



CHAPTER xlv.

An Act to provide for the protection and improvement of certain streams in the county of Essex to confer further powers on the Essex County Council and local authorities in relation to the health and local government and the preservation of the amenities of the county to enact provisions with respect to massage establishments employment agencies hairdressers' and barbers' premises places of public entertainment sale of coke town planning and roads to make provision for the finance of the county and for other purposes. A.D. 1933.
[18th July 1933.]

WHEREAS the county council of the administrative county of Essex (hereinafter referred to as "the Council") are empowered by section 14 of the Local Government Act 1888 to enforce the provisions of the Rivers Pollution Prevention Acts 1876 and 1893 (subject to the restrictions contained in the said Act of 1876) in relation to so much of any stream as is situate within or passes through or by any part of the administrative county of Essex (hereinafter referred to as "the county"):

And whereas it is expedient to confer on the Council such further powers and to make such provisions as in this Act contained with a view to the protection and improvement of the said streams:

A.D. 1933.

And whereas it is expedient that further and better provision should be made with reference to the acquisition and user of lands massage establishments employment agencies hairdressers' and barbers' premises places used for certain classes of public entertainment sale of coke roads town planning and building development and otherwise for the local government health improvement and finance of the county and that the powers of the Council and of local authorities within the county should be enlarged and extended as by this Act provided :

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

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

And whereas in relation to the promotion of the Bill for this Act the requirements of the Borough Funds Act 1872 so far as applicable to the Council have been observed by them :

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

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the Essex County Council Act 1933.

Act divided into Parts.

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

Part I.—Preliminary.

Part II.—Lands.

Part III.—Protection of streams.

Part IV.—Establishments for massage and special treatment.

Part V.—Employment agencies.

Part VI.—Hairdressers' and barbers' premises.

Part VII.—Control of public entertainments.

Part VIII.—Sale of coke &c.

Part IX.—Moveable dwellings and camping grounds. A.D. 1933.

Part X.—Roads town planning and amenities.

Part XI.—Ice-cream vendors.

Part XII.—Insurance.

Part XIII.—Finance.

Part XIV.—Miscellaneous.

3. The Lands Clauses Acts (so far as applicable for the purposes and not inconsistent with the provisions of this Act) are hereby incorporated with this Act with the following exceptions and modification :—

Incorporation of
Lands
Clauses
Acts.

(a) Sections 127 to 132 of the Lands Clauses Consolidation Act 1845 are not incorporated with this Act;

(b) The bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be under the common seal of the Council and shall be sufficient without the addition of the sureties mentioned in that section.

4. In this Act unless the context otherwise requires—

Definitions.

Words and expressions to which meanings are assigned by the Lands Clauses Acts have the same respective meanings except where otherwise expressly enacted;

“the county” means the administrative county of Essex;

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

“urban district” includes a borough but not a county borough;

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

“local authority” means the council of any county district;

“the clerk” “the county surveyor” and “the county accountant” respectively mean (unless a contrary intention appears) the clerk to the Council the county surveyor for the county and

A.D. 1933.

- the county accountant for the county and respectively include any person duly appointed by the Council to discharge temporarily the duties of any such officer;
- “street” and “road” include any street road footpath and other highway;
- “county road” has the same meaning as in Part III of the Local Government Act 1929;
- “the Lands Clauses Acts” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919;
- “the Act of 1932” means the Town and Country Planning Act 1932;
- “local enactment” means any local Act Order having the force of an Act byelaw or regulation for the time being in force within the county;
- “the tribunal” means the arbitrator 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;
- “employee” includes any officer or servant of the Council;
- “the Minister” means the Minister of Health except where some other Minister is expressly mentioned;
- “the Port Authority” means the Port of London Authority;
- “the Port of London” means the limits of the Port of London as described in the First Schedule to the Port of London (Consolidation) Act 1920 and amended by section 22 of the Port of London (Various Powers) Act 1932;
- “daily penalty” means a penalty for each day on which an offence is continued after conviction therefor;
- “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

A.D. 1933.

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 or other local authority as defined by section 34 (Definitions) of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery nor does it include with reference to the Council any securities of the Council;

“revenues of the Council” includes the revenues of the Council from time to time arising from any land undertaking 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;

“security of the Council” means any mortgage bond stock or other security granted or issued by the Council.

PART II.

LANDS.

5.—(1) The powers of the Council under section 65 of the Local Government Act 1888 shall extend to and include—

Further powers to Council to acquire land.

- (a) the purposes of this Act; and
- (b) the purpose of providing substituted sites or facilities for any person whose land may be acquired by the Council under any of their statutory powers:

A.D. 1933.

Provided that the Council shall not be authorised to purchase any lands compulsorily for the purpose of subparagraph (b) of this subsection.

(2) (a) The Council notwithstanding that the same may not immediately be required may by agreement purchase or acquire or take on lease and hold any land or interest in or easement or right in to or over land which in their opinion it is desirable the Council should acquire for or in connection with the purposes of any of their powers or duties.

(b) When any land or interest in or easement or right in to or over land purchased or acquired or taken on lease by the Council under this subsection shall be appropriated 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.

(c) The powers of borrowing money with the consent of the Minister conferred on the Council by Part XIII of this Act shall include the power to borrow money for the payment of any capital sum payable on any lease of land or interest in or easement or right in to or over land under this subsection.

Further powers to local authorities to acquire land.

6.—(1) Any local authority notwithstanding that the same may not immediately be required may by agreement purchase or acquire or take on lease and hold any land or interest in or easement or right in to or over land which in their opinion it is desirable such local authority should acquire for or in connection with the purposes of any of their powers or duties.

(2) When any land or interest in or easement or right in to or over land purchased or acquired or taken on lease by any local authority under this section shall be appropriated 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 such local authority.

(3) The powers of borrowing money with the consent of the Minister conferred on any local authority by section 233 of the Public Health Act 1875 shall include the power to borrow money for the payment of any capital sum payable on any lease of land or interest in or easement or right in to or over land under this section.

7.—(1) The purposes for which the Council as a local education authority may acquire land compulsorily under section 111 of the Education Act 1921 shall include the purpose of reinstating the owner lessee or occupier of any land which—

A.D. 1933.
—
Extension
of powers
to acquire
land under
Education
Act 1921.

- (i) has been or is to be purchased by the Council compulsorily or by agreement under that Act; and
- (ii) is or immediately before such purchase was owned by any local authority or statutory undertakers or used or intended to be used for the purpose of a recreation ground or playing field or for a charitable purpose or for any purpose of such a nature that there is no general demand or market for land for that purpose :

Provided that so much of the provisions of paragraphs 5 and 6 of the Fifth Schedule to the Education Act 1921 as relates to the question whether the land proposed to be acquired is or is not suitable or suited for the purpose for which it is proposed to be acquired shall not apply to any land acquired under the provisions of this subsection.

In this subsection “local authority” means the council of any county borough or metropolitan borough or any county district whether within or without the county and “statutory undertakers” means any company body or person (not being a local authority) authorised by any Act of Parliament or Order having the force of an Act to carry on any railway tramway harbour dock canal inland navigation water gas electricity or other public utility undertaking.

(2) Where under the provisions of the Fifth Schedule to the said Act of 1921 or any regulations made by the Board of Education under that schedule the Council are required to serve notice on any person who shall be absent from the United Kingdom or who cannot be found after diligent inquiry such notice may be served in manner mentioned by section 19 of the Lands Clauses Consolidation Act 1845.

8. The provisions of section 106 (Power of entry on land acquired) of the Housing Act 1925 as amended by the Housing Act 1930 so far as they relate to lands acquired for the purposes of Part II of that Act of 1925 shall apply to any land which the Council are authorised

Further
powers of
entry.

A.D. 1933.

to acquire for educational or highways purposes under any enactment for the time being in force under which the Council may acquire land compulsorily for those purposes respectively. Provided that in every notice required to be given under any such enactment to the owners lessees or occupiers of land proposed to be acquired by the Council thereunder the provisions of this section shall be stated.

Persons
under
disability
may grant
easements
&c.

9. Persons empowered by the Lands Clauses Acts to sell and convey or release land may if they think fit subject to the provisions of those Acts and of this Act grant to the Council or to any local authority 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 or affecting any such land 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.

Retention
and dis-
posal of
lands.

10.—(1) Notwithstanding anything in this or any other Act 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 (whether in possession or reversion) 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 either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any land or any interest therein acquired by them and may sell exchange or dispose of any rents reserved on the sale lease exchange or disposition of such land or interest 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 :

Provided that—

- (a) the Council shall not under the powers of this section without the consent of the Minister sell lease exchange or otherwise dispose of any such land or any interest therein at a price or rent or for a consideration of a value less than the current market value of such land or interest but a purchaser or lessee shall not be

A.D. 1933.

- concerned to inquire whether the consent of the Minister be necessary or has been obtained ;
- (b) nothing in this section shall be taken to dispense with the consent of any Government department to any sale lease appropriation or other disposition of any land of the Council in any case in which if this section had not been enacted such consent would have been required otherwise than under subsection (3) of section 64 of the Local Government Act 1888 ;
- (c) in the case of any land or any interest therein which has been acquired by the Council from a local authority the Council shall before disposing thereof first offer to dispose of the same to such local authority and if such local authority shall be desirous of purchasing such lands or interest therein and the local authority and the Council do not agree as to the price thereof then such price shall be ascertained by an official arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act 1919.

(2) Nothing in this section shall release the Council or any person purchasing or acquiring any land from them under this section from any rents covenants restrictions reservations terms or conditions reserved by or contained in any conveyance lease or other deed or instrument by which such land was acquired by the Council or by any predecessor in title of the Council 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 section had not been enacted.

11.—(1) The Council may so far as they consider necessary apply (subject to the approval of the Minister) any capital money received by them on the re-sale or exchange of or by leasing any land acquired under the authority of this Part of this Act in the purchase of other lands but as to capital money so received and not so applied the Council shall apply the money in or towards the extinguishment of any loan raised by them under the powers of this Act or any other enactment relating to the

Proceeds
of sale of
surplus
lands.

A.D. 1933. Council 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 money received by the Council on the re-sale or exchange of or by leasing any land acquired otherwise than under this Part of this Act shall be applied in the same manner as capital money received under the Act in pursuance of which the land was acquired is applicable or in such other manner as may be approved by the Minister.

Lands of Port Authority not to be acquired compulsorily.

12. Nothing in this Part of this Act or any order made thereunder shall authorise the compulsory acquisition of any land which is vested in the Port Authority for the purposes of their undertaking.

Saving for town planning schemes.

13. Notwithstanding anything in this Part of this Act the provisions of any town planning scheme (including any regional supplementary or varying scheme) or supplementary order in operation at the date of the passing of this Act under the Act of 1932 or any Act repealed thereby or of any general development order approved by the Minister under section 15 of the Act of 1932 shall extend and apply to any land or premises acquired by the Council or any local authority under the powers of the sections of this Act of which the marginal notes are—

“Further powers to Council to acquire land”;

“Further powers to local authorities to acquire land”;

“Extension of powers to acquire land under Education Act 1921.”

PART III.

PROTECTION OF STREAMS.

Streams to which Part III applies.

14. This Part of this Act shall apply to and only to streams which are situate in or pass by the county or such parts of any streams as are situate in or pass by the county Provided that this Part of this Act shall not apply—

(a) to the river Thames or to any stream (as defined in the next succeeding section of this Act) within the flow and reflow of the tides of the river Thames; or

- (b) to the Lee and the tributaries of the Lee as described in section 3 of the Lee Conservancy Act 1868; or
- (c) to such part of the river Stour as is within the area of jurisdiction of the Harwich Harbour Conservancy Board; or
- (d) to such part of any stream as is within the borough of Barking or the borough of Ilford.
- A.D. 1933.
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15. In this Part of this Act unless the context otherwise requires—

Definitions
for Part III.

“stream” includes any tributary brook channel culvert or watercourse or part thereof respectively within the county and includes the bed and channel and shores thereof respectively but with respect to the provisions of the sections of this Act of which the marginal notes are—

“Power to improve flow &c.”;

“For prevention of floods”;

“Clearing of streams”;

“Prohibition against dredging without licence of Council”;

“Restrictions as to buildings &c. in or over streams”;

“As to covering of streams”;

“For preventing obstruction to streams by culverts &c.”;

does not include—

(a) any part of a main river shown upon the map of any catchment area prepared in pursuance of section 5 of the Land Drainage Act 1930 and for the time being in force or any bed channel or shore below high-water mark of ordinary spring tides; or

(b) any stream or part of a stream which is a tributary within the meaning of section 226 of the Port of London (Consolidation) Act 1920 for the purposes of the provisions relating to pollution in Part VI of that Act; or

(c) any part of the Loughton Brook situate within the limits of Epping Forest;

A.D. 1933.

“pollution” does not include innocuous discolouration of any stream;

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

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

Improvement of Flow.

Power to
improve
flow &c.

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

- (a) dredge cleanse and scour any stream;
- (b) reduce or remove any shoals shelves banks or other accumulations in any stream;
- (c) abate or remove or cause to be abated or removed all impediments obstructions and nuisances whatsoever in any stream or on the banks thereof:

Provided that—

- (i) where a local authority is a riparian owner on any part of a stream the powers of this subsection shall not be exercised in respect of such part of the stream; and
- (ii) where a local authority owns any sluices or other works for controlling the flow of water in a stream such powers shall not be exercised in respect of any part of a stream which is in the district of that authority and in which the flow of water can be so controlled;

except in either case with the consent of the local authority but such consent shall not be unreasonably withheld and any dispute between the Council and the local authority as to whether any such consent has been unreasonably withheld shall be determined by the Minister.

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

and shorten any bend or remove any angle in the course of the stream. A.D. 1933.

(3) Where any person sustains any damage by reason of the exercise of any of the powers of subsections (1) and (2) of this section in relation to any matter as to which he is not himself in default compensation shall be made to such person by the Council and any dispute as to the fact of damage or amount of compensation shall in default of agreement be determined by and compensation (if any) shall be recoverable in a court of summary jurisdiction :

Provided that nothing in this subsection shall impose any liability on the Council to make compensation to any person with whom they have entered into an agreement under subsection (2) of this section for any damage caused by or resulting from the proper exercise by the Council of their powers under subsection (2) of this section in accordance with the terms of the agreement.

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

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

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

(3) (a) Before executing any work under the provisions of this section the Council shall cause to be prepared and deposited at the office of the clerk for inspection by or on behalf of any owner affected by such work a plan section and specification thereof together with an estimate of the probable cost of such work (including the expense of purchasing any lands

A.D. 1933. — for the purposes thereof) and a provisional apportionment of such estimated cost and shall give notice in writing of such deposit to every riparian owner on the portion of watercourse forming the site of such work and to every owner proposed to be charged in accordance with the provisions of this section with any part of such cost.

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

(i) that he objects to the proposed work such work shall not be executed unless such notice of objection is withdrawn or unless and until the Minister of Agriculture and Fisheries after a local inquiry (at which such owner shall be entitled to be heard) has given his approval of the work and such approval may require such modification of the work as the said Minister may deem necessary;

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

(4) (a) Any expenses incurred by the Council under the provisions of this section (including the expense of purchasing any lands for the purposes thereof) may be apportioned amongst and recovered by the Council from the owners of property within the county benefited by the execution of any work by the Council thereunder Provided that in the event of any such apportionment being so made and of any property of the Council being so benefited a due proportion of such expenses shall be apportioned to them and shall be borne and paid by them out of the county fund or out of moneys to be borrowed by them under this Act.

(b) Any expense incurred by the Council and authorised to be so apportioned and recovered may be apportioned and recovered by the Council from the owners chargeable therewith in the same manner as nearly as may be as expenses incurred under the

A.D. 1933.

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

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

(6) For the purposes of this section the Council their officers servants contractors and workmen with or without carts or other vehicles may from time to time enter upon the bed and banks of any stream and any lands or premises adjoining the same and any person who shall obstruct the Council their officers servants contractors or workmen in the exercise of the powers of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(7) In this section the expression "owner" has the same meaning as in the Public Health Act 1875 and section 308 of that Act shall apply to cases where damage is sustained by the exercise of the powers of this section.

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

18.—(1) If any part of any stream is or becomes in such a state that the proper flow of water along the same is obstructed or impeded the Council may by notice in writing require any owner or occupier of any

Clearing of
streams.

A.D. 1933. — lands abutting on that part of the stream or any person by whose act or default the proper flow of water in that part of the stream is obstructed or impeded to clear or put in proper order that part of the stream so as to allow the proper flow of water along the same :

Provided that the Council shall not make any requirement under this subsection which would involve the structural alteration of any culvert belonging to any railway company without first obtaining the consent of such railway company.

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

(3) Any person aggrieved by any requirement of any notice given to him by the Council under this section may appeal to a court of summary jurisdiction provided that the appeal is made within fourteen days from the receipt by him of such notice and that notice in writing of the appeal is sent to the Council within twenty-four hours after the entry of the appeal.

(4) 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 the court shall deem just and the costs of the appeal shall be paid in such manner and by such parties to the appeal as the court may direct.

Prohibition
against
dredging
without
licence of
Council.

19. It shall not be lawful for any person to dredge or raise any gravel sand ballast or other substance from the bed of any stream so as to interfere with or prejudice the flow of the stream except under and in accordance with a licence granted by the Council proof of which licence shall lie on the person accused. If any person acts in contravention of this enactment he shall for every such offence be liable to a penalty not exceeding twenty pounds.

20. The powers conferred upon the Council by the sections of this Part of this Act whereof the marginal notes respectively are "Power to improve flow &c." "Clearing of streams" and "Prohibition against dredging without licence of Council" shall not be exercised in respect of any part of any tributary brook channel culvert or watercourse flowing directly or indirectly into any stream which is vested in or controlled by a local authority or a drainage board constituted or deemed to be constituted under the Land Drainage Act 1930 or in relation to which the local authority or drainage board is enabled by any statutory enactment to exercise such powers except with the consent of the local authority or drainage board but in either case such consent shall not be unreasonably withheld and any dispute between the Council and the local authority or drainage board as to whether any such consent has been unreasonably withheld shall be determined in the case of a local authority being a party to the dispute by the Minister and in the case of a drainage board being a party to the dispute by the Minister of Agriculture and Fisheries.

A.D. 1933.
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Saving for local authorities and drainage boards.

Prevention of Pollution and Obstruction.

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

- (a) opens into any stream any sewer drain pipe or channel whereby sewage or any offensive or injurious matter (whether solid or fluid) shall or is likely to flow or pass into such stream ;
- (b) wilfully causes or knowingly suffers any sewage or any offensive or injurious matter (whether solid or fluid) to flow or pass from any land works or other premises in the county into any stream ;

he shall for every such offence be liable to a penalty not exceeding one hundred pounds and to a daily penalty not exceeding fifty pounds Provided that—

- (i) this section shall not apply in respect of the opening into any stream of any sewer drain pipe or channel connecting with any works

A.D. 1933.

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

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

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

Notice for
discon-
tinuance of
pollution.

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

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

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

agreement by the Minister on the application of either party) who shall have power to extend the time so allowed.

A.D. 1933.

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

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

(6) The provisions of this section shall not apply—

(a) in respect of the effluent from any sewage works constructed by a local authority before or after the passing of this Act with the consent of the Minister or the Local Government Board or some other Government department or under the authority of Parliament or where such consent is not required with the consent of the Council if and so long as the local authority shall make maintain and use adequate provision by depositing tanks filter beds or otherwise for the purification and clarifying of such effluent; or

(b) in respect of the flow or discharge of storm water from any surface water drain constructed by a local authority before or after the passing of this Act with the consent of the Minister or the Local Government Board or some other

A.D. 1933.

Government department or under the authority of Parliament or where such consent is not required with the consent of the Council.

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

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

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

- (i) he is unable consistently with the reasonable and lawful carrying on of any customary process in connection with his trade or manufacture to prevent such matter so flowing or passing into the stream; and
- (ii) he is using the best practicable means within a reasonable cost to render harmless the matter so flowing or passing :

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

Power to
stop up
or divert
outlets of
sewers &c.

23.—(1) A court of summary jurisdiction before which any person is summoned under either of the sections of this Part of this Act of which the marginal notes respectively are "Prohibition of pollution" and "Notice for discontinuance of pollution" may (in lieu of or in addition to inflicting a penalty and whether they record a conviction or not) make if they think fit

A.D 1933.

an order for the stopping up or in suitable cases the diversion of the inlet or outlet of any sewer drain pipe or channel in respect of or by means of or down or through which such offence was committed Provided that no such order shall be made unless a statement was contained in the summons of the intention to apply for such an order.

(2) If the court makes any such order the Council may stop up or divert as the case may be the inlet or outlet of the sewer drain pipe or channel to which the order relates and for that purpose may enter upon any lands owned or occupied by the person so offending and do all works that appear to them requisite and may recover summarily as a civil debt from the person so offending all expenses incurred by them in so doing with costs.

(3) If any person prevents or obstructs the Council or any of their officers or servants in carrying out the powers conferred by this section he shall for every such offence be liable to a penalty not exceeding twenty pounds.

24. Every person who wilfully causes or knowingly suffers to flow or pass into any stream any fluid of such temperature as that within a distance of two hundred yards from the point of discharge of such fluid into such stream the temperature of the said stream shall be thereby or in combination with other heated fluid falling or flowing or passing into the stream raised to a greater extent than seven and one-half degrees centigrade shall be deemed to have committed an offence against paragraph (b) of the section of this Act of which the marginal note is "Prohibition of pollution" and shall be liable to the penalties in that section mentioned.

Prohibition of discharge of heated fluids into streams.

25. Every person cutting and also every person employing others to cut or knowingly suffering persons in his employment to cut weeds grass or other vegetation in any stream shall remove or cause to be removed therefrom such weeds grass or other vegetation immediately after the cutting thereof so as to prevent their remaining and decaying in and contaminating the water of the stream Any person who fails to comply with this section shall for every such default be liable to a penalty not exceeding five pounds.

Weeds &c. not to be thrown into streams.

A.D. 1933.

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

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

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

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

Restrictions on Buildings over Streams.

Restrictions
as to build-
ings &c. in
or over
streams.

27.—(1) No person shall at any time hereafter erect construct or place or cause or permit to be erected constructed or placed in or directly over the waterway or bed of any stream any building structure erection

bridge arch culvert pipe or other work or thing (in this section referred to collectively as "work") or reconstruct or alter or cause or permit to be reconstructed or altered any work erected constructed or placed in or directly over the waterway or bed of any stream before or after the passing of this Act unless and until he shall have submitted for the approval of the Council plans sections and particulars of the work and the manner in which the same is to be erected constructed or placed or reconstructed or altered (as the case may be) and such plans sections and particulars have been approved by the Council or by an arbitrator as hereinafter provided :

Provided that this subsection shall not apply to the erection construction placing reconstruction or alteration of any work over the waterway or bed of any stream unless the work will or may have the effect of interfering with the free passage of water along the stream :

Provided also that this subsection shall not apply to any work (not being a dwelling-house) erected constructed or placed or which may hereafter be erected constructed or placed in or over the bed or waterway of any stream by any railway company in the exercise of their statutory powers existing at the passing of this Act.

(2) If the Council shall not within six weeks after the delivery of the plans sections and particulars signify in writing their approval or disapproval of any intended work or of the reconstruction or alteration of any existing work (as the case may be) to the person who delivered such plans sections and particulars with in the case of disapproval their reasons for such disapproval they shall be deemed to have approved the said plans sections and particulars.

(3) The Council may attach to their approval any condition which they may deem proper.

(4) If the Council disapprove of the plans sections and particulars or if any difference shall arise as to the reasonableness of any conditions which the Council may attach to their approval of the plans sections and particulars then the plans sections and particulars or the conditions shall be referred to an arbitrator to be

A.D. 1933.

agreed or failing agreement to be appointed by the President of the Institution of Civil Engineers on the application of the person on whose behalf the plans sections and particulars were submitted or of the Council and the arbitrator shall settle the plans sections and particulars with or without modifications or disapprove the same or shall settle the conditions to be attached to the plans sections and particulars.

(5) Every such work shall be erected constructed or placed or reconstructed or altered (as the case may be) in accordance with the plans sections and particulars as so approved by the Council or settled by an arbitrator as aforesaid and subject to such conditions as may be attached by the Council or the arbitrator to such approval.

(6) If any such work or the reconstruction or alteration of any such existing work is commenced or completed without such approval of the Council or of an arbitrator as aforesaid or in any respect otherwise than in conformity with the plans sections and particulars as so approved and with any condition attached to such approval the person who commenced or completed the same or caused or permitted the same to be commenced or completed shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding forty shillings.

(7) On conviction of any person under this section the court may make such order with regard to the removal reinstatement or modification of the work as in the circumstances of the case the court may think fit and in default of compliance with such order by the person to whom the same is directed the Council may (without prejudice to the liability to any penalties or to any other remedy or proceeding) cause such work to be pulled down and removed or reinstated as the case may be and any expense incurred by them in or about the pulling down and removal or reinstatement of the work may be recovered from the person to whom the said order of the court is directed.

(8) Nothing in this section shall affect the rights and powers of the Postmaster-General under the Telegraph Acts 1863 to 1926.

(9) Nothing in this section shall affect prejudicially the rights and powers of the councils of the administrative counties of East and West Suffolk as highway authorities.

A.D. 1933.
—

(10) The provisions of the Arbitration Act 1889 shall apply to any reference to an arbitrator under this section.

28.—(1) If any part of a stream situate in or adjoining any land laid out for building or built upon or in process of development for building purposes requires in the opinion of the Council to be wholly or partially filled up or covered over the Council may by notice in writing require the owner of the land to execute such works as may in their opinion be necessary for effecting the objects aforesaid or for substituting for such stream a drain pipe or culvert with all necessary shoots and means of conveying surface water into the same. Provided that nothing in this section shall authorise the Council to require the filling up or covering over of any part of a stream wholly or partly belonging to any person other than the owner of the land so laid out for building or built upon or in process of development for building purposes.

As to
covering of
streams.

(2) All works required by the Council to be done under this section shall be completed to the satisfaction of the surveyor to the Council.

(3) Any person who shall be guilty of any act or omission in contravention of the provisions of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(4) Any person aggrieved by any requirement of the Council under this section may appeal to a court of summary jurisdiction provided that the appeal is made within fourteen days after notice of the requirement has been served upon him and that notice in writing of the appeal is sent to the Council within twenty-four hours after the entry of the appeal.

(5) 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 the court shall deem just and the costs of the appeal shall be paid in such manner

A.D. 1933. — and by such parties to the appeal as the court may direct.

For pre-
venting
obstruction
to streams
by culverts
&c.

29. Where any obstruction is or may be caused to any stream by any inadequate or insufficient culvert channel or other work belonging to or under the control of a local authority in the county the Council and the local authority may enter into and carry into effect agreements for and with respect to the carrying out by either party to the agreement of any works with respect to the repair reconstruction or removal of such culvert channel or other work or the construction and maintenance of a proper and sufficient culvert channel or other work and for the payment by the parties to the agreement or either of them of all or any part of the costs or expenses incurred in carrying the agreement into effect :

Provided that nothing in this section shall be deemed to restrict the exercise by any local authority of their powers in relation to culverts channels or other works.

Enforcement of Provisions.

Powers of
entry and
taking
samples.

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

- (a) carry out the powers conferred on the Council by the section of this Part of this Act of which the marginal note is "Power to improve flow &c."; or
- (b) inspect and detect any offences against this Part of this Act; or
- (c) take and carry away samples of any effluent or other liquid whether at the point where the liquid passes into any stream or at any point from which such liquid flows into any stream either directly or through across or under any other lands or premises :

Provided that—

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

(ii) the Council shall forthwith at their own expense make good and restore to its former condition any land building or work laid open under their authority under this subsection. A.D. 1933.

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

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

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

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

(6) Any samples taken under this section shall be taken in triplicate and before they are removed from the premises where they were taken shall be respectively sealed up and marked by the person taking the same and one of such triplicate samples shall be left by such person with the occupier of the premises whence the liquid flows or other the person responsible for or causing

A.D. 1933. or permitting the passing of the liquid into the stream another sample shall be submitted by the Council (if they think fit) for analysis and the third sample shall be retained by the Council for future comparison.

(7) Where any person sustains any damage by reason of the exercise of any of the powers of this section compensation shall be made to him by the Council and any dispute as to the fact of damage or amount of compensation shall in default of agreement be determined by and compensation (if any) shall be recoverable in a court of summary jurisdiction but no such compensation shall be made to such person if the court shall decide that the exercise by the Council of the powers of this section was due to such person having committed a breach of the provisions of this Part of this Act.

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

Savings.

Saving for certain acts. **31.** No person shall be deemed to have committed an offence against this Part of this Act for doing or causing to be done any of the following acts (that is to say) :—

- (1) constructing improving or maintaining in or across any stream any building bridge weir dam sluice or other permanent work with necessary temporary coffer-dams and other works which but for the passing of this Act he would have a legal right to construct improve or maintain provided that he shall have complied with the provisions of the section of this Part of this Act of which the marginal note is "Restrictions as to buildings &c. in or over streams" if those provisions apply;
- (2) pitching or depositing stones or any other suitable or solid materials (not likely to be washed or carried away by the stream or current rising to the line of an ordinary flood)

A.D. 1933.

at the side or on the bank of any stream for the express and bona fide purpose of reclaiming land washed away by the action of any stream or of supporting or protecting or repairing the side or bank of any stream or of erecting or repairing any bridge or any building drain sewer or watercourse upon or within the banks of any stream or the slopes or walls thereof at or convenient to the point at which the same shall be so pitched or deposited;

- (3) putting back or permitting to be carried into any stream any sand or gravel or other natural deposit which shall have flowed from or been deposited by the current of the stream provided that the sand or gravel or other natural deposit so put back or carried as aforesaid do not interfere with the due flow of or pollute the waters of the stream.

32.—(1) No local authority or highway authority who uses to a reasonable extent—

Saving for
acts relating
to roads.

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

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

(2) For the purposes of this section the expression "highway authority" means with reference to any road or part of a road or bridge the authority or company charged with or liable for or to contribute to the maintenance of such road or part of a road or bridge.

A.D. 1933.

Saving
rights of
water un-
dertakers.

33. Nothing in this Part of this Act shall take away limit alter or prejudicially affect any right power authority jurisdiction or privilege of the Metropolitan Water Board or of any local authority or company carrying on a water undertaking authorised by Act of Parliament or prevent any such board authority or company from discharging water into any stream into which they are at the passing of this Act entitled to discharge water.

For protec-
tion of
South Essex
Waterworks
Company
and South-
end Water-
works Com-
pany.

34.—(1) Nothing in this Part of this Act shall authorise the Council or the owner or occupier of any land or any other person except with the consent of the South Essex Waterworks Company or of the Southend Waterworks Company (each of whom is hereinafter referred to as “the company”) to do any work which whether directly or indirectly interferes or will interfere with or with the use of the works of or any property which is vested in or under the control of the company in such manner as to affect injuriously the said works or property or the carrying on of the company’s undertaking.

(2) If any question arises under this section whether anything done or proposed to be done interferes or will interfere as aforesaid that question shall be referred to a single arbitrator to be agreed between the parties or failing such agreement to be appointed by the President of the Institution of Civil Engineers on the application of either party after notice in writing to the other of them Subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any reference to an arbitrator under this section.

For pro-
tection of
certain
electricity
under-
takers.

35.—(1) Nothing in this Part of this Act except the provisions of the section of this Act of which the marginal note is “Prohibition of discharge of heated fluids into streams” shall take away limit alter or prejudicially affect any right power authority jurisdiction or privilege of the—

Bishops Stortford Harlow and Epping Gas and
Electricity Company;

County of London Electric Supply Company Limited;

East Anglian Electric Supply Company Limited;

North Metropolitan Electric Power Supply Company; A.D. 1933.
Wickford and District Electricity Supply Company
Limited;

(each of whom is hereinafter referred to as "the company").

(2) (a) Nothing in this Part of this Act shall authorise the Council or the owner or occupier of any land or other person except with the consent of the company to do any work which whether directly or indirectly interferes or will interfere with or with the use of the works of or any property which is vested in or under the control of the company in such manner as to affect injuriously the said works or property or the carrying on of the company's undertaking.

(b) If any question arises under this subsection whether anything done or proposed to be done interferes or will interfere as aforesaid that question shall be referred to a single arbitrator to be agreed between the parties or failing such agreement to be appointed by the President of the Institution of Civil Engineers on the application of either party after notice in writing to the other of them Subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any reference to an arbitrator under this section.

36. For the protection of Second Anglo-Scottish Beet Sugar Corporation Limited and their successors the owner or owners for the time being of the lands at Felstead in the county abutting on and bounded on the east by the stream known as the Stebbing and having a frontage thereto of five hundred yards or thereabouts and also abutting on and bounded on the south by the river Chelmer and having a frontage thereto of two hundred and fifty yards or thereabouts (all of whom are hereinafter in this section included in the expression "the owner") the following provision shall notwithstanding anything in this Act contained and unless otherwise agreed in writing between the owner and the Council apply and have effect (that is to say):—

For protec-
tion of
Second
Anglo-
Scottish
Beet Sugar
Corporation
Limited.

In the application of the section of this Act of which the marginal note is "Prohibition of discharge of heated fluids into streams" to any discharge of fluid from the lands of the owner into the

A.D. 1933.

stream known as the Stebbing the point of discharge referred to in the said section shall be deemed to be the junction of the said stream with the river Chelmer.

For pro-
tection of
Courtaulds
Limited.

37. For the protection of Courtaulds Limited and their successors the owner or owners for the time being of the lands and premises in the county at (i) Bocking abutting and bounded in part on both sides by the stream known as the Blackwater or Pant and having a frontage thereto of seven hundred and fifty yards or thereabouts (ii) Braintree abutting and bounded in part on both sides by the stream known as the Brain and having a frontage thereto of seven hundred yards or thereabouts and (iii) Halstead abutting and bounded on both sides by the stream known as the Colne and having a frontage thereto of three hundred yards or thereabouts (all of whom are hereinafter in this section included in the expression "the owner") the following provisions shall notwithstanding anything in this Act contained apply and have effect (that is to say) :—

If the owner wilfully causes or knowingly suffers to flow or pass into the streams known as the Blackwater the Brain or the Colne any fluid of such temperature as that within a distance of two hundred yards from the point of discharge of such fluid into such streams the temperature of the said streams shall be thereby or in combination with other heated fluid falling or flowing or passing into the said streams raised to a greater extent than—

- (a) ten degrees centigrade between the first day of October and the thirty-first day of March respectively in each year; and
- (b) twelve and one-half degrees centigrade between the first day of April and the thirtieth day of September respectively in each year;

the owner should be deemed to have committed an offence against paragraph (b) of the section of this Act of which the marginal note is "Prohibition of pollution" and shall be liable to the penalties in that section mentioned.

38. Nothing in this Part of this Act shall prevent the owners lessees or occupiers of watercress beds using any stream or any springs of water or works in connection therewith for the proper cultivation of watercress by any of the best known methods or from opening any such drains pipes or channels as may be required for the purpose of passing water through any such beds into any stream.

A.D. 1933.

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For pro-
tection of
cultivation
of water-
cress.

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

Saving
rights of
owners.

40. Nothing in this Part of this Act shall prevent or interfere with the use of any storm overflow constructed under the authority of Part VI (Walthamstow and Leyton Drainage) of the London County Council (General Powers) Act 1925 or any works or appliances constructed or provided in connection with any such storm overflow.

Saving for
London
County
Council
(General
Powers)
Act 1925.

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

Saving for
storm over-
flows.

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

42. Nothing in this Part of this Act shall apply to or affect any sewer or watercourse vested in belonging to or maintained by the London County Council or extend to prejudice diminish alter or take away any right power

Saving for
sewers &c.
of London
County
Council.

A.D. 1933. privilege or authority vested in the Council under the provisions of the Metropolis Management Acts 1855 to 1893.

Saving
for Port
Authority.

43.—(1) Notwithstanding anything in this Part of this Act the provisions of the sections of this Act of which the marginal notes are—

“ Prohibition of pollution ” ;

“ Notice for discontinuance of pollution ” ;

“ Power to stop up or divert outlets of sewers &c. ” ;

“ Prohibition of discharge of heated fluids into streams ” ;

“ Weeds &c. not to be thrown into streams ” ;

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

and paragraph (c) of subsection (1) of the section of this Act of which the marginal note is “ Powers of entry and taking samples ” shall not extend or apply to any stream or part of a stream which is a “ tributary ” within the meaning of section 226 of the Port of London (Consolidation) Act 1920 for the purposes of the provisions relating to pollution in Part VI of that Act.

(2) Nothing in this Part of this Act shall take away limit or prejudicially affect any right power authority jurisdiction or privilege of the Port Authority.

(3) Nothing in this Part of this Act or any order made thereunder shall authorise any person except with the consent of the Port Authority to do any work which whether directly or indirectly interferes or will interfere with or with the use of the works of or any property which is vested in or under the control of the Port Authority in such manner as to affect injuriously the said works or property or the carrying on of the undertaking of the Port Authority.

(4) If any question arises under this section whether anything done or proposed to be done interferes or will interfere as aforesaid that question shall be referred to a single arbitrator to be agreed between the parties or failing such agreement to be appointed by the President of the Institution of Civil Engineers on the application of either party.

A.D. 1933.

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Saving for
railway
companies.

44.—(1) Where in the exercise of the powers of the section of this Part of this Act of which the marginal note is "Power to improve flow &c." the Council intend to construct any works which will or may interfere with or endanger any property of any railway company (in this section referred to as "the company") such works shall if required by the principal or chief engineer of the company be executed subject to the following conditions:—

- (a) The Council shall not commence to execute any such works as aforesaid until after fourteen days' previous notice in writing together with plans and drawings of the works intended to be executed shall have been delivered to the principal or chief engineer for the time being of the company and if the said engineer shall by writing under his hand signify his disapproval of such works within fourteen days after such plans and drawings have been delivered to him then the Council shall not commence to execute any such works unless and until plans and drawings thereof shall have been examined and approved of by an engineer to be appointed as hereinafter provided;

If by reason of the works referred to in the said section of this Act the company shall in carrying out works in connection with their railways be put to any additional cost or expense the reasonable amount of such additional cost or expense shall be repaid to the company by the Council;

- (b) All such works shall be done under the superintendence (if the same be given) and to the reasonable satisfaction of such principal or chief engineer and shall be executed so as not to cause any injury to the said railways or works lands or property and if any injury shall arise to the said railways works lands or property the Council shall make compensation to the company in respect of such injury;
- (c) The Council shall bear and on demand pay to the company the reasonable expense of the employment by them during the execution of

A.D. 1933.
—

the said works hereinbefore referred to of a sufficient number of inspectors or watchmen for watching the said railways and railway works with reference to and during the execution and maintenance of the said intended works and for preventing as far as may be all interference obstruction danger and accident from any of the operations or from the acts or defaults of any person or persons in the employ of the Council with reference thereto or otherwise;

- (d) Any dispute or difference which may arise between the company and the Council with reference to the provisions of this section or in any wise arising thereout or as to any works to be carried out in pursuance thereof shall be settled by arbitration by an engineer to be appointed (in the absence of agreement) by the President of the Institution of Civil Engineers on the application of either the company or the Council and the Arbitration Act 1889 shall apply to such arbitration.

(2) For the purposes of the section of this Part of this Act of which the marginal note is "For prevention of floods" where the Council intend to construct any works which will or may interfere with or endanger any property of the company the company shall be deemed to be a riparian owner upon whom notice shall be served pursuant to the said section.

For protection of
Great Ouse
Catchment
Board.

45. Before the Council exercise any of the powers of the sections of this Act of which the marginal notes are "For prevention of floods" and "Notice for discontinuance of pollution" within the Ouse (Great) catchment area or apply for an order to take effect within that area under the section of this Act of which the marginal note is "Power to stop up or divert outlets of sewers &c." the Council shall consult with the River Great Ouse Catchment Board.

For protection of
East and
West
Suffolk
County
Councils.

46. Notwithstanding anything in this Act the provisions contained in this Part of this Act shall not apply to or be exercised in or with respect to or so as to affect prejudicially any part of the administrative counties of East and West Suffolk.

Miscellaneous.

A.D. 1933.

47.—(1) A court of summary jurisdiction before which any person is summoned under this Part of this Act for any act or default causing or contributing to or alleged to cause or contribute to the pollution or obstruction of any stream may (in lieu of or in addition to inflicting a penalty and in addition to any other remedial powers under this Part of this Act) by order require such person to abstain from the commission of such offence and where such offence consists in default to perform a duty under this Part of this Act may require him to perform such duty in manner in the said order specified. The court may insert in any order such conditions as to time or mode of action as it may think just and may suspend or rescind any order on such undertaking being given or condition being performed as it may think just and generally may give such directions for carrying into effect any order as to the court seems meet.

Powers of
court on
offences
against
Part III.

(2) Any person who fails to comply with any requirement of an order of the court under this section shall be liable to a penalty not exceeding fifty pounds for each and every day during which he is in default.

48.—(1) If either party in any proceedings is aggrieved by the decision of a court of summary jurisdiction under this Part of this Act such party may appeal to the next practicable court of quarter sessions holden in or for the county.

Appeal.

(2) If any defendant shall desire that the questions involved in any summons shall be decided in the High Court of Justice he may at any time within seven days after the service of such summons give notice to the Council of such his desire and shall be entitled as of course on application to the High Court to an order that the said summons and all proceedings thereunder shall be removed into the High Court and be there determined by one of His Majesty's judges from whose decision an appeal shall lie to the Court of Appeal on questions of law only. The provisions of this subsection shall be carried into effect in accordance with rules of the High Court.

(3) The provisions of this section shall not apply to any summons for enforcing the payment of penalties already adjudged by a court of competent jurisdiction to which any authority or person is liable by reason of such

A.D. 1933. — authority or person having been convicted of an offence against this Part of this Act or by reason of such authority or person having failed to comply with any order of a court made under this Part of this Act.

Right to prosecute to be in Council only.

49. It shall not be competent for any person other than the Council their solicitors officers or agents to institute or carry on any proceeding or prosecution under the provisions of this Part of this Act but nothing in this Part of this Act shall be deemed to affect any of the provisions of any Act or Acts for the time being in force relating to solicitors.

Part III not to legalise nuisances or affect remedies.

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

Powers of Part III cumulative.

51. All the powers and provisions of this Part of this Act are in addition to and not in derogation of any other powers possessed by the Council under the Rivers Pollution Prevention Acts 1876 and 1893 or any other Act of Parliament and such other powers may be exercised and put in force by the Council as if this Part of this Act had not been passed. Provided that no person who has been adjudged to pay any penalty in pursuance of this Part of this Act shall for the same offence be liable to a penalty under any other Act.

Limitation on exercise of overlapping powers.

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

A.D. 1933.

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

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

(2) Nothing in this Part of this Act shall prejudice or affect or curtail the right of any sanitary authority to continue or to commence proceedings under any public Act against any person in respect of any pollution of any stream Provided that proceedings shall not be taken by any such sanitary authority against any person under any such public Act while proceedings are pending against the same person in respect of the same offence under this Part of this Act.

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

Local authorities may contribute to expenses of Part III.

A.D. 1933.

PART IV.

ESTABLISHMENTS FOR MASSAGE AND SPECIAL
TREATMENT.Definition
of establish-
ment for
massage or
special
treatment.

54. In this Part of this Act the expression "establishment for massage or special treatment" means any premises in the county used or represented as being or intended to be used for the reception or treatment of persons requiring (a) massage manicure or chiropody or (b) radiant heat light electric vapour or other baths for therapeutic treatment or (c) other similar treatment.

Date of
commence-
ment of
Part IV.

55.—(1) This Part of this Act shall not come into force in any part of the county except in pursuance of the following provisions of this section.

(2) The Council may from time to time by resolution declare that this Part of this Act shall come into force in any particular county district or county districts specified in the resolution and at the date stated in the resolution Provided that no such date shall be earlier than the first day of January one thousand nine hundred and thirty-four or than the expiration of three months from the passing of the resolution :

Provided also that no such resolution shall be passed with respect to the boroughs of Barking Ilford Leyton and Walthamstow or any of them before the said first day of January one thousand nine hundred and thirty-four.

(3) If any such resolution shall be passed by the Council this Part of this Act shall (subject to compliance by the Council with the final section of this Part) come into force in the county district or county districts specified and at the date stated in the resolution.

(4) The expression "the prescribed date" in this Part of this Act means with respect to the several county districts in the county the respective dates on which this Part of this Act shall come into force in such districts respectively in accordance with the foregoing provisions of this section.

Establish-
ments for
massage or
special
treatment to
be licensed.

56. On and after the prescribed date no person shall in a county district in which this Part of this Act shall have come into force carry on an establishment for massage or special treatment without a licence from the Council authorising him so to do.

57.—(1) A person requiring a licence or the renewal of a licence under this Part of this Act shall make application in writing to the Council stating—

- (a) his full name age and nationality;
- (b) his technical qualifications;
- (c) his private address or if the application be made by or on behalf of a company society association or body the registered or principal office (if any) of such company society association or body and so far as may reasonably be required the names and private addresses of the directors or other persons directly or indirectly responsible for the management of such company society association or body;
- (d) the name under which and the address at which the establishment is carried on or proposed to be carried on;
- (e) the nature of the establishment and of the business carried on or proposed to be carried on thereat;
- (f) whether and if so to what extent he is or has been interested in any other establishment for massage or special treatment; and
- (g) such further information (if any) as the Council may reasonably require with respect to him or the establishment carried on or proposed to be carried on by him.

(2) Every application for a licence to carry on an establishment for massage or special treatment in existence at the passing of any resolution under the foregoing provisions of this Part of this Act declaring that this Part shall come into force within the county district in which the establishment is situate shall be made within two months after the date or (if more than one date) the latest date of publication under the final section of this Part of the advertisement declaring that this Part shall come into force in that county district.

(3) The person making such application shall when making the application pay to the Council in respect of the grant or renewal of a licence under this Part

A.D. 1933.

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Applica-
tions for
licences.

A.D. 1933. of this Act such fee as the Council may fix not exceeding—

	£	s.	d.
(a) in respect of the grant of a licence	2	2	0
(b) in respect of the renewal of a licence	1	1	0

(4) Subject to the foregoing provisions of this section the Council may make such regulations as they think fit as to the manner in which and the dates at which applications for a licence or the renewal of a licence under this Part of this Act shall be made.

Grant of
licences.

58.—(1) The Council shall as soon as reasonably practicable after the receipt of an application under this Part of this Act (and not later in the case of an application under subsection (2) of the last preceding section of this Act than the prescribed date) grant or renew a licence to the applicant to carry on an establishment for massage or special treatment of the description and in the name and at the address specified in the application and may attach such conditions thereto as they may consider reasonably necessary for securing the due notification to them of any change in the name or private address of the licensee or in the treatment afforded or the nature of the business carried on at the establishment and generally for securing the proper conduct of the establishment :

Provided that the Council before granting a licence in respect of any particular establishment for massage or special treatment shall give notice to the local authority of the county district in which the establishment is situate of the application for the licence and of the date when the application will be considered by the Council and shall have regard to any representations which may be made to the Council by the local authority with respect to the application or the establishment to which it relates :

Provided also that the Council may refuse to grant or renew a licence or may revoke a licence granted—

- (a) to any person under the age of twenty-one years;
- (b) to any person who may be unsuitable to hold such a licence;

- (c) in respect of any premises which are unsuitable for the purposes of an establishment for massage or special treatment or in which the accommodation or provision for such treatment is not reasonably adequate or suitable;
- (d) in respect of any establishment which has been or is being improperly conducted;
- (e) in respect of any establishment in which massage or special treatment is or may be administered by any person who does not possess such technical qualifications as may be reasonably necessary; or
- (f) in respect of any establishment which is being carried on in contravention of the provisions of this Part of this Act or any byelaw made thereunder.

(2) The Council shall not either refuse to renew or revoke a licence unless they shall have given to the person applying for such renewal or holding the licence proposed to be revoked not less than seven days' previous notice in writing that objections have been or will be taken to such renewal or that a revocation is proposed and unless on written application made within three days after the receipt of such notice they shall have afforded to the applicant or holder an opportunity of being heard against such refusal or revocation Any notice served under this subsection shall notify the effect of subsection (4) of this section and the right of appeal conferred by subsections (5) and (7) of this section.

(3) Every licence granted or renewed as aforesaid shall (unless revoked as in this Part of this Act provided) be valid for a period of one year Provided that the Council may if they deem it convenient so to do—

- (a) at their annual meeting for considering applications under this Part of this Act in respect of establishments or premises within any particular county district first held after the resolution of the Council declaring that this Part of this Act shall be in force in that

A.D. 1933.

county district grant licences to be valid for a period not exceeding fifteen months; and

(b) grant or renew any licence otherwise than at an annual licensing meeting for considering applications as aforesaid for a period expiring at the same date as the licences granted at the then last preceding annual meeting for such purpose.

(4) If the Council refuse to grant or renew a licence or revoke a licence under this Part of this Act they shall if required by the applicant or holder (as the case may be) send or deliver to him within seven days of the receipt of such requirement particulars in writing of the ground or grounds for such refusal or revocation.

(5) Any person aggrieved by any conditions attached to a licence or any refusal of the Council to grant or renew a licence or by the revocation by the Council of a licence may appeal to a court of summary jurisdiction provided that the appeal is made within fourteen days from the date of the grant of the licence or of such refusal or revocation and that notice in writing of the appeal is sent to the Council within three days after the entry of the appeal.

(6) On any such appeal the court may after considering any representations made by the Council either confirm the refusal or revocation or attachment of conditions or may modify the conditions or may direct the Council to grant or renew a licence subject to such conditions (if any) as the court may specify and the Council shall comply with any such directions.

(7) Any person aggrieved by any decision of a court of summary jurisdiction under this section may appeal to the next practicable court of quarter sessions holden in or for the county or if the decision relates to a licence in respect of premises in the boroughs of Colchester Maldon or Saffron Walden to the next practicable courts of quarter sessions holden in or for those boroughs respectively.

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

59. As soon as reasonably practicable after the grant renewal or revocation by the Council of a licence under this Part of this Act or the refusal by the Council to grant or renew such a licence the Council shall give notice of their decision to the local authority of the county district in which are situate the premises to which the licence or the application for a licence related. If there be any appeal under subsection (5) or subsection (7) of the last preceding section of this Act the Council shall as soon as practicable give to the relevant local authority notice of the appeal and after the hearing of the appeal notice of the decision thereon.

A.D. 1933.
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Council to give notice to local authorities as to licences.

60.—(1) The Council may make byelaws—

- (a) prescribing the keeping by every person holding a licence under this Part of this Act of books cards or forms showing the business conducted by him so far as it relates to his establishment for massage or special treatment;
- (b) prescribing the entries to be made in connection with such business in such books or cards or forms;
- (c) prescribing the technical qualifications to be possessed by any person who administers massage or special treatment at any establishment licensed under this Part of this Act;
- (d) for preventing fraud and immorality in the conduct of establishments so licensed; and
- (e) generally for regulating any premises used for the purposes of or in connection with any such establishment.

Byelaws as to establishments for massage or special treatment.

(2) The provisions of the Local Government Act 1888 respecting the making confirmation publication and evidence of byelaws and proceedings before justices and recovery of penalties thereunder shall extend and apply to byelaws under this section and byelaws under this section shall be deemed byelaws within the said Act. Provided that notwithstanding anything in subsection (2) of section 16 of the said Act byelaws

A.D. 1933. made under this section may be in force and have effect within any borough in the county.

(3) A copy of all byelaws made under this section shall as soon as reasonably practicable after the byelaws have been confirmed or allowed be sent by the Council to the local authority of every county district in which this Part of this Act is at the time in force.

(4) Every person holding a licence under this Part of this Act shall keep exhibited in a suitable place (to be approved by the Council) in the premises to which the licence relates a copy of the byelaws made by the Council under this section.

Powers of entry and inspection by Council and local authorities.

61. Any officer of or other person duly authorised by the Council in that behalf may and any officer of or other person duly authorised by any local authority in that behalf may as regards premises in the district of the local authority (i) enter the premises specified in any licence or application under this Part of this Act or any premises which are situate within a county district in which this Part of this Act is in force and are used or such officer or person has reasonable cause to believe are used for the purposes of or in connection with an establishment for massage or special treatment and (ii) inspect such premises and the books cards or forms kept in connection with the establishment carried on at those premises.

Penalties for offences in respect of establishments for massage &c.

62.—(1) Subject to the provisions of this Part of this Act every person who in a county district in which this Part of this Act is in force carries on an establishment for massage or special treatment without a licence under this Part of this Act or otherwise than in accordance with the terms and conditions of such licence or obtains a licence or the renewal of a licence by wilful misrepresentation or by wilfully omitting to give such particulars as are required by this Part of this Act to be given or who otherwise acts in contravention of the provisions of this Part of this Act shall be liable on summary conviction to a penalty not exceeding fifty pounds and to a daily penalty not exceeding twenty pounds and in respect of a second or subsequent offence the court may in lieu of or in addition to inflicting a fine impose any period of imprisonment not exceeding three months.

(2) Subject as aforesaid every person who in a county district in which this Part of this Act is in force—

A.D. 1933.

- (a) refuses to permit any officer or authorised representative of the Council or of any local authority to enter or inspect any premises which such officer or authorised representative is authorised under the provisions of this Part of this Act to enter and inspect or obstructs any such officer or representative in the execution of his duty under such provisions or under the provisions of any byelaw made thereunder; or
- (b) contravenes the provisions of any byelaw made under this Part of this Act; or
- (c) issues publishes or displays or causes to be issued published or displayed any advertisement relating to an establishment for massage or special treatment which is not licensed in accordance with the provisions of this Part of this Act after the expiration of a period of seven days from the receipt of notice in writing from the Council that the licence relating to such establishment has expired or has been refused or revoked under the provisions of this Part of this Act;

shall be liable on summary conviction to a penalty not exceeding five pounds and to a daily penalty not exceeding two pounds.

(3) No person who shall have appealed to a court of summary jurisdiction or a court of quarter sessions in accordance with the provisions of this Part of this Act against a refusal by the Council to grant a licence to any person making application under subsection (2) of the section of this Act of which the marginal note is "Applications for licences" or against a refusal of the Council to renew a licence or against any revocation under this Part of this Act of a licence shall be liable to any proceedings under this section for the offence of carrying on an establishment for massage or special treatment without a licence under this Part of this Act until such appeal shall have been heard and determined or shall have been abandoned.

A.D. 1933.

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Directors
&c. of
companies
to be
liable for
penalties
under
Part IV.

63. Where any company within the meaning of the Companies Act 1929 commits any offence for which a penalty is provided by this Part of this Act proceedings may be taken in respect of such offence against all or any of the directors and managers and against the secretary of such company as well as or instead of against the company and every such director manager and secretary shall be liable on conviction to the like penalty as if he were the person committing the offence unless he proves to the satisfaction of the court—

- (1) that the act which constituted the offence took place without his knowledge consent or connivance; and
- (2) that he was not guilty of any negligence in regard to securing the proper execution of this Part of this Act.

Local
authorities
may in-
stitute pro-
ceedings for
penalties.

64. Proceedings for the recovery of any penalties imposed by this Part of this Act may be taken by the local authority for the county district in which the offence was committed as well as by the Council:

Provided that proceedings shall not be taken by both the Council and the local authority for the same offence.

Local
authorities
to report
to Council.

65. The local authority of every county district in which are situate any premises where there is carried on an establishment for massage or special treatment licensed by the Council under this Part of this Act shall during the first week of October in each year or at such other date as the Council may approve send to the Council a report on the conduct and management of the establishment since the date of the grant or last renewal of the licence and such report may contain recommendations as to the renewal of the licence or otherwise and if it contains a recommendation that the renewal of the licence be refused shall state the grounds for such recommendation.

If a local authority during the period in which a licence shall be in force relating to premises situate in their county district shall detect a non-compliance with any of the conditions enumerated in subsection (1) of the section of this Part of this Act whereof the marginal note is "Grant of licences" or shall secure a conviction against the holder of the licence for any of the offences

enumerated in the section of this Part of this Act whereof the marginal note is "Penalties for offences in respect of establishments for massage &c." the local authority shall thereupon report the non-compliance or offence to the Council with such recommendation as to revocation of the licence or otherwise as the local authority may deem expedient. A.D. 1933.

66. Subject as hereinafter provided the provisions of this Part of this Act shall not apply to an establishment for massage or special treatment carried on by a duly registered medical practitioner with respect to which there has been lodged with the Council a certificate in a form to be approved by the Council and signed by two duly registered medical practitioners practising or residing in the county not being in partnership with such first-mentioned medical practitioner or with each other and not having any financial or other interest in such establishment to the effect that the medical practitioner carrying on or proposing to carry on such establishment is a suitable person to carry on the same at the premises used or to be used therefor Provided that any such certificate shall not be valid (a) with respect to any person or premises other than the person or premises specified therein or (b) for a period extending beyond the thirty-first day of January next following the date of the certificate. Saving for establishments carried on by medical practitioners.

67. Notwithstanding anything in this Part of this Act the provisions thereof shall not except as provided by the next succeeding section of this Act apply to— Saving for certain premises.

- (a) any premises being an establishment for massage or special treatment as defined by this Act provided by the council of any borough in the county or the council of any urban district in the county having a population of not less than twenty thousand according to the published returns of the last census;
- (b) any hospital infirmary institution or other establishment maintained or controlled by any local authority or any other authority or body constituted by Parliament or incorporated by royal charter; or
- (c) any hospital being a constituent of the British Hospital Association or recognised as a voluntary

A.D. 1933.
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hospital by any voluntary hospital consultative committee which may be established for the county or any part thereof or recognised by any committee or body administering any of the publicly subscribed funds known respectively as the King Edward Hospital Fund the Hospital Sunday Fund and the Hospital Saturday Fund as a hospital to which grants from any of such funds may be made; or

- (d) any nursing home which is for the time being registered under the Nursing Homes Registration Act 1927 or exempted from registration under that Act by a certificate granted by either the Council or any local authority having power to grant such a certificate or by the Minister and at which the persons administering massage or special treatment within the meaning of this Part of this Act have such technical qualifications as may be reasonably necessary; or
- (e) any premises used for the reception or treatment of persons for any purpose to which the provisions of this Part of this Act apply but not so used for the purpose of gain or reward; or
- (f) any premises being an establishment for massage or special treatment as defined by this Act merely by reason of face or scalp massage or manicure treatment being administered in those premises.

Extension
of Part IV
to other
premises
and busi-
nesses.

68. In any case in which the Council or any committee to whom the Council may delegate any powers under this Part of this Act have reason to believe that any premises (including premises referred to in the section of this Act of which the marginal note is "Saving for certain premises") situate in a county district in which this Part of this Act shall have come into force and to which premises the provisions or some of the provisions of this Part of this Act do not apply are advertised as being used for some legitimate business but are in fact being used for immoral purposes the Council or any such committee as aforesaid may subject to the approval of the Secretary of State by resolution determine that all or any of the provisions of this Part of this Act and of any byelaws made thereunder shall

extend and apply to such premises and the business carried on therein as if such premises and business were included in the expression "establishment for massage or special treatment" within the meaning of this Part of this Act and as from the passing of any such resolution as aforesaid or as from such date (if any) as may be specified therein all or any of the provisions of this Part of this Act and any such byelaws as aforesaid shall extend and apply accordingly.

A.D. 1933.
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69.—(1) In and for the purposes of this section—

"the corporation" means the mayor aldermen and burgesses of the borough of Barking or the mayor aldermen and burgesses of the borough of Ilford or the mayor aldermen and burgesses of the borough of Leyton or the mayor aldermen and burgesses of the borough of Walthamstow as the case may be;

As to
delegation
of powers
of Part IV
to Barking
and other
corpora-
tions.

"the borough" means the borough of the corporation in relation to which the expression is used.

(2) If at any time before the first day of January one thousand nine hundred and thirty-four the corporation shall by notice in writing addressed to the clerk notify the Council of their desire that the powers and duties of this Part of this Act should so far as applicable be delegated as respects the borough to the corporation the Council shall thereupon delegate such powers and duties to the corporation and by resolution declare that this Part of this Act shall come into force in the borough on the date on which the resolution takes effect under subsection (3) of this section. Provided that the Council may in making such delegation impose such conditions and restrictions (if any) upon the exercise of such powers and duties by the corporation as may be agreed between the Council and the corporation or as failing agreement may be determined by the Secretary of State.

(3) The resolution referred to in subsection (2) of this section shall come into force in the borough as soon as practicable after the conditions and restrictions referred to in that subsection shall have been agreed or determined by the Secretary of State.

A.D. 1933.

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Saving for
future auto-
nomous
licensing
authorities.

70. If any local authority shall by any enactment passed after the passing of this Act be empowered (either directly or by adoption) to exercise powers and duties in relation to establishments for massage or special treatment within their county district similar to the powers and duties of the Council under this Part of this Act then as from the date on which such local authority shall have commenced to exercise under such enactment the first-mentioned powers and duties the provisions of this Part of this Act and any such resolution of the Council as is referred to in subsection (2) of the section of this Act of which the marginal note is "As to delegation of powers of Part IV to Barking and other corporations" shall cease to be in force or have effect in or in relation to the county district of that authority or if those provisions shall not have come into force in that county district before the said date they shall not be brought into force therein by any resolution passed or to be passed by the Council.

Notice of
Part IV.

71.—(1) The Council shall as soon as practicable after the passing of any resolution under this Part of this Act declaring that this Part shall come into force in any particular county district or county districts give public notice by advertisement in two or more newspapers circulating in such county district or county districts and in such other manner as the Council think expedient of the effect of this Part of this Act and of the county district or county districts in which it is to come into force in pursuance of such resolution and of the date when it will so come into force.

(2) Copies of the newspapers containing any advertisement given in pursuance of this section shall be sufficient evidence that the provisions of this section have been complied with in regard to the county district or county districts to which the resolution of the Council referred to in the advertisement relates.

PART V.

EMPLOYMENT AGENCIES.

Definition of
"employ-
ment
agency."

72. In this Part of this Act the expression "employment agency" means any agency or registry in the county carried on or represented as being or intended to be carried on (whether for the purpose of gain

or reward or not) for or in connection with the employ- A.D. 1933.
ment of persons in any capacity :
—

Provided that the following shall not be deemed to be employment agencies within the meaning of this Part of this Act:—

- (a) any employment agency conducted by or under the direction and supervision of the Ministry of Labour under the Labour Exchanges Act 1909 or any other Act of Parliament; or
- (b) any juvenile employment bureau conducted by the local education authority under the Education Act 1921; or
- (c) any employment agency which is carried on exclusively for the purpose of obtaining employment for—
 - (i) persons formerly members of His Majesty's naval military or air forces; or
 - (ii) persons released from a prison or Borstal Institution or from a reformatory or industrial school;

and which is certified at the prescribed date and from time to time thereafter by the Admiralty or the Army Council or the Air Council or the Secretary of State (as the case may be) to be properly conducted; or

- (d) any duly constituted religious or charitable society or body operating throughout Great Britain to the main objects of which the provision of situations or employment is merely subsidiary Any question whether a society or body is a society or body within the meaning of this paragraph shall be determined by the Charity Commissioners.

73.—(1) This Part of this Act shall come into force on the first day of January one thousand nine hundred and thirty-four or such later date as the Council may by resolution passed within three months after the passing of this Act prescribe :
Date of commencement of Part V.

Provided that no such resolution shall be passed with respect to the boroughs of Barking Ilford Leyton and Walthamstow or any of them before the said first

A.D. 1933. day of January one thousand nine hundred and thirty-four.

(2) The date on which this Part of this Act shall so come into force is in this Part of this Act referred to as "the prescribed date."

Employment agencies to be licensed.

74. From and after the prescribed date no person shall carry on an employment agency without a licence from the Council authorising him so to do.

Applications for licences.

75.—(1) A person requiring a licence or the renewal of a licence under this Part of this Act shall make application in writing to the Council and shall in the application state—

- (a) his full name;
- (b) his age and nationality;
- (c) his private address or if the application be made by or on behalf of a company society association or body the registered or principal office (if any) of such company society association or body and so far as may reasonably be required the names and private addresses of the persons directly or indirectly responsible for the management of such company society association or body;
- (d) the name under which and the address at which the employment agency is carried on or proposed to be carried on;
- (e) the nature of the employment agency;
- (f) whether and if so to what extent he is interested in any other employment agency; and
- (g) such further information (if any) as the Council may reasonably require with respect to the person or premises to be licensed.

(2) Every application for a licence to carry on an employment agency in existence at the passing of this Act shall be made within one month after the date or (if more than one) the latest date of publication of the advertisements giving public notice of the effect of this Part of this Act under the section of this Act of which the marginal note is "Notice of Part V of Act."

(3) Subject to the foregoing provisions of this section the Council may make such regulations as they think

fit as to the manner in which and the dates at which applications for a licence or the renewal of a licence under this Part of this Act shall be made. A.D. 1933.

76.—(1) The Council shall as soon as reasonably practicable after the receipt of an application under this Part of this Act (and not later in the case of an application under subsection (2) of the last preceding section of this Act than the prescribed date) grant or renew a licence to the applicant to carry on an employment agency of the description and in the name and at the address specified in the application : Council to grant licences.

Provided that the Council may refuse to grant or renew a licence or may revoke a licence granted—

- (a) to any person under the age of twenty-one years ;
or
- (b) to any person who may be an unsuitable person to hold such licence ; or
- (c) in respect of any premises which are unsuitable for the purposes of an employment agency ; or
- (d) in respect of any employment agency which has been or is being improperly conducted.

(2) The Council shall not refuse to renew nor shall they revoke any such licence unless they shall have given to the person applying for such renewal or holding the licence proposed to be revoked not less than seven days' previous notice that objections have been or will be taken to such renewal or that a revocation is proposed and unless on written application made within three days after the receipt of such notice they shall have afforded to the applicant an opportunity of being heard against such refusal or revocation.

(3) Any person making application under the last preceding section of this Act shall when making the same pay to the Council in respect of the grant or renewal of a licence as aforesaid such fee as the Council may fix not exceeding—

	£	s.	d.
(a) in respect of the grant of a licence -	2	2	0
(b) in respect of the renewal of a licence -	1	1	0

and the fees paid on any application for the grant or renewal of a licence may be retained by the Council whether such licence is or is not granted or renewed.

A.D. 1933.

(4) Every such licence shall (unless revoked) be valid for a period of one year except that a licence granted or renewed otherwise than at any annual meeting fixed by the Council for the purpose of considering applications under this Part of this Act shall only be valid until the thirty-first day of December next after the date of such grant or renewal.

(5) If the Council refuse to grant or renew a licence or revoke a licence under this Part of this Act they shall if required by the applicant or holder (as the case may be) send or deliver to him within seven days of the receipt of such requirement particulars in writing of the ground or grounds for such refusal or revocation.

(6) Any person aggrieved by such refusal or revocation may appeal to a court of summary jurisdiction provided that the appeal is made within fourteen days from the date of such refusal or revocation and that notice in writing of the appeal is sent to the Council within twenty-four hours after the entry of the appeal.

(7) On any such appeal the court may after considering any representations made by the Council by order either confirm the refusal or revocation or allow the appeal and direct the Council to grant or renew a licence and the Council shall comply with any such direction.

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

Byelaws
as to
employment
agencies.

77.—(1) The Council may make byelaws requiring any person holding a licence under this Part of this Act to keep (at his option) either books cards or forms showing the business conducted by him so far as it relates to his employment agency and prescribing entries to be made in connection with such business in such books or on such cards or forms (as the case may be) and for the prevention of fraud and immorality in the conduct of employment agencies and for regulating any premises used for the purposes of or in connection with such agencies.

(2) 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 under this section as if the Council were a local authority within

the meaning of those sections but as regards confirmation of byelaws and inquiries in relation thereto the Secretary of State shall be substituted for the Minister of Health.

A.D. 1933.

(3) Every person holding a licence under this Part of this Act shall keep exhibited in a suitable place (to be approved by the Council) in the premises to which the licence relates a copy of the byelaws made by the Council under this section.

78. Any officer or other person duly authorised by the Council in that behalf may and any officer or other person duly authorised by any local authority in that behalf may as regards premises in the district of the local authority—

Powers of entry and inspection by Council and local authorities.

(a) enter the premises specified in any licence or application under this Part of this Act or any premises which are used or which such officer or person has reasonable cause to believe are used for the purposes of or in connection with an employment agency; and

(b) inspect such premises and the books cards or forms kept in connection with the employment agency carried on at those premises.

79.—(1) Every person who on or after the prescribed date—

Penalties.

(a) carries on an employment agency without a licence under this Part of this Act or otherwise than in accordance with the terms and conditions of such a licence or obtains a licence or the renewal of a licence by wilful misrepresentation or by wilfully omitting to give any particulars which are required by this Part of this Act to be given; or

(b) refuses to permit any officer or person duly authorised by the Council or any local authority to enter or inspect any such premises as are referred to in the section of this Act of which the marginal note is "Powers of entry and inspection by Council and local authorities" or the books cards or forms kept in connection with the employment agency

A.D. 1933.

carried on therein or obstructs any such officer or person in the execution of this Part of this Act; or

- (c) acts or offends against any byelaw made under this Part of this Act or of any of the provisions of this Part of this Act for the contravention of which no penalty is by this section specifically provided;

shall (subject to the provisions of subsection (3) of this section) be liable, in respect of an offence under paragraph (a) of this subsection to a penalty not exceeding fifty pounds and to a daily penalty not exceeding twenty pounds and in respect of an offence under paragraph (b) or paragraph (c) of this subsection to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings and in respect of any conviction for an offence under this Part of this Act the court may (in lieu of or in addition to imposing a penalty) make an order revoking the licence (if any).

(2) Any person aggrieved by any order under this section may appeal therefrom to the next practicable court of quarter sessions.

(3) No person who shall have appealed to a court of summary jurisdiction or the court of quarter sessions in accordance with the provisions of this Part of this Act against a refusal by the Council to grant a licence to any person making application under subsection (2) of the section of this Act of which the marginal note is "Applications for licences" or to renew a licence or against any revocation under this section of a licence shall be liable to any proceedings under this section for the offence of carrying on an employment agency without a licence under this Part of this Act until such appeal shall have been heard and determined or shall have been abandoned.

Directors
and mana-
gers of
companies
to be
liable for
penalties
under
Part V.

80. Where any company registered under the Companies Act 1929 or any Act amending that Act or under any earlier Act relating to the registration of companies commits any offence for which a penalty is provided by this Part of this Act proceedings may be taken in respect of such offence against all or any of the directors and managers of such company as well as or instead of against the company and each such director and manager shall be liable on conviction to the like

penalty as if he or they were the person or persons committing the offence unless he proves to the satisfaction of the court—

A.D. 1933.

(a) that the act which constituted the offence took place without his knowledge consent or connivance; and

(b) that he was not guilty of any negligence in regard to securing the proper execution of this Part of this Act.

81. Proceedings for the recovery of any penalties imposed by this Part of this Act may be taken by the local authority for the county district in which the offence was committed as well as by the Council. Provided that proceedings shall not be taken by both the Council and the local authority for the same offence.

Local authorities may institute proceedings for penalties.

82. The local authority of every county district in which are situate any premises where there is carried on an employment agency licensed by the Council under this Part of this Act shall during the first week of October in each year or at such other date as the Council may approve send to the Council a report on the conduct and management of the employment agency since the date of the grant or last renewal of the licence and such report may contain recommendations as to the renewal of the licence or otherwise and if it contains a recommendation that the renewal of the licence be refused shall state the grounds for such recommendation.

Local authorities to report to Council.

If a local authority during the period in which a licence shall be in force relating to premises situate in their county district shall secure a conviction against the holder of the licence for any of the offences enumerated in the section of this Part of this Act whereof the marginal note is "Penalties" the local authority shall thereupon report the offence to the Council with such recommendation as to revocation of the licence or otherwise as the local authority may deem expedient.

83. As from the prescribed date section 85 (Registries for servants) of the Public Health Acts Amendment Act 1907 shall cease to be in force in any part of the county where that section was in force immediately before the prescribed date.

As to section 85 of Public Health Act 1907.

A.D. 1933.

As to
delegation
of powers of
Part V to
Barking
and other
corpora-
tions.

84.—(1) In and for the purposes of this section—

“the corporation” means the mayor aldermen and burgesses of the borough of Barking or the mayor aldermen and burgesses of the borough of Ilford or the mayor aldermen and burgesses of the borough of Leyton or the mayor aldermen and burgesses of the borough of Walthamstow as the case may be;

“the borough” means the borough of the corporation in relation to which the expression is used.

(2) If at any time before the first day of January one thousand nine hundred and thirty-four the corporation shall by notice in writing addressed to the clerk notify the Council of their desire that the powers and duties of this Part of this Act should so far as applicable be delegated as respects the borough to the corporation the Council shall thereupon delegate such powers and duties to the corporation and by resolution declare that this Part of this Act shall come into force in the borough on the date on which the resolution takes effect under subsection (3) of this section. Provided that the Council may in making such delegation impose such conditions and restrictions (if any) upon the exercise of such powers and duties by the corporation as may be agreed between the Council and the corporation or as failing agreement may be determined by the Secretary of State.

(3) The resolution referred to in subsection (2) of this section shall come into force in the borough as soon as practicable after the conditions and restrictions referred to in that subsection shall have been agreed or determined by the Secretary of State.

Saving for
future
autonomous
licensing
authorities.

85. If any local authority by any enactment passed after the passing of this Act be empowered (either directly or by adoption) to exercise powers and duties in relation to employment agencies within their county district similar to the powers and duties of the Council under this Part of this Act then as from the date on which such local authority shall have commenced to exercise under such enactment the first-mentioned powers and duties the provisions of this Part of this Act and any such resolution of the Council as is referred to in subsection (2) of the section of this Act of which the marginal

note is "As to delegation of powers of Part V to Barking and other corporations" shall cease to be in force or have effect in or in relation to the county district of that authority or if those provisions shall not have come into force in that county district before the said date they shall not be brought into force therein by any resolution passed or to be passed by the Council.

A.D. 1933.
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86.—(1) The Council shall prior to the prescribed date cause public notice to be given in two or more newspapers circulating in the county of the effect of this Part of this Act and of the date when it will come into force.

Notice of
Part V of
Act.

(2) Copies of newspapers containing the notice shall be sufficient evidence that the provisions of this section have been complied with.

PART VI.

HAIRDRESSERS' AND BARBERS' PREMISES.

87.—(1) The local authority may make byelaws for the purpose of securing the cleanliness of any premises in any county district used for the purpose of carrying on the business of a hairdresser or barber and of the instruments towels and materials used in such premises.

Byelaws
as to hair-
dressers'
and barbers'
premises.

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

(3) Any person who acts or offends against any byelaw made under this section shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

(4) The provisions of sections 182 to 186 of the Public Health Act 1875 shall apply to any byelaws made under this section.

88. Any officer or other person duly authorised by the local authority in that behalf may enter any premises in their district to which the provisions of this Part of this Act apply for the purpose of examining whether there is any contravention of any byelaws made under this Part of this Act.

Powers of
entry of
local autho-
rities.

A.D. 1933.

PART VII.

CONTROL OF PUBLIC ENTERTAINMENTS.

Definition
for Part
VII.

89. In this Part of this Act "boxing entertainment" means any public contest exhibition or display of boxing within the county but does not include boxing entertainments provided by travelling showmen at pleasure fairs.

Date of
commence-
ment of
Part VII.

90. This Part of this Act shall come into force on the first day of April one thousand nine hundred and thirty-four or such other date not being earlier than the first day of January one thousand nine hundred and thirty-four as the Council may by resolution passed within three months after the passing of this Act prescribe. The date on which this Part shall so come into force is hereinafter in this Part referred to as "the prescribed date."

*Music and Dancing Entertainments.*Extended
application
of Home
Counties
(Music and
Dancing)
Licensing
Act 1926.

91.—(1) On and after the prescribed date the Home Counties (Music and Dancing) Licensing Act 1926 shall extend to and apply within that part of the county where the said Act is not in force immediately before the prescribed date.

(2) On and after the prescribed date Part IV (Music and Dancing) of the Public Health Acts Amendment Act 1890 shall cease to be in force in any part of the county where that Part was in force immediately before the prescribed date and thereafter shall not be adopted by any local authority or be declared to be in force in any county district.

(3) This section shall not apply within any county district where the said Part IV of the Public Health Acts Amendment Act 1890 shall before the first day of January one thousand nine hundred and thirty-three have been adopted by any local authority or declared to be in force.

*Boxing Entertainments.*Boxing enter-
tainments to
be given only
in licensed
premises.

92. A boxing entertainment shall not be given elsewhere than in premises licensed for the purpose in accordance with the provisions of the next succeeding section of this Act.

93.—(1) The Council may grant licences to such persons as they think fit to use the premises specified in the licence for the purpose of a boxing entertainment on such terms and conditions and subject to such restrictions as they by the licence prescribe :

A.D. 1933.
—
Boxing
entertain-
ment
licences.

Provided that no licence shall be granted with respect to any premises in the boroughs of Barking Ilford Leyton or Walthamstow without the consent of the respective councils of such boroughs under the hand of the town clerk.

(2) A licence granted under this section shall be in force for such period (to be stated in the licence) not exceeding thirteen months as the Council on the grant of the licence may determine unless it shall have been previously revoked as hereinafter provided. Provided that the Council may if they think fit grant a licence (in this section referred to as an "occasional licence") for the use of any premises for a boxing entertainment on such one or more particular occasions only as may be specified in the licence.

(3) The Council may transfer any licence granted under this section to such person as they think fit.

(4) An applicant for a licence or a transfer or renewal of a licence other than an occasional licence under this section shall give not less than twenty-one days' notice in writing of his intention to make such application to the Council and to the chief officer of police of the police division of the county or of the metropolitan police district in which the premises to which the application relates are situate.

(5) On receipt of a notice of intention to apply for a licence the Council shall give to the local authority notice thereof and of the date upon which the application will be considered and upon such consideration the Council shall have regard to any representations which may be made by the local authority.

(6) Any person making application under this section for the grant renewal or transfer of a licence shall when making the application pay to the Council such fee as the Council may fix not exceeding—

(a) in respect of the grant or renewal of a licence for any period not less than one year - - - - £ s. d.
2 0 0

A.D. 1933.

	<i>£</i>	<i>s.</i>	<i>d.</i>
(b) in respect of the grant or renewal of a licence for any period less than one year ten shillings for every month for which it is granted or renewed so however that the aggregate of the fees payable in any one year in respect of the same premises shall not exceed	2	10	0
(c) in respect of the grant of an occasional licence	0	10	0
(d) in respect of the transfer of a licence	0	5	0

(7) Except where the licence is an occasional licence there shall be affixed and kept up in some conspicuous place on or immediately over the outer side of the main entrance of every premises licensed under this section an inscription so as to be easily legible in the following terms:—

“Licensed in pursuance of the Essex County Council Act 1933”;

with the addition of words showing the purpose or purposes for which the premises are licensed.

(8) Any premises used for the purpose of a boxing entertainment although licensed under this section shall not be open for that purpose except on the days and between the hours stated in the licence.

Powers of entry and inspection.

94.—(1) A police constable or any person appointed for the purpose by the Council may at all reasonable times enter any premises licensed under this Part of this Act in which he has reason to believe that a boxing entertainment is being or is about to be given with a view to seeing whether the provisions of this Part of this Act applicable to such an entertainment and the terms conditions or restrictions on or subject to which any licence under this Part of this Act has been granted have been complied with.

(2) A police constable or any person appointed for the purpose by the Council may if he shall be authorised in that behalf by a warrant granted by a justice of the peace enter any premises in respect of which he has

reason to suspect that an offence under this Part of this Act is being committed. A.D. 1933.

(3) Every person who refuses to permit any such constable or person to enter or inspect any such premises in accordance with the provisions of this section shall for every such offence be liable to a penalty not exceeding twenty pounds.

95. The Council if they think fit may (subject to the provisions of this Part of this Act) make regulations prescribing generally the terms conditions and restrictions on and subject to which licences under this Part of this Act may or are to be granted or transferred and if any such regulations be made every such licence shall (without prejudice to the powers of the Council to grant a licence on and subject to any special terms conditions or restrictions) be deemed to be granted subject to the regulations. Power to make regulations.

Prima facie evidence of any regulation so made may be given in any legal proceedings by the production of a copy purporting to be certified as a true copy by the clerk or some other officer of the Council authorised to give a certificate for the purpose of this section and no proof shall be required of the handwriting or official position or authority of any person giving such a certificate.

96. If the holder of a licence granted under this Part of this Act be convicted of any breach or disregard of any of the terms conditions or restrictions on or subject to which the licence has been granted the licence may be revoked by the Council. Power to revoke licences.

97. Every occupier of any premises who after the prescribed date uses those premises or allows those premises to be used for a boxing entertainment— Penalties under Part VII.

- (i) without a licence; or
- (ii) otherwise in contravention of the provisions of this Part of this Act or of the terms conditions or restrictions on or subject to which any licence relating to the use of the premises for a boxing entertainment has been granted;

A.D. 1933. shall be liable—

- (a) in respect of an offence under paragraph (i) of this section to a penalty not exceeding fifty pounds and to a daily penalty not exceeding five pounds; and
- (b) in respect of an offence under paragraph (ii) of this section to a penalty not exceeding twenty pounds and to a daily penalty not exceeding five pounds.

General.

Notice of
Part VII.

98. The Council shall prior to the prescribed date cause public notice to be given of the effect of this Part of this Act and of the date when it will come into force by advertisement in two or more newspapers circulating in the county and otherwise in such manner as the Council think sufficient.

Copies of the newspapers containing the advertisement shall be sufficient evidence that the provisions of this section have been complied with.

PART VIII.

SALE OF COKE &C.

Application
to sale of
coke of
Weights and
Measures
Act 1889.

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

Penalty on
fraudulent
sale.

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

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

A.D. 1933.
—
Part VIII
to apply to
solid fuel.

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

Notice of
Part VIII.

Copies of the newspapers containing the advertisement shall be sufficient evidence that the provisions of this section have been complied with.

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

Proceedings
under Part
VIII.

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

Adoption by
councils of
boroughs of
Part VIII.

PART IX.

MOVEABLE DWELLINGS AND CAMPING GROUNDS.

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

Definitions
for Part IX.

"moveable dwelling" means (a) any tent (b) any structure capable of being moved from place to place and (c) any van cart carriage truck tramcar motor car caravan trailer or other vehicle used or intended to be used for the purpose of human habitation (whether temporarily or otherwise) but does not include—

(i) any tent structure or vehicle temporarily used by shepherds labourers or other persons for farming agricultural or other like purposes or in connection with building operations; or

A.D. 1933.
—

(ii) any tent structure or vehicle temporarily used for the service of the Council or of any local authority or other public authority; or

(iii) any canal boat or any other boat craft barge or vessel of any description;

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

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

Date of commencement of Part IX.

106. This Part of this Act shall come into force on the first day of April one thousand nine hundred and thirty-four.

Court may prohibit moveable dwellings in certain areas.

107.—(1) Where it appears to any local authority other than the urban district councils of Dagenham and Romford and the local authority of a county district to which the provisions of the section of this Part of this Act of which the marginal note is “Prohibition of moveable dwellings in certain urban districts” apply—

(a) that the amenities of any part of their district are prejudicially affected by the presence of or conditions arising from any moveable dwelling or moveable dwellings in their district; or

(b) that annoyance is caused to the residents in or visitors to any part of their district by reason of the noisy indecent or other offensive conduct of the occupiers of or persons frequenting any moveable dwelling or moveable dwellings in their district;

the local authority may make complaint to a court of summary jurisdiction and the court may by order—

(i) require the removal by the occupier or occupiers thereof within such period as may be prescribed by the order of the moveable dwelling or of all or any particular one or more of the moveable dwellings to which the complaint relates; and

(ii) prohibit any moveable dwelling being placed on or limit the number or define the class of moveable dwellings to be at any one time situate within the whole or some part of an area to be specified in the order:

A.D. 1933.
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Provided that the area specified in an order made under the foregoing paragraph (ii) shall not extend beyond the distance of two hundred yards from the moveable dwelling or all of the moveable dwellings to which the complaint related and no limitation or definition in such an order shall operate so as to prevent the retention on the area specified in the order of any moveable dwelling not being a moveable dwelling to which the complaint related.

(2) Any person (not being a local authority) aggrieved by any order made by a court of summary jurisdiction under subsection (1) of this section may appeal to the next practicable court of quarter sessions holden in or for the county. The costs of any appeal under this subsection shall be paid in such manner and by such parties to the appeal as the court may direct.

(3) If no appeal be lodged within the period allowed by the Summary Jurisdiction Acts against any order made under paragraph (ii) of subsection (1) of this section then as soon as practicable after the expiration of that period and if any such appeal be duly lodged and be dismissed by the court of quarter sessions then as soon as practicable after the decision of that court the order shall be published by the local authority or local authorities of the district or districts within which the area specified in the order is situate in one or more local newspapers circulating in their district or districts and by placards posted in conspicuous positions in some part of that area and such order shall come into force on the expiration of fourteen days from the completion of the publication of the order in accordance with the requirements of this subsection.

The local authority or local authorities shall also so long as any such order is in force keep posted in conspicuous positions in some part of the area specified in the order placards giving notice of the terms of the order.

(4) (a) Any occupier of a moveable dwelling who fails to comply with any order of the court made under paragraph (i) of subsection (1) of this section within the period prescribed by the order shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds and the local authority on whose complaint the order was made may themselves at any time after the expiration of the said period enter on the land and remove the moveable dwelling and recover the

A.D. 1933. expense of so doing summarily as a civil debt from the occupier or occupiers.

(b) Any person who places or retains any moveable dwelling in contravention of any order of the court made under paragraph (ii) of subsection (1) of this section shall be guilty of an offence and shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds and the local authority on whose complaint the order was made may themselves enter on the land and remove the moveable dwelling in respect of which the offence has been committed and recover the expense of so doing summarily as a civil debt from the person guilty of the offence.

(5) (a) Where a court of summary jurisdiction has made an order under paragraph (ii) of subsection (1) of this section an application for the rescission of the order may be made to the court (i) at any time by the local authority on whose complaint the order was made or (ii) at any date not being less than three years from the date on which the order was made by any person deeming himself aggrieved by it. Provided that he gives to the local authority not less than fourteen days' notice of his intended application and the court may on the hearing of any such application rescind the order.

(b) If the court rescinds the order notice of the rescission of the order shall as soon as practicable be published by the local authority or local authorities of the district or districts within which the area to which the order related is situate in one or more local newspapers circulating in their district or districts and the local authority or local authorities shall forthwith take down and remove all placards previously posted by them in that area in pursuance of subsection (3) of this section.

Provisions
as to
moveable
dwellings.

108.—(1) Any moveable dwelling standing upon land abutting upon a street in any urban district in the county shall for the purpose of the application of section 3 of the Public Health (Buildings in Streets) Act 1888 to that district be deemed to be a house or building within the meaning of those words where they first occur in the said section.

(2) It shall not be lawful without the written consent of the local authority to place any moveable dwelling in such urban district so as to stand upon any square court

alley or passage to which the public have access or which is required by law to be kept free from obstructions.

A.D. 1933.

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

(4) The provisions of this section shall not apply within or in relation to the urban district of Dagenham or the urban district of Romford.

109.—(1) No moveable dwelling shall be placed or kept on any land situate within any urban district in the county having a population of not less than twenty thousand according to the published returns of the last census without the previous approval of the local authority of such urban district.

Prohibition
of moveable
dwellings
in certain
urban
districts.

(2) It shall not be lawful for any person without the previous consent of the local authority to let or permit to be used any land so situate for occupation by any moveable dwelling unless and until such land is provided with sufficient roads and sewers and furnished with a separate supply of water to the satisfaction of the local authority.

(3) Any person aggrieved by the withholding by the local authority of their approval or consent under the provisions of this section may within twenty-one days from the date of the decision of the local authority appeal to a court of summary jurisdiction and such court may make such order in the premises and on such terms and conditions as to the court may seem meet. The costs of any such appeal shall be paid in such manner and by such parties to the appeal as the court may direct.

(4) This section shall not apply to a moveable dwelling which is not used or intended to be used by the occupier as the sole or principal means of habitation for an unbroken period of at least three months.

(5) Any person offending against the provisions of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(6) The provisions of this section shall be deemed to apply within and in relation to the urban district of Brentwood as if such district had a population of not less

A.D. 1933. than twenty thousand according to the published returns of the last census.

(7) The provisions of this section shall not apply within or in relation to the urban district of Dagenham or the urban district of Romford.

Provision
of camping
grounds
by local
authority.

110.—(1) A local authority may subject to the approval of the Minister by agreement purchase or take on lease land within their district and use any land so acquired or taken on lease or any other land for the time being belonging to them for the purpose of providing camping grounds for any or for any particular class or number of moveable dwellings as may be prescribed from time to time by the local authority.

(2) A local authority before applying for the approval of the Minister of the purchase taking on lease or use by them of any land under this section shall give notice of their proposal to every owner of land contiguous to the land proposed to be purchased taken on lease or used by them and also by advertisement in a local newspaper circulating in their district and in such other manner (if any) as the Minister may direct. The said notice shall state the matters mentioned in paragraph (d) of subsection (6) of this section and a date (not being less than twenty-one days from the date of the notice) by which and the manner in which any person aggrieved by the proposal may make representations thereon to the Minister and shall require that any such person shall at the same time send a copy of his representations to the clerk to the local authority.

(3) Before signifying approval of the purchase taking on lease or use by a local authority of any land under this section the Minister shall consider any representations on the proposal of the local authority which may be duly made and may subject to the provisions of this section signify approval of the said proposal with or without modifications or may withhold such approval.

(4) Before signifying such approval the Minister may and if any representation is duly made and is not withdrawn shall (unless the representation appears to him to be frivolous) direct a local inquiry to be held under the provisions of the section of this Act of which the marginal note is "Inquiries by Minister" and the person holding

the inquiry shall have regard to the matters mentioned in paragraphs (a) to (d) of subsection (6) of this section. A.D. 1933.
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(5) The local authority shall give at least fourteen days' notice of the intention to hold such inquiry by advertisement in a local newspaper circulating in their district and shall also give similar notice in writing to each person who has duly made any representation and has not withdrawn the same.

(6) Before signifying approval of the purchase taking on lease or use by a local authority of any land under this section the Minister shall consider the report made to him by the person holding any such inquiry and shall also have regard to (inter alia)—

- (a) the general interests of the public and the neighbourhood in relation to such proposal including the effect of the provision of the proposed camping ground on the amenities of surrounding properties;
- (b) the ability of the occupiers of moveable dwellings to comply with any regulations respecting the use of camping grounds made by the local authority under this Part of this Act;
- (c) the distance between and area of camping grounds in the neighbourhood whether provided by the local authority under this section or not; and
- (d) the area and situation of and the conditions as to the provision of water supply sanitation and otherwise proposed to be prescribed by the local authority with respect to the proposed camping ground.

(7) Where a local authority have provided under this section a camping ground the occupier of any moveable dwelling may (subject to any limitation on the number or definition of the class of moveable dwellings which may have been prescribed by the local authority with respect to the use of that camping ground for moveable dwellings) encamp upon that camping ground on payment of such fee as may be prescribed by regulations to be made by the local authority under this Part of this Act.

111.—(1) Any local authority for the purpose of securing the amenities of their district in relation to the use of camping grounds and moveable dwellings situate Byelaws as to camping grounds.

A.D. 1933. thereon may make byelaws with respect to any camping grounds within their district whether provided by the local authority or not—

- (a) for securing the proper control and management of such camping grounds;
- (b) for securing the cleanliness of such camping grounds and moveable dwellings situate thereon;
- (c) for preventing the amenities of their district being prejudicially affected by the state or condition of any such camping ground;
- (d) for securing the good and orderly conduct of persons frequenting any such camping ground and of the occupiers of the moveable dwellings situate thereon;
- (e) for preventing annoyance to the residents in or visitors to their district by the conduct of the occupiers of or persons frequenting moveable dwellings situate on any such camping ground.

(2) The provisions of sections 182 to 186 of the Public Health Act 1875 shall apply to any byelaws made under this section.

Temporary closing of camping grounds.

112.—(1) It shall be lawful for a local authority by order to close during such period as they may determine and as may be specified in the order the whole or any portion of any camping ground provided by them if in their opinion the camping ground or such portion thereof—

- (a) is in such a condition as to endanger the health either of the occupiers or the inhabitants of any moveable dwellings on the camping ground or of the public; or
- (b) is a nuisance; or
- (c) constitutes an annoyance to the residents in or visitors to the locality; or
- (d) prejudicially affects the amenities of the locality.

(2) Any order made by a local authority under this section shall be published in one or more local newspapers circulating in their district and by placards posted in a conspicuous position on or near the camping ground to which the order relates and such order shall not come into force until such date as may be stated in the order and not being earlier than fourteen days after the completion of the

publication of the order in accordance with the requirements of this subsection. A.D. 1933.

113. The local authority of the district within which an offence under this Part of this Act is committed may prosecute in respect of such offence. Prosecution of offences.

114. The provisions of the sections of this Part of this Act of which the marginal notes respectively are— Savings from certain provisions of Part IX.

“ Court may prohibit moveable dwellings in certain areas ” ;

“ Prohibition of moveable dwellings in certain urban districts ” ; and

“ Byelaws as to camping grounds ” ;

shall not apply to—

(a) any camping ground provided by or belonging to or used by any portion of His Majesty's naval or military or air forces or which may be certified as under supervision of or by a territorial army association or an auxiliary air force association or a county joint association ;

(b) any moveable dwelling or camping ground provided by or belonging to or used by any duly constituted religious or charitable society Any question whether a society or body is a society or body within the meaning of this paragraph shall be determined by a court of summary jurisdiction ;

(c) any moveable dwelling or camping ground provided by or belonging to or used by any association incorporated by royal charter or any organisation constituted by any such last-mentioned association in pursuance of their charter ; or

(d) any person dwelling in a tent or van or other similar structure who is a roundabout proprietor travelling showman or stallholder (not being a pedlar or hawker) :

Provided that—

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

A.D. 1933.

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

- (ii) the exemption conferred by the foregoing paragraph (d) on any person referred to in that paragraph shall apply only so long as such person is not guilty of any misconduct; and
- (iii) if any society or body referred to in the said paragraph (b) are using any camping ground provided by a local authority or if any person being a member of any such society or body or a person referred to in the said paragraph (d) is occupying or using a moveable dwelling situate on any camping ground so provided the members of such society or body or such person shall while camping on or occupying or using any moveable dwelling situate on that camping ground comply with any bye-laws made by the local authority under this Part of this Act respecting that camping ground.

Saving for
market
rights.

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

Saving for
Epping Forest
under Part IX.

116. Nothing contained in this Part of this Act shall apply to Epping Forest.

Notice of
Part IX.

117. The Council shall prior to the date on which this Part of this Act will come into force cause public notice to be given of the effect of this Part of this Act and of the date when it will come into force by advertisement in two or more newspapers circulating in the county and otherwise in such manner as the Council think sufficient.

Copies of the newspapers containing the advertisement shall be sufficient evidence that the provisions of this section have been complied with.

PART X.

A.D. 1933.

ROADS TOWN PLANNING AND AMENITIES.

118. In this Part of this Act words and expressions to which meanings are assigned by the Public Health Act 1875 (other than the expression "local authority") have the same respective meanings except where otherwise expressly enacted or except where the subject or context otherwise requires. And—

Definitions
for Part X.

"the town planning regulations" means the Ministry of Health (Town Planning) Regulations 1921 (S.R. & O. 1921 No. 373) or any regulations that may hereafter be substituted therefor;

"town planning scheme" includes a regional supplementary or varying scheme;

"preliminary statement" means a preliminary statement in course of preparation or prepared or adopted in pursuance of the town planning regulations and includes any other statement or document which may at any time after the passing of this Act be substituted for a preliminary statement under the town planning regulations;

"interim development order" means an order made under section 4 of the Town Planning Act 1925 or section 45 of the Housing Town Planning &c. Act 1919 or section 10 of the Act of 1932;

"estate owner" has the meaning given to that expression by the Law of Property Act 1925.

Powers of Council.

119.—(1) With respect to any county road the Council may with the consent of the Minister of Transport given after consultation with the Minister by order prescribe a building line (in this section called "the building line") along the whole or any part of the road Provided that—

Power to
prescribe
building
lines on
county
roads.

(a) any building line which the Council propose so to prescribe shall be distinctly marked and shown on plans to be signed by the county

A.D. 1933.

surveyor and deposited with the clerk and with the clerk to the local authority of each county district to which the plans relate and such plans shall be at all reasonable times thereafter open for the inspection of the public without charge; and

- (b) one month at least before the Council prescribe the building line they shall give notice in writing thereof and of the deposit of the said plans to every estate owner of land who is affected and whose name and address they can with due diligence ascertain;
- (c) the Council shall consult the council of any urban district before the preparation by them of plans under this section with respect to any county road maintained by the Council in the district of any such council.

(2) After a building line has been prescribed as aforesaid it shall not be lawful except with the written consent of the Council to erect any new building or to bring forward any building construction or erection or any part thereof or any addition thereto other than boundary walls or fences or to make any permanent excavation in front of the building line. Any consent of the Council under this subsection may be given subject to such conditions as the Council think fit to impose and any conditions so imposed shall be binding upon any successor in title to the estate owner or occupier of any land to which they relate.

(3) Any estate owner or occupier who proves that his property is injuriously affected by the prescription of the building line shall be entitled to recover from the Council compensation for the injury sustained.

(4) Any question whether compensation is payable under this section or as to the amount of any compensation so payable shall in default of agreement be determined by an official arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act 1919. Provided that—

- (a) in respect of any land upon which no building was in existence or had been begun at the date of the service of the notice referred to in proviso (b) to subsection (1) of this section

no compensation shall be payable under this section until a building is erected thereon to or behind the building line unless the claimant proves to the satisfaction of the official arbitrator that the prescription of the building line has so curtailed the site as to render it less useful for the purposes of development;

- (b) in respect of any land upon which a building was in existence or had been begun at the date of the service of the said notice no compensation shall be payable under this section until such building is rebuilt except in respect of any addition or alteration to such building not involving rebuilding and which in the opinion of the official arbitrator is reasonably and bona fide intended and is prevented by the operation of subsection (2) of this section;
- (c) no compensation shall be payable to any person in respect of anything done by him or on his behalf after the date of the service upon him of the notice referred to in proviso (b) to subsection (1) of this section and before the prescription of the building line except in respect of anything done in pursuance of a contract made or for the purpose of finishing a building begun before that date; and
- (d) there shall be taken into account any benefit accruing to the person to whom compensation is payable by reason of any improvement made or about to be made to the road.

(5) Any person who shall contravene any provision of this section shall for every such offence be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds.

(6) Copies of the plans to be deposited with the clerk as hereinbefore mentioned certified by the clerk to be true shall respectively be received in all courts of justice and elsewhere as prima facie evidence of the contents of any such plan so far as it relates to any line prescribed as aforesaid and a copy (certified as aforesaid to be true) of so much of those plans as relates to the district of any local authority shall on the request of the estate owner or occupier of any property in the district

A.D. 1933. — and on payment of a reasonable fee to be determined by the Council be delivered to the person so applying and all fees so received shall be carried to the credit of the county fund.

(7) (a) If a town planning scheme shall not have been prepared under the Act of 1932 or any Act repealed thereby for any county district or part of a county district before the Council shall have prescribed a building line under the powers of this section in respect of a county road or part of a county road in such district or part of a district any local authority thereafter preparing a town planning scheme for the district or part of a district shall embody therein the building line so prescribed by the Council and the Council shall indemnify the local authority against all charges for compensation costs and other expenses which the local authority may incur by reason or in respect of that building line.

(b) If in respect of any particular county road or part of a county road situate on any land with respect to which a local authority has decided to prepare a town planning scheme or to adopt a proposed town planning scheme either—

- (i) a building line or widening line is included in the relevant preliminary statement or draft scheme and the Council shall disapprove of that building line or widening line on the ground that it is insufficient to meet the present or future requirements of traffic on that road and desire that a different building line or widening line shall be substituted therefor; or
- (ii) no provision for a building line or widening line is included in the relevant preliminary statement or draft scheme and the Council shall desire that a building line or widening line shall be so included;

then the Council may within three months after the receipt by them of the preliminary statement or draft scheme or within such extended period as the Minister may allow give notice in writing to the local authority of their desire and if they give such notice they shall submit to the local authority a plan signed by the county surveyor on which shall be distinctly marked and shown the building line or widening line desired by the Council.

A.D. 1933.

On the receipt of such notice and plan the local authority shall (as the case may require) substitute the building line or widening line so shown on the plan for the building line or widening line included in the preliminary statement or draft scheme or include the building line or widening line shown on the plan in the preliminary statement or draft scheme and the Council shall indemnify the local authority against all charges for compensation costs and other expenses which the local authority may properly incur by reason or in respect of complying with the provisions of this paragraph.

(8) Where an urban district council have claimed under section 32 of the Local Government Act 1929 to exercise the functions of maintenance and repair of any county road within their district then so long as that council continue to exercise those functions the powers and obligations of this section in relation to that road may be exercised and shall be performed by that council and such powers shall not be exerciseable by the Council but the Council may contribute to the expenses incurred by any such urban district council in exercising those powers.

(9) The provisions of this section shall not extend or apply to any building construction erection or lands belonging to a railway company and held by them for the purposes of any railway authorised by Act of Parliament or by an Order having the force of an Act.

(10) The provisions of this section shall not extend or apply to any building construction erection or lands belonging to the Port Authority and held by them for the purposes of their undertaking.

(11) Nothing in this section shall affect any right of statutory undertakers for the supply of gas water or electricity or for tramways or light railways to make any excavation for the purpose of laying constructing altering repairing or renewing any main pipe electric line duct or other apparatus.

(12) Nothing in this section (other than subsection (11) thereof) shall apply to or affect any building construction or erection (other than a dwelling-house showroom or office) or land held for the purposes of their undertaking or used for such purposes by any statutory undertakers for the supply of gas water or electricity.

A.D. 1933.

For pre-
vention of
ribbon
develop-
ment.

120.—(1) The Council may by resolution deter-
mine—

- (a) within two years after the passing of this Act that except as hereinafter provided any county road or any part thereof in the county; or
- (b) at any time and from time to time after the passing of this Act that the land on which shall be situate any road or any part of a road intended to be constructed by the Council;

shall be a main thoroughfare for the purposes of this section.

(2) The provisions of paragraph (a) of subsection (1) of this section shall not apply to any road situate in any of the county districts named in the First Schedule to this Act except the following:—

- (i) the London-Southend Road (A.127);
- (ii) the Purfleet-Tilbury Road (A.13 and A.1089);
- (iii) the Chelmsford By-pass Road (A.12);
- (iv) the Colchester By-pass Road;
- (v) the Purfleet By-pass Road (A.13 and A.126);
- (vi) the Rainham By-pass Road (A.13);
- (vii) the approach road to the proposed Dartford-Purfleet Tunnel authorised by the Dartford Tunnel Act 1930;
- (viii) the proposed North Orbital Road (A.128).

(3) A copy of any such resolution and if it be a resolution with respect to a road (which term in this subsection means if the resolution relates to a part of a road that part of a road) intended to be constructed by the Council a description of the line and width of such intended road shall as soon as possible after the date of such resolution be published by the Council in one or more newspapers circulating in the area in which the road or intended road the subject of such resolution is or will be situated and shall be sent by the Council—

- (a) to the local authority for each county district in which the road is situate or intended to be constructed;
- (b) to every owner lessee and occupier of any land within two hundred feet from any part of the road or of the site of the intended road; and

(c) if the road is situate or intended to be constructed on land included in a town planning scheme in course of preparation or made to the relevant authority. A.D. 1933.

(4) (a) After the date of the first publication of any such resolution it shall not be lawful without the consent of the Council to construct form or lay out any street communicating with or any means of access (whether private or public) for vehicles or foot passengers to or from any main thoroughfare the subject of such resolution except for the purpose of finishing the construction of any street or means of access begun or of carrying out any contract entered into before that date Any consent of the Council under this paragraph may be given subject to such conditions as the Council think fit to impose and any conditions so imposed shall be binding upon any successor in title to the owner lessee or occupier of any land to which they relate.

(b) After the date of the first publication of any such resolution it shall not be lawful without the consent of the Council to erect any building within two hundred feet from any part of the main thoroughfare the subject of such resolution except for the purpose of finishing the construction of any building begun or of carrying out any contract entered into before that date Any consent of the Council under this paragraph may be given subject to such conditions as the Council think fit to impose and any conditions so imposed shall be binding upon any successor in title to the owner lessee or occupier of any land to which they relate.

(c) No consent under paragraph (a) or paragraph (b) of this subsection shall be unreasonably withheld and no condition unreasonably imposed upon any such consent and any dispute between the Council and any applicant for any such consent as to whether any such consent has been unreasonably withheld or any such condition has been unreasonably imposed by the Council shall be determined by the Minister of Transport.

(d) Without prejudice to the generality of the foregoing provisions of this subsection the Council shall not withhold any consent under paragraph (b) of this subsection or impose any condition on the giving of such consent in any case in which the owner of the land

A.D. 1933.

upon which any building or buildings is or are proposed to be erected enters into a covenant (and any covenant so entered into shall be binding upon any successor in title to the owner lessee or occupier of the said land) to construct or cause to be constructed a subsidiary carriageway or other suitable means of access parallel to the main thoroughfare so as to provide a means of access from and to the said building or buildings to and from the main thoroughfare for vehicles and foot passengers in accordance with plans sections and particulars to be reasonably approved within a reasonable time by the Council but before the said carriageway or any such building or buildings is or are constructed nor withhold any consent under paragraph (a) of this subsection or impose any condition on the giving of such consent in any case in which new means of access for agricultural purposes to and from any existing road declared to be a main thoroughfare or accesses for such purposes to and from any new road so declared are reasonably required Any dispute between the Council and any owner as to whether any such approval as aforesaid to plans sections and particulars has been unreasonably withheld by the Council or between the Council and any person interested as to whether such accesses as aforesaid are reasonably required shall be determined by the Minister of Transport.

(5) If the Council do not notify in writing their decision upon any application made for a consent under subsection (4) of this section within six months after the same shall have been received by them they shall (except as may be otherwise agreed between the Council and the applicant for such consent) be deemed to have withheld such consent.

(6) In any case in which the Council shall have decided to construct a new road which it is intended shall be constituted a main thoroughfare for the purposes of this section it shall be the duty of the Council to inform the owner of any land proposed to be acquired by the Council for the purposes of the said road of such intention when they first after the date of that decision communicate with him with respect to such intended acquisition.

(7) Notwithstanding anything contained in this section no consent of the Council under subsection (4)

of this section shall be required in any case where a scheme of estate development shall be submitted to the Council and approved by them whether before or after the passing of any such resolution as aforesaid Provided that—

A.D. 1933.
—

- (i) such scheme shall be carried out in accordance with any conditions which may be attached by the Council to such approval (which conditions may in particular require the construction of a subsidiary carriageway or other suitable means of access parallel to the main thoroughfare); and
- (ii) the provisions of this section relating to the payment of compensation for injurious affection loss or injury shall extend and apply with respect to any such conditions if a claim be made within twelve months after the date of such approval.

(8) Any person who proves that his property is injuriously affected or that in relation to such property he suffers loss or injury by the provisions of subsection (4) of this section and who—

- (i) (being a person who has made application to the Council for their consent under those provisions and who has received a notification in writing from the Council that such consent is withheld or is given subject only to conditions) shall make a claim within twelve months after the date of the receipt by him of such notification; or
- (ii) (being a person who has made an application to the Council for their consent which consent has been given subject to compliance with the provisions of subsection (4) of this section with respect to the provision of a subsidiary carriageway or other suitable means of access) shall make a claim within twelve months after the completion of the said carriageway; or
- (iii) (being a person who alleges that his property is injuriously affected or that in relation to such property he suffers loss or injury by the provisions of subsection (4) of this section

A.D. 1933.

as the same apply to the roads respectively referred to in paragraphs (vii) and (viii) of subsection (2) of this section) shall make a claim within twelve months after the opening for traffic of those roads respectively; or

- (iv) (being a person to whom the provisions of the paragraphs (i) (ii) and (iii) of this subsection or of subsection (7) of this section do not in any particular case apply) shall make a claim within five years after the date of the first publication of the resolutions in respect of which injurious affection arises;

shall be entitled to obtain compensation in respect of such injurious affection from the Council :

Provided that in any case in which any such person as is referred to in paragraph (iii) of this subsection makes an application to the Council for their consent under the provisions of subsection (4) of this section in relation to the roads mentioned in the said paragraph (iii) or either of them and such consent is given subject to compliance with the provisions of the said subsection (4) with respect to the provision of a subsidiary carriageway or other suitable means of access such person shall not be entitled to obtain compensation under this subsection unless he makes a claim therefor within twelve months after the completion of such carriageway or other means of access or after the opening for public traffic of those roads respectively whichever shall be the later.

(9) Any question whether compensation is payable under this section or as to the amount of any compensation so payable shall in default of agreement be determined by an official arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act 1919 Provided that in determining the amount of such compensation—

- (a) in respect of any land abutting on or in the neighbourhood of any road or part of a road constructed by the Council since the first day of December one thousand nine hundred and thirty-two or constructed or intended to be constructed by the Council after the passing of this Act the arbitrator shall consider only

the extent to which such land would have been injuriously affected by the restrictions imposed by subsection (4) of this section if such road or part of a road had not been or would not be constructed by the Council;

- (b) the arbitrator may take into account and embody in his award any undertaking with regard to the giving or withholding of any consent under subsection (4) of this section which the Council have offered to give to the claimant and whether with respect to the land of the claimant or adjoining or neighbouring land and the terms of any undertaking so embodied in the award shall be binding on and enforceable against the Council.

(10) If any person constructs forms or lays out any street or means of access or erects any building in contravention of the provisions of this section he shall (without prejudice to any other proceedings which may be available against him) be liable on conviction by a court of summary jurisdiction to a penalty not exceeding fifty pounds and to a daily penalty not exceeding five pounds and in addition and whether he shall have been convicted of any such offence or not the Council may close up or remove any such street or means of access or demolish any such building.

(11) Where an urban district council have claimed under section 32 of the Local Government Act 1929 to exercise the functions of maintenance and repair of any county road within their district then so long as that council continue to exercise those functions the powers and obligations of this section in relation to that road may be exercised and shall be performed by that council and such powers shall not be exercisable by the Council but the Council may contribute to the expenses incurred by any such urban district council in exercising those powers.

(12) Nothing in this section or in any resolution of the Council or any urban district council thereunder shall restrict the right of any person to construct form or lay out any street or to provide any means of access for which express provision is made in any town planning scheme or supplementary order coming into operation under the Act of 1932 or any Act repealed thereby or

A.D. 1933.

any general development order approved by the Minister under section 15 of the Act of 1932 or pending the coming into operation of any such scheme or supplementary order or the approval by the Minister of any such general development order in any preliminary statement approved by the Minister under the town planning regulations or any draft of a scheme or order in the form in which the Minister has notified his intention of approving or has approved the scheme or order under those regulations or prejudice or affect any interim development order or any permission granted thereunder.

(13) Nothing in this section shall apply to—

- (a) any street or means of access forming the approach to any dock quay station or depot of a railway company; or
- (b) any building erected or intended to be erected by such a company in the exercise of statutory powers for the purposes of their railway or dock undertaking.

(14) Nothing in this section shall apply to—

- (a) any street or means of access intended to form the approach to any lands belonging to any statutory undertakers for the supply of gas water or electricity and for the time being used or about to be used by any such undertakers under the powers of any Act of Parliament or Order for the manufacture or storage of gas or for the generating of electricity or as a pumping station filter plant or reservoir for water; or
- (b) any building intended to be erected by any such undertakers for the manufacture or storage of gas or for the generating of electricity or as a pumping station filter plant or reservoir for water;

except in so far as the undertakers may consent thereto. Provided that any consent required for the purposes of this subsection shall not be unreasonably withheld and any question whether or not consent so required is unreasonably withheld shall be determined by the Minister of Transport after consultation with

the Board of Trade and the Minister The onus of proof as to whether any such consent has been unreasonably withheld shall rest with the Council.

A.D. 1933.

(15) Nothing in this section shall apply to (a) any street or means of access forming the approach to any dock wharf quay pier jetty or other work of the Port Authority or (b) any building erected or intended to be erected by the Port Authority in the exercise of their statutory powers.

121.—(1) The Council may from time to time acquire by agreement—

Acquisition
of land
for county
roads or
amenities.

(a) with the consent of the Minister any land which is situate on either side of and within two hundred and twenty yards from the centre line of any county road in the county or any road which is in course of being or intended to be constructed by the Council if in the opinion of the Council the acquisition of such land is necessary or expedient for the purpose of any improvement of or the construction of the road or intended road;

(b) with the consent of the Minister any such land as is mentioned in paragraph (a) hereof if in the opinion of the Council the acquisition of such land is necessary or expedient for the purpose of preserving the amenities of the locality in which the road is or will be situate; and

(c) with the consent of the Minister any land which is situate within one hundred and fifty yards from either bank of any river or stream in the county if in the opinion of the Council the acquisition of such land is necessary for the purpose of preserving the amenities of the locality in which the river or stream is situate.

(2) Whenever the Council are in their opinion unable to acquire by agreement on reasonable terms any land within the county which they desire and are authorised to acquire under subsection (1) hereof they may apply to the Minister for an order empowering them to acquire the land compulsorily in accordance with the provisions of the schedule to the Development

A.D. 1933. — and Road Improvement Funds Act 1909 as amended by the Acquisition of Land (Assessment of Compensation) Act 1919 so far as those provisions are not inconsistent with the following provisions of this section and the Minister shall have power to make such order as if he were named therein instead of the Development Commissioners :

Provided that no order made under this subsection shall authorise the compulsory acquisition of any land which forms part of a common or public open space or is the property of the council of any county county borough or metropolitan borough or any county district whether within or beyond the county or is vested in or has been acquired by any authority company body or person for the purpose of any railway port harbour dock canal inland navigation water gas electricity or other public utility undertaking authorised by Act of Parliament or forms part of a park garden or pleasure ground or forms part of the home farm attached to and usually occupied with a mansion house or is otherwise required for the amenity or convenience of any dwelling-house.

(3) Any estate owner or occupier of land authorised to be acquired compulsorily by an order made under subsection (2) hereof who proves that his property is injuriously affected by the acquisition by the Council of that land shall be entitled to obtain compensation in respect of such injurious affection from the Council.

(4) The amount of any such compensation shall in default of agreement be determined by arbitration in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act 1919 Provided that in determining the amount of such compensation the arbitrator may take into account and embody in his award any undertaking with respect to the provision or preservation of means of access to the road or intended road or the river or stream (as the case may be) from the lands of the estate owner or occupier so claiming compensation which the Council have offered to the claimant and the terms of any undertaking so embodied in the award shall be binding on and enforceable against the Council.

(5) Nothing in any order made under subsection (2) hereof authorising the acquisition of any land for the

purpose mentioned in paragraph (c) of subsection (1) hereof shall— A.D. 1933.

(a) deprive any owner except with his consent of any legal right of using in any lawful manner the soil bed or waters of any river or stream if such right was vested in or exercised by him or by his predecessors in title at the passing of this Act; or

(b) deprive the public of any public right of way or access to or along any river or stream or the banks thereof for any purpose if such right was exercised by the public at the passing of this Act; or

(c) extinguish or restrict any private right of way or access to or along any river or stream or the banks thereof for any purpose legally exerciseable by any person or his predecessors in title at the passing of this Act.

(6) Where under the provisions of this section the Council have acquired any land—

(a) the Council on being required so to do by the local authority for the county district in which such land is situate shall construct to the reasonable satisfaction of the local authority any road on such land which is included in any town planning scheme in course of preparation or made. Provided that any question between the Council and such local authority as to the reasonableness of any requirement of the local authority or as to the date at which any such road is to be constructed shall be determined by the Minister; and

(b) the Council shall provide such reasonable means of access across the land so acquired to other land adjoining such land as may be agreed by the local authority and the owner of such other land on the one hand and the Council on the other hand or in default of agreement determined by the Minister.

122.—(1) The Council may from time to time acquire by agreement such lands or such rights in or over lands within or in the immediate neighbourhood of the county as the Council may deem it desirable to Acquisition of lands and rights for preservation of view.

A.D. 1933.

acquire in order to prevent or regulate the erection of buildings which may be detrimental to the view from places of public resort within the county or in order to preserve the amenities of any such place of public resort or of any estate belonging to the Council.

(2) For the purposes mentioned in subsection (1) hereof the Council may also enter into and carry into effect agreements with the owners of or any persons interested in any such lands as aforesaid and may exchange any lands or rights in or over lands for the time being belonging to them for other lands or rights in or over lands the possession or control of which the Council may deem more important for the preservation from injury of the view from and the amenities of any such places of public resort or of any estate belonging to the Council.

(3) For the purposes aforesaid the Council may also with respect to any lands within or in the immediate neighbourhood of the county aid any person in asserting (by legal proceedings or otherwise) any rights which may have the effect of preventing building on any such lands.

Acquisition
of land for
open spaces.

123.—(1) The Council may for the purpose of providing an open space from time to time acquire by agreement any land (not being at the date of such acquisition an open space within the meaning of the Open Spaces Act 1906) in the county.

(2) If at any time the Council are unable to acquire by agreement on reasonable terms any open space within the county which they may reasonably require or any land within the county which they may reasonably require for the purpose of providing an open space they may be authorised to acquire such open space or land compulsorily by means of an order submitted to the Minister and confirmed by him in accordance with the Second Schedule to this Act but nothing in this subsection shall authorise the compulsory acquisition of any land which is the property of any local authority or has been acquired by any authority company body or person for the purposes of a railway dock canal water gas electricity or other public undertaking.

(3) The Council may alter adapt and lay out any land acquired by the Council under this section or under

an order made in pursuance of this section and remove any buildings from such land and otherwise deal with the land so as to make the land an open space within the meaning of the said Act of 1906 and hold the land accordingly as an open space under that Act and exercise with respect thereto all or any of their powers and duties under that Act or the Council may convey any land so acquired to any local authority to be held by the local authority as an open space under that Act and any such land may be so conveyed on such terms and conditions as shall be agreed between the Council and the local authority.

A.D. 1933.
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(4) Any local authority may defray the whole or any part of any expenses incurred by the Council in the execution of this section.

124. If—

- (i) any owner of land fronting adjoining or abutting on a street to which section 150 of the Public Health Act 1875 applies or a street as defined by the Private Street Works Act 1892 conveys sells leases or otherwise disposes of the part or any portion of the part of that land which fronts adjoins or abuts on that street; and
- (ii) any expenses of private street works carried out by the Council in a rural district or by the local authority in an urban district in or in relation to that street under that Act are apportioned on such part or portion of that land; and
- (iii) the Council or the local authority as the case may be are unable to recover such expenses in whole or in part from the person to whom such part or portion of that land was conveyed sold leased or disposed of or by the sale of such part or portion of that land; and
- (iv) a court of summary jurisdiction is satisfied that such conveyance sale lease or disposal was intended for the purpose of evading the payment of any expenses under the said Act;

As to
evasion
by owners
of private
street works
expenses.

A.D. 1933. — then such expenses or so much thereof as has not been recovered by the Council or the local authority as the case may be may to such extent as the court may determine be recovered from that owner in the same manner as expenses of private street works may be recovered under the said Act as though he had not made such conveyance sale lease or disposal and as though the said amount of the said expenses had been apportioned on the land of that owner which before such conveyance sale lease or disposal was made fronted adjoined or abutted on such street.

As to carriage crossings in connection with county roads.

125.—(1) Where the termination of a new street not being a highway repairable by the inhabitants at large abuts on any county road and the use of such street involves passage across or interference with any part of such county road the Council may either—

- (a) require the person by whom such street has been or is being laid out or constructed to construct across such part of the county road a carriage crossing of such materials and in such manner as they may prescribe; or
- (b) allow the use of such part of the county road subject to the condition that the said part is strengthened or adapted in such manner as the Council may prescribe or subject to such other reasonable conditions (if any) as they may impose.

(2) Not less than twenty-eight days before prescribing the manner in which a carriage crossing shall be constructed or any part of a county road shall be strengthened or adapted under subsection (1) of this section the Council shall give notice thereof to any statutory undertakers for the supply of gas water or electricity any of whose mains pipes or apparatus would be situate in or under such carriage crossing or are situate in or under such part of the county road and shall if requested by such undertakers require the lowering of any such mains pipes or apparatus to such depth below the surface of the carriage crossing or the part of the county road so strengthened or adapted not exceeding four feet measured from the upper side of any such main pipe or apparatus as the undertakers may prescribe and the work of such lowering may be carried out by the

undertakers and the cost reasonably incurred by them in so doing shall be repaid to them by the Council who may recover the same from the person and in the manner from whom and in which expenses are recoverable under subsection (3) of this section. A.D. 1933.

(3) If the Council require the construction of any carriage crossing across any part of a county road or allow the use of any such part subject to a condition that it be strengthened or adapted they may execute such works as may be necessary to secure compliance with such requirement or condition and recover the expenses of so doing from the person by whom such street has been or is being laid out or constructed in a summary manner as a civil debt.

(4) (a) Any person deeming himself aggrieved by any requirement or condition of the Council under this section may within fourteen days from the date of such requirement or condition appeal to a court of summary jurisdiction and such court may and is hereby empowered to make such order in the premises and on such terms and conditions as the court may think fit.

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

(5) If the Council allow the use of any part of a county road as a carriage crossing subject to any condition other than the strengthening or adaptation of such part any person who uses or permits the same to be used as a highway crossing in contravention of the said condition shall be liable to a penalty not exceeding five pounds.

(6) Nothing in this section shall impose on the person by whom such street has been or is being laid out or constructed any obligation to maintain any crossing constructed or any part of a county road strengthened or adapted in pursuance of a requirement of or condition imposed by the Council under this section.

(7) Where an urban district council have claimed under section 32 of the Local Government Act 1929 to exercise the functions of maintenance and repair of any county road within their district then so long as that council continue to exercise those functions the

A.D. 1933. powers and obligations of this section in relation to that road may be exercised and shall be performed by that council and such powers shall not be exercisable by the Council but the Council may contribute to the expenses incurred by any such urban district council in exercising those powers :

Provided that before any such urban district council make any requirement under paragraph (a) or allow the use of any part of a county road under paragraph (b) of subsection (1) of this section they shall obtain the approval of the Council. If the Council attach any condition to such approval such condition shall be deemed to be a condition to which subsection (4) of this section applies.

Powers of Local Authorities.

Develop-
ment
scheme
may be
required in
connection
with new
streets.

126.—(1) Whenever application shall be made to a local authority to approve the laying out of or notice shall be given to a local authority of intention to lay out a new street within the meaning of their byelaws with respect to new streets or of any provision in a local Act with respect to the width of new streets the local authority may require the owner of the estate or lands the development of which will be commenced or continued by the laying out of such new street to furnish the local authority with plans sections and particulars showing the general scheme (if any) for the development or laying out of such estate or lands and in such case the date of the making of application or of the giving of notice as aforesaid shall for the purposes of any enactments or provisions in force for the time being with respect to the laying out of new streets be deemed to be the date on which plans sections and particulars required as aforesaid shall be so furnished.

(2) If after the submission of the plans sections and particulars referred to in subsection (1) of this section the local authority shall approve the laying out of any such new street either unconditionally or subject to any modification of such plans sections and particulars neither the owner of the estate or lands nor his successors in title shall carry out the development of such estate or lands in such a manner as to conflict substantially with such plans sections and particulars as so approved

If any such owner or successors in title shall offend against the provisions of this section he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings. A.D. 1933.

(3) The said owner or his successors in title may at any time submit to the local authority for their approval any alteration in the said plans sections and particulars and the local authority may if they think fit approve such alteration.

(4) (a) Any person deeming himself aggrieved by any requirement of the local authority under this section or by any modification required in the said plans sections and particulars by the local authority or by any refusal on the part of the local authority to approve any such alteration as aforesaid therein may within fourteen days from the date of such requirement or refusal appeal to a court of summary jurisdiction and such court may and is hereby empowered to make such order in the premises and on such terms and conditions as the court may think fit.

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

(5) Nothing in this section shall be deemed to authorise any contravention of any byelaw or statutory provision in force in the district.

127.—(1) For the purpose of securing the proper laying out or development of any estate or lands in respect of or in connection with which plans for any new street within the meaning of the byelaws of a local authority with respect to new streets or of any provisions in a local Act with respect to the width of new streets are submitted to a local authority for approval the local authority may require that provision shall be made for adjusting and altering the boundaries of any such estate or lands or any lands adjacent or near thereto and for effecting such exchanges of land and the removal imposition or other regulation of covenants restrictions and conditions attaching to such estate or lands as may be necessary or convenient for such purposes and the provision so to be made and the terms and conditions upon which such provision is to be made shall failing

Adjust-
ment of
boundaries
of estates.

A.D. 1933. — agreement between the local authority and the respective persons interested in such estate or lands be determined on the application of the local authority or any such person by an arbitrator to be appointed by the Minister and the local authority may for securing the execution of any such purposes agree to pay and may and shall pay to any such person or persons such sums as may be agreed upon or in default of agreement be determined by arbitration as aforesaid. Provided that the payment of money by any such person shall not be made a term or condition of any award made under this section otherwise than with his consent.

(2) Any award made under the provisions of this section shall operate to effect any adjustment or alteration of boundaries or exchange of lands or the removal imposition or other regulation of covenants restrictions and conditions attaching to such lands which may be provided for by such award or be necessary for giving effect thereto and shall be duly stamped accordingly and the costs charges and expenses of any such arbitration shall unless and except in so far as the award shall otherwise provide be borne and paid by the local authority.

(3) Any land or money received by any person in or in respect of any adjustment or alteration of boundaries or exchange of lands under the provisions of this section shall be held by such person subject to the same trusts (if any) and any land so received shall also be held subject to the same covenants restrictions and conditions (if any) so far as the same are applicable as the land exchanged therefor. Where any such covenants restrictions or conditions shall in any case be agreed to be inapplicable or be determined by the arbitrator to be inapplicable the same shall be indicated in any agreement or award made under the provisions of this section.

(4) For the purpose of the adjustment or alteration of the boundaries of any such estate or lands as aforesaid the local authority may themselves purchase any land and may sell or lease the land so purchased in whole or in part at such time or times at such price or prices, and on such conditions as they may think fit or may appropriate the same for any public purpose approved by the Minister and until such sale or appropriation may occupy

manage or let the same or any part thereof in such manner as the local authority may think reasonable.

A.D. 1933.

128.—(1) The powers conferred or hereafter conferred upon any local authority by section 17 of the Public Health Acts Amendment Act 1907 to vary the intended position of a new street so far as is necessary for the purpose of securing more direct easier or more convenient means of communication with any other street or intended street shall be extended so as to enable them (subject to the provisions of that section) to require that the corners formed at the junction of a new street with another street (whether new or existing) shall be rounded off so as to be coincident with the arc of a circle tangential to the adjacent boundaries of the two streets and having such radius not being less than forty feet as may be determined by the local authority.

Rounding
off corners
at street
junctions.

(2) Whenever under or by virtue of the provisions of this section any portion of a street not being part of the carriageway thereof is added to the carriageway of that or any other street and there are in or under such portion any mains pipes or apparatus of any statutory undertakers for the supply of gas water or electricity the undertakers may lower such mains pipes or apparatus so that the depth thereof below the surface of the carriageway shall not exceed four feet measured from the upper side of any such main pipe or apparatus and the local authority shall on demand repay to the undertakers the expenses reasonably incurred by them in so doing Any difference which may arise between the local authority and the undertakers under this subsection shall be referred to and determined by an arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any such reference and determination.

(3) In its application to the mayor aldermen and burgesses of the borough of Ilford this section shall have effect as if section 22 of the Ilford Improvement Act 1898 were therein referred to instead of section 17 of the Public Health Acts Amendment Act 1907.

(4) In its application to the mayor aldermen and burgesses of the borough of Leyton this section shall

A.D. 1933.

— have effect as if section 23 of the Leyton Urban District Council Act 1898 were therein referred to instead of section 17 of the Public Health Acts Amendment Act 1907.

Means of
access to
buildings.

129.—(1) On the deposit with a local authority of the plans of any new building intended or adapted for use as a dwelling-house (or where such plans have been approved before the passing of this Act but the erection of the building has not been begun at any time before such passing) the local authority may by notice in writing require the provision before the building is erected sold let or occupied (as the local authority shall specify) of sufficient means of communication between the building and a street which is either a highway repairable by the inhabitants at large or has been laid out and constructed in accordance with the byelaws for the time being in force with respect to new streets.

(2) If it appears to the local authority to be necessary that the means of communication to be provided under this section shall be in the form of a street the local authority may by their notice require a new street to be laid out and if the construction of such means of communication appears to them necessary they may by their notice require constructional work in connection with such means of communication not exceeding that required for a new street by the byelaws in force with respect to the construction of new streets.

(3) The local authority may if they think fit contribute towards the cost of the provision of means of communication or of the work required under this section.

(4) Where notice of a requirement under this section has been given by the local authority a person shall not begin to erect or proceed with the erection of any building to which the notice relates nor sell let or occupy such building (as the notice shall specify) until the notice of the local authority has been complied with or until security has been given to the satisfaction of the local authority that the notice will be complied with.

(5) Any person who shall offend against the provisions of this section shall be liable to a penalty not

exceeding twenty pounds and to a daily penalty not exceeding five pounds. A.D. 1933.

(6) Any person aggrieved by any requirement of a local authority under this section may within fourteen days from the date of such requirement appeal to a court of summary jurisdiction provided he give twenty-four hours' written notice of the appeal and of the grounds thereof to the clerk to the local authority and the court shall have power to make such order as the court may think fit and to award costs.

(7) Notice of the right of appeal shall be endorsed on every notice communicating a requirement of a local authority under this section.

130. The power of any local authority to make byelaws with respect to secondary means of access under section 23 of the Public Health Acts Amendment Act 1890 shall extend to enable them to require every person who shall erect fronting a street or intended street terraces or other continuous blocks of houses (being terraces or continuous blocks comprising not less than five separate houses) not giving access through their own grounds to the backs of such houses to make and construct a back road and side roads at the back and at each end of such terraces or continuous blocks of houses of such widths as may be prescribed by such byelaws and to prohibit the closing of any secondary means of access. Secondary means of access.

131. Where in any county district any byelaws with respect to new streets made by the local authority of the district have been superseded by the provisions of a town planning scheme in force in that district the foregoing sections of this Act of which the marginal notes respectively are— Meaning of byelaws with respect to new streets.

“Development scheme may be required in connection with new streets”;

“Adjustment of boundaries of estates”; and

“Means of access to buildings”;

shall be read and have effect as if any reference in those sections to byelaws with respect to new streets meant the provisions of the town planning scheme by which the byelaws with respect to new streets have been superseded in that district.

A.D. 1933.

Prohibition
on use of
unsuitable
land for
erection of
dwelling-
houses.**132.**—(1) Any local authority may by order prohibit or restrict—

- (a) the erection of buildings intended or adapted for use as dwelling-houses on any land within their district which is liable to flooding; or
- (b) the erection of dwelling-houses on land which would by reason of the nature of the subsoil involve danger or injury to health.

(2) Before any order made under this section shall come into force the local authority shall submit the order to the Minister for his approval and shall give notice of the proposals of the order by advertisement in a local newspaper circulating in their district and in the *London Gazette* and in such other manner (if any) as the Minister may direct. The said notice shall name a place where copies of the order can be obtained free of charge and shall state a date (not being less than twenty-one days from the date of the notice) by which and the manner in which any person aggrieved by the order may make representations thereon to the Minister and that any such person shall at the same time send a copy of his representations to the clerk to the local authority.

(3) The Minister shall consider any order submitted to him by the local authority and any representations thereon which may be duly made and may approve the order submitted to him with or without modifications or may disapprove the order.

(4) Before approving any such order the Minister may and if any representation is duly made and is not withdrawn shall (unless the representation appears to him to be frivolous) direct a local inquiry to be held under the provisions of the section of this Act of which the marginal note is "Inquiries by Minister."

(5) The local authority shall give at least fourteen days' notice of the intention to hold such local inquiry with particulars of any proposed order by advertisement in a local newspaper circulating in their district and shall also give similar notice in writing to each person who has duly made any representation and has not withdrawn the same.

(6) The order shall take effect as approved by the Minister and shall come into force on a date to be fixed by him.

A.D. 1933.

(7) The local authority shall give notice of the provisions of any order approved by the Minister under this section by advertisement in a local newspaper circulating in their district and otherwise in such manner as may be prescribed by the Minister.

(8) Any person who commits any breach of any order which has come into force under this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

133.—(1) (a) For the purpose of assisting in the exercise of the powers conferred by this section a standing advisory committee shall be constituted for each county district as soon as may be after byelaws for that district shall have been made pursuant to this section and each such committee is with reference to the county district for which it is constituted referred to in this section as “the advisory committee.”

Further power to make bye-laws as to new buildings &c.

(b) The advisory committee for a county district shall consist of three members of whom one shall be a fellow of the Royal Institute of British Architects to be nominated by the President of that institute another shall be a fellow of the Chartered Surveyors' Institution to be nominated by the President of that institution and the third shall be a justice of the peace to be nominated by the local authority of the county district.

(c) A person may be a member of the advisory committee for more than one county district but a member of a local authority shall be disqualified from being a member of the advisory committee for the county district of that authority and a member of the Council shall be disqualified from being a member of any advisory committee for any county district.

(d) Subject as aforesaid the members of the advisory committee shall be appointed by the local authority and any vacancy occurring on the advisory committee shall be filled by the local authority on the nomination of the person or body by whom the member causing the vacancy was nominated.

(e) A local authority may pay to the members of the advisory committee such reasonable fees and expenses as the local authority thinks fit.

(2) Section 157 of the Public Health Act 1875 is hereby extended so as to enable any local authority to

A.D. 1933. — make byelaws providing in such manner as they may think necessary that any person intending to erect—

- (a) a new building; or
- (b) a chimney exceeding forty-five feet from the ground in height;

shall furnish the local authority with drawings or other sufficient indication of the design or external appearance of the building or chimney including such indication of the materials to be used in its construction as may be necessary for the purpose (in this section called collectively "specifications").

(3) Where specifications are required to be submitted to a local authority by a byelaw made under the said section 157 as extended by this section the local authority shall within one month after the submission to them of the specifications—

- (a) approve the specifications; or
- (b) if they shall consider that having regard to the character of the locality and of the neighbouring buildings the building or chimney to which the specifications relate would seriously disfigure the neighbourhood whether by reason of the height design or external appearance of the building or chimney disapprove the specifications subject to a reference to the advisory committee for their decision thereon if so desired by the person by whom the specifications were submitted.

(4) The local authority shall forthwith send notice in writing to the person by whom the specifications were furnished of their approval or disapproval thereof and if the building or chimney is considered to be objectionable on any of the grounds mentioned in this section the notice shall be accompanied by a statement of the objections to the building or chimney.

(5) (a) The person by whom the specifications were furnished may within fourteen days of his receiving notice of the disapproval by notice in writing to the local authority require the specifications to be referred to the advisory committee and in that case shall within the same period send to the clerk to the local authority a statement of his answers to the objections. The grounds on which a

person may require the specifications to be referred to the advisory committee shall include the ground that compliance with the local authority's decision would involve an increase in the cost of the building which would be unreasonable having regard to the character of the locality and of the neighbouring buildings.

(b) (i) The advisory committee shall within one month after the receipt of the reference decide whether they approve or disapprove the specifications and their decision shall be final and conclusive. The advisory committee shall not disapprove the specifications on any other grounds than those specified in the local authority's statement of objections hereinbefore referred to without first giving not less than ten days' notice of their intention to the person submitting the specifications and to the local authority and hearing any representations which either party may make to them before the expiration of the notice.

(ii) If the specifications are disapproved the decision of the advisory committee shall contain a statement of the grounds on which the proposed building or chimney is considered to be objectionable.

(iii) Subject as aforesaid in arriving at their decision the advisory committee may adopt such procedure as they think fit.

(6) The decision of the advisory committee shall be in writing signed by them and a copy of the decision shall as soon as may be after the determination of the reference be sent to the local authority and to the person by whom the specifications were submitted.

(7) If there be a division of opinion among the members of the advisory committee on any reference to them the matter shall be decided by a majority of votes of the members of the committee but save as aforesaid the advisory committee shall act by their whole number.

(8) Where the specifications of a building or chimney have been disapproved under this section it shall not be lawful to erect the building or chimney until the specifications thereof have been approved by the local authority and any person who acts in contravention of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

A.D. 1933.
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(9) The costs of any reference to the advisory committee shall be paid as the advisory committee may direct. Where such costs or part thereof are payable by the person submitting the specifications they shall be recoverable by the local authority summarily as a civil debt and where such costs or part thereof are payable by the local authority they shall be recoverable by the person submitting the specifications in the like manner.

(10) This section shall not apply to a building (not being a dwelling-house showroom or office) or chimney belonging to or intended to be constructed by any person or body of persons authorised by virtue of any Act of Parliament or any Order having the force of an Act of Parliament to supply gas electricity or water and used or intended to be used exclusively for the purposes of the undertaking of such person or body of persons.

(11) This section shall cease to apply within any county district as on and from the date of the coming into operation in that district of provisions in a planning scheme with respect to the design and external appearance of buildings.

As to
temporary
buildings.

134.—(1) No part of a temporary building erected with the consent of a local authority in pursuance of section 27 of the Public Health Acts Amendment Act 1907 shall be deemed to be the front main wall of a house or building within the meaning of that expression in section 3 of the Public Health (Buildings in Streets) Act 1888.

(2) In its application to any temporary building in the borough of Ilford this section shall have effect as if section 35 of the Ilford Improvement Act 1898 were therein referred to instead of section 27 of the Public Health Acts Amendment Act 1907.

(3) In its application to any temporary building in the borough of Leyton this section shall have effect as if section 35 of the Leyton Urban District Council Act 1898 as amended by the Leyton Urban District Council Act 1904 and the Leyton Order 1926 were therein referred to instead of section 27 of the Public Health Acts Amendment Act 1907.

Combined
drains.

135.—(1) If it appears to any local authority that two or more houses within their district 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 local authority 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 local authority if they so decide or by the owners in such manner as the local authority shall direct. 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 local authority shall determine and if such drain is constructed by the local authority such costs and expenses may be recovered by the local authority from such owners subject to a right of appeal under subsection (4) of this section.

(2) Any combined drain constructed—

(a) by agreement with the owners in accordance with the provisions of this section but before the passing of this Act; or

(b) 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 local authority 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.

(4) Any person deeming himself aggrieved by the amount of any costs and expenses proposed to be recovered by the local authority 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 local authority 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.

136.—(1) Every building erected after the passing of this Act which exceeds two storeys in height and in which the upper surface of the floor of any upper storey is

Means of escape from buildings in case of fire.

A.D. 1933.

above twenty feet either from the street level or from the ground level and which is used or intended to be used as an orphanage or a home into which children are received or a nursing home or hospital shall be provided on each of the storeys the upper surface of the floor whereof is above twenty feet from the street level or ground level with such means of escape in case of fire for the persons dwelling sleeping or employed in each such upper storey or resorting thereto as may be reasonably required by the local authority in the circumstances of the case and the owner shall not permit such building to be occupied until the local authority shall have issued a certificate that the provisions of this section have been complied with in relation thereto.

(2) The local authority in the case of every existing building exceeding two storeys in height and used or intended to be used as an orphanage or a home into which children are received or a nursing home or hospital if in the opinion of the local authority such building is not provided with proper and sufficient means of escape from each storey the upper surface of the floor whereof is above twenty feet from the street level or from the ground level in case of fire for the persons dwelling or sleeping therein may at any time serve on the owner of such building a notice requiring him within a reasonable time to be specified in such notice to provide such means of escape as in the circumstances of the case can reasonably be required and the owner shall thereupon take the necessary steps to provide the means of escape so required.

(3) Where the means of escape in case of fire provided in connection with any such building as aforesaid shall become inadequate in consequence of any alteration in the circumstances or conditions affecting such building the owner of the building shall upon the requirement of the local authority make such alterations in the said means of escape as may be reasonably necessary and shall if so required by the local authority provide further or other means of escape.

(4) (a) Any person aggrieved by any requirement of the local authority under subsection (2) or subsection (3) of this section may appeal to a court of summary jurisdiction within fourteen days after the receipt of the requirement 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. A.D. 1933.

(b) Notice of the right to appeal shall be endorsed on every requirement of the local authority under either of the said subsections.

(5) The owner of the building shall notwithstanding any agreement with the occupier have power to take such steps as are necessary for complying with any requirement of the local authority under this section.

(6) If the owner alleges that the occupier of the building ought to bear or contribute to the expenses of complying with any requirement of the local authority under this section he may apply to the county court and thereupon the county court after hearing the occupier may make such order as appears to the court just and equitable in all the circumstances of the case.

(7) The means of escape in case of fire provided in connection with any such building as aforesaid shall not be altered without the consent in writing of the local authority and shall at all times be maintained and kept by the occupier of the building in good and efficient condition and free from obstruction.

(8) This section shall not apply to premises to which sections 14 and 15 of the Factory and Workshop Act 1901 or any enactment amending those sections apply.

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

137. The provisions of the sections of this Part of this Act of which the marginal notes are—

“Development scheme may be required in connection with new streets”;

“Adjustment of boundaries of estates”;

“Rounding off corners at street junctions”;

“Means of access to buildings”;

“Prohibition on use of unsuitable land for erection of dwelling-houses”;

“Further power to make byelaws as to new buildings &c.”;

“Combined drains”;

Special provisions as to urban districts of Dagenham and Romford.

A.D. 1933: shall not be exercised by the urban district council of Dagenham or the urban district council of Romford nor apply or have effect within or in relation to the urban district of Dagenham or the urban district of Romford.

For pro-
tection of
railway
companies.

138. The provisions of the sections of this Part of this Act of which the marginal notes are—

“Development scheme may be required in connection with new streets”;

“Adjustment of boundaries of estates”;

“Rounding off corners at street junctions”; and

“Further power to make byelaws as to new buildings &c.”;

shall not extend or apply to any building (not being a dwelling-house) railway dock 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 dock railway work or land is used or held by such company primarily for railway purposes.

For pro-
tection of
Port
Authority.

139. The provisions of the sections of this Part of this Act of which the marginal notes are—

“Development scheme may be required in connection with new streets”;

“Adjustment of boundaries of estates”;

“Rounding off corners at street junctions”; and

“Further power to make byelaws as to new buildings &c.”;

shall not extend or apply to any building (not being a dwelling-house) dock wharf quay pier jetty or other work constructed by or belonging to or which may hereafter be constructed by or belong to the Port Authority in the exercise of their statutory powers or to any lands held or acquired or which may hereafter be held or acquired by the Port Authority with the authority of Parliament so long as such building dock wharf quay pier jetty work or land is used or held by the Port Authority primarily for port harbour or dock purposes.

Various Provisions.

A.D. 1933.

140. The Council and any local authority may enter into and carry into effect agreements in relation to any town planning scheme and in particular for the inclusion therein of proposals for—

Agreements with local authorities in relation to town planning schemes.

- (a) the planning of new roads and the prescription of building lines thereon;
- (b) the widening of existing roads and the prescription of building lines thereon;
- (c) the reservation of land for any purposes within the powers of the Council under any public general Act or local enactment;
- (d) the reservation of land as a public or private open space or as an agricultural or other form of open belt or as land not to be built upon;

and the Council may contribute such proportion of the expenses of the local authority in connection with any such proposals and any scheme in which such proposals are included as may be agreed.

Nothing in this section shall prejudice any right of the Minister with respect to the approval (with or without modifications) or disapproval of or the rights of any person to object to any town planning scheme in relation to which an agreement has been entered into under this section.

141.—(1) If the Council shall by resolution so determine there shall be established a joint town planning committee for the county (to be called “the Essex Joint Planning Committee” and in this section referred to as “the committee”) constituted as follows:—

Joint planning committee.

One member appointed by each local authority;

Six members appointed by the Council; and

Two persons being owners of lands in the county to be nominated in writing by the Central Landowners Association:

Provided that the committee may act notwithstanding any vacancy in their body and notwithstanding any refusal by some or any of the local authorities to appoint a member.

(2) Each member of the committee shall hold office for a term of three years and at the end of the term

A.D. 1933. shall be eligible for reappointment. If a member of the committee dies or resigns during his term of office the authority by whom he was appointed may appoint another member in his place.

(3) The first meeting of the committee shall be convened by the clerk at such time and in such place as the Council may determine. After their first meeting the committee may meet when and where they think fit and (subject to the provisions of subsection (4) of this section) may make such regulations as they think fit as to their procedure and do such other acts and things as they may deem necessary for the proper carrying out of the purposes for which they may have been constituted by this section.

(4) At all meetings of the committee each member present shall be entitled to one vote and every question at any such meeting shall be determined by the majority of the members present and voting. If there be an equality of votes the chairman or other person presiding at the meeting shall have a casting vote.

(5) The committee may appoint an honorary secretary or clerk.

(6) The administrative expenses of the committee shall be paid by the Council.

(7) The committee shall have power to consider and report upon or to suggest proposals for the planning within the county of—

- (a) roads designed for through communication;
- (b) lands adjoining rivers and streams;
- (c) open spaces of an area of fifty acres or more;
- (d) open spaces or parkways adjoining roads rivers and streams;
- (e) agricultural or other form of open belts or land not to be built upon.

(8) (a) After the establishment of the committee every local authority and every joint committee appointed under the Act of 1932 or any Act repealed thereby before depositing for public inspection under the town planning regulations any preliminary statement or draft scheme and before submitting to the Minister for approval any preliminary statement or scheme deposited before the establishment of the committee shall if the

A.D. 1933.

town planning scheme to which the preliminary statement or scheme as submitted for approval or draft scheme respectively relates comprises any land in the county supply the committee with full particulars of any provisions in the preliminary statement or draft scheme or scheme which relate to or may affect any of the matters referred to in subsection (7) of this section and shall take into consideration any report thereon which the committee may make to them within two months of the date when such particulars were supplied.

(b) As soon as practicable after the establishment of the committee every local authority and every such joint committee as aforesaid shall give notice in writing to the committee of every preliminary statement or scheme which shall before the establishment of the committee have been submitted by the local authority or joint committee to the Minister for approval under the town planning regulations and not yet approved by him if the town planning scheme to which the preliminary statement or scheme as submitted for approval relates comprises any land in the county with full particulars of any provisions of the preliminary statement or scheme which relate to or may affect any of the matters referred to in the said subsection (7) to enable the committee if they so desire to submit representations to the Minister on any such provisions before the approval of the preliminary statement or scheme.

(9) The committee may from time to time appoint such and so many sub-committees consisting of such number of members of the committee as they think fit and may delegate all or any of their powers under this section to any such sub-committee but the acts of every such sub-committee shall require the approval of the committee.

142.—(1) The Essex Joint Planning Committee Survey. to be constituted under the section of this Act of which the marginal note is "Joint planning committee" may make a survey of any area in the county with the general object of ascertaining—

(a) the resources of the area in respect of land used or suitable for residential or industrial purposes agriculture horticulture forestry parks or containing minerals;

A.D. 1933.

- (b) the rural amenities of the area ;
- (c) the social conditions of the area ;
- (d) such other matters as may be prescribed by the Minister ;

and deposit a report thereon for public inspection at some convenient place in each area.

The said committee may incur such expenses under this section as the Council may authorise and any expenses so incurred shall be paid by the Council.

(2) The said committee may after consultation with the Minister adopt the report on any survey prepared by any voluntary organisation.

(3) Regard shall be had to any report made under this section in the preparation of any town planning scheme in the county and the Minister may amend any preliminary statement or draft scheme prepared under the town planning regulations so as to give effect to such report or any part thereof.

(4) In this section the expression "rural amenities" includes the beauty of the landscape or rural scenery and the enjoyment of the countryside including fields trees woods hills valleys cliffs foreshores streams commons open spaces village greens ways buildings gardens and other features with picturesque characteristics historic associations archaeological interest or architectural merit.

Exercise of
town
planning
powers by
joint town
planning
authority.

143.—(1) A local authority may with the consent of the Essex Joint Planning Committee to be constituted under the section of this Act of which the marginal note is "Joint planning committee" delegate to that committee with or without restrictions any of their powers and duties in connection with the preparation or adoption of a town planning scheme other than the power to borrow money or levy a rate and shall pay any expenses incurred by the said committee in the exercise of any powers and duties so delegated.

(2) (a) Where two or more local authorities are desirous of acting jointly in the preparation or adoption of a scheme they may with the consent of the Essex Joint Planning Committee concur in delegating to that committee with or without restrictions any of their powers and duties in connection with the preparation

or adoption of a town planning scheme other than the power to borrow money or levy a rate. A.D. 1933.

(b) The expenses incurred by the said committee in the exercise of any powers and duties delegated under this subsection shall be paid by the local authorities who have concurred in the delegation or some or one of them as they may agree and if any question arises as to the local authorities or local authority by whom or the proportions in which any such expenses are to be paid that question shall be determined by the Minister.

(c) The provisions of section 58 of the Local Government Act 1894 with respect to accounts and audit shall with any necessary modifications apply in relation to the expenses incurred by the said committee in the exercise of any powers and duties delegated under this subsection as though the said committee were a joint committee of which the local authorities who have concurred in the delegation were constituent authorities.

144.—(1) If at any time the Council having regard to the amenity of any part of the county are of opinion that any growing tree of a height of more than thirty feet or having a trunk of a girth of more than three feet at a height of five feet above the ground or any group of such trees ought to be preserved the Council may register the tree or group of trees and shall thereupon notify the owner and occupier of the land upon which the tree or group of trees is growing that the tree or group of trees has been registered and the register of trees so made shall be open to inspection by persons interested at all reasonable times. Preservation of trees.

(2) No person shall cut down lop top or wilfully destroy any tree registered by the Council under this section except—

(a) in pursuance of the provisions of section 65 of the Highway Act 1835 section 5 of the Telegraph (Construction) Act 1908 section 23 of the Public Health Act 1925 or section 34 of the Electricity (Supply) Act 1926; or

(b) where the tree has become dangerous; or

A.D. 1933.

- (c) to such an extent as may be necessary to prevent its constituting a nuisance to the owner or occupier of neighbouring lands; or
- (d) to such an extent as may be necessary in pursuance of a right to abate a nuisance; or
- (e) with the consent of the Council; or
- (f) under an order of a court of summary jurisdiction under subsection (3) of this section; or
- (g) where the tree is growing on land required for the widening or improvement of any road or for the construction of a new road:

Provided that if the Council do not notify their refusal to consent to the cutting down lopping topping or destruction of any registered tree within one month from the date of an application for consent their consent shall be deemed to have been given.

(3) Any owner or occupier of the land upon which a tree or group of trees is growing who is aggrieved by the refusal of the Council to consent to the cutting down lopping topping or destruction of any registered tree may appeal to a court of summary jurisdiction and the court may if they think just make an order authorising the cutting down lopping topping or destruction of the tree but any such order shall not affect any rights as between the owner and occupier of such land.

(4) Any person who shall offend against the provisions of this section shall be liable to a penalty not exceeding five pounds.

(5) The Council shall make compensation to the owner of the land upon which any registered tree is growing who shall be injuriously affected by the refusal of the Council to consent to the cutting down lopping topping or destruction of any registered tree such compensation in case of difference to be settled in the manner provided by the Public Health Act 1875.

(6) Nothing in this section shall apply to any tree or group of trees growing upon land used or held by a railway company for railway purposes or prejudice or affect the powers conferred upon justices by section 24 of the Regulation of Railways Act 1868.

(7) The provisions of this section shall not apply within or in relation to the urban district of Romford. A.D. 1933.

145.—(1) The Council may serve a notice on the owner or occupier of any land within the county in respect of any serious injury to the amenities of any public open space within the county which may be caused by the display of advertisements on such land requiring him within a reasonable time to be specified in the notice to take such action and to execute such works including works of removal as may be necessary to abate the injury. Display of advertisements.

(2) If the person on whom the notice is served fails to comply therewith the Council may cause a complaint relating to the injury to be made to a court of summary jurisdiction and that court may issue a summons requiring the person to appear before them and if satisfied that the alleged injury exists may make an order requiring the person to comply with the requisition or otherwise to abate the injury and to do any works necessary for the purpose within a time specified in the order.

(3) If any person fails to comply with the requirements of subsection (2) of this section he shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding ten shillings.

(4) Any order made under subsection (2) of this section may also empower the Council themselves to undertake the necessary works and to recover the cost from the person against whom the order is made if such person fails to comply with the order.

(5) The provisions of this section in regard to advertisements shall be in addition to and not in derogation of the provisions of the Advertisements Regulation Acts 1907 and 1925.

(6) The powers of this section may be exercised by the council of any county district who are for the time being the local authority for the purposes of the Advertisements Regulation Acts 1907 and 1925 except in relation to any public open spaces provided by the Council within such county district and save as aforesaid such powers shall not be exerciseable by the Council therein.

A.D. 1933.

(7) Nothing in this section shall apply—

- (a) To advertisements upon land relating solely to any trade or business carried on or to any entertainment or meeting auction or sale to be held upon or in relation to such land or any property thereon and advertisements on the door or in the window of a building if the advertisements do not in either case contain letters figures or advertising emblems exceeding six inches in height and do not (except where affixed to and not projecting above a vertical wall of a building) exceed a height of twelve feet from the ground;
- (b) For a period of five years from the passing of this Act to hoardings or similar structures erected or in use for advertising purposes prior to that date and any advertisement displayed thereon during that period or any other advertisement displayed at the date of the passing of this Act;
- (c) To advertisements on or upon any railway station yard platform or railway approach belonging to a railway company;
- (d) To advertisements on or upon any dock wharf quay jetty pier or other building or work of any description belonging to the Port Authority in any urban district.

Refuse
dumps.

146.—(1) Subject to the provisions of this section it shall not be lawful for any authority body or person to form a deposit of refuse or continue to add refuse to an existing deposit in any place within the county other than a place within the county district (if any) in which the refuse was collected or assembled unless such authority body or person comply with the conditions specified in Part I of the Third Schedule to this Act:

Provided that this subsection shall not apply—

- (a) until the expiration of twelve months from the passing of this Act to any deposit of refuse in existence at the passing of this Act; or
- (b) to a deposit of sewage formed by any local or other public authority acting under the

powers of any Act of Parliament or Order having the force of an Act; or A.D. 1933.

- (c) to a deposit of manure formed at or on a farm garden or nursery and intended to be used solely for horticultural agricultural or farming purposes notwithstanding that such manure may be composed of more than one class of refuse; or
- (d) to a deposit of refuse formed solely for industrial purposes or for the preparation of manure; or
- (e) to the tipping of spoil and refuse by a railway company for the purpose of constructing widening or maintaining any railway works; or
- (f) to the tipping of spoil and refuse by the Port Authority for the purpose of constructing enlarging improving or maintaining any work forming part of their undertaking provided that such spoil or refuse shall not be of such a nature as to cause or be likely to cause a nuisance; or
- (g) to the deposit or tipping of refuse (of such a nature as is not likely to cause a nuisance) upon land belonging to a local authority within their district for the purpose of raising the level of or otherwise improving such land or without their district for the purpose of raising the level of or otherwise improving any such land which has been acquired for housing purposes or for public walks pleasure grounds open spaces or playing fields.

(2) (a) With the previous consent in writing of the Council and of the local authority any authority body or person may form a deposit of refuse or continue to add refuse to an existing deposit subject to compliance with the conditions specified in Part II of the Third Schedule to this Act in any place within the county other than a place within the county district (if any) in which the refuse was collected or assembled.

(b) The Council and the local authority of the county district in which such deposit shall be intended

A.D. 1933. — to be formed or added to may withhold their consent thereto :

Provided that if the Council or the local authority shall not notify the applicant for any such consent of their decision upon any such application within three months after the receipt thereof they shall be deemed to have consented thereto :

Provided further that the Council and the local authority may give not less than twelve months' notice of the withdrawal of any such consent previously given and upon the expiration of such notice such consent shall be withdrawn but if there be an appeal as hereinafter provided such notice if disallowed by the tribunal constituted under subsection (7) of this section (hereinafter referred to as the "tribunal of appeal") shall not have any effect and if not so disallowed shall not take effect until the expiration of twelve months after the appeal shall have been decided.

(3) The Council may from time to time prescribe an area or areas in the county where subject to compliance with the conditions specified in Part II of the Third Schedule to this Act any authority body or person may subject to any public rights of way form a deposit of refuse or continue to add refuse to any deposit without the consent of the Council and of the local authority :

Provided that before any such area or areas shall be so prescribed in any county district the approval of the local authority of such county district shall subject as hereinafter provided be obtained :

Provided further that the Council may give not less than twelve months' notice that any area previously prescribed or any part thereof shall cease to be prescribed and upon the expiration of such notice such area or part thereof shall cease to be prescribed but if there be an appeal as hereinafter provided such notice if disallowed by the tribunal of appeal shall not have any effect and if not so disallowed shall not take effect until the expiration of twelve months after the appeal shall have been decided.

(4) The Council may in prescribing any area under subsection (3) of this section impose a condition that

no layer shall be deposited on any part of the area so prescribed except in accordance with sub-paragraphs (i) or (ii) of condition (g) of paragraph 2 of Part II of the Third Schedule to this Act.

A.D. 1933.

(5) The lands edged with red on the signed map shall be deemed to have been prescribed by the Council under subsection (3) of this section and the second proviso to the said subsection shall not apply with reference to such lands the signed map is the map signed in triplicate by the Right Honourable Lord Redesdale the Chairman of the Committee of the House of Lords to which the Bill for this Act was referred one copy of which has been deposited in the Parliament Office of the House of Lords one copy in the Committee and Private Bill Office of the House of Commons and one copy with the clerk.

(6) If—

- (a) the Council and the local authority give notice of the withdrawal of any consent previously given under subsection (2) of this section; or
- (b) the Council give notice that any area previously prescribed under subsection (3) of this section shall cease to be so prescribed; or
- (c) a local authority of any borough (including the city of London or a metropolitan borough) or county district within or without the county or any other body or person apply to the Council to prescribe an area in pursuance of subsection (3) of this section and the Council decline to prescribe the same or fail to do so within three months after the application is made or fail to obtain within that period the approval of the local authority of the county district in which such area is situate; or
- (d) the Council impose a condition under subsection (4) of this section;

the authority body or person aggrieved thereby may appeal to the tribunal of appeal and that tribunal after

A.D. 1933.

hearing the authority body or person so aggrieved and the Council and the local authority of the county district if they desire to be heard may as respects paragraphs (a) or (b) hereof determine that any such notice as aforesaid be disallowed in relation to the whole or any part of the area to which such notice relates or as respects paragraph (c) hereof prescribe such area or any part thereof or as respects paragraph (d) hereof disallow any condition imposed under subsection (4) of this section and thereupon any authority body or person may form a deposit of refuse on such area or part thereof subject to compliance with the conditions specified in Part II of the said schedule.

(7) The tribunal of appeal shall consist of three persons appointed respectively by the President of the Institution of Civil Engineers the President of the Chartered Surveyors' Institution and the President of the Royal Sanitary Institute and a decision of a majority of the tribunal shall be deemed to be a decision of the tribunal.

The provisions of the Arbitration Act 1889 so far as applicable and with the necessary modifications shall apply to any appeal under this section as if it were an arbitration under that Act.

(8) Any person offending against the provisions of this section or infringing any of the conditions specified in Part I or Part II as the case may be of the Third Schedule to this Act shall be liable to a penalty not exceeding two hundred pounds and in the case of a continuing offence to a daily penalty not exceeding fifty pounds.

(9) The provisions of this section and the Third Schedule to this Act shall not apply to any land on which a deposit of refuse has been formed and completed at the date of the passing of this Act unless and until additional refuse shall be deposited thereon and then only to such additional refuse.

(10) Any notices given under this section shall be sent to the owners and lessees (if any) of the lands to which any such notice relates.

(11) In this section "refuse" means trade refuse house refuse filth rubbish dust or other like matter.

147. For the protection of Wm. Cory & Son Limited W. R. Cunis Limited H. Covington & Sons Limited Flower & Everett Limited and their respective successors and assigns and the mayor and commonalty and citizens of the city of London the following provisions shall have effect (that is to say) :—

A.D. 1933.

—
For protection of
Wm. Cory
& Son
Limited and
others.

- (1) In relation to the lands coloured yellow and the lands coloured yellow and hatched black on the signed map referred to in the section of this Act of which the marginal note is "Refuse dumps" the following conditions shall notwithstanding anything in subsection (4) of that section be substituted for conditions (c) and (g) of paragraph 2 of Part II of the Third Schedule to this Act :—

(c) No inclined layer shall exceed fifteen feet in height measured vertically unless the vertical height of the deposit of which such layer forms part is not more than twenty-five feet ;

(g) No layer shall be deposited so that the surface of the layer shall have an average height exceeding thirty feet above Ordnance datum or a height at any point exceeding thirty-five feet above Ordnance datum :

- (2) In relation to the lands coloured yellow and hatched with black on the signed map condition (b) of paragraph 2 of Part II of the said schedule shall during the period of four years from the passing of this Act but no longer have effect as if the words "nine feet in depth" were substituted therein for the words "six feet in depth" Provided that if the depth of any horizontal layer shall exceed six feet condition (e) of the said paragraph 2 shall in relation to that layer have effect in the months of May to September inclusive but not in any other month as if "four hundred square yards" were substituted therein for "five hundred square yards."

148.—(1) Nothing in the section of this Act of which the marginal note is "Refuse dumps" or in the Third Schedule to this Act or in any Provisional Order made under the section of this Act of which the marginal

Further
saving for
Port
Authority.

A.D. 1933.

note is "As to amendment of provisions relating to refuse dumps" shall authorise any person to contravene or entitle the Council or any local authority to give their consent to the formation of a deposit of refuse or the addition of refuse to an existing deposit in such manner as would contravene the provisions of section 228 (Prohibition of throwing ballast &c. into river or allowing offensive matter to flow into it) of the Port of London (Consolidation) Act 1920 or of subsection (1) of section 18 (Refuse dumps near Thames) of the Port of London (Various Powers) Act 1932 (which said section and subsection are hereinafter in this section referred to as "the existing enactments") or shall exempt any person from any penalty for any contravention of any of the provisions of the existing enactments nor shall anything in the said section of this Act or the said Third Schedule be construed as limiting the operation of the existing enactments.

(2) Nothing in the first-mentioned section of this Act or in any such Provisional Order shall authorise any person or entitle the Council or any local authority to authorise any person to do any act for which a licence of the Port Authority is required under section 243 of the Port of London (Consolidation) Act 1920 unless he shall have obtained such a licence.

(3) Nothing in the first-mentioned section of this Act or in any such Provisional Order shall take away limit or prejudicially affect any right power authority or jurisdiction or privilege of the Port Authority.

(4) In this section "refuse" has the same meaning as in the said section of this Act.

For protection of owners of lands in rural district of Orsett.

149. For the protection of all owners of lands in the rural district of Orsett as constituted at the date of the passing of this Act the following provision shall have effect (that is to say):—

In relation to any such lands the following condition shall notwithstanding anything in subsection (4) of the section of this Act of which the marginal note is "Refuse dumps" be substituted for condition (g) of paragraph 2 of Part II of the Third Schedule to this Act:—

(g) No layer shall be deposited so as to raise the surface more than twenty-five feet above Ordnance datum.

150. The following byelaws—

A.D. 1933.

- (a) numbered 10 and 11 made by the urban district council of Grays Thurrock which were allowed by the Minister on the twenty-first day of March one thousand nine hundred and thirty-two with respect to nuisances in the urban district of Grays Thurrock;
- (b) numbered 10 11 12 and 13 made by the rural district council of Orsett which were allowed by the Minister on the thirtieth day of October one thousand nine hundred and thirty-one with respect to nuisances in the rural district of Orsett; and
- (c) numbered 10 and 11 made by the urban district council of Tilbury which were allowed by the Minister on the eighth day of January one thousand nine hundred and thirty-two with respect to nuisances in the urban district of Tilbury;

Revocation
of certain
byelaws
with respect
to nui-
sances.

shall as respects refuse (as defined in the section of this Act of which the marginal note is "Refuse dumps") collected or assembled elsewhere than in the respective districts of those councils cease to have effect—

- (i) as from the expiration of twelve months from the passing of this Act in relation to the deposit in such respective districts of refuse to which proviso (a) of subsection (1) of the said section of this Act of which the marginal note is "Refuse dumps" applies; and
- (ii) as from the date of the passing of this Act in relation to the formation of any other deposit of refuse in the said respective districts.

151. The provisions of the section of this Act of which the marginal note is "Refuse dumps" and of the Third Schedule to this Act shall not apply to the formation by the Gas Light and Coke Company of a deposit on any land in the county contiguous to and for the time being forming part of their Beckton gas works of refuse produced from any process or operation carried on by that company for the purposes of or in connection with their undertaking or to the addition by that company of refuse so produced to any deposit formed on any such land.

For pro-
tection of
Gas Light
and Coke
Company.

A.D. 1933.

As to
amendment
of provisions
relating to
refuse
dumps.

152. For the purposes of effecting the alteration or amendment of any provision in this Part of this Act relating to refuse dumps or of the Third Schedule to this Act sections 297 and 303 of the Public Health Act 1875 shall apply as if the Council were a local authority within the meaning of those sections and the county were their district :

Provided that—

- (1) Except with the previous consent in writing of Wm. Cory & Son Limited W. R. Cunis Limited H. Covington & Sons Limited Flower & Everett Limited and their respective successors and assigns and the mayor and commonalty and citizens of the city of London the Council shall not apply for and the Minister shall not make a Provisional Order altering or amending the provisions of the section of this Act of which the marginal note is "For protection of Wm. Cory & Son Limited and others" or of subsection (5) of the section of this Act of which the marginal note is "Refuse dumps" in their application to the lands coloured yellow and coloured yellow and hatched black on the signed map referred to in the said subsection ;
- (2) Except with the previous consent in writing of the owners for the time being of the lands referred to in subsection (5) of the said section of this Act of which the marginal note is "Refuse dumps" other than the lands referred to in the foregoing proviso (1) the Council shall not apply for and the Minister shall not make a Provisional Order altering or amending the provisions of that subsection or of the section of this Act of which the marginal note is "For protection of owners of lands in rural district of Orsett" ; and
- (3) Except with the previous consent in writing of the Port Authority the Council shall not apply for and the Minister shall not make a Provisional Order altering or amending paragraph (f) of subsection (1) of the section of this Act of which the marginal note is "Refuse dumps" ;

(4) Except with the previous consent in writing of the Gas Light and Coke Company the Council shall not apply for and the Minister shall not make a Provisional Order altering or amending the provisions of the section of this Act of which the marginal note is "For protection of Gas Light and Coke Company";

A.D. 1933.
—

(5) For the purposes of this section section 297 of the Public Health Act 1875 shall be read and have effect as if the words "and the London Gazette" were inserted at the end of paragraph (1) thereof.

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

Council may provide bins for litter.

(2) Any person who without lawful authority shall remove or otherwise interfere with any such bin or receptacle shall be liable to a penalty not exceeding forty shillings.

154. Except where this Act otherwise expressly provides any person aggrieved by any order of a court of summary jurisdiction under any provision of this Part of this Act may appeal in manner provided by the Summary Jurisdiction Acts to a court of quarter sessions and in regard to any such order the Council may in like manner appeal.

Appeals to quarter sessions.

155.—(1) The provisions of the foregoing sections of this Part of this Act under the sub-heading "Powers of local authorities" and of the section of this Part of this Act of which the marginal note is "Preservation of trees" shall not apply to any land comprised in any town planning scheme in operation at the date of the passing of this Act or coming into operation thereafter under the Act of 1932 or any Act repealed thereby or in any general development order approved by the Minister under section 15 of the Act of 1932 whether before or

Saving for town planning schemes.

A.D. 1933. after the date of the passing of this Act in so far as the said provisions are similar to or inconsistent with the provisions of any such scheme or order but nothing in this section shall affect anything done or any proceedings commenced under the provisions of the said sections prior to the coming into operation of any such scheme or order or prejudice any rights penalties obligations or liabilities accrued or incurred thereunder.

(2) Notwithstanding anything in this Part of this Act the provisions of any town planning scheme or supplementary order in operation at the date of the passing of this Act under the Act of 1932 or any Act repealed thereby or of any general development order approved by the Minister under section 15 of the Act of 1932 shall extend and apply to any land or premises acquired by the Council under the powers of the sections of this Act of which the marginal notes are—

“ Acquisition of land for county roads or amenities ” ;

“ Acquisition of lands and rights for preservation of view ” ;

“ Acquisition of land for open spaces.”

For protection of
Thames
Land
Company
Limited.

156. For the protection of Thames Land Company Limited or other the owner or owners for the time being of the lands hereinafter in this section referred to or any part thereof and any person deriving title under such owner or owners (which company and owner or owners and person are in this section severally referred to as “ the owner ”) the following provisions shall unless otherwise agreed in writing between the owner and the Council have effect (that is to say) :—

(1) In and for the purposes of this section “ the specified lands ” means the lands in the urban district of Purfleet delineated and coloured red on the plan signed by the Right Honourable Lord Redesdale the Chairman of the Committee of the House of Lords to whom the Bill for this Act was referred (of which plan copies have respectively been deposited in the Parliament Office House of Lords in the Committee and Private Bill Office of the House of Commons with the clerk and with Thames Land Company Limited) :

(2) The provisions of the sections of this Part of this Act of which the marginal notes are respectively—

A.D. 1933.

“ For prevention of ribbon development ” ;

“ Acquisition of land for county roads or amenities ” ; and

“ Development scheme may be required in connection with new streets ” ;

shall not apply to the specified lands or any part thereof or to the owner in relation thereto.

157. Nothing contained in this Part of this Act shall apply to Epping Forest.

Saving for Epping Forest under Part X.

PART XI.

ICE-CREAM VENDORS.

158.—(1)—

(a) Any person being a manufacturer or vendor of or merchant or dealer in ice-cream or other similar commodity within a county district; and

(b) any premises within a county district used or proposed to be used for the manufacture storage or sale of ice-cream or other similar commodity ;

Registra-
tion of
vendors of
ice-cream
and
premises
used by
them.

shall be registered with the local authority in the case of any such person by himself and in the case of any such premises by the owner or occupier thereof Provided that no such person shall be required to be registered in more than one county district.

(2) No person shall within a county district carry on the business of a manufacturer or vendor of or merchant or dealer in ice-cream or other similar commodity unless he be so registered and no premises within a county district shall be used for the purposes aforesaid unless they be so registered.

(3) Any person offending against the provisions of this section shall be liable on summary conviction to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings and proceedings

A.D. 1933. — for the recovery of any such penalty shall be instituted by the local authority of the county district in which such person or premises should have been registered.

(4) If a local authority are satisfied that any premises registered or sought to be registered with them pursuant to this section are unsuitable for the purpose for which they are registered or sought to be registered they may serve upon—

(a) the person on whose application the premises were registered or the occupier of the premises;
or

(b) the person applying for such registration;

(as the case may be) a notice to appear before them not less than seven days after the date of the notice to show cause why the local authority should not for reasons to be specified in the notice remove the premises from the register or refuse to register the premises (as the case may be) and if he fails to show cause to their satisfaction accordingly they may remove the premises from the register or refuse to register the premises (as the case may be).

(5) Any person aggrieved by the decision of a local authority under subsection (4) of this section may within fourteen days from the date of such decision appeal to a court of summary jurisdiction provided that he gives or causes to be given written notice of such appeal and of the grounds thereof to the local authority before lodging his appeal. The court may on any such appeal by order either confirm the decision of the local authority or require the local authority to retain the premises on the register or to register the premises (as the case may be) and the costs of any such appeal shall be paid in such manner and by such parties to the appeal as the court may direct.

(6) The local authority or the person aggrieved may appeal from the decision of the court of summary jurisdiction under subsection (5) of this section to the next practicable court of quarter sessions under and according to the provisions of the Summary Jurisdiction Acts.

(7) The decision of a local authority to remove any premises from the register or to refuse to register any premises shall not have effect until the expiration

A.D. 1933.

of the time prescribed by subsection (5) of this section for appeal to a court of summary jurisdiction nor where any such appeal is brought until the appeal is either abandoned or determined and where notice of appeal from a court of summary jurisdiction under this section is duly given according to the provisions of the Summary Jurisdiction Acts such decision of the local authority as aforesaid shall not take effect until the appeal to quarter sessions is either abandoned or determined.

(8) This section shall not apply to any premises used as a club or hotel or as a theatre music hall or cinematograph theatre.

(9) The provisions of this section shall not in any way affect the operation of the Factory and Workshop Act 1901.

(10) This section shall come into force in any county district at the expiration of a period of three months after the passing by the local authority of a resolution adopting the provisions of this section.

(11) The local authority shall as soon as may be after passing the said resolution cause public notice to be given of the effect of this section and of the date when it will come into force by advertisement in two or more newspapers circulating in the county and otherwise in such manner as the local authority think sufficient. Copies of the newspapers containing the advertisement shall be sufficient evidence that the provisions of this section have been complied with.

159.—(1) Any person being a manufacturer or vendor of or merchant or dealer in ice-cream or other similar commodity who within the county omits on the outbreak of any infectious disease among the persons employed in his business or residing in any premises which are used by him for the manufacture of ice-cream or other similar commodity to give notice thereof to the medical officer of the county district in which such business is carried on or in which such premises are situate shall be liable for every such offence to a penalty not exceeding forty shillings.

For regu-
lating
manufac-
ture and
sale of
ice-cream
&c.

(2) In the event of any person so employed or resident suffering from any infectious disease the medical officer or the sanitary inspector of the local authority

A.D. 1933.

of the county district where the premises are situate or any other officer who is duly authorised in that behalf by such local authority may seize and destroy all ice-cream or similar commodity or materials for the manufacture of the same in any of the premises and the local authority shall compensate the owner of the ice-cream or similar commodity or materials so destroyed. Provided that no compensation shall be payable in respect of any ice-cream or similar commodity or materials for the manufacture of the same manufactured or brought upon the said premises after such seizure and while any such person is suffering from infectious disease.

(3) Every vendor of or dealer in ice-cream or other similar commodity vending his wares from any cart barrow or other vehicle or stand or from a pail container or similar receptacle used without a cart barrow or other vehicle shall have his name and address legibly painted or inscribed on such cart barrow vehicle or stand pail container or receptacle and any person who shall fail to comply with this subsection shall be liable to a penalty not exceeding forty shillings.

(4) The medical officer sanitary inspector and any other officer duly authorised in that behalf by the local authority shall at all reasonable times have the same power of inspection of the materials or commodities or articles of food in the premises of any manufacturer or vendor of or merchant or dealer in ice-cream or other similar commodity and of any cart barrow or other vehicle or stand pail container or receptacle in from or on which the same are offered for sale as an officer of the local authority would have under section 72 (Precautions against contamination of food intended for sale) of the Public Health Act 1925 in the cases therein mentioned and any person refusing inspection of the materials or commodities or articles of food in any such premises or obstructing such officer as aforesaid in the execution of his duty shall be liable to a penalty not exceeding five pounds.

(5) Proceedings for the recovery of the penalties imposed by this section shall be instituted by the local authority of the county district in which the offence was committed or of the county district to the medical officer of which such notification as aforesaid ought to have been made or in which such vendor or dealer as

aforesaid shall offer any such commodity as aforesaid for sale as the case may be. A.D. 1933.

(6) The provisions of this section shall not come into force until the expiration of a period of three months from the date of the passing of this Act and prior to the expiration of that period the Council shall cause public notice to be given of the effect of this section and of the date when it will come into force by advertisement in two or more newspapers circulating in the county and otherwise in such manner as the Council think sufficient. Copies of the newspapers containing the advertisement shall be sufficient evidence that the provisions of this section have been complied with.

PART XII.

INSURANCE.

160.—(1) The Council may if they think fit but without prejudice to the right of the Council to effect insurances establish an insurance fund for the purpose of meeting or making good any loss or liability of the Council arising by loss or destruction of or damage to such buildings or other works or property belonging to or on loan to or under the care custody or control of the Council as the Council may think fit. Insurance fund.

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

- (a) such a sum as shall in their opinion be equal to the aggregate amount of the premiums which would be payable if the Council fully insured any such buildings works and property against loss or liability sustained by the Council in some public insurance office in England; or
- (b) if the Council partly insure any such buildings works and property against loss or damage in a public insurance office as aforesaid such sum as will together with the premiums paid for the last-mentioned insurance be equal to the aggregate amount aforesaid.

(3) When the insurance fund shall amount to the sum of one hundred thousand pounds the Council may

A.D. 1933. — if they think fit discontinue the yearly payments to the fund but if the fund is at any time reduced below one hundred thousand pounds the Council may re-commence and continue the yearly payments to that fund in accordance with subsection (2) of this section until the fund be restored to the sum of one hundred thousand pounds.

(4) The Council shall provide the yearly payments aforesaid by contributions from the rents and revenues of the lands buildings works property and undertakings or from the respective funds or rates which if the buildings works and property were insured in a public insurance office would be properly chargeable with the payment of the premiums of such insurance and if there be no rents or revenues specially chargeable then by contributions from the county rate.

(5) The insurance fund may be applied to meet any loss or liability sustained by the Council in consequence of risks for which it is intended to provide.

(6) Except so far as the insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet loss or liability sustained by the Council all moneys for the time being standing to the credit of the insurance fund shall be invested in securities in which trustees may be authorised to invest and such securities may from time to time be varied by the Council and the interest and annual proceeds arising from those securities shall be so invested and accumulated until the fund amounts to one hundred thousand pounds and when and so long as the fund amounts to that sum the interest and annual proceeds of the securities shall be carried to the credit of the funds and rates out of which any such yearly payments are or would be payable and in such proportions as the Council may deem just.

(7) If at any time and from time to time the insurance fund shall be insufficient to make good any loss or liability sustained by the Council or any such committee as aforesaid the Council may with the sanction of the Minister and on such security as the Minister may prescribe borrow at interest under and subject to the provisions of this Act such sums of money as will be necessary to make up the deficiency.

161.—(1) The Council may if they think fit but without prejudice to the right of the Council to effect insurances establish an insurance fund for the purpose of meeting or making good any loss incurred by the Council by reason of any misappropriation or wrongful dealings with any moneys or securities of the Council by any officer or servant of the Council or the loss of any such moneys or securities while in the hands or under the control of any such officer or servant and may pay into such fund each year such sum as shall in their opinion be equal to the aggregate amount of the premiums which would be payable if the Council fully insured against such liability in some public insurance office in England.

A.D. 1933.

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Fidelity
insurance
fund.

(2) The Council shall provide the yearly payments aforesaid by contributions from the funds and rates out of which the salaries or wages of the officers or servants in respect of whom such payments are made are respectively paid in such proportions as the Council may deem just.

(3) The moneys from time to time standing to the credit of the said fund shall be invested in securities in which trustees shall be authorised to invest and such securities may from time to time be varied by the Council and the interest and annual proceeds from time to time arising from those securities shall be invested in the like securities and accumulated until the fund amounts to the sum of five thousand pounds and when and so long as the fund amounts to that sum the interest and annual proceeds of the securities shall be carried to the credit of the funds or rates out of which any such yearly payments thereto are or would be payable and in such proportions as the Council may deem just.

(4) The fidelity insurance fund may be applied to meet or make good any loss incurred by the Council in consequence of risks for which it is intended to provide.

162.—(1) The Council may if they think fit but without prejudice to the right of the Council to effect insurances establish a fund (to be called “the employers’ liability insurance fund”) which in the event of any liability arising on the part of the Council towards any

Employers’
liability
insurance
fund.

A.D. 1933.

one of their officers servants or workmen or to third parties under the common law or the Employers' Liability Act 1880 the Workmen's Compensation Act 1906 or any Act or Acts for the time being amending those Acts or any of them or extending the class of such liability or otherwise in respect of accidents to officers servants or workmen of the Council or to third parties shall be available for the purpose of discharging any claim duly made by any such officer servant or workman or third parties under the said Acts or any of them or at common law.

(2) In each year after the establishment of the employers' liability insurance fund the Council may pay into that fund either—

- (a) such a sum as shall in their opinion be equal to the aggregate amount of the premiums which would be payable if the Council fully insured against every such liability as aforesaid in some public insurance office in England; or
- (b) if the Council partly insure against the said liabilities in a public insurance office as aforesaid such sum as will together with the premiums paid for the last-mentioned insurance be equal to the aggregate amount aforesaid.

(3) When the employers' liability insurance fund shall amount to the sum of twenty-five thousand pounds the Council may if they think fit discontinue the yearly payments to the fund but if the fund is at any time reduced below the sum of twenty-five thousand pounds the Council may recommence and continue the yearly payments to that fund in accordance with subsection (2) of this section until the fund be restored to the sum of twenty-five thousand pounds.

(4) The Council shall provide the yearly payments aforesaid by contributions from the funds and rates out of which the salaries or wages of the officers servants or workmen are respectively paid in such proportions as the Council may deem just.

(5) Except so far as the employers' liability insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet the aforesaid liabilities all moneys from time to time standing to the

credit of the employers' liability insurance fund shall be invested in securities in which trustees may be authorised to invest and such securities may from time to time be varied by the Council and the interest and annual proceeds arising from those securities shall be invested in the like securities and accumulated until the fund amounts to the sum of fifty thousand pounds and when and so long as the fund amounts to that sum the interest and annual proceeds of the securities shall be carried to the credit of the funds and rates out of which any such yearly payments are or would be payable and in such proportions as the Council may deem just.

A.D. 1933.
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(6) For the purposes of this section the Council may if they deem it expedient include in the risks provided for under subsection (1) of this section risks of accident to any person employed in any school college educational institute or hostel maintained by the Council notwithstanding that such school college educational institute or hostel has not been provided by the Council as the local education authority.

PART XIII.

FINANCE.

163.—(1) The Council may for paying the costs charges and expenses referred to in the final section of this Act borrow on the security of the county fund such sums as may be necessary for that purpose and shall pay off all moneys so borrowed within a period of five years from the passing of this Act. Borrowing powers.

(2) The Council may for any of the other purposes of this Act borrow on such security as the Minister may prescribe such sums as may be sanctioned by the Minister and shall pay off all moneys so borrowed within such period not exceeding thirty years from the date of borrowing as the Minister may sanction.

(3) Any amount borrowed for the purposes of this Act shall (subject to the provisions of this Part of this Act) be borrowed under and subject to the provisions (so far as applicable) of section 69 of the Local Government Act 1888 but the consent of the Minister shall not be required to the borrowing or the period of repayment of moneys under subsection (1) of this section.

A.D. 1933.

Return to
Minister
with respect
to repay-
ment of
debt.

164.—(1) The clerk shall if and when he is requested by the Minister so to do send to the Minister a return showing the provision made for the repayment of any loans raised by the Council.

(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 and shall be sent 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 purposes 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.

(4) Any provision of any enactment in force immediately before the passing of this Act requiring an annual return to be made by the clerk to the Minister with regard to the repayment of debt is hereby repealed.

Sinking
fund.

165.—(1) If the Council determine to repay by means of a sinking fund any money borrowed by virtue of any statutory borrowing power (other than money borrowed by the issue of stock) such sinking fund shall

be formed and maintained by payment out of the county fund to the sinking fund throughout the prescribed period of either— A.D. 1933.
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(a) such equal annual sums as will together amount to the money 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) (i) such equal annual sums as will with accumulations at a rate not exceeding three per centum per annum or such other rate as the Minister may from time to time approve be sufficient to pay off within the prescribed period the money for the repayment of which such sinking fund is formed; and

(ii) such annual sums as are equivalent to interest on the amount which should from time to time be standing to the credit of the sinking fund at the rate per centum per annum on which the annual payments to the fund under paragraph (i) hereof are based. A sinking fund so formed is hereinafter called an “accumulating sinking fund.”

(2) Every sum paid to a 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) The Council may at any time apply the whole or any part of any sinking fund in or towards the discharge of the money for the repayment of which the sinking fund is formed. Provided that if it is 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.

(4) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under this section shall

A.D. 1933. — be paid by the Council out of the county fund in addition to the payments provided for by this section and charged to that fund.

(5) 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 subsections (1) and (3) of this section will not be sufficient to repay within the prescribed period the money 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.

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

(7) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of subsections (1) and (3) of this section will in the opinion of the Minister be more than sufficient to repay within the prescribed period the money 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 money for the repayment of which the sinking fund is formed.

(8) If the amount in any sinking fund at any time together with (if an accumulating sinking fund) the payments thereto by way of interest under paragraph (b) (ii) of subsection (1) and under subsection (3) of this section will in the opinion of the Minister be sufficient to repay within the prescribed period the money for the repayment of which the sinking fund is formed the Council may with the consent of the Minister discontinue the payment of the equal annual sums to such sinking fund until the Minister shall otherwise direct.

(9) Any surplus of any sinking fund remaining after the discharge of the whole of the money 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.

A.D. 1933.

(10) All money which at the date of the passing of this Act is standing to the credit of any sinking fund in respect of money borrowed by the Council (other than money borrowed by the issue of stock) and not applied in repayment thereof shall be transferred to a sinking fund established under this section and the money so transferred shall be taken into account in calculating the future payments to be made to that sinking fund.

166.—(1) Where the Council have from time to time any statutory borrowing power they may for the purpose of exercising such power grant mortgages in pursuance of the provisions of this section.

Power to
use one
form of
mortgage
for all
purposes.

(2) Every mortgage granted under this section shall be by deed truly stating the consideration and the time or the mode of ascertaining the time and the place of payment and shall be sealed with the common seal of the Council and may be made in the form contained in the Fourth Schedule to this Act or to the like effect.

(3) All mortgages granted under this section shall rank equally without any priority or preference by reason of any precedence in the date of any statutory borrowing power or in the date of the mortgages or on any other ground whatsoever and shall also rank equally with all other securities granted by the Council at any time after the date of the first grant of a mortgage under this section.

(4) Nothing in this section shall alter or affect the obligations of the Council to provide for the repayment of the sums secured by mortgages granted under this section and all such sums shall be repaid within the periods and by the means within and by which they would have been repayable respectively if this section had not been enacted.

(5) Nothing in this section shall alter or affect the obligations of the Council to provide for the payment of interest upon the sums secured by mortgages granted under this section.

(6) There shall be kept at the office of the Council a register of the mortgages granted under this section and within fourteen days after the date of any such mortgage an entry shall be made in the register of the number and date thereof and of the names and descriptions of the parties thereto as stated in the deed.

[Ch. xlv.] *Essex County Council* [23 & 24 GEO. 5.]
Act, 1933.

A.D. 1933.

Every such register shall be open to inspection by any mortgagee or other person entitled to any mortgage granted under this section during office hours at the said office without fee or reward and the clerk or other the person having the custody of the register refusing to allow such inspection shall be liable to a penalty not exceeding five pounds.

(7) Any mortgagee or other person entitled to any mortgage granted under this section may transfer his estate rights and interest therein to any other person by deed duly stamped truly stating the consideration and such transfer may be according to the form contained in the Fourth Schedule to this Act or to the like effect and shall not contain any recital trust power or proviso whatsoever.

(8) There shall be kept at the office of the Council a register of the transfers of mortgages granted under this section and every deed of transfer shall within thirty days after its date if executed within the United Kingdom or within thirty days after its arrival in the United Kingdom if executed elsewhere be produced to the clerk who shall on payment of a sum not exceeding five shillings cause an entry to be made in such register of its date and of the names and descriptions of the parties thereto as stated in the deed of transfer and until such entry is made the Council shall not be in any manner responsible to the transferee.

(9) On the registration of any transfer the transferee his executors or administrators shall be entitled to the full benefit of the original mortgage and the principal and interest secured thereby and any transferee may in like manner transfer his estate rights and interest in any such mortgage and no person except the last transferee his executors or administrators shall be entitled to release or discharge any such mortgage or any moneys secured thereby.

(10) If the clerk wilfully neglects or refuses to make in the register any entry by this section required to be made he shall be liable to a penalty not exceeding twenty pounds.

Consoli-
dated loans
fund.

167.—(1) Notwithstanding anything in any Act or Order relating to the Council on and after the date of the passing of this Act the Council may (if they think

fit) establish a fund to be called "the consolidated loans fund" to which shall be paid— A.D. 1933.

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

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

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

- (a) in the redemption or purchase for extinction of any securities of the Council or the repayment of any moneys borrowed by the Council; and
- (b) in the exercise of any statutory borrowing power by crediting the required amount to the appropriate account of the Council:

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

(3) There shall also be transferred to the consolidated loans fund such sums as are necessary to meet the interest

A.D. 1933.

charged and the financing and other revenue expenses connected with the management of that fund and separate accounts shall be kept of these sums and their application.

(4) The Council may pay into the consolidated loans fund any moneys forming part of any reserve renewals depreciation contingent insurance superannuation or other similar fund (hereinafter respectively referred to as "the lending fund") and not for the time being required subject to the following conditions:—

(a) the moneys so used shall be repaid to the lending fund as and when required for meeting the obligations for which the lending fund was established; and

(b) an amount equal to interest on any moneys so used and for the time being not repaid at such rate per centum per annum as may be determined by the Council to be equal as nearly as may be to the average rate of interest payable by the Council on their current borrowings shall be credited to the lending fund.

(5) Save as in this section expressly provided all the obligations of the Council to the holders of any securities of the Council shall continue in force.

(6) Nothing in this section shall apply to moneys borrowed from the Public Works Loan Commissioners.

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

As to
interest
accruing on
sinking and
other funds.

168. The interest received in any year from the investment of any sums forming part of any sinking fund or redemption fund shall notwithstanding the provisions of any Act or Order relating to any such fund form part of the revenue for that year of the county fund but the contributions to be made to any redemption fund out of the county fund shall in that year be increased by a sum equal to the interest that would have accrued to the redemption fund during that year if interest had been accumulated in the fund at the rate per centum per

annum on which the annual payments to the fund are based. A.D. 1933.

169.—(1) Where the Council are authorised by any statutory borrowing power to raise moneys for any purpose they may instead of exercising such borrowing power by the issue of any fresh security in respect thereof exercise the said power and raise the said moneys either wholly or partially by using for such purpose so much of any moneys for the time being forming part of a sinking fund as shall be available for the repayment of any loan of the Council.

Power to use sinking fund instead of borrowing.

(2) The Council when exercising the powers conferred on them by this section shall—

- (a) withdraw from the sinking fund a sum equal to the amount of the statutory borrowing power proposed to be exercised by the user of moneys from such sinking fund;
- (b) credit such sinking fund with the repayment of an amount of the principal moneys for the repayment of which the fund is established equal to the sum withdrawn from the sinking fund and thereupon the amount so credited shall be deemed to be principal moneys discharged by application of the sinking fund;
- (c) debit the account of the statutory borrowing power proposed to be exercised with an amount of the principal moneys equal to the sum withdrawn from such sinking fund and thereupon the statutory borrowing power shall be deemed to have been exercised as fully as if the said amount had been raised by the issue of a fresh security and the provisions of any enactment as to the repayment and re-borrowing of sums raised under the statutory borrowing power shall apply thereto accordingly.

(3) The provisions of this section shall not apply to any sinking fund formed under the Local Loans Act 1875.

(4) The Council shall furnish all such information (if any) to the Minister with regard to the exercise of the powers contained in this section as the Minister shall require.

A.D. 1933.

Use of
moneys
forming
part of
sinking
and other
funds.

170. Notwithstanding anything in this Act the Council may use for the purpose of any statutory borrowing power exercisable by them any moneys forming part but not for the time being required for the purposes of any fund accumulated for the redemption of debt or as an insurance superannuation or other similar fund (in this section referred to as "the lending fund") subject to the following conditions:—

- (1) The moneys so used shall be repaid out of the county fund to the lending fund within the period and by the methods within and by 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 county fund or out of moneys which would have been applicable to the repayment of a loan if raised under the statutory borrowing power:
- (2) In the accounts of the county fund an amount equal to interest calculated 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 on any moneys so used and for the time being not repaid shall be credited to the lending fund and debited to the purpose with reference to which the moneys are so used:
- (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.

Power to
issue bonds.

171.—(1) In addition to any other form of borrowing the Council may exercise any statutory borrowing power by the issue of bonds to be called "Essex County

bonds" (and in this Act referred to as "bonds") in accordance with the provisions of this Act. A.D. 1933.

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

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

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

172. Subject to any priority existing at the passing of this Act all securities of the Council and the dividends and interest thereon shall be charged indifferently on the county fund and all the revenues of the Council and shall rank equally one with another without any priority whatsoever. As to ranking of securities of Council.

173.—(1) The Council may close the register of transfers of any class of security of the Council for a period not exceeding thirty days next before any date on which any interest or dividend on the class of securities to which such register relates are payable. Closing of registers.

(2) Any transfer of any security of the Council made during the period when the register of transfers of such security is so closed shall as between the Council and the persons claiming under the transfer (but not otherwise) be considered as made subsequently to the payment of the dividend or interest on such security as the case may be.

174.—(1) The Council shall not be bound to see to the execution of any trust whether express implied or constructive to which any security of the Council may be subject but the receipt of the person in whose name any security of the Council stands in the register of such security shall be a sufficient discharge to the Council in respect thereof notwithstanding any trusts to which such security may be subject and whether or not the Council has had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such security or any part thereof or interest thereon not entered on its register. Council not to regard trusts.

A.D. 1933.

(2) No notice of any trust relating to any security of the Council shall be entered in any register or other book kept by the Council or be receivable by the Council.

Receipt in
case of per-
sons not
sui juris.

175. If any money is payable to a holder of any security of the Council being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Council.

Interest on
securities
held jointly.

176. Where more persons than one are registered as joint holders of any security of the Council any one of them may give an effectual receipt for any interest thereon unless written notice to the contrary has been given by another of them to the clerk or the county accountant.

Dividends
to executors
&c.

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

Evidence
of transfer
or trans-
mission of
securities.

178. 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) 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 title.

179.—(1) The Council before allowing any transfer of any security of the Council or before paying any interest or dividend on any such security may if the circumstances appear to them to make it expedient require evidence of the title of any person claiming a right to make the transfer or to receive the interest or dividend.

(2) That evidence shall be a statutory declaration by one or more competent persons or of such other nature as the Council may require.

180.—(1) The Council may give notice to any person being registered as a holder of any security of the Council that they intend to send interest or dividends to him by post if he does not object and if such person does not within fourteen days from the receipt of such notice give notice to the Council of such objection the Council may from time to time send letters containing orders for the payment of interest or dividend warrants to the address of such person appearing in the register. Provided that if such person give notice to the Council that he desires such orders or warrants to be sent to another person at a given address the Council may from time to time send letters containing the same to such other person at such address.

A.D. 1933.
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Interest orders and dividend warrants by post.

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

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

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

181. All expenses incurred by the Council in carrying into execution the provisions of this Act including the interest and loan charges in respect of moneys borrowed under or for the purposes of this Act shall (except where this Act otherwise expressly provides) be paid out of the county fund and be deemed to be expenses for general county purposes.

Expenses of Council.

182.—(1) Any expenses incurred by a local authority under or in pursuance of this Act shall be deemed to be expenses incurred by the authority for the purpose of the Public Health Act 1875 and the powers of that Act for borrowing money shall be available for the purpose of meeting any expenses which are expenses to which capital is properly applicable.

Expenses of local authorities.

A.D. 1933.

(2) The interest and sinking fund charges in respect of any money borrowed by a local authority for meeting any expenses so incurred by them and being expenses to which capital is properly applicable and any expenses so incurred by a local authority and not being expenses to which capital is properly applicable shall be paid out of the general rate fund and the general rate of the district of the authority or such other fund or rate as the Minister may approve.

PART XIV.

MISCELLANEOUS.

Enforce-
ment of
county
byelaws
by district
councils.

183. Any urban district council or rural district council in the county shall have power to enforce within their district any byelaws made by the Council under this Act and any expenses incurred by a district council under this section or in the enforcement of any byelaws made by the Council with respect to good rule and government under section 16 of the Local Government Act 1888 shall be defrayed as part of their general expenses.

Further
byelaws
under
Nursing
Homes
Registra-
tion Act
1927.

184.—(1) Section 4 of the Nursing Homes Registration Act 1927 shall be extended so as to enable the Council or as respects any district council in the county to whom any powers and duties under that Act shall have been or shall be delegated that council to make byelaws for—

- (a) regulating the admission into a nursing home of a person suffering from an infectious disease;
- (b) the taking of precautions in case of any infectious disease; and
- (c) requiring notice to be given to the county medical officer of health (i) of infectious disease occurring in a nursing home for the time being registered by the Council and (ii) of a rise in the temperature of a maternity patient in a nursing home for the time being registered by the Council to 100.4 degrees Fahrenheit for twenty-four hours or its recurrence within that period.

(2) For the purposes of this section “infectious disease” means any disease to which the Infectious Disease (Notification) Act 1889 is for the time being applicable in any county district.

185.—(1) The Council may establish a laboratory for the purposes of the diagnosis and prevention of infectious and contagious diseases and for the examination of specimens in connection with such diseases.

A.D. 1933.

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Provision
of county
laboratory
service.

(2) For the purposes of such laboratory the Council may provide buildings and a staff and enter into agreements with any persons for the making of bacteriological and other examinations.

186.—(1) The powers of making byelaws conferred by section 128 of the Towns Improvement Clauses Act 1847 as incorporated with the Public Health Act 1875 shall extend to enable any local authority in the county to make byelaws requiring persons licensed to use any place as a knackers' yard to keep such registers and records relating to beasts and carcasses in connection with any such place in the district of such local authority as the byelaws may prescribe and to produce the same on being required so to do by any officer or other person duly authorised by such local authority in that behalf.

As to
registers
and
records in
relation to
knackers'
yards.

(2) The powers of entry and inspection conferred by section 131 of the said first-mentioned Act shall extend to empower any such officer or other person to examine such registers and records.

187. Any local authority in the county whose district in whole or in part abuts on navigable waters may make reasonable contributions out of their general rate fund towards any expenditure incurred by any body or person in the provision or maintenance of any buoy beacon or other artificial aid to navigation from which benefit is derived by vessels using such navigable waters notwithstanding that such buoy beacon or other artificial aid to navigation be situate outside the district of such local authority.

Contribu-
tions by
local
authorities
to buoys
&c. outside
district.

188.—(1) Subject to the provisions of this section where a person entitled to receive from the Council any sum to which this section applies is lawfully detained as a person of unsound mind in accordance with the Lunacy Act 1890 as amended by any enactment the Council may pay the whole of that sum or so much thereof as they think fit to the institution or person having the care of the person so detained as aforesaid and may pay or apply the whole or so much as they think fit of the surplus if any

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

A.D. 1933.

thereof to or for the maintenance or benefit of the wife or husband or relations of the person so detained as aforesaid.

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

(3) Not less than fourteen days before exercising for the first time in relation to a person detained as aforesaid their power under subsection (1) of this section the Council shall give to the Master in Lunacy notice in writing of their intention in that behalf specifying the name and address of that person and the amount and nature of the sums in respect of which the Council intend to exercise the said power.

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

(5) The Council shall be discharged from all liability in respect of—

- (a) any payment or application of money effected by them in exercise of the said power; and
- (b) any payment or application of money effected by them before the commencement of this Act which might have been effected by them in exercise of the said power if the provisions of subsections (1) and (2) of this section had been in force at the date of the payment or application and had applied to sums of any amount.

Council
may grant
gratuities
in certain
cases.

189. The Council may if they think fit on the death of any employee of the Council while in the Council's employment grant to the widow or children or any dependant of the employee such gratuity as the Council may think fit but not exceeding a sum equal to one year's

salary of the employee at the time of his death In this section "salary" has the same meaning as in the Local Government and other Officers' Superannuation Act 1922.

A.D. 1933.

190.—(1) On the death of an employee to whom a sum not exceeding one hundred pounds is due on account of salary wages superannuation allowance or grant if probate of the will of the employee or letters of administration to his estate are not produced within such time (not being less than one month after his death) as the Council may think reasonable then at the expiration of that time the Council may pay the sum to the person or persons entitled in distribution to the residuary estate of the employee in accordance with the provisions of paragraphs (i) to (v) inclusive of section 46 (1) of the Administration of Estates Act 1925 and section 9 of the Legitimacy Act 1926 and in default of any such person to the solicitor for the affairs of His Majesty's Treasury Provided that—

As to payments due to deceased employees.

- (a) the Council may if they think fit pay to any person who has paid the funeral expenses of the deceased employee such amount (not exceeding the total amount of such expenses) as the Council shall deem it reasonable to allow;
- (b) if the Council receive notice of any claim of a creditor of the deceased employee before the expiration of one month from the death of the employee they shall retain the whole amount due to the deceased employee in their hands or a sufficient sum thereof to satisfy the claim (whichever amount shall be the less) until the claim has been satisfied disproved or withdrawn.

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

- (a) where the total estate of the deceased employee including the amount of such moneys does not after deduction of debts and funeral expenses exceed one hundred pounds a declaration to that effect by the person or one of the persons to or among whom the Council propose to pay or distribute such moneys; and

A.D. 1933.
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(b) where the total estate of the deceased employee including the amount of such moneys but after deduction of debts and funeral expenses exceeds one hundred pounds the production of a certificate from the Commissioners of Inland Revenue of the payment of the estate duty and of a duly stamped receipt for the legacy or succession duty payable in respect of such moneys or of a certificate stating that no legacy or succession duty is payable.

As to super-
annuation
of registra-
tion officer.

191.—(1) Any person appointed as a registration officer who immediately before his appointment is subject by virtue of section 124 of the Local Government Act 1929 (hereinafter called "the Act of 1929") or of that section and section 122 of the Act of 1929 or of those provisions as amended by any local Act to the provisions of the Poor Law Officers' Superannuation Act 1896 as modified by or in pursuance of the Act of 1929 or to the Local Government and other Officers' Superannuation Act 1922 (hereinafter called "the Act of 1922") as modified by the Act of 1929 shall be deemed for the purposes of section 124 of the Act of 1929 to be in the service of the Council so long as he holds that appointment or any other appointment as registration officer.

(2) Subject to the provisions of subsection (1) of this section any person appointed as registration officer shall be deemed to be in the service of the Council for the purposes of the Act of 1922.

(3) The provisions of the last preceding subsection shall apply to a person whose appointment as a registration officer took effect before the commencement of this Act as from the date on which the appointment took effect and as from the day immediately preceding that date the post occupied by the officer shall be deemed to be and to have been a post designated as an established post for the purposes of the Act of 1922.

(4) For the purposes of this section the expression "registration officer" means a superintendent registrar or a registrar of births and deaths (including a registrar exercising any of the functions of registrars of marriages) for a district or sub-district in relation to which registration functions are discharged by the Council.

192. 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 any other local enactment or any public general Act for the time being in force in the county 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 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.

A.D. 1933.

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Evidence of
appoint-
ments
authority
&c.

193. Any consent given by the Council under the provisions of this Act or any other local enactment shall be given in writing and unless otherwise prescribed shall be under the hand of the clerk or other duly authorised officer of the Council.

Consents of
Council.

194. Where under this Act or any other local enactment or any public general Act for the time being in force in the county 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.

Breach of
conditions
of consent
of Council.

195. Any local authority may appear in court or in any legal proceedings by their clerk or by any officer or member authorised generally or in respect of any special proceeding by resolution of such authority and their clerk or any officer or member so authorised shall be at liberty to institute and carry on any proceeding which the local authority are authorised to institute and carry on under this Act.

Appearance
of local
authorities
in legal pro-
ceedings.

196. Where the payment of more than one sum by any person is due to the Council under any one or more of the Acts or Orders from time to time in force within the county any summons or warrant issued for

Several
sums in one
summons.

A.D. 1933. — the purposes of any one or more of such Acts or Orders in respect of that person may contain in the body thereof or in a schedule thereto all the sums payable by him.

Informations by whom to be laid.

197. Save as herein expressly provided all informations and complaints under or for the breach of any of the provisions of this Act or of any byelaw or regulation made by the Council thereunder may be laid and made by any officer of the Council duly authorised in that behalf or by the clerk or by any police officer acting for or within the county and informations under or for the breach of any provision in Part X of this Act relating to refuse dumps or of the Third Schedule to this Act may be laid by any officer duly authorised in that behalf of any local authority affected.

Application of penalties.

198.—(1) Notwithstanding anything in the Metropolitan Police Courts Act 1839 or in any other Act to the contrary whenever in consequence of proceedings taken by the Council or any officer of the Council in respect of an offence under this Act or any byelaw or regulation made thereunder a pecuniary penalty is inflicted the amount of the penalty shall be payable and paid to the Council and shall be carried to the credit of the county fund or such other fund as the Council shall direct.

(2) When any pecuniary penalty is inflicted under this Act or any byelaw or regulation made thereunder on proceedings taken by a local authority the amount of the penalty shall (unless otherwise enacted) be payable and paid to the local authority and carried by them to the credit of the general rate and the general rate fund of the district of the local authority or to such other fund as the Minister may sanction.

Recovery of penalties &c.

199. 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 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.

200. All powers rights and remedies given to the Council or any local authority 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 local authority or 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.

A.D. 1933.

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Powers of
Act cumu-
lative.

201. No matter or thing done and no contract entered into by the Council and no matter or thing done by any member of the Council or by any officer of the Council or other person whomsoever acting under the direction of the Council shall if the matter or thing were done or the contract were entered into bona fide for the purpose of executing any local enactment subject them or any of them personally to any action liability claim or demand whatsoever and any expense incurred by the Council or any such member officer or other person acting as aforesaid shall be borne and repaid out of the county fund and county rate Provided that nothing in this section shall exempt any member of the Council from liability to be surcharged with the amount of any payment which may be disallowed by the auditor in the accounts of the Council and which such member authorised or joined in authorising.

Protection
of Council
and their
officers from
personal
liability.

202. The Council may in accordance with the Local Government Act 1888' but with the exceptions mentioned in that Act delegate to a committee of the Council any of the powers or duties of the Council under this Act with or without any restrictions or conditions as the Council may see fit and in respect of any powers or duties so delegated to any committee references to the Council in this Act shall be deemed to refer to the committee.

Committees
of Council.

203. The Council on the one hand and any local authority any drainage authority in the county the council of any county or county borough or metropolitan borough adjoining the county the Port of London

Power to
enter into
agreements.

A .D. 1933. — Authority and the owner lessee or occupier of any lands within the county or any one or more of the authorities bodies and persons aforesaid on the other hand may enter into and carry into effect contracts and agreements with respect to any of the provisions of this Act Provided that nothing in this section shall empower any such authority body or person to do any act or thing which such authority body or person is not otherwise lawfully entitled to do.

Form of
certain
notices.

204. Every notice given by the Council under any of the sections of this Act whereof the marginal notes are respectively "For prevention of floods" "Clearing of streams" and "As to covering of streams" in Part III of this Act and "Council to grant licences" in Part V of this Act shall specify the section under which the notice is given and notify the right of appeal conferred by that section.

Authentica-
tion and
service of
notices &c.

205.—(1) Where any notice order summons or other document under this Act or any byelaw or regulation made thereunder requires authentication by the Council or a local authority the signature of the clerk or other duly authorised officer of the Council or local authority as the case may be shall be sufficient authentication.

(2) Notices orders summonses and any other documents required or authorised to be served or given under this Act or any such byelaw or regulation may be served by post or by delivering the same to or at the residence of the person to whom they are respectively addressed or where addressed to the owner or occupier of premises by delivering the same or a true copy thereof to some person on the premises or if there is no person on the premises who can be so served by fixing the same on some conspicuous part of the premises Provided that in the case of any company any such notice order summons or document shall be delivered or sent by post addressed to the secretary of the company at its principal office or place of business.

In proving service by post it shall be sufficient to prove that the notice order summons or other document was properly addressed and put into the post.

(3) Any notice which by this Act or any byelaw or regulation made thereunder is required to be given

to the owner or occupier of any premises may be addressed by the description of the "owner" or "occupier" of the premises (naming them) in respect of which the notice is given without further name or description.

A.D. 1933.
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206.—(1) Every authority of the Council or other body for the entry under the powers of this Act on or into any lands buildings or other premises shall be in writing signed by the clerk or other duly authorised officer of the Council or other body.

Authority
to enter.

(2) Every person so authorised shall on entering any land building or other premises produce (if so required) his authority of entry.

(3) Every power of entry under this Act shall be exercised at a reasonable time having regard to the purpose for which entry is required.

207.—(1) The Minister may direct any inquiries to be held by his inspectors which he may deem necessary in regard to the exercise of any powers conferred on him or the giving of any consents under this Act and such inspectors shall for the purposes of any such inquiry have all such powers as they have for the purposes of inquiries directed by the Minister under the Public Health Act 1875.

Inquiries by
Minister.

(2) The Council or local authority as the case may be shall pay to the Minister any expenses incurred by him in relation to any inquiries under this section including the expenses of any witnesses summoned by the inspector holding the inquiry and a sum to be fixed by the Minister not exceeding five guineas a day for the services of such inspector.

208. In respect of the exercise of any powers or duties conferred on the Minister of Transport or the giving by him of any consents under this Act the provisions of Part I of the Board of Trade Arbitrations &c. Act 1874 shall apply as if the Minister of Transport were referred to therein in lieu of the Board of Trade and as if in section 4 of that Act the words "under the seal of the Minister of Transport" were substituted for the words "by writing under the hand of the President or of one of the secretaries of the Board."

Inquiries
by Minister
of Trans-
port.

A.D. 1933.

Special
provisions
as to
borough of
Barking.

209. The provisions of the sections of this Act of which the marginal notes are—

- “ Further powers to local authorities to acquire land ”;
- “ Court may prohibit moveable dwellings in certain areas ”;
- “ Provisions as to moveable dwellings ”;
- “ Prohibition of moveable dwellings in certain urban districts ”;
- “ As to evasion by owners of private street works expenses ”;
- “ Development scheme may be required in connection with new streets ”;
- “ Adjustment of boundaries of estates ”;
- “ Rounding off corners at street junctions ”;
- “ Means of access to buildings ”;
- “ Secondary means of access ”;
- “ Meaning of byelaws with respect to new streets ”;
- “ Prohibition on use of unsuitable land for erection of dwelling-houses ”;
- “ Further power to make byelaws as to new buildings &c.”;
- “ Combined drains ”;
- “ Means of escape from buildings in case of fire ”;
- “ For protection of railway companies ”;
- “ Registration of vendors of ice-cream and premises used by them ”;
- “ For regulating manufacture and sale of ice-cream &c.”;

shall not be exercised by the mayor aldermen and burgesses of the borough of Barking nor apply or have effect within or in relation to the borough of Barking.

Crown
rights.

210. 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.

A.D. 1933.
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211. The costs charges and expenses of and incidental to preparing applying for and obtaining this Act as taxed by the taxing officer of one of the Houses of Parliament shall be paid by the Council out of the county fund or out of moneys to be borrowed under this Act.

Costs of Act.

A.D. 1933.

The SCHEDULES referred to in the
foregoing Act.

FIRST SCHEDULE.

COUNTY DISTRICTS EXCEPTED FROM PROVISION AS TO RIBBON DEVELOPMENT.

The boroughs of—

Barking.	Ilford.
Chelmsford.	Leyton.
Colchester.	Maldon.
Harwich.	Walthamstow.

The urban districts of—

Benfleet.	Halstead.
Braintree.	Hornchurch.
Brentwood.	Loughton.
Buckhurst Hill.	Purfleet.
Canvey Island.	Romford.
Chingford.	Shoeburyness.
Clacton-on-Sea.	Tilbury.
Dagenham.	Walton-on-Naze.
Frinton-on-Sea.	Wanstead.
Grays Thurrock.	Woodford.

SECOND SCHEDULE.

ACQUISITION OF LAND FOR OPEN SPACES.

1. Where the Council propose to purchase land compulsorily they may submit to the Minister of Health (in this schedule referred to as "the Minister") an order putting in force as respects the land specified in the order the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

2. Any such order shall be of no force unless and until it is confirmed by the Minister and the Minister may confirm the order either without modification or subject to such modifications as he thinks fit.

3. The order shall be in the form prescribed by the Minister and shall contain such provisions as the Minister may prescribe for the purpose of carrying the order into effect and of protecting the Council and the persons interested in the land and shall incorporate subject to the necessary adaptations—

A.D. 1933.
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(a) The Lands Clauses Acts (except sections 127 to 132 of the Lands Clauses Consolidation Act 1845) as modified by the Acquisition of Land (Assessment of Compensation) Act 1919; and

(b) Sections 77 to 85 of the Railways Clauses Consolidation Act 1845 as originally enacted :

Provided that the bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be under the seal of the Council and shall be sufficient without the addition of the sureties mentioned in that section.

4. The order shall be published by the Council in such manner and such notice shall be given both in the locality in which the land is proposed to be acquired and to the owners lessees and occupiers of that land as may be prescribed by the Minister.

5. (a) If within such period as may be prescribed by the Minister notice is given to him by a person interested in the land objecting to the acquisition thereof and specifying the grounds on which he so objects the Minister shall (if the notice is not withdrawn) forthwith cause a public inquiry into the objections of which notice is so given to be held by a competent and impartial person in the locality in which the land is proposed to be acquired :

Provided that the Minister may confirm the order without causing a public inquiry to be held if he is satisfied that every notice of objection duly made relates exclusively to matters which can be dealt with by the arbitrator by whom the compensation is to be assessed.

(b) The Council and all persons interested in the land who shall have given notice of objection as aforesaid shall be permitted to appear and be heard at the inquiry upon the objections specified in the notices given by such persons respectively.

(c) The Minister shall before confirming the order duly consider the report of the person by whom the inquiry was held.

(d) The costs of or in relation to the inquiry shall be paid by such of the parties concerned in the inquiry and in such proportions as the Minister may direct and the amount directed by the Minister to be paid by any such party shall be recoverable summarily from that party as a civil debt.

(e) If no such notice of objection as aforesaid is given to the Minister or if all such notices are withdrawn before an inquiry is

A.D. 1933.
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held the Minister may after holding such inquiry (if any) as he may think fit confirm the order unless he is of opinion that the order ought not to be confirmed.

6. So soon as may be after the order has been confirmed by the Minister the Council shall publish in a local newspaper a notice in the prescribed form stating that the order has been so confirmed and naming a place where a copy of the order and of any map therein referred to may be seen at all reasonable hours and shall serve a like notice on every person who having given notice of his objection to the order appeared at the local inquiry in support of his objection.

7. If any person aggrieved by the order desires to question the validity thereof or of any provision contained therein on the ground that it is not within the powers of this Act or that any requirement of this Act or of any order or regulation made thereunder has not been complied with in relation to the order he may within six weeks after the date on which notice of its confirmation is published in accordance with the provisions of the last preceding paragraph make an application for the purpose to the High Court and upon any such application the court—

(a) may by interim order suspend the operation of the order or of any provision contained therein either generally or in so far as it affects any property of the applicant until the final determination of the proceedings; and

(b) if satisfied that the order or any provision contained therein is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act or of any order or regulation made thereunder not having been complied with may quash the order or any provision contained therein either generally or in so far as it affects any property of the applicant.

8. Subject to the provisions of the last preceding paragraph the order shall not either before or after it has been confirmed be questioned in any legal proceedings whatsoever and shall become operative at the expiration of six weeks from the date on which notice of its confirmation is published in accordance with the provisions of paragraph 6 of this schedule.

9. Except by leave of the Court of Appeal no appeal shall lie to the House of Lords from a decision of the Court of Appeal under this schedule.

10. In construing for the purposes of this schedule or any order made thereunder any enactment incorporated with the order the section of this Act of which the marginal note is "Acquisition of land for open spaces" together with the order

shall be deemed to be the special Act and the Council shall be deemed to be the promoters of the undertaking. A.D. 1933.

11. Where the land is glebe land or other land belonging to an ecclesiastical benefice the order shall provide that sums agreed upon or awarded for the purchase of the land or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting the land shall not be paid as directed by the Lands Clauses Acts but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice.

THIRD SCHEDULE.

PART I.

1. Every person who shall intend to form in the county a deposit of refuse shall give to the Council and to the council of the county district fourteen days' notice in writing of such intention which shall be delivered or sent to the clerk or surveyor or medical officer of health of the county and of the county district at his or their office.

2. Every person who forms a deposit of refuse or continues to add refuse to an existing deposit shall comply with the following conditions :—

- (a) The deposit shall be made in horizontal layers ;
- (b) No layer shall exceed six feet in depth ;
- (c) Each layer which consists entirely or mainly of fish animal or other organic refuse shall forthwith be covered on all surfaces exposed to the air at least two feet in depth with earth or other suitable incombustible material which will pack closely over the refuse ;
- (d) Each layer which does not consist entirely or mainly of fish animal or other organic refuse shall be covered on all surfaces exposed to the air with at least nine inches of earth or other suitable incombustible material which will pack closely over the refuse provided that during the formation of such layer not more than one hundred square yards of the layer may be left uncovered at any one time and no refuse may be left uncovered for more than twenty-four hours from the time of deposit ;
- (e) Each layer which has been laid and covered with earth or other substance shall be allowed to settle before the next layer is added ;

A.D. 1933.

- (f) During the formation of any deposit the refuse shall remain covered in accordance with the conditions contained in this paragraph during the time the refuse so deposited remains putrescible;
- (g) No layer shall be deposited so as to raise the surface of the deposit above the general level of the adjoining ground;
- (h) So far as practicable no layer shall be deposited in water but this condition shall not apply if the presence of the water is due to recent rain or other similar cause;
- (i) All reasonable precautions shall be taken to prevent the breaking out of fires and the breeding of flies and vermin on or in such deposit;
- (j) Steps shall be taken to secure that tins or other vessels or loose refuse are not deposited in an exposed condition on or about the place of deposit in such a way as to cause a nuisance;
- (k) Sufficient screens or other suitable apparatus shall be provided where necessary to prevent any paper or other refuse from being blown by the wind away from the place of deposit.

3. The provisions of paragraph 2 hereof other than condition (g) shall not apply to the formation of a deposit of clinker.

PART II.

1. Every person who shall intend to form in the county a deposit of refuse shall give to the Council and to the council of the county district fourteen days' notice in writing of such intention which shall be delivered or sent to the clerk or surveyor or medical officer of health of the county and of the county district at his or their office.

2. Every person who forms a deposit of refuse or continues to add refuse to an existing deposit shall comply with the following conditions :—

- (a) The deposit shall be made in horizontal or inclined layers;
- (b) No horizontal layer shall exceed six feet in depth;
- (c) No inclined layer shall exceed ten feet in height measured vertically or six feet in thickness. Provided that in the case of a deposit formed on land adjoining a sea wall or a wall or embankment adjoining the foreshore of a river within its tidal limits the inclined layers may exceed ten feet in height but no such inclined layer shall exceed

- fifteen feet in height measured vertically unless the vertical height of the deposit of which such layer forms part is not more than twenty-five feet;
- (d) Each layer which consists entirely or mainly of fish animal or other organic refuse shall forthwith be covered on all surfaces exposed to the air at least two feet in depth or thickness with earth or other suitable incombustible material which will pack closely over the refuse;
- (e) Each layer which does not consist entirely or mainly of fish animal or other organic refuse shall be covered on all surfaces exposed to the air with at least nine inches of earth or other suitable incombustible material which will pack closely over the refuse. Provided that during the formation of such layer not more than five hundred square yards of the layer may be left uncovered at any one time and save in exceptional circumstances beyond the control of such person as aforesaid no refuse may be left uncovered for more than forty-eight hours from the time of deposit. Provided further that on Saturdays and Sundays during the months of May to September (inclusive) in any year no refuse may save in exceptional circumstances as aforesaid be left uncovered for more than twenty-four hours from the time of deposit;
- (f) During the formation of any deposit the refuse shall remain covered in accordance with the conditions contained in this paragraph during the time the refuse so deposited remains putrescible;
- (g) No layer shall be deposited so as to raise the surface—
- (i) in the case of a deposit formed on land adjoining a sea wall or a wall or embankment adjoining the foreshore of a river within its tidal limits above the top of such wall or embankment or more than twenty feet above Ordnance datum whichever be the higher;
 - (ii) in the case of a deposit formed against a rise of land above the top of the rise; or
 - (iii) in any other case more than thirteen feet above the general level of the adjoining land;
- (h) So far as practicable no layer shall be deposited in water but a deposit on marshland not being land ordinarily covered with water shall not be deemed to be a deposit in water;
- (i) All reasonable precautions shall be taken to prevent the breaking out of fires and the breeding of flies and vermin on or in such deposit;

A.D. 1933.

- (j) Steps shall be taken to secure that tins or other vessels or loose refuse are not deposited in an exposed condition on or about the place of deposit in such a way as to cause a nuisance;
- (k) Sufficient screens or other suitable apparatus shall be provided where necessary to prevent any paper or other refuse from being blown by the wind away from the place of deposit.
3. The provisions of paragraph 2 hereof other than condition (g) shall not apply to the formation of a deposit of clinker.

FOURTH SCHEDULE.

FORM OF MORTGAGE.

COUNTY OF ESSEX.

By virtue of the Essex County Council Act 1933 and of other their powers in that behalf them enabling the Essex County Council (hereinafter referred to as "the Council") in consideration of the sum of _____ pounds (hereinafter referred to as "the principal sum") paid to the Council by _____ (hereinafter referred to as "the mortgagee") do hereby grant and assign unto the mortgagee [his] executors administrators and assigns such proportion of the county fund and of the revenues of the Council in the said Act defined as the principal sum doth or shall bear to the whole sum which is or shall be charged on the said fund and revenues To hold unto the mortgagee [his] executors administrators and assigns from the day of the date of these presents until the principal sum shall be fully paid and satisfied with interest for the same (subject as hereinafter provided) at the rate of _____ per centum per annum from the _____ day of _____ one thousand nine hundred and _____ until payment of the principal sum such interest to be paid half-yearly on the _____ day of _____ and the _____ day of _____ in each year And it is hereby agreed that the principal sum shall be repaid at the offices of the Council [(subject as hereinafter provided) on the _____ day of _____ one thousand nine hundred and _____ or (if not repaid on that date) at any time thereafter on the expiration of six calendar months' notice in writing by the Council to the mortgagee or by the mortgagee to the Council] [by _____]:

A.D. 1933.

Provided always and it is hereby agreed and declared that the before-mentioned time for repayment may be extended to such subsequent day or days and upon any such extension the before-mentioned rate of interest may be altered to such other rate or rates of interest as shall from time to time be agreed upon between the Council and the mortgagee and mentioned in an endorsement to be made hereon under the hand of the clerk to the Council for the time being and that upon any such endorsement being made whether relating to extension of time only or to extension of time with alteration of rate of interest the provisions thereof shall be incorporated herewith and shall operate and take effect as though they had been originally inserted herein.

In witness whereof the Council have caused their common seal to be hereunto affixed this day of one thousand nine hundred and

THE ENDORSEMENT WITHIN REFERRED TO.

The within-named
consenting the within-mentioned time for repayment of the
within-mentioned principal sum of is hereby extended to the
day of one thousand nine hundred and
[and the interest to be paid thereon on one
and from the day of one
thousand nine hundred and is hereby
declared to be at the rate of per centum per
annum].

Dated this day of one
thousand nine hundred and

FORM OF TRANSFER OF MORTGAGE.

I [the within-named]
of
in consideration of the sum of
pounds paid to me by
of
(hereinafter referred to as "the transferee") do hereby transfer
to the transferee [his] executors administrators and assigns
[the within-written security] [the mortgage number
of the county fund and of the revenues of the Essex County
Council bearing date the day of

] and all my right and interest under the same subject
to the several conditions on which I hold the same at the time of
the execution hereof and I the transferee for myself my executors

A.D. 1933, administrators and assigns do hereby agree to take the said mortgage security subject to the same conditions.

Dated this _____ day of _____ one
thousand nine hundred and _____

FIFTH SCHEDULE.

PROVISIONS AS TO BONDS.

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

2. (a) Bonds may be issued at such price and at such rates of interest as the Council may from time to time determine.

(b) Bonds shall not be issued of greater aggregate nominal amount than will together produce according to the price of issue the actual amount of money for the time being authorised to be borrowed by the Council.

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

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

4.—(1) The county accountant shall keep a register to be called the "Register of Essex County bonds" of all persons who are holders for the time being of bonds.

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

(a) The name address and description of each holder a statement of the denomination of the bonds held by him the price at which and the periods for which they

are issued and the numbers and dates of the certificates issued to him as hereinafter provided ; A.D. 1933.

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

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

5.—(1) The Council shall issue to each holder of a bond a certificate in respect thereof duly numbered and dated and specifying the denomination of the bond and the period for which it is issued.

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

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

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

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

No.

— per cent. Essex County bond.

This is to certify that

of
is the registered holder of a bond for
pounds issued by the county council of the adminis-
trative county of Essex and repayable at par on the
day of
one thousand nine hundred and
at the Shire Hall Chelmsford.

Signed

County Accountant.

Date

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

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

A.D. 1933.
—

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

9.—(1) If at any time any interest due on any bonds remains unpaid for two months after demand in writing the persons entitled thereto may apply to the High Court for the appointment of a receiver and the court may if it thinks fit appoint a receiver on such terms as it thinks fit.

(2) The receiver shall have the like power of collecting receiving recovering and applying moneys and of assessing making and recovering all rates for the purpose of obtaining the same as the Council or any other officer thereof would or might have and such other powers and duties as the court thinks fit and shall apply all moneys so collected and received after paying all such costs as the court may direct for the purposes for which he was appointed and shall pay any balance remaining in his hands into the county fund.

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