



## CHAPTER xl.

An Act to transfer to and vest in the Sidmouth Urban District Council the undertaking of the Sidmouth Water Company and to authorise that council to supply water and to construct further waterworks to confer further powers upon them in regard to their gas undertaking to make further and better provision with regard to the health local government and finance of the district and for other purposes.

A.D. 1933.

[18th July 1933.]

**W**HEREAS by the Sidmouth Water Act 1886 the Sidmouth Water Company (in this Act called "the company") were incorporated and authorised to make waterworks and supply water within the limits therein described :

And whereas by the Sidmouth Water Act 1932 (in this Act called "the Act of 1932") the company's limits of supply were extended and further powers were conferred on the company :

And whereas the urban district of Sidmouth (in this Act called "the district") is under the local government of the Sidmouth Urban District Council (in this Act called "the Council") :

And whereas by section 116 of the Act of 1932 it was provided that if the Council should deposit in the then next session of Parliament a Bill for an Act to empower

A.D. 1933. — them to purchase the undertaking of the company and should bona fide promote the same the company should not oppose such Bill except in so far as they might deem necessary in order to secure the insertion therein of provisions in accordance with that section to protect their interests with respect to the sale and purchase provided for by that section and to provide for the winding up of the company :

And whereas it was further provided by the said section 116 of the Act of 1932 that if the Council should obtain such an Act authorising such purchase they should as from the twenty-ninth day of September one thousand nine hundred and thirty-three purchase and the company should sell and transfer to the Council for the price or for the consideration of forty-eight thousand two hundred and fifty pounds the undertaking of the company as defined by the said section freed from any then existing debenture mortgage or other debts or liabilities of the company but subject to any other obligations of the company under the Acts of Parliament relating to the company :

And whereas it is expedient to empower the Council to purchase the undertaking of the company in accordance with the provisions hereinbefore recited and to make provision for carrying such purchase into effect and for enabling the Council to carry on the said undertaking as provided by this Act :

And whereas it is expedient to empower the Council to make and maintain the waterworks by this Act authorised and to acquire the lands necessary for that purpose :

And whereas under the powers conferred on them by the Sidmouth Urban District Council Act 1912 the Council purchased the undertaking of the Sidmouth Gas and Electricity Company and are supplying gas both within and without the district and it is expedient to confer further powers upon the Council with reference to their gas undertaking :

And whereas it is expedient to make further and better provision with regard to the health local government and finance of the district and to enlarge the powers of the Council with regard thereto as provided by this Act :

And whereas it is expedient that the other provisions contained in this Act should be enacted : A.D. 1933.

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

And whereas estimates have been prepared for the purposes hereinafter mentioned and such estimates are as follows :—

	£
For the purchase of land and easements for the waterworks authorised by the Act of 1932 - - - - -	900
For the construction of the waterworks authorised by the Act of 1932 - - -	21,700
For the purchase of land and easements for the waterworks authorised by this Act - - - - -	230
For the construction of the waterworks authorised by this Act - - - - -	320

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

And whereas a plan and section showing the lines and levels of the works authorised by this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the county council of Devon which plan section and book of reference are in this Act respectively referred to as the deposited plan section and book of reference :

And whereas in relation to the promotion of the Bill for this Act the requirements of the Borough Funds Acts 1872 and 1903 have been observed :

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

A.D. 1933. Parliament assembled and by the authority of the same  
— as follows :—

## PART I.

## PRELIMINARY.

Short title. 1. This Act may be cited as the Sidmouth Urban  
District Council Act 1933.

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

Part I.—Preliminary.

Part II.—Transfer of undertaking &c.

Part III.—Waterworks.

Part IV.—Lands.

Part V.—Supply of gas.

Part VI.—Streets buildings sewers and drains.

Part VII.—Infectious disease and sanitary provisions.

Part VIII.—Baths seashore parks &c.

Part IX.—Financial.

Part X.—Miscellaneous.

Incorporation of Acts. 3. The following Acts and parts of Acts (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are incorporated with and form part of this Act (that is to say) :—

The Lands Clauses Acts except section 127 of the Lands Clauses Consolidation Act 1845 relating to the sale of superfluous lands :

Provided that the bond required by section 85 of the said Act of 1845 shall be under the common seal of the Council and shall be sufficient without the addition of the sureties mentioned in that section ;

The Waterworks Clauses Acts 1847 and 1863 except the words “ with the consent in writing of the “ owner or reputed owner of any such house or “ of the agent of such owner ” in section 44 of the said Act of 1847 and except sections 75 to 82 of that Act with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and except section 83 relating to accounts ;

The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and in such provisions for the purposes of this Act "the railway" and "the centre of the railway" shall be construed to mean the line or lines of pipes by this Act authorised. A.D. 1933.

4.—(1) In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith or by the Public Health Acts 1875 to 1925 or referred to therein have the same respective meanings unless there be something in the subject or context repugnant to such construction. Interpreta-  
tion.

(2) In this Act unless the subject or context otherwise requires—

"The Council" means the Sidmouth Urban District Council;

"The district" means the urban district of Sidmouth;

"The clerk" "the surveyor" "the treasurer" "the medical officer" and "the sanitary inspector" mean respectively the clerk the surveyor the treasurer the medical officer of health and any sanitary inspector of the district and respectively include any officer duly authorised to discharge temporarily the duties of those officers;

"The Minister" means the Minister of Health;

"The company" means the Sidmouth Water Company;

"The Act of 1886" "the Act of 1912" and "the Act of 1932" respectively mean the Sidmouth Water Act 1886 the Sidmouth Urban District Council Act 1912 and the Sidmouth Water Act 1932;

"The appointed day" means the twenty-ninth day of September one thousand nine hundred and thirty-three;

"The undertaking of the company" includes all the lands easements streams springs waters buildings waterworks machinery mains pipes

A.D. 1933.  
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plant apparatus and furniture contracts plans engineering reports and other documents and other property of the company other than stock-in-trade and stores and all rights powers privileges and interests vested in and belonging to or had or enjoyed by the company at the transfer save and except—

(a) All sums standing to the credit of the company at any bank or otherwise and all sums standing to the credit of any reserve or other fund and all cash in hand (except consumers' deposits) at the appointed day and all debts accrued due to the company up to that day; and

(b) The directors' minute books and other books and papers relating exclusively to the shareholders in and the members and constitution of the company;

“The water undertaking” means and includes the water undertaking of the Council and the works connected therewith vested in and transferred to them by or under this Act and the waterworks authorised by this Act and all waterworks which may hereafter be constructed or acquired under the powers of any Act or Order;

“The water limits” means the limits for the time being of the Council for the supply of water;

“The gas undertaking” means the gas undertaking of the Council for the time being authorised;

“The gas limits” means the limits for the time being of the Council for the supply of gas;

“The Lands Clauses Acts” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 and by this Act;

“The tribunal” means the tribunal or other authority to whom any question of disputed purchase money or compensation under this Act is referred in pursuance of the Acquisition of Land (Assessment of Compensation) Act 1919;

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

- “ Child ” means a person under the age of sixteen years ; A.D. 1933.
- “ Sunday school ” means any school in which children are assembled for instruction on a Sunday or specially for religious instruction whether on a Sunday or not ;
- “ Infectious disease ” means (except where otherwise stated) any infectious disease to which the Infectious Disease (Notification) Act 1889 is for the time being applicable within the district ;
- “ The seashore ” means and includes the seashore foreshore and all the beach within the district ;
- “ Telegraphic line ” has the same meaning as in the Telegraph Act 1878 ;
- “ The Public Health Acts ” means the Public Health Act 1875 and the Acts amending and extending the same ;
- “ The general rate fund ” and “ the general rate ” mean respectively the general rate fund and the general rate of the district ;
- “ 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 Act of Parliament public or local passed or to be passed or under any Provisional Order confirmed by Act of Parliament passed or to be passed or under any order or sanction of any Government department made or given or to be made or given by authority of any Act of Parliament passed or to be passed ;
- “ 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

A.D. 1933.  
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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 Council;

“Revenues of the Council” includes the revenues of the Council from time to time arising from any land undertakings or other property for the time being of the Council and the rates or contributions leviable by or on the order or precept of the Council.

## PART II.

## TRANSFER OF UNDERTAKING &amp;C.

Sale and  
purchase of  
undertaking  
of company.

5.—(1) The company shall sell and the Council shall purchase as from the appointed day the undertaking of the company freed from any then existing debenture mortgage or other debts or liabilities of the company.

(2) The consideration for the sale and purchase shall be—

- (i) the payment by the Council to the company on the appointed day of the sum of forty-eight thousand two hundred and fifty pounds;
- (ii) the repayment to the company of any capital expenditure in respect of the works of the company incurred with the consent of the Council after the sixth day of June one thousand nine hundred and thirty-two; and
- (iii) the assumption by the Council of any obligations of the company under the Acts of Parliament relating to the company other than debenture mortgage or other debts or liabilities.

(3) If the said sum of forty-eight thousand two hundred and fifty pounds and any further sum payable under the last preceding subsection of this section is not paid on the appointed day the Council shall pay to the company interest thereon at the rate of five pounds per centum per annum from the appointed day until the day of actual payment thereof.

(4) In the event of the company not having executed before the completion by the Council of the purchase of



the undertaking of the company a deed required to carry into effect the arrangement already agreed to between Ethel Mary Marker of the one part and the company of the other part and proposed to be substituted for the lease dated the twenty-sixth day of December one thousand eight hundred and ninety-three and made between Charlotte Sophia Lousada and Thomas John Marker of the one part and John Edmond Heugh Balfour and Kenneth Robert Balfour of the other part being a lease of water rights on and over Pin Hill Estate in the parish of Sidbury the Council shall adopt the said arrangement and carry the same into effect in accordance with the terms and conditions already agreed.

A.D. 1933.

6. On payment by the Council to the company of the said sum of forty-eight thousand two hundred and fifty pounds in accordance with the provisions of this Act and any further sum payable under the last preceding section of this Act the undertaking of the company shall by virtue of this Act and without further assurance or other authority become and shall as from the appointed day stand transferred to and be vested in and belong to the Council freed from any then existing debenture mortgage or other debts or liabilities of the company but subject to any other obligations of the company under the Acts of Parliament relating to the company and such transfer and vesting is referred to in this Act as "the transfer."

Transfer and vesting of undertaking of company to and in Council.

7. Until the transfer the company shall maintain and carry on their undertaking as heretofore in the ordinary course of business but the company shall not without the previous consent of the Council make or enter into any new contract agreement liability or other obligation in respect thereof which shall involve a capital expenditure of more than one hundred pounds.

Exercise of powers until transfer.

8. The Council before the transfer and thereafter the company their solicitors and agents shall be entitled to have access to and to take copies of all documents to be handed over or handed over to the Council so far as the same may be necessary for the purposes of enabling the Council or the company to execute any of the provisions of this Part of this Act including the borrowing of money by the Council therefor and the Council shall also be entitled at any time and for the like purpose to

Inspection of books &c.

A.D. 1933. — have access to and to take copies of all documents to be retained by the company.

Receipt for purchase money.

9. The receipt in writing of two directors of the company for any money paid to the company by the Council under the provisions of this Act shall effectually discharge the Council from the sum which in such receipt shall be acknowledged to have been received and from being bound to see to the application thereof or from being answerable or accountable for the loss mis-application or non-application thereof. Provided that if from any cause the Council are unable to obtain such receipt they may pay the money into the Bank of England in the name of the Accountant-General of the Supreme Court to an account to be opened in the matter of this Act and a receipt shall be given to the Council by the cashier of the said bank for the money which shall have the same effect as the receipt of such two directors.

Evidence of transfer.

10. The production of a King's Printer's copy of this Act duly stamped together with a receipt for the purchase money purporting to be signed by two directors of the company or by the cashier of the Bank of England shall (unless it can be proved that the purchase money has not been paid) be conclusive evidence in all courts and proceedings of the transfer.

Company to pay outgoing and to be entitled to receipts until transfer.

11. The company shall be entitled to receive and recover all debts accrued due to the company up to the appointed day and shall pay and discharge all debts and liabilities incurred by them at any time (including the expense of the winding up of the company) except capital expenditure in respect of the works of the company incurred with the consent of the Council since the sixth day of June one thousand nine hundred and thirty-two under subsection (4) of section 116 of the Act of 1932 and the Council shall be entitled to all rates rents and sums of money accruing due as from the appointed day and shall discharge all outgoing and liabilities incurred as from that day in respect of the undertaking.

Employment of or compensation to inspector of company.

12. The Council shall as from the appointed day take over and employ Ernest Lake the inspector of the company if he is willing to enter their service at a rate of remuneration equivalent to that which the said Ernest Lake was receiving from the company on the twenty-seventh day of November one thousand nine hundred

A.D. 1933.

and thirty-one or as may be otherwise agreed between the Council and the company. If the Council shall dispense with the service of the said Ernest Lake within five years after he has entered their service on account of his services not being required and not on the ground of misconduct the Council shall pay to him by way of compensation for loss of office such an amount as may be agreed between the Council and the said Ernest Lake or failing such agreement as shall be determined by a single arbitrator to be agreed upon between the Council and the said Ernest Lake or in default of agreement to be appointed on the application of either party by the Minister. Provided that such compensation whether agreed or determined shall not exceed the compensation which would be payable under the Sixth Schedule to the Rating and Valuation Act 1925 if the said Ernest Lake were an officer to whom that schedule applied and service with any water undertakers in any capacity were services under a local authority for the purposes of paragraph 2 of that schedule.

**13.** Stocks-in-trade and stores purchased in the ordinary course of business and held by the company at the time of the transfer shall be purchased by the Council at a fair valuation and if the purchase money for the said stocks-in-trade and stores is not paid by the Council on the appointed day the Council shall pay to the company interest thereon at the rate of five pounds per centum per annum from the appointed day until the day of actual payment thereof.

**14.** The company shall make up the accounts of the undertaking of the company up to the time of the transfer as near as may be in the usual form and have the same audited by the auditors of the company and shall deliver copies of such accounts to the Council.

**15.**—(1) No action suit prosecution or other proceeding whatsoever commenced either by or against the company in relation to any property right privilege debt liability or obligation transferred to the Council shall abate or be discontinued or prejudicially affected by reason of the transfer but the same shall continue and take effect either in favour of or against the Council in the same manner in all respects as the same would have continued and taken effect in relation to the company

A.D. 1933.

if the transfer had not been made and all penalties incurred by reason of any offence against the provisions of any enactments of the company previously to the transfer may be sued for and all offences committed against such provisions previously to the transfer may be prosecuted by the Council in such or the like manner to all intents and purposes as such penalties might have been sued for or such offences prosecuted if the transfer had not taken place.

(2) This section shall not apply to any proceedings relating to the amount due to the shareholders of the company in respect of their several holdings of shares in the company.

Contracts  
&c. to be  
binding on  
Council.

**16.** All agreements contracts deeds and other instruments affecting the company and in force at the time of the transfer shall after the transfer be as binding and of as full force and effect against or in favour of the Council and may be continued or enforced as fully and effectually as if instead of the company the Council had been a party thereto.

Books &c.  
to remain  
evidence.

**17.** All books and documents which if the transfer had not been made would have been evidence in respect of any matter for or against the company shall be admitted in evidence in respect of the same and the like matter for or against the Council.

Company  
to wind up  
affairs.

**18.—(1)** From and after the transfer all obligations of the company with reference to the supply of water shall cease and determine and from and after the transfer the company shall continue to exist only for the purpose of receiving and recovering the sums payable to the company under this Act and distributing or otherwise applying the same and of winding up the affairs of the company and carrying into effect the purposes of this Act so far as they relate to the company. The directors of the company who are in office at the time of the transfer and the survivors or survivor of them shall continue without re-election to hold the office of directors of the company and they or a majority of them shall have full power and authority to take all necessary proceedings for carrying into effect the several purposes of this section. If the number of directors of the company be reduced by death resignation or otherwise below two before the completion of the winding up the continuing director

shall from time to time choose a shareholder or shareholders of the company to fill the vacancy or vacancies so caused.

A.D. 1933.  
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(2) As soon as may be practicable after the transfer the directors of the company shall proceed to wind up the affairs of the company and shall distribute the net moneys of the company after defraying the expenses of winding up the company and any outgoings incidental thereto amongst the shareholders of the company and for that purpose the several persons whose names shall appear in the books of the company at the time of the transfer to be the proprietors of shares therein shall unless the contrary be proved to the satisfaction of the directors be considered to be shareholders of the company and the receipt in writing of such persons or of their executors administrators or assigns or of the committee or guardian of the estate of any such person who shall be an idiot lunatic or minor shall be an effectual discharge to the company and the directors thereof.

(3) Where the directors of the company are for six months after the transfer unable after diligent inquiry to ascertain the person to whom any money ought to be paid or who can give an effectual receipt for the same the directors may pay the said money in manner provided for payment of money into court by any Act for the time being in force for the relief of trustees and where the amount does not exceed five hundred pounds the directors may pay the same into the county court of Devon holden at Exeter and every such payment into court shall effectually discharge the company and the directors from all further liability with respect to such money Upon the provisions of this section being carried into effect the company shall ipso facto be dissolved.

19.—(1) As from the transfer all the powers rights privileges authorities duties and obligations of the company under the provisions of the Act of 1886 set forth in the First Schedule to this Act and under the provisions of the Act of 1932 as amended by this Act shall be by virtue of this Act transferred to vested in and imposed on the Council and the Council may continue and maintain the waterworks constructed by the company and the said provisions shall be read and have effect as if the Council had been therein named instead of the company Provided that the Act of 1932 shall apply

Application  
of com-  
pany's Acts  
to Council.

A.D. 1933. to the Council subject and according to the following exceptions and provisions (namely) :—

- (1) The provisions of the Companies Clauses Consolidation Act 1845 and of the Companies Clauses Act 1863 (as amended by subsequent Acts and by the Act of 1932) incorporated with the Act of 1932 shall not apply to the Council :
  - (2) None of the provisions of the Act of 1932 or of any Acts incorporated therewith in any manner relating to the share or loan capital of the company or to any limitation of the amount of profit to be received or to be carried forward at the end of any year by the company or the undertakers or to the constitution meetings directors or auditors of the company shall apply to the Council :
  - (3) In the provisions of the Waterworks Clauses Acts 1847 and 1863 incorporated with the Act of 1932 " the undertakers " shall mean the Council :
  - (4) In the provisions of the Lands Clauses Acts incorporated with the Act of 1932 " the promoters of the undertaking " shall mean the Council and the expression " the Lands Clauses Acts " in section 2 (Incorporation of general Acts) of the Act of 1932 shall mean the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 and as from the transfer the first proviso to subsection (3) of section 2 of the Act of 1932 shall be repealed :
  - (5) The expression " the scheduled deeds " defined in section 3 of the Act of 1932 shall include as well as the deeds set out in the Third Schedule to the Act of 1932 any deed substituted for the lease dated the twenty-sixth day of December one thousand eight hundred and ninety-three particulars of which are set out in the said Third Schedule as contemplated and provided by subsection (12) of section 116 of the Act of 1932.
- (2) As from the transfer (a) so much of the Act of 1886 as was not repealed by the Act of 1932 and as is not set forth in the First Schedule to this Act and (b) the sections of the Act of 1932 mentioned in the

Second Schedule to this Act shall be repealed except so far as may be necessary to give effect to the section of this Act of which the marginal note is "Company to wind up affairs" Provided that notwithstanding such repeal all arrears of rates and charges payable under the provisions of the said Acts and all rates and charges payable thereunder in respect of any period before the appointed day may be collected and recovered by the company as if this subsection had not been enacted.

A.D. 1933.  
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20. The Council shall have and may exercise the powers which a local authority would have under section 54 of the Public Health Act 1875 with respect to the carrying of water mains within and without their district and for the purposes of that section the water limits shall be deemed to be the district :

Application of provisions of Public Health Acts as to laying of water mains.

Provided that the Council shall not exercise such powers through across or under any lands or property belonging to the Southern Railway Company and used for the purposes of their undertaking without the consent of that company but such consent shall not be unreasonably withheld.

21. The Minister may if he thinks fit from time to time on the application of the Council or the Honiton Rural District Council or of twenty consumers of water within the water limits by order vary either by way of increase or decrease the rates and charges for the supply of water which the Council are by this Act authorised to charge and such order may provide for the alteration of the basis of such rates and charges Provided that the rates and charges prescribed in any such order shall be of such amounts as in the opinion of the Minister will provide a reasonable sum as a contribution towards a reserve fund in respect of the water undertaking so long as such fund does not amount to the maximum prescribed in relation to that fund by the section of this Act of which the marginal note is "Application of revenue of undertakings" :

Revision of water rates.

Provided also that in the absence of exceptional reasons the Minister shall not alter the maximum rates and charges at less intervals than every five years.

22.—(1) The Council may demand water rates and charges by half-yearly instalments in advance on the first day of April and the first day of October in each year but

Dates for payment of water rates.

A.D. 1933. — so that the same shall not be recoverable until the expiration of two months from the said first day of April and first day of October respectively.

(2) Every person liable to the payment of such rate or charge who shall remove from the premises in respect of which the rate or charge is paid during any part of the period for which the rate or charge is payable shall not be liable for any part of such rate or charge after the day on which he quits the said premises and if any such person shall have paid any rate or charge for any period for which he is not liable he shall be entitled to repayment thereof by the Council.

(3) Every person who shall commence to occupy any premises in respect of which a rate or charge for the supply of water for domestic purposes is payable after the commencement of the period for which the rate or charge is payable shall pay so much of such rate or charge as is proportionate to the period for which he occupies the premises.

Water rate  
may be  
collected  
with general  
rate.

**23.** Any water rate or charge payable to the Council may be collected together with the general rate and the same books may be used for the said rates and charges.

### PART III.

#### WATERWORKS.

Power to  
make water-  
works.

**24.—**(1) Subject to the provisions of this Act the Council may in the lines and situation shown upon the deposited plan and upon the lands delineated on the deposited plan and described in the deposited book of reference and according to the levels shown on the deposited section make and maintain the following works in the parish of Sidbury in the county of Devon (that is to say) :—

Work No. 1 A collecting tank situate in the enclosures numbered 90 and 94 on the 1/2500 Ordnance map Devonshire sheet LXX.15 second edition 1905;

Work No. 2 A line or lines of pipes commencing in Work No. 1 and terminating in the existing main of the company in the enclosure numbered 100A on the said Ordnance map.



A.D. 1933.

(2) In addition to the foregoing works the Council may upon the said lands make and maintain all such tanks filter beds overflows shafts tunnels adits bores aqueducts culverts conduits mains drains banks telegraphs telephones and other subsidiary works engines machinery plant buildings and apparatus as may be necessary or convenient in connection with or subsidiary to the before-mentioned works or any of them but nothing in this subsection shall exonerate the Council from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them :

Provided that any telegraphs or telephones made and maintained under the provisions of this section shall not be used for the transmission of any telegram which is within the exclusive privilege which is conferred upon the Postmaster-General by the Telegraph Act 1869 and shall not be constructed maintained or used in such a manner as to interfere with any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

**25.** In the construction of the works authorised by this Act the Council may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plan and they may also deviate vertically from the levels shown on the deposited section to any extent not exceeding five feet upwards and to any extent downwards :

Limits of deviation.

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

**26.** Subject to the provisions of this Act the Council may collect impound take use divert and appropriate for the purposes of the water undertaking or for any purposes of this Act all such springs streams and waters as may be taken or intercepted by the collecting tank (Work No. 1) authorised by this Act or as may be situate or flowing upon the lands shown on the deposited plan as within the limit of land to be acquired for the works authorised by this Act.

Power to take waters.

**27.—(1)** If the works authorised by this Part of this Act are not completed within the period of five years from the passing of this Act then on the expiration of

Period for completion of works.

A.D. 1933. — that period the powers by this Act granted for the making thereof or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

(2) Provided that the Council may extend enlarge alter reconstruct renew or remove any of their works and plant and in the case of the conduits or lines of pipes authorised by this Act lay down additional lines of pipes as and when occasion may require.

Byelaws for preventing pollution of water.

**28.**—(1) The Council may make byelaws for preventing the pollution fouling or contamination of the water which they are authorised to take for the purposes of the water undertaking and may by such byelaws prescribe the construction maintenance and use of proper drains sewers and works and make provision for the prevention of any act or thing tending to pollution of the water.

(2) The byelaws made under this section shall be in force within the district and the parish of Sidbury or within such parts of the district and that parish as may be defined in the byelaws.

(3) In addition to the requirements of section 184 of the Public Health Act 1875 the Council shall exhibit in some conspicuous place in the said parish copies of the notice referred to in that section and any landowner who may be affected by any such byelaws shall be entitled to be furnished with a copy thereof and to oppose the confirmation thereof.

(4) A copy of any such byelaws shall be sent to the clerk of the county council of Devon and to the clerk to the Honiton Rural District Council one month at least before application is made for their confirmation and before confirming the byelaws the Minister shall have regard to any representations thereon which may be made within the said month by the said county council or the said rural district council.

(5) The Council shall pay compensation to the owners of and other persons interested in any lands in respect of which byelaws shall be made under the provisions of this section whose legal rights shall be injuriously affected by the restrictions imposed by such byelaws or who are required by such byelaws to construct any works or to do any act or thing which could not lawfully be required by the local sanitary authority of

the district in which such lands are situate and such compensation shall be settled in default of agreement by arbitration in accordance with the provisions of the Arbitration Act 1889.

A.D. 1933.

(6) Notwithstanding anything in section 253 of the Public Health Act 1875 proceedings for the recovery of any penalty imposed by any byelaw made under this section may be taken by the Council without the consent in writing of the Attorney-General.

#### PART IV.

#### LANDS.

**29.** Subject to the provisions of this Act the Council may enter upon take appropriate and use all or any of the lands delineated on the deposited plan and described in the deposited book of reference which they may require for the purposes of this Act.

Power to acquire lands.

**30.** The powers of the Council for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the first day of October one thousand nine hundred and thirty-three.

Period for compulsory purchase of lands.

**31.** If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plan or specified in the deposited book of reference the Council after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two justices acting for the county of Devon for the correction thereof and if it appear to the justices that the omission misstatement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and such certificate shall be deposited with the clerk of the county council of Devon and duplicates thereof shall also be deposited with the clerk of the Honiton Rural District Council and with the clerk of the Sidbury parish council and such certificate and duplicates respectively shall be kept by such clerks respectively with the other documents to which the same relate and thereupon the deposited plan and book of reference shall be deemed to be corrected according to such certificate

Correction of errors in deposited plan and book of reference.

A.D. 1933. — and it shall be lawful for the Council to take the lands and execute the works in accordance with such certificate.

Council may acquire easements only in certain cases.

**32.**—(1) The Council may in lieu of acquiring any lands—

(a) for the purposes of the works authorised by this Act where the same are intended to be constructed underground; and

(b) for the purpose of obtaining a right of way to the works authorised by this Act through the enclosures numbered 8 to 13 inclusive on the deposited plan and in the book of reference;

acquire such easements or rights only in such lands as they may require for such purposes (including the making maintaining repairing inspecting cleansing managing using working and obtaining access to such underground works) and may give notice to treat in respect of such easements and rights describing the nature thereof and the provisions of the Lands Clauses Acts shall apply to and in respect of the acquisition of such easements and rights as fully as if the same were lands within the meaning of such Acts.

(2) As regards any lands in respect of which the Council have acquired easements or rights only under the provisions of this section the Council shall not be required or entitled to fence off or sever such lands from the adjoining lands but the owners or occupiers for the time being shall at all times after the completion of the works and subject to such easements or rights and any other restrictions imposed upon the owners and occupiers have the same rights to use and cultivate the said lands as if this Act had not passed.

(3) Every notice to treat for the acquisition of an easement or right or the imposition of any restriction shall either contain or be endorsed with notice of this provision.

Compensation in case of recently acquired interest.

**33.** For the purpose of determining any question of disputed compensation payable in respect of lands taken under the powers of this Act the tribunal shall not award any sum of money for or in respect of any improvement alteration or building made or for or in respect of any interest in the land created after the first day of November nineteen hundred and thirty-two if in

the opinion of the tribunal the improvement alteration or building or the creation of the interest in respect of which the claim is made was not reasonably necessary and was made or created with a view to obtaining or increasing compensation under this Act.

A.D. 1933.

**34.** The Council and their surveyors officers and workmen and any person duly authorised in writing under the hand of the clerk may at all reasonable times upon giving in the first instance twenty-four hours' and subsequently twelve hours' previous notice in writing enter upon the lands by this Act authorised to be taken and used or any of them for the purpose of surveying and valuing the said lands without being deemed trespassers and without being subject or liable to any fine penalty or punishment on account of entering or continuing upon any part of the said lands.

Power to Council to enter upon property for survey and valuation.

**35.** The tribunal shall if so required by the Council award and declare whether a statement in writing of the amount of compensation claimed has been delivered to the Council by the claimant giving sufficient particulars and in sufficient time to enable the Council to make a proper offer and if the tribunal shall be of opinion that no such statement giving sufficient particulars and in sufficient time shall have been delivered and that the Council have been prejudiced thereby the tribunal shall have power to decide whether the claimant's costs or any part thereof shall be borne by the claimant :

Costs of arbitration in certain cases.

Provided that it shall be lawful for any judge of the High Court to permit any claimant after seven days' notice to the Council to amend the statement in writing of the claim delivered by him to the Council in case of discovery of any error or mistake therein or for any other reasonable cause such error mistake or cause to be established to the satisfaction of the judge after hearing the Council if they object to the amendment and such amendment shall be subject to such terms enabling the Council to investigate the amended claim and to make an offer de novo and as to postponing the hearing of the claim and as to costs of the inquiry and otherwise as to such judge may seem just and proper under all the circumstances of the case :

Provided also that this section shall be applicable only in cases where the notice to treat under the Lands

A.D. 1933. — Clauses Consolidation Act 1845 either contained or was endorsed with a notice of the effect of this section.

Persons  
under  
disability  
may grant  
easements  
&c.

**36.** Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Council any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Reservation  
of water  
rights &c.  
on sale.

**37.** The Council on selling any lands acquired by them in connection with their water undertaking and not required for the purposes of that undertaking may reserve to themselves all or any of the water rights or other easements belonging thereto and may make the sale subject to such reservations accordingly and may also make such sale subject to such other reservations special conditions restrictions and provisions with respect to the use of water exercise of noxious trades or discharge or deposit of manure sewage or impure matter and otherwise as they may think fit.

Further  
powers for  
acquisition  
of land.

**38.**—(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 the Council should acquire for or connected with the purposes of any of their undertakings powers or duties or for the benefit improvement or development of the district and with the consent of the Minister may borrow money for the purchase or acquisition of such lands or for the payment of any capital sum payable under a lease thereof Any money so borrowed shall be repaid within such period as may be prescribed by the Minister.

(2) When any lands purchased or acquired or taken on lease by the Council under this section shall be appropriated to any undertaking or to any of their powers or duties a transfer of the outstanding loan in respect thereof shall be effected to the proper account in the books of the Council and pending such appropriation all

expenses incurred by the Council under this section shall be payable out of the general rate fund and general rate. A.D. 1933.  
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**39.**—(1) Notwithstanding anything in any other Act or Acts or otherwise to the contrary the Council may retain hold and use for such time and for such purpose as they may think fit or may sell lease exchange or otherwise dispose of in such manner and for such consideration and purpose and on such terms and conditions as they may think fit and in case of sale either in consideration of the execution of works or of a supply of water or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands or any interest therein acquired by them under this Act or the Act of 1932 or any general or local Act for the time being in force in the district (other than the Housing Acts 1925 and 1930 or any enactment repealed thereby) and may sell exchange or dispose of any rents reserved on the sale lease exchange or disposition of such lands or interests therein and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange : Power to retain sell &c. lands.

Provided that the Council shall not without the consent of the Minister sell lease exchange or otherwise dispose of any such lands or any interests therein at a price or rent or for a consideration of a value less than the current market value of such lands or interests but a purchaser or lessee shall not be concerned to inquire whether the consent of the Minister is necessary or has been obtained.

(2) Nothing in this section shall be taken to authorise the Council to manufacture gas or residual products or to store gas except in accordance with the provisions of the Gasworks Clauses Act 1871 nor to dispense with the necessity for obtaining the consent of any Government department to any sale lease appropriation or other disposition of any lands of the Council in any case in which such consent would be required if this Act had not been passed.

(3) Nothing in this section contained shall release the Council or any person purchasing or acquiring any lands from them under this section from any rents covenants restrictions reservations terms or conditions made payable

A.D. 1933. by or contained in any conveyance lease or other deed or instrument by which any such lands were or may hereafter be conveyed or leased to or otherwise acquired by the Council or any person from or through whom the Council may have derived or may hereafter derive title to the same but all such rents covenants restrictions reservations terms and conditions shall remain and be of as full force and effect and may be recovered exercised enjoyed and enforced in like manner and to the same extent as if this Act had not been passed.

Proceeds of  
sale of  
surplus  
lands.

40.—(1) The Council may so far as they consider necessary apply subject to the approval of the Minister any capital moneys received by them on the re-sale or exchange of or by leasing any lands acquired under the authority of this Act or the Act of 1932 in the purchase of other lands but as to capital moneys so received and not so applied the Council shall apply the same in or towards the extinguishment of any loan raised by them under the powers of this Act or any other Act and such application shall be in addition to and not in substitution for any other mode of extinguishment of such loan except to such extent and upon such terms as may be approved by the Minister.

(2) Any capital moneys received by the Council on the re-sale or exchange of or by leasing any lands acquired under any Act (other than this Act or the Act of 1932) shall be applied in the same manner as capital moneys received under the Act under which the land was acquired are applicable or in such other manner as may be approved by the Minister.

## PART V.

### SUPPLY OF GAS.

Relief from  
obligation  
to supply.

41.—(1) Unless at the date of the demand for any such new or increased supply of gas as is hereinafter referred to the capacity of the distribution works of the Council is in the opinion of an arbitrator appointed as hereinafter provided insufficient to meet (with a reasonable margin) the requirements (as existing immediately before that date) of the consumers in the portion of the gas limits for which such works have been provided (so far as such requirements could reasonably have been foreseen) the Council notwithstanding anything contained



in any other enactment shall not be obliged to give for any purpose other than lighting or domestic use—

A.D. 1933.

- (a) a new supply of gas for the premises of any person demanding such supply at any time after the passing of this Act; or
- (b) an increased supply of gas (other than an increased supply necessitated by any reduction of the declared calorific value of the gas);

where the giving of such new or increased supply would render necessary the laying of a new main or the making (as an alternative to the laying of a new main) of any enlargement or alteration of or addition to the distribution works of the Council.

(2) The foregoing provisions of this section shall not apply in any case in which the person demanding the new or increased supply (in this section referred to as "the applicant") shall enter into a written contract with the Council to—

- (i) receive and pay for a supply of gas of such minimum quantity and for such minimum period as the Council may reasonably require; or
- (ii) make such payment or payments to the Council (in addition to any payments to be made from time to time for gas supplied to the applicant) as the Council may reasonably require;

(according as the Council may in their discretion determine) in consideration of or by way of contribution towards the expenses to be incurred by the Council in laying such new main or making such enlargement alteration or addition as aforesaid and shall give such security for the payment of all moneys which may become due under the contract as the Council may reasonably demand.

(3) If any question shall arise under the provisions of this section between the Council and the applicant as to the sufficiency of the distribution works of the Council or as to whether such new or increased supply would necessitate the laying of a new main or the making of any such enlargement alteration or addition as aforesaid or as to the reasonableness of the minimum quantity or period or of the payments (in addition to payments for gas supplied) required by the Council or as to the

A.D. 1933.

— nature or amount of the security demanded by the Council such question shall be referred to and determined by an arbitrator to be appointed (failing agreement between the Council and the applicant) by the Board of Trade on the application of either party after notice in writing to the other of them and the decision of such arbitrator shall be final and binding.

(4) In determining any such question as aforesaid the arbitrator shall have regard to the following among other considerations (that is to say) :—

- (a) the total annual quantity of gas required by the applicant the maximum quantity required per hour and the hours of the day during which the Council may be called upon to supply gas to the applicant ;
- (b) the capital expenditure which the Council would have to incur in the laying of a new main or the making of any enlargement or alteration of or addition to their distribution works as aforesaid in connection with the giving of such new or increased supply ; and
- (c) how far such capital expenditure may become unproductive to the Council in the event of the cesser of the new or increased supply.

(5) Subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any arbitration under this section.

Supply of  
gas where  
consumer  
has separ-  
ate supply.

42. Notwithstanding anything in the Gasworks Clauses Act 1871 or any other Act a person shall not be entitled to demand or continue to receive for the purposes of a stand-by supply only from the Council a supply of gas for any premises having a separate supply of gas or a supply (in use or ready for use for the purposes for which the stand-by supply of gas is required) of electricity steam or other form of energy unless he has agreed to pay to the Council such minimum annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing such stand-by supply and will cover other standing charges incurred by them in order to meet the possible maximum demand for those premises The sum so to be paid shall be determined in default of agreement by arbitration in manner provided by the Arbitration Act 1889.

43.—(1) The power to enter premises in order to inspect meters fittings and works for the supply of gas and for the purpose of ascertaining the quantity of gas consumed or supplied conferred upon the Council by section 21 of the Gasworks Clauses Act 1871 shall extend to premises in which there is any service pipe connected with the gas mains of the Council except where the occupier of the premises shall have applied in writing to the Council for the disconnection of the service pipe from such gas mains and the Council fail to disconnect the service pipe within a reasonable time.

A.D. 1933.

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Additional  
powers of  
entry into  
premises.

(2) The power to enter premises and remove pipes meters and fittings or apparatus conferred upon the Council by section 22 of the Gasworks Clauses Act 1871 shall extend to all cases in which any person entering into occupation of any premises previously supplied with gas by the Council shall not require to take a supply of gas from the Council or to hire all or any of the pipes meters fittings or apparatus belonging to the Council.

(3) Where any premises which the Council are entitled to enter in pursuance of the said sections or this section are unoccupied the Council may after giving not less than forty-eight hours' notice to the owner thereof or if he is unknown to the Council and cannot be ascertained after diligent inquiry after affixing such notice upon a conspicuous part of the premises and after the expiration of the said period forcibly enter the same doing no unnecessary damage and repairing all damage caused by such entry and on quitting the premises shall leave the same secure. Provided that no notice under this subsection shall be necessary in cases of emergency.

(4) Any person who shall refuse or neglect to admit any officer appointed by the Council to any premises which he is entitled to enter in pursuance of the said sections of the Gasworks Clauses Act 1871 or this section or shall hinder any such officer from entering any such premises or from exercising the powers contained in any of the said sections shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

44.—(1) If the Council shall at any time serve notice upon any consumer to the effect that an officer or servant of the Council has reported after inspection of any piping or gas consuming appliance or fitting on such consumer's premises that he is of opinion that any

Power to  
compel  
repairs in  
case of  
danger.

A.D. 1933.

such piping or gas consuming appliance or fitting is in such a condition as to be dangerous such consumer shall forthwith carry out such works as may be necessary to remove the cause of danger. If the consumer shall fail forthwith to carry out such works as aforesaid the Council may stop the gas from entering the premises of such consumer by cutting off the service pipe or by such other means as the Council shall think fit. Any expenses lawfully incurred by the Council in cutting off the gas from such premises may be recovered by the Council from such consumer summarily as a civil debt.

(2) For the purpose of this section the Council shall have and may exercise the like powers of entry as are exerciseable under section 21 of the Gasworks Clauses Act 1871 as extended by this Act.

(3) The Council shall not under the powers of this section stop the gas from entering any premises of a railway company (not being a dwelling-house) until after they have given such company a reasonable notice of their intention to do so.

Inspection  
and testing  
of meters.

**45.** The Council's inspectors or servants shall at all reasonable times have access to and be at liberty to inspect take off remove test repair and replace meters which are the property of the Council and meanwhile to fix a substituted meter on the premises such inspection taking off removal testing repairing and replacing to be done at the expense of the Council. The expense of changing and testing meters which have been tested at the request of the consumer and found to be defective shall be borne by the Council but if the meter shall have been found not to be defective shall be borne by the consumer.

Charges for  
special  
reading of  
meters.

**46.** When at the request of and for the convenience of any consumer the reading of any meter in any premises takes place at a time other than that of the usual periodical reading the Council may levy and recover such charges as they think fit not exceeding one shilling for each such special reading.

Power to  
cut off  
supplies  
where  
charges &c.  
not wholly  
paid.

**47.** The powers of the Council under section 16 of the Gasworks Clauses Act 1847 of stopping supplies of gas and cutting off or disconnecting service pipes or works and under section 23 of the Gasworks Clauses Act 1871 of recovering the expenses incurred in such cutting off shall be exerciseable in any case in which any part

of any charge or sum due to the Council for gas supplied by them or in respect of any apparatus or fitting let on hire by the Council or supplied by them on hire-purchase terms and which the Council are under obligation to maintain remains unpaid after the expiration of such period from the demand thereof as the Council may from time to time determine. A.D. 1933.  
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**48.** For the purposes of section 60 (Power to supply gas fittings &c.) of the Sidmouth Gas and Electricity Act 1911 all engines stoves ranges pipes and other fittings therein referred to which are disposed of by the Council on the terms of payment by instalments shall until the whole of the instalments have been paid be deemed to be fittings let on hire by the Council. Fittings subject to hire purchase.

**49.** If the Council commence proceedings for the summary recovery of a sum due to them for a supply of gas any other sum or sums payable to the Council in respect of the sale or hire of any fittings supplied by them for or in connection with the supply of gas or 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 provided the amount due or payable in respect thereof does not exceed twenty pounds. As to recovery summarily of sums due for fittings.

**50.** The Council may supply gas to any house building or premises which or the curtilage of which is partly within and partly outside the gas limits in the same manner as if those premises were wholly within such limits. Supply to premises partly without gas limits.

**51.** Notices and demand notes orders or other documents in respect of charges leviable by and due to the Council for gas supplied by them may be served in the same manner as notices demand notes orders and other documents under the Rating and Valuation Act 1925 are by section 59 of that Act authorised to be served. Service of gas notices and demand notes.

## PART VI.

### STREETS BUILDINGS SEWERS AND DRAINS.

**52.** Where in the opinion of the Council repairs are required in the case of any street not being a highway repairable by the inhabitants at large to obviate As to urgent repairs of private streets.

A.D. 1933. — or remove danger to any passenger or vehicle in the street the Council may at their own expense execute such repairs as they deem necessary and the execution thereof shall not prejudice or affect the operation with regard to such street at any subsequent date of the provisions of any statutory provisions from time to time in force relating to private street works and private improvement expenses or similar matters or of section 19 of the Public Health Acts Amendment Act 1907 Provided that the cost of any such repairs shall not exceed five pounds in the case of any such street at any one time.

As to fire-plugs &c.

**53.** Any person who shall cover over or wilfully or negligently obstruct or interfere with the convenient access to any fire-alarm fire-plug or hydrant or who shall remove or efface any plate or mark indicating the position of such alarm plug or hydrant shall be liable to a penalty not exceeding five pounds and the Council may recover the expenses of replacement and making good from such person.

Direction signs.

**54.—**(1) The Council may cause to be put up or painted on a conspicuous part of any house building or place at or near to the corner of any street signs indicating the direction or the distance to towns railway stations public buildings and other places of a public character.

(2) In the exercise of the powers conferred by this section the Council shall be subject to any regulations or orders made by the Minister of Transport or any general or special directions given by such Minister with respect to traffic signs and signals in pursuance of the Road Traffic Act 1930.

(3) Before putting up or painting a sign on a house building or place the Council shall give notice thereof to the owner of such house building or place and such owner if aggrieved by such notice may appeal to a court of summary jurisdiction within one month after the service of such notice provided he give written notice of such appeal and of the grounds thereof to the clerk and the court shall have power to make such order as the court may think fit and to award costs.

Notice of the right to appeal shall be endorsed on every notice given by the Council under this section.

(4) Any person who shall wilfully and without the consent of the Council obliterate deface obscure remove or alter any such sign shall be liable to a penalty not exceeding forty shillings and the Council may recover the expenses of replacement and making good from such person.

A.D. 1933.

**55.** Every person who negligently or wilfully breaks throws down or otherwise damages any public lamp or lamp-post or street orderly bin or other receptacle for the temporary deposit and collection of dust ashes and rubbish or street sand bin being the property of the Council shall make full compensation to the Council for the damage done and such compensation to an amount not exceeding ten pounds shall be recoverable summarily as a civil debt.

Compensation for injuring lamps &c.

**56.—**(1) If any flag banner streamer sign or lettering shall after the passing of this Act be suspended across or over the carriage-way of any street without the consent in writing of the Council the owner of or person responsible for the suspension of such flag banner streamer sign or lettering shall be liable to a penalty not exceeding twenty shillings and shall forthwith (upon receiving notice in writing from the Council requiring him so to do) remove the flag banner streamer sign or lettering.

Banners and signs over streets.

(2) Any person neglecting or refusing to comply with the requirement of any such notice and any person who shall have removed any such flag banner streamer sign or lettering as is referred to in any such notice (whether the removal be effected before or after the receipt of the notice) and shall after such removal suspend the same or any similar flag banner streamer sign or lettering without the consent in writing of the Council or without complying with any conditions attaching to any such consent shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings and the Council may themselves remove any such flag banner streamer sign or lettering and any expense incurred by them in so doing may be recovered by them summarily as a civil debt from such person.

(3) For a period of two years from the passing of this Act the foregoing provisions of this section shall

A.D. 1933.

not apply to any such flag banner streamer sign or lettering as is referred to in subsection (1) of this section which was in use on the fifteenth day of November one thousand nine hundred and thirty-two.

(4) Any person aggrieved by any requirement of any notice of the Council or by the withholding of consent by the Council or the conditions attached to any such consent under the provisions of this section may within fourteen days after the service of such notice or the intimation to him of such withholding of consent or of the attaching of such conditions appeal to a court of summary jurisdiction provided he give written notice of such appeal and of the grounds thereof to the clerk before lodging his appeal and such court may and is hereby empowered to make such order in the premises and on such terms and conditions as to the court shall seem just. Notice of the right to appeal shall be endorsed on every notice or intimation of the Council under this section.

(5) The costs of any such appeal shall be paid in such manner and by such parties to the appeal as the court may direct.

Provisions  
as to fore-  
courts.

**57.**—(1) If the Council shall by resolution determine that any stall structure or other erection on or in which goods or articles are placed whether for sale or not in a front garden or forecourt within the district is by reason of its character injurious to the amenities of the street in which such garden or forecourt is situate they may by notice in writing require the owner of or person responsible for such stall structure or other erection within such period (not being less than seven days) as may be specified in the notice to make such alterations to such stall structure or other erection as may be necessary to prevent the same from being injurious to the amenities of such street.

(2) Any person neglecting or refusing to comply with the requirement of any such notice shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

(3) Any person aggrieved by any requirement of any notice of the Council under the provisions of this section may appeal to a court of summary jurisdiction within seven days after the service upon him of such notice by



the Council provided he give written notice of such appeal and of the grounds thereof to the clerk before lodging his appeal and the court shall have power to make such order as the court may think fit and to award costs. A.D. 1933.

(4) Notice of the right to appeal shall be endorsed upon every such notice served by the Council.

**58.**—(1) Every dwelling-house erected within the district after the passing of this Act shall be provided with sufficient and properly ventilated pantry or other food storage accommodation and any owner who shall occupy or allow to be occupied any such dwelling-house not so provided shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings. Food storage accommodation to be provided.

(2) (a) Every existing dwelling-house and every dwelling-house the erection of which was commenced before the passing of this Act shall where reasonably practicable be provided with sufficient and properly ventilated pantry or other food storage accommodation and any owner who shall occupy or allow to be occupied any such dwelling-house which can reasonably be so provided but which is not so provided after one month's notice from the Council requiring the same to be done shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(b) Any person aggrieved by any requirement of the Council under this subsection may appeal to a court of summary jurisdiction within seven days after the service of such notice provided he give twenty-four hours' written notice of such appeal and of the grounds thereof to the clerk and the court shall have power to make such order as the court may think fit and to award costs.

(c) Notice of the right to appeal shall be endorsed on every requirement of the Council under this subsection.

(3) If the owner of the dwelling-house alleges that any occupier should bear or contribute to the expenses of complying with any requirements of the Council under this section he may apply to the county court and thereupon the county court after giving the occupier an opportunity of being heard may make such order as

A.D. 1933. — appears to the court just and equitable in all the circumstances of the case.

Sanitary conveniences for workmen engaged on buildings.

**59.**—(1) The contractor or builder engaged in or upon the erection of a new building or the construction or reconstruction of any works shall where practicable provide to the reasonable satisfaction of the Council and until the completion of any such erection construction or reconstruction maintain such water or other closets and urinals in or in connection with such building or works as may be sufficient for the accommodation of the workmen employed.

(2) Any person who shall offend against this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

Closet accommodation in houses occupied by more than one family.

**60.**—(1) Section 36 of the Public Health Act 1875 shall with the necessary modifications apply to a part of a house within the district occupied by a separate family as it applies to the whole of a house.

(2) The provisions of subsections (1) (2) and (3) of section 7 of the Housing Act 1925 as amended by the Housing Act 1930 shall apply with any necessary modifications as if the same were set out in this section.

Combined drains.

**61.**—(1) If it appears to the Council that two or more houses may be drained more economically or advantageously in combination than separately and a sewer of sufficient size already exists or is about to be constructed within one hundred feet of any part of the premises the Council may when the drains of such houses are first laid order that such houses be drained by a combined drain to be constructed either by the Council if they so decide or by the owners in such manner as the Council shall direct and the costs and expenses of such combined drain and the repair and maintenance thereof shall be apportioned between the owners of such houses in such manner as the Council shall determine and if such drain is constructed by the Council such costs and expenses may be recovered by the Council from such owners subject to a right of appeal under subsection (4) of this section.

(2) Any combined drain constructed in pursuance of this section shall for the purposes of the Public Health Acts be deemed to be a drain and not a sewer.

(3) Provided that the Council shall not except by agreement with the owners exercise the powers conferred by this section in respect of any house for the drainage of which plans shall have been previously approved by them.

A.D. 1933.  
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(4) Any person deeming himself aggrieved by the amount of any costs and expenses proposed to be recovered by the Council under this section or the amount to be borne and paid by him may appeal to a court of summary jurisdiction provided that such appeal be made within two months from the date of the service of notice by the Council intimating the amount payable or their apportionment thereof. On any such appeal the court may and is hereby empowered to make such order in the premises and on such terms and conditions as to the court may seem just. The costs of any such appeal shall be paid in such manner and by such parties to the appeal as the court may direct.

**62.**—(1) Where two or more houses or premises are connected with a single private drain which conveys their drainage into a public sewer or into a cesspool or other receptacle for drainage the Council shall have all the powers conferred by section 41 of the Public Health Act 1875 and the Council may recover any expenses incurred by them in executing any works under the powers conferred on them by that section from the owners of the houses or premises in such proportions as shall be settled by the surveyor or (in case of dispute) by arbitration under the Public Health Act 1875 or by a court of summary jurisdiction and such expenses shall be recoverable summarily as a civil debt or the Council may declare them to be private improvement expenses and may recover them accordingly.

As to houses connected with single private drain.

(2) Section 19 of the Public Health Acts Amendment Act 1890 shall cease to be in force within the district.

(3) For the purposes of this section the expression "drain" includes a drain used for the drainage of more than one building whether owned or occupied by the same person or not.

**63.**—(1) In any case where it appears to the medical officer or sanitary inspector that any drain watercloset or soil-pipe is stopped up or otherwise defective the medical officer or sanitary inspector shall give notice to the

As to defective drains &c.

A.D. 1933.

owner or occupier of the premises to remedy such defect and if such notice is not complied with within twenty-four hours from the service thereof the Council may carry out the work necessary to remedy such defect and may subject as hereinafter provided recover the expenses incurred in that behalf from such owner or occupier in a summary manner as a civil debt.

(2) Upon any proceedings under this section the court may inquire whether any requirement contained in any notice given under this section or work done by the Council was reasonable and whether the expenses incurred by the Council in doing such work or any part thereof ought to be borne wholly or in part by the person to whom notice was given and the court may make such order concerning such expenses or their apportionment as appears to the court to be just and equitable in the circumstances of the case.

As to repair  
of drains.

**64.** If any drain (including any joint or combined drain) shall not be well and sufficiently maintained and kept in good repair to the satisfaction of the Council and if the owner or owners thereof shall fail to repair the same to the satisfaction of the Council within fourteen days after notice shall have been served on him or them requiring the drain to be repaired it shall be lawful for the Council if in their opinion such drain can be sufficiently repaired at a cost not exceeding thirty pounds to cause the same to be repaired and the expenses of such repairs may be recovered by them from the owner or owners thereof in such proportions as the surveyor shall determine :

Provided that where such expenses do not exceed twenty shillings the Council may remit the payment of the same by the owner or owners if they think fit.

Separate  
sewers for  
sewage and  
surface  
water.

**65.—(1)** For the purpose of facilitating the disposal of surface water and sewage the powers of the Council under section 157 of the Public Health Act 1875 shall extend to the making of byelaws requiring any person constructing or responsible for constructing a new street to provide separate sewers for the reception of surface water and of sewage respectively.

(2) The Council may also from time to time by resolution declare that any sewer or sewers for the time

being belonging to them shall be appropriated and used for surface water only or for sewage only. A.D. 1933.

(3) Where in any street provision has been made for separate sewers for surface water and for sewage as aforesaid no sewage shall be allowed to pass into the surface water sewer and so far as practicable no surface or storm water shall be allowed to pass into the sewage sewers.

(4) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(5) In the case of any house or premises existing at the time of the provision or appropriation of separate sewers as aforesaid the drains whereof would but for the passing of this Act have been sufficient effectually to drain such house or premises the Council shall at their own expense make all necessary alterations which they may require to the drains and pipes of such house or premises in order to keep separate the sewage and surface water drainage thereof and no penalty shall be incurred under this section in the case of such house or premises until the completion of such alterations as aforesaid.

**66.** Nothing in this Part of this Act except the sections whereof the marginal notes are—

Saving for  
railway  
companies.

“ Direction signs ” ;

“ Banners and signs over streets ” ;

“ Provisions as to forecourts ” ;

“ Sanitary conveniences for workmen engaged on buildings ” ;

“ Separate sewers for sewage and surface water ” ;

shall extend or apply to any building (not being a dwelling-house) railway or work constructed by or belonging to or which may hereafter be constructed by or belong to any railway company in the exercise of their statutory powers or to any lands held or acquired or which may hereafter be held or acquired by any such company with the authority of Parliament so long as any such building railway work or land is used or held by the said railway company primarily for railway purposes.

A.D. 1933.

## PART VII.

## INFECTIOUS DISEASE AND SANITARY PROVISIONS.

Parents  
to notify  
infectious  
disease.

**67.**—(1) Any person being the parent or having the care or charge of a child attending a school in the district who is aware of or has reason to suspect the occurrence of any infectious disease in any person residing with such parent or other person and who fails forthwith to notify such occurrence to the head teacher principal or superintendent of the school shall be liable to a penalty not exceeding twenty shillings.

In any proceeding under this subsection a certificate purporting to be under the hand of the head teacher principal or superintendent of the school at which the child named in the certificate is in attendance stating that he has or has not received any notification as required under this section shall be evidence of the facts stated in such certificate unless the defendant shall require that the person by whom the certificate has been signed shall be called as a witness.

(2) For the purposes of this section the expression "school" shall include a Sunday school.

Power to  
close  
Sunday  
schools and  
exclude  
children  
from enter-  
tainments.

**68.**—(1) If the Council or a committee of the Council acting on the advice of the medical officer with the view of preventing the spread of infectious disease in the district require the closing of any Sunday school or any department thereof or the exclusion of certain children therefrom for a specified time or the exclusion of children from places of public entertainment or assembly for a specified time such requirement shall be at once complied with.

(2) Any person responsible for the conduct or management of any Sunday school or any department thereof or place of public entertainment or assembly wilfully failing to comply with any such requirement shall for every such failure be liable to a penalty not exceeding five pounds.

Restriction  
on attend-  
ance of  
children at  
Sunday  
schools and

**69.**—(1) No person of or exceeding the age of sixteen years who has the custody charge or care of a child who is or has been attending any school or any part thereof which for the time being is closed by order of the Council or of the education committee of the Devon

County Council with the view of preventing the spread of infectious disease or of a child who is suffering from an infectious disease or who with the view of preventing the spread of infectious disease has been prohibited from attending school by the medical officer or school medical officer shall permit such child to attend any Sunday school or place of public entertainment or assembly in the district without having procured from the medical officer or school medical officer a certificate (which if granted shall be granted free of charge upon application) that in his opinion such child may attend such Sunday school or place of public entertainment or assembly without undue risk of communicating disease to others.

A.D. 1933.

—  
places of  
assembly  
when  
infectious  
disease  
prevails.

(2) Any person who shall offend against this section shall be liable to a penalty not exceeding forty shillings.

**70.**—(1) For the purposes of the foregoing provisions of this Part of this Act the expression "infectious disease" includes measles german measles whooping cough chicken pox ringworm influenza mumps and scabies as well as infectious disease as defined by the section of this Act of which the marginal note is "Interpretation."

Extended  
meaning of  
"infectious  
disease" for  
certain  
purposes.

(2) For the purposes of section 126 of the Public Health Act 1875 as amended by section 62 of the Public Health Acts Amendment Act 1907 the expression "dangerous infectious disorder" includes infectious disease as defined by the section of this Act of which the marginal note is "Interpretation" and also (in the case of exposure in covered buildings or public conveyances) measles and whooping cough.

**71.** The Council may provide and supply (with or without charge therefor) to any medical practitioner antidotes and remedies against infectious disease.

Supply of  
antidotes  
against infec-  
tious disease:

**72.**—(1) The occupier of any building which is used for human habitation and in which there is or has been any person suffering from an infectious disease shall on the application of the medical officer at any time during the illness of such person or within six weeks from the occurrence of such illness furnish such information within his knowledge as the medical officer may reasonably require for the purpose of enabling measures to be taken to prevent the spread of the disease.

Penalty on  
withholding  
information  
from  
medical  
officer.

A.D. 1933.

(2) Any occupier refusing to furnish such information or knowingly furnishing false information shall be liable to a penalty not exceeding forty shillings.

(3) For the purposes of this section the expression "occupier" shall have the same meaning as in the Infectious Disease (Notification) Act 1889 and the expression "infectious disease" shall include pulmonary tuberculosis in addition to the diseases referred to in the section of this Act of which the marginal note is "Interpretation."

As to filthy premises.

**73.**—(1) If the owner of any dwelling-house or premises occupied therewith represents to the Council that the occupier of such dwelling-house or premises habitually maintains the same in a filthy condition any officer of the Council duly authorised in that behalf may enter upon such dwelling-house or premises and inspect the same and if the Council or a committee of the Council are satisfied of the truth of the representation of such owner the occupier shall be liable on the information of the medical officer to a court of summary jurisdiction to be ordered to quit the dwelling-house or premises within such time as may be specified in the order and any such order may be enforced in the manner provided by section 34 of the Summary Jurisdiction Act 1879.

(2) Any expenses incurred by the Council under this section and not paid by the occupier shall be recoverable from the owner of the dwelling-house or premises.

## PART VIII.

## BATHS SEASHORE PARKS &amp;C.

As to baths and bathing pools.

**74.**—(1) The Council may construct on lands belonging to them and may maintain alter extend enlarge improve repair furnish and equip or discontinue sell and dispose of open or covered sea water or fresh water swimming and other baths and bathing pools within the district with all necessary conveniences and appliances.

(2) The Council may make and enforce byelaws for the management use and regulation of the said baths and bathing pools and for regulating the conduct of the persons resorting thereto in like manner as byelaws under the Baths and Washhouses Acts 1846 to 1899 as amended by section 86 of the Public Health Act 1925



may be made and enforced and the provisions of section 32 of the Baths and Washhouses Act 1846 so far as the same are applicable and are not inconsistent with the provisions of this Act shall extend and apply to such baths and bathing pools and the Council may demand and take for the use of such baths and bathing pools or for the admission of persons thereto such reasonable charges as they may think fit to make.

A.D. 1933.

(3) The Council may also lay down and provide within the district such intake pipes apparatus and fittings as may be incidental to or necessary for supplying sea or fresh water to any baths belonging to them and for the purpose of laying and repairing such pipes apparatus or fittings may break up streets repairable by them and alter the position of any culverts pipes and wires under any street :

Provided that the Council shall not alter the position of or otherwise interfere with any telegraphic line belonging to or used by the Postmaster-General except in accordance with and subject to the provisions of the Telegraph Act 1878.

(4) The Council may let on lease to any company or person for such term and on such conditions as they may think fit any baths or bathing pools provided by them as aforesaid or the powers and rights with regard to the provision maintenance and carrying on of baths or bathing pools contained in this section.

**75.** The Council may close to the public and may reserve the exclusive use of any swimming bath open bathing place or bathing pool belonging to them and may grant the use thereof either gratuitously or for payment for swimming contests practices aquatic exercises or regattas or for other similar purposes and may demand and take or authorise to be demanded and taken at the door or entrance of such swimming bath open bathing place or bathing pool such sums for the exclusive use of such bathing place or pool or for admission of persons thereto as they may think fit.

Use of swimming baths &c. for swimming contests &c.

**76.**—(1) The Council may erect construct provide purchase maintain furnish equip regulate and manage or contribute towards the expenses of medicated and other baths (including baths the efficient properties of which are due to a ncies other than water) and they

Medicated and other baths.

A.D. 1933. — may demand and take such reasonable charges for the use of any such baths as are erected constructed provided or purchased by them as they may think fit.

(2) In connection with any electrical or radiant heat or other similar baths provided by the Council in pursuance of their powers under this section patients shall only be afforded treatment on the prescription of a medical practitioner and on the certificate of that practitioner that the patient is in a fit condition to receive treatment and the Council shall afford facilities to medical practitioners to attend their patients at such baths.

(3) The Council shall not contribute towards the expenses of any baths under the provisions of subsection (1) of this section except on condition that patients are afforded treatment in electrical or radiant heat or other similar baths only on the prescription of a medical practitioner and on his certificate that the patient is in a fit condition to receive treatment and that facilities are afforded to medical practitioners to attend their patients at such baths.

Protection  
of bathers.

**77.** The Council may employ and pay boatmen for the purpose of protecting persons whilst bathing on or from the seashore and may provide any boats for that purpose.

Prohibition  
of touting  
hawking  
&c. on  
seashore  
promenades  
&c.

**78.**—(1) No person shall on the seashore or in or on any esplanade parade promenade public walk garden or place of recreation or in or on the approaches to the promenade within one hundred yards therefrom—

(a) importune any person by touting for a hotel lodging-house refreshment-house shop boat garden theatre hackney carriage or any place of amusement;

(b) without the consent of the Council—

(i) hawk sell or offer for sale any article or commodity or by way of trade or business take any photograph of any person or group of persons;

(ii) with a view to gaining or receiving profit or reward sing or play any instrument or conduct or take part in any entertainment exhibition or performance:

Provided that nothing herein contained shall prevent fishermen or boatmen from exercising their respective callings or fishermen from selling fish freshly caught by them in their boats upon the seashore.

A.D. 1933.

(2) The Council may give any consent under paragraph (b) of subsection (1) of this section upon such terms and conditions as they may think fit. Provided that in the case of the sale of newspapers and periodicals the said consent shall be given to such reasonable number of persons and upon such terms and conditions as the Council may think fit.

(3) Any person offending against the provisions of this section or contravening the terms or conditions upon which any consent is given thereunder shall be liable for every such offence to a penalty not exceeding twenty shillings.

(4) Any person aggrieved by the withholding suspension or revocation by the Council of any consent under the provisions of paragraph (b) of subsection (1) of this section in regard to the approaches to the promenade or by any terms or conditions attached to such consent may within fourteen days from the date of the decision of the Council appeal to a court of summary jurisdiction. Provided he give written notice of such appeal and of the grounds thereof to the clerk before lodging his appeal and the court shall have power to make such order in the matter of the appeal as the court may think fit and to award costs.

**79.** The power of the Council to make byelaws under section 92 of the Public Health Acts Amendment Act 1907 with regard to public bathing shall extend to authorise them to make byelaws for the protection of bathers by prohibiting limiting or restricting the use of motor boats or regulating the speed at which or the manner in which they may be driven within a distance of four hundred and forty yards from low water mark of ordinary tides opposite the district and opposite any part of the foreshore beyond the district which may for the time being be owned by or leased to the Council.

Regulation  
of motor  
boats.

**80.**—(1) Subject to the provisions of this Act the Council may construct and maintain on any part of the seashore landing stages or other erections suitable for embarking or disembarking passengers to or from motor

Power to  
construct  
landing  
stages.

A.D. 1933.

launches or to or from pleasure boats and pleasure vessels licensed by the Council under the provisions of section 94 of the Public Health Acts Amendment Act 1907.

(2) Subject to the provisions of this Act the Council may make byelaws regulating the use of such landing stages or erections Provided that no such byelaws shall prohibit the use of such landing stages by fishermen.

Repair of  
sea embank-  
ments.

**81.**—(1) Where an embankment has been made for protecting any land in the district against inroads of the sea the owner or owners of the embankment and the Council may enter into and carry into effect agreements relative to the maintenance of such embankment and subject to or in the absence of any such agreement the Council may execute such works and do such things as may be reasonably necessary to keep any such embankment in repair and the reasonable expenses incurred by them in so doing shall be repaid by the owner or owners thereof.

(2) Any question which may arise under this section between the Council and any owner relative to the reasonableness of any works executed or any expenses incurred by the Council shall be determined in default of agreement by arbitration in manner provided by the Arbitration Act 1889.

Power of  
constables  
to enforce  
byelaws as  
to parks &c.

**82.** From and after the passing of this Act every police constable shall have the same power of enforcing byelaws made by the Council under the provisions of the Public Health Acts or any Act or Order for the time being in force within the district relating to the seashore or any park or place of public resort or recreation ground under the control of the Council as is given to the servants of the Council by the byelaws for the time being in force under the said provisions.

Power to  
set apart  
parts of  
parks and  
pleasure  
grounds  
as parking  
places for  
vehicles.

**83.**—(1) The Council may from time to time appropriate and set apart such part or parts of their parks and pleasure grounds not exceeding in the case of any park or pleasure ground one acre as the Minister may sanction as a parking place or as parking places for vehicles and the part or parts of the said park or pleasure ground so appropriated and set apart shall be held and used as a parking place or as parking places under and

subject to the provisions of subsections (4) (6) (7) and (9) of section 68 of the Public Health Act 1925 and subsection (2) (a) and (b) of that section shall apply as if the lands so to be appropriated and set apart were land forming part of a street. A.D. 1933.  
—

(2) The provisions of subsection (2) of section 90 of the Road Traffic Act 1930 shall apply to any parking place sanctioned under this section.

**84.** When any portion of any park or place of public resort or recreation is set apart by the Council for any purpose under section 76 of the Public Health Acts Amendment Act 1907 the Council may permit the 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 Council may think fit. Provided that nothing in this section shall empower the Council to let at one and the same time the exclusive use of more than twenty-five per centum of the total area of the parks or places of public resort or recreation for the time being belonging to them or under their control. Charges for and lettings of parks for games.

**85.** The Council may pay or contribute towards the payment of the cost of providing and maintaining at railway stations and other public places and on passenger boats public service vehicles and omnibuses plying in the district or between the district and other places and in newspapers magazines and other publications published in the county of Devon advertisements relating to the performances and entertainments provided in any public park or pleasure ground in the district or in any enclosure pavilion or other building in such park or ground or in the public offices or swimming baths or other buildings of the Council: Power to advertise entertainments and attractions &c.

Provided that the amount to be expended in any year for the purposes of this section shall not be greater than the amount (calculated in accordance with the rules made from time to time by the Minister under sections 9 and 58 of the Rating and Valuation Act 1925) which would be produced by a rate of one penny and one-third of a penny in the pound levied in that year in the district.

A.D. 1933.

Power to  
make  
byelaws.

**86.** The existing power of the Council of making byelaws for the regulation of their public parks and pleasure grounds shall extend to the making of byelaws for securing good and orderly conduct during any concert recital entertainment exhibition or amusement provided or carried on in pursuance of the provisions of the Public Health Acts.

Power to  
provide  
chairs on  
esplanade.

**87.** The Council or any person or persons authorised by them may provide and let on hire chairs in any public walk or esplanade and the Council may make byelaws for regulating the use of and the charges for and for preventing injury to such chairs.

PART IX.

FINANCIAL.

Power to  
borrow.

**88.—(1)** The Council may from time to time independently of any other borrowing power borrow at interest for and in connection with the purposes mentioned in the first column of the following table the respective sums mentioned in the second column of the said table and in order to secure the repayment of the said sums and the payment of interest thereon the Council may mortgage or charge the revenues of the Council and they shall pay off all moneys so borrowed within the respective periods (each of which shall be the prescribed period for the purposes of this Act and the enactments incorporated therewith or applied thereby) mentioned in the third column of the said table (namely):—

Purpose. 1	Amount. 2.	Period for repayment. 3
(a) The purchase of the undertaking of the company and for defraying the costs and expenses incident to such purchase and to the transfer of the said undertaking to the Council (other than the costs of this Act) and for the payment of any other sums payable by the Council to the company or to the inspector of the company by way of compensation under this Act or for the payment of any other sum under Part II of this Act.	The sum requisite.	Forty years from the date or dates of borrowing.

A.D. 1933.

Purpose. 1	Amount. 2	Period for repayment. 3
(b) The purchase of the lands and easements authorised by the Act of 1932.	£900	Sixty years from the date or dates of borrowing.
(c) The construction of the works authorised by the Act of 1932.	£21,700	Forty years from the date or dates of borrowing.
(d) The purchase of the lands and easements authorised by this Act.	£230	Sixty years from the date or dates of borrowing.
(e) The construction of the waterworks authorised by this Act.	£320	Forty years from the date or dates of borrowing.
(f) The payment of the costs charges and expenses of this Act and of incidental to the opposition of the Council to the Bill for the Act of 1932.	The sum requisite.	Five years from the passing of this Act.

(2) (a) The Council may also with the consent of the Minister borrow such further money as may be necessary for any of the purposes of this Act.

(b) In order to secure the repayment of any money borrowed under this subsection and the payment of interest thereon the Council may mortgage or charge the revenues of the Council.

(c) Any money borrowed under this subsection shall be repaid within such period as may be prescribed by the Minister and that period shall be the prescribed period for the purposes of this Act and the enactments incorporated therewith or applied thereby.

**89.** The Council may raise all or any moneys which they are authorised to borrow under this Act by mortgage or by the issue of debentures or annuity certificates under and subject to the provisions of the Local Loans Act 1875 or partly in one way and partly in another or others Provided that the provisions of this Act relating to sinking funds shall apply to sinking funds formed for the repayment of moneys borrowed under the Local Loans Act 1875 instead of the provisions of sections 15 and 16 of that Act.

Mode of raising money.

A.D. 1933.

—  
Mode of  
payment  
off of money  
borrowed.

**90.** The Council shall pay off all moneys borrowed by them on mortgage under the powers of this Act either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by one of those methods and partly by another or others of them and the payment of the first instalment or the first payment to the sinking fund shall be made within twelve months or when the moneys are repaid by half-yearly instalments within six months from the date of borrowing.

Sinking  
fund.

**91.**—(1) If the Council determine to repay by means of a sinking fund any moneys borrowed by virtue of any statutory borrowing power (except money borrowed by the issue of stock) such sinking fund shall be formed or maintained either—

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

(b) by payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate not exceeding three pounds per centum per annum or such other rate as the Minister may from time to time approve will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed. A sinking fund so formed is hereinafter called an “accumulating sinking fund.”

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the accumulations of the sinking fund shall subject to the provisions of this Act unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in statutory securities the Council being at liberty from time to time to vary and transpose such investments.

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



A.D. 1933.

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

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

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

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

(7) If it appears to the Council at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Act together with the probable accumulations thereon (in the case of an accumulating sinking fund) will not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Council to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose and if it appears to the Minister that any such increase is necessary the Council shall increase the payments to such extent as the Minister may direct.

(8) If the Council desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

A.D. 1933.

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

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

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

(12) All moneys which at the date of this Act are standing to the credit of any sinking fund in respect of moneys borrowed otherwise than by the issue of stock and not applied in repayment thereof shall be transferred to the sinking fund established under this Act and the sums so transferred shall be taken into account in calculating the future payments to be made to the sinking fund under this section.

As to  
mortgage of  
revenues of  
Council.

**92.**—(1) Any reference in any mortgage or charge granted by the Council to the revenue of any undertaking of the Council shall be deemed to be a reference to the revenues of the Council.

(2) In order to secure the repayment of any money hereafter borrowed by the Council under any statutory borrowing power and the payment of interest thereon the Council may mortgage or charge the revenues of the Council.

**93.** The following sections of the Act of 1912 shall with any necessary modifications extend and apply to and for the purposes of this Act as if the same were re-enacted herein :—

- Section 28 (Provisions as to mortgages);
- Section 29 (Protection of lenders from inquiry);
- Section 32 (Appointment of receiver);
- Section 35 (Application of money borrowed);
- Section 37 (Council not to regard trusts).

A.D. 1933.  
 —  
 Application of financial provisions of Act of 1912.

**94.** It shall not be obligatory on the Council to receive or register any transfer assignment certificate of death burial bankruptcy or marriage probate letters of administration or other document evidencing a transmission of any security of the Council (except securities issued under the Local Loans Act 1875 and except securities to which regulations made under section 52 of the Public Health Acts Amendment Act 1890 apply) except upon the production to and temporary deposit with the clerk of the security or the certificate thereof for the purpose of the endorsement thereon of a memorandum of such transmission or the issue of a new security or certificate thereof and in case of the issue of a new security or certificate for the purpose of cancellation of the security or certificate so deposited.

Evidence of transfer or transmission of securities.

**95.** The Council may close any transfer books or the registers of transfers of mortgages or other securities of the Council as the case may be on any day in the month next before that in which an instalment of interest on such mortgages or other securities is payable but so that the books be not at any time kept closed for more than one month.

Closing of registers.

**96.** If any money is payable to a mortgagee or stockholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Council.

Receipt in case of persons not sui juris.

**97.** Where more persons than one are registered as joint holders of any mortgage of the Council any one of them may give an effectual receipt for any interest thereon unless notice to the contrary has been given to the Council or the treasurer by any other of them.

Interest on mortgages held jointly.

A.D. 1933.  
—  
Return to  
Minister  
with respect  
to repay-  
ment of  
debt.

**98.**—(1) The clerk shall if and when he is requested by the Minister so to do transmit to the Minister a return showing the provision made for the repayment of any loans raised by the Council under any statutory borrowing power.

(2) The return shall show such particulars and shall be made up to such date and in such form as the Minister may require and shall if so required by him be verified by statutory declaration of the clerk or other the chief accounting officer of the Council and shall be transmitted within one month after the making of the request and in the event of his failing to make such return the clerk shall for each offence be liable to a penalty not exceeding twenty pounds to be recovered by the Minister in a court of summary jurisdiction and notwithstanding the recovery of such penalty the making of the return shall be enforceable by writ of mandamus to be obtained by the Minister out of the High Court.

(3) If it appears to the Minister by such a return as aforesaid or otherwise that the Council have failed to pay any instalment or annual payment required to be paid or to appropriate any sum required to be appropriated or to set apart any sum required for any sinking fund (whether such instalment or annual payment or sum is required by any enactment relating to the statutory borrowing power or by the Minister in virtue thereof to be paid appropriated or set apart) or have applied any portion of any sinking fund to any purpose other than those authorised the Minister may by order direct that the sum in such order mentioned not exceeding the amount in respect of which default has been made shall be paid or applied in the manner and by the date in such order mentioned and the Council shall notify the Minister as soon as the order is complied with and any such order shall be enforceable by writ of mandamus to be obtained by the Minister out of the High Court.

Use of  
moneys  
forming  
part of  
sinking  
and other  
funds.

**99.** Notwithstanding anything contained in any previous enactment the Council may use for the purpose of any statutory borrowing power exerciseable by them any moneys forming part of but not for the time being required for the purposes of any fund accumulated for the redemption of debt or as a reserve renewals repairs depreciation contingent or other similar fund (in this

section referred to as "the lending fund") subject to the following conditions:—

A.D. 1933.

- (1) The moneys so used shall be repaid to the lending fund within the periods by the methods and out of the fund rate or revenue within by and out of which a loan raised under the statutory borrowing power would be repayable:

Provided that the Council shall repay to the lending fund the moneys so used or the balance thereof for the time being outstanding as the case may be as and when the same shall be required for the purposes of the lending fund and may if they so resolve repay the same at any time within the period aforesaid and in either case the repayment shall be made out of the fund rate or revenue aforesaid or out of moneys which would have been applicable to the repayment of a loan if raised under the statutory borrowing power:

- (2) Interest shall be paid to the lending fund 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 rate of interest which would be payable on a loan raised on mortgage under the statutory borrowing power and such interest shall be paid out of the fund rate or revenue which would be applicable to the payment of interest on a loan raised under the statutory borrowing power:
- (3) The statutory borrowing power shall be deemed to be exercised by such use as fully in all respects as if a loan of the same amount had been raised in exercise of the power and the provisions of any enactment as to re-borrowing of sums raised under the statutory borrowing power shall apply accordingly.

**100.**—(1) Notwithstanding anything contained in any enactment—

Receipts  
and  
expenses.

- (a) all money received by the Council whether on capital or revenue account (including all money received by the Council on account of the revenue of any undertaking of the Council as from time

A.D. 1933.  
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to time existing from which revenue is derived and interest and other annual proceeds from time to time received by the Council on the investments forming part of any fund accumulated for the redemption of debt or as a reserve renewals depreciation contingent superannuation or other similar fund) shall be carried to and form part of the general rate fund; and

- (b) all payments and expenses made and incurred by the Council in respect of any such undertaking or in carrying into execution the powers and provisions of this or any other Act and not otherwise provided for (including the appropriate yearly sums and the accumulations thereof required to be set apart for or paid into any sinking fund or loans fund or any reserve insurance renewals repairs depreciation capital contingent or other similar fund) shall be paid out of the general rate fund or the general rate:

Provided that an amount equivalent to the interest and other annual proceeds as aforesaid shall (subject in the case of any of the said funds to any prescribed limit on the amount thereof) be credited in the accounts to the fund on the investments of which the same is received.

(2) Nothing in this section shall authorise the Council to apply capital money to any purpose other than a purpose to which capital money is properly applicable.

Accounts of  
under-  
takings.

**101.**—(1) The Council shall keep their accounts so as to distinguish capital from revenue and as to revenue so as to show under a separate heading or division in respect of each of the undertakings of the Council as from time to time existing from which revenue is derived (each of which is in this section separately referred to as "the undertaking") on the one side all receipts in respect of the undertaking and on the other side all payments and expenses in respect of the undertaking such payments and expenses being divided so as also to show in each case the amounts representing—

- (a) The working and establishment expenses and cost of maintenance of the undertaking;

- (b) The interest on moneys borrowed by the Council for the purposes of or connected with the undertaking; A.D. 1933.
- (c) The requisite appropriations instalments or sinking fund payments in respect of moneys borrowed for the purposes of the undertaking;
- (d) All other expenses (if any) of the undertaking properly chargeable to revenue; and
- (e) Any money expended on any of the purposes mentioned in the section of this Act of which the marginal note is "Application of revenue of undertakings."

(2) The Council shall show in their accounts relating to any undertaking or purpose all items (including receipts and payments in respect of loans applicable thereto) which ought to be entered therein in order to show the financial position of the undertaking or purpose.

(3) In all cases in which the Council keep separate accounts for separate purposes they shall so far as reasonably practicable apportion between those accounts or carry to any of them any receipts credits payments and liabilities which from time to time ought to be so apportioned or carried.

102. If in any year moneys received by the Council on account of the revenue of any undertaking of the Council as from time to time existing from which revenue is derived exceed the moneys expended by the Council in respect of that undertaking in respect of the expenses mentioned in paragraphs (a) (b) (c) and (d) of subsection (1) of the section of this Act of which the marginal note is "Accounts of undertakings" the Council may in that year (if they think fit) apply out of the general rate fund a sum not exceeding the amount of such excess in any of the following ways:—

Application of revenue of undertakings.

- (a) In reduction of capital moneys borrowed for the purposes of the undertaking;
- (b) In the construction renewal extension and improvement of the works and conveniences for the purposes of the undertaking;
- (c) In providing a reserve fund in respect of each of the undertakings by setting aside such an amount as they may from time to time think

A.D. 1933.  
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reasonable and (unless the amounts so set aside are applied under the provisions of the section of this Act of which the marginal note is "Use of moneys forming part of sinking and other funds") investing the same in statutory securities until the fund so formed amounts in the case of the gas undertaking and the water undertaking to a sum equal to one-tenth of the aggregate capital expended for the time being upon each such undertaking and in the case of other undertakings to the maximum reserve fund from time to time prescribed by the Council.

Provisions  
as to reserve  
funds &c.

**103.**—(1) Any reserve or renewals or contingency or depreciation fund which has been formed for the purpose of any undertaking of the Council from which revenue is derived and which is in existence at the passing of this Act shall be deemed to be part of a reserve fund formed under paragraph (c) of the section of this Act of which the marginal note is "Application of revenue of undertakings."

(2) Any such reserve fund shall be applicable to answer any deficiency at any time happening in the income of the Council from the undertaking in respect of which it is formed or to meet any extraordinary claim or demand at any time arising against the Council in respect of that undertaking or for payment of the cost of renewing improving or extending any part of the works forming part thereof or otherwise for the benefit of that undertaking and so that if that fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens.

(3) Resort may be had to any such reserve fund although such fund may not at the time have reached or may have been reduced below the prescribed maximum.

Date of  
operation  
of certain  
sections  
and repeal.

**104.**—(1) The sections of this Act of which the marginal notes are "Receipts and expenses" "Accounts of undertakings" and "Application of revenue of undertakings" shall be deemed to have come into operation on the first day of April one thousand nine hundred and thirty-three.



(2) As from the said date the following enactments are repealed :— A.D. 1933.

The Act of 1912—

Section 38 (Application of revenue of gas undertaking);

Section 39 (Provision in case of deficiency of revenue of gas or electricity undertakings);

Section 40 (Separate accounts to be kept and audited);

The Sidmouth Order 1918 which was confirmed by the Local Government Board's Provisional Orders Confirmation (No. 3) Act 1918;

Section 4 of the Sidmouth Gas (Charges) Order 1923.

**105.** The Council may pay out of the general rate fund and general rate—

(a) Reasonable subscriptions whether annually or otherwise to the funds of any association of local authorities or their officers formed for the purpose of consultation as to their common interests and the discussion of matters relating to local government and any reasonable expenses of the attendance of any members or officers of the Council at conferences or meetings of such associations or any of them and the cost of purchasing reports and contributing towards the expenses of the proceedings of any such conferences or meetings;

Subscriptions to local government associations and other expenses.

(b) The reasonable expenses of the Council in providing public entertainments 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 district.

## PART X.

### MISCELLANEOUS.

**106.**—(1) Subject to the provisions of this section the Council may accept hold and administer any gift of property whether real or personal for any public purpose connected with the district and may execute any works

Acceptance of gifts of property.

A.D. 1933. (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers conferred by this section and where the purposes of the gift are purposes for which the Council are empowered to expend money raised from the general rate they may subject to any condition or restriction attaching to such power expend moneys so raised in the execution of such works in relation to the subject matter of the trust.

(2) This section shall not extend to property relating to affairs of the church within the meaning of the local Government Act 1894 or to an ecclesiastical charity within the meaning of that Act.

(3) Accounts of the income and expenditure of the Council under this section shall be kept by the chief accounting officer of the Council and shall be made up and audited as part of the general accounts of the Council.

Power to grant allowances or gratuities in certain cases.

**107.**—(1) The Council may if they think fit in cases not within the Workmen's Compensation Act 1925 and not entitled to benefits under a scheme established under the Local Government and other Officers' Superannuation Act 1922 grant a weekly or other periodical allowance (not exceeding one-half of his salary or wages) or in lieu thereof a gratuity of any sum (not exceeding two years' pay) to any of their officers or servants who may be disabled or injured in their service or may become incapacitated through age sickness or other infirmity or to the widow or family of any such officer or servant who may die in their service.

(2) Every such allowance or gratuity shall be charged on and paid out of the fund or funds on or out of which the salary wages or emoluments of such officer or servant would have been charged or been paid if he had continued in his office or service.

Penalty for street crying on Sunday.

**108.** Every person who shall on Sundays in any street or public place in the district call or shout or ring any bell or use any noisy instrument for the purpose of selling or advertising any article or commodity shall for every such offence be liable to a penalty not exceeding forty shillings.

Byelaws as to bicycles &c. on certain footpaths.

**109.** The Council may make byelaws prohibiting or restricting the use by persons riding bicycles tricycles or other similar vehicles on any footpaths in the district specified and defined in such byelaws.

**110.** The Council may within the district establish and maintain an information bureau for the purpose of supplying such information with regard to the district as may be desired by visitors or intending visitors to the district and others and may employ and pay such number of clerks assistants and servants as they may think fit for the purpose and may if they think fit make charges for the use of such bureau or for information supplied by means thereof.

A.D. 1933.  
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 Power to establish information bureau.

**111.** The Council may provide and maintain barometrical and other instruments for recording the state of the weather and may take all necessary steps for making and publishing weather reports and statistics.

As to publishing weather reports.

**112.** Any person deeming himself aggrieved by any order made by a court of summary jurisdiction under the provisions of this Act may appeal to the next practicable court of quarter sessions under and according to the provisions of the Summary Jurisdiction Acts and the Council may in like manner appeal from any such order made by a court of summary jurisdiction.

As to appeal.

**113.** If the occupier of any house or part of a house or premises shall prevent the owner thereof from carrying into effect any requirement of the Council under Part VI (Streets buildings sewers and drains) of this Act then after notice of this provision shall have been given by the owner to the occupier any court of summary jurisdiction upon proof thereof may make an order in writing requiring the occupier to permit the owner to execute the works required by the Council to be done and if after the expiration of seven days from the service of such order the occupier shall continue to refuse to permit the owner to execute the said works he shall for every day during which he shall so continue to refuse be liable to a penalty not exceeding forty shillings and during the continuance of his refusal the owner shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Penalty on occupiers refusing execution of Act.

**114.** The provisions of sections 102 and 103 of the Public Health Act 1875 shall extend and apply to the purposes of the provisions of Part VI (Streets buildings sewers and drains) and Part VII (Infectious disease and sanitary provisions) of this Act as if those purposes had been mentioned in the said section 102.

Power of entry.

A.D. 1933.

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General  
provisions  
as to  
byelaws.

**115.** The provisions of sections 182 to 186 of the Public Health Act 1875 so far as they relate to byelaws made by an urban sanitary authority shall apply to byelaws authorised to be made by the Council under the powers of this Act. Provided that as respects byelaws made under the section of this Act of which the marginal note is "Byelaws as to bicycles &c. on certain footpaths" the Secretary of State shall be substituted for the Minister.

Evidence  
of appoint-  
ments  
authority  
&c.

**116.** Where in any legal proceedings taken by or on behalf of or against the Council or any officer servant solicitor or agent of the Council or any committee of the Council under this Act or under any general or local Act for the time being in force in the district it becomes necessary to prove the appointment or authority of any officer servant solicitor or agent of the Council or of any committee of the Council or to prove any resolution or order of the Council or any resolution order or report of any committee of the Council a certificate of such appointment authority resolution order or report purporting to be authenticated by the signature of the chairman of the Council or of the clerk shall be prima facie evidence of such appointment authority resolution order or report without further proof of the holding of any meeting or the production of any minute book or other record or document.

Apportion-  
ment of  
expenses in  
case of joint  
owners.

**117.** Where under the provisions of this Act or any local Act in force in the district the Council shall construct or do any works for the common benefit of two or more buildings belonging to different owners the expenses which under those Acts or any of them are recoverable by the Council from the owners shall be paid by the owners of such buildings in such proportions as shall be determined by the surveyor or in case of dispute by a court of summary jurisdiction.

In executing  
works in  
default of  
owner or  
occupier no  
liability for  
damages to  
be incurred  
except in  
case of  
negligence.

**118.** Whenever the Council or the surveyor under any enactment or byelaw for the time being in force within the district execute re-execute or alter any work or do any act or thing in default or at the request of the owner occupier or other person required to do such work act or thing the Council shall not as between themselves and such owner occupier or other person in the absence of any negligence on the part of the Council or the surveyor or any contractor or other person employed

by them or him be liable to pay any damages penalties costs charges or expenses for or in respect of or consequent upon the executing re-executing or altering of such work or the doing of such act or thing and any such damages penalties costs charges or expenses paid by the Council in the absence of negligence as aforesaid shall be deemed to be part of the expenses payable by such owner occupier or other person and shall be recoverable accordingly. A.D. 1933.

**119.** Where under this Act or under any general or local Act for the time being in force in the district the Council 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. As to breach of conditions of consent of Council.

**120.** All consents given by the Council under the provisions of this Act or of any local Act Order byelaw or regulation for the time being in force within the district shall be given in writing and unless otherwise prescribed shall be given under the hand of the clerk or other duly authorised officer of the Council. Consents of Council to be in writing.

**121.** Proceedings for the recovery of any demand made under the authority of this Act or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in a personal action. Recovery of demands.

**122.** Where the payment of more than one sum by any person is due under any Act or Order from time to time in force within the district any summons or warrant issued for the purposes of any such Act or Order in respect of that person may contain in the body thereof or in a schedule thereto all the sums payable by him. Several sums in one summons.

**123.** 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 byelaw made in pursuance thereof may be prosecuted and recovered in a summary manner Recovery of penalties &c.

A.D. 1933. — 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.

Penalties  
to be paid  
over to  
treasurer.

**124.** All penalties recovered on the prosecution of the Council or any officer of the Council on their behalf under this Act the Act of 1932 or any byelaw under such Acts shall be paid to the treasurer and be by him carried to the credit of the general rate fund or to such other fund as the Council shall direct.

Powers of  
Act cumula-  
tive.

**125.** All powers rights and remedies given to the Council by this Act shall (except where otherwise expressly provided) be deemed to be in addition to and not in derogation of any other powers rights or remedies conferred on them or on any committee appointed by them by Act of Parliament charter law or custom and the Council or such committee as the case may be may exercise such other powers and be entitled to such other rights and remedies as if this Act had not been passed. Provided that no person shall incur more than one penalty (other than a daily penalty for a continuing offence) for the commission of the same offence.

Saving for  
indictment  
&c.

**126.** Nothing in this Act shall protect any person from being proceeded against by way of indictment in respect of any matter by this Act made punishable on summary proceedings or shall relieve any person in respect of any such matter from any penal or other consequence to which he would have been liable if such matter had not been made punishable by this Act. Provided that nothing in this Act shall make a person liable to be punished more than once for the same offence.

Application of  
section 265 of  
Public Health  
Act 1875.

**127.** Section 265 of the Public Health Act 1875 shall extend and apply to the purposes of any local enactment as if the same were re-enacted therein.

Application  
of provisions  
of Act of  
1912.

**128.** The following sections of the Act of 1912 shall extend and apply to the purposes of this Act as if they were with any necessary modifications re-enacted in this Act (that is to say) :—

Section 46 (Inquiries by Local Government Board);

Section 47 (Information by whom to be laid);

Section 48 (Judges not disqualified) :

Provided that for the purpose of such extension and application the said section 46 shall be read and have effect as if the words " five guineas " were inserted therein instead of the words " three guineas."

A.D. 1933.

**129.** In addition to the enactments repealed by the section of this Act of which the marginal note is " Date of operation of certain sections and repeal " the following provisions of the Sidmouth Gas and Electricity Act 1911 the Act of 1912 and the Sidmouth Gas Order 1925 are hereby repealed :—

Repeal.

The Sidmouth Gas and Electricity Act 1911—

Section 61 (Power to enter premises and remove fittings).

The Act of 1912—

Section 20 (Power to retain sell &c. lands);

Section 22 (Minimum charge for gas laid on to premises having a separate supply of gas or electricity).

The Sidmouth Gas Order 1925—

Section 14 (Sinking fund);

Section 15 (Return to Minister of Health with respect to the payment of debt).

**130.** The Council shall not under the powers of this Act construct on under or over the shore or bed of the sea or of any creek bay arm of the sea or navigable river communicating therewith below high-water mark of ordinary spring tides any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of in writing under hand as last aforesaid and where any such work may have been constructed the Council shall not at any time alter or extend the same without obtaining previously to making any alteration or extension the like consent or approval. If any work be commenced altered extended or completed contrary to the provisions of this section the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the cost and charge of the Council and the amount of such

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

A.D. 1933. costs and charges shall be a debt due from the Council to the Crown and shall be recoverable either as a debt due to the Crown or summarily as a civil debt.

Crown  
rights.

**131.** 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 Board of Trade respectively without the consent in writing of the Commissioners of Crown Lands or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose.

Costs of Act.

**132.** All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council in the first instance out of the general rate fund and general rate but ultimately out of moneys to be borrowed under the authority of this Act for that purpose.



The SCHEDULES referred to in the  
foregoing Act.

A.D. 1933.

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FIRST SCHEDULE.

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SECTIONS OF THE ACT OF 1886 SAVED FROM REPEAL.

THE SIDMOUTH WATER ACT 1886.

4. The limits of this Act for the supply of water shall be the parish of Sidmouth and so much of the parishes of Sidbury and Salcombe Regis as is included between the eastern boundary of the parish of Sidmouth a straight line drawn from the northern extremity of the parish of Sidmouth to a house called Balson in the parish of Sidbury shown on the Ordnance map (scale of one inch to a mile) and a straight line continued from thence to a point on the sea coast four furlongs to the east of the eastern end of the Alma Bridge over the River Sid.

Limits of  
Act.

23. Subject to the provisions and for the purposes of this Act the Company may enter upon take and use all or any of the lands defined on the deposited plans and described in the deposited books of reference so far as they are required for the works by this Act authorised and they may acquire and hold the works described in the schedule to this Act and the lands (other than public roads or streets) upon or in which the same works are situate so far as they are shown on the deposited plans and described in the deposited books of reference. \* \* \* \* \*

Power to  
take lands  
&c.

24. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works in the parish of Sidmouth which are described on the said plans and sections and which comprise the following (videlicet) :

Power to  
make  
waterworks.

(a) A reservoir or tank to be situate in a plot of land or copse known as the Pit Orchard belonging or reputed to belong to the trustees of the will of the late George Edmond Balfour and situate immediately to the northward of the Knowle Waterworks;

(b) A conduit or line of pipe commencing at a point in Watery Lane near where it is crossed by streamlets

A.D. 1933.

flowing from Bulverton Hill and terminating by a junction with the existing line of pipe which conveys water from Muttersmoor to the tank at the said Knowle Waterworks;

- (c) A reservoir or tank to be situate in a plot of land known as the Peak Orchard belonging or reputed to belong to the said trustees and situate to the south-west of the Peak Waterworks and midway between the said works and the sea;
- (d) A conduit or line of pipe commencing at or near the south-eastern corner of the said last-mentioned plot of land and terminating at or in the public road leading from Sidmouth to Otterton at or near the point where it joins the Cotmaton Road;

together with all such approaches embankments tanks filtering beds sluices adits channels conduits mains pipes and other works and conveniences for collecting filtering storing and distributing water as may be necessary or convenient.

Power to  
take water.

25. Subject to the provisions of this Act the Company may take collect and divert into the existing or intended reservoirs and works aforesaid and therein impound and thence distribute the waters of the streams which flow from Muttersmoor Peak Hill and Bulverton Hill respectively and also any waters which may be found from time to time in on or under the lands for the time being belonging to the trustees which lie within the area of circles described at a radius of three quarters of a mile taking the tank at the Knowle Works and the tank at the Peak Works respectively as the two centres of such circles.

Lateral and  
vertical  
deviation.

26. In making the works by this Act authorised the Company may deviate laterally from the lines thereof shown on the deposited plans to any extent within the limits of deviation shown or defined thereon and where the line of any work is shown upon those plans as passing along any road and no limits of lateral deviation are marked on the deposited plans the Company may in making such work deviate laterally to any extent within the boundaries of such road and the Company may also deviate from the levels of the works by this Act authorised as delineated on the deposited sections to any extent not exceeding five feet Provided always that the Company shall not in the exercise of the powers of lateral deviation hereby conferred upon them construct any embankment by this Act authorised of a greater height above the general surface of the ground than the height thereof shown on the deposited sections.

27. And whereas Mary Rastrick of Sea View in the parish of Sidmouth is or claims to be the owner in fee simple of the house known as Sea View and garden and grounds now occupied therewith and also of a house known as Clifton Cottage and grounds now occupied therewith And whereas the gardens and grounds at Sea View House or Sea View with a fountain existing therein are now supplied with water from a tank in the field numbered 1 on the deposited plans by means of a pipe having a discharging outlet of three quarters of an inch internal diameter which pipe is hereinafter referred to as "the existing pipe" And whereas the overflow from the said tank from which the existing pipe is supplied now flows down a chine or channel called "Barrowman's Goyle" in the parish of Sidmouth now being or claimed as being part of the grounds of Clifton Cottage Therefore the following provisions shall have full force and effect for the protection of the said Mary Rastrick and her heirs or other the owners for the time being and the occupiers of the said houses respectively known as "Sea View" and "Clifton Cottage":

A.D. 1933.

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For protec-  
tion of Mary  
Rastrick's  
property.

1. The Company shall provide and lay proper and sufficient mains and pipes to afford a constant supply of water from the reservoirs and works of the Company to Sea View House aforesaid and the gardens and grounds connected therewith for all such purposes as the owners and occupiers of the said house gardens and grounds shall think fit such mains and pipes to be in addition to the existing pipe and to be connected by the Company with the service pipes supplying Sea View House at such point on the boundary between the said house and grounds and the main road leading from Otterton to Sidmouth as the owner for the time being of the said house and grounds may approve and the Company shall at all times maintain in good condition and when necessary renew such mains and pipes up to the point of junction with the service pipes supplying the said house and grounds;
2. The Company shall at all times hereafter and notwithstanding anything to the contrary in this Act contained cause to flow through the said mains and pipes a quantity of water sufficient to maintain a constant supply of good water for all domestic residential and other purposes at Sea View House and the fountain gardens and grounds belonging thereto Provided that the Company shall not be required to supply from their mains any greater quantity of water than at the rate of seventy-three thousand gallons in any one period of twelve months so long as the flow of water from the existing pipe shall be maintained so as with the quantity aforesaid to be

A.D. 1933.

sufficient for all reasonable purposes of the said Mary Rastrick or other the owner or occupier for the time being of Sea View House and grounds including a supply for the said fountain and garden purposes ;

3. If the owner or occupier of Sea View House and grounds shall at any time require from the Company a supply of water exceeding the amount required to be supplied under the provisions aforesaid the Company shall supply such additional water by meter at the rate of two shillings and sixpence for every thousand gallons or at such less rate if any as shall for the time being be charged for supply by meter for domestic purposes to other residents within the district Provided that if the supply of water from the existing pipe at any time or from any cause falls off the Company shall not be entitled to demand any payment from the said Mary Rastrick or such owner or occupiers in respect of the additional supply of water which may be required to make up the seventy-three thousand gallons before mentioned and the Company shall not be entitled to cut off any part of the supply of seventy-three thousand gallons in consequence of non-payment for further supply ;
4. The Company shall at all times (except in times of unusual drought) cause to flow down such parts of the stream flowing into Barrowman's Goyle aforesaid as are under the control of the Company a constant stream of water sufficient to flush and keep the channel in Barrowman's Goyle clear as a watercourse and not to be less (except in times of unusual drought) than two thousand gallons in every twenty-four hours ;
5. The supply of water prescribed by this Act for the owners and occupiers of Sea View House and the property thereto belonging shall be enjoyed by them free from any payment by or expense to them except as in this section otherwise provided and shall be in substitution for or by way of giving effect to the water rights which they were entitled to before the passing of this Act and such rights shall not be deemed to be hereby extinguished but shall be at all times hereafter satisfied by the performance by the Company of the obligations aforesaid ;
6. The provisions of this section as to water to be supplied shall be deemed to be in satisfaction of all other claims on the part of the said Mary Rastrick or other the owner or occupier of the said houses and grounds in respect of any water rights being injuriously affected by anything done under the provisions of this Act.

28. For the protection of the London and South-western Railway Company (in this section referred to as "the railway company") the following provisions shall apply and have effect videlicet :

A.D. 1933.

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For protec-  
tion of  
London and  
South-  
western  
Railway  
Company.

- (a) Any works executed under the powers of this Act in or along any road crossing over or under the railway of the railway company shall except in case of emergency be done under the superintendence and to the reasonable satisfaction of the chief engineer of the railway company and according to plans sections and specifications previously submitted to and reasonably approved in writing by him and shall be executed at such times as he may reasonably require and so as not to cause any injury to the railway or to any bridge or approaches works or property of the railway company;

Provided that if the said engineer does not express his approval or disapproval of the said plans sections and specifications within fourteen days after the same have been submitted to him he shall be deemed to have approved thereof;

- (b) If any such injury or damage as aforesaid or any interruption of the railway company's traffic be caused by any works of the Company the Company shall make full compensation to the railway company in respect thereof;
- (c) All mains pipes or conduits of the Company under or over the railway of the railway company shall be at all times maintained in good repair by the Company and in default of their being so maintained the railway company may from time to time by notice in writing signed by their said engineer and delivered at the principal office for the time being of the Company require the Company to forthwith put into good repair any such main pipe conduit or other work as aforesaid as may be in want of repair and if the Company for seven days after the receipt of such notice refuse or neglect to proceed with the repair of the same the railway company may without any further notice to the Company repair the same and all expenses incurred by them in or about such repair shall on demand be repaid to them by the Company and if any difference arises between the Company and the railway company as to the amount of such expenses the same shall be settled by an engineer to be appointed by the Board of Trade at the request of either party. If the Company lay any pipe under the powers of this Act in or along any road crossing under or over the railway of the railway company the Company shall (if required by the

A.D. 1933.

railway company) pay to the railway company their costs of employing such men as may be reasonably necessary for watching the railway or signalling thereon in order to protect the same from injury or the traffic thereon from interruption during the execution of such works. If by reason of any accident to any main pipe or conduit of the Company crossing over or under the railway of the railway company the said railway or any works or property of the railway company become liable to injury or immediate danger to the said railway works or property be apprehended the railway company may if they think fit at once proceed to execute such repairs as may be necessary provided they shall forthwith give notice to the Company of their intention to commence the same and any costs and expenses to which the railway company may be put by reason of any such work of repair shall be repaid to them by the Company.

Period for compulsory purchase of lands.

29. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years after the passing of this Act.

Power to acquire additional lands by agreement.

30. In addition to the lands which the Company are by this Act authorised to purchase compulsorily they may for any of the purposes of this Act from time to time by agreement purchase any additional quantity of land not exceeding in the whole five acres or any easement or right (not being an easement or right of water) in or over such additional lands or otherwise which they may from time to time think requisite for any of the purposes of the undertaking. Provided that the Company shall not on any such lands erect or authorise or permit the erection of any buildings other than buildings connected with or necessary for their undertaking.

Period for completion of works.

31. If the works authorised by this Act and shown on the deposited plans excepting the works described in this Act under the letters (c) and (d) are not completed within six years from the passing of this Act and if the works last mentioned are not completed within fifteen years from the passing of this Act then on the expiration of such periods the powers by this Act granted to the Company for executing the same or in relation thereto respectively shall cease to be exercised except as to so much thereof as is then completed but nothing herein shall restrict the Company from extending enlarging altering or renewing any of their engines machinery mains or pipes from time to time as occasion requires for supplying water within the limits of this Act.

32. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement right or privilege (not being an easement of water) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

A.D. 1933.

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Power to  
take ease-  
ments &c.  
by agree-  
ment.

34. The water to be supplied by the Company shall be constantly laid on under pressure but the Company shall not be required to supply water in any case at a pressure greater than that to be afforded by gravitation from the reservoir from which the supply is taken.

Constant  
supply and  
pressure.

36. The Company shall not be compelled to supply with water . . . . . any bath which shall be capable of containing when filled for use more than fifty gallons of water.

For prevent-  
ing the  
fouling of  
water.

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The SCHEDULE referred to in the foregoing Act.

THE KNOWLE WATERWORKS

situate on the lands numbered 13 14 15 16 19 20 21 22 26 and 27 on the deposited plans;

THE PEAK WATERWORKS

situate on the lands numbered 1 2 4 5 7 8 9 10 11 12 13 and 14 on the deposited plans;

THE BULVERTON WATERWORKS

situate on lands numbered 28 29 30 31 32 and 33 on the deposited plans;

And all pipes stop-cocks apparatus and fittings connected with the said waterworks or any of them whether in the public roads or otherwise which are now the property of the trustees of the will of George Edmond Balfour.

[Ch. xl.]

*Sidmouth Urban* [23 & 24 GEO. 5.]  
*District Council Act, 1933.*

A.D. 1933.

SECOND SCHEDULE.

SECTIONS OF THE ACT OF 1932 REPEALED.

- Section 34 (Power to retain sell &c. lands);  
Section 51 (Revision of rates and charges);  
Section 52 (As to quarterly dates for payment of water rates);  
Section 106 (Power to make superannuation and other allowances);  
Section 107 (Power to directors to make donations subscriptions &c.);  
Section 108 (Form and service of notices by Company).

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