

[13 & 14 GEO. 5.] *West Riding of* [Ch. xcvi.]
Yorkshire County Council (Drainage) Act, 1923.



CHAPTER xcvi.

An Act to constitute the county council of the west riding of Yorkshire the drainage authority for the administrative county of the west riding of Yorkshire and for other purposes. A.D. 1923.

[2nd August 1923.]

WHEREAS it is desirable that drainage works should be carried out for the better drainage of the land within divers areas in the administrative county of the west riding of Yorkshire and for the protection of such land from flooding and injury by water :

And whereas it is expedient that the county council of the said west riding should be constituted the drainage authority for the whole of the said administrative county with such powers as are in this Act contained and that such other provisions should be enacted as are in this Act contained with reference to the matters aforesaid :

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

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

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 :—

1. This Act may be cited as the West Riding of Yorkshire County Council (Drainage) Act 1923. Short title.

[Price 2s. 9d. Net.]

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Commence-
ment of Act.

2. This Act shall come into operation on the first day of January one thousand nine hundred and twenty-four. Provided that for the purpose of making preliminary investigations and surveys and doing other preparatory work this Act shall come into operation immediately on the passing thereof.

Interpreta-
tion.

3. In this Act unless there be something in the subject or context repugnant to such construction—

The expression "the county" means the administrative county of the west riding of Yorkshire;

The expression "the Council" means the county council of the county;

The expression "the Minister" means the Minister of Agriculture and Fisheries;

The expression "drain" includes any stream ditch drain culvert cut dyke or sluice or any part or parts thereof together with the banks and artificial embankments thereof not being any part of the following rivers in the county or of the banks or embankments of such rivers (other than the outlet of any drain at its junction with any of the said rivers and any drainage works in connection with such outlet) namely the Rivers Lune Ribble Hodder Ure Nidd Wharfe Aire Calder Colne Don Rother Dutch River Dearne Trent and Ouse;

The expression "drainage order" means an order made by the Minister under the provisions of the section of this Act of which the marginal note is "Drainage orders";

The expression "drainage area" means—

(a) any part of the county constituted a drainage area by a drainage order;

(b) any drainage area so constituted as extended or reduced by a drainage order;

The expression "acreage charge" means a charge leviable by the Council on lands within a drainage area according to the acreage thereof;

The expression "drainage works" includes drains banks rivers watercourses bridges tunnels engines machinery and works of defence against water and any works for the cleansing freeing from

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obstructions maintenance or improvement of any drain river or watercourse; A.D. 1923.

The expression "drainage area committee" means a committee appointed for a drainage area under the provisions of the section of this Act of which the marginal note is "Appointment of committees";

The expression "drainage board" means any such board as is referred to in section 66 of the Land Drainage Act 1861;

The expression "drainage authority" where used in the sections of this Act of which the marginal notes are respectively "Maintenance of drains" and "Drainage orders" means a drainage board or any drainage area committee or any person or body having any power or charged with any duty of administering any local Act or award and actually performing or discharging such power or duty.

4. The Council are hereby constituted the drainage authority for the county for the purposes of this Act. Council to be county drainage authority.

5.—(1) The powers of the Council as such drainage authority shall extend within or in relation to any drainage area to the making of any new drainage works for the purpose of protecting from injury or benefiting or improving any land included in any drainage area and to the repair maintenance and improvement of any existing or future drainage works and to the carrying out of pumping or other drainage operations and to the doing of any other act reasonably required for any such purpose as well as to the exercise by the Council of any other powers conferred upon them by a drainage order: Powers of Council in relation to a drainage area.

Provided that the Council shall make reasonable compensation to any owner or occupier of any lands whether within or outside the county for injury caused by reason of any act done under this subsection other than an act which could have been done without incurring liability to make compensation—

(a) by any person or body (including the Council) under or by virtue of the Land Drainage Act 1861 the Land Drainage Act 1914 and the Land Drainage Act 1918 or any of these Acts

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or any local Act (other than this Act) or any award made under any local Act; or

(b) by any owner or occupier of lands otherwise than pursuant to any covenant or agreement to which such owner or occupier is a party.

(2) The Council may remove or otherwise interfere with (a) any mill-dam weir or other like obstruction whether within or outside a drainage area which affects the flow of water in any river watercourse or drain in any drainage area or (b) any works rendered unnecessary by any drainage works executed by the Council:

Provided that the exercise of the powers conferred by this subsection shall be subject to the following provisions of the Land Drainage Act 1861:—

Section 17 (Restrictions as to obstructions);

Section 18 (Questions as to right to remove any obstructions); and

Section 19 (Consequences of determination of question);

which sections shall apply with respect to such exercise with the substitution of "the Council" for "the commissioners" but so that compensation shall not be payable until the completion of the work in respect of which the same is claimed. Provided also that nothing herein contained shall authorise the Council to interfere with any fish-pass without the consent of the Minister.

(3) The Council may use or dispose of the materials of any works which may be removed by them or rendered unnecessary by any drainage works executed by the Council and may sell lease or otherwise deal with any land and buildings vested in the Council and used in connection with such first-mentioned works for the estate of the Council in such lands and buildings.

(4) Compensation shall be payable under this section only where a claim in writing for payment of the same is made to the Council within one year from the date of the completion of the work in respect of which compensation is claimed and in default of agreement shall be determined subject to and in accordance with the provisions of the Arbitration Act 1889 by an arbitrator to be agreed upon between the parties or failing agreement appointed by the Minister.

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(5) Every person who shall at any time obstruct the Council or any person employed by them in the execution of any of the powers mentioned in this section shall be liable on summary conviction to a penalty not exceeding twenty pounds for every such offence. A.D. 1923.
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6.—(1) With a view to the formation or extension or other alteration of any drainage area or for the purpose of exercising any other of their powers under this Act the Council may do all or any of the following things (that is to say):— Subsidiary powers of Council.

(a) They may make or cause to be made from time to time all such inspections and surveys of the lands works and hereditaments forming any part of any drainage area in the county or any other area in the county which in their opinion is or is liable to become subject to flooding or injury from water and any drainage works in any such area as they may think expedient;

(b) They may continue in or upon and pass or repass with or without horses or vehicles or on foot on or along such lands and may deposit any soil or material arising from any drainage works and any plant equipment or materials required for such works—

(i) on the banks of any drain; or

(ii) after not less than seven days' previous notice in writing to the owners and occupiers on any land not being more than two hundred yards distant from such drainage works and not being a garden orchard or plantation attached or belonging to a house nor a planted walk avenue or ground ornamentally planted;

without hindrance from any person whomsoever and without being deemed trespassers for so doing but doing as little damage as practicable and making always reasonable compensation to the owners and occupiers of any such lands for any damage thereby sustained by them and such compensation shall in default of agreement be determined subject to and in accordance

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with the provisions of the Arbitration Act 1889 by an arbitrator to be agreed upon between the parties or failing such agreement appointed by the Minister.

(2) Any person working the mines or minerals under any lands situate within a drainage area or so near thereto that the same will be affected by such working shall if and when required by the Council or other drainage authority for such area give to the Council or such other authority reasonable information as to the probable direction and extent of the working or intended working of such mines or minerals so as to enable the Council or other drainage authority as the case may be to lay out and maintain the drains in such area to the best advantage.

Power to
acquire
lands &c.

7. The powers of the Council under section 65 of the Local Government Act 1888 shall extend to the purposes of this Act.

Mainte-
nance of
drains.

8.—(1) If from any cause other than the subsidence of the surface of the ground due to mining operations any drain or any part thereof within the county is in the opinion of the Council at any time in such a condition that the proper flow of water along or through such drain is obstructed or impeded or that land is injured by water or in danger of being so injured the Council may serve upon any person by whose act omission or default such flow is obstructed or impeded or any such land is so injured or in danger of being injured or if no such person is known to the Council or can be ascertained by them after reasonable inquiry then upon any owner or occupier of any lands abutting upon such drain notice in writing under the hand of the clerk or other duly authorised officer of the Council requiring the person upon whom the notice is served to cleanse or free from obstruction or to put in proper order such drain or part thereof (subject however to such appeal as is hereinafter provided).

(2) (a) Any person upon whom any such notice has been served may within twenty-one days after the receipt of the notice (i) appeal in a summary manner against the same to the court of summary jurisdiction for the district which contains or adjoins the drain or (ii) by notice in writing addressed to the Council require

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them to refer any matter arising under the notice to the decision of a person or persons to be agreed upon between the parties or in default of such agreement to refer such matter to arbitration under the Arbitration Act 1889 and the said matter shall be so referred. A.D. 1923.

(b) The court or the person or persons or arbitrator to whom any matter is so referred may annul or confirm the notice appealed against or vary the requirements therein contained.

(3) In the event of the notice as served or as varied or confirmed as the case may be not having been complied with within one month from the date of the service of the notice or of its variation or confirmation as the case may be 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.

(4) Provided that nothing in this section shall prejudice or affect the right of an owner or occupier to recover from the other of them under the terms of any lease or agreement or other contract for the time being in force the amount of any expense incurred under the foregoing provisions of this section or recovered by the Council under those provisions.

(5) Every person who shall at any time obstruct the Council or any person employed by them in the carrying out of such work as aforesaid shall be liable on summary conviction to a penalty not exceeding twenty pounds for every such offence.

(6) Where a local authority have powers vested in them for securing the proper flow of water along or through any drain under their jurisdiction the Council shall not except by agreement with that local authority exercise the powers of this section in relation to that drain unless after reasonable notice from the Council the local authority have made default in the proper exercise of such powers as aforesaid.

(7) Subject to the provisions of the section of this Act of which the marginal note is "Saving for other counties and county boroughs" the powers conferred by section 15 of the Land Drainage Act 1918 shall be exerciseable by the Council as well as by the Minister and for the purposes of this subsection any drainage

A.D. 1923. — area committee shall in relation to their drainage area be deemed to have drainage powers within the meaning of the said section 15. Provided that except in any case of emergency the Council shall before exercising any powers under or by virtue of this subsection give to the drainage authority in whose default they propose to exercise such powers not less than thirty days' notice in writing of their intention so to do and that if before the expiration of the period of the notice the drainage authority intimate in writing to the Council their objection to the exercise of the proposed powers the Council shall not exercise the same except with the consent of the Minister who may if he thinks fit cause a public local inquiry to be held with respect to the objection.

Expenses.

9.—(1) The expenses of the Council in providing a central staff for the purposes of this Act may be defrayed by them as payments for general county purposes as authorised by the Local Government Act 1888 and any contributions which may be received from the Imperial Exchequer towards such expenses shall be placed to the credit of the county fund of the Council. Provided that the Council shall not raise for the purposes of this subsection in any year any sum exceeding the amount which would be produced by a general county rate of one-twentieth of a penny in the pound unless the Council after causing a public inquiry to be held shall by an absolute majority of the members of the Council resolve that the said limit shall be increased.

(2) Subject as aforesaid the expenses of the Council (including any moneys required for the payment of interest on or repayment of money borrowed under the powers of the section of this Act of which the marginal note is "Borrowing powers") in carrying out the provisions of this Act in regard to any drainage area (so far as such expenses are not by this Act otherwise provided for) may be defrayed from time to time—

(a) by levying as by this Act provided and subject to the provisions of any local Act or award and also subject to any directions contained in any drainage order relating to the drainage area an acreage charge in respect of lands within the drainage area;

and in addition if the Council think it equitable and if and so far as may be authorised by the order : A.D. 1923.

(b) by levying (in the same manner as county contributions levied for special county purposes within the meaning of the Local Government Act 1888) from any township within the county or any portion of any such township which will be benefited in regard to public health or by the protection or improvement of any highway by the execution or maintenance or carrying out of any drainage works or operations and which may be specified for that purpose in the drainage order constituting or extending the drainage area or in any drainage order amending such order such amount as will be produced by such rate in the pound as the Council may think fit on the rateable hereditaments in such township or portion of a township Provided that any rate leviable from any person in pursuance of this provision (whether as part of the poor or other rate or otherwise) by way of contribution towards such amount shall be payable notwithstanding that such person may also be liable to pay any acreage charge.

(3) In any exceptional case in which the Council consider that the said expenses or a portion of them are or will be incurred in the general interest of the county they may contribute such sum as appears to them equitable out of the general county account.

10. With respect to the assessment and levying of any sum under paragraph (b) of subsection (2) of the section of this Act of which the marginal note is "Expenses" the occupier of any land covered with water or used only as a canal or towing-path for the same or as a railway constructed under the powers of any Act of Parliament for public conveyance (and not being land situate within a township being or forming part of an urban district in which a borough rate is and a general district rate or other separate rate in the nature of a general district rate is not levied) shall be assessed in respect of one-fourth part only of the rateable value of such land. Rating of railways and canals.

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Drainage
orders.

11.—(1) If at any time it appears to the Council—

- (a) that in any part of the county land is injured or likely to be injured by becoming flooded or waterlogged or by inadequate drainage or is likely to be benefited or improved by drainage works or operations; or
- (b) that any land within a drainage area ought to be removed from that area; or
- (c) that any drainage areas for the time being constituted or any part or parts thereof ought (either with or without the addition of any other lands) to be combined into a single drainage area; or
- (d) that any drainage area for the time being constituted ought to be sub-divided by the constitution of that area or of any part or parts thereof (either with or without the addition of any other lands) as a separate drainage area or separate drainage areas;

the Council may by representation to the Minister apply for an order constituting such part of the county a drainage area or extending a drainage area by the addition to it of such part of the county or removing such land from the drainage area in which it is comprised or combining or reconstituting drainage areas or a drainage area (as the case may be) and if the council of any borough or urban or rural district make application to the Council to remove from any drainage area any land within their borough or district which it is alleged has ceased to be benefited by drainage works or operations or if the owner of any land within any drainage area makes application to the Council to remove from the drainage area any land of such owner which it is alleged has ceased so to be benefited the Council shall consider such application.

(2) In any such representation the Council shall as far as reasonably practicable specify by means of a plan or otherwise—

The lands which it is proposed to constitute a drainage area or to add to or remove from a drainage area as the case may be;

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Any alterations proposed to be made in the constitution of any existing drainage area or drainage areas; A.D. 1923.

Particulars indicating generally the nature of any works or operations which it is proposed to execute or carry out for the benefit or improvement of lands within the drainage area;

Particulars of any drainage works which it is proposed to abandon;

Any lands which it is proposed to make subject to an acreage charge and if thought desirable the proportions in which the acreage charge is to be borne by the owners and occupiers respectively of such lands;

Any lands in respect of which it is proposed that acreage charges should be made differentially according to the proportionate improvement and benefit estimated as likely to accrue to such lands;

Any townships or parts of townships in which it is proposed to levy as county contributions for special county purposes within the meaning of the Local Government Act 1888 any part of the expenses incurred in respect of the drainage area.

(3) A copy of the representation shall be deposited by the Council with the town clerk of any borough and the clerk of the council of any urban or rural district and the overseers of any township and the drainage authority of any district or area which or any portion of which it is proposed by the representation to include in or add to or remove from a drainage area or to make subject to an acreage charge or contribution as aforesaid or which is situate in any drainage area of which the constitution is proposed to be altered or in which it is so proposed that any works or operations should be executed or carried out or in which any works which it is so proposed to abandon are situate Any copy of the representation so deposited shall be open to public inspection during the ordinary office hours for a period of three weeks after the deposit.

(4) Notice of the representation having been made and stating the places at which a copy of the representation has been deposited shall be published once

A.D. 1923. in the London Gazette and once in each of two
— successive weeks in some newspaper or newspapers
circulating in the district affected by the representation.

(5) Any owner and any occupier of any lands which it is proposed by the representation to include in or add to or remove from a drainage area or which may be affected by any proposed alteration of the constitution of a drainage area or by the execution or carrying out of any works or operations so proposed to be executed or carried out or by the abandonment of any works so proposed to be abandoned and the local authority of any such borough or district as is referred to in subsection (3) of this section and any such drainage authority as aforesaid and any local authority who may be affected by the flow of water from any works so proposed to be executed or by the abandonment of any works so proposed to be abandoned may within thirty days from the latest date of publication of such notice as aforesaid send to the Minister a statement setting out his or their objections to the proposals contained in the representation and a copy of any such objections shall at the same time be sent to the clerk of the Council.

(6) (a) The Minister shall consider any such objections and any observations of the Council thereon and may if he thinks it desirable and shall if so required by the owners or occupiers of not less than one-fourth of any lands proposed to be included in or added to a drainage area hold a public local inquiry with respect to any objections to such proposals and if the Minister thinks fit he may make an order under this Act constituting extending or otherwise altering a drainage area and providing for any of the matters referred to in subsection (2) of this section and may insert in such order any conditions or directions as to the exercise by the Council within or in relation to the drainage area of the powers conferred by this Act and any provisions for conferring on the Council (whether with or without modification) any of the powers which are exercisable by or which are capable of being conferred on a drainage board or any other conditions or directions as he thinks fit or the Minister may decline to make an order but no order shall be made which is inconsistent with the proposals in the representation or which shall contain

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any condition or direction so inserted by the Minister otherwise than with the consent of the Council. A.D. 1923.

(b) The Minister may by any order made under the provisions of this section provide that any drainage works existing within the county at the date of the making of the order and situate within or provided for the benefit of lands within a drainage area shall pass to and vest in the Council together with all rights and easements appurtenant thereto subject to all debts liabilities and obligations affecting such works to be held by the Council for the same estate interest and purposes and subject to the same covenants conditions obligations and restrictions for and subject to which such works would have been held or vested if the order had not been made. Provided that where any drainage works belonging to any individual or individuals or company are vested in the Council pursuant to this subsection the Council shall pay to the owner of those works in respect of the vesting thereof such compensation (if any) as may be agreed between the owner and the Council or as failing such agreement may be determined by an arbitrator under the provisions of the Arbitration Act 1889 to be properly payable to the owner.

(c) A drainage order may constitute the Council the authority for exercising any powers in relation to land drainage under the provisions of any local Act or of any award made under any such Act and may alter amend or supplement in any other respect the provisions of any such Act or award where in the opinion of the Minister such alterations or amendments or any supplemental provisions are necessary or expedient for enabling the area for the benefit of which drainage works are authorised by the local Act or award to be drained effectually and the expenses in relation thereto to be recovered. Provided that the Council shall not exercise any such powers as aforesaid in any area outside the county except with the consent of the county council of the county in which that area is situate.

(7) Before an order is made by the Minister under this section he may in any case and shall in any case where the proposed order contains any material provision which was not included in the representation send a draft order to the Council and the Council shall

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A.D. 1923. — deposit copies thereof with the officers and authorities with whom copies of the representation were deposited and shall cause notice of the draft order having been made and of the places at which copies have been deposited to be advertised in such manner as the Minister shall direct and subsection (5) and paragraph (a) of subsection (6) of this section shall so far as applicable thereupon apply as if the draft order were a representation.

(8) Any works or operations authorised or powers conferred by a drainage order may be executed and maintained or carried out or exercised by the Council subject to and in accordance with the provisions of this Act.

(9) Any drainage order may on a representation by the Council be repealed altered or amended by a further order made by the Minister and the foregoing provisions of this section shall apply to the making of such further order.

(10) On the making by the Minister of a drainage order there shall be payable by the Council to the Minister—

(a) in any case in which an inquiry was held by the Minister under subsection (6) or subsection (7) of this section with respect to any objections received under subsection (5) or subsection (7) of this section and not withdrawn before such inquiry a fee of ten pounds together with any sum by which the expenses of the Minister in relation to the representation or the making of the order exceed that sum; and

(b) in any other case a fee of two pounds.

(11) Where a drainage order has been made the whole or such portion as the Council shall determine of the expenses of the Council in relation to the making of the representation or of the order and to any surveys inquiries and reports in connection therewith shall be a first charge on and paid out of the revenue derived by the Council from the drainage area.

(12) Where any such representation has been made and no order is made thereon there shall be payable by the Council to the Minister a fee of two pounds and the

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expenses of the Council (including the said fee) in relation to the making of the representation and to any inquiries in connection therewith shall be paid by the Council out of the county fund. A.D. 1923.

12. If it appears to the Council that any drainage works or operations or prospective drainage works or operations affect or benefit or will affect or benefit an area of land which is partly but not wholly situate within a single drainage area the Council may by representation to the Minister apply for and the Minister may make under and in accordance with the provisions of the section of this Act of which the marginal note is "Drainage orders" an order constituting a drainage area comprising the whole or any part of the said area of land notwithstanding that the same or any part thereof may be included in another drainage area. Power to constitute special drainage areas in certain cases.

13.—(1) Before executing within or in relation to a drainage area any works (other than works of maintenance) the estimated cost whereof exceeds an amount equal to one pound per acre of the drainage area the Council shall unless the order otherwise provides cause to be prepared plans and sections of the works proposed together with an estimate of their cost and shall publish once in each of two successive weeks in some newspaper or newspapers circulating in the drainage area notice of their intention to execute such works stating the nature and the estimated cost thereof and the lands to be charged with an acreage charge in respect thereof and a place at which such plans sections and estimate may be inspected. Notice of intended works.

(2) The owners of one-fifth of the land in such drainage area may object to the execution of such works by notice in writing given to the clerk of the Council within thirty days after the latest date of publication of the notice of intention to execute the same and after receipt of any such notice of objection the Council shall not proceed with such works except with the consent of the Minister who may if he thinks fit cause a public local inquiry to be held with respect to any such objection.

14. In any case in which an acreage charge is leviable by the Council in respect of any lands in any drainage area the Council may subject to the provisions of this Act and of any drainage order relating to such drainage area from time to time as occasion may require make Acreage charge.

A.D. 1923. — under their common seal such acreage charge on the owners and occupiers of such lands and if so provided by the drainage order such acreage charge may be made differentially according to the proportionate improvement and benefit estimated as likely to accrue to the lands in respect of which such charge is leviable.

Form of acreage charge.

15. Any acreage charge shall be made in the form specified in the schedule to this Act or to the like effect.

Public notice of acreage charge.

16. Public notice of the making of any acreage charge shall be given by advertisement in some newspaper usually circulating in the district in which the lands affected by such acreage charge are situate.

Orders for acreage charge.

17. Every acreage charge shall be entered in a book to be provided by the Council for that purpose and shall be open to the inspection of all persons charged or liable to be charged with an acreage charge under this Act without fee or reward and every such charge shall be payable in such manner and at such times and places as the Council shall order or direct.

Acreage charge may be retrospective or prospective.

18. The Council may make any acreage charge or rate pursuant to this Act prospectively in order to raise money to pay expenses to be incurred thereafter or retrospectively in order to raise money to pay expenses already incurred.

Determination of acreage of lands.

19. In determining for the purposes of this Act the acreage of the lands in the ownership or occupation of any person any lands in one ownership or occupation of less extent than one rood shall be deemed to be one rood and a fraction of a rood beyond a rood or an integral number of roods shall be deemed a rood.

Charges may be amended.

20. The Council may from time to time amend any acreage charge made in pursuance of this Act by inserting therein the name of any person claiming and entitled to have his name inserted or by inserting the name of any person who ought to have been charged or by striking out the name of any person who ought not to have been charged or by raising or reducing the sum with which any person has been charged if it appears to the Council that he has been undercharged or overcharged or by making any other alteration which will make the charge conformable to the provisions of this Act and no such

amendment shall be held to avoid the charge Provided A.D. 1923.
that an amended charge shall not be payable by any person —
the amount of whose acreage charge is increased by the
amendment or whose name is thereby newly inserted
until seven days after notice of the amendment has been
given to him.

21. The production of the book purporting to con- Evidence of
tain any acreage charge (if such charge bear the seal acreage
of the Council of which no proof other than the produc- charge.
tion of the book shall be necessary) shall without any
other evidence whatever be received as primâ facie
evidence of the making and validity of the acreage
charge.

22. Where the name of any owner or occupier Description
liable to pay any acreage charge under this Act is not of owner or
known to the Council it shall be sufficient to charge and occupier.
designate him in notices and other documents as " the
owner " or " the occupier " of the lands in respect of which
he is charged without further description.

23. Any person aggrieved by an acreage charge Appeals
may appeal against the same to the court of quarter against
sessions for the county holden next after the expiration of acreage
twenty-eight days from the date of the giving of such charge.
public notice as aforesaid of the making of such acreage
charge provided that he shall have served upon the clerk
of the Council notice of such appeal and of the grounds
thereof within twenty-one days from the date of such
publication and shall within seven days after the service
of such notice have entered into recognisances or made
a deposit of money in accordance with the provisions
of the Summary Jurisdiction Act 1879 Upon the hearing
of such appeal the court may (where they shall see just
cause to give relief) amend or annul the charge appealed
against.

24. After the expiration of fourteen days from the Demand
giving of such public notice as aforesaid of the making note.
of an acreage charge notice in writing shall be given to
every person liable to an acreage charge of the amount of
the acreage charge due from him and stating the period
in respect of which the charge is made and the time at
which and the person to whom payment is to be made.

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Owners of
unoccupied
land to pay
acreage
charge.

25. When any land in respect of which the occupier if such land was occupied would be liable to pay any acreage charge shall be unoccupied at the time of making such acreage charge the Council may demand and recover the amount of such acreage charge from the owner of such unoccupied land and every such owner shall pay the amount of such charge in addition to any acreage charge payable by him as owner.

Recovery of
acreage
charge.

26. All acreage charges made under this Act may be collected and recovered and the recovery thereof may be enforced by the same remedies as if the same were general district rates levied under the powers of the Public Health Act 1875 and as if the Council were a local authority within the meaning of that Act or at the option of the Council by an action in any court of competent jurisdiction.

Special
arrange-
ments and
discounts.

27. The Council may if they think fit enter into any agreement or arrangement with an owner for the payment or composition of acreage charges payable by his tenants and may allow discounts or rebates to any person liable to pay any acreage charge made under this Act in consideration of prompt payment of such charge not exceeding in any case ten per centum of the amount of the charge Provided that all discounts or rebates shall be at an equal rate under like circumstances to all persons liable to pay any such charge as aforesaid.

Appoint-
ment of
committees.

28.—(1) The Council may at any time by resolution delegate to the agricultural committee established by them pursuant to Part III. of the Ministry of Agriculture and Fisheries Act 1919 all or any of their powers and duties under this Act.

(2) The Council or the said agricultural committee shall unless the Council with the approval of the Minister otherwise determine appoint a committee for each drainage area consisting of such members of the Council or of the said agricultural committee (as the case may be) and of such other persons as the Council or the said agricultural committee (as the case may be) may determine and a drainage area committee may exercise and perform with reference to the drainage area for which they are appointed such powers and duties and to such extent and subject to such conditions as the drainage order shall prescribe and such further powers and duties if

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any as the Council or the said agricultural committee (as the case may be) may determine Provided that— A.D. 1923.

- (i) before giving any such approval as aforesaid the Minister shall consider any representations on the matter made to him by any party affected thereby;
- (ii) not less than one-half of the members of any drainage area committee shall be owners of land or their agents or occupiers of land within the drainage area for which such committee is appointed;
- (iii) nothing in this Act or any drainage order shall authorise the exercise by a drainage area committee of any powers of levying an acreage charge or any rate or of borrowing any money; and
- (iv) in connection with any alteration under the provisions of the section of this Act of which the marginal note is "Drainage orders" of the constitution of any drainage area or drainage areas the Council or the said agricultural committee (as the case may be) may annul the appointment of the drainage area committee or drainage area committees appointed for that drainage area or those drainage areas and appoint a new drainage area committee or new drainage area committees for the reconstituted drainage area or drainage areas or otherwise adjust the constitution of any such drainage area committee or drainage area committees as the circumstances of the case may require or may make any other administrative provisions for giving effect to the order.

(3) In relation to any of the powers conferred upon the Council by or by virtue of this Act which shall for the time being be exercisable by a drainage area committee all references in this Act to the Council shall be deemed to include references to that drainage area committee.

(4) Before exercising in relation to any drainage area for which a drainage area committee have been appointed any of the powers of this Act other than—

- (a) the levying of an acreage charge or any rate; or
- (b) the borrowing of money; or

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A.D. 1923.

(c) the powers conferred by the section of this Act of which the marginal note is "Power to constitute special drainage areas in certain cases";

the Council or the said agricultural committee (as the case may be) shall refer the matter to the drainage area committee and shall (unless in the opinion of the Council or the said agricultural committee it is urgently necessary to exercise the powers in question) receive and consider the report of the drainage area committee with respect to the matter so referred.

Borrowing
powers.

29.—(1) The Council may with the consent of the Minister of Health from time to time borrow and for such period as that Minister may fix such capital sums as may be necessary for—

- (a) the carrying out and construction (including the acquisition of lands easements and rights and the payment of compensation for injury and damage) of any works carried out or proposed to be carried out by the Council under or by virtue of the provisions of this Act and the subsequent extension reconstruction and improvement of any such work;
- (b) the extension reconstruction removal and improvement of any existing drainage scheme or works vested in or under the control of the Council;
- (c) the acquisition of any drainage works and property connected therewith from the owner thereof;
- (d) the payment of the costs charges and expenses payable by the Council of or incidental to the application for and making of a drainage order;
- (e) the payment of the costs charges and expenses of this Act as hereinafter defined.

(2) Subject to the provisions of subsections (2) (B) and (3) of the section of this Act of which the marginal note is "Expenses" the money so borrowed shall be secured on the credit of the county fund of the Council but the Council are hereby authorised and required to defray the expenses connected therewith and the annual sums required to meet the interest thereon and the repayment thereof primarily out of the revenue derived by

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the Council from the drainage area for or in relation to which the money shall have been borrowed. A.D. 1923.

(3) Money borrowed under this Act shall not be reckoned as part of the total debt of the Council for the purposes of section 69 of the Local Government Act 1888.

30.—(1) The clerk of the Council shall within twenty-one days after the thirty-first day of March in each year if during the twelve months next preceding the said thirty-first day of March any sum is required to be paid as an instalment or annual payment or to be appropriated or to be paid to a sinking fund in pursuance of the provisions of this Act or in respect of any money raised thereunder and at any other time when the Minister of Health may require such a return to be made transmit to the Minister of Health a return in such form as may be prescribed by him and if required by him verified by statutory declaration of the said clerk showing for the year next preceding the making of such return or for such other period as the Minister of Health may prescribe the amounts which have been paid as instalments or annual payments and the amounts which have been appropriated and the amounts which have been paid to or invested or applied for the purpose of the sinking fund and the description of the securities upon which any investment has been made and the purposes to which any portion of the sinking fund or investment or of the sums accumulated by way of compound interest has been applied during the same period and the total amount (if any) remaining invested at the end of the year and in the event of his failing to make such return the said clerk shall for each offence be liable to a penalty not exceeding twenty pounds to be recovered by action on behalf of the Crown in the High Court 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 of Health out of the High Court.

Return to
Minister of
Health as
to repay-
ment of
borrowed
money.

(2) If it appears to the Minister of Health by that return 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 this Act or by the Minister of Health in

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A.D. 1923. — 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 of Health may by order direct that the sum in such order mentioned not exceeding double the amount in respect of which default has been made shall be paid or applied as in such order mentioned and any such order shall be enforceable by writ of mandamus to be obtained by the Minister of Health out of the High Court.

(3) Section 69 of the Local Government Act 1888 (except subsection (5) thereof) shall so far as applicable apply to the borrowing of moneys by the Council under this Act.

Power to
make orders
on request
of drainage
boards.

31.—(1) The Council may on the request of a drainage board whose district is wholly or partially within the county by representation to the Minister apply for and the Minister may make an order providing that as respects any lands within that district any rates or charges leviable by the drainage board shall be borne by the owners or by the occupiers of such lands or partly by those owners and partly by those occupiers or (if and so far as the order may not so provide as aforesaid) as the said drainage board may decide and (where the order provides that such rates or charges shall be borne partly by owners and partly by occupiers) the Minister if he thinks fit may by the order prescribe the proportions of the said rates or charges to be borne by the owners and occupiers respectively. Provided that nothing in this section or any provision prescription or decision made thereunder shall prejudice or affect the right of an owner or occupier to recover from the other of them under the terms of any lease or agreement or other contract for the time being in force the amount of any rates or charges paid by the party seeking to enforce such recovery.

(2) A copy of the representation shall be deposited with the town clerk of each borough and the clerk of the council of each urban or rural district wholly or partly within the drainage district affected by the intended order and notice of the representation having been made and of the place or places at which a copy thereof has been deposited shall be advertised once in each of two successive weeks in some newspaper or newspapers circulating in the district affected by the proposed order.

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(3) Any owner or occupier affected by the proposed order may within thirty days from the latest date of publication of such advertisement send to the Minister a statement setting out his objections to the proposals contained in the representation and a copy of any such objections shall at the same time be sent to the clerk of the council. A.D. 1923.

(4) Before making an order under this section the Minister shall consider any such objections and any observations of the Council thereon and may if he thinks it desirable hold a public local inquiry with respect to any objections to such proposals.

(5) An order made by the Minister under this section may be repealed altered or amended by a further order made thereunder but unless and until so repealed altered or amended shall have full force and effect.

(6) The provisions relating to fees payable to and the expenses of the Minister which are contained in subsections (10) and (12) of the section of this Act of which the marginal note is " Drainage orders " shall mutatis mutandis extend and apply to representations and orders made under this section.

(7) All expenses incurred by the Council (including the amount of any fees or expenses paid by them to the Minister) under or for the purposes of this section pursuant to a request made to them by a drainage board shall be borne and paid by that drainage board.

32. All penalties forfeitures charges and expenses imposed or recoverable under this Act may (unless otherwise in this Act expressly provided) be recovered summarily in manner provided by the Summary Jurisdiction Acts Provided that costs charges 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. Recovery of penalties &c.

33. Notices orders summonses or any other documents required or authorised to be served under this Act by the Council 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 Service of notices &c.

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A.D. 1923. — no person on the premises who can be served by fixing the same on some conspicuous part of the premises.

Recovery of demands.

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

Saving for other counties and county boroughs.

35. Nothing in this Act or any drainage order shall authorise the execution of any drainage works (other than any such work as could be executed by a drainage authority under the powers of section 8 of the Land Drainage Act 1918) or the carrying out of any drainage operations in any county other than the county or in any county borough except with the consent of the county council of such other county or the council of such county borough.

Sewerage of local authorities.

36. Nothing in this Act shall affect or prejudice the powers or obligations of the council of any borough urban district or rural district to provide for the proper sewerage and sewage disposal of their area or with regard to sewage works sewers or drains vested in them but the Council may if they think fit agree with any such council (who are hereby authorised to make and carry into effect such agreements) to allow the effluent from sewage works or the surface drainage from streets and roads to have an outfall through any drainage works vested in or controlled by the Council provided that no nuisance is caused thereby and that no pollution of a natural stream or artificial watercourse is caused thereby which is injurious to live stock taking water from such stream or watercourse or to fish in any such stream or watercourse.

Saving for lands of corporations of county boroughs.

37. The provisions of this Act shall not apply or extend to lands which are for the time being vested in and used or appropriated by the corporation of a county borough (not being one of the cities and boroughs referred to in the section of this Act of which the marginal note is "For protection of certain county boroughs") for any purpose authorised by statute or in respect of which any such corporation have any easement or rights for any such purpose except with the consent of such

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corporation under their corporate seal and then only subject to the terms and conditions upon and subject to which such consent is given. A.D. 1923.
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38. Notwithstanding anything contained in this Act the following provisions for the protection and benefit of the lord mayor aldermen and citizens of the city of Bradford the lord mayor aldermen and citizens of the city of Leeds the lord mayor aldermen and citizens of the city of Sheffield the mayor aldermen and citizens of the city of Wakefield the mayor aldermen and burgesses of the borough of Barnsley the mayor aldermen and burgesses of the borough of Dewsbury the mayor aldermen and burgesses of the borough of Halifax the mayor aldermen and burgesses of the borough of Huddersfield and the mayor aldermen and burgesses of the borough of Rotherham (each of which is in this section referred to as "the corporation") shall apply and have effect (that is to say) :—

For protec-
tion of cer-
tain county
boroughs.

(1) Nothing contained in this Act or done in pursuance thereof shall extend or apply to or affect—

(a) any lands within any of the cities and boroughs in this section mentioned except with the consent in writing of the corporation under their corporate seal and such consent may be given subject to such terms and conditions as the corporation may think fit;

(b) any lands which for the time being are vested in or held by the corporation :

(2) Nothing contained in this Act shall enable the Council to interfere with any lands in or through which the corporation have any right or easement so as to affect injuriously the exercise or enjoyment by the corporation of such right or easement :

(3) Nothing contained in this Act or done in pursuance thereof shall prejudicially affect any statutory powers or authorities from time to time vested in or exercisable by the corporation :

(4) Nothing contained in this Act or in any drainage order made thereunder shall empower the Council to remove or interfere with or affect any waterworks or sewers or sewage disposal works belonging to the corporation :

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(5) The Council shall make compensation to the corporation for any injury caused to them by reason of or in consequence of any act done under the powers of this Act or of any drainage order made thereunder other than an act which could lawfully have been done in executing or carrying out any drainage works or operations without incurring the liability to make compensation—

(a) by any person or body (including the Council) under or by virtue of the Land Drainage Act 1861 the Land Drainage Act 1914 and the Land Drainage Act 1918 or any of those Acts or any existing local Act (other than this Act) or any award made under any local Act; or

(b) by any owner or occupier of lands within a drainage area otherwise than pursuant to any covenant or agreement to which such owner or occupier is a party :

(6) Whenever under the powers of this Act or of any drainage order made thereunder the Council shall require to construct any works under over or upon or which may interfere with or injuriously affect any railway tramway tramroad light railway or road belonging to or worked by or vested in the corporation the Council shall give to the corporation notice in writing of their intention to commence such works accompanied by sufficient plans sections specifications and other information to show the nature of such works and such works shall be constructed and thereafter maintained according to the plans sections and specifications as approved by the corporation or (in case of difference) determined by arbitration as hereinafter provided and under the superintendence (if given) and to the reasonable satisfaction of the corporation Provided that if the corporation fail to signify their approval of the said plans sections and specifications or any conditions subject to which approval thereof is given within twenty-eight days after the receipt from the Council of the said plans sections

and specifications the corporation shall be deemed to have approved the same : A.D. 1923.

- (7) The Council shall provide any temporary works which may be reasonably necessary (in connection with the execution or maintenance by the Council of any works pursuant to this Act or any drainage order made thereunder) for the protection of any railway tramway tramroad light railway or road belonging to or worked by or vested in the corporation :
- (8) Any difference which may arise between the Council and the corporation with respect to any of the provisions of this section shall unless otherwise agreed be determined on the application of either party by an engineer to be agreed upon between the Council and the corporation or failing such agreement to be appointed on the application of either party 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 determination.

39. For the protection of such of the railway companies named in the First Schedule to the Railways Act 1921 as are owning or working railways in the county either alone or jointly with any other company or companies and of the lord mayor aldermen and citizens of the city of York as proprietors of the River Ouse Navigation the undertakers of the Aire and Calder Navigation the Leeds and Liverpool Canal Company the Calder and Hebble Navigation Company the commissioners of the Linton Lock Navigation the Rochdale Canal Company and the Sheffield and South Yorkshire Navigation Company (each of whom is in this section referred to as "the company") the following provisions shall have effect (that is to say) :—

For protection of railway and canal companies &c.

- (1) In this section the expressions "railway" and "canal" mean and include any railway navigation or canal belonging to or worked by any of the companies either alone or jointly with any other company or companies and any works or property used in connection therewith :
- (2) Nothing in this Act contained shall prejudicially affect any statutory powers or authorities from

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time to time vested in or exerciseable by the company :

- (3) The Council shall not under the powers of this Act or any drainage order acquire any lands of the company held for the purposes of a railway or canal or any interest in any such lands except with the consent of the company :
- (4) Nothing in this Act shall authorise the Council to interfere with any railway or canal so as to affect injuriously the conveyance of traffic on such railway or canal or the navigation on such canal or the use or maintenance of such railway or canal or to interfere with the safe user of or the supply of water used for the purposes of any railway or canal or provided by the company or to cause any leakage or loss of water from any canal or to interfere with any towing-path so as to interrupt the traffic thereon without the consent in writing of the company :
- (5) Whenever under the powers of this Act the Council shall require to execute any drainage works or construct or execute any works under over or upon or which may affect or interfere with any railway or canal they shall give to the company notice in writing of their intention to commence such works accompanied by sufficient plans sections specifications and other information to show the nature of such works and such works shall be constructed or executed and thereafter maintained according to the plans sections and specifications as approved by the engineer of the company or settled by an arbitrator as hereinafter mentioned and under the superintendence if given and to the reasonable satisfaction of the engineer of the company Provided that if the said engineer fails within twenty-eight days after the receipt by the company of the said plans sections and specifications to signify his disapproval thereof or the conditions subject to which he approves the same he shall be deemed to have approved the same :

- (6) The Council shall be responsible for and make good to the company all losses damage and expenses which may be sustained or incurred through or in consequence of any act or omission in connection with such works of the Council or their contractors or of any person in the employ of either of them : A.D. 1923.
- (7) The Council shall bear and on demand pay to the company the reasonable expense of any temporary works which may in the opinion of the company be necessary for the protection of any railway or canal in connection with the execution construction or maintenance by the Council of any works and of the employment by the company of a sufficient number of inspectors watchmen and flagmen to be appointed by the company for watching the railway or the canal with reference to and during such execution construction or maintenance of works :
- (8) The Council shall pay to the company any additional cost of widening altering maintaining or increasing under any powers of the company existing at the date of the execution or construction of the works of the Council the company's railway or canal accommodation at the places where works of the Council shall be under or over the railway or canal or in under or over any property of the company which may be due to the existence of any works of the Council :
- (9) The Council shall not abandon any work of drainage by means of which water is conveyed to or from the property of the company or any defence against water which protects from flooding any such property unless or until they shall have provided in substitution therefor to the reasonable satisfaction of the company works for conveying water to or from such property or for protecting such property from flooding as efficiently as by means of the existing work or defence nor shall any rights which the company may enjoy in connection with any

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stream or watercourse be injuriously affected without the consent of the company :

- (10) The Council shall not under the powers of the section of this Act of which the marginal note is "Subsidiary powers of Council" enter upon any railway or canal of the company except (on each occasion) after reasonable notice to the company and at such times and in such manner as shall not interfere with the traffic on the railway or canal :
- (11) The powers conferred by the section of this Act of which the marginal note is "Maintenance of drains" shall not be exerciseable with reference to any drain situate on land belonging to the company and used for the purposes of or in connection with their undertaking :
- (12) An acreage charge shall not be leviable under the powers of the section of this Act of which the marginal note is "Expenses" in respect of any lands of the company unless and except so far as such lands are used for meadow pasture or agricultural purposes or as market gardens or woodlands :
- (13) Any difference which may arise between the Council and the company or their engineer with respect to any of the provisions of this section shall unless otherwise agreed be determined on the application of either party by an engineer to be agreed upon by the Council and the company or failing such agreement to be appointed on the application of either party by the President of the Institution of Civil Engineers.

For protection of gas water and electricity mains and sewers and water supplies.

40.—(1) Whenever the Council in the exercise of the powers of this Act or of any drainage order require to execute any work over under or within fifteen feet of any aqueduct mains pipes or other works (in this section called "apparatus") of any authority company or body having statutory powers to supply gas water or electricity or any sewers drains electric lines pipes or other works (in this section called "pipes") of the council of any municipal borough or of any urban or rural district or whenever any such authority company body

or council in exercise of their statutory powers require to execute any work over under or within fifteen feet of any drainage works of the Council the Council or such authority company body or council as the case may be (in this section referred to as "the operators") shall unless otherwise agreed between the parties interested furnish to the authority company body or council or the Council as the case may be (in this section referred to as "the protected body") plans sections and descriptions of the works so to be executed and a description of the proposed manner of executing the same and such plans sections and descriptions shall be delivered to the protected body at least one month before the commencement of any such work except in the case of urgent repairs with respect to which such plans sections and descriptions shall be delivered as early as practicable. A.D. 1923.

(2) If it should appear to the protected body that such works will interfere with or endanger any of their apparatus or pipes or drainage works or impede the supply or flow of gas water or electricity by means of such apparatus or the flow of sewage or drainage through such pipes or the flow of water in such drainage works the protected body may give notice to the operators to lower or otherwise alter the position of such apparatus pipes or works or to support the same or to substitute temporarily or otherwise other apparatus pipes or works in such manner as may be considered necessary and to lay or place under any apparatus pipes or works cement concrete or other like substance and any difference as to the necessity of such lowering alteration support substitution or laying or placing cement concrete or other like substance (in this section called "protective works") shall be settled as hereinafter provided All such protective works shall save as hereinafter provided be done and executed by and at the reasonable expense of the operators but to the reasonable satisfaction and under the superintendence (if given) of the engineer of the protected body and the reasonable costs charges and expenses of such superintendence shall be paid by the operators If the protected body by notice in writing to the operators within one month after the receipt by them of notice of the intended commencement by the operators of any such works of the operators so require

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A.D. 1923. the protected body may by their own engineer or workmen do and execute the protective works so far as they affect the apparatus pipes or works of the protected body and the operators shall on the completion thereof pay to the protected body the reasonable expenses incurred by them in the execution of such protective works.

(3) If within one month from the delivery of the plans sections and descriptions to the protected body as aforesaid the protected body do not intimate to the operators any objections or make any requirement with reference thereto the works shown and described thereon may be executed in strict accordance therewith.

(4) Nothing in this Act shall authorise the Council to execute any works in such a manner as to affect injuriously any waterwork well pumping station spring stream or gathering ground from which any water undertakers derive or are authorised to derive a supply under statutory powers or the flow of water to any reservoir well or other source from which water is lawfully taken or authorised to be taken whether by water undertakers or by any other persons.

(5) Any such authority company body or council as is referred to in this section may at any time enlarge improve or reconstruct any sewer or electricity gas or water main under or over any drainage works of the Council in the same manner so far as practicable as they might have enlarged improved or reconstructed any such sewer or electricity gas or water main if this Act had not been passed but any such works of enlargement improvement or reconstruction or the laying of any such new or additional sewers or mains shall be carried out to the reasonable satisfaction and under the superintendence (if given) of the Council or their officers and shall be constructed and maintained so as not to interfere in any way with any drainage works of the Council and the Council shall repay to any such company body authority or council as aforesaid the amount (if any) by which the cost of executing such works as are referred to in this subsection is increased by the existence of the drainage works of the Council.

(6) If any difference shall rise under this section between the operators and the protected body or the Council and any authority company body or council the

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same shall be referred to and settled by an arbitrator to be appointed on the application of either party to the difference by the President of the Institution of Civil Engineers subject to and in accordance with the provisions of the Arbitration Act 1889. A.D. 1923.

41. Nothing in this Act shall take away alter or in any manner interfere with or prejudicially affect the rights and powers of the Leeds and Liverpool Canal Company (in this section called "the canal company") under any Act of Parliament relating to their undertaking in regard to the County Brook the Bank Newton Beck the Eshton Beck and the Morton Beck the feeders of the company's reservoirs at Foulridge and Winterburn and any other streams or watercourses the waters of which the canal company are entitled to take into their canal or in regard to the discharge of flood water from the canal by means of overflow weirs into the adjoining streams or in regard to any culverts under the canal for the maintenance of which the canal company are responsible but such rights and powers of the canal company shall remain and continue without diminution or abridgment in the same manner as if this Act had not been passed. For protection of Leeds and Liverpool Canal Company.

42. Except as provided by subsection (7) of the section of this Act of which the marginal note is "Maintenance of drains" and except as respects the levying of a county rate for general county purposes nothing in this Act or a drainage order shall apply to any area within the jurisdiction of the corporation of the Level of Hatfield Chase or of the Potteric Carr Trustees or of the Crowle Ealand Belton Eastoft and Luddington Drainage Trustees or of the Lower Aire Drainage Board or of the Airedale Drainage Commissioners nor affect the rights obligations powers and duties of the said corporation trustees board or commissioners unless otherwise agreed in writing between the Council on the one hand and the said corporation trustees board or commissioners respectively on the other hand. For protection of Hatfield Chase Corporation and others.

43. For the protection of the drainage authorities to whom this section relates (each of which authorities is in this section referred to as a "protected authority") the following provisions notwithstanding anything to the contrary contained in this Act shall unless otherwise For protection of certain drainage authorities.

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A.D. 1923. — agreed in writing between the Council and the protected authority have effect (that is to say) :—

- (1) Except as provided by this section no part of the district under the jurisdiction of a protected authority for the purposes of land drainage shall be included in or form part of a drainage area constituted under the powers of this Act and nothing in this Act shall authorise the Council to interfere with or in any way prejudice the powers and duties of a protected authority nor authorise the Council to remove or interfere with any bank weir dam culvert or works under the jurisdiction of a protected authority :
- (2) The Council shall not execute or maintain any drainage works or carry out any drainage operations under the powers of this Act in such manner as to interfere with the performance of the obligations (if any) to which a protected authority are subject in respect of land adjoining their district :
- (3) Nothing in this section shall preclude the Council from applying for or the Minister from making a drainage order including in or adding to a drainage area all or any part of any such district as aforesaid—

(a) for the purpose of payment of expenses to provide for the construction or maintenance of the banks or artificial embankments of a river or drain or the execution or carrying out of any other drainage works or operations which the protected authority are not empowered to execute; or

(b) for the purpose of exercising within the district of the protected authority any powers under this Act which that authority are not empowered to execute :

Provided that nothing in this subsection contained shall enable the Council to interfere with or prejudice any of the powers duties or works of the protected authority in contravention of subsections (1) and (2) of this section :

(4) Nothing in this section contained shall prevent the Council from— A.D. 1923.

(a) executing or carrying out any drainage works or operations which could lawfully be executed or carried out by any person or body other than the protected authority under any local Act or any award made under any local Act or which any owner or occupier of lands could execute or carry out; or

(b) exercising any powers conferred on them by subsection (7) of the section of this Act of which the marginal note is "Maintenance of drains":

(5) The drainage authorities to whom this section relates are the following:—

The Dun Drainage Commissioners;
The Went Drainage Trustees;
The Adlingfleet Drainage Commissioners;
The Goole Fields Drainage Board;
The Reedness and Swinefleet Drainage Commissioners;
The Selby Dam Drainage Commissioners;
The Wistow Cawood and Selby Drainage Board; and
The Appleton Roebuck and Copmanthorpe Drainage Board.

44. Except as provided by subsection (7) of the section of this Act of which the marginal note is "Maintenance of drains" and except as respects the levying of a county rate for general county purposes nothing in this Act or a drainage order shall apply to any part of the borough of Doncaster nor affect the rights obligations powers and duties of the mayor aldermen and burgesses of the said borough unless otherwise agreed in writing between the Council and the said mayor aldermen and burgesses. For protection of corporation of Doncaster.

45. For the protection of the undertakers of the Aire and Calder Navigation (hereinafter in this section referred to as "the undertakers") the following provisions shall have effect unless otherwise agreed in writing For protection of Aire and Calder Navigation.

A.D. 1923. between the undertakers and the Council (that is to say) :—

(1) Except for any such purpose as is mentioned in subsection (3) of this section the Council shall not without the consent in writing of the undertakers—

(a) remove alter or otherwise interfere with any existing dam weir lock culvert or other work constructed and maintained by the undertakers under their statutory powers or execute any work or carry out any operation under any of the powers conferred by this Act or the Land Drainage Acts 1861 1914 and 1918 or by any order made under the authority of any of those Acts in on or so as injuriously to affect any part of the Aire and Calder Navigation or deepen widen straighten or otherwise alter or interfere or make any connection with such portions of the channels of the Rivers Aire and Calder as are subject to the jurisdiction of the undertakers; or

(b) execute any work or carry out any operation under any of the powers aforesaid within the limits of improvement as defined in section 3 of the Ouse (Lower) Improvement Act 1884;

Such consent may be given or withheld in the absolute discretion of the undertakers or may be given upon such terms and conditions as the undertakers may think fit :

(2) The Council shall not execute any work or carry out any operation under any of the powers aforesaid in any part of the River Ouse above the upper boundary of the limits of improvement as defined in section 3 of the Ouse (Lower) Improvement Act 1884 or in any tributary river of that river above that boundary so far in each case as the tide flows which would interfere with or obstruct the flow of the tide in any part of the said river or tributary river so as to affect prejudicially the navigation or scour of the said river or any works or property of the undertakers :

[13 & 14 GEO. 5.] *West Riding of* [Ch. xcvi.]
Yorkshire County Council (Drainage) Act, 1923.

(3) If the Council shall desire to execute any work or carry out any operation for the sole purpose of repairing or maintaining any part of the banks of the Rivers Aire and Calder which is subject to the jurisdiction of the undertakers or of the portion of the River Ouse referred to in paragraph (b) of subsection (1) of this section or of constructing maintaining or renewing any outlet or inlet for land drainage or land improvement affecting such portions of the said rivers they shall give to the undertakers twenty-eight days' notice in writing of their desire to execute any such work or carry out any such operation accompanied by a sufficient plan section and specification of the proposed work or operation and shall not commence to execute or carry out such work or operation until such plan section and specification have been approved by the engineer of the undertakers or by an arbitrator to be appointed as hereinafter provided Provided that the approval of the engineer of the undertakers to such plan section and specification shall not be unreasonably withheld and shall be deemed to have been given unless the engineer of the undertakers shall signify his disapproval within twenty-eight days after the submission of the said plan section and specification for approval And such work or operation if approved as aforesaid may be executed carried out and maintained by the Council in conformity with the said approved plan section and specification and with any conditions reasonably imposed by the undertakers in giving such approval :

A.D. 1923.

(4) Nothing in this section contained shall prevent the Council from exercising any powers in relation to land drainage under any local Act or any award made under any local Act the powers of which Act or award are or may be vested in the Council :

(5) Any difference which may arise between the Council and the undertakers with respect to any of the provisions of this section shall unless

[Ch. xcvi.] *West Riding of* [13 & 14 GEO. 5.]
Yorkshire County Council (Drainage) Act, 1923.

A.D. 1923.

otherwise agreed be referred to and determined on the application of either party by an engineer to be agreed upon by the Council and the undertakers or failing such agreement to be appointed on the application of either party by the President of the Institution of Civil Engineers and in other respects subject to and in accordance with the provisions of the Arbitration Act 1889.

For protec-
tion of
Calder and
Hebble
Navigation.

46. For the protection of the company of proprietors of the Calder and Hebble Navigation (hereinafter in this section referred to as "the company") the following provisions shall have effect unless otherwise agreed in writing between the company and the Council (that is to say):—

- (1) Except for any such purpose as is mentioned in subsection (2) of this section the Council shall not without the consent in writing of the company remove alter or otherwise interfere with any existing dam weir lock culvert or other work constructed and maintained by the company under their statutory powers or execute any work or carry out any operation under any of the powers conferred by this Act or the Land Drainage Acts 1861 1914 and 1918 or by any order made under the authority of any of those Acts in on or so as injuriously to affect any part of the Calder and Hebble Navigation or deepen widen straighten or otherwise alter or interfere or make any connection with such portions of the channels of the Rivers Calder and Hebble as are subject to the jurisdiction of the Company;

Such consent may be given or withheld in the absolute discretion of the company or may be given upon such terms and conditions as the company may think fit :

- (2) If the Council shall desire to execute any work or carry out any operation for the sole purpose of repairing or maintaining any part of the banks of the Rivers Calder and Hebble which is subject to the jurisdiction of the company or of constructing maintaining or renewing any

outlet or inlet for land drainage or land improve-
ment affecting such portions of the said rivers
they shall give to the company twenty-eight
days' notice in writing of their desire to execute
any such work or carry out any such operation
accompanied by a sufficient plan section and
specification of the proposed work or operation
and shall not commence to execute or carry
out such work or operation until such plan
section and specification have been approved
by the engineer of the company or by an
arbitrator to be appointed as hereinafter pro-
vided Provided that the approval of the en-
gineer of the company to such plan section and
specification shall not be unreasonably with-
held and shall be deemed to have been given
unless the engineer of the company shall signify
his disapproval within twenty-eight days after
the submission of the said plan section and
specification for approval And such work or
operation if approved as aforesaid may be
executed carried out and maintained by the
Council in conformity with the said approved
plan section and specification and with any
conditions reasonably imposed by the company
in giving such approval :

A.D. 1923.

- (3) Nothing in this section contained shall prevent the Council from exercising any powers in relation to land drainage under any local Act or any award made under any local Act the powers of which Act or award are or may be vested in the Council :
- (4) Any difference which may arise between the Council and the company with respect to any of the provisions of this section shall unless otherwise agreed be referred to and determined on the application of either party by an engineer to be agreed upon by the Council and the company or failing such agreement to be appointed on the application of either party by the President of the Institution of Civil Engineers and in other respects subject to and in accordance with the provisions of the Arbitration Act 1889.

[Ch. xcvi.] *West Riding of* [13 & 14 GEO. 5.]
Yorkshire County Council (Drainage) Act, 1923.

A.D. 1923.

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For protec-
tion of
Lindholme
Estates
Limited and
British Moss
Litter Com-
pany
Limited.

47. Nothing in this Act or a drainage order shall apply to—

- (a) any part of the area known as Hatfield Moor for the time being belonging to the Lindholme Estates Limited or their successors or assigns until and except so far as the same shall have ceased to be used for the purpose of the extraction of peat and shall be capable when drained of being used for any other purpose; or
- (b) any area for the time being occupied by or in the possession of the British Moss Litter Company Limited or their successors or assigns and used or intended to be used by them for the extraction of peat.

For protec-
tion of
county
councils of
Lindsey and
Nottingham
and others.

48.—(1) Nothing in this Act or any drainage order shall enable the Council—

- (a) to carry on any pumping operations except so far as may be necessary to maintain an existing flow of water (but so nevertheless that the same will not flow in greater quantity or more rapidly than would be the case if the existing drains were maintained in good order and condition) into the main outfalls through which the drains now severally discharge; or
- (b) to execute or do any other work or thing which but for the passing of this Act could not have been executed or done by the Council or any other body or person under or by virtue of the provisions of any Act or award or by prescription or otherwise;

so as injuriously to affect the administrative county of the Parts of Lindsey in Lincolnshire or the administrative county of Nottingham or either of them or any part thereof respectively or the property rights or interests of the Council of either of the said counties or the property rights or interests of any drainage authority in respect of so much of their district as is within the said counties or either of them. Provided that the Council shall not be made responsible for any injury done by the failure of any such drainage authority to exercise or perform their powers or duties.

[13 & 14 GEO. 5.] *West Riding of* [Ch. xcviij.]
Yorkshire County Council (Drainage) Act, 1923.

(2) If the Council shall apply to the Minister under subsection (1) of the section of this Act of which the marginal note is "Drainage orders" for an order whereby works may be executed so as to affect any lands in or the flow of water through the said counties of the Parts of Lindsey or Nottingham or either of them a copy of the representation shall be deposited by the Council with the clerk of the county council concerned and such county council may within thirty days from the latest date of publication of the notice of the representation send objections to the Minister and a copy of any such objections shall at the same time be sent to the clerk of the council and the Minister shall consider any such objections.

A.D. 1923.

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Any such county council shall be entitled to be heard at any inquiry held by the Minister under the said section of this Act of which the marginal note is "Drainage orders."

49. If at any time after the passing of this Act the borough of Harrogate shall be constituted a county borough the Council shall not make any claim against the mayor aldermen and burgesses of the said borough (and the said mayor aldermen and burgesses shall not be liable to make any payment to the Council) either under the Local Government Act 1888 or the Local Government (Adjustments) Act 1913 or any Act amending those Acts or either of them in respect of any increase of burden arising out of this Act or the exercise of the powers conferred upon the Council thereby which will properly be thrown on the ratepayers of the county (excluding the said borough) as a consequence of the constitution of the said borough as a county borough.

For protec-
tion of
Harrogate
Corporation.

50. If any work executed by the Council or any other body or person under this Act or any drainage order made under this Act involves or is likely to involve any alteration of any telegraphic line belonging to or used by the Postmaster-General the provisions of section 7 of the Telegraph Act 1878 shall apply to any such alteration and a drainage order made under this Act shall be deemed to be an "Act of Parliament" within the meaning of the said Act.

For protec-
tion of
Postmaster-
General.

[Ch. xcvi.] *West Riding of* [13 & 14 GEO. 5.]
Yorkshire County Council (Drainage) Act, 1923.

A.D. 1923.

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Saving
rights of
Duchy of
Lancaster.

51. Nothing contained in this Act shall extend or operate to authorise the Council to take use enter upon or in any manner interfere with any land soil water or hereditaments or any land parcel of any manor or any manorial rights or any other rights of whatsoever description belonging to His Majesty in right of His Duchy of Lancaster without the consent in writing of the chancellor for the time being of the said Duchy first had and obtained (which consent the said chancellor is hereby authorised to give) or take away prejudice or diminish any estate right privilege power or authority vested in or enjoyed or exerciseable by His Majesty His heirs or successors in right of His said Duchy.

Saving
rights of
Council
under Land
Drainage
Acts.

52. Nothing in this Act shall take away or prejudicially affect any powers which if this Act had not been passed could have been exercised by the Council under the provisions of the Land Drainage Act 1861 the Land Drainage Act 1914 and the Land Drainage Act 1918 or any of those Acts or shall prevent the granting to the Council and the exercise by them of any powers which if this Act had not been passed could have been conferred upon them under the provisions of the said Acts or any of them.

Saving of
Crown and
other rights.

53. Nothing in this Act shall be deemed to be or shall operate as a grant by or on behalf of the Crown as owner of tidal lands below high-water mark of ordinary tides of any estate or interest in or right over such tidal lands or any part thereof nor shall anything herein authorise the execution of any works on over or under tidal lands below high-water mark of ordinary spring tides whether vested in the Crown or in any other person or the using thereof except in accordance with such plans and sections and subject to such restrictions and regulations as previous to such works being commenced have been approved by the Board of Trade in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade or confer on the Council any power of levying acreage charges in respect of any tidal lands vested in the Crown.

Costs of Act.

54. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing

[13 & 14 GEO. 5.] *West Riding of* [Ch. xcvi.]
Yorkshire County Council (Drainage) Act, 1923.

officer of the House of Lords or of the House of Commons shall be defrayed by the Council out of moneys to be borrowed by the Council under this Act or at the option of the Council out of the county fund and any moneys so paid as last aforesaid may be recouped by and charged to the moneys to be borrowed under this Act.

A.D. 1923.

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[Ch. xcvi.] *West Riding of* [13 & 14 GEO. 5.]
Yorkshire County Council (Drainage) Act, 1923.

A.D. 1923.

The SCHEDULE referred to in the
 foregoing Act.

FORM OF ASSESSMENT TO ACREAGE CHARGE.

The county council of the west riding of Yorkshire acting under the West Riding of Yorkshire County Council (Drainage) Act 1923 do hereby charge the owners and occupiers of lands mentioned in the annexed book and in such book distinguished by the numbers by which the same lands are distinguished on the 25-inch Ordnance map of the township within which the same are situate and the respective owners and occupiers of the said lands whose names are mentioned in the several pages of the said book with the respective sums set down in the several pages of the said book against the names of such owners and occupiers and the said county council order and direct that the charges hereby imposed shall be paid to the collector appointed by the said county council to receive the same.

FORM OF ACREAGE CHARGE.

| Occupier. | Owner. | Township. | Number on Map. | Extent. | Charge per Acre. | Amount of Charge. | |
|-----------|--------|-----------|----------------------|----------|------------------------|-------------------------|----------------------------|
| | | | | | | Charged on Owner. | Charged on Occupier. |
| | | | | A. R. P. | | | |

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