



CHAPTER xliii.

An Act to confer further powers on the Cumberland County Council and local authorities in relation to the local government improvement and health of the county of Cumberland to provide for the protection and improvement of certain streams in the county to make provision for the finance of the county and for other purposes. [30th July 1948.]

WHEREAS it is expedient that further and better provision should be made for the local government improvement health and finance of the administrative county of Cumberland and that the powers of the county council of that administrative county (hereinafter referred to as "the Council") and of the local authorities within the county should be enlarged and extended as by this Act provided:

And whereas it is expedient to confer on the Council further powers for the protection and improvement of streams in the county:

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

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

And whereas in relation to the promotion of the Bill for this Act the Council have complied with the requirements of Part XIII of the Local Government Act 1933:

23 & 24 Geo. 5.
c. 51.

May it therefore please Your Majesty that it may be enacted and be it 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 (that is to say):—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the Cumberland County Council Act 1948.

Division of Act
into Parts.

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

Part I.—Preliminary.

Part II.—Roads buildings &c.

Part III.—Public buildings parks &c.

Part IV.—Sale of coke &c.

Part V.—Moveable dwellings and camping grounds.

Part VI.—Protection of streams.

Part VII.—Financial provisions relating to Council.

Part VIII.—Financial provisions relating to local authorities.

Part IX.—Protective provisions.

Part X.—Miscellaneous.

Incorporation
of Lands
Clauses Acts.

3. The Lands Clauses Acts except the provisions with respect to the purchase and taking of lands otherwise than by agreement (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with and form part of this Act.

Interpretation.

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

And in this Act unless otherwise expressly enacted or unless the subject or context otherwise requires—

“ The county ” means the administrative county of Cumberland;

“ The Council ” means the county council of the county;

“ District ” means a borough or an urban or rural district in the county;

“ Urban district ” means a borough or an urban district in the county;

“ Local authority ” means the council of a district;

“ The clerk ” and “ the county surveyor ” respectively mean (unless a contrary intention appears) the clerk of the Council and the county surveyor for the county;

“ The county fund ” means the county fund of the county;

“ Parish council ” means the parish council of a rural parish in the county or where there is no parish council the parish meeting of such parish;

“ Financial year ” means the period of twelve months commencing on the first day of April in any year and ending on the thirty-first day of March in the next following year;

“ Statutory security ” means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or other local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the authority by whom the investment is made; 38 & 39 Vict. c. 83.

“ Statutory borrowing power ” means any power whether or not coupled with a duty of borrowing or continuing on loan or re-borrowing money or of redeeming or paying off or creating or continuing payment of or in respect of any annuity rentcharge rent or other security representing or granted in lieu of consideration money for the time being existing under any enactment or sanction of any government department made or given or to be made or given by authority of any enactment but does not include the power to borrow by way of temporary loan or overdraft which is conferred by paragraph (a) of subsection (1) of section 215 of the Act of 1933;

“ Enactment ” includes this Act and any general or local Act order byelaw or regulation for the time being in force within the county;

“ The Public Health Acts ” means the Public Health Act 1875 and the Acts amending or extending that Act including the Public Health Act 1936; 38 & 39 Vict. c. 55.

“ The Act of 1933 ” means the Local Government Act 1933; 26 Geo. 5. & 1 Edw. 8. c. 49.

“ The Minister ” means the Minister of Health;

“ Daily penalty ” means a penalty for each day on which an offence is continued by a person after conviction;

“ Street ” and “ road ” have the meanings assigned to the word “ street ” in the Public Health Act 1936;

PART I.

—cont.

19 & 20 Geo. 5.
c. 17.

“ County road ” has the same meaning as in Part III of the Local Government Act 1929;

“ Claimed county road ” means a road in respect of which the council of an urban district have claimed under section 32 of the Local Government Act 1929 to exercise and are exercising the functions of maintenance and repair;

1 Edw. 8. &
1 Geo. 6.
c. 5.
9 & 10 Geo. 6.
c. 30.

“ Highway authority ” means in the case of a highway in the county repairable by the inhabitants at large other than a trunk road within the meaning of the Trunk Roads Acts 1936 and 1946 the council by whom that highway is maintained and in the case of a trunk road in the county the Minister of Transport;

“ Statutory undertakers ” means any company body or person authorised by an Act of Parliament or Order having the force of an Act to supply electricity gas or water;

10 & 11 Geo. 6.
c. 49.

“ The commission ” means the British Transport Commission and any reference to the commission in relation to any functions of the commission which are for the time being delegated to an executive in pursuance of section 5 of the Transport Act 1947 shall be construed as a reference to that executive.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act.

PART II.

ROADS BUILDINGS &C.

Crossings for
horses or
vehicles over
footways &c.
10 & 11 Geo. 6.
c. 51.

5.—(1) Where the owner or occupier of any premises (not being land used exclusively for agricultural purposes within the meaning of the Town and Country Planning Act 1947) fronting or abutting on any street repairable by the inhabitants at large habitually uses or permits to be used any kerbed footway paved footway or grass verge in such street as a crossing for any horse or horse-drawn or mechanically-propelled vehicle (other than a motor-cycle) in passing to and from such premises the highway authority may either—

(a) require the construction across such footway or grass verge of a carriage-crossing for the purpose aforesaid constructed of such materials and in such manner as they may prescribe; or

(b) allow the use of the footway or grass verge for the purpose aforesaid subject to the condition that the

footway or grass verge is strengthened or adapted in such manner as the highway authority may prescribe or subject to such other reasonable conditions (if any) as they may impose.

PART II.
—cont.

(2) If the highway authority require the construction of any carriage-crossing across the footway or grass verge or allow the use of the footway or grass verge subject to a condition that it is strengthened or adapted they may execute such works as may be necessary to secure compliance with such requirement or condition and may recover the expenses of so doing from the owner or occupier.

(3) If the highway authority allow the use of the footway or grass verge as a crossing for any horse or horse-drawn or mechanically-propelled vehicle other than a motor-cycle subject to any condition other than the strengthening or adaptation of the footway or grass verge any person who knowingly uses or permits to be used the footway or grass verge as a crossing as aforesaid in contravention of that condition shall be liable to a penalty not exceeding five pounds.

(4) Notwithstanding the provisions of section 18 of the Public Health Acts Amendment Act 1907 every person desirous of forming a carriage-crossing across a footway or grass verge in any street or of strengthening or adapting any part of any such footway or grass verge as a carriage-crossing shall apply in writing to the highway authority for an estimate of the cost thereof and after having obtained such estimate may deposit with the highway authority the amount thereof. When such deposit shall have been made the highway authority shall with all convenient speed carry out the works and any difference between the sum so deposited and the actual cost of the works shall be paid to or by the highway authority by or to such person as the case may require. 7 Edw. 7.
c. 53.

(5) Nothing in this section shall impose on the owner or occupier any obligation to maintain any crossing constructed or footway or grass verge strengthened or adapted in pursuance of a requirement or condition imposed by the highway authority under this section.

6.—(1) Every person intending to build or take down any building or to alter or repair the outward part of any building in or abutting on any county road other than a claimed county road shall if required by the Council— Hoards to be set up during building operations.

(a) before beginning the same cause close-boarded hoards or fences to be put up to the satisfaction of the Council in order to separate the building from the county road;

PART II.
—cont.

- (b) make a convenient covered platform and handrail to serve as a footway for passengers outside such hoard or fence;
- (c) maintain such hoard or fence with such platform and handrail as aforesaid in good condition to the satisfaction of the Council during such time as they may require and cause the same to be sufficiently lighted during the night; and
- (d) remove such hoard or fence with such platform and handrail as aforesaid when required by the Council.

(2) Every person who fails to comply with any of the provisions of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

10 & 11 Vict.
c. 34.
53 & 54 Vict.
c. 59.

(3) The provisions of section LXXX of the Towns Improvement Clauses Act 1847 and of section 34 of the Public Health Acts Amendment Act 1890 shall not apply to any building operations in respect of which the Council have made requirements under this section.

(4) The provisions of this section shall extend to trunk roads and with the consent of the Minister of Transport the powers thereof may be exercised by the Council in respect of such roads as if they were county roads.

Power to
fence roads.

7.—(1) The highway authority may place and keep in repair on any road fences and posts for the safety of persons using such road.

(2) The Council may contribute to the expenses incurred by the council of an urban district in exercising the powers of this section.

(3) The powers of this section shall not be exercised so as to interfere with the access to or exit from any railway station or depot of the commission.

Making of
lines of rails
on county
roads.

8.—(1) Any person may with the authority of the Council open and break up any county road (other than a claimed county road) within the county for the purpose of making and maintaining a line of rails along or across such road;

Provided that—

- (a) no authority shall be given by the Council in respect of any classified county road except with the consent of the Minister of Transport;
- (b) nothing in this subsection shall relieve any person so authorised of any liability to third persons arising from such opening or breaking up of any road or the making of and maintaining a line of rails along or across such road.

(2) Before issuing any such authority the Council shall—

(a) publish by advertisement in a local newspaper notice of any application for the issue of such authority stating that within a period of twenty-eight days from the publication of such notice any person may make representations to the Council concerning such application;

(b) take into consideration any representations so made together with the purpose for which the line of rails is to be used the character of the road and factors relating to the safety of road traffic.

(3) Any authority issued under this section may be revocable or granted for a period and may be given upon such terms and conditions as the Council think fit.

(4) The Council shall not in pursuance of this section authorise any person to open or break up or to make or maintain any line of rails along or across so much of any county road as may be—

(i) situated upon or under any bridge over or under any railway of the commission; or

(ii) crossed on the level by any railway of the commission;

without the consent of the commission:

Provided that consent under this subsection shall not be unreasonably withheld and if any question arises as to whether or not consent is unreasonably withheld either party may require that it shall be referred to an arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers and save as aforesaid the provisions of the Arbitration Acts 1889 to 1934 and of any Act amending the same shall apply with respect to such arbitration.

9.—(1) The Council and any parish council or person with the consent of the highway authority and subject to such conditions as the highway authority impose may in proper and convenient situations in any road or roadside waste thereof provide and erect and maintain seats for the use of the public. Public seats
in roads.

(2) The Council may contribute to the expenses incurred by any parish council in exercising the powers of this section.

10.—(1) The Council and any local authority or parish council may erect and maintain on any road or roadside waste thereof or on any land belonging to or maintained by them at suitable stopping places on any of the routes along which any person is for the time being authorised to run Power to
provide
shelters &c.

PART II.
—cont.

public service vehicles in the county or district or parish shelters and other accommodation for passengers on such vehicles and rails for the regulation of queues of persons intending to enter such vehicles.

(2) The Council and any local authority or parish council shall not in pursuance of this section erect—

- (i) any shelter or rail so as to cause interference with or to render less convenient the access to or exit from any station or depot belonging to the commission; or
- (ii) any shelter or rail on any street belonging to or repairable by the commission without the previous consent of the commission which consent shall not be unreasonably withheld; or
- (iii) any shelter on any bridge carrying any street or road over the railway of the commission without the consent of the commission; or
- (iv) any shelter or rail on any part of a road (not being part of a trunk road) without the consent of the highway authority but such consent shall not be unreasonably withheld and may be given subject to conditions or be revocable or granted for a period and any question whether any such consent has been unreasonably withheld or unreasonably revoked or whether any such condition or period is unreasonable shall be referred to and determined by the Minister of Transport; or
- (v) any shelter or rail on any part of any trunk road without the consent of the Minister of Transport:
Provided that any such consent may be given subject to conditions or be revocable or granted for a period and if in any case the said Minister withholds or revokes his consent or attaches conditions thereto or grants it for a period and the authority or body who applied for such consent give notice in writing that they are aggrieved the matter shall be referred to and determined by an arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers; or
- (vi) any rails for the regulation of queues in the district of any local authority which has made byelaws under section 75 of the Public Health Act 1925.

15 & 16 Geo. 5.
c. 71.

(3) The Council and any local authority may with the consent of the highway authority enter into and carry into effect agreements with any person including the commission for and in relation to the erection maintenance and use of any such shelters and other accommodation or rails and as to the contributions to be made by any such person towards the cost of the provision and maintenance thereof.

(4) In this section " public service vehicle " has the same meaning as in the Road Traffic Acts 1930 to 1947.

PART II.
—cont.

11. Any person with the consent of the highway authority and subject to such conditions as they may impose may in proper and convenient situations in any road or roadside waste thereof erect and maintain stands for milk churns and containers. Milk stands:
in roads.

12. The highway authority may provide and place and maintain in any road or roadside waste thereof grids designed or adapted to prevent the passage of sheep or cattle. Power to
provide
cattle grids.

13.—(1) Any parish council may erect and maintain direction posts of such size and type as may be approved by the Council in or adjacent to public footpaths (not being footpaths at the side of a public road) and bridle-paths with the consent of the owner in fee simple of the land in which it is proposed to erect the same and of any person having the control or management of such land. As to direction
posts relating
to rights of
way.

(2) The Council may contribute to the expenses incurred by any parish council in exercising the powers of this section.

14.—(1) The powers of the Council and of the councils of urban districts under section 21 of the Public Health Act 1925 shall extend to authorise them to require the execution and maintenance of such works as may be necessary to convey surface water from premises to which that section applies to some drain sewer or watercourse or the disposal of such surface water in such other manner as the Council or the council of the urban district may require. Water from
buildings
&c. to be
conveyed to
sewers.

(2) It shall be the duty of all owners of land or premises to provide lay and keep in repair such gutters drains channels and other works as may be requisite for complying with section 21 of the Public Health Act 1925 as amended by this section and for the purpose of laying and repairing the same the owner of any land or premises may take up so much of any street as may be requisite and such gutters drains channels and other works shall be laid and thereafter kept in good repair and condition and the street shall be reinstated under the direction of the county surveyor or the surveyor to the council of the urban district and all damage occasioned to the street shall be made good by such owner to the satisfaction of the county surveyor or the surveyor to the council of the urban district.

(3) In the event of default on the part of the owner of any land or premises to comply with the provisions of subsection

PART II.
—cont.

(2) of this section the Council or the council of the urban district may execute any necessary work and recover the cost of so doing from such owner.

As to evasion
by owners of
private street
works
expenses.

55 & 56 Vict.
c. 57.

15. If—

- (a) any owner of land fronting adjoining or abutting on a street within the meaning of section 150 of the Public Health Act 1875 or of the Private Street Works Act 1892 or of corresponding provisions in any local Act (each of which is in this section referred to as “the said enactments”) conveys sells leases or otherwise disposes of the part or any portion of the part of that land which fronts adjoins or abuts on that street; and
- (b) any expenses of works executed by the local authority under the said enactments in or in relation to that street are apportioned on such part or portion of that land; and
- (c) the local authority are unable to recover such expenses in whole or in part from the person to whom such part or portion of that land was conveyed sold leased or disposed of by the sale of such part or portion of that land; and
- (d) a court of summary jurisdiction is satisfied that such conveyance sale lease or disposal was intended for the purpose of evading the payment of any expenses under the said enactments;

then such expenses or so much thereof as has not been recovered by the local authority may to such extent as the court may determine be recovered from that owner in the same manner as expenses of the execution of works under the said enactments may be recovered as though he had not made such conveyance sale lease or disposal and as though the said amount of the said expenses had been apportioned on the land of that owner which before such conveyance sale lease or disposal was made fronted adjoined or abutted on such street.

Carriage-
crossings at
ends of private
streets.

16.—(1) Where the termination of a new street not being a highway repairable by the inhabitants at large abuts on any road so repairable and the use of such street involves passage across or interference with any part of such road the highway authority may require the person by whom such street has been or is being laid out or constructed to construct across such part of the road a carriage-crossing of such materials and in such manner as they may prescribe.

(2) Not less than twenty-eight days before prescribing the manner in which a carriage-crossing shall be constructed under subsection (1) of this section the highway authority shall give notice thereof to any statutory undertakers any of whose mains pipes or apparatus would be situate in or under such carriage-crossing and shall if requested by such undertakers require the lowering of any such mains pipes or apparatus to such depth below the surface of the carriage-crossing not exceeding four feet measured from the upper side of any such main pipe or apparatus as the undertakers may prescribe and the work of such lowering may be carried out by the undertakers and the cost reasonably incurred by them in so doing shall be repaid to them by the highway authority who may recover the same from the person and in the manner from whom and in which expenses are recoverable under subsection (3) of this section.

(3) If the highway authority require the construction of any carriage-crossing across any part of a road they may execute such works as may be necessary to secure compliance with such requirement and recover the expenses of so doing from the person by whom such street has been or is being laid out or constructed.

(4) Nothing in this section shall impose on the person by whom such street has been or is being laid out or constructed any obligation to maintain any crossing constructed in pursuance of a requirement under this section.

(5) The powers and obligations of this section in relation to any claimed county road may be exercised and shall be performed by the local authority exercising the functions of maintenance and repair of such road and such powers shall not be exerciseable by the highway authority but the highway authority may contribute to the expenses incurred by any local authority in exercising those powers.

PART III.

PUBLIC BUILDINGS PARKS & C.

17.—(1) The Council any local authority or parish council may provide and place and maintain on any road or roadside waste thereof or on any open space park or recreation ground belonging to or maintained by the Council local authority or parish council and on any other land within the county to which the public have access bins or other receptacles for the reception or deposit of litter and may from time to time empty and cleanse any such bins or receptacles:

Provision of
bins for litter.

Provided that the powers of this section shall not be exercised—

(a) as respects a road without the consent of the highway authority;

PART III.
—cont.

(b) as respects an open space park or recreation ground without the consent of the Council local authority or parish council to whom the open space park or recreation ground belongs or by whom it is maintained;

(c) as respects other land to which the public have access without the consent of the owner thereof.

(2) The Council may contribute to the expenses incurred by a local authority or parish council in exercising the powers of this section.

Power to
provide
concert halls
&c.

18.—(1) The Council may within the county provide concert halls entertainment rooms conference rooms reading rooms pavilions and bandstands with all offices refreshment-rooms kitchens cloak-rooms lavatories conveniences and appliances necessary and suitable in connection therewith.

(2) For the purposes aforesaid the Council may—

(a) erect or adapt buildings in any public park or pleasure ground belonging to them;

(b) acquire buildings or acquire land and erect buildings thereon;

(c) with the consent of the Minister adapt any premises or erect buildings on any land belonging to them but not already appropriated to entertainment purposes;

and may provide erect and maintain shops and offices as part of the buildings so acquired or erected or adapted.

(3) The Council may furnish and equip any premises provided by them under this section.

Power to
provide &c.
entertain-
ments.

19.—(1) The Council may use or allow to be used or let any premises provided under section 18 (Power to provide concert halls &c.) of this Act or any other premises belonging to them for lectures and concerts and other entertainments and may themselves provide or arrange for the provision of or contribute towards the expenses of any such lectures and concerts or entertainments and may make or allow to be made such charges as they think fit in connection therewith:

Provided that—

(a) the Council shall not themselves use any such premises for a cinematograph theatre except for the exhibition of a cinematograph film relating to the functions of county councils or other local authorities or of purely educational interest nor shall they grant or let the use of any such buildings for the purposes of a theatre music-hall or cinematograph theatre except on the best terms that can be obtained;

(b) the Council shall not in a borough or urban district having a population exceeding twenty-five thousand provide or arrange for the provision or contribute towards the expenses of stage plays performed by persons other than members of any amateur dramatic society or any entertainment, for which scenery or theatrical costume is used and which forms a complete programme of variety entertainments as usually given at a music hall;

(c) the net amount of the expenses incurred by the Council under this section when added to the net amount of the expenses incurred by them in the provision of entertainments under section 56 of the Public Health Act 1925 shall not in any one year exceed the amount (calculated in accordance with the rules made by the Minister under sections 9 and 58 of the Rating and Valuation Act 1925) which would be produced by a rate of twopence in the pound: 15 & 16 Geo. 5.
c. 90.

Provided that the limitation hereby imposed shall not apply in respect of any excess rate which may be approved by the Minister under the provisions of subsection (3) of section 56 of the Public Health Act 1925.

(2) The Council may provide and sell or authorise the provision and sale of programmes of any concert or entertainment given in pursuance of this section and may provide and sell or authorise the provision and sale of refreshments at the premises used for the purposes of this section:

Provided that the Council shall not themselves provide or sell intoxicating liquor under the powers conferred by this subsection.

(3) The Council may make byelaws for securing good and orderly conduct during any concerts or entertainments given in pursuance of this section.

(4) As respects byelaws made under this section the confirming authority for the purpose of section 250 of the Act of 1933 shall be the Secretary of State.

(5) Nothing in this section shall be taken to dispense with the consent of any Minister of the Crown to any appropriation, lease or other disposition of any lands of the Council in any case in which such consent would have been required if this section had not been passed.

(6) Nothing in this section shall affect the provisions of any enactment by virtue of which a licence is required for the public performance of stage plays or for public music or

PART III.
—cont.

dancing or any public contest or display of boxing or wrestling or other public entertainment of the like kind or a cinematograph exhibition or of any enactment relating to the sale of refreshments or tobacco.

Charges for
and letting of
parks &c. for
games.

20. When any portion of any park or place of public resort or recreation is set apart by a local authority for any purpose under section 76 of the Public Health Acts Amendment Act 1907 the local authority may permit the exclusive use by any club or other body or persons of any part of any park or place of public resort or recreation set apart as aforesaid and of any pavilions buildings or refreshment or other rooms or conveniences subject to such charges and conditions as the local authority may think fit:

Provided that nothing in this section shall empower the local authority to permit at one and the same time the exclusive use of more than one-half of the area of any park or place of public resort or recreation for the time being belonging to them or under their control or more than one-quarter of the total area of all such parks and places.

Boating pools.

21.—(1) Subject to the provisions of this Act a local authority or a parish council may in any park recreation ground or open space belonging to them construct and maintain boating pools together with such buildings works appliances and conveniences as may be necessary or proper in connection therewith.

(2) A local authority or a parish council may make such reasonable charges as they may think fit for the admission to and use of any boating pools by this Act authorised to be constructed or any part thereof or any buildings works appliances or conveniences provided in connection therewith and may if they think fit let any such buildings works appliances and conveniences.

Saving for
trusts
covenants
&c. in
conveyances
and leases.

22. No power conferred upon the Council or any local authority or parish council by section 18 (Power to provide concert halls &c.) section 19 (Power to provide &c. entertainments) and section 21 (Boating pools) of this Act shall be exercised in such a manner as to be at variance with any trusts subject to which any lands or buildings are held managed or controlled by the Council or any local authority or parish council without an order of the high court or of the Charity Commissioners or the Minister of Education or (where the trust instrument reserves to the donor or any other person the power to vary the trust) without the consent of such donor or other person.

23.—(1) A local authority or parish council may procure officers appointed by them for securing the observance of the provisions of all enactments relating to parks and pleasure-grounds and to open spaces which are enclosed and are vested in or under the control of the local authority and of the bye-laws and regulations made thereunder to be sworn in as constables for that purpose but any such officer shall not act as a constable unless in uniform or provided with a warrant.

PART III.
—cont.
Officers may be sworn in as constables.

(2) Nothing in this section shall be deemed to render applicable to any such officer the provisions of the Police Pensions Act 1921 or any other enactments relating to pensions gratuities and allowances in respect of police service.

II & 12 Geo. 5.
c. 31.

PART IV.

SALE OF COKE &C.

24. The provisions of sections 20 to 29 of the Weights and Measures Act 1889 and of any byelaws made by the Council thereunder (which provisions and byelaws relate to the sale of coal) shall also apply (except as hereinafter otherwise expressly provided) to the sale of coke within the county.

Application to sale of coke of Weights and Measures Act 1889.
52 & 53 Vict.
c. 21.

25. If any seller of coke or any person in charge of any vehicle from which coke is being sold or offered or exposed for sale wilfully makes any false statement as to the weight of the coke or wilfully increases such weight by damping such coke or wilfully does any other act by which the purchaser of the coke shall be defrauded he shall be liable for every such offence on the first occasion to a penalty not exceeding five pounds and on the second or any subsequent occasion to a penalty not exceeding ten pounds.

Penalty on fraudulent sale.

26. The provisions of this Part of this Act relating to coke shall apply also to any solid fuel derived from coal or of which coal or coke is a constituent as if it were coke.

Part IV to apply to solid fuel.

27. The Council shall forthwith after the passing of this Act cause public notice to be given of the effect of this Part of this Act by advertisement in two or more newspapers circulating in the county and otherwise in such manner as the Council think sufficient.

Notice of Part IV.

No evidence shall be required in any proceedings under this Part of this Act that the provisions of this section have been complied with.

28. Any person duly authorised by the Council may prosecute before a court of summary jurisdiction any proceedings under or in pursuance of this Part of this Act.

Proceedings under Part IV.

PART IV.

—cont.

Adoption by
councils of
boroughs of
Part IV.41 & 42 Vict.
c. 49.

29. This Part of this Act (save and except section 27 (Notice of Part IV) thereof) may be adopted by the council of any borough in the county being a local authority within the meaning of the Weights and Measures Act 1878 and for the purposes of such adoption the expressions "the Council" and "the county" shall be read and have effect as if "the corporation" and "the borough" were substituted therefor and the provisions of section 5 of the Public Health Act 1925 shall apply mutatis mutandis with respect to such adoption.

PART V.

MOVEABLE DWELLINGS AND CAMPING GROUNDS.

Definitions
for Part V.

30. In this Part of this Act unless the context otherwise requires—

"moveable dwelling" includes—

- (a) any tent;
- (b) any structure capable of being moved from place to place; and
- (c) any van cart carriage truck tramcar railway-carriage motor-car caravan-trailer or other vehicle;

used or intended to be used for the purpose of human habitation (whether temporarily or otherwise) but does not include—

- (i) any tent structure or vehicle temporarily used by shepherds labourers or other persons for farming agricultural or other like purposes or in connection with building operations;
- (ii) any tent structure or vehicle temporarily used for the service of the Council or of any local authority or other public authority;
- (iii) any canal boat or any other boat;
- (iv) any shelter provided for the treatment of tuberculosis or used in connection with an open air school;
- (v) any vehicle used by the commission in connection with the maintenance and repair of their undertaking; or
- (vi) any van or similar vehicle belonging to any statutory undertakers and any trailers drawn by such van if and so long as the van and trailers are used by those undertakers as travelling show-rooms or for the purpose of giving exhibitions and demonstrations of the electrical gas or water appliances provided by those undertakers and the manner in which such appliances can be used;

“ camping ground ” means any area of land on which moveable dwellings are situated or which is provided for the placing of moveable dwellings;

“ occupier ” in relation to a moveable dwelling shall be deemed to include an owner.

PART VI.
—cont.

31.—(1) A moveable dwelling upon land abutting upon a street in the county shall be deemed to be a house or building within the meaning of those words where they occur in the Public Health (Buildings in Streets) Act 1888.

Further provisions as to moveable dwellings.
51 & 52 Vict.
c. 52.

(2) It shall not be lawful without the written consent of the local authority to place any moveable dwelling upon any square court alley or passage to which the public have access.

(3) Any person who offends against the provisions of subsection (2) of this section shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

32.—(1) Any local authority for the purpose of securing the amenities of their district in relation to the use of camping grounds and moveable dwellings situate thereon may make byelaws with respect to any camping grounds within their district whether provided by the local authority or not—

Byelaws as to camping grounds.

(a) for securing sanitary conditions in and the proper control and management of such camping grounds;

(b) for securing the cleanliness of such camping grounds and moveable dwellings situate thereon;

(c) for preventing the amenities of their district being prejudicially affected by the state or condition of any such camping ground;

(d) for securing the good and orderly conduct of persons frequenting any such camping ground and of the occupiers of the moveable dwellings situate thereon;

(e) for preventing annoyance to the residents in or visitors to their district by the conduct of the occupiers of or persons frequenting moveable dwellings situate on any such camping ground.

(2) (a) A copy of any byelaws made by a local authority under this section shall be appended to any licence granted by them under section 269 of the Public Health Act 1936.

(b) A local authority in granting any licence under the said section 269 shall not attach any condition which is inconsistent with any byelaws made by them under this section.

(3) As respects byelaws made under this section the confirming authority for the purposes of section 250 of the Act of 1933 shall be the Minister.

PART V.
— cont.

(4) Byelaws made under the provisions of this section shall not apply to—

- (a) any camping ground provided by or belonging to or used by any portion of His Majesty's naval military or air forces or which may be certified as under supervision of or by a Territorial Army Association or an Auxiliary Air Force Association or a County Joint Association or by any unit of the Sea Cadet Corps Senior Training Corps Junior Training Corps Army Cadet Force Air Training Corps or other cadet corps raised or officially recognised by the Board of Admiralty the Army Council or the Air Council;
- (b) any moveable dwelling or camping ground provided by or belonging to or used by any duly constituted religious or charitable society;
- (c) any moveable dwelling or camping ground provided by or belonging to or used by any association incorporated by royal charter or any organisation constituted by any such last-mentioned association in pursuance of their charter;
- (d) any camping ground provided by or belonging to or used by members of any other duly constituted society or body operating throughout Great Britain which by their rules undertake for the management of the camping grounds provided by or belonging to them and used by their members and for the good conduct of their members when in camp;
- (e) any moveable dwelling situate on any such camping ground as is referred to in the foregoing paragraph (d) while the dwelling is occupied or used by the members of any society or body referred to in that paragraph;
- (f) any moveable dwelling which is used by a member of any duly constituted society or organisation which by their rules undertake the responsibility for the good conduct of their members when in camp and for their proper use of moveable dwellings; or
- (g) any person dwelling in a tent or van or other similar structure who is a travelling roundabout proprietor travelling showman or stallholder (not being a pedlar or hawker) and who uses such tent van or other structure in connection with his business:

Provided that—

- (i) the exemptions conferred by the foregoing paragraphs (b) and (c) in respect of any moveable dwelling or camping ground referred to in those paragraphs shall

apply only for so long as the society body association or organisation by or to which such moveable dwelling or camping ground is provided or belongs or is used shall continue to make and enforce reasonable arrangements for the maintenance of good order amongst the persons using the moveable dwelling and for the proper management of the camping ground;

- (ii) the exemptions conferred by the foregoing paragraphs (d) and (e) in respect of any camping ground or moveable dwelling referred to in those paragraphs shall only apply so long as the society or body by or to which such camping ground is provided or belongs or is used or by the members of which such moveable dwelling is occupied or used are duly exercising responsibility for the management of the camping ground and for the good conduct of their members when in camp thereon;
- (iii) the exemption conferred by the foregoing paragraph (f) in respect of a moveable dwelling used by a member of a society or organisation shall apply only so long as that society or organisation continues to enforce good conduct among its members and their proper use of moveable dwellings;
- (iv) the exemption conferred by the foregoing paragraph (g) on any person referred to in that paragraph shall apply only so long as such person is not guilty of any misconduct; and
- (v) if any society association organisation or body referred to in the said paragraphs (b) and (c) are using any camping ground provided by a local authority or if any person being a member of any such society association organisation or body or a person referred to in the said paragraph (g) is occupying or using a moveable dwelling situate on any camping ground so provided the members of such society association organisation or body or such person shall while camping on or occupying or using any moveable dwelling situate on that camping ground comply with any byelaws made by the local authority under this Part of this Act respecting that camping ground.

33. Nothing in this Part of this Act shall affect the rights or privileges of any person in respect of any lawful fair or market. Saving for market rights.

PART VI.

PROTECTION OF STREAMS.

Definitions
for Part VI.

34. In this Part of this Act unless the context otherwise requires—

“ stream ” includes (a) any river canal lake brook ditch and other watercourse or part thereof within the county (b) any canalised brook or canalised watercourse (other than a mill-race) or part thereof within the county and (c) so much of the sea or tidal waters on the coast or any channel creek bay or estuary as the Minister may after local inquiry by order determine but with respect to the provisions of the following sections of this Act (namely):—

Section 35 (Power to improve flow &c.);

Section 36 (For prevention of floods);

Section 37 (Clearing of streams);

does not include any part of a main river shown upon the map of any catchment area prepared in pursuance of section 5 of the Land Drainage Act 1930 and for the time being in force;

“ pollution ” shall be construed as including the addition to any stream of (i) poisonous or noxious liquid or matter injurious to the maintenance of life of fish or to the food of fish in streams and (ii) any liquid of such temperature as to cause the temperature of the water of any stream to be injurious to the life of fish or to the food of fish but does not include innocuous discoloration of any stream;

“ solid matter ” does not include particles of matter in suspension in water;

“ oil ” means oil of any description and includes spirit produced from oil and oil mixed with water;

“ polluting liquid ” means any liquid either with or without particles of matter in suspension therein which causes pollution.

Power to
improve flow
&c.

35.—(1) Subject to the provisions of this Act the Council for the purpose of improving and maintaining the purity and improving and freeing or keeping free from obstruction the flow of any stream may—

(a) dredge cleanse and scour any stream;

(b) reduce or remove any shoals shelves banks or other accumulations in any stream;

(c) abate or remove or cause to be abated or removed all impediments obstructions and nuisances whatsoever in any stream or on the banks thereof:

Provided that—

- (i) where a local authority is a riparian owner on any part of a stream the powers of this subsection shall not be exercised in respect of such part of the stream; and
- (ii) where a local authority owns for the time being any sluices or other works for controlling the flow of water in a stream such powers shall not be exercised in respect of any part of a stream which is in the district of that authority and in which the flow of water can be so controlled; and
- (iii) where a drainage board constituted or deemed to be constituted under the Land Drainage Act 1930 owns for the time being any catch-pit or gravel-trap for preventing gravel or other solid matter from being conveyed from a stream into a main river under the jurisdiction of such board the powers of this subsection shall not be exercised so as to interfere with any such catch-pits or gravel-traps;

except with the consent of the local authority or the drainage board as the case may be but such consent shall not be unreasonably withheld and any dispute between the Council and the local authority or the drainage board as to whether any such consent has been unreasonably withheld shall be determined by the Minister or the Minister of Agriculture and Fisheries as the case may be.

(2) The Council for the purpose mentioned in subsection (1) of this section may also by agreement with the owners of land adjoining or in or near to any stream restrict widen straighten and improve the stream and shorten any bend or remove any angle in the course of the stream.

(3) Where any person sustains any damage by reason of the exercise of any of the powers of subsections (1) and (2) of this section in relation to any matter as to which he is not himself in default compensation shall be made to such person by the Council and any dispute as to the fact of damage or amount of compensation shall in default of agreement be determined by an arbitrator to be agreed upon between the parties or failing agreement to be appointed by the Minister of Agriculture and Fisheries on the application of either party after notice to the other and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to the reference:

Provided that nothing in this subsection shall impose any liability on the Council to make compensation to any person

PART VI.
—cont.

with whom they have entered into an agreement under subsection (2) of this section for any damage caused by or resulting from the proper exercise by the Council of their powers under subsection (2) of this section in accordance with the terms of the agreement.

For prevention
of floods.

36.—(1) For the purpose of preventing floods in the county the Council may—

- (a) by agreement purchase and hold lands forming the bed or banks or situate in the neighbourhood of the banks of any stream;
- (b) form invert pitch widen deepen straighten strengthen cover in fence and otherwise improve the waterway bed and banks of any stream;
- (c) construct and reconstruct walls embankments culverts fences and other works upon or in the neighbourhood of the banks of any stream.

(2) For the purposes of any work under the provisions of this section the Council may excavate material in the neighbourhood of the banks of any stream and deposit on the banks of such stream materials so excavated or excavated from such stream.

(3) (a) Before executing any work under the provisions of this section the Council shall cause to be prepared and deposited at the office of the clerk for inspection by or on behalf of any owner affected by such work a plan section and specification thereof together with an estimate of the probable cost of such work (including the expense of purchasing any lands for the purposes thereof) and a provisional apportionment of such estimated cost and shall give notice in writing of such deposit to every riparian owner and occupier on the portion of watercourse forming the site of such work and to every owner proposed to be charged in accordance with the provisions of this section with any part of such cost.

(b) If any such owner shall within twenty-eight days of the receipt of any such notice deliver to the clerk a statement in writing signed by him—

- (i) that he objects to the proposed work such work shall not be executed unless such notice of objection is withdrawn or unless and until the Minister of Agriculture and Fisheries has given his approval of the work and such approval may require such modification of the work as the said Minister may deem necessary;

(ii) that he objects to the provisional apportionment of the cost of the proposed work such objection shall be determined by a court of summary jurisdiction on the application of either party and such court may quash in whole or in part or may amend such provisional apportionment.

(4) (a) Any expenses incurred by the Council under the provisions of this section (including the expense of purchasing any lands for the purposes thereof) may be apportioned amongst and recovered by the Council from the owners of property within the county benefited by the execution of any work by the Council thereunder:

Provided that in the event of any such apportionment being so made and of any property of the Council being so benefited a due proportion of such expenses shall be apportioned to them and shall be borne and paid by them out of the county fund or out of moneys borrowed by them for the purpose.

(b) Any expense incurred by the Council and authorised to be so apportioned and recovered may be apportioned and recovered by the Council from the owners chargeable therewith in the same manner as nearly as may be as expenses incurred under the provisions of the Private Street Works Act 1892 are apportioned and recovered and as if the property benefited as aforesaid were premises fronting adjoining or abutting on the street or part of a street in respect of which expenses are incurred under those provisions and any question as to the manner in which such expenses should be apportioned and recovered and as to whether the Council have complied with the requirements of this subsection may be determined on the application of the Council or any such owner by a court of summary jurisdiction which court may issue such directions or make such order as they may in the circumstances consider proper.

(5) The Council may if they think fit at any time resolve to contribute the whole or a portion of any expenses incurred by them under the provisions of this section and in the event of their so resolving may pay the same out of the county fund or out of moneys borrowed by them for the purpose.

(6) For the purposes of this section the Council their officers servants contractors and workmen with or without carts or other vehicles may from time to time enter upon the bed and banks of any stream and any lands or premises adjoining the same and any person who shall obstruct the Council their officers servants contractors or workmen in the

PART VI.
—cont.

exercise of the powers of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(7) In this section the expression "owner" has the same meaning as in the Public Health Act 1936 and section 278 of that Act shall apply to cases where damage is sustained by the exercise of the powers of this section.

(8) The powers conferred upon the Council by this section are in addition to and not in derogation of the powers conferred or duties imposed upon them by or under the provisions of any other Act.

Clearing of
streams.

37.—(1) If any part of any stream is or becomes in such a state that the proper flow of water along the same is obstructed or impeded the Council may by notice in writing require any owner or occupier of any lands abutting on that part of the stream or any person by whose act or default the proper flow of water in that part of the stream is obstructed or impeded to clear or put in proper order that part of the stream so as to allow the proper flow of water along the same.

(2) If any person to whom any such notice is lawfully given by the Council neglects to comply with the requirements of the notice within the period (not being less than one month) stated in the notice or (if an appeal is entered against the notice) within one month from or such other period as may be specified in the order of the court the Council may if they think fit carry out the work required by the notice and recover the expense thereof from the person in default.

(3) Any person appealing to a court of summary jurisdiction against any requirement of the Council under the provisions of this section shall give or cause to be given written notice of such appeal and of the grounds thereof to the clerk before lodging the appeal.

Saving for
drainage
boards.

38. The powers conferred upon the Council by section 35 (Power to improve flow &c.) section 36 (For prevention of floods) and section 37 (Clearing of streams) of this Act shall not be exercised in respect of any part of any tributary brook channel culvert or watercourse flowing directly or indirectly into any stream which is vested in or controlled by a drainage board constituted or deemed to be constituted under the Land Drainage Act 1930 or in relation to which the drainage board is enabled by any statutory enactment to exercise such powers except with the consent of the drainage board but such consent shall not be unreasonably withheld and any dispute between the Council and the drainage board as to whether any such consent has been unreasonably withheld shall be determined by the Minister of Agriculture and Fisheries.

39. If any person without lawful excuse (the proof whereof shall lie upon him) does any of the following things (namely) :—

PART VI.
—cont.
Prohibition
of pollution.

(a) after the passing of this Act opens otherwise than for the purposes of renewal or replacement into any stream any sewer drain pipe or channel in the county whereby sewage or any offensive or injurious matter (whether solid or fluid) or any matter likely to cause pollution is likely to flow or pass into such stream;

(b) wilfully causes or knowingly suffers any sewage or any offensive or injurious matter other than polluting liquid or any solid matter likely to cause pollution to flow or pass from any land works or other premises in the county into any stream;

he shall thereby commit an offence and shall for every such offence be liable to a penalty not exceeding one hundred pounds and to a daily penalty not exceeding fifty pounds:

Provided that—

(i) this section shall not apply in respect of the opening into any stream of any sewer drain pipe or channel connecting with any works constructed by a local or public authority after the passing of this Act with the approval of the Minister or where such approval is not required with the approval of the Council for the purpose of the purification of sewage or the disposal of surface water but this proviso shall not authorise the flow or passage of any offensive or injurious matter into any stream from any such sewer drain pipe or channel; and

(ii) paragraph (b) of this section shall not apply to any sewage or matter as aforesaid flowing or passing into a stream down or through a sewer drain pipe or channel which at the passing of this Act was used for that purpose or down or through any renewal of such sewer drain pipe or channel.

For the purpose of this section any sewer drain pipe or channel for the cost of which a loan has been sanctioned by the Minister or some other government department shall be deemed to have been constructed with the approval of the Minister.

40.—(1) Whenever any sewage or any offensive or injurious matter other than polluting liquid or any solid matter likely to cause pollution is caused or suffered to flow or pass from any land works or other premises in the county into any stream the Council may give notice in writing to the person causing or suffering the same so to flow or pass requiring him within a time to be specified in the notice (not being less than three months) to discontinue such flow or passage.

Notice for
discontinuance
of pollution.

PART VI.
—cont.—

(2) The Council may if they think fit at any time and from time to time extend the time specified in any such notice by another notice in writing.

(3) If any person to whom any such notice is given is aggrieved by reason of the time allowed either by the original or by any subsequent notice not being sufficient he may (not later than one month before the expiration of the time so allowed) by writing delivered to the clerk demand an extension of such time and if the Council refuse to comply with such demand the question of such extension shall be referred to an arbitrator (to be appointed by agreement or failing agreement by the Minister on the application of either party) who shall have power to extend the time so allowed.

(4) Any person to whom any notice is under this section given by the Council shall (notwithstanding anything in any other Act) within the time allowed by the notice or any extended time allowed by a subsequent notice or by an arbitrator discontinue the flow or passage of the sewage or matter to which the notice refers and in default of so doing shall be guilty of an offence and shall for every such offence be liable to a penalty not exceeding one hundred pounds and to a daily penalty not exceeding fifty pounds.

(5) Any notice given under this section by the Council to the owner or occupier of any land or premises shall continue in force notwithstanding any temporary or partial suspension of the flow or passage of sewage or matter aforesaid from such land or premises and notwithstanding any change in the ownership or occupation of such land or premises and shall affect the owners and occupiers of such land or premises in succession to the owner or occupier upon whom such notice was served in like manner in every respect and with the same obligations and consequences as though any such successive owner or occupier were the owner or occupier upon whom such notice was served.

(6) Notwithstanding anything in this section a person entitled at the passing of this Act to cause or suffer to flow or pass into any stream any offensive or injurious matter other than polluting liquid arising from any trade or manufacture carried on by him shall not be required to comply with any notice given to him by the Council under this subsection if and so long as—

- (i) he is unable consistently with the reasonable and lawful carrying on of any process in connection with his trade or manufacture to prevent such matter so flowing or passing into the stream; and

(ii) he is using the best practicable means within a reasonable cost to render harmless the matter so flowing or passing:

PART VI.
—cont.

Provided that the onus of proof with respect to paragraphs (i) and (ii) aforesaid shall be on the person so causing or suffering any such matter to flow or pass into a stream.

41.—(1) Every person who causes to fall or flow or knowingly permits to fall or flow or to be carried into any stream any polluting liquid shall (subject as in this Act provided) be guilty of an offence and shall for every such offence be liable to a penalty not exceeding one hundred pounds and to a daily penalty not exceeding fifty pounds.

Prohibition
of sending
polluting
liquid into
streams.

(2) (a) Where any polluting liquid falls or flows or is carried into such stream from any manufactory or manufacturing process along a channel used constructed or in process of construction at the date of the passing of the Rivers Pollution Prevention Act 1876 or any new channel constructed in substitution thereof and having its outfall at the same spot for the purpose of conveying such polluting liquid a person causing or knowingly permitting such polluting liquid so to fall or flow or to be carried shall not be guilty of an offence under this section if he shows to the satisfaction of the court having cognisance of the case that at the date of the alleged offence he was using the best practicable and reasonably available means to prevent the commission of such offence.

39 & 40 Vict.
c. 75.

(b) A certificate granted by an inspector of proper qualifications appointed by the Minister to the effect that the means used to prevent the commission of an offence are at the date of such certificate the best practicable and reasonably available means for such purpose under the circumstances of the particular case shall in all proceedings to which the provisions of paragraph (a) of this subsection apply be conclusive evidence of such fact. Any person who proposes to make an application for a certificate under this subsection shall give at least six weeks' notice in writing to the Council and any officer of or other person authorised by the Council shall be entitled to attend any inspection made by such inspector. Such certificate shall continue in force for a period named therein not exceeding two years and at the expiration of that period may be renewed for the like or any less period. All expenses incurred in or about obtaining a certificate under this subsection shall be paid by the applicant for the same and a copy of any certificate obtained shall within seven days of the receipt thereof be delivered to the Council by the person obtaining the same. The Council or any other person aggrieved by the granting or withholding of a certificate under this subsection

PART VI.
—cont.

may appeal to the Minister against the decision of the inspector and the Minister may either confirm reverse or modify such decision and may make such order as to the person or persons by whom the costs of the appeal are to be borne as to the Minister may appear just.

(3) Where any such polluting liquid as aforesaid falls or flows or is carried into such stream from any manufactory or manufacturing process proceedings shall not be taken under this section against any person without the consent of the Minister.

(4) The Minister in giving or withholding his consent to proceedings under this section shall consider what means are reasonably practicable for purifying wholly or partially the polluting liquid and shall have regard to the circumstances and requirements of the locality and the interests involved in the case.

(5) The Council shall one month at least before taking proceedings under this section against any person serve by post or otherwise on such person a written notice inviting him if he desires to show cause why proceedings should not be taken to appear before the Council at a time and place to be specified in the notice.

(6) If the Council either after hearing such person or in default of his appearance decide that proceedings under this section ought to be taken they shall forthwith notify their decision and the grounds thereof to such person and where the consent of the Minister is required to the institution of such proceedings to the Minister.

(7) Where the consent of the Minister is required to the institution of proceedings under this section against any person he may hold a local inquiry into the circumstances of the case but shall inform the Council and such person whether he gives or withholds his consent before the expiration of three months from the date of the Council's application for it.

(8) For the purposes of this section the expressions "manufactory" or "manufacturing process" shall respectively include a laundry and the process of washing or cleansing clothes or other articles of personal or domestic use.

42. The provisions of section 40 (Notice for discontinuance of pollution) and section 41 (Prohibition of sending polluting liquid into streams) of this Act shall not apply—

(a) in respect of the effluent from any sewage works constructed by a local authority before or after the passing of this Act with the consent of the Minister or the Local Government Board or some other government department or under the authority of Parliament or

where such consent is not required with the consent of the Council if and so long as the local authority shall make maintain and use adequate provision by depositing tanks filter-beds or otherwise for the purification and clarifying of such effluent; or

- (b) in respect of the flow or discharge of storm water from any surface water drain constructed by a local authority before or after the passing of this Act with the consent of the Minister or the Local Government Board or some other government department or under the authority of Parliament or where such consent is not required with the consent of the Council.

Any dispute between the Council and any local authority as to whether the local authority are making maintaining and using adequate provision as mentioned in paragraph (a) hereof shall be determined by the Minister.

For the purpose of this subsection any sewage works or surface water drain for the cost of which a loan has been sanctioned by the Minister or the Local Government Board or some other government department shall be deemed to have been constructed with the consent of the Minister or the Local Government Board or other government department.

43.—(1) A court before which any person is summoned under section 39 (Prohibition of pollution) or section 40 (Notice for discontinuance of pollution) or section 41 (Prohibition of sending polluting liquid into streams) of this Act may (in lieu of or in addition to inflicting a penalty and whether they record a conviction or not) make if they think fit an order for the stopping up or in suitable cases the diversion of the inlet or outlet of any sewer drain pipe or channel in respect of or by means of or down or through which such offence was committed: Power to stop up or divert outlets of sewers &c.

Provided that no such order shall be made unless a statement was contained in the summons of the intention to apply for such an order.

(2) If the court makes any such order the Council may stop up or divert as the case may be the inlet or outlet of the sewer drain pipe or channel to which the order relates and for that purpose may enter upon any lands owned or occupied by the person so offending and do all works that appear to them requisite and may where the amount recoverable does not exceed twenty pounds recover summarily as a civil debt from the person so offending all expenses incurred by them in so doing with costs.

PART VI.
—cont.
Weeds &c. in
streams.

44.—(1) Every person cutting and also every person employing others to cut or knowingly suffering persons in his employment to cut weeds grass or other vegetation in any stream shall remove or cause to be removed therefrom such weeds grass or other vegetation immediately after the cutting thereof so as to prevent their remaining and decaying in and contaminating the water of the stream.

(2) Any person who fails to comply with this section shall for every such default be liable to a penalty not exceeding five pounds.

Prohibition of
throwing &c.
gravel
offensive
matter &c.
into streams.

45. If any person without lawful excuse (the proof whereof shall lie upon him) does any of the following things in the county (namely):—

- (a) unloads throws or puts or causes or knowingly suffers to fall or pass into any stream any gravel stones earth mud ashes dirt soil or rubbish so as to tend either directly or in combination with similar acts of the same or other persons to impede the proper flow or be detrimental to the purity of the water of the stream;
- (b) unloads throws or puts or causes or knowingly suffers to fall or pass into any stream any substance liable to putrefaction;
- (c) throws or sweeps or employs any other person to throw or sweep or knowingly suffers any person in his employment to throw or sweep into any stream any weeds grass or other vegetation;
- (d) causes or knowingly suffers to flow or pass into any stream any oil or tar;
- (e) unloads throws or puts any such gravel substance matter or thing as aforesaid in any place where the same is likely to be carried by floods into any stream;
- (f) puts and allows to remain for more than forty-eight hours any heap or collection of manure ashes or other offensive matter (whether solid or fluid) upon any bank of any stream or puts and allows to remain for more than forty-eight hours any such heap or collection near to any stream at any point so that the same will or may be likely to drain be blown or pass into any stream;

he shall for every such offence be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding ten pounds.

46.—(1) It shall be lawful for any officer of or other person authorised in writing in that behalf by the Council to enter at all reasonable hours on or into and examine and lay open any land building or work in the county in order to—

(a) carry out the powers conferred on the Council by section 35 (Power to improve flow &c.) of this Act; or

(b) inspect and detect any offences against this Part of this Act; or

(c) take and carry away samples of any effluent or other liquid whether at the point where the liquid passes into any stream or at any point from which such liquid flows into any stream either directly or through across or under any other lands or premises:

Provided that—

(i) no land building or work shall be laid open under the powers of this subsection except with the consent of the occupier thereof or under an order of a court of summary jurisdiction;

(ii) the Council shall forthwith at their own expense make good and restore to its former condition any land building or work laid open under their authority under this subsection.

(2) If admission to or consent to the laying open of any land building or work or consent to the doing of any of the things mentioned in paragraphs (a) (b) and (c) of subsection (1) of this section be refused any court of summary jurisdiction on complaint thereof on oath by any officer of the Council (made after not less than two clear days' previous notice in writing of the intention to make the same has been given to the person in the occupation or in charge of the land building or work) may by order require that person to admit the officers of the Council or other persons authorised by them on or into the land building or work and to permit them or any of them to examine and lay open the same or to do any of the things aforesaid.

(3) If no person in the occupation or in charge of the land building or work can be found the court shall (on oath made before it of the fact) by order authorise the said officers and persons or any of them to enter on or into such land building or work and to examine and lay open the same and do any of the things aforesaid.

(4) Any order made under this section shall continue in force until the purposes for which such order was made are completed.

PART VI.
—cont.

(5) Any person who refuses to admit any such officer or other person as aforesaid after an order has been made under subsection (2) of this section on or into any land building or work or obstructs or molests any such officer or other person in the exercise of his powers under this section or refuses to obey an order made under this section shall be liable to a penalty not exceeding five pounds.

(6) Any samples taken under this section shall be taken in triplicate and before they are removed from the premises where they were taken shall be respectively sealed up and marked by the person taking the same and one of such triplicate samples shall be left by such person with the occupier of the premises whence the liquid flows or other the person responsible for or causing or permitting the passing of the liquid into the stream another sample shall be submitted by the Council (if they think fit) for analysis and the third sample shall be retained by the Council for future comparison.

(7) Where any person sustains any damage by reason of the exercise of any of the powers of this section compensation shall be made to him by the Council and any dispute as to the fact of damage or amount of compensation shall in default of agreement be determined by an arbitrator to be agreed upon between the parties or failing agreement to be appointed by the Minister of Agriculture and Fisheries on the application of either party after notice to the other and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to the reference.

(8) The provisions of this section shall not authorise the Council or any officer or servant thereof to enter on or interfere with any lands lying between the fences of any railway of the commission or with any lands forming part of any dock or quay of the commission.

(9) If any person who in compliance with the provisions of this section is admitted into a factory or workplace discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret he shall unless such disclosure was made in the performance of his duty be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

47. No person shall be deemed to have committed an offence against this Part of this Act for doing or causing to be done any of the following acts (that is to say) :—

- (1) constructing improving or maintaining in or across any stream any building bridge weir dam sluice or

- other permanent work with necessary temporary coffer-dams and other works which but for the passing of this Act he would have a legal right to construct improve or maintain;
- (2) pitching or depositing stones or any other suitable or solid materials (not likely to be washed or carried away by the stream or current rising to the line of an ordinary flood) at the side or on the bank of any stream for the express and bona fide purpose of reclaiming land washed away by the action of any stream or of supporting or protecting or repairing the side or bank of any stream or of erecting or repairing any bridge or any building drain sewer or watercourse upon or within the banks of any stream or the slopes or walls thereof at or convenient to the point at which the same shall be so pitched or deposited;
- (3) putting back or permitting to be carried into any stream any sand or gravel or other natural deposit which shall have flowed from or been deposited by the current of the stream provided that the sand or gravel or other natural deposit so put back or carried as aforesaid does not interfere with the due flow of or pollute the waters of the stream.

48. No local authority or highway authority who uses to a reasonable extent—

Saving for acts relating to roads.

- (i) any fluid for the cleansing of any highway in the district of the local authority or maintained by the highway authority; or
- (ii) any oil or tar or similar substance in the construction maintenance or repair of a highway being constructed by or vested in and repairable by the highway authority;

shall be deemed to have committed an offence against paragraph (b) of section 39 (Prohibition of pollution) of this Act or against paragraph (d) of section 45 (Prohibition of throwing &c. gravel offensive matter &c. into streams) of this Act by reason of such fluid or oil or tar or similar substance flowing or passing into any stream if the authority shall have used all reasonable means to prevent the fluid or oil or tar or similar substance so flowing or passing as aforesaid.

49. Nothing in this Part of this Act shall take away limit alter or prejudicially affect any right power authority jurisdiction or privilege of any statutory undertakers for the supply of water or prevent any such undertakers from discharging water into any stream into which they are at the passing of this Act entitled to discharge water.

Saving rights of water undertakers.

PART VI.

—cont.

Saving rights
of owners.

50. Nothing in this Part of this Act shall deprive any owner except with his consent of any legal rights in the soil or bed of any stream or of using in a manner not inconsistent with the provisions of this Part of this Act the water of any stream or of any legal remedies if such legal rights or legal remedies were vested in or exerciseable by him or by his predecessors in title at the passing of this Act or give any owner any right as against the public which he did not possess before the passing of this Act.

Saving for
storm
overflows.

51. Nothing in this Part of this Act shall prevent or interfere with the use of any storm overflow constructed by a local authority or any works or appliances constructed or provided in connection with any such storm overflow if and so long as the storm overflow is designed so as not to permit of the discharge into any stream of the contents of any sewer or the effluent from any sewage works unless and until the flow is equivalent to—

- (a) six times the normal dry weather flow in the case of a sewer or sewage works dealing with sewage and surface water in combination; or
- (b) three times the normal dry weather flow in the case of a sewer or sewage works from which surface water is wholly or partially excluded.

Part VI-not
to legalise
nuisances or
affect
remedies.

52. Nothing in this Part of this Act shall be deemed to legalise or permit any nuisance or shall take away or prejudicially affect any remedy or right which any person would or might have had or exercised if this Part of this Act had not been passed as against any person for the time being causing or suffering the flow or passage of any sewage or matter aforesaid.

Limitation on
exercise of
overlapping
powers.

53.—(1) Notwithstanding anything in this Act the Council shall not exercise any of the powers of this Part of this Act or institute any proceedings or prosecution under this Part of this Act if the same powers can be exercised or the same proceedings or prosecution can be instituted under any other enactment or any byelaw by a local authority or by a drainage board constituted or deemed to be constituted under the Land Drainage Act 1930 unless the Council shall have given notice to the local authority or drainage board of their intention to exercise such powers or institute such proceedings or prosecution under this Part of this Act and either—

- (i) such authority or board has refused or for a period of one month after such notice from the Council has neglected to exercise the powers or to institute the

proceedings or prosecution which the authority can exercise or institute under such other Act as aforesaid; or

- (ii) in the case of a local authority the Minister and in the case of a drainage board the Minister of Agriculture and Fisheries shall on the representation of the Council have held that such authority or board as the case may be having commenced to exercise the powers or having instituted such proceedings or prosecution under such other Act have failed to pursue with due diligence the effectual exercise of their said powers or to carry such proceedings or prosecution to a decision:

Provided that before the Council exercise any of the powers of this Part of this Act within an internal drainage district as defined by the Land Drainage Act 1930 or institute any proceedings or prosecution in respect of any offence committed therein the Council shall consult with the catchment board of the catchment area in which such district is situate.

(2) Nothing in this Part of this Act shall prejudice or affect or curtail the right of any sanitary authority to continue or to commence proceedings under any public Act against any person in respect of any pollution of any stream:

Provided that proceedings shall not be taken by any such sanitary authority against any person under any such Public Act while proceedings are pending against the same person in respect of the same offence under this Part of this Act.

(3) For the purposes of this section "local authority" means the council of a district the Cumberland Sea Fisheries Committee and any statutory water undertakers.

54. The local authority of any district situate wholly or partly in the drainage area of any of the streams to which this Part of this Act applies may contribute towards any expenditure incurred by the Council in carrying into execution any of the provisions of this Part of this Act such sums as may be agreed between the local authority and the Council or the Council may charge the amount of any agreed contribution (including a contribution to any interest or loan charges in respect of moneys borrowed for payment of expenses of a capital nature) as costs incurred for a special county purpose upon the parish or parishes comprised in the district of the local authority or (if the district is a rural district) comprised in any contributory place in that district and if there be more than one such parish the amount shall be apportioned between the parishes according to the county rate basis for the time being in force.

Local authorities may contribute to expenses of Part VI.

PART VII.

FINANCIAL PROVISIONS RELATING TO COUNCIL.

Power to
borrow.

55.—(1) The Council shall have power in addition and without prejudice to their powers of borrowing under the Act of 1933 from time to time to borrow without the consent of any sanctioning authority such sums as may be necessary for paying the costs charges and expenses of this Act and the Council shall pay off all moneys so borrowed within such period as the Council may determine not exceeding five years from the passing of this Act.

(2) The provisions of Part IX of the Act of 1933 so far as they are not inconsistent with this Part of this Act shall extend and apply to money borrowed under this section as if it were borrowed under Part IX of that Act and the period fixed for the repayment of any money borrowed under this section shall as respects that money be the fixed period for the purpose of the said Part IX.

Capital fund.

56.—(1) The Council may establish a fund to be called "the capital fund" to which they may pay—

- (a) any sums derived from the sale of any property of the Council;
- (b) the balance of the county fund (not required by law to be applied to or carried forward for any other purpose) on the thirty-first day of March in any year; and
- (c) such other sums from the county fund (including a sum equal to the interest earned on the capital fund and any income arising from the application of that fund to the purposes authorised) as the Council may by resolution direct (not being moneys required by law to be applied to any other purpose):

Provided that—

- (i) the aggregate amount paid to the capital fund under paragraphs (b) and (c) of this subsection (in addition to the sum equal to the interest earned on the capital fund and any income arising from the application of the fund to the purposes authorised) shall not exceed in any year the equivalent of three times the product of a penny rate as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925;
- (ii) payments into the capital fund shall cease to be made whenever the said fund amounts to the sum of fifty thousand pounds or such greater sum as may be allowed by the Minister.

(2) The Council may apply any moneys in the capital fund to an amount not exceeding in any one transaction the sum of fifteen thousand pounds or such greater sum as may be allowed by the Minister in any case in defraying any expenditure to which capital is properly applicable (other than expenditure in connection with an undertaking from which revenue is derived) or in providing money for repayment of loans (but not in making the annual payment required to be made thereto).

(3) (a) Pending the application of the capital fund to the purposes authorised in the foregoing subsection the moneys in the fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(b) Any income arising from the investment or use of the moneys in the capital fund in the manner provided by the foregoing paragraph and any income arising from the application of the fund to the purposes authorised shall be carried to the county fund as receipts for general county purposes and (subject to the limitation imposed by proviso (ii) to subsection (1) of this section) an amount equivalent to such income shall be credited to the capital fund out of the county fund.

(4) All moneys derived from the sale of land which are applied from the capital fund under the provisions of this section shall be repaid from the account to which such moneys were advanced by such annual instalments with or without interest and within such period as may be determined by the Council.

57.—(1) The Council may in any financial year apply from the county fund to a fund to be called "the renewal and repairs fund" any sum not exceeding (without the consent of and to such extent as may be approved by the Minister) the equivalent of twice the product of a penny rate as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925. Renewal and repairs fund.

(2) Appropriations to and payments into the renewal and repairs fund shall cease to be made whenever the said fund amounts to the sum of fifty thousand pounds or such greater sum as may be allowed by the Minister.

(3) If in any financial year the amount standing to the credit of the renewal and repairs fund is insufficient for the purposes of that fund the deficiency may be made good out of the county fund notwithstanding that the amount of the deficiency when added to any amount applied from the county fund under the provisions of this section exceeds the aggregate sum which may in that financial year be applied pursuant to this section.

PART VII.
—cont.

(4) The renewal and repairs fund shall be applicable only to meet expenditure incurred in repairing maintaining or renewing any buildings works plant depots stables mechanically-propelled vehicles carts horses boilers equipment apparatus appliances or things and shall be so applied from time to time for purposes of equalising so far as may be the annual charge to revenue in respect of such expenditure.

(5) (a) Pending the application of the renewal and repairs fund to the purposes authorised in subsection (4) of this section the moneys in the fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(b) Any income arising from the investment or use of the moneys in the renewal and repairs fund in the manner provided by paragraph (a) of this subsection and any income arising from the application of the fund to the purposes authorised shall be carried to the county fund as receipts for general county purposes and (subject to the limitation imposed by subsection (2) of this section) an amount equivalent to such income shall be credited to the renewal and repairs fund out of the county fund.

Consolidated
loans fund of
Council.

58.—(1) Notwithstanding anything contained in any other Act or Order the Council may establish a fund to be called "the consolidated loans fund" to which shall be paid—

- (a) all moneys borrowed by the Council whether by way of mortgage or by issue of bonds or stock or other security together with any moneys borrowed without security in connection with the exercise of any statutory borrowing power;
- (b) all moneys of a capital nature received by the Council whether from the sale of capital assets or otherwise except such as are applied by the Council with due authority to another capital purpose; and
- (c) the appropriate sums provided in each year out of other funds of the Council to comply with the terms and conditions as to repayment attaching to their several borrowing powers or otherwise provided for the repayment of debt:

And there shall also be carried to the credit of the consolidated loans fund the unapplied balances of all moneys so borrowed or received and of all sums provided by the Council as aforesaid before the date on which the consolidated loans fund is established.

(2) The moneys of the consolidated loans fund shall be used or applied by the Council—

- (a) in the redemption of stock or any other securities issued by the Council the purchase of stocks or bonds for extinction or the repayment of any moneys borrowed by the Council;
- (b) in the exercise of any statutory borrowing power by transfer of the required amount to the appropriate fund and account of the Council;
- (c) in lending money to any local authority in the exercise of any statutory borrowing power of such local authority:

And the moneys of the consolidated loans fund not used or applied in these ways or about to be so used or applied within a reasonable period shall be invested in statutory securities and the sums realised by the sale of such securities shall be repaid on receipt to the consolidated loans fund and the moneys of the consolidated loans fund including the accumulations arising from the investments thereof shall not except with the consent of the Minister be used or applied otherwise than as provided in this subsection.

(3) For the purpose of paragraph (c) of subsection (2) of this section "local authority" means the council of a county district and any other authority being a local authority within the meaning of the Local Loans Act 1875 and includes any drainage board and any joint board or joint committee if all the constituent authorities are such local authorities as aforesaid.

(4) There shall also be transferred to the consolidated loans fund such sums as are necessary to meet the interest charges and the financing and other revenue expenses connected with the management of that fund and separate accounts shall be kept of these sums and their application.

(5) The Council may pay into the consolidated loans fund any moneys forming part of any reserve renewals depreciation contingent insurance superannuation or other similar fund (hereinafter referred to as "the lending fund") and not for the time being required and such moneys shall be deemed to be moneys borrowed by the Council within the meaning of subsection (1) of this section and shall be used accordingly subject to the following conditions:—

- (a) The moneys so used shall be repaid to the lending fund as and when required for meeting the obligations for which the said fund was established; and
- (b) There shall be paid out of the consolidated loans fund to the county fund an amount equal to the interest

PART VII.
—cont.

on any moneys so used and for the time being not repaid at such rate per centum per annum as may be determined by the Council to be equal as nearly as may be to the average rate of interest payable by the Council on their current borrowings and in the accounts of the county fund an amount equal to the interest as aforesaid (subject in the case of any of the said funds to any prescribed limit on the amount thereof) shall be credited to the lending fund.

(6) Save as in this section expressly provided all the obligations of the Council to the holders of stock or other securities of the Council shall continue in force.

(7) The powers conferred by this section shall not be put into operation by the Council except in accordance with a scheme to be approved by the Minister and such scheme may make provision for any matters incidental to the establishment and administration of the consolidated loans fund.

(8) Any scheme approved by the Minister under this section may be altered extended amended or annulled by a scheme made in like manner as the original scheme.

Insurance fund
of Council.

59.—(1) The Council may establish a fund to be called "the insurance fund" with a view to providing a sum of money which shall be available for making good all losses damages costs and expenses to which the Council may be subjected in consequence of the whole or any part of all or any of the following risks:—

- (a) Risk of fire in respect of buildings works premises and the contents thereof and other property whether belonging or on loan to or under the care custody or control of the Council;
- (b) Risk of accident and claims by third parties in respect of any vehicles whether belonging to or hired by or under the control of the Council and whether drawn or propelled by man or horse or mechanical or other means or power;
- (c) Risk of explosion in respect of boilers;
- (d) Risks under the common law Employers' Liability Act 1880 the Workmen's Compensation Act 1925 or any Act or Acts for the time being amending or extending those Acts or otherwise in respect of accidents to the officers servants employees or workmen of the Council or to third parties;
- (e) Risks of injuries to pupils and students through accident caused by the negligence of a teacher attendant or other person or defect in any premises provided or maintained by the Council;

43 & 44 Vict.
c. 42.
15 & 16 Geo. 5.
c. 84.

- (f) Risks of mechanical or electrical breakdown at or in connection with any of the works of the Council;
- (g) Risks of loss due to infidelity of officers or servants or employees of the Council;
- (h) Any other risks against which in the absence of such an insurance fund the Council would ordinarily insure.

(2) The establishment of an insurance fund under this section shall not prevent the Council from insuring in one or more insurance offices against the whole or any part of all or any of the several risks for which the insurance fund is intended to provide.

(3) In each year after the establishment of the insurance fund the Council shall pay into that fund either—

- (a) such a sum as shall in their opinion be not less than the aggregate amount of the premiums which would be payable if the Council insured in some insurance office of good repute against the several risks for which the insurance fund is intended to provide; or
- (b) if the Council insure in some insurance office against the whole or any part of all or any of the several risks for which the insurance fund is intended to provide such sum as will together with the premiums paid for the last-mentioned insurance be not less than the aggregate amount aforesaid.

(4) When the insurance fund shall amount to the prescribed amount (as hereinafter defined) the Council may discontinue the yearly payments to the fund but if the fund is at any time reduced below the prescribed amount the Council shall recommence and continue the yearly payments to that fund in accordance with subsection (3) of this section until the fund be restored to the prescribed amount.

(5) The Council shall provide the yearly payments aforesaid by contributions from the county fund and shall show the same in their accounts under the separate heading or division in respect of the particular undertaking department or service of the Council which if the risks were insured against in an insurance office would be properly chargeable with the payment of the premium of such insurance.

(6) (a) Except so far as the insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet losses damages costs and expenses in consequence of risks for which the fund is intended to provide all moneys for the time being standing to the credit of the fund

PART VII.
—cont.

shall (unless applied in any manner authorised by any enactment) be invested in statutory securities and the interest and other annual proceeds received by the Council in respect of such investments shall be carried to the county fund as receipts for general county purposes.

(b) In addition to the sum required to be paid into the insurance fund by subsection (3) of this section the Council shall in every year so long as the fund is less than the prescribed amount carry to the credit of that fund out of the county fund an amount equal to the interest and other annual proceeds carried to the county fund in pursuance of the last preceding paragraph.

(c) If and so long as the insurance fund amounts to the prescribed amount the interest and other annual proceeds received by the Council in respect of or on investments forming part of the insurance fund and carried to the county fund may be apportioned in the accounts of the Council between the several undertakings departments or services liable to contribute to the insurance fund in such shares or proportions as may be equitable.

(7) For the purposes of this section the Council may if they deem it expedient include in the risks provided for under paragraph (d) of subsection (1) of this section risks of accident to any teacher or any other person employed in any aided school within the meaning of the Education Act 1944 in the county.

7 & 8 Geo. 6.
c. 31.

(8) The insurance fund shall be applied to meet any losses damages costs or expenses sustained by the Council in consequence of risks for which it is intended to provide in the order of the dates on which such losses damages costs or expenses become ascertained and if at any time and from time to time the insurance fund shall be insufficient to make good any such losses damages costs or expenses the Council may with the sanction of the Minister borrow at interest under and subject to the provisions of Part IX of the Act of 1933 such sums of money as will be necessary to make up the deficiency. The amounts of the annual charges in respect of interest on and repayment of principal of any sums so borrowed and the amounts of any such deficiencies as aforesaid not made up by borrowing shall be paid out of the county fund and charged in the accounts of the Council under the separate headings or divisions in respect of such undertakings departments or services of the Council and in such proportions as the Minister may direct having regard to the risks through which such deficiencies arise.

(9) In this section "the prescribed amount" means such sum as may from time to time be prescribed by the Council.

60.—(1) In addition to any other form of borrowing the Council may exercise any statutory borrowing power by the issue of bonds (in this Act referred to as "bonds") in accordance with the provisions of this Act.

PART VII.
—cont.
Power to
issue bonds.

(2) Where the Council raise money by the issue of bonds the following provisions of the Act of 1933 shall apply as if the money had been raised by borrowing on mortgage under that Act and bonds were mortgages within the meaning of that Act:—

Section 209 (Notice of trusts);

Section 210 (Receipts on behalf of joint holders and infants);

Section 211 (Appointment of receiver);

Section 212 (Repayment of moneys borrowed on mortgage);

Section 213 (Sinking fund);

Section 214 (Adjustments of sinking fund).

(3) The provisions set out in the schedule to this Act shall have effect with regard to bonds.

(4) 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.

(5) 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.

c. 13.
54 & 55 Vict.
c. 39.

61. The Council may pay reasonable expenses in providing—

(i) public entertainment on the occasion of or otherwise in connection with public ceremony or rejoicing and in the reception and entertainment of distinguished persons residing in or visiting the county;

(ii) refreshments for representatives of the Council local authorities or other bodies and for other persons attending conferences convened by the Council.

Expenses
of public
entertainment
&c.

62.—(1) The Council may—

(a) on the death of an employee while in their service grant to his widow or children or to any dependant of such person such gratuity as the Council may determine not exceeding a sum equal to twice one year's remuneration of such employee at the time of his death;

Payment of
gratuities in
certain cases.

PART VII.
—cont.

(b) on the death of a former employee who is in receipt of a pension from the Council but has not received by way of pension an aggregate sum amounting to twice one year's remuneration of such employee at the time of his retirement exclusive of the aggregate amount contributed by him to the superannuation fund grant to his widow or children or to any dependant of such former employee such gratuity as the Council may determine not exceeding the amount which he has not received as aforesaid :

Provided that a resolution to make a grant under this section shall not be passed more than six months after the death of the employee or former employee.

Provided also that this section shall not apply—

(a) in the case of a widow to whom a pension is granted in pursuance of section 9 (Allocation of part of superannuation benefits to wife or husband) of the Local Government Superannuation Act 1937; or

(b) in the case of a widow or dependant entitled in consequence of the death of such employee to compensation under the Workmen's Compensation Act 1925 or to death benefit under the National Insurance (Industrial Injuries) Act 1946.

(2) If the remuneration of any such employee or former employee is reduced on account of his absence from employment through sickness or ill-health at any time during the period of one year before his retirement or six months before his death his remuneration at the time of his retirement or (as the case may be) at the time of his death shall for the purposes of this section be deemed to be his remuneration immediately before such reduction or (if there be more than one) immediately before the first such reduction.

(3) In this section the word " remuneration " has the same meaning as in the Local Government Superannuation Act 1937.

Payment of
pension &c. of
person of
unsound mind.

63.—(1) Subject to the provisions of this section where a person entitled to receive from the Council any sum to which this section applies is lawfully detained as a person of unsound mind in accordance with the Lunacy and Mental Treatment Acts 1890 to 1930 as amended by any enactment or is an inmate of a mental hospital as a temporary patient or voluntary patient the Council may pay the whole of that sum or so much thereof as they think fit to the institution or person having the care of such person and may pay or apply the whole or so much as they think fit of the surplus (if any) thereof to or for the maintenance or benefit of the wife or husband or relations of such person.

(2) Subject to the provisions of this section where a person entitled to receive from the Council any sum to which this section applies is in the opinion of the Council through mental infirmity incapable of managing his affairs the Council may pay or apply the whole or so much as they think fit of that sum to or for the maintenance or benefit of such person or of his wife or husband or relatives.

(3) This section applies to any sum payable by the Council to an employee or former employee or pensioner of the Council or the widow or a child of a deceased employee or pensioner by way of salary wages pension superannuation or other allowance or annuity or gratuity or by way of repayment with or without interest of contributions made to any superannuation or other fund being either a lump sum not exceeding one hundred pounds or an instalment of a periodical payment not exceeding one hundred pounds per annum.

(4) Not less than fourteen days before exercising for the first time in relation to any person their power under this section the Council shall give to the Master in Lunacy notice in writing of their intention in that behalf specifying the name and address of that person and the amount and nature of the sums in respect of which the Council intend to exercise the said power and in relation to any person to whom subsection (2) of this section applies the Council shall at the same time give notice in writing to that person in a form approved by the Master in Lunacy:

Provided that the Council may with the approval of the Master in Lunacy exercise the powers of this section in respect of any person notwithstanding that the said period of fourteen days has not expired.

(5) If at any time the Master in Lunacy gives to the Council notice in writing that he objects to the exercise by the Council of the said power in relation to any person the said power shall as from the date of the receipt by the Council of the notice cease to be exerciseable by the Council in relation to that person unless and until the master withdraws the notice.

64.—(1) On the death of an employee (which expression in this section includes a former employee or pensioner) of the Council to whom or to whose legal personal representative a sum not exceeding one hundred pounds is due on account of salary wages superannuation allowance gratuity grant or repayment of contributions to any superannuation or other fund with or without interest if probate of the will of the employee or letters of administration to his estate are not produced within such time (not being less than one month after his death) as the Council may think reasonable then

As to payments due to deceased employees.

PART VII.
—cont.

15 & 16 Geo. 5.
c. 23.
16 & 17 Geo. 5.
c. 60.

at the expiration of that time the Council may pay the sum to the person or persons entitled in distribution to the residuary estate of the employee in accordance with the provisions of paragraphs (i) to (vi) inclusive of section 46 (1) of the Administration of Estates Act 1925 and section 9 of the Legitimacy Act 1926:

Provided that—

- 9 & 10 Geo. 6.
c. 67.
- (a) the Council may (notwithstanding the receipt of a notice under paragraph (b) of this subsection) pay to any person who has paid the funeral expenses of the deceased employee such amount (not exceeding the total amount of such expenses) as the Council shall deem it reasonable to allow having regard to any death grant which has been or is to be paid under section 22 of the National Insurance Act 1946;
- (b) if the Council receive notice in writing of any claim against the estate of the deceased employee at any time before they shall have paid the whole of such sum in accordance with the provisions of this subsection they shall not (except in any case in which the provisions of section 46 (1) (vi) of the Administration of Estates Act 1925 are applicable) pay such sum or the balance thereof in their hands to any person other than to the personal representative of the deceased employee unless and until such claim has been satisfied disproved or withdrawn.

(2) The Council before paying or distributing any moneys under this section to or among any person or persons other than the legal personal representative of the deceased employee shall require—

- (a) a statutory declaration or (when payment is made to the Crown or to the Duchy of Lancaster or to the Duchy of Cornwall) a statement by the person or one of the persons to whom the Council may pay and propose to pay such sum or any part thereof to the effect that the total estate of the deceased employee (including such sum but after deduction of debts and funeral expenses) does not exceed four hundred pounds; or
- (b) the production of a certificate from the Commissioners of Inland Revenue to the effect that no death duties are payable in respect of such moneys or that any duties so payable have been paid.

Interest orders
and dividend
warrants by
post.

65.—(1) The Council may give notice to any person being registered as a holder of any security of the Council that they intend to send interest or dividends to him by post if he does not object and if such person does not within fourteen days

from the receipt of such notice give notice to the Council of such objection the Council may from time to time send letters containing orders for the payment of interest or dividend warrants to the address of such person appearing in the register:

Provided that if such person give notice to the Council that he desires such orders or warrants to be sent to another person at a given address the Council may from time to time send letters containing the same to such other person at such address.

(2) Where more persons than one are registered as joint holders of any security of the Council any one of them may for the purpose of this section be regarded as the holder of the security unless contrary notice has been given to the Council by any other of them.

(3) The posting by the Council of a letter containing an order for the payment of interest or a dividend warrant in pursuance of this section shall as respects the liability of the Council be equivalent to the delivery of the order or warrant to the registered holder of the security of the Council.

(4) Every order or warrant so sent by post shall be deemed to be a cheque and the Council shall in relation thereto be deemed a banker within the Bills of Exchange Act 1882.

45 & 46 Vict.
c. 61.

(5) The provisions of this section shall not apply with respect to the sending of interest warrants on any stock created by the Council in pursuance of any regulations made by the Minister under section 204 of the Act of 1933.

PART VIII.

FINANCIAL PROVISIONS RELATING TO LOCAL AUTHORITIES.

66.—(1) With the consent of the Minister a local authority may establish a fund to be called "the capital fund" for the purpose of defraying any expenditure to which capital is properly applicable (other than expenditure in connection with the local authority undertakings as from time to time existing from which revenue is derived) to an amount not exceeding in any one transaction such sum as the Minister may prescribe in relation to each local authority or such greater sum as he may allow in any particular case and such fund shall be formed by appropriating in the accounts of the local authority such sums out of the general rate fund as the local authority from time to time deem expedient:

Capital fund
of local
authorities.

Provided that—

(a) any sum so appropriated to the capital fund from the general rate fund shall not exceed in any financial

PART VIII.
—cont.

year the equivalent of twice the product of a penny rate as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925;

(b) appropriations to and payments into the capital fund shall cease to be made whenever the said fund amounts to such sum as the Minister may prescribe.

(2) (a) Pending the application of the capital fund to the purposes authorised in subsection (1) of this section the moneys in the fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(b) Any income arising from the investment or use of the moneys in the capital fund in the manner provided by paragraph (a) of this subsection, and any income arising from the application of the fund to the purposes authorised shall be carried to the general rate fund and (subject to the limitation imposed by proviso (b) to subsection (1) of this section) an amount equivalent to such income shall be credited to the capital fund out of the general rate fund.

Renewal and
repairs fund
of local
authorities.

67. With the consent of the Minister the provisions of section 57 (Renewal and repairs fund) of this Act shall extend and apply to any local authority as if the general rate fund purposes and the general rate fund of such local authority were therein referred to instead of the general county purposes and county fund and as if such sum as the Minister may prescribe were therein referred to instead of the sum of fifty thousand pounds:

Provided that the renewal and repairs fund of a local authority shall not be applied to expenditure in connection with the undertakings of the local authority as from time to time existing from which revenue is derived or to buildings in respect of which the local authority is required by the Housing Act 1936 to keep a housing repairs account.

26 Geo. 5. &
1 Edw. 8.
c. 51.

Extension of
consolidated
loans fund
to local
authorities.

68. The provisions of section 58 (Consolidated loans fund of Council) of this Act shall apply to any local authority subject to the consent of the Minister and shall accordingly have effect as if—

(a) the local authority were therein mentioned in lieu of the Council;

(b) the general rate fund were therein referred to instead of the county fund;

(c) paragraph (c) of subsection (2) were omitted from that section.

69.—(1) With the consent of the Minister a local authority may exercise the powers of section 59 (Insurance fund of Council) of this Act and when such consent is given to the exercise of the powers by a local authority that section shall have effect as if such local authority were therein mentioned and the general rate fund were therein referred to instead of the county fund:

Provided that the Minister when giving his consent to a local authority to establish an insurance fund or at any time thereafter may determine the sum which for the purposes of the said section in its application to such local authority shall be "the prescribed amount."

(2) Two or more local authorities having power to exercise the powers of the said section may exercise that power jointly.

70. With the consent of the Minister a local authority may exercise the powers of section 60 (Power to issue bonds) of this Act and for this purpose the words "financial officer" may be substituted for the word "treasurer" in paragraph 4 of the schedule to this Act.

Power to local
authorities to
issue bonds.

71. The following provisions of this Act shall extend and apply to any local authority and to their employees as if such local authority were named therein instead of the Council and as if the general rate fund and the district were therein respectively referred to instead of the county fund and the county:—

Application
of certain
sections of
Part VII
to local
authorities.

- Section 61 (Expenses of public entertainment &c.);
- Section 62 (Payment of gratuities in certain cases);
- Section 63 (Payment of pension &c. of person of unsound mind);
- Section 64 (As to payments due to deceased employees);
- Section 65 (Interest orders and dividend warrants by post).

72. The council of a borough may pay reasonable expenses in connection with the presentation of the freedom of the borough to persons whom such council may resolve to admit as honorary freemen.

Expenses in
connection
with
presentation
of freedom.

73.—(1) Subsection (3) of section 2 of the Public Health (Interments) Act 1879 shall be extended to enable any local authority to maintain in perpetuity or for such period as they may determine a grave or grave space or monument in any burial ground or cemetery provided or maintained by them and to accept a sum of money from any person in consideration of such maintenance.

Maintenance
of graves in
burial grounds.
42 & 43 Vict.
c. 31.

(2) Any local authority may apply for the purposes of this section any sum of money received by them before the passing of this Act in consideration of such maintenance.

PART VIII.
—cont.

(3) Any local authority may invest in statutory securities the whole or any part of any such sum as is referred to in subsection (1) or subsection (2) of this section or use the same in manner provided by section 68 (Extension of consolidated loans fund to local authorities) of this Act.

Recovery of
rate &c. from
persons
removing.

74. If a justice is satisfied on complaint by any officer of a local authority duly authorised that any person is quitting or about to quit any premises in the district and has failed to pay on demand any general rate water rate or water charge which may be due from him and intends to evade payment of the same by departing from the said premises the justice may in addition to issuing a summons for non-payment of the same issue a warrant under his hand authorising the person named therein forthwith to enter the premises and to seize sufficient goods and chattels of the defaulter to meet the claim of the local authority and to detain them until the complaint is determined upon the return of the summons.

As to recovery
of rates from
tenants and
lodgers.

75. For the purposes of section 15 of the Rating and Valuation Act 1925 the rates due from the person rated for any hereditament within the district shall be deemed to be in arrear if such rates are not paid within two months after lawful demand in writing has been made for the same.

As to
operation of
section 11 of
Rating and
Valuation Act
1925.

76. A local authority may at any time by resolution determine with respect to any hereditament for the time being belonging to them the rent of which is payable or is collected at intervals of less than a quarter of a year to do any of the things which owners may do by agreement with the rating authority under subsection (2) of section 11 of the Rating and Valuation Act 1925 with the like conditions and consequences (other than the condition as to agreement in writing with the rating authority) as are applicable to owners under that section.

Recovery of
sums due for
fittings &c.

77. If a local authority commence proceedings against any consumer for the summary recovery of any sum due for a supply of gas any other sum due or payable to the local authority by the same consumer in respect of the sale or hire of any apparatus or fittings supplied or provided by them for or in connection with the consumption or use of gas or in respect of the provision of materials and work in connection therewith or the fixing setting up repairing altering maintaining or removal thereof may be included in the same summons and may be recovered summarily as a civil debt together with the sum due for the supply of gas provided that the sum so included as aforesaid does not exceed twenty pounds in any one summons.

PART IX.

PROTECTIVE PROVISIONS.

78. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the crown and in particular nothing herein contained authorises the Council 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 Crown Lands or of the Minister of Transport respectively without the consent in writing of the Commissioners of Crown Lands or the Minister of Transport as the case may be on behalf of His Majesty first had and obtained for that purpose. Crown rights..

79. It shall not be lawful to exercise the powers of borrowing conferred by this Act otherwise than in compliance with the provisions of the Local Authorities Loans Act 1945 or of any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946. Saving for powers of Treasury. 8 & 9 Geo. 6. c. 18. 9 & 10 Geo. 6. c. 58.

80. Nothing in this Act shall authorise the execution of any works on over or under tidal lands below high-water mark of ordinary spring tides except in accordance with such plans and sections and subject to such restrictions and regulations as previous to such works being commenced have been approved by the Minister of Transport. Works below high-water mark.

81. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act. Saving for town and country planning.

82.—(1) Nothing in this Act shall authorise the Council to execute or to require the commission to execute any works in through or under or so as to affect any railway lands or works of the commission without the consent of the commission: Saving for British Transport Commission.

Provided that consent under this section shall not be unreasonably withheld and if any question arises as to whether or not consent is unreasonably withheld either party may require that it shall be referred to an arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers and save as aforesaid the provisions of the Arbitration Acts 1889 to 1934 and of any Act amending the same shall apply with respect to such arbitration.

PART IX.
—cont.

(2) Upon an arbitration under this section if the arbitrator shall determine that the proposed works are such as the Council are not authorised to execute or require to be executed without the consent of the commission and that the works would cause injury to the commission of such a nature as not to admit of being fully compensated by money the works shall not be executed but in any other case the works shall be executed subject to compliance with such conditions including the payment of such compensation as the arbitrator shall determine.

For protection
of electricity
boards.

83. For the protection of the British Electricity Authority and the North Western Electricity Board (each of whom are in this section referred to as "the electricity board") the following provisions shall unless otherwise agreed in writing between the Council and the electricity board apply and have effect:—

(1) In this section "apparatus" means all or any electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to the electricity board;

(2) Not less than twenty-eight days before the Council pursuant to section 5 (Crossings for horses or vehicles over footways &c.) of this Act—

(a) make or require the construction of a carriage-crossing across any portion of any footway or grass verge in or under which portion any apparatus is for the time being situate; or

(b) allow the use of any such portion of any footway or grass verge as a crossing subject to the condition that it is strengthened or adapted;

the Council shall give notice to the electricity board and if in consequence of the making of the crossing across such portion of any footway or grass verge or the strengthening or adaptation of such portion of any footway or grass verge it shall be reasonably necessary to alter the position or depth of the apparatus under the footway or grass verge the electricity board may (and if so required by the Council shall) alter the apparatus by relaying the apparatus in such position and at such depth as may be reasonable:

(3) The electricity board within fourteen days after the receipt of the notice from the Council referred to in subsection (2) of this section shall give to the Council not less than fourteen days' notice of their intention to divert or alter the position or depth of any

45 & 46 Vict.
c. 56.

apparatus (otherwise than on the requirement of the Council) and shall at the same time deliver to the Council a plan and section of the proposed diversion alteration or relaying. If such plan and section are not disapproved by the Council within fourteen days from the receipt thereof the position and depth of the apparatus shown thereon shall be deemed to be reasonable:

- (4) The Council shall pay to the electricity board the amount of any expenses reasonably incurred by the electricity board in or in connection with—
 - (a) the relaying or alteration of apparatus under or in accordance with subsection (2) of this section; or
 - (b) the removal or any alteration of any service line rendered necessary by reason or in consequence of any such relaying or alteration:
- (5) The provisions of section 18 of the schedule to the Electric Lighting (Clauses) Act 1899 shall extend and apply to the exercise by any person of the powers of section 8 (Making of lines of rails on county roads) of this Act as if such person were a gas or water company and the lines of rails were mains or pipes within the meaning of the said section 18:
- (6) If any structure erected by the Council or any local authority or parish council under the powers of section 10 (Power to provide shelters &c.) of this Act is situate over any apparatus laid or placed before the erection of the structure and the electricity board at any time after such erection give to the Council the local authority or parish council as the case may be notice of their desire to obtain access to such apparatus the Council the local authority or parish council as the case may be shall either remove temporarily the structure or so much thereof as shall require to be so removed in order to afford such access or (if the Council the local authority or parish council as the case may be determine not to remove the structure or part thereof) bear any additional expense due to the existence of the structure which may reasonably be incurred by the electricity board in obtaining such access:
- (7) No offence shall be deemed to have been committed by the electricity board against the provisions of Part VI of this Act where it is shown to the court having cognisance of the case that the electricity board are using the best practicable and reasonably

PART IX.
—cont.

available means to prevent the commission of such an offence:

- (8) Any difference which may arise between the Council or any local authority or parish council and the electricity board under this section (other than a difference as to the meaning or construction of this section which does not arise in the course of the arbitration) shall be referred to and determined by an arbitrator to be agreed upon between the parties or failing such agreement to be appointed on the application of either party (after notice to the other of them) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to the reference.

For protection
of National
Coal Board.

84. The following provisions for the protection of the National Coal Board (in this section referred to as "the board") shall unless otherwise agreed in writing between the Council and the board apply and have effect (that is to say):—

- (1) Nothing in Part VI of this Act shall apply to water in the same condition as that in which it has been drained or raised from a mine vested in the board:
- (2) No offence shall be deemed to have been committed by the board against the provisions of Part VI of this Act where it is shown to the court having cognisance of the case that the board are using the best practicable and reasonably available means to prevent the commission of such an offence:
- (3) The provisions of section 101 (Recovery of penalties &c.) and section 103 (Restriction on right to prosecute) of this Act shall not apply to offences committed by the board against Part VI of this Act and in lieu thereof the following provisions of the Rivers Pollution Prevention Act 1876 as amended by any subsequent enactment shall apply as if such offences were offences against Part III of that Act (that is to say):—
- Section 6 (Restrictions on proceedings under this Part of the Act);
- Section 10 (Offences to be restrained by summary order of county court);
- Section 11 (Appeal from county court and removal of case into High Court);
- Section 12 (Certificate of inspector of Ministry of Health as to best practicable means);
- Section 13 (Restrictions on proceedings on offences):

- (4) Any notice given by the Council to the board pursuant to section 37 (Clearing of streams) and section 40 (Notice for discontinuance of pollution) of this Act shall not be effective unless given with the previous consent in writing of the Minister:
- (5) No order shall be made under section 43 (Power to stop up or divert outlets of sewers &c.) of this Act in relation to any sewer drain pipe or channel used by the board unless notice of the intention to apply for such an order shall have been given to the board.

85. No power conferred by section 35 (Power to improve flow &c.) section 36 (For prevention of floods) or section 37 (Clearing of streams) of this Act shall be exercised by the Council in relation to any part of a stream forming part of the boundary between the county and any other administrative county or any county borough without the consent in writing of the council of that county or county borough which consent may be given subject to reasonable terms and conditions:

For protection of adjoining authorities.

Provided that consent under this section shall not be unreasonably withheld and any question as to whether or not consent is unreasonably withheld or whether any terms or conditions are unreasonable shall be referred to an arbitrator to be appointed in default of agreement by the Minister of Agriculture and Fisheries and save as aforesaid the provisions of the Arbitration Acts 1889 to 1934 and any Act amending the same shall apply with respect to such arbitration.

86. The following provisions for the protection of the mayor aldermen and citizens of the city of Carlisle (in this section referred to as "the corporation") shall unless otherwise agreed in writing between the Council and the corporation apply and have effect:—

For protection of Carlisle Corporation.

- (1) In this section "apparatus" means the mains pipes and other apparatus belonging to the corporation in connection with their gas and water undertakings:
- (2) Not less than twenty-eight days before the Council pursuant to section 5 (Crossings for horses or vehicles over footways &c.) of this Act—
- (a) make or require the construction of a carriage-crossing across any portion of any footway or grass verge in or under which portion any apparatus is for the time being situate; or
- (b) allow the use of any such portion of any footway or grass verge as a crossing subject to the condition that it is strengthened or adapted;

the Council shall give notice to the corporation and if in consequence of the making of the crossing across

PART IX.
—cont.

such portion of any footway or grass verge or the strengthening or adaptation of such portion of any footway or grass verge it shall be reasonably necessary to alter the position or depth of the apparatus under the footway or grass verge the corporation may (and if so required by the Council shall) alter the apparatus by relaying the apparatus in such position and at such depth as may be reasonable:

- (3) The corporation within seven days after the receipt of the notice from the Council referred to in subsection (2) of this section shall give to the Council not less than seven days' notice of their intention to divert or alter the position or depth of any apparatus (otherwise than on the requirement of the Council) and shall at the same time deliver to the Council a plan and section of the proposed diversion alteration or relaying. If such plan and section are not disapproved by the Council within fourteen days from the receipt thereof the position and depth of the apparatus shown thereon shall be deemed to be reasonable:
- (4) The Council shall pay to the corporation the amount of any expenses reasonably incurred by the corporation in or in connection with—
 - (a) the relaying or alteration of apparatus under or in accordance with subsection (2) of this section; or
 - (b) the removal or any alteration of any communication or supply pipes rendered necessary by reason or in consequence of any such relaying or alteration;
- (5) If any structure erected by the Council or any local authority or parish council under the powers of section 10 (Power to provide shelters &c.) of this Act is situate over any apparatus laid or placed before the erection of the structure and the corporation at any time after such erection give to the Council the local authority or parish council as the case may be notice of their desire to obtain access to such apparatus the Council the local authority or parish council as the case may be shall either remove temporarily the structure or so much thereof as shall require to be so removed in order to afford such access or (if the Council the local authority or parish council as the case may be determine not to remove the structure or part thereof) bear any additional expense due to the existence of the structure which may reasonably be incurred by the corporation in obtaining such access:

(b) Any difference which may arise between the Council or any local authority or parish council and the corporation under this section (other than a difference as to the meaning or construction of this section which does not arise in the course of the arbitration) shall be referred to and determined by an arbitrator to be agreed upon between the parties or failing such agreement to be appointed on the application of either party (after notice to the other of them) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to the reference.

PART X.

MISCELLANEOUS.

87.—(1) The Council notwithstanding that the same may not be immediately required may by agreement purchase or acquire or take on lease and hold any lands which in their opinion it is desirable that the Council should acquire for or in connection with the purposes of any of their powers or duties or for the benefit improvement or development of the county.

Further powers for acquisition of lands.

(2) When any lands purchased or acquired or taken on lease by the Council under this section shall be appropriated to any of their powers or duties a financial adjustment in respect of their value at the time of appropriation shall be made in the accounts of the Council.

88.—(1) The Council may contribute towards the expenses incurred by any local authority or parish council or properly constituted joint board or committee of any local authorities or any trustees or public bodies in connection with the acquisition laying out and maintenance of land as and for any open space for public use and recreation.

Power for Council to contribute to open spaces.

(2) Any covenant entered into with the Council in respect of the use of such land in consideration of any such contribution shall be binding on the owner and occupier for the time being thereof and may be enforced by the Council to the like extent as if they were possessed of or interested in adjacent land and as if the covenant had been entered into for the benefit of that land.

89.—(1) The Council any local authority or parish council may erect and maintain such posts and signs as may be necessary for the purpose of warning persons of dangerous conditions existing in the vicinity of such posts and signs with the consent of the owner in fee simple of the land in which it is proposed to erect the same and of any person having the control or management of such land.

As to warning posts and signs.

PART X.
—cont.

(2) The Council may contribute to the expenses incurred by a local authority or parish council in exercising the powers of this section:

Provided that nothing in this section shall be in derogation of any order or regulations made by the Minister of Transport in respect of traffic signs or any general or special directions given by him in pursuance of section 48 of the Road Traffic Act 1930.

20 & 21 Geo. 5.
c. 43.

Provision of
boats and
life-saving
apparatus.

90.—(1) Any local authority may provide and maintain boats for the purpose of saving life on the sea or on any river lake or water to which the public have access and may employ persons in connection therewith.

(2) The Council may contribute towards the cost of the provision and maintenance of boats and life-saving apparatus by a local authority or by any body or person and the services of persons in connection therewith.

Expenses of
rescue of
persons in
distress.

91. The Council may defray such reasonable expenses as may be incurred in the rescue or succour of persons in distress on the hills coast or other parts of the county.

Preservation
and
publication
of records.

92.—(1) The Council may preserve arrange index classify and publish such records deeds and other documents of the county and of the Council or such extracts from them or reference to their contents as the Council may think to be of public interest.

(2) A local authority may publish such charters deeds records and other documents as are referred to in subsection (2) of section 279 of the Act of 1933 or such extracts from them or reference to their contents as they may think to be of public interest.

Power to
advertise
advantages of
county or
rural district.

93. The Council or the council of a rural district may advertise the advantages facilities and amenities afforded by the county or the rural district in any manner which the Council or the council of the rural district may think fit and for that purpose may—

(a) combine with any other organisation company or person and with any local authority authorised in that behalf; and

(b) expend a sum which shall not in any financial year exceed in the case of the Council the equivalent of twice the product of a penny rate levied in the county and in the case of the council of a rural district the equivalent of three times the product of a penny rate levied in the rural district as respectively ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925:

Provided that nothing in this section shall empower the Council or the council of the rural district to advertise the advantages facilities and amenities aforesaid in any newspaper published within the county or the rural district.

94.—(1) A local authority may make byelaws for the purpose of securing the cleanliness of any premises in any district used for the purpose of carrying on the business of a hair-dresser or barber and of the instruments towels equipment and materials used in such premises. Byelaws as to hairdressers' and barbers' premises.

(2) Every person responsible for the use of any such premises shall keep exhibited in a suitable place a copy of the byelaws made by the local authority under this section.

(3) As respects byelaws made under this section the confirming authority for the purpose of section 250 of the Act of 1933 shall be the Minister.

95. Every person who negligently breaks throws down or otherwise damages any public lamp or lamp-post street-refuge tree public clock public seat or shelter traffic sign within the meaning of subsection (9) of section 48 of the Road Traffic Act 1930 road-mirror sewer-ventilator bin or other receptacle for the reception or deposit of litter or the collection of dust ashes and rubbish or any street sand-bin or ambulance call point or fire alarm or notice board or life-saving apparatus or boat being the property of the Council or any local authority or highway authority or a joint board or a joint committee of local authorities or a parish council or any fence rail or post placed by the Council or any local authority or highway authority or a parish council in any road or roadside waste thereof or in any place to which the public have access under the provisions of any enactment shall make full compensation to the Council or such local authority or highway authority or joint board or joint committee of local authorities or parish council for the damage done and the amount of such compensation not exceeding twenty pounds shall without prejudice to any other right or remedy be recoverable summarily as a civil debt. Compensation for injuring lamps &c.

96. Any local authority may collect and dispose of any bottles glass tins or other dangerous materials found on the beach or foreshore of the district to which the public have access: Bottles &c. on the foreshore

Provided that a local authority shall not dispose of any wreck within the meaning of Part IX of the Merchant Shipping Act 1894 otherwise than in accordance with the provisions of that Act. 57 & 58 Vict. c. 60.

PART X.

—cont.

School
agreements.

97.—(1) Any agreement entered into between the Council and the parent or guardian of a pupil at any secondary school may make provision for the payment by such parent or guardian to the Council of any sum not exceeding ten pounds in the event of the pupil ceasing without reasonable cause to attend such school before the date fixed by such agreement for the pupil to cease such attendance and the Council shall be entitled without proof of any actual damage incurred by reason of such pupil ceasing to attend such school to recover from such parent or guardian any sum not exceeding the sum specified in the agreement which the court may think fit to award in all the circumstances of the case.

(2) For the purposes of this section the expression "secondary school" includes—

- (a) a secondary school as defined by section 114 of the Education Act 1944; and
- (b) a school in respect of which grants are paid by the Minister of Education under regulations made in pursuance of paragraph (b) of subsection (1) of section 100 of that Act and in which secondary education as defined by section 8 of the Act is provided.

98. Notwithstanding anything contained in the Lands Clauses Consolidation Act 1845 it shall be lawful for the High Court at any time not being less than twelve years after any sum has been deposited by the Council or a local authority in the bank in pursuance of section 76 of that Act or deposited by the Council or a local authority in the bank by way of security in pursuance of section 85 of that Act to order upon application by the Council or the local authority that the money so deposited or the fund in which the sum shall have been invested together with the accumulations thereto shall be repaid or transferred to the Council or the local authority:

Provided that upon the application of any party making claim to the money deposited as aforesaid or any part thereof or to the lands in respect whereof the same shall have been deposited or any part of such lands or any interest in the same the High Court may order such money as has been repaid or transferred to the Council or the local authority under the provisions of this section or any part thereof to be paid to the person making such claim and may make such other order in the premises as to the court shall seem fit.

99. Any certificate of appointment or authority of any officer servant solicitor or agent of the Council or a local authority or of any committee thereof or any minute resolution order or report of the Council or a local authority or any

Recovery of
deposit under
Lands Clauses
Consolidation
Act 1845.
8 & 9 Vict.
c. 18.

Evidence of
appointments
authority
&c.

committee thereof purporting to be authenticated by the signature of the chairman or of the clerk of the Council or the local authority shall be received as prima facie evidence thereof without further proof.

PART X.
—cont.

100. Where under any general or local Act the Council or a local authority give their consent to the execution of any work or the doing of any act or thing subject to any terms or conditions which they are authorised to impose any breach of any such terms or conditions shall be deemed as regards liability to a penalty and other consequences equivalent to the execution of the work or the doing of the act or thing without the required consent and the provisions of this section shall mutatis mutandis apply to conditions imposed by any highway authority under any provision of this Act.

Breach of
conditions of
consent.

101. Save as otherwise by this Act expressly provided all offences against this Act and all penalties forfeitures costs and expenses imposed or recoverable under this Act or any by-law made in pursuance thereof may be prosecuted and recovered in a summary manner:

Recovery of
penalties &c.

Provided that costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts where the amount does not exceed twenty pounds.

102.—(1) No matter or thing done and no contract entered into by the Council and no matter or thing done by any member of the Council or by any officer of the Council or other person whomsoever acting under the direction of the Council shall if the matter or thing were done or the contract were entered into bona fide for the purpose of carrying out any powers or duties of the Council subject any member or officer of the Council or other person as aforesaid personally to any action liability claim or demand whatsoever and any expense incurred by the Council or any such member officer or other person acting as aforesaid shall be borne and repaid out of the county fund and county rate:

Protection of
Council and
their officers
from personal
liability.

Provided that nothing in this section shall exempt any member of the Council from liability to be surcharged with the amount of any payment which may be disallowed by the auditor in the accounts of the Council and which such member authorised or joined in authorising.

(2) The provisions of section 265 of the Public Health Act 1875 affording protection to local authorities and their officers from personal liability shall enure for the benefit of any member of any local authority and any officer of such authority or other person acting under the direction of such

PART X.
—cont.

authority in relation to the execution by such local authority officer or person of the provisions of this Act.

Restriction
on right to
prosecute.

103. Section 298 (Restriction on right to prosecute) of the Public Health Act 1936 shall apply to offences created by or under the following sections or Part of this Act or any byelaws made thereunder as if they were offences created by or under that Act:—

Section 6 (Hoards to be set up during building operations);

Section 19 (Power to provide &c. entertainments);

Section 31 (Further provisions as to moveable dwellings);

Section 32 (Byelaws as to camping grounds);

Part VI (Protection of streams);

Section 94 (Byelaws as to hairdressers' and barbers' premises);

Section 96 (Bottles &c. on the foreshore).

As to appeals.

104.—(1) Any person aggrieved by any requirement refusal or other decision of the Council or highway authority or the council of an urban district or of any officer thereof under the following sections of this Act:—

Section 5 (Crossings for horses or vehicles over footways &c.);

Section 6 (Hoards to be set up during building operations);

Section 14 (Water from buildings &c. to be conveyed to sewers);

Section 16 (Carriage-crossings at ends of private streets);

Section 37 (Clearing of streams);

may appeal to a court of summary jurisdiction.

(2) The procedure upon any such appeal shall be by way of complaint for an order and the Summary Jurisdiction Acts shall apply to the proceedings.

(3) The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the requirement refusal or decision was published or served upon the person desiring to appeal and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(4) In any case in which such an appeal lies the document notifying the requirement refusal or decision in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought unless these have already been stated in a notice to the person concerned informing him of his right to a hearing before the Council or highway authority or council of an urban district with regard to the same matter.

(5) Where a person aggrieved by any order determination or other decision of a court of summary jurisdiction under this Act is not by any other enactment authorised to appeal to a court of quarter sessions he may appeal to such a court.

(6) Where any requirement refusal order determination or other decision against which a right of appeal is conferred by this Act involves the execution of any work or the taking of any action or makes it unlawful for any person to carry on any business which he was lawfully carrying on up to the time of such requirement refusal order determination or other decision or to use any premises for any purpose for which they were lawfully used up to such time—

(a) no proceedings in respect of any failure to execute the work or take the action shall be taken;

(b) the Council or highway authority or council of an urban district shall not execute such work or take such action; and

(c) any such person may carry on such business and use such premises for such purpose;

until the time for appealing has expired or when an appeal is lodged until the appeal has been disposed of or withdrawn or fails for non-prosecution thereof.

(7) Where upon an appeal under this Act a court varies or reverses any requirement refusal or other decision of the Council or highway authority or council of an urban district effect shall be given to the order of the court and in particular any necessary consent certificate or other document shall be granted or issued and any necessary entry in any register shall be made.

105. The sections of the Public Health Act 1936 hereinafter mentioned shall have effect as if they were re-enacted in this Act and in terms made applicable thereto and as if the expression "local authority" included the Council and any local authority (that is to say):—

Application of provisions of Public Health Act, 1936.

Subsection (1) of section 283 (Notices to be in writing; forms of notices &c.);

PART X.
—cont.

- Section 284 (Authentication of documents);
 Section 285 (Service of notices &c.);
 Section 287 (Power to enter premises);
 Section 288 (Penalty for obstructing execution of Act);
 Section 292 (Power to make a charge in respect of establishment expenses);
 Section 297 (Continuing offences and penalties);
 Section 299 (Inclusion of several sums in one complaint &c.);
 Section 304 (Judges and justices not to be disqualified by liability to rates);
 Section 328 (Powers of Act to be cumulative):

Provided that the said sections 287 288 and 292 shall not apply to the provisions contained in Part VI (Protection of streams) of this Act.

Inquiries by
Ministers.

106. The Minister or the Minister of Transport or the Minister of Agriculture and Fisheries as the case may be may hold such inquiries as he may consider necessary in regard to the exercise of any powers conferred upon him or the giving of consents or approvals under this Act as if such powers were conferred by and such consents or approvals were required to be given under the Act of 1933 and subsections (2) to (5) of section 290 of that Act shall apply accordingly.

Costs of Act.

107. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council out of the county fund or out of moneys to be borrowed under this Act.

The SCHEDULE referred to in the foregoing Act.

PROVISIONS AS TO 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 seven years as the issuing authority may determine.

2. (a) Bonds may be issued at such price and at such rates of interest as the issuing authority may from time to time determine Provided that bonds shall not be issued at a price lower than par except with the consent of the Minister.

(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 issuing authority.

(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 issuing authority 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 place and on the dates specified in the certificates issued in respect of the 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 treasurer of the issuing authority shall keep a 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 and description 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 Act and of the title of the persons entered therein as holders of bonds.

5.—(1) The issuing authority 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.

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

(3) If a certificate is lost or destroyed the issuing authority on proof thereof to their satisfaction and if they so require on receiving

in respect of the bond enter the name of the transferee in the register 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 the certificate have been delivered to the issuing authority as aforesaid the issuing authority 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 issuing authority before registering a transfer of a bond may if they think fit require evidence by statutory declaration or otherwise of the title of any person claiming to make the transfer.

8.—(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 by the production of such evidence of title as the issuing authority 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 issuing authority shall issue a certificate accordingly.

(2) Until such evidence as aforesaid has been furnished to the issuing authority they 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.

9. The issuing authority 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.

10. The production to the issuing authority of any document which is by law sufficient evidence of probate of the will or letters of administration of the estate or confirmation as executor of a deceased person having been granted to some person shall notwithstanding anything in this schedule be accepted by the issuing authority as sufficient evidence of the grant.

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
York House, Kingsway, London, W.C.2 ; 13a Castle Street, Edinburgh, 2 ;
39-41 King Street, Manchester, 2 ; 1 St. Andrew's Crescent, Cardiff ;
Tower Lane, Bristol 1 ; 80 Chichester Street, Belfast

OR THROUGH ANY BOOKSELLER

Price 2s. 6d. net

(72515)