drains and power to lay lateral and private drains to communicate therewith without the consent or concurrence of the Corporation and the provisions contained in sections 32 and 33 of the Tramways Act 1870 shall be applicable in the case of any sewer or private drain of or under the control of the said authority as if the same were a pipe for the supply of gas or water.

Special provision as to use of electrical power.

18. The following provisions shall apply to the use of electrical power under this Order unless such power is entirely contained in and carried along with the carriages:—

(1) The Corporation shall employ either insulated returns or uninsulated metallic returns of low resistance:

(2) The Corporation shall take all reasonable precautions in constructing placing and maintaining their electric lines and circuits and other works of all descriptions and also in working their undertaking so as not injuriously to affect by fusion or electrolytic action any gas or water pipes or other metallic pipes structures or substances or to interfere with the working of any wire line or apparatus from time to time used for the purpose of transmitting electrical power or of telegraphic telephonic or electric signalling communication or the currents in such wire line or apparatus:

(3) The electrical power shall be used only in accordance with the Board of Trade regulations and in such regulations provision shall be made for preventing fusion or injurious electrolytic action of or on gas or water pipes or other metallic pipes structures or substances and for minimising as far as is reasonably practicable injurious interference with the electric wires lines and apparatus of other parties and the currents therein whether such lines do or do not use the earth as a return:

(4) The Corporation shall be deemed to take all reasonable precautions against interference with the working of any wire line or apparatus if and so long as they adopt and employ at the option of the Corporation either such insulated returns or such uninsulated metallic returns of low resistance and such other means of preventing injurious interference with the electric wires lines and apparatus of other parties and the currents therein as may be prescribed by the Board of Trade regulations and in prescribing such means the Board shall have regard to the expense involved and to the effect thereof upon the commercial prospects of the undertaking:

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(5) At the expiration of two years from the commencement of this Order the provisions of this section shall not operate to give any right of action in respect of injurious interference with any electric wire line or apparatus or the currents therein unless in the construction erection maintaining and working of such wire line and apparatus all reasonable precautions including the use of an insulated return have been taken to prevent injurious interference therewith and with the currents therein by or from other electric currents:

(6) If any difference arises between the Corporation and any other party with respect to anything herein-before in this section contained such difference shall unless the parties otherwise agree be determined by the Board of Trade or at the option of the Board by an arbiter to be appointed by the Board and the costs of such determination shall be in the discretion of the Board or of the arbiter as the case may be:

Observatories protection.

(7) When any department of His Majesty's Government represents to the Board of Trade that the use of electrical power under this Order injuriously affects or is likely to injuriously affect any instruments or apparatus whether electrical or not used in any observatory or laboratory belonging to or under the control of that department the Board of Trade after such inspection or inquiry as they may think proper may by their regulations require the Corporation to use such reasonable and proper precautions including insulated returns as the Board of Trade may deem necessary for the prevention of such injurious affection For the purposes of this subsection any inspector of the Board of Trade may during his inspection of the Corporation's works and apparatus be accompanied by any person or persons appointed in that behalf by the Government department concerned and the Corporation shall give all due facilities for the inspection Provided always that in the case of any observatory or laboratory established after the commencement of this Order or of any instruments or apparatus hereafter used in any existing observatory or laboratory

which may be of greater delicacy than those used therein at the commencement of this Order the Board of Trade shall consider to what extent if any it is expedient in the interests of the public that the powers of this subsection should be exercised regard being had to the site of the observatory or laboratory or the purposes of the instruments or apparatus as the case may be:

(8) The expression "Corporation" in this section shall include lessees licensees and any person owning working or running carriages over any tramway of the Corporation.

Alteration of telegraph lines of Postmaster-General.

19. Notwithstanding anything in this Order contained if any of the works authorised to be executed by this Order involves or is likely to involve any alteration of any telegraphic line belonging to or used by the Postmaster-General the provisions of section 7 of the Telegraph Act 1878 shall apply (instead of the provisions of section 30 of the Tramways Act 1870) to any such alteration.

For protection of Post Office telegraph lines.

20. In the event of any tramways of the Corporation being worked by electricity the following provisions shall have effect:—

(1) The Corporation shall construct their electric lines and other works of all descriptions and shall work their undertaking in all respects with due regard to the telegraphic lines from time to time used or intended to be used by His Majesty's Postmaster-General and the currents in such telegraphic lines and shall use every reasonable means in the construction of their electric lines and other works of all descriptions and the working of their undertaking to prevent injurious affection whether by induction or otherwise to such telegraphic lines or the currents therein Any difference which arises between the Postmaster-General and the Corporation as to compliance with this subsection shall be determined by arbitration:

(2) If any telegraphic line of the Postmaster-General is injuriously affected by the construction by the Corporation of their electric lines and works or by the working of the undertaking of the Corporation

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the Corporation shall pay the expense of all such alterations in the telegraphic lines of the Postmaster-General as may be necessary to remedy such injurious affection:

(3) Before any electric line is laid down or any act or work for working the Corporation tramways by electricity is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs) the Corporation or their agents not more than twenty-eight nor less than fourteen days before commencing the work shall give written notice to the Postmaster-General specifying the course of the line and the nature of the work including the gauge of any wire and the Corporation and their agents shall conform with such reasonable requirements (either general or special) as may from time to time be made by the Postmaster-General for the purpose of preventing any telegraphic line of the Postmaster-General from being injuriously affected by the said act or work Any difference which arises between the Postmaster-General and the Corporation as to any requirements so made shall be determined by arbitration:

(4) If any telegraphic line of the Postmaster-General situate within one mile of any portion of the works of the Corporation is injuriously affected and he is of opinion that such injurious affection is or may be due to the construction of the Corporation's works or to the working of the undertaking the engineer-in-chief of the Post Office or any person appointed in writing by him may at all times when electrical energy is being generated by the Corporation enter any of the Corporation's works for the purpose of inspecting the Corporation's plant and the working of the same and the Corporation shall in the presence of such engineer-in-chief or such appointed person as aforesaid make any electrical tests required by the Postmaster-General and shall produce for the inspection of the Postmaster-General the records kept by the Corporation pursuant to the Board of Trade regulations:

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(5) In the event of any contravention of or wilful non-compliance with this section by the Corporation or their agents the Corporation shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues or if the telegraphic communication is wilfully interrupted not exceeding fifty pounds for every day on which such interruption continues:

(6) Provided that nothing in this section shall subject the Corporation or their agents to a fine under this section if they satisfy the court having cognisance of the case that the immediate doing of any act or the execution of any work in respect of which the penalty is claimed was required to avoid an accident or otherwise was a work of emergency and that they forthwith served on the postmaster or subpostmaster of the postal telegraph office nearest to the place where the act or work was done a notice of the execution thereof stating the reason for doing or executing the same without previous notice:

(7) For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such line is whether through induction or otherwise in any manner affected by such act or work or by any use made of such work:

(8) For the purposes of this section and subject as therein provided sections 2 10 11 and 12 of the Telegraph Act 1878 shall be deemed to be incorporated with this Order:

(9) The expression "electric line" has the same meaning in this section as in the Electric Lighting Act 1882:

(10) Any question or difference arising under this section which is directed to be determined by arbitration shall be determined by an arbitrator appointed by the Board of Trade on the application of either party whose decision shall be final and sections 30 to 32 both inclusive of the Regulation of Railways Act 1868 shall apply in like manner as if the Corporation or

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their agents were a company within the meaning of that Act:

(11) Nothing in this section contained shall be held to deprive the Postmaster-General of any existing right to proceed against the Corporation by indictment action or otherwise in relation to any of the matters aforesaid:

(12) In this section the expression "the Corporation" includes their lessees and any person owning working or running carriages on any of the tramways of the Corporation:

(13) Subsection (B) of section 12 of the 1904 Order is hereby repealed.

Use of tramway posts by Postmaster-General.

21.—(1) It shall be lawful for the Postmaster-General in any street or public road or part of a street or public road in which he is authorised to place a telegraph to use for the support of such telegraph any posts and standards (with the brackets connected therewith) erected in any such street or public road by the Corporation in connexion with the tramways and to lengthen adapt alter and replace such posts standards and brackets for the purpose of supporting any telegraph and from time to time to alter any telegraph so supported subject to the following conditions:—

(A) In placing maintaining or altering such telegraph no obstruction shall be caused to the traffic along or the working or user of the tramways:

(B) The Postmaster-General shall give to the Corporation not less than twenty-eight days' notice in writing of his intention to exercise any of the powers of this section and shall in such notice specify the streets or public roads or parts of streets or public roads along which it is proposed to exercise such powers and the manner in which it is proposed to use the posts standards and brackets and also the maximum strain and the nature and direction of such strain Any difference as to any matter referred to in such notice shall be determined as herein-after provided:

(c) Unless otherwise agreed between the Postmaster-General and the Corporation the Postmaster-General shall pay

the expense of lengthening adapting altering or replacing under the provisions of this section any post standard or bracket and the expense of providing and maintaining any appliances or making any alteration rendered necessary in consequence of the exercise of the powers of this section for the protection of the public or the unobstructed working or user of the tramways or to prevent injurious affection of the Postmaster-General's telegraphs or any telegraphic or telephonic line or electrical apparatus of the Corporation or by any regulations which may from time to time be made by the Board of Trade arising through the exercise by the Postmaster-General of the powers conferred by this section:

(d) Unless otherwise agreed or in case of difference determined as herein-after provided all telegraphs shall be attached to the posts standards or brackets below the level of the trolley wires and on the side of such posts or standards farthest from the trolley wires Any difference as to the conditions of attachment shall be determined as herein-after provided:

(e) Unless otherwise agreed no telegraph shall be attached to any post or standard placed in or near the centre of any street or public road:

(f) The Postmaster-General shall cause all attachments to posts standards or brackets used by him under the powers of this section to be from time to time inspected so as to satisfy himself that the said attachments are in a proper condition and state of repair:

(g) The Postmaster-General shall make good to the Corporation and shall indemnify them against any loss damage or expense which may be incurred by them through or in consequence of the exercise by the Postmaster-General of the powers conferred upon him by this section unless such loss damage or expense be caused by or arise from gross negligence on the part of the Corporation their officers or servants:

(h) The Postmaster-General shall make such reasonable contribution to the original cost of providing and placing any post standard or bracket used by him and also

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to the annual cost of the maintenance and renewal of any such post standard or bracket as having regard to the respective interests of the Corporation and the Postmaster-General in the use of the post standard or bracket and to all the circumstances of each case may be agreed upon between the Postmaster-General and the Corporation or failing agreement determined as herein-after provided:

(I) The Corporation shall not be liable for any interference with or damage or injury to the telegraphs of the Postmaster-General arising through the exercise by the Postmaster-General of the powers conferred by this section and caused by the maintaining and working of the tramways or by any accident arising thereon or by the authorised use by the Corporation of electrical energy unless such interference damage or injury be caused by gross negligence on the part of the Corporation their officers or servants:

(J) If it shall become necessary or expedient to alter the position of or remove any post standard or bracket the Postmaster-General shall upon receiving twenty-eight days' notice thereof at his own expense alter or remove the telegraph supported thereby or at his option retain the post standard or bracket and pay the Corporation the value of the same Provided that if the Corporation or the body having the control of the street or public road object to the retention of the post standard or bracket by the Postmaster-General a difference shall be deemed to have risen and shall be determined as herein-after provided.

(2) Nothing in this section contained shall prevent the Corporation from using their posts standards or brackets for the support of any of their electric wires and apparatus whether in connexion with their tramways or other municipal undertakings or shall take away any existing right of the Corporation of permitting the use by any company or person of their posts standards or brackets in connexion with the lighting of the streets or otherwise Provided that any difference between the Postmaster-General and such company or person in relation to

the use of the posts standards or brackets by the Postmaster-General and such company or person respectively shall be determined as herein-after provided.

(3) All differences arising under this section shall be determined in manner provided by sections 4 and 5 of the Telegraph Act 1878 for the settlement of differences relating to a street or public road.

(4) In this section the expression "Corporation" includes their lessees the expression "telegraph" has the same meaning as in the Telegraph Act 1869 and other expressions have the same meaning as in the Telegraph Act 1878.

Apparatus used for mechanical power to be deemed part of the tramways.

22. The provisions of sections 26 to 33 of the Tramways Act 1870 (except so much of section 28 as relates to the repair of the road between and on each side of the rails of a tramway) shall apply as if all posts tubes pipes wires and other apparatus used or to be used by the Corporation for the purposes of mechanical power were parts of the tramways.

Period for completion of works.

23. The tramways shall be completed within four years from the commencement of this Order and on the expiration of that period the powers by this Order granted to the Corporation for executing the same or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

Periodical revision of rates and charges.

24. If at any time after three years from the opening for public traffic of the tramways or any portion thereof or after three years from the date of any order made in pursuance of this section in respect of the tramways or any portion thereof it is represented in writing to the Board of Trade by the local authority of any district in which the tramways or such portion are or is wholly or partly situate or by twenty inhabitant ratepayers of that district or by the Corporation that under the circumstances then existing all or any of the fares or other charges demanded and taken in respect of the traffic on the tramways or on such portion should be revised the Board of Trade may (if they think fit) direct an inquiry by a referee to be appointed by the said Board in accordance with the provisions of the Tramways Act 1870 and if the referee reports that it has been proved to his satisfaction that all or any of the fares or charges should be revised the said Board may subject to the maximum fares and charges authorised by this Order by order in writing alter modify reduce or increase all or any of the

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fares or charges to be taken in respect of the tramways or on any portion thereof and thenceforth such order shall be observed until the same is revoked or modified by an order of the Board of Trade made in pursuance of this section Provided that a copy of this section shall be annexed to every table or list of fares published or exhibited by the Corporation.

Consents of local or road authority.

25. Where the consent or approval of any local or road authority is by this Part of this Order required before the exercise of any powers by the Corporation such consent or approval shall not be unreasonably withheld and if any difference arises as to whether any consent or approval is unreasonably withheld that difference shall be referred to arbitration.

References to arbitration.

26. Where under this Part of this Order any question or dispute is to be referred to arbitration then unless other provision is made the reference shall be to an arbiter appointed by the Board of Trade.

Incorporation of certain sections of 1904 Order.

27. The following sections of the 1904 Order (that is to say):—

Section 11 (Repeal of existing provisions as to cheap fares for labouring classes and enactment of new provisions);

Section 13 (Corporation not to carry goods);

Section 15 (Power to make additional crossovers and to double tramway lines);

Section 16 (Attachment of brackets to buildings);

Section 17 (Penalty for malicious mischief);

shall so far as the same are applicable in that behalf and are not inconsistent with the provisions of this Order extend and apply mutatis mutandis to and in relation to the tramways.

As to generating stations.

28. The Corporation shall not erect any generating station or take a supply of energy from any generating station other than a generating station consented to by the Board of Trade under section 2 of the Electric Lighting Act 1909 unless the site for such generating station is specified in an Act of Parliament or in an Order confirmed by or having the effect of an Act of Parliament Provided always that this section shall not apply to any sub-station for the transformation and distribution of electrical power or to any generating station which may

be in existence and which shall not be extended beyond the limits of the site occupied by the buildings of such station at the time of the commencement of this Order.

Future purchase by local authority of Dysart of portion of tramway in that burgh.

29. The provisions of section 43 (Future purchase of undertaking by local authority) of the Tramways Act 1870 shall extend and apply to and in relation to so much of Tramway No. 2 by this Order authorised as will be situated within the burgh of Dysart and in construing that section for the purpose of this Order the period of forty-two years shall be substituted for the period of twenty-one years mentioned in that section.

For protection of Dysart Corporation.

30. The following provisions for the protection of the Dysart Corporation shall apply and take effect (that is to say):—

(1) As soon as possible after the commencement of this Order the Corporation shall construct Tramway No. 1 by this Order authorised and Tramway No. 2 from its commencement in the burgh of Kirkcaldy to a point in Normand Road in the burgh of Dysart 80 feet or thereby east of the centre of the East Port of Dysart the said point being herein-after called "the terminus":

(2) The space between the rails of Tramway No. 2 so far as within the burgh of Dysart and for a distance of 18 inches outside the rails shall be laid with granite causeway blocks:

(3) The Corporation shall deliver to the Dysart Corporation the surplus metalling or material excavated in the construction of Tramway No. 2 so far as within the burgh of Dysart:

(4) On the construction of the tramways specified in subsection (1) of this section the Corporation shall run a suitable service of cars between the corner of Junction Road and St. Clair Street in the burgh of Kirkcaldy and the terminus having due regard to the quantity of traffic thereon and shall give similar facilities in regard to workmen's cars between Junction Road and the terminus to those given in Kirkcaldy:

(5) The through fare from Junction Road to the terminus shall be a penny without any halfpenny stage but it shall be in the option of the Corporation to introduce

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halfpenny stages if and when they think desirable The fare for the workmen's cars shall be one halfpenny for the whole distance:

(6) Upon the opening of the tramways specified in the said subsection (1) for traffic and on condition that the Corporation shall implement the obligations undertaken by them the Dysart Corporation shall make an annual payment to the Corporation of one hundred and fifty pounds for a period of ten years and any burgh rates levied upon the part of the tramway undertaking within the burgh of Dysart during the said period of ten years shall be refunded to the Corporation A proportion of the said sum of one hundred and fifty pounds shall be payable at the first fifteenth day of May that shall occur after the opening of the said tramways for traffic corresponding to the period between the date of opening and the said fifteenth May The subsequent annual payments shall be made at fifteenth May in each year the last payment being only for the proportion necessary to make up the complete ten years' payments On the expiry of the said period of ten years the Dysart Corporation shall not be required to contribute the said annual sum of one hundred and fifty pounds (or any reduced sum) and the Corporation shall thereafter be bound to maintain and work the tramways specified in the said subsection (1) without any payment from the Dysart Corporation:

(7) In the event of the Corporation finding at the end of five years after the opening of the said tramways for traffic that after including the said one hundred and fifty pounds (or any reduced sum) as part of the income of Dysart section the said tramways are earning a profit after paying all charges the Corporation shall reconsider the said figure of one hundred and fifty pounds and make such reduction thereon as they see just:

(8) The Dysart Corporation shall not be responsible for any loss or damage to persons or property by or through the construction maintenance or working of the said tramways.

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Burgh of Dysart authorised to contribute.

31. The Dysart Corporation may out of the burgh general assessment and roads and bridges assessment levied in the burgh and the common good or any two of them in such proportions as they may determine or out of any one of them pay to the Corporation of Kirkcaldy in respect of the formation and working of the tramways an annual sum of one hundred and fifty pounds and that for a period of not longer than ten years from the completion and opening for traffic of the tramways without prejudice to any right at present inherent in the Dysart Corporation to make such or similar payments out of the said assessments or common good.

Provision as to general Tramway Acts.

32. Nothing in this Order contained shall exempt the Corporation or the tramways from the provisions of any general Act relating to tramways now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates or charges authorised by this Order.

Part IV.

Electricity.

Power to provide electrical fittings.

33.—(1) The Corporation may provide let for hire and fix repair and remove but shall not manufacture lamps meters electric lines fuses switches fittings lamp-holders motors and other fittings for lighting and motive power and for all other purposes for which electrical energy can or may be used and may provide all materials and work necessary or proper in that behalf and with respect thereto may demand and take such remuneration or rents and charges and make such terms and conditions as may be agreed upon:

Provided that—

(a) The Corporation shall so adjust the charges to be made by them for any such fittings or for the fixing repairing or removal thereof as to meet any expenditure by them under the powers of this section in connexion therewith (including interest upon moneys borrowed for those purposes and all sums applied to sinking fund for repayment of moneys so borrowed):

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(b) Every sum charged by the Corporation to a consumer in respect of the provision of such fittings or the fixing repairing or removal thereof shall be separately stated on every demand note delivered by the Corporation to the consumer:

(c) The total sums expended and received by the Corporation in connexion with the purposes in this section mentioned in each year (including interest and sinking fund) shall be separately shown in the published accounts of the electricity undertaking of the Corporation for that year:

(d) If the Corporation fail to comply with the provisoes (a) (b) and (c) of this section they shall on conviction under the Summary Jurisdiction (Scotland) Act 1908 be liable to a fine not exceeding ten pounds and to a further fine not exceeding five pounds for each day on which the offence is continued after conviction therefor.

(2) Any such fittings as aforesaid let for hire by the Corporation shall not be subject to distress or to the landlord's remedy for rent or liable to be taken in execution under process of law or proceedings in bankruptcy against the person in whose possession the same may be Provided that such fittings are marked or impressed with a sufficient mark or brand indicating the Corporation as the actual owners thereof.

Part V.

Gas.

Incorporation of Acts.

34. The following Acts and parts of Acts (so far as the same respectively are applicable for the purposes and are not inconsistent with the provisions of this Order) are hereby incorporated with this Part of this Order (that is to say):—

The Lands Clauses Acts;

The Gasworks Clauses Act 1847 (except the provisions with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit) Provided that section 13 of that Act shall be read as if the words "or any premises" were inserted after the words "private building" and as if the words

" provided also that every such contract entered into by " the Corporation shall be alike in terms and amount " under the like circumstances to all consumers " were added at the end of that section;

The Gasworks Clauses Act 1871 (except section 35 (Accounts &c.)).

Power to take lands.

35. Subject to the provisions of this Order the Corporation may enter upon take hold and use for the gasworks purposes of this Order and of their gas undertaking such of the lands delineated on the gas deposited plans and book of reference as are described in the First Schedule to this Order and as they may require for those purposes.

Provisions of section 57 of Burgh Police (Scotland) Act 1903 to apply in certain cases.

36. The provisions of section 57 of the Burgh Police (Scotland) Act 1903 shall apply in all cases of disputed compensation in regard to lands acquired by the Corporation under this Order in connexion with the gas undertaking.

Powers as to construction and maintenance of gasworks &c.

37. Subject to the provisions of this Order the Corporation may upon the lands described in the First Schedule to this Order as well as upon the lands already belonging to the Corporation in connexion with the gas undertaking which lands are described in the Second Schedule to this Order erect maintain alter improve enlarge extend and renew or discontinue gasworks retorts gasometers receivers mains pipes meters lamps lamp-posts burners stop-cocks machinery rails roads approaches and other works and apparatus and conveniences and may do all such acts as they may think proper for making and storing gas and may manufacture sell provide supply and deal in coke tar and all other residual products employed in or resulting from the manufacture of gas Nothing in this Order shall authorise the Corporation to manufacture gas or residual products elsewhere than on the lands described in the First and Second Schedules to this Order.

Period for compulsory purchase.

38. The powers of the Corporation for the compulsory purchase of lands for the purposes of this Part of this Order shall cease after the expiration of three years from the passing of the Act confirming this Order.

Committees and their proceedings regulated by Town Councils Act.

39. Sections 8 10 11 and 12 of the Burghs Gas Supply (Scotland) Act 1876 shall not apply to the gas undertaking and in place thereof sections 68 to 77 of the Town Councils (Scotland) Act 1900 shall apply.

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Accounts audit &c. regulated by Town Councils Act.

40. Sections 15 16 and 17 of the Burghs Gas Supply (Scotland) Act 1876 shall not apply to the gas undertaking and in place thereof sections 91 to 96 inclusive of the Town Councils (Scotland) Act 1900 shall apply.

Illuminating power of gas.

41. Notwithstanding anything contained in sections 57 and 58 of the Burghs Gas Supply (Scotland) Act 1876 the following provisions shall have effect:—

(1) The quality of the gas supplied by the Corporation shall with respect to its illuminating power be such as to produce at the testing place when burned at the rate of five cubic feet per hour a light equal in intensity to the light produced by fourteen sperm candles of six to the pound each consuming 120 grains of sperm per hour and shall be in all respects in accordance with the provisions of the Gasworks Clauses Act 1871:

(2) For testing the illuminating power of the gas the burner to be used shall be that known as the Metropolitan Argand No. 2 the photometer shall be the bar photometer the standard light shall be that supplied by Harcourt's ten-candle pentane lamp and in making the test the burner shall be so used as to obtain from the gas when burned at the rate aforesaid the greatest amount of light Provided that the Board of Trade may on the application of the Corporation or any five consumers approve the use of any other photometer or standard light which may appear to the Board to be equally or more suitable for the testing:

(3) The Corporation shall within three months after the commencement of this Order provide the apparatus required by this Order for the testing of gas and shall at all times keep the same in proper order and repair.

No penalty in case of unavoidable cause.

42. No penalty shall be incurred by the Corporation for insufficiency of pressure defect of illuminating power or excess of impurity in the gas supplied by them in any case in respect of which it is proved that such insufficiency defect or excess was occasioned by any circumstance beyond the control of the Corporation Provided that want of sufficient funds shall not

be held to be a circumstance beyond the control of the Corporation. A.D. 1910.

As to specification of internal fittings &c.

43. In order to enable the Corporation to ensure a satisfactory supply of gas to their consumers the following provisions shall have effect:—

(1) The Corporation may specify the size and material of the pipes with the fittings thereof which are to be laid by the consumer either in the first instance or on the occasion of any renewal between the Corporation's mains and the meter and (so far as the same are intended to be covered over) on the consumer's premises:

(2) The Corporation may if they think fit make different specifications for different classes of premises having regard to the probable maximum consumption of gas thereon at any one time:

(3) The specifications shall be published twice in some newspaper circulating within the limits of the Corporation for the supply of gas and a copy thereof shall be kept exhibited in the office of the gas department of the Corporation:

(4) Every meter to be used in a new building or a building not previously supplied with gas or in connexion with a new or substituted pipe laid between the Corporation's mains and the meter shall be placed as near as reasonably practicable to such main but within the outside wall of the building:

(5) When any such pipe or meter as aforesaid has been laid or placed notice thereof shall be given to the Corporation at the office of the gas department of the Corporation and the pipes shall not be covered over until after the expiration of twenty-four hours from the giving of such notice to the Corporation;

Any officer of the Corporation duly appointed may between nine o'clock in the morning and five o'clock in the afternoon attend and inspect such pipes (with their fittings) and meter and if the officer is not permitted to make the inspection or if the pipes or fittings are not according to the Corporation's

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specification or if the meter is not placed as required by this section the Corporation may refuse to supply gas to the premises until the provisions of this section have been complied with:

(6) Any person to whom the Corporation refuses a supply of gas under the provisions of this section may appeal to the sheriff against such refusal and the sheriff may after hearing the parties and considering any questions as to the reasonableness of the Corporation's specification make such order as seems to him proper in the circumstances and may order by which of the parties the costs of and incident to the appeal shall be paid and the decision of the sheriff shall be final.

Anti-fluctuators for gas engines.

44. Every consumer of gas supplied by the Corporation who uses a gas engine shall if required to do so by the Corporation use an effective anti-fluctuator and shall at all times at his own expense keep such anti-fluctuator in proper repair and in default of his so using or keeping such anti-fluctuator in proper repair the Corporation may cease to supply gas to such consumer The Corporation shall have access to and be at liberty to take off remove test inspect and replace any such anti-fluctuator at all reasonable times such taking off removing testing inspecting and replacing to be done at the expense of the Corporation if the anti-fluctuator be found in proper order but otherwise at the expense of the consumer.

Power to refuse to supply persons in debt for other premises.

45. If a person requiring a supply of gas from the Corporation has previously quitted premises at which gas was supplied to him by the Corporation without paying to them all gas rates and charges and meter rent due from him to the Corporation the Corporation may refuse to furnish to him a supply of gas until he pays the same.

Period of error in defective meters.

46. In the event of any meter used by a consumer of gas being tested in manner provided by the Sale of Gas Act 1859 and being proved to register erroneously within the meaning of the said Act such erroneous registration shall be deemed to have arisen during the then last preceding quarter of the year unless it be proved to have first arisen during the then current quarter The amount of the allowance to be made to or of the surcharge to be made upon the consumer by the

Corporation shall be paid by or to the Corporation to or by the consumer as the case may be and shall be recoverable in the like manner as gas rates are recoverable by the Corporation. A.D. 1910.

Part VI.

Electricity and Gas.

Power to lay pipes in streets not dedicated to public use.

47. The Corporation may on application of the owner or occupier of any premises abutting on or being erected in any street laid out but not dedicated to the public use within the limits of the Corporation for the supply of gas or electrical energy supply such premises with gas or electrical energy and may lay down alter relay or renew in across or along such street such pipes cables service lines and other works as may be requisite or proper for the furnishing such supply and the provisions of the Gasworks Clauses Act 1847 and of the Kirkcaldy Electric Lighting Order 1899 with respect to the breaking up of the streets for the purpose of laying pipes cables service lines and other works and for the protection of pipes cables service lines and other works when so laid so far as they are applicable for the purposes of this section shall extend and apply mutatis mutandis to and for the purposes thereof.

Part VII.

Strand Purchase.

Corporation empowered to purchase strand and waste ground.

48. Subject to the provisions of this Order the Corporation may purchase all or any part of the strand and waste ground described in the Third Schedule to this Order (in this Part of this Order referred to as "the strand and waste ground") in the same manner as if the Secretary for Scotland had under the Public Parks (Scotland) Act 1878 by Provisional Order empowered the Corporation to put in force with reference to the said lands the powers of the Lands Clauses Acts and as if such Provisional Order had been duly confirmed by Parliament.

Provisions as to mines in Railways Clauses Act applied.

49. In the application of the Public Parks (Scotland) Act 1878 to the purchase of the strand and waste ground it shall be construed as if the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to mines lying under or near the railway were incorporated therein Provided that the expression "railway" occurring therein shall mean the strand and

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waste ground which the Corporation are by this Order authorised to purchase.

Strand and waste ground to be kept as open spaces.

50. Subject to the provisions of this Order the Corporation shall keep the strand and waste ground acquired by them under the same as open spaces for public resort and recreation.

Period for compulsory purchase of lands.

51. The powers of the Corporation for the purchase of lands for the purposes of this Part of this Order shall cease after the expiration of four years from the passing of the Act confirming this Order.

For protection of Michael Nairn and Company Limited.

52. The following provisions for the protection of Michael Nairn and Company Limited (herein-after called "Nairn and Company") shall apply and have effect (that is to say):—

(1) The Corporation shall not under the powers of this Order take or acquire by compulsion any land belonging to Nairn and Company lying to the landward of the line marked AB on the plan relative to this section signed in triplicate by the town clerk of the burgh:

(2) In the event of the Corporation acquiring the ground belonging to Nairn and Company lying between high-water mark and the said line marked AB or any part thereof the following conditions shall apply and have effect:—

(A) There shall be reserved to Nairn and Company right as at present to lay drains from their property to the sea unless and until the Corporation constructs an adequate public sewer along the ground acquired from Nairn and Company in front of their remaining property In the event of Nairn and Company having owing to the absence of such public sewer to construct drains of their own to the sea through the property acquired from them by the Corporation they shall if the Corporation so desire lay such drains below the surface of the ground acquired by the Corporation and restore the surface and so far as such drains are below high-water mark they shall be laid below the surface of the foreshore if at the time of such laying the drains belonging to the Corporation have been relaid and placed below the surface of the foreshore;

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(B) There shall be reserved to Nairn and Company power to lay pipes for drawing water from the sea such pipes to be laid under the surface of the ground acquired by the Corporation and under the surface of the foreshore and such pipes to be laid to the satisfaction of the burgh surveyor and to be maintained in good repair by Nairn and Company so as to prevent damage either to the ground acquired by the Corporation or to the foreshore.

For protection of Robert Hutchison and Company Limited.

53. The following provisions for the protection of Robert Hutchison and Company Limited (herein-after called "Hutchison and Company") shall apply and have effect (that is to say):—

(1) The Corporation shall not under the powers of this Order take or acquire by compulsion any land belonging to Hutchison and Company lying to the landward of the line marked CD on the plan referred to in the preceding section:

(2) In the event of the Corporation acquiring the ground belonging to Hutchison and Company lying between high-water mark and the said line marked CD or any part thereof the following conditions shall apply and have effect:—

(A) There shall be reserved to Hutchison and Company right as at present to lay drains from their property to the sea unless and until the Corporation constructs an adequate public sewer along the ground acquired from Hutchison and Company in front of their remaining property In the event of Hutchison and Company having owing to the absence of such public sewer to construct drains of their own to the sea through the property acquired from them by the Corporation they shall if the Corporation so desire lay such drains below the surface of the ground acquired by the Corporation and restore the surface and so far as such drains are below high-water mark they shall be laid below the surface of the foreshore if at the time of such laying the drains belonging to the Corporation

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have been relaid and placed below the surface of the foreshore;

(b) There shall be reserved to Hutchison and Company power to lay pipes for drawing water from the sea such pipes to be laid under the surface of the ground acquired by the Corporation and under the surface of the foreshore and such pipes to be laid to the satisfaction of the burgh surveyor and to be maintained in good repair by Hutchison and Company so as to prevent damage either to the ground acquired by the Corporation or to the foreshore.

Byelaws for preserving amenity of seashore and strand.

54. The powers to make byelaws conferred on the Corporation by section 303 of the Burgh Police (Scotland) Act 1892 shall apply to making byelaws for all or any of the following purposes (that is to say):—

For preventing the putting into the waters of the Forth within fifty yards of low-water mark where it forms the boundary of the burgh the solid refuse of any manufactory or any rubbish cork dust or other waste matter.

Application of Housing &c. Act 1909.

55. For the purpose of the Housing of the Working Classes Act 1903 as applied to Scotland by the Housing Town Planning &c. Act 1909 any lands purchased by the Corporation for the purposes of this Part of this Order shall be deemed to have been acquired under the powers of this Order.

Crown rights

56. Nothing in this Order shall affect prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Corporation or any other body or person to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent the said Commissioners and Board are hereby respectively authorised to give).

Work below high-water mark not to be commenced without consent of Board of Trade.

57. The Corporation or any body or person shall not under the powers of this Order construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the 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 such approval being signified as last aforesaid and where any such work may have been constructed the Corporation or other body or person as the case may be shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals 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 costs and charges of the Corporation or other body or person as the case may be and the amount of such costs and charges shall be a debt due from the Corporation or other body or person as the case may be to the Crown and shall be recoverable as a Crown debt or summarily.

Part VIII.

Gas and Strand Purchase.

Correction of errors &c. in deposited plans and books of reference.

58. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the strand deposited plans or gas deposited plans or specified in the deposited books of reference the Corporation after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to the sheriff for the correction thereof and if it appears to the sheriff that the omission misstatement or wrong description arose from mistake he shall certify the same accordingly and shall in such certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and the decision of the sheriff in such matter shall be final and such certificate shall be deposited with the principal sheriff-clerk for the county and a duplicate thereof shall also be deposited with the clerk of the parish council of the parish in which the lands affected thereby are situate and such certificate

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and duplicate respectively shall be kept by such sheriff-clerk and the clerk of such parish council respectively along with the other documents to which the same relate and thereupon the deposited plans and the books of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the Corporation to enter on purchase take hold and use for the purposes of this Order any lands in accordance with such certificate as if such omission misstatement or wrong description had not been made.

Part IX.

Financial.

Power to borrow for tramway purposes.

59. The Corporation in addition to any money which they may lawfully have borrowed or which they are or may be authorised to borrow under the provisions of any Act of Parliament may from time to time borrow at interest on the credit and security of the tramway revenue and of the burgh general assessment leviable by them under the Police Acts or partly of the tramway revenue and partly of the said burgh general assessment as they may resolve such sums of money not exceeding in the whole the sum of thirteen thousand pounds as shall be necessary for the construction of the tramways and works by this Order authorised including the necessary tramway plant and rolling stock and for paying the costs charges and expenses of and incident to the preparing for obtaining and confirming of this Order or otherwise in relation thereto or so much of said costs charges and expenses as the Corporation may allocate to the tramway undertaking (all in this Order called "tramway purposes") and if after having borrowed the said sums or any part thereof the Corporation pay off the same otherwise than by means of the sinking fund or instalments they may again borrow the amount so paid off and so from time to time Provided that if the burgh general assessment is by reason of its limitation insufficient along with the tramway revenue to enable the Corporation to raise the moneys required for tramway purposes on advantageous terms the Board of Trade may extend the limit of such assessment to such amount as they shall think fit.

Additional borrowing powers for harbour purposes.

60. In addition to the moneys which the Corporation are authorised to borrow under the 1904 Order for the harbour undertaking the Corporation may from time to time borrow at interest on the credit and security of the harbour revenue and

of the special harbour assessment by the 1904 Order authorised or partly of the harbour revenue and partly of the said harbour assessment as they may resolve such sums of money not exceeding in whole the sum of thirty thousand pounds as shall be necessary for completing the harbour works by the 1904 Order authorised and paying the costs of this Order or so much of the said costs as the Corporation may allocate to the harbour undertaking and if after having borrowed the said sums or any part thereof the Corporation pay off the same otherwise than by means of the sinking fund or instalments they may again borrow the amount paid off and so from time to time.

Certain sections of 1899 Act applicable to moneys borrowed for tramway purposes.

61. The following sections of the 1899 Act (that is to say):—

Section 61 (Bonds for borrowed money);

Section 65 (Rates to include interest and sinking fund);

shall so far as the same are applicable in that behalf and are not inconsistent with the provisions in this Order apply mutatis mutandis to and in relation to the moneys borrowed and re-borrowed by the Corporation for tramway purposes under the powers of this Order.

Certain sections of 1899 Act applicable to moneys borrowed both for tramway purposes and for harbour purposes.

62. The following sections of the 1899 Act (that is to say):—

Section 62 (Interest warrants);

Section 63 (Borrowing on cash account);

Section 64 (Register of bonds);

Section 66 (Present bonds and securities by Corporation not to be prejudiced);

Section 67 (Protection of lenders from inquiry);

Section 68 (Application of money borrowed);

Section 69 (Act not to restrict borrowing powers of Corporation);

Section 73 (Annual return to Secretary for Scotland with respect to sinking fund);

Section 75 (For appointment of judicial factor);

Section 76 (Powers of judicial factor);

shall so far as the same are applicable in that behalf and are not inconsistent with the provisions of this Order apply mutatis mutandis to and in relation to the moneys borrowed and re-borrowed by the Corporation both for tramway purposes and for harbour purposes under the powers of this Order.

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Bonds to be lien on harbour revenue and special harbour assessment.

63. The bonds to be granted for money borrowed for harbour purposes under this Order shall until repayment thereof form a lien not only on the harbour revenue but also on the special harbour assessment and shall entitle the creditor under the same to recover the contents thereof from the Corporation and their officers out of the first and readiest of such assessment without prejudice to the remedy provided in sections 75 and 76 of the 1899 Act.

Bonds to be lien on tramway revenue and burgh general assessment.

64. The bonds to be granted for money borrowed for tramway purposes under this Order shall until repayment thereof form a lien not only on the tramway revenue but also on the burgh general assessment and shall entitle the creditor under the same to recover the contents thereof from the Corporation and their officers out of the first and readiest of such assessment without prejudice to the remedy provided in sections 75 and 76 of the 1899 Act.

Certain sections of 1904 Order applicable to money borrowed for harbour purposes.

65. The following sections of the 1904 Order (that is to say):—

Section 81 (Power to Corporation to impose and levy special harbour rate or assessment for harbour purposes);

Section 85 (Annual return to Board of Trade with respect to sinking fund on money borrowed for harbour purposes);

Section 86 (Annual account to be sent to Board of Trade);

Section 88 (Bonds for money borrowed for harbour purposes);

shall so far as the same are applicable in that behalf and are not inconsistent with the provisions of this Order apply mutatis mutandis to and in relation to the moneys borrowed by the Corporation for harbour purposes under the powers of this Order.

Application of section 91 of 1904 Order.

66. The following section of the 1904 Order (that is to say):—

Section 91 (Sinking fund);

shall apply to and in relation to the moneys borrowed by the Corporation both for tramway purposes and for harbour purposes under the powers of this Order.

Period of repayment of moneys borrowed under this Order.

67. The Corporation shall pay off all moneys borrowed by them under this Order within the respective periods following (that is to say):—

As to moneys borrowed under this Order for tramway purposes (other than the payment of the costs charges and expenses of this Order) within such period as the Corporation may fix but not exceeding thirty years from the date of borrowing;

As to moneys borrowed under this Order for harbour purposes within such period as the Corporation may fix but not exceeding fifty years from the date of borrowing;

As to moneys borrowed for payment of the costs charges and expenses of this Order within five years from the commencement of this Order.

Security for electricity loans defined.

68. The security upon which loans in connexion with the electricity undertaking shall continue to be contracted shall be the burgh general assessment.

Execution of gas mortgages.

69. Notwithstanding the provisions of section 31 (Manner in which mortgages and orders on bank account to be signed and executed) of the Burghs Gas Supply (Scotland) Act 1876 mortgages granted by the Corporation under the said Act shall be good valid and effectual if subscribed in the manner provided in the Town Councils (Scotland) Act 1900 The mortgages granted by the Corporation under the said Act shall be in the name of the Corporation.

Borrowing power in Parks Act to apply to retaining walls and period for loans thereunder extended.

70. Notwithstanding anything contained in section 14 (Power of borrowing money for the purposes of this Act) of the Public Parks (Scotland) Act 1878—

(1) The borrowing powers thereunder shall extend and apply to defraying the expense of retaining walls or embankments which the Corporation may make in virtue of the provision to that effect contained in section 79 of the Burgh Police (Scotland) Act 1903:

(2) The loans incurred by the Corporation for the purchase of the strand and waste ground and the construction of retaining walls and embankments may be repaid within a period not exceeding forty years.

Costs.

71. The costs charges and expenses of and incident to the preparing obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Corporation out of the revenue of the tramway undertaking or of the harbour under-

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taking or of the gas undertaking or out of money which the Corporation are authorised to borrow on the security thereof respectively or out of one or other or all of them in such proportions as the Corporation may determine.

The SCHEDULES referred to in the foregoing Order.

THE FIRST SCHEDULE.

Lands on which the Corporation may construct and maintain new Gasworks and Gas Holders and manufacture and store Gas and manufacture and convert Residual Products.

That piece of ground containing 12 decimal or one thousandth parts of an acre or thereby situated in the burgh of Kirkcaldy and parish of Kirkcaldy and Dysart and county of Fife now belonging or reputed to belong to Mrs. Jestina E. Lockhart or Anderson bounded as follows On the west by Links Street and on the north east and south by the property of the Corporation.

THE SECOND SCHEDULE.

Lands on which or on parts of which the existing Gasworks and Gas Holders of the Corporation are situated.

1. That piece of land within the burgh of Kirkcaldy bounded on the north by School Wynd on the south by Gas Wynd on the east by the sea flood the Sands Road intervening and on the west by Links Street but excepting from the area now described that piece of ground described in the First Schedule which the Corporation is by this Order authorised to purchase The area of the ground under description within the boundaries of the Links Street Gas Wynd the Sands Road and School Wynd but excluding as aforesaid is two acres and thirty-four decimal or thousandth parts of an acre or thereby.

2. That piece of ground within the burgh of Kirkcaldy bounded on the north by the property of Mrs. Marianne Reynolds Heggie or Melville on the south by School Wynd on the east by the sea flood the Sands Road intervening and on the west by the property of N. Lockhart and Sons The area of the ground under description within the boundaries of the property of Mrs. Marianne Reynolds Heggie or Melville School Wynd the Sands Road and the property of N. Lockhart and Sons is thirty decimal or thousandth parts of an acre or thereby.

3. That piece of ground situated in the burgh of Kirkcaldy containing thirty-eight decimal or one thousandth parts of an acre or thereby bounded on the north-west by Victoria Road on the north-east by Mitchell Place on the south-east by the burial yard of Dunnikier and the properties of Michael Nairn and Company Limited Mrs. Janet Christie and the trustees of the Evangelical Union Church and on the south-west by the property of Robert Hutchison.

THE THIRD SCHEDULE.

Description of the Strand and Waste Ground to be acquired and maintained as Open Spaces.

1. The strand adjoining the seashore and waste ground adjoining the strand lying in the burgh of Kirkcaldy parish of Kirkcaldy and Dysart and county of Fife between the Sands Road on the west the high-water mark of ordinary spring tides on the east the Tiel Burn on the south and the harbour of Kirkcaldy on the north being the lands coloured red and marked No. 1 on the strand deposited plans.

2. The strand adjoining the seashore and waste ground adjoining the strand lying in the burgh of Kirkcaldy parish of Kirkcaldy and Dysart and county of Fife and extending from the Tiel Burn on the north to the boundary of the burgh on the south bounded on the east by the high-water mark of ordinary spring tides and bounded on the west partly by the Sands Road partly by the Forth and Clyde Ropework belonging to the Forth and Clyde Roperie Company and partly by the road leading to Seafield Café but excepting therefrom (1) the premises formerly occupied as a chemical work and now used as stables and (2) a store used in connexion with the said ropework being the lands coloured red and marked No. 2 on the strand deposited plans.

3. The strand of the seashore of Pathhead Sands and waste ground adjoining the strand lying in the burgh of Kirkcaldy parish of Kirkcaldy and Dysart and county of Fife between the buildings and inclosures on the north-west and high-water mark of ordinary spring tides on the south-east the East Denburn on the south-west and the rock on which Ravenscraig Castle is built on the north-east being the lands coloured red and marked No. 3 on the strand deposited plans.

Printed by Eyre and Spottiswoode, Ltd.,
for
Rowland Bailey, Esq., M.V.O., the King's Printer of Acts of Parliament

And to be purchased, either directly or through any Bookseller, from
WYMAN and SONS, Ltd., Fetter Lane, E.C.; or
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