ELIZABETH II



1967 CHAPTER xxxviii

An Act to empower the county council of Essex to construct a new approach road to Canvey Island, including a bridge across East Haven Creek, and a diversion of the existing approach road to Canvey Island, including a bridge across Benfleet Creek, and to purchase lands compulsorily for those and other purposes; to provide for the removal of the existing bridge across Benfleet Creek; to confer further powers on the said county council and on local authorities in the county of Essex in relation to highways and the local government, improvement and health of the county; and for other purposes. [27th July 1967]

WHEREAS—

(1) The construction of a new approach road to Canvey Island including a bridge with fixed spans across East Haven Creek, and the diversion of the existing approach road, including a bridge with fixed spans across Benfleet Creek in substitution for the existing bridge with opening spans, would be of public and local advantage and in particular the said bridge across East Haven Creek would afford improved means of communication between the said island and the mainland in times of exceptional high tides

and it is expedient that the county council of Essex (in this Act referred to as " the Council ") should be empowered to construct the works by this Act authorised:

(2) It is expedient that provision should be made for the removal of the said existing bridge across Benfleet Creek and that pending the removal thereof the Council should cease to be under an obligation to cause the same to be opened for the navigation of vessels:

(3) It is expedient to confer on the Council the powers in this Act contained relative to the purchase and use of lands for the purposes mentioned in this Act:

(4) It is expedient that further and better provision should be made with reference to highways, and for the local government, improvement and health of the administrative county of Essex and that the powers of the Council and of the local authorities within the county should be enlarged and extended as by this Act provided:

(5) It is expedient that the other provisions contained in this Act be enacted:

(6) The purposes of this Act cannot be effected without the authority of Parliament:

(7) Estimates have been prepared for the purposes hereinafter mentioned and such estimates are as follows:—

	£
The construction of the works authorised by this Act	2,910,000

(8) The works included in such estimates are permanent works and it is expedient that the Council be empowered to borrow money for those and other purposes as provided by this Act:

(9) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act, 1933, have been observed:

1933 c. 51.

(10) Plans and sections, showing the lines or situations and levels of the works authorised by this Act and also showing the lands which may be acquired or used compulsorily by the Council for the purposes or under the powers of this Act, and also a book of reference to the said plans containing the names of the owners and lessees, or reputed owners and lessees and of the occupiers of the said lands and describing the same, were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the clerk of the Council,

which plans, sections and book of reference are in this Act referred to respectively as the deposited plans, the deposited sections and the deposited book of reference:

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

PART I

PRELIMINARY

1. This Act may be cited as the Essex County Council (Canvey Island Approaches, etc.) Act 1967. Short title.

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

Part I.—Preliminary.
Part II.—Lands.
Part III.—Works.
Part IV.—Miscellaneous.
Part V.—General.

3.—(1) In this Act unless the subject or context otherwise requires— Interpretation.

" the Act of 1933 " means the Local Government Act, 1933; 1933 c. 51.
" the Act of 1936 " means the Public Health Act, 1936; 1936 c. 49.
" the Act of 1950 " means the Public Utilities Street Works Act, 1950; 1950 c. 39.
" the Act of 1952 " means the Essex County Council Act, 1952; 1952 c. 1.
" the Act of 1959 " means the Highways Act, 1959; 1959 c. 25.
" the Act of 1961 " means the Land Compensation Act, 1961; 1961 c. 33.
" the Act of 1965 " means the Compulsory Purchase Act 1965; 1965 c. 56.
" Benfleet Creek " means that part of the river Thames known as Benfleet Creek and includes the bed, banks and foreshores thereof within the port authority's jurisdiction;
" the Canvey Island bridge " means the bridge over Benfleet Creek to be constructed as part of Work No. 2 and includes the carriageways and footways thereon;
" claimed county road " has the same meaning as in the Act of 1959;

PART I —*cont.*

" Council " means the county council of the county;

" county " means the administrative county of Essex;

" county bridge " and " county road " have the same respective meanings as in the Act of 1959;

" the creeks " means Benfleet Creek and East Haven Creek;

" daily fine " means a fine for each day on which an offence is continued after conviction thereof;

" district " means a borough or an urban or rural district in the county;

" the East Haven bridge " means the bridge over East Haven Creek to be constructed as part of Work No. 1 and includes the carriageways and footways thereon;

" East Haven Creek " means that part of the river Thames known as East Haven Creek and includes the bed, banks and foreshores thereof within the port authority's jurisdiction;

" enactment " means any enactment, whether public, general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

" the existing bridge " means the existing bridge with opening spans whereby the Hadleigh-Leigh Beck road (B.1014) is carried over Benfleet Creek;

" highway authority " means—

(*a*) in the case of a trunk road, the Minister of Transport or, with his consent, the authority which is for the time being acting as his agent under the Act of 1959 with respect to that trunk road;

(*b*) in the case of a county road in the county, except a claimed county road, and in the case of any other highway for the time being maintained by the Council, the Council; and

(*c*) in the case of any other highway, the local authority for the district in which the highway is situate;

" land " or " lands " includes land covered with water and any interest in land, and any easement or right in, to or over land;

" the limits of deviation " means the limits of deviation shown on the deposited plans;

" the Local Act of 1933 " means the Essex County Council Act, 1933;

1933 c. xlv.

PART I —*cont.*

" local authority " means the council of a district;

" the Minister " means—

(*a*) for the purposes of Part II (Lands) and Part III (Works) of this Act, the Minister of Transport; and

(*b*) in all other cases, the Minister of Housing and Local Government;

" new bridge " means the Canvey Island bridge or the East Haven bridge;

" the new bridges " means the Canvey Island bridge and the East Haven bridge;

" the port authority " means the Port of London Authority;

" reserved area " means any area for the time being set apart in or adjacent to the works for dividing lines of traffic or for separating footway and carriageway, or, where no part of the works has been laid out as footway, for separating the carriageway from the adjoining lands;

" river authority " means a river authority established under the Water Resources Act, 1963, and includes the Lee Conservancy Catchment Board; 1963 c. 38.

" street " has the meaning assigned to that term in the Act of 1959;

" the tribunal " means the Lands Tribunal;

" the works " means the works authorised by Part III (Works) of this Act.

(2) Where in this Act any distance or length is stated in the description of any work, the reference to that distance or length shall be construed as if the words " or thereabouts " were inserted after such distance or length.

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

(4) Any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.

Application of Act of 1965.

4.—(1) Part I, including Schedules 1 to 5, of the Act of 1965, other than the excepted provisions, in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions thereof, shall apply to any compulsory purchase under this Act.

(2) The provisions of the Act of 1965 as so applied shall have effect as if—

(*a*) this Act were the special Act and the Council were the acquiring authority;

(*b*) references to the compulsory purchase orders were references to this Act;

PART I *--cont.*

(*c*) in section 4 of the Act of 1965 (which prohibits the exercise of the compulsory powers after the expiration of three years from the date on which the compulsory purchase order becomes operative) the reference to the date on which the compulsory purchase order becomes operative were a reference to the 31st December following the passing of this Act;

(*d*) in section 11 (1) of the Act of 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than fourteen days' notice) for the words " fourteen days " there were substituted the words " three months ";

(*e*) in section 11 (3) of the Act of 1965 (which permits the acquiring authority to enter land subject to compulsory purchase for the purpose of survey after giving not less than three nor more than fourteen days' notice) for the words " not less than three nor more than fourteen days' notice " there were substituted the words " not less than seven days' notice in the case of the first entry and not less than twenty-four hours' notice in the case of a subsequent entry ".

(3) In this section " the excepted provisions " means the following provisions of the Act of 1965, namely, section 24 (5) (which provides that where land is acquired in consideration of a rentcharge the acquiring authority's borrowing powers shall be reduced by twenty years' purchase of the rent payable under the rentcharge), section 27 (liability of acquiring authorities to make good deficiencies in rates) and paragraph 3 (3) of Schedule 3 (which requires a bond for compensation to be with two sufficient sureties).

1845 c. 18.

(4) The Lands Clauses Consolidation Act, 1845, shall not apply to the acquisition of land under this Act.

Incorporation of general Act.

1845 c. 20.

5.—(1) The provisions of the Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof so far as the same are applicable for the purposes of, and are not inconsistent with or varied by, the provisions of this Act, are hereby incorporated with and form part of this Act, and this Act shall be deemed to be the special Act for the purposes of the said incorporated enactments.

(2) For the purposes of this Act the expression " the company " in the Railways Clauses Consolidation Act, 1845, shall be construed to mean the Council and the expression " the railway " in that Act shall be construed to mean the works and the expression " the centre of the railway " in the said Act shall be construed to mean any part of the works.

PART II

LANDS

Power to acquire lands.

6.—(1) Subject to the provisions of this Act, the Council may enter upon, take and use any of the lands delineated on the deposited plans and described in the deposited book of reference for the purposes of or in connection with the works and for securing the improvement and development of lands adjoining or near to the works, and for the purposes of recoupment, re-instatement or exchange, and for other purposes of this Act or for any of the aforesaid purposes.

(2) The powers of the Council for the purchase of lands by agreement shall be deemed to extend to, and to authorise, the purchase by the Council by agreement of any other lands in the county which they may think it desirable to purchase in order to provide substituted sites or facilities for any persons whose lands may be acquired by the Council for the purposes of, or in connection with, the works.

(3) The Minister may by order from time to time extend the period mentioned in section 4 of the Act of 1965 as applied by this Act for the exercise of the powers of the Council for the compulsory purchase of land under this section.

(4) An order under subsection (3) of this section shall be subject to special parliamentary procedure.

Powers to owners and lessees to give notice as to purchase of land.

7. If the Minister by order made under subsection (3) of section 6 (Power to acquire lands) of this Act extends the period for the exercise of the powers of the Council for the compulsory purchase of land, the following provisions shall apply after the coming into operation of that order:—

(1) In this section—

"the land" means any land which is for the time being authorised to be acquired compulsorily by this Act;

"the lessee" means a lessee under a lease having a period of not less than twenty-one years to run at the date of his notice under paragraph (2) of this section:

(2) If any person being the owner or lessee of any of the land shall give notice in writing to the Council of his desire that his interest in any part of the land specified in the notice shall be acquired as soon as may be, the Council shall within a period of three months after the receipt of such notice—

(*a*) enter into a contract with such person for the acquisition of his interest in the land or such part thereof as may be specified in the contract; or

PART II —*cont.*

(*b*) serve a notice to treat for the compulsory acquisition of the interest of such person in the land specified in his notice or in such part thereof as may be required by the Council; or

(*c*) serve on such person notice in writing of their intention not to proceed with the purchase of the interest of such person in the land specified in his notice:

(3) Where notice is given under paragraph (2) of this section by an owner or lessee of land specified in the notice then—

(*a*) if the Council—

(i) fail to comply with that paragraph; or

(ii) withdraw in pursuance of any statutory provision a notice to treat served on him in compliance with sub-paragraph (*b*) of that paragraph; or

(iii) serve notice on him in compliance with sub-paragraph (*c*) of that paragraph;

the powers conferred by this Act for the compulsory purchase of his interest in the land so specified shall cease;

(*b*) if his interest in part only of the land so specified is acquired in pursuance of a contract or notice to treat under sub-paragraphs (*a*) or (*b*) of that paragraph the powers conferred by this Act for the compulsory purchase of his interest in the remainder of the land so specified shall cease.

Correction of errors in deposited plans and book of reference.

8.—(1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Council, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in the county for the correction thereof.

(2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, they shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office of the House of Commons and with the clerk of the Council and with every clerk of a local authority with whom a copy of the

PART II —*cont.*

deposited plans or so much thereof as includes the land to which the certificate relates has been deposited in accordance with the Standing Orders of the Houses of Parliament, or who has the custody of any such copy so deposited and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Council to take the land and execute the works in accordance with the certificate.

(4) A person with whom a copy of a certificate is deposited under this section shall keep it with the other documents to which it relates.

Agreements with adjoining owners.

9.—(1) The Council may enter into and carry into effect agreements with any person being the owner of, or interested in, any land abutting on any portion, either of the works or of land which may be acquired under this Act, with respect to the sale by the Council to him of any land acquired by, or any part of a street vested in, the Council under this Act and not required for the works.

(2) The Council may accept as satisfaction of the whole or any part of the consideration for any such sale the grant by the purchaser of any land required by the Council for the purposes of this Act or any easement or right so required.

Power to use subsoil of streets.

10. Subject to the provisions of this Act the Council may enter upon, take, use and appropriate so much of the subsoil and under-surface of any public street within the limits of deviation shown on the deposited plans as shall be necessary for the purposes of the works without being required to purchase the same or any easement therein or thereunder.

Power to acquire easements only.

11.—(1) The Council may, instead of acquiring any land which they are authorised to acquire compulsorily under this Act, acquire compulsorily such easements and rights in or over the land as they may require for the purpose of constructing, using, maintaining, renewing or removing the works or for the purpose of obtaining access to the works or for the purpose of doing any other thing necessary in connection with the works.

(2) Accordingly the Council may give notice to treat in respect of any such easement or right describing the nature thereof; and "land" in the Act of 1965 as applied by this Act includes such easements and rights as aforesaid.

(3) Where the Council have acquired an easement or right only in or over any land under this section—

(*a*) they shall not be required or, except by agreement or during the execution of the works, entitled to fence off or sever that land from the adjoining land;

PART II —*cont.*

(*b*) the owner or occupier of the land for the time being shall, subject to the easement or right, have the same right to use the land as if this section had not been enacted.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the Council to acquire the land, the Council shall not be entitled under this section to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house; and, if the tribunal does not so determine, the Council may acquire the land compulsorily notwithstanding that the period of three years mentioned in section 4 of the Act of 1965 as applied by this Act, or that period as extended by an order made under subsection (3) of section 6 (Power to acquire lands) of this Act, as the case may be, has expired but not later than one year after the determination of the tribunal:

Provided that nothing in this subsection shall apply to land forming part of a street.

(5) A notice to treat given under this section shall be endorsed with notice of the effect of subsection (4) of this section.

Grant of easements by persons under disability.

12.—(1) Any person empowered by the Act of 1965 as applied by this Act to sell and convey or release lands may if he thinks fit, subject to the provisions of the Act of 1965, grant to the Council any easement or right required for the purposes of this Act in or over the lands, not being an easement or right of water in which some person other than the grantor has an interest.

(2) The provisions of the Act of 1965 with respect to lands and rentcharges so far as they are applicable shall extend and apply to any such grant and to any such easement or right as aforesaid.

Extinction of private rights of way.

13. All private rights of way over any land which may be acquired compulsorily under section 6 (Power to acquire lands) of this Act shall, as from the acquisition of the land, whether compulsorily or by agreement, be extinguished.

Compensation for extinction of private rights of way.

14. Any person who suffers loss by the extinguishment of any private right of way under any of the following sections of this Act:—

Section 13 (Extinction of private rights of way); and

Section 19 (Subsidiary works);

shall be entitled to be paid by the Council compensation to be determined in case of dispute under and in accordance with the Act of 1961.

PART II —*cont.*

Disregard of recent improvements and interests.

15. In determining any question of disputed compensation under the Act of 1965 as applied by this Act the tribunal shall not take into account—

(*a*) any works executed, improvement or alteration made, or building erected, after 5th December, 1966; or

(*b*) any interest in the land created after the said date;

which, in the opinion of the tribunal, was not reasonably necessary and was executed, made, erected or created with a view to obtaining or increasing the compensation or purchase money.

PART III

WORKS

Power to execute works.

16.—(1) Subject to the provisions of this Act, the Council may, in the lines or situations and within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections, execute the works described in subsection (2) of this section.

(2) The works referred to in subsection (1) of this section are—

In the urban districts of Basildon, Benfleet and Canvey Island—

Work No. 1 A new road, including a bridge over Jotman's Lane, a bridge over the London to Shoeburyness railway of the British Railways Board and a bridge and viaduct with fixed spans over East Haven Creek, commencing by a junction with the London to Southend road (A.13) at a point 173 yards, measured in a westerly direction along the centre line of that road from the line of the western boundary of Romsey Road and terminating by a junction with Canvey Road (B.1014) at a point 306 yards, measured in a southerly direction along the centre line of that road from the line of the southern boundary of Winter Gardens Path;

In the urban districts of Benfleet and Canvey Island—

Work No. 2 A road diversion, including a new bridge with fixed spans over Benfleet Creek, commencing at a point in the said Canvey Road 206 yards, measured in a southerly direction along the centre line of Ferry Road (B.1014) and the said Canvey Road from the northern abutment of the existing bridge and terminating at a point in the said Ferry Road 81 yards, measured in a northerly and westerly direction along the centre line of that road from the said northern abutment.

PART III —*cont.*

(3) In the construction of the bridges to be incorporated in Works Nos. 1 and 2 authorised by this section the Council shall erect on each side of each bridge a good and sufficient fence.

As to existing bridge.

17.—(1) Subject to the provisions of this Act, on and after the completion and opening for public use of Work No. 2 the Council shall take down and remove the existing bridge and (except as otherwise agreed between the Council and the port authority) all other works constructed under the licence mentioned in subsection (2) of this section except so far (if at all) as those works are incorporated in the new bridge.

(2) Notwithstanding anything in the licence dated 10th April, 1930, granted by the port authority to the Canvey Island Urban District Council, the Council shall not be required after the expiration of a period of one year from the passing of this Act to cause the existing bridge to be opened for the navigation of vessels and articles 9 and 10 of the said licence shall at the expiration of the said period be cancelled and cease to have effect.

(3) The Council may sell the structure and materials of the existing bridge and apply the proceeds for any purpose for which capital money may properly be applied.

Power to deviate.

18. In executing the works the Council may deviate laterally from the lines or situations thereof to any extent within the limits of deviation relating thereto and vertically from the levels thereof defined on the deposited sections to any extent not exceeding 15 feet either upwards or downwards or to such further extent as may be found necessary or convenient and as may be sanctioned by the Minister:

Provided that nothing in this section shall authorise the Council to construct—

(i) the centre span of the East Haven bridge with a width of less than 40 feet and a headway of less than 11 feet above the level of mean high-water springs; or

(ii) the centre span of the Canvey Island bridge with a width of less than 40 feet and a headway of less than 5.77 feet above the level of mean high-water springs.

Subsidiary works.

19.—(1) Subject to the provisions of this Act, the Council may in connection with and for the purposes of this Act, and as part of the works, execute and do any of the following works or things within the limits of deviation:—

(*a*) make, construct, provide, and maintain all such approaches, subways, roundabouts, flyovers, underpasses, overpasses, lifts, stairs, escalators, ramps,

PART III —*cont.*

passages, gantries, means of ingress or egress, carriage-ways, footways, reserved areas, lay-byes, vaults, cellars, sewers, drains, sunken or ornamental gardens, shafts, stagings, buildings, apparatus, plant and machinery as may be necessary or convenient and all such bridges, arches, piers, viaducts, embankments, cuttings, aprons, tunnels, abutments, retaining walls, wing walls, culverts and other works as may be necessary or convenient for the works or for carrying the same over or under any railway, any stream or watercourse (other than the creeks), any street or any land;

(*b*) make junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any existing or proposed streets intersected, crossed or interfered with by or contiguous to any of the works and divert, widen or alter the line or alter the level of any existing street for the purpose of connecting the same with the works, or any of them, or with any existing or proposed street, or of crossing under or over the same;

(*c*) stop up and appropriate the site and soil of so much of any streets as they may consider unnecessary to retain or to throw into the works;

(*d*) raise, sink or otherwise alter the position of any of the driveways, paths, steps, areas, cellars, cellar flaps, pavement lights, gratings, boundary walls, railings, fencings, windows, sewers, drains, watercourses, pipes, spouts or wires belonging to any house or building and remove all other obstructions;

(*e*) execute any works for the protection of any adjoining land or buildings;

(*f*) execute any works and do anything necessary for the strengthening and supporting of any walls or adjoining buildings;

(*g*) alter or remove, divert or reconstruct any wires, mains, pipes and apparatus erected upon, under or over any street or land;

(*h*) remove, alter, divert or stop up any drain, sewer, channel or watercourse (other than the creeks), the Council providing a proper substitute before interrupting the flow of sewage in any drain or sewer or water in any channel or watercourse; and

(*i*) alter or remove any monument, drinking trough, lamp-post, refuge, railings or other structure erected upon any street or land and plant trees, shrubs or other vegetation;

together with all necessary or convenient subsidiary or incidental works.

PART III —*cont.*

(2) The Council may on any lands abutting on the works and outside the limits of deviation execute or do by agreement with the owners and occupiers of the said lands any of the said works or things referred to in paragraphs (*d*), (*e*) and (*f*) of subsection (1) of this section, and any works necessary or convenient for the purpose of providing or facilitating access to or from the said lands or for preserving the amenities thereof.

(3) Any paving, metalling or materials in, on or under any street or part of a street stopped up, altered or diverted by the Council under the powers of this Part of this Act and any sewers, drains and works rendered unnecessary by the substitution therefor of other sewers, drains and works shall vest in the Council, and the substituted sewers, drains and works shall be under the same jurisdiction, care, management and direction as the existing sewers, drains and works for which they may be so substituted.

(4) In the exercise of the powers conferred by this section the Council shall cause as little detriment and inconvenience as circumstances admit to any person, and, subject to the provisions of this Act, shall make reasonable compensation for any damage caused by the exercise of such powers.

(5) Any question of disputed compensation payable under the foregoing provisions of this section shall be determined under and in accordance with the Act of 1961.

Subsidiary works in creeks and elsewhere.

20.—(1) Subject to the provisions of this Act—

(*a*) the Council in connection with and at or near any works to be executed or constructed under the powers of this Act in connection with or forming part of the new bridges or the taking down and removal of the existing bridge may execute, place and keep in the creeks and elsewhere either permanently or temporarily all such caissons, cofferdams, piles, piers, abutments, embankments, approaches, ways, access works, pumping works, wharves, walls, fences, drains, sewers, tunnels, fenders, mooring posts, bollards, booms, dolphins, pontoons, stagings, stairs, subways, buildings and other works and conveniences as they may find necessary or expedient for or in connection with the construction, maintenance and use of the works or the taking down and removal of the existing bridge;

(*b*) on the completion of each of the new bridges and of the taking down and removal of the existing bridge the Council shall, unless otherwise agreed in writing between the Council, the Essex River Authority and the port authority, remove all temporary works placed by them

PART III —*cont.*

in Benfleet Creek or East Haven Creek, as the case may be, under the powers of this section and shall, at their own expense, keep repaired any other works placed by them in such creek under the powers of this section:

Provided that (unless otherwise agreed in writing between the Council and the port authority) nothing in this subsection shall authorise the Council to execute, place or keep any permanent obstruction to navigation in the creeks.

(2) In the exercise of the powers conferred by this section the Council shall cause as little detriment and inconvenience as circumstances admit to any person and, subject to the provisions of this Act, any person who suffers loss by the exercise of powers conferred by this section may recover from the Council compensation for the damage, to be determined in case of dispute by the tribunal and, so far as compensation is properly to be calculated by reference to the depreciation of the value of his interest in any land, rules 2 to 4 of the rules set out in section 5 of the Act of 1961 shall apply.

Power to execute temporary works on railways.

21. The Council may, for the purpose of and during the execution of the works over or under any railway, erect, place or execute and maintain upon, over or under such railway all such temporary structures, erections, works, apparatus and appliances as may be necessary or convenient and as will not prevent the safe use of such railway or interfere to any greater extent than is reasonably necessary with the traffic thereon.

Laying out and repair of carriageways and footways.

22. The Council may lay out the works and any land acquired by them for the purposes of the works under the powers of this Act or any part thereof for carriageways and for footways as they may think proper and may sewer, level, pave, metal, flag, channel and complete such carriageways and footways and may, from time to time, execute all such works and do all such acts in, under or upon any of the carriageways and footways forming part of the works as they may, from time to time, think proper for preserving or improving the works and may for that purpose enter upon and break open the soil and pavement of such carriageways and footways and any sewers, drains or tunnels within or under the same causing as little inconvenience as may be in the execution of the powers hereby conferred and restoring the said carriageways, footways, sewers, drains or tunnels as nearly as practicable to the same condition as they were in before such breaking open.

Lighting of works.

23. Subject to the provisions of this Part of this Act the Council may light the works and may enter into and carry into effect any agreement with any other body or person with respect to lighting the same or any of them.

PART III —*cont.*

Power to sell materials.

24. The Council may sell or dispose of all matters or things excavated or obtained in the construction of the works and all building and other materials of any houses, buildings or structures acquired by them under the powers of this Act and not required for the purposes of this Act and also all matters or things in, under or upon any street or other place altered by them for the purposes of this Act and any matters or things obtained in the alteration of or interference with any drain or sewer under the powers of this Act:

Provided that—

(1) the Council shall not under the powers of this section sell or dispose of any matter or thing if any person other than the Council proves to the satisfaction of the Council that he is the owner thereof;

(2) if any person after such sale proves to the satisfaction of the Council that he was the owner of the matter or thing so sold the Council shall pay the proceeds to him.

Works to form county roads or county bridges.

25.—(1) When the works or any part thereof are or is completed a certificate thereof shall be issued under the hand of the county surveyor of the Council and any copy of such certificate certified under the hand of the clerk of the Council shall in all proceedings and for all purposes be admissible and received as evidence that such certificate has been duly issued and from the date of such certificate so much of the works to which such certificate relates shall become for the purposes of the Act of 1959 a county road or a county bridge, as the case may be.

(2) The provisions of section 45 of the Act of 1959 shall not apply to any road constructed as part of Work No. 1 other than so much of any such road as forms part of the junction of Work No. 1 with the London to Southend road (A.13).

Power to Council to stop up, etc., roads.

26.—(1) Subject to the provisions of this Act, the Council may stop up the whole or such portion or portions as they think fit of so much of Canvey Road (B.1014) in the urban district of Canvey Island and of Ferry Road (B. 1014) in the urban district of Benfleet as is shown between the points marked A and B on the deposited plans as intended to be stopped up, and thereupon all rights of way over the said roads or portions thereof shall be extinguished and the Council may appropriate and use the site thereof.

(2) No portion of the said road shall be stopped up under the powers of this section until—

(*a*) Work No. 2 is completed and opened for public use; and

(*b*) the Council are in possession of all lands adjoining both sides of such portion except so far as the owners, lessees and occupiers of those lands may otherwise agree.

PART III —*cont.*

(3) Any person who suffers loss by—

(*a*) the appropriation of any site of which he is the owner; or

(*b*) the extinguishment of any private right;

under this section shall be entitled to be paid by the Council compensation to be determined in case of dispute under and in accordance with the Act of 1961.

Power to divert road and footpaths

27.—(1) The Council may divert the road in the urban district of Benfleet and the footpaths in the urban district of Basildon and in the urban district of Canvey Island referred to in the next following table in the manner shown upon the deposited plans and, subject to the provisions of this Act, may stop up and cause to be discontinued as a public highway so much of the said road and of each of the said footpaths as will be rendered unnecessary by the diversion of such road or footpath under the powers of this Act:—

Letters on plans denoting road and footpaths to be stopped up	Urban district	Numbers on plans of enclosures traversed by road or footpath
C–D	Basildon	28, 29, 30, 31
F–G	Basildon	39, 41
H–K	Canvey Island	2
L–M	Benfleet	17, 21

(2) Notwithstanding anything in subsection (1) of this section where a road or footpath is to be diverted the existing public highway shall not be stopped up under the powers of this section until the new road or footpath to be substituted therefor is completed in accordance with the reasonable requirements of the highway authority and is open for public use or in the case of a difference between the Council and the highway authority as to whether the said requirements have been complied with or as to their reasonableness until the matter in dispute has been referred to and determined by the Minister and he has certified that the new road or footpath has been completed in accordance with his determination. Before applying to the Minister for his determination the Council shall give to the highway authority seven days' notice of their intention to do so:

Provided that the Council shall not be required under this section to construct or complete any new road or footpath to a greater width or better standard than the road or footpath for which such new road or footpath is substituted.

PART III —*cont.*

(3) As from the date of completion to the satisfaction of the highway authority of any such new road or footpath or as from the date of the said certificate, as the case may be, all rights of way over or along the portion of the road or footpath so stopped up shall be extinguished and the Council may appropriate and use for the purposes of the works the site and soil thereof so far as they are the owners of the land on both sides thereof.

(4) Any road or footpath diverted under the powers of this Act shall be repairable by the authority or person by which or by whom it was repairable before its diversion and be subject to the same public rights of way as were exercisable over the road or footpath before its diversion.

Temporary stoppage of streets.

28.—(1) The Council during and for the purpose of the execution of the works may temporarily stop up and divert and interfere with any street, and may for any reasonable time divert the traffic therefrom and prevent all persons, other than those bona fide going to or from any land, house or building abutting on the street, from passing along and using the same and may execute and do all necessary works and things for keeping any such street open to traffic.

(2) The Council shall provide reasonable access for foot-passengers bona fide going to or from any such land, house or building.

(3) The Council shall not exercise the powers of this section with respect to any street upon which a service of stage carriages or express carriages is operated unless not less than forty-eight hours' previous notice is given to the traffic commissioners and to the holders of the road service licence under which that service is authorised.

(4) In exercising the powers of this section the Council shall, whenever possible, provide a proper temporary substitute way before interrupting the traffic on any street.

(5) The Council shall not exercise the powers of this section without the consent of the highway authority, but such consent shall not be unreasonably withheld and any question whether such consent is or is not unreasonably withheld shall be determined by the Minister.

Underpinning of houses near works.

29. The Council at their own costs and charges may, subject as hereinafter provided, underpin or otherwise strengthen any house within 100 feet of any of the works and for that purpose the following provisions shall have effect:—

(1) At least twenty-eight days' notice shall, except in case of emergency, be given to the owners and occupiers of the house intended to be so underpinned or otherwise strengthened:

PART III —*cont.*

(2) If any owner or occupier of any such house shall, within fourteen days after the giving of such notice, give a counter-notice in writing that he disputes the necessity for such underpinning or other strengthening, the question of the necessity shall be settled by arbitration:

(3) The Council shall be liable to compensate the owners and occupiers of every such house for any loss or damage which may result to them by reason of the exercise of the powers granted by this section, provided that the claim for compensation in respect of such loss or damage be made within three months from the date upon which any such owner or occupier either first discovered the loss or damage or by which he ought reasonably to have discovered it, whichever is the earlier:

(4) In any case in which any house shall have been underpinned or otherwise strengthened under the powers of this section the Council may, from time to time after the completion of such underpinning or other strengthening, and during the execution of the work in connection with which such underpinning or other strengthening was done, or within five years after the opening for traffic of that work, enter upon and survey such house and do such further underpinning or other strengthening thereof as they may deem necessary or expedient or, in case of dispute between the Council on the one hand and the owner or occupier of the house on the other hand, as shall be settled by arbitration:

(5) If in any such case as is referred to in paragraph (4) of this section, the underpinning or other strengthening done by the Council shall prove inadequate for the support or protection of the house against further injury arising from the execution of such work, the Council shall make compensation to the owner and occupier of the house for such injury, provided that the claim for compensation in respect thereof be made within three months from the date upon which any such owner or occupier either first discovered the injury or by which he ought reasonably to have discovered it, whichever is the earlier:

(6) Nothing in this section contained, nor any dealing with any property in pursuance of this section, shall relieve the Council from the liability to compensate under section 10 of the Act of 1965 or under any other enactment:

(7) Every case of compensation to be ascertained under this section shall be determined in case of dispute by the

PART III —*cont.*

tribunal, and, so far as the compensation is properly to be calculated by reference to the depreciation of the value of the interest of the owner or occupier of the house, rules 2 to 4 of the rules set out in section 5 of the Act of 1961 shall apply:

(8) Unless otherwise provided, any difference arising under this section (other than a difference as to the construction of this section) shall be referred to and settled by arbitration:

(9) In this section "house" includes any building or structure.

Power to pump water and use sewers for removing water.

30.—(1) Subject to the provisions of this Act, the Council may pump any water found by them in the execution of the works and may use for the discharge of any such water any available stream or watercourse or any sewer or drain, and for that purpose may, within the limits of deviation shown on the deposited plans, lay down, take up and alter conduits, pipes and other works and make any convenient connections with any such stream, watercourse, sewer or drain.

(2) (*a*) In the exercise of the powers of this section the Council shall not—

(i) make any discharge into a soil sewer of the Benfleet Urban District Council; or

(ii) make any alteration to any such sewer except in accordance with plans reasonably approved and under the superintendence (if given) of that council.

(*b*) Any question arising under sub-paragraph (ii) of the foregoing paragraph between the Benfleet Urban District Council and the Council shall, unless otherwise agreed, be settled by arbitration.

Sewers, etc., to be removed or filled up.

31.—(1) Subject to the provisions of this Act, the Council may cause to be removed or filled up all such sewers, drains, watercourses or ditches or parts thereof (other than the creeks) as shall be in or near the works and as shall become unnecessary.

(2) (*a*) In the exercise of the powers of this section the Council shall not cause to be removed or to be filled up any sewer or drain of the Benfleet Urban District Council or any watercourse or ditch into which such sewer or drain discharges except with their consent and in accordance with such terms and conditions as that council may reasonably attach thereto but such consent shall not be unreasonably withheld.

References in this paragraph to a sewer, drain, watercourse or ditch shall be construed as including references to any part thereof.

PART III —*cont.*

(*b*) Any question arising under this subsection between the Benfleet Urban District Council and the Council shall, unless otherwise agreed, be settled by arbitration.

No mains or pipes to be laid in works.

32. Notwithstanding anything in any other Act to the contrary, it shall not be lawful after the completion of any part of the works for any person to enter upon, break up or interfere with such part of the works for the purpose of laying down any main, pipe or wire or other apparatus or executing any work whatsoever therein, thereon or thereunder except with the consent of the Council and in accordance with such terms and conditions as the Council may determine:

Provided that nothing in this section shall apply to so much of Work No. 2 as shall be situate north of the northern abutment of the Canvey Island bridge.

Prohibition of persons, vehicles, etc., on reserved areas.

33. Where the Council lay out as a reserved area any part of the works or any land adjacent thereto and being satisfied that it is expedient in the interests of public safety indicate by notices conspicuously placed on such reserved area or in proximity thereto or by the erection of fences, that the use by pedestrians, horses, cattle or vehicles of such reserved area or any part thereof is prohibited, any person who shall wilfully walk or otherwise proceed or lead, ride or drive any horse or cattle or vehicle on, over or across any such reserved area or part thereof in contravention of the terms of any such notice or in disregard of any such fence shall be guilty of an offence and liable to a fine not exceeding twenty pounds.

Power to prevent access to or from works.

34.—(1) For the purpose of facilitating the movement of vehicular traffic along, or the safety of the public on, the route of any of the works, the Minister, on the application of the Council, may from time to time authorise the Council at or in the vicinity of the junction of any street with the work to erect or remove—

(i) barriers for the prevention, prohibition or limitation of access by vehicular or pedestrian traffic to or from such route from or to any such street; or

(ii) notices prohibiting or limiting such access.

(2) The Council shall give public notice of the making of an application under subsection (1) of this section in such manner as the Minister may direct.

(3) Any person removing or interfering with any such barrier, or removing, defacing or failing to comply with any such notice, shall be liable to a fine not exceeding twenty pounds.

PART III —*cont.*

For protection of port authority and users of the creeks.

35. For the protection of the port authority and users of the creeks the following provisions shall, unless otherwise agreed in writing between the Council and the port authority, apply and have effect:—

(1) In this and the next following section "river work" means any works constructed or work carried out in, on, over or under the creeks by the Council under the powers of this Act and a reference to the creeks shall unless the context otherwise requires be construed as a reference to the creeks or either of them or any part of either of them:

(2) The Council shall not under the powers of this Act acquire compulsorily any part of the creeks other than the land delineated and numbered 23 on the deposited plans but they may, in accordance with the provisions of section 11 (Power to acquire easements only) of this Act, acquire compulsorily such easements and rights as they require for the purposes of any river work in, on, over or under so much of the creeks as is within the limits of the lands delineated on the deposited plans:

(3) (*a*) Before commencing any river work the Council shall submit to the port authority plans, sections and particulars of the river work for their approval (which approval shall not be unreasonably withheld but may be given subject to reasonable conditions for protecting the navigation of the creeks and users of the creeks); and a river work which is so approved shall be subject to section 244 (Certain works to be approved by the Board of Trade) of the Port of London (Consolidation) Act, 1920;

1920 c. clxxiii.

(*b*) If the port authority do not within twenty-eight days of the submission to them of any plans, sections or particulars under this subsection give notice to the Council of their approval or disapproval they shall be deemed to have approved them:

(4) (*a*) A river work when commenced shall be completed as soon as practicable and the Council shall upon completion of any part of any permanent river work remove as soon as practicable any temporary works and materials for temporary works constructed or placed in, on, over or under the creeks in connection with that part of the river work;

(*b*) A river work shall be constructed and maintained and in the case of temporary works removed to the reasonable satisfaction of the chief engineer of the port authority

PART III —*cont.*

and in the construction, maintenance and removal of a river work traffic on the creeks shall not be interfered with more than may be reasonably necessary:

(5) The Council shall allow the port authority's representatives to inspect and survey from time to time river works and other works constructed under the powers of this Act on lands immediately adjacent to the creeks and shall give reasonable facilities for that purpose:

(6) Nothing in this or any other Act shall authorise the Council without the consent in writing of the port authority to reduce permanently the width or the headway under the centre span of either of the new bridges below the minimum measurements specified in the proviso to section 18 (Power to deviate) of this Act:

(7) Except in cases of emergency and except for such accidental deposits as may be unavoidable in the construction of the works the Council shall not, without the consent of the port authority under the hand of their secretary (which shall not be unreasonably withheld), take from or deposit in or allow to fall into the creeks any gravel, soil, silt or other material:

(8) (*a*) Any pile stump or other obstruction which becomes exposed in consequence of a river work shall be removed from the creeks by the Council or, if it is not reasonably practicable to remove it, shall be cut off at such level below the bed of the creeks as the port authority may reasonably direct;

(*b*) If the Council fail to remove from the creeks any such pile stump or other obstruction within twenty-eight days after receipt of written notice from the port authority requiring the removal the port authority may carry out the removal and recover their expenses from the Council:

(9) If—

(i) any work constructed under the powers of this Act is abandoned or out of repair and is either wholly or partially in the creeks below the level of mean high-water springs or is in such other position that it is or is likely to become a danger to or interfere with navigation or other public rights in the creeks; and

(ii) the port authority by written notice require the Council either to repair the work or (if the Council no longer require the work) to abate and remove the work or any part of it and restore the site to its former condition; and

PART III —*cont.*

(iii) the Council fail to comply with the notice within twenty-eight days after the receipt of it;

the port authority may abate and remove the work or any part of it and restore the site to its former condition and may recover their expenses from the Council:

(10) The port authority may recover from the Council any expense which the port authority incur—

(i) in dredging away any accumulation of mud or silt consequent upon the execution or maintenance of any river work;

(ii) in obtaining and depositing in the creeks such material as is necessary in the opinion of the port authority to protect users of the creeks and other works in the creeks from the effects of scouring of the bed of the creeks consequent upon the execution or maintenance of any river work;

(iii) in altering any mooring in any way which in the opinion of the port authority may be rendered necessary or desirable by reason of the execution of any river work:

(11) The compensation or consideration payable to the port authority by the Council in respect of any easement or right acquired by the Council under this Act and of any river work shall be assessed in accordance with the provisions of section 254 (Consideration for licence to be previously approved) of the Port of London (Consolidation) Act, 1920, and the port authority may recover from the Council the assessor's fees so incurred:

1920 c. clxxiii.

(12) On completion of the construction of the works, the Council shall supply to the port authority a plan on a scale of not less than 1 inch to 208.33 feet and sections and cross-sections on scales of not less than $\frac{1}{8}$ of an inch to 1 foot showing the situation and levels of Work No. 1 and Work No. 2 where they pass over the creeks and of every other permanent river work constructed under the powers of this Act:

(13) The owners and masters of vessels shall not be liable to make good any damage which may be caused to any temporary river work or plant placed by the Council in the creeks under the powers of this Act except to the extent that any such damage arises from the wilful act or default of such owners or masters or their servants or agents:

PART III —*cont.*

(14) Notwithstanding anything in the Port of London Acts, 1920 to 1965, but subject to the provisions of subsection (3) of section 223 (Saving in case of damage caused by dredging) of the Port of London (Consolidation) Act, 1920, the port authority shall not be liable in the absence of negligence for any damage to a river work resulting from the dredging operations of the port authority or the carrying out by them in the execution of their statutory powers and duties of any operations in the creeks or any works for their improvement or maintenance: 1920 c. clxxiii.

(15) Except as expressly provided by this Act, nothing in this Act shall prejudice or derogate from the estates, rights, interests, privileges, liberties or franchises of the port authority or alter or diminish any power, authority or jurisdiction vested in the port authority at the commencement of this Act:

(16) Nothing in this Act shall authorise the Council to discharge or allow to escape directly or indirectly into the creeks any offensive or injurious matter in suspension or otherwise or shall affect the operation of any provision of the Port of London Acts, 1920 to 1965, relating to pollution:

(17) Any difference arising between the Council and the port authority under this section (other than a difference as to the meaning or construction of this section and other than under paragraph (16)) shall be determined by an arbitrator to be agreed between the parties or in default of agreement to be appointed by the Board of Trade on the application of either party (after notice in writing to the other).

Marking of works in the creeks.

36.—(1) The Council shall at or near every river work exhibit such lights, lay down such buoys and take such other steps for preventing danger to navigation as the port authority may from time to time direct and in the case of injury to or destruction or decay of a river work or any part thereof, the Council shall immediately notify the port authority and shall apply to the port authority for directions about the means to be taken.

(2) If the Council fail to comply with any provision of this section they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Power to dredge.

37. Subject to the provisions of this Act the Council may, for the purposes of a new bridge, dredge or deepen the bed of Benfleet Creek or East Haven Creek, as the case may be, within the limits

PART III —*cont.*

of deviation of the said works shown on the deposited plans and may for such purposes alter or interfere with the bed, banks, soil or foreshore of the creek:

Provided that no materials raised under the provisions of this section shall be deposited in any place below the level of the highest tide otherwise than in such a position and subject to such restrictions and regulations as may be fixed by the Board of Trade.

Application of Act of 1950.

38. The provisions of Part II of, and the Fourth Schedule to, the Act of 1950 shall apply in relation to the carrying out of the works and any works or conveniences authorised by section 19 (Subsidiary works), section 20 (Subsidiary works in creeks and elsewhere), section 21 (Power to execute temporary works on railways) or section 29 (Underpinning of houses near works) of this Act as if the works or conveniences were works executed for road purposes within the meaning of section 21 (1) (*a*) of the Act of 1950 and were of the kind referred to in that section and as if any undertakers' apparatus affected thereby were in a street:

Provided that for the purposes of such application the provisions of the Act of 1950 shall have effect—

(*a*) so as to impose on the Council an obligation before commencing any of the works or conveniences to give notice to the undertakers concerned under paragraph 2 of the Fourth Schedule to the Act of 1950 together with plans, sections and particulars of the works or conveniences to be commenced; and

(*b*) as if the words in parentheses in paragraph 3 of the said schedule relating to a road alteration were omitted from that paragraph.

Period for completion of works.

39.—(1) If the works are not completed within five years from 1st October, 1967, then, as from the expiration of that period, the powers of the Council under this Part of this Act shall cease except so far as any works are then completed:

Provided that subject to the provisions of this Act the Council may after the completion of the works alter, reconstruct or renew them as and when occasion may require.

(2) On the application of the Council the Minister may by order extend the period referred to in subsection (1) of this section.

(3) An order under subsection (2) of this section shall be subject to special parliamentary procedure.

40. Nothing in section 35 (For protection of port authority and users of the creeks) or section 36 (Marking of works in the creeks) of this Act shall prejudice or derogate from any of the rights or privileges or the jurisdiction or authority of the Corporation of Trinity House of Deptford Strond. PART III —*cont.* Saving for Trinity House.

PART IV

MISCELLANEOUS

41.—(1) The Council may borrow without the consent of any sanctioning authority for any of the purposes specified in the first column of the following table the sum specified in relation thereto in the second column of that table. Power to borrow.

(2) The period for the repayment of a sum borrowed under the preceding subsection shall not exceed the period specified in relation thereto in the third column of the said table.

(3) Subject to the provisions of this section Part IX of the Act of 1933 shall have effect as if money borrowed under this section were borrowed under that Part.

(4) It shall not be lawful to exercise the powers of borrowing conferred by this section (other than the power of borrowing to pay the costs, charges and expenses of this Act) except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act, 1946. 1946 c. 58.

(1) Purpose	(2) Amount	(3) Period for repayment calculated from the date or dates of borrowing
(*a*) The purchase of land, easements and rights under the powers of this Act and the payment of compensation under the provisions of this Act	The sum requisite	Sixty years.
(*b*) The construction of the new bridges and other bridge works comprised in Works Nos. 1 and 2	£1,360,000	Fifty years.
(*c*) The construction of the works (except the new bridges and other bridge works comprised in Works Nos. 1 and 2)	£1,545,000	Thirty years.
(*d*) The taking down and removal of the existing bridge	£5,000	Fifteen years.

PART IV —*cont.*

Time for claiming certain county roads in urban district of Basildon. 1929 c. 17.

42. As respects any county road in the urban district of Basildon with respect to which the urban district council of Basildon might have made a claim to undertake the maintenance thereof under section 32 of the Local Government Act, 1929, but failed to do so within the time limited by that section, notwithstanding anything in section 45 of the Act of 1959, the urban district council of Basildon may not later than 31st October, 1967, make such claim in respect of that road with the consent of the Council and in that event the claim shall be deemed to have been duly made under the said section 45.

Provision as to existing highways declared to be new streets.

43.—(1) Where the owner of any land within the county, which by virtue of an order made by the Council under section 159 (Power of certain councils to declare an existing highway to be a new street) of the Act of 1959 is a portion of the prescribed land, fails to comply with the requirements of paragraph (*b*) of subsection (6) of the said section 159, the Council may remove any boundary fence or other obstruction situate on the appropriate portion of the prescribed land and bring the level of such portion into conformity with that of the existing highway and may recover the expenses reasonably incurred by them in so doing from the owner of such portion.

(2) In this section the expression "the prescribed land" has the same meaning as in the said section 159.

Boxing and wrestling entertainments.

44. Section 118 (Modification of requirements as to licensing of boxing entertainments) of the Act of 1952 and in section 119 (Control of wrestling entertainments) of that Act the words "as amended by section 118 (Modification of requirements as to licensing of boxing entertainments) of this Act" are hereby repealed; and accordingly boxing entertainments provided in the premises referred to in the said section 118 shall be included in the definition of "boxing entertainments" contained in section 89 (Definition for Part VII) of the Local Act of 1933 and the provisions of the said section 119 shall have effect accordingly.

Amendment of section 144 of the Local Act of 1933.

45. Section 144 (Preservation of trees) of the Local Act of 1933 shall have effect as if:—

(1) after subsection (1) thereof there were inserted the following subsections—

"(1A) (*a*) If a tree or group of trees registered by the Council under this section has died or has been felled, destroyed or removed (otherwise than in circumstances excepted by paragraphs (*a*) (*e*) (*f*) or (*g*)

PART IV —*cont.*

of subsection (2) of this section) it shall be the duty of the owner of the land upon which the tree or group of trees was growing, unless authorised otherwise by the Council, to plant to the satisfaction of the Council another tree or group of trees, as the case may be, of such species as the Council may direct at the same place or in the immediate vicinity thereof as soon as reasonably practicable.

(*b*) Notwithstanding the provisions of subsection (1) of this section all trees planted in accordance with this subsection or in pursuance of a condition imposed under subsection (2A) of this section shall be deemed to have been registered by the Council under this section.

(1B) (*a*) If the owner fails to plant any tree or group of trees in accordance with the provisions of subsection (1A) of this section, the Council may by notice require him so to do and such notice may prescribe conditions which may include conditions as to the period within which such planting shall be carried out and the size and species of the trees to be planted.

(*b*) If the owner fails to comply with the requirements of any such notice, the Council may itself carry out such planting and may recover the cost thereof from the owner as a civil debt.

(*c*) If any tree or group of trees has been unlawfully felled, destroyed or removed by a person other than the owner, any expenses incurred by the owner in complying with the provisions of subsection (1A) of this section, or paragraph (*a*) of this subsection or any expenses recovered by the Council from the owner in accordance with the provisions of paragraph (*b*) of this subsection, shall be deemed to have been incurred by the owner on behalf of that other person ; and the owner may recover such expenses from that person as a civil debt." ;

(2) in subsection (2) thereof for the words " one month " there were substituted the words " two months ";

(3) after subsection (2) thereof there were inserted the following subsection:—

" (2A) Where an application for consent is made to the Council under paragraph (*e*) of subsection (2) of this section, the Council may grant such consent either unconditionally or subject to such conditions

PART IV —*cont.*

(including conditions requiring the replacement of any tree by one or more trees on the land upon which the tree or group of trees is growing or in the immediate vicinity thereof) as the Council may think fit or may refuse such consent.";

(4) for subsection (3) thereof there were substituted the following subsection:—

"(3) Any owner or occupier of 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 or by any notice given or condition prescribed by the Council under subsection (1B) of this section or by any condition subject to which a consent is granted by the Council under subsection (2A) of this section may appeal to a magistrates' court on the ground that—

(*a*) such consent is unreasonably withheld;

(*b*) the provisions of the notice or condition are not applicable or have been complied with;

(*c*) the requirements of the notice or condition are unreasonable in respect of the period or the size or species of trees specified therein;

(*d*) the planting of a tree or trees in accordance with the notice or condition is not required in the interests of amenity or would be contrary to the practice of good forestry;

(*e*) the place on which the tree is or trees are required to be planted is unsuitable for that purpose;

and the court may dismiss or allow the appeal either unconditionally or subject to such conditions as the court may think just but any such order of the court shall not affect any rights as between the owner and occupier of such land.";

(5) for subsection (4) thereof there were substituted the following subsection:—

"(4) Any person who shall offend against the provisions of this section shall be liable—

(*a*) where the offence consists of cutting down or wilfully destroying any tree registered or deemed to be registered by the Council, to a fine not exceeding two hundred and fifty pounds or twice the value of the tree, whichever is the greater;

PART IV —*cont.*

(*b*) in any other case to a fine not exceeding fifty pounds;

and where the offence consists of a failure to comply with a condition subject to which a consent was granted by the Council shall also be liable to a daily fine not exceeding forty shillings.";

(6) after subsection (7) thereof there were inserted the following new subsection:—

"(8) (*a*) Nothing in this section shall apply so as to require the consent of the Council to the cutting down, lopping, topping or destruction of a tree by a river authority or by a drainage board constituted or treated as having been constituted under the Land Drainage Act, 1930, where the tree interferes or would interfere with the exercise of any of the functions of such river authority or drainage board in relation to the maintenance, improvement or construction of watercourses or of drainage works. 1930 c. 44.

(*b*) On giving a direction under subsection (1A) of this section with respect to the replanting of a tree or a group of trees, the Council shall, if such direction relates to land in respect of which byelaws made by a river authority or a drainage board restrict or regulate the planting of trees, notify the owner of the land of the existence of such byelaws and that any such direction has effect subject to the requirements of the river authority or drainage board under those byelaws and the direction shall have effect accordingly.

(*c*) In this subsection "river authority" means a river authority established under the Water Resources Act, 1963, and includes the Lee Conservancy Catchment Board.". 1963 c. 38.

Refuse dumps.

46.—(1) As from the appointed day 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 or otherwise dispose of refuse in any place within the county without the consents first obtained in writing of the Council and of the local authority of the county district in which such deposit or disposal shall be intended to be made:

Provided that this subsection shall not apply—

(*a*) to the deposit or disposal of sewage 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

(*b*) to the disposal of manure or fertiliser at or on a farm, garden, allotment or nursery and intended to be used solely for horticultural, agricultural or farming purposes; or

PART IV —*cont.*

(*c*) to the deposit or disposal of refuse required solely for use in an industrial process or for an industrial purpose or to the deposit or disposal of refuse (in such a manner as is not likely to cause a nuisance or to pollute water supplies) resulting from any manufacturing or industrial process within the curtilage of the premises at which such process takes place; or

(*d*) to the tipping of spoil and refuse by the British Railways Board or the London Transport Board for the purposes of constructing, widening or maintaining any railway works; or

(*e*) to the deposit of any soil or material obtained or raised by the British Waterways Board in executing any dredging operations under their statutory powers or to the tipping of spoil and refuse by the British Waterways Board for the purpose of constructing, widening or maintaining any work forming part of or connected with the River Lee Navigation or any towpath of that navigation; or

(*f*) to the deposit of any soil or material obtained or raised by the port authority in executing any dredging operations under their statutory powers or to the tipping of spoil or 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 of any spoil or material by a river authority in the exercise of any of their functions or by a drainage board constituted or treated as having been constituted under the Land Drainage Act, 1930, in the exercise of the powers conferred upon them by the Land Drainage Acts, 1930 and 1961; or

1930 c. 44

(*h*) to the deposit by any statutory water undertakers on any land in the county belonging to them of any spoil or refuse for the purpose of constructing or altering any work which they are authorised by any enactment to construct or alter or other spoil or refuse produced from any works or operations carried on by them for the purposes of or in connection with their undertaking; or

(*i*) to the deposit by the Gas Council or by any area gas board—

(i) on any land in the county belonging to them of any spoil or refuse for the purpose of constructing or altering any work which they are authorised by any enactment to construct or alter;

PART IV —*cont.*

(II) on any land in the county belonging to them and used for the manufacture of gas of any washing or other liquid or oil or materials of any other kind used by them in, or produced in or resulting from, the manufacture or supply of gas or any products of or derived from such manufacture or supply in such a manner as not to be likely to cause a nuisance or to pollute water supplies;

(III) of any spoil or refuse other than such as is referred to in the foregoing paragraphs (I) and (II) produced from any works or operations carried on by them for the purposes of or in connection with their undertaking; or

(*j*) to the deposit or tipping of refuse (of such a nature as is not likely to cause a nuisance) by a local authority within their district; or

(*k*) to the deposit or disposal by the occupier of a dwelling within the curtilage thereof of refuse arising only from the occupation of the dwelling or the cultivation of any garden within that curtilage; or

(*l*) to the deposit by a development corporation or any person authorised by them on any land in the county belonging to them or under their control or within any area designated as the site of a new town under the New Towns Act, 1946, of any earth, spoil, soil or filling material in the course of operations connected with the development of their new town; or 1946 c. 68.

(*m*) to the tipping or depositing of spoil or refuse by the Central Electricity Generating Board or the Eastern Electricity Board on operational land of those boards.

(2) (*a*) The Council and the local authority of the district in which such a deposit or disposal shall be intended to be formed or added to or made may grant or withhold their consent thereto or may make the granting of their consent subject to such terms and conditions as they think fit and may withdraw any such consent previously given.

(*b*) Within seven days after the receipt by them of an application for consent under this section the Council shall serve a copy thereof upon the statutory water undertakers within whose limits of supply the place to which the application relates is situate and upon any other statutory water undertakers who appear to the Council to be concerned, and before reaching a decision upon the application the Council shall take into consideration any representations on the proposals of the applicant made by any such statutory water undertakers in writing within fourteen days after the service on them of the said copy:

PART IV —*cont.*

Provided that—

(i) where on the appointed day any authority, body or person is required by the provisions of this section to obtain the consent of the Council the provisions of this paragraph shall have effect in relation to the application made by any such authority, body or person as if for the said period of seven days there were substituted a period of fourteen days;

(ii) a consent previously given shall not be withdrawn by the Council or a local authority, except in case of emergency, without six months' previous notice in writing of the intention of the Council or local authority to withdraw the consent.

(*c*) If the Council and the local authority or either of them shall not notify the applicant for any such consent of their decision upon such application within two months after the receipt thereof by the Council or the local authority (as the case may be) or such extended period as may at any time be agreed upon in writing between the applicant and the Council or the local authority (as the case may be) the Council or authority not so notifying shall be deemed to have consented thereto unconditionally.

(3) Within seven days after the grant by them of a consent under this section the Council shall serve a copy of the consent (and of any terms and conditions subject to which the same was granted) upon the statutory water undertakers within whose limits of supply the place to which the consent relates is situate and upon any other statutory water undertakers who appear to the Council to be concerned.

(4) Any person aggrieved by the refusal of any such application as aforesaid or by the withdrawal of such consent or by any conditions imposed upon him may within twenty-eight days after the date of the service on him of notification of such refusal or withdrawal or imposition of conditions or such longer period as the Minister may allow appeal to the Minister and the Minister may dismiss or allow the appeal either unconditionally or subject to such conditions as he thinks proper to impose. The decision of the Minister on an appeal under this subsection shall have effect as if it were a decision of the Council and the local authority.

(5) Where any person appeals in accordance with the provisions of the last foregoing subsection against a decision of the Council or a local authority to withdraw a consent previously given it shall be lawful for that person, except where consent has been withdrawn in case of emergency, to continue to add refuse to the deposit of refuse to which the consent applies in accordance with the conditions of the consent until he is informed of the Minister's decision in regard to the appeal.

PART IV —*cont.*

(6) Any person offending against the provisions of subsection (1) of this section or infringing any of the terms or conditions subject to which a consent under that subsection shall have been granted shall be liable, on conviction on indictment or on summary conviction, to a fine:

Provided that an offence or infringement under this section shall not be punishable on summary conviction by a fine exceeding two hundred pounds and, in the case of a continuing offence, by a daily fine exceeding fifty pounds.

(7) In this section "refuse" includes trade refuse, house refuse, industrial refuse, liquid refuse, filth, rubbish, dust and other like matter.

(8) Subsection (1) of this section shall not apply until the expiration of twelve months from the appointed day to any deposit of refuse which is in existence at the passing of this Act and to which section 146 (Refuse dumps) of the Local Act of 1933 did not then apply.

(9) Where on the appointed day any authority, body or person is required by the provisions of this section to obtain the consents of the Council and a local authority to continue to add refuse to any deposit of refuse which is in existence at the passing of this Act and to which section 146 (Refuse dumps) of the Local Act of 1933 then applied and such authority, body or person has applied to the Council and the local authority for such consents, it shall be lawful for the authority, body or person to continue to add refuse to that deposit until he is informed of the decisions with regard to his applications, and, if either the Council or the local authority refuse their consent or grant their consent subject to conditions, until such time as is provided by subsection (4) of this section for appealing has expired or, when an appeal is lodged, until the appeal is disposed of or withdrawn or fails for want of prosecution:

Provided that—

(i) such authority, body or person shall during any period in which refuse is added to the deposit by virtue of the provisions of this subsection comply with the conditions with which the authority, body or person was by the said section 146 required to comply immediately before the appointed day in respect of that deposit; and

(ii) as respects any such application as is referred to in this subsection, the Council or the local authority, notwithstanding anything in subsection (2) of this section, shall not be deemed to have consented thereto unconditionally by reason of the fact that their decision is not notified to the applicant within the period referred to in the said subsection (2).

PART IV —*cont.*

(10) As from the appointed day the following provisions of the Local Act of 1933 are hereby repealed:—

Section 146 (Refuse dumps);
Section 147 (For protection of Wm. Cory & Son Limited and others);
Section 148 (Further saving for Port Authority);
Section 149 (For protection of owners of lands in rural district of Orsett);
Section 151 (For protection of Gas Light and Coke Company);
Section 152 (As to amendment of provisions relating to refuse dumps);
The Third Schedule:

Provided that such repeal shall not affect the operation of the said provisions as applied to the London boroughs of Barking, Havering, Redbridge and Waltham Forest by virtue of the Local Law (North East London Boroughs) Order 1965.

(11) Notwithstanding anything in subsection (2) (*b*) or subsection (3) of this section, the Council shall not be required to serve a copy of any application or a copy of any consent upon any statutory water undertakers unless prior to the receipt of such application or the grant of such consent, as the case may be, those undertakers have supplied to the Council a map showing the limits of supply of the undertakers for the time being and the situation of all sources of supply of water then used by them for the purposes of their water undertaking.

1956 c. 52.
1906 c. 14.

(12) Nothing in this section shall apply to refuse disposed of by incineration in an incinerator to which the Clean Air Act, 1956, or the Alkali &c. Works Regulation Act, 1906, applies but for the purposes of this subsection any residue resulting from the incineration of refuse shall not be deemed to have been disposed of thereby.

(13) Nothing in this section shall apply to the deposit or disposal of refuse to which the law relating to the discharge of trade effluent applies.

Control of brown tail moth in urban district of Canvey Island.

47.—(1) In this section, unless the context otherwise requires—

"the district council" means the Canvey Island Urban District Council;

"the district" means the urban district of Canvey Island;

"moth" means the Euproctis Chrysorrhoea, otherwise commonly known as the brown tail moth, and includes the eggs, caterpillars and webs or nests thereof.

(2) (*a*) The district council may at any time and from time to time, by notice served on the occupier of land or premises within the district on which the district council has reason to believe that there is a moth, require him to adopt such measures for prevention

PART IV —*cont.*

of the spread of the moth as are specified in the notice. Any such notice may require an occupier to take such steps to destroy such moth as may be specified therein.

(*b*) A notice under this subsection may prescribe the time within which the adoption of any measure thereby prescribed shall be completed.

(3) If any person fails to comply with a notice under this section he shall be liable to a fine not exceeding twenty pounds; and the district council may do all such things as may be necessary to comply with the notice and may recover the cost of so doing from that person.

(4) The provisions of section 290 of the Act of 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section:

Provided that for the purposes of such application the said section 290 shall have effect as if—

(i) paragraph (*e*) of subsection (3) were omitted;

(ii) in subsection (5) the words " paragraph (*e*) or " and the words " any work is to be executed and " were omitted; and

(iii) subsection (6) were omitted.

Provision of services by Council.

48. The Council may provide data preparation and data processing services for any local authority, statutory or other body or person or may permit any such authority, body or person to use data preparation or data processing equipment installed by them and for these purposes the Council may perform all such other acts as may be necessary or convenient and may make such charges as may be agreed.

As to minutes of Council meetings, etc.

49.—(1) Notwithstanding anything contained in paragraph 3 of Part V of the Third Schedule to the Act of 1933 or in any other enactment or rule of law to the contrary, the minutes of the proceedings of meetings of the Council, or of any committee or sub-committee thereof, may be recorded on loose leaves consecutively numbered, the minutes of the proceedings of any meeting being signed and each leaf comprising those minutes being initialled at the same meeting or the next ensuing meeting of the Council or, as the case may be, at the same or any subsequent meeting of the committee or of the sub-committee by the person presiding thereat:

PART IV —*cont.*

Provided that if a meeting of the Council is held not later than ten days after a previous meeting of the Council, the minutes of that previous meeting may be signed and each leaf comprising those minutes initialled at the next but one ensuing meeting of the Council.

(2) Any minutes purporting to be so signed or a copy purporting to be certified by the clerk of the Council as a true copy of any minutes so signed shall be received in evidence without further proof.

PART V

GENERAL

Local inquiries.

50.—(1) Any Minister of the Crown may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act.

(2) Subsections (2) to (5) of section 290 of the Act of 1933 shall apply in relation to any such inquiries; and for that purpose shall have effect as if the expression "department" in that section included any Minister of the Crown having functions under this Act.

Arbitration.

51. In arbitrations under this Act, unless otherwise provided, the reference shall be to a single arbitrator to be appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers on the application of either party after giving notice in writing to the other party.

The appointed day.

52.—(1) In this Act the expression "the appointed day" means such day as may be fixed by resolution of the Council subject to and in accordance with the provisions of this section.

(2) The Council shall cause to be published in a local newspaper circulating in the county notice—

(*a*) of the passing of any such resolution and of the day fixed thereby; and

(*b*) of the general effect of the provisions of this Act coming into operation as from that day;

and the day so fixed shall not be earlier than the expiration of one month from the date of publication of the said notice.

(3) Either—

(*a*) a copy of any such newspaper containing any such notice; or

(*b*) a photostatic or other reproduction certified by the clerk of the Council to be a true reproduction of a page, or part of a page, of any such newspaper bearing the date of its publication and containing any such notice; PART V —*cont.*

shall be evidence of the publication of the notice and of the date of the publication.

Restriction on right to prosecute.

53. The written consent of the Attorney-General shall be requisite for the taking of proceedings in respect of an offence created by or under this Act by any person other than a party aggrieved or the Council or the local authority, as the case may be.

Application of general provisions of Act of 1936.

54.—(1) The sections of the Act of 1936 mentioned in Part I of the Schedule to this Act shall have effect as if references therein to that Act included a reference to this Act and as if the expressions " local authority " and " council " included the Council.

(2) The sections of the Act of 1936 mentioned in Part II of the said Schedule shall have effect as if references therein to that Act included a reference to Part IV (Miscellaneous) of this Act and as if the expressions " local authority " and " council " included the Council.

(3) The section of the Act of 1936 mentioned in Part III of the said Schedule shall have effect as if references therein to that Act included a reference to the following sections of this Act and (except in relation to section 47 of this Act) as if the expression " council " included the Council:—

Section 43 (Provision as to existing highways declared to be new streets);

Section 45 (Amendment of section 144 of the Local Act of 1933);

Section 46 (Refuse dumps);

Section 47 (Control of brown tail moth in urban district of Canvey Island).

(4) The section of the Act of 1936 mentioned in Part IV of the said Schedule shall have effect as if references therein to that Act included a reference to section 47 (Control of brown tail moth in urban district of Canvey Island) of this Act.

PART V —*cont.*

For protection of Postmaster General.

55.—(1) Where in pursuance of paragraphs (*b*) and (*c*) of subsection (1) of section 19 (Subsidiary works) or section 26 (Power to Council to stop up, etc., roads) of this Act the Council divert or stop up the whole or any portion of a street or road the following provisions of this subsection shall, unless otherwise agreed in writing between the Council and the Postmaster General, have effect in relation to so much of any telegraphic line belonging to or used by the Postmaster General as is under, in, upon, over, along or across the land which by reason of the diversion or stopping up ceases to be a street or road (in this subsection referred to as " the affected line "), that is to say:—

(*a*) The power of the Postmaster General to remove the affected line shall be exercisable notwithstanding the diversion or stopping up so however that the said power shall not be exercisable as respects the whole or any part of the affected line after the expiration of a period of three months from the date of the sending of the notice referred to in subsection (3) of this section, unless before the expiration of that period the Postmaster General has given notice to the Council of his intention to remove the affected line or that part thereof, as the case may be;

(*b*) The Postmaster General may by notice in that behalf to the Council abandon the affected line or any part thereof and shall be deemed as respects the affected line or any part thereof to have abandoned it at the expiration of the said period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it;

(*c*) The Postmaster General shall be entitled to recover from the Council the expense of providing in substitution for the affected line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the affected line a telegraphic line in such other place as he may reasonably require;

(*d*) Where under paragraph (*b*) of this subsection the Postmaster General has abandoned the whole or any part of the affected line it shall vest in the Council and the provisions of the Telegraph Acts, 1863 to 1962, shall not apply in relation to it as respects anything done or omitted after the abandonment thereof.

(2) The Council shall not, under the powers conferred by section 19 (1) (*g*) of this Act, alter or remove, divert or reconstruct any telegraphic line belonging to or used by the Postmaster General except in accordance with and subject to the provisions of paragraphs (1) to (8) of section 7 of the Telegraph Act, 1878

1878 c. 76.

PART V —*cont.*

(3) As soon as practicable after the whole or part of a street or road has been diverted or stopped up in pursuance of the powers referred to in subsection (1) of this section, the Council shall send by post to the Postmaster General a notice informing him of such diversion or stopping up.

(4) The exercise by the Council of the powers conferred by section 28 (Temporary stoppage of streets) of this Act in relation to any street shall not prejudice or affect the right of the Postmaster General—

(*a*) to place, maintain, inspect, repair, renew or remove any telegraphic line belonging to or used by him under, in, upon, over, along or across that street; or

(*b*) for the purpose of such placing, maintenance, inspection, repair, renewal or removal to enter upon or break open that street.

(5) Notwithstanding any prohibition or restriction on the use of a road or street or part of a road or street imposed under the powers conferred on the Council by section 28 (Temporary stoppage of streets), section 33 (Prohibition of persons, vehicles, etc., on reserved areas) or section 34 (Power to prevent access to or from works) of this Act the Postmaster General shall be at liberty at all times to enter upon the said road or street or any part thereof with any necessary vehicles for the purpose (*a*) of maintaining, inspecting, repairing, renewing or removing any telegraphic line belonging to or used by him or (*b*) of placing a telegraphic line, and the Council shall at all times afford to the Postmaster General such entry for any of the aforesaid purposes.

(6) (*a*) In the exercise of the powers conferred by section 37 (Power to dredge) of this Act the Council shall not without the consent of the Postmaster General interfere with, damage or injuriously affect any subaqueous cable placed or maintained by the Postmaster General.

(*b*) Before operations for deepening or dredging the bed of Benfleet Creek are carried out under the powers of the said section 37 within 50 yards of any such subaqueous cable, the Council shall give in writing to the Postmaster General as long notice as is practicable and in any case not less than twenty-eight days' notice of their intention so to do.

(*c*) No materials raised under the provisions of the said section 37 shall be so deposited as to cover any such subaqueous cable or in any way obstruct or impede any work of or connected with the inspection or repair of such a cable.

(7) Nothing in section 32 (No mains or pipes to be laid in works) of this Act shall alter, prejudice or affect any of the rights and powers of the Postmaster General under the provisions of the Telegraph Acts, 1863 to 1962.

PART V —*cont.*

(8) (*a*) The Council shall in constructing the bridges and viaduct included in Work No. 1 and the bridge included in Work No. 2 provide in the said bridges and viaduct and in the said bridge for the telegraphic lines of the Postmaster General such accommodation as the Postmaster General shall in accordance with the provisions of paragraph (*c*) of this subsection specify and shall also provide such expansion chambers as the Postmaster General may reasonably require and means whereby the Postmaster General may have access to such telegraphic lines after the same have been laid without breaking up or interfering with the surface of the road or footway of the bridges.

(*b*) The accommodation to be provided in pursuance of the foregoing paragraph of this subsection in each of the bridges (including the bridge and viaduct) included in Work No. 1 shall be for not more than six ducts and in the bridge included in Work No. 2 for not more than nine ducts, each of the said ducts for which accommodation is to be so provided having an external diameter of not more than 5 inches.

(*c*) The Council shall as soon as reasonably practicable after the passing of this Act furnish to the Postmaster General an estimate of the cost of providing the said accommodation, expansion chambers and means of access and the Postmaster General shall within one month after receipt of the said estimate specify in writing to the Council the accommodation (if any) to be provided in accordance with the foregoing paragraphs (*a*) and (*b*) of this subsection.

(*d*) The accommodation to be provided by the Council under the foregoing paragraphs of this subsection shall be of such dimensions as may be agreed between the Postmaster General and the Council.

(*e*) The said accommodation, expansion chambers and means of access shall be provided in accordance with plans, sections and particulars to be previously submitted to and reasonably approved by the Postmaster General:

Provided that if within one month of the receipt of the said plans, sections and particulars the Postmaster General has not intimated his disapproval thereof or made any requirement with respect thereto he shall be deemed to have approved the same.

(*f*) The cost reasonably incurred by the Council in providing the said accommodation, expansion chambers and means of access shall be repaid to the Council by the Postmaster General in a single payment or in such other manner as may be agreed between the Council and the Postmaster General.

(*g*) The Postmaster General shall before the Council complete the construction of each of the bridges (including the bridge and

PART V —*cont.*

viaduct) referred to in paragraph (*a*) of this subsection lay down all such ducting and cable supports as may be required in the accommodation to be provided under this subsection in that bridge for the purpose of the telegraphic lines of the Postmaster General.

(*h*) The work to be done by the Postmaster General under paragraph (*g*) of this subsection shall be completed as soon as reasonably practicable after the receipt by the Postmaster General of a notice from the Council that the accommodation provided for the said telegraphic lines is ready.

(*i*) The Postmaster General shall conform with the reasonable requirements of the Council as to the time or times at which and the manner in which the Postmaster General is to carry out the work under paragraph (*g*) of this subsection and the Council shall be entitled to superintend such work. The costs reasonably incurred by the Council in such superintendence shall be paid to the Council by the Postmaster General.

(*j*) Any question which may arise between the Postmaster General and the Council under this subsection shall be determined by arbitration.

(9) In this section "telegraphic line" has the same meaning as in the Telegraph Act, 1878. 1878 c. 76.

For protection of British Railways Board.

56. For the protection of the British Railways Board (in this section referred to as "the board") the following provisions shall unless otherwise agreed in writing between the Council and the board apply and have effect:—

(1) In this section—

"railway property" means any railway of the board and any works connected therewith for the maintenance or operation of which the board are responsible and includes any lands held or used by the board for the purposes of such railway or works;

"the works" means so much of the works authorised by this Act as may be situated upon, across, under or over or may in any way affect railway property and includes the construction, maintenance and renewal of such works;

"the engineer" means an engineer to be appointed by the board;

"plans" include sections, drawings and specifications:

(2) The Council shall not under the powers of this Act acquire compulsorily any railway property but they

PART V —*cont.*

may in accordance with the provisions of section 11 (Power to acquire easements only) of this Act acquire such easements and rights in the lands numbered on the deposited plans 32, 33, 35 and 37 in the urban district of Basildon as they may reasonably require for purposes of the works:

(3) Notwithstanding anything shown on the deposited plans the Council shall so construct Work No. 1 as to provide a headway of not less than 24 feet 7 inches above the rail level of the railways of the board where the said Work No. 1 is to be carried over such railways and shall provide parapets for or fence off the same to the reasonable satisfaction of the engineer where so required by him:

(4) The Council shall before commencing the works (other than works of maintenance or repair) furnish to the board proper and sufficient plans thereof for the reasonable approval of the engineer and shall not commence the works until plans thereof have been approved in writing by the engineer or settled by arbitration:

Provided that if within twenty-eight days after such plans have been furnished to the board the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval he shall be deemed to have approved the same:

(5) If within twenty-eight days after such plans have been furnished to the board the board shall give notice to the Council that in consequence of the nature of the works, it is reasonably necessary that the board themselves should construct any part of the works then if the Council desire such part of the works to be constructed the board shall construct the same with all reasonable dispatch on behalf of and to the reasonable satisfaction of the Council in accordance with the plans approved or deemed to be approved or settled as aforesaid:

(6) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works whether temporary or permanent which should be carried out before the commencement of the works to ensure the safety or stability of railway property or to protect it from injury or to avoid delay or inconvenience to railway passengers or to traffic on the railways of the board and such protective works shall be constructed by the board with all reasonable dispatch and

PART V —*cont.*

the Council shall not commence the construction of the works until the engineer shall have notified the Council that the protective works have been completed:

(7) The Council shall give to the engineer twenty-eight days' notice of their intention to commence the construction of any of the works and except in emergency (when they shall give such notice as may be reasonably practicable) also of their intention to carry out any works for the repair or maintenance of the works:

(8) The works shall when commenced be carried out with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled as aforesaid and under the supervision (if given) and to the reasonable satisfaction of the engineer and in such manner as to cause as little damage to railway property as may be and so far as is reasonably practicable so as not to interfere with or obstruct the free uninterrupted and safe user of the railway or the traffic thereon and the use by passengers of railway property and if any damage to railway property or any such interference or obstruction shall be caused or take place the Council shall notwithstanding any such approval as aforesaid make good such damage and shall on demand pay to the board all reasonable expenses to which they may be put and reasonable compensation for any loss which they may sustain by reason of any such damage, interference or obstruction:

Provided that nothing in this paragraph shall impose any liability on the Council with respect to any damage, costs, expenses or loss which is attributable to the act, neglect or default of the board or their servants or agents:

(9) The Council shall at all times afford reasonable facilities to the engineer for access to the works during their construction and shall supply him with all such information as he may reasonably require with regard to the works or the method of construction thereof:

(10) The board shall at all times afford reasonable facilities to the Council and their agents for access to any works carried out by the board under this section during their construction and shall supply the Council with such information as they may reasonably require with regard to such works or the method of construction thereof:

(11) If any alterations or additions either permanent or temporary to railway property shall be reasonably necessary in consequence of the construction of the

PART V —*cont.*

works such alterations and additions may be effected by the board after twenty-eight days' notice (except in case of emergency) has been given to the Council and the Council shall pay to the board on demand the reasonable cost thereof including in respect of permanent alterations and additions a capitalised sum representing the increased or additional cost of maintaining, working and, when necessary, renewing any such alterations or additions:

Provided that if the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving may be set off against any sum payable by the Council to the board under this section:

(12) The Council shall repay to the board all costs, charges and expenses reasonably incurred by the board—

(*a*) in constructing any part of the works on behalf of the Council as provided by paragraph (5) of this section or in constructing any protective works under the provisions of paragraph (6) of this section which may be reasonably necessary including in respect of any permanent protective works a capitalised sum representing the cost of maintaining and renewing such works;

(*b*) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, watching, lighting and signalling railway property and for preventing as far as may be all interference, obstruction, danger or accident arising from the construction, maintenance, repair or failure of the works;

(*c*) in respect of any special traffic working resulting from any speed restrictions which are necessary as a result of the construction, maintenance, repair or failure of the works and which may in the opinion of the engineer be required to be imposed or from the substitution or diversion of services which may be necessary for the same reason;

(*d*) in respect of any additional or temporary lighting of railway property in the vicinity of the works being lighting made reasonably necessary during and by reason of the construction of the works or the failure thereof;

(*e*) in respect of the supervision by the engineer of the works:

PART V —*cont.*

(13) If at any time after the completion of the works not being works vested in the board the board shall give notice to the Council informing them that the state of repair of the works appears to be such as to affect prejudicially railway property, the Council shall, within twenty-eight days of the receipt of such notice, take such steps (if any) as may be reasonably necessary to put the works in such state of repair as not to affect prejudicially railway property and, if and whenever the Council fail to do so, the board may make and do in and upon the lands of the board or of the Council all such works and things as shall be requisite to put the works in such state of repair as aforesaid and the costs and expenses reasonably incurred by the board in so doing shall be repaid to them by the Council:

(14) All temporary structures, erections, works, apparatus and appliances erected or placed by the Council under the powers of section 21 (Power to execute temporary works on railways) of this Act upon, over or under any railway of the board shall as soon as reasonably practicable be removed by the Council to the reasonable satisfaction of the engineer and in such a way as to cause as little damage to railway property and as little interference with, or interruption to, the traffic on the railways of the board as may be and if any damage to railway property or such interference, delay or interruption shall be caused by any such failure to remove any such temporary structures, erections, works, apparatus or appliances the Council shall forthwith make good such damage and pay to the board the reasonable costs and expenses to which they may be put and reasonable compensation for any loss which they may sustain by reason of such damage, interference, delay or interruption:

(15) Before providing any illumination or illuminated road traffic sign on or in connection with the works or in the vicinity of the railway the Council shall consult with the board and comply with any reasonable requirements of the board in regard thereto with a view to ensuring that such illumination or illuminated sign could not be confused with any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway:

(16) Any additional expense which the board may reasonably incur after giving twenty-eight days' notice to the Council in widening, altering, reconstructing or maintaining railway property in pursuance of any powers

PART V —*cont.*

existing at the passing of this Act by reason of the existence of the works shall be repaid by the Council to the board:

(17) The Council shall be responsible for and make good to the board all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to or reasonably incurred by the board—

(*a*) by reason of the works or the failure thereof; or

(*b*) by reason of any act or omission of the Council or of any person in their employ or of their contractors or others whilst engaged upon the works;

and the Council shall effectively indemnify and hold harmless the board from and against all claims and demands arising out of or in connection with the construction, reconstruction, alteration or maintenance of the works or any such failure, act or omission as aforesaid and the fact that any act or thing may have been done by the board on behalf of the Council or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of the board or of any person in their employ or of their contractors or agents) excuse the Council from any liability under the provisions of this section:

Provided that the board shall give to the Council reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Council:

(18) The Council shall not under the powers of this Act deprive the board of access to Ferry Road from the lands numbered on the deposited plans 18 and 19 in the urban district of Benfleet:

(19) As from the opening for public use of the bridge over the railway comprised in Work No. 1 the provisions of clause 2 (i) and (ii) of the agreement dated 4th July, 1960, and made between the British Transport Commission of the first part, the Council of the second part and the Benfleet Urban District Council of the third part shall cease to have effect:

(20) Any difference arising between the Council and the board under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration.

PART V —*cont.*

For protection of certain statutory undertakers.

57. For the protection of the undertakers the following provisions shall, unless otherwise agreed in writing between the Council and the undertakers concerned, apply and have effect:—

(1) In this section, unless the subject or context otherwise requires—

" adequate alternative apparatus " means alternative apparatus adequate to enable the undertakers to fulfil their statutory functions in a manner not less efficient than previously;

" apparatus " means—

(*a*) electric lines or works (as respectively defined in the Electric Lighting Act, 1882) belonging to, or maintained by, the Central Electricity Generating Board or the Eastern Electricity Board; 1882 c. 56.

(*b*) mains, pipes, valves, stopcocks or other works or apparatus belonging to, or maintained by, the North Thames Gas Board; or

(*c*) mains, pipes, valves, hydrants, stopcocks or other works or apparatus belonging to, or maintained by, the Southend Waterworks Company;

and includes any works constructed for the lodging therein of apparatus;

" existing " means existing at the passing of this Act;

" in " in a context referring to apparatus includes under, over, across, along or upon;

" position " includes depth;

" the undertakers " means—

the Central Electricity Generating Board;
the Eastern Electricity Board;
the North Thames Gas Board;
the Southend Waterworks Company;

or any of them and in relation to any apparatus or property means the undertakers to whom the apparatus or property belongs, or by whom the apparatus is maintained, and in relation to the supply of electricity, gas or water means the undertakers by whom the supply is provided:

(2) Notwithstanding anything in this Act or shown on the deposited plans the Council shall not acquire any apparatus under the powers of this Act otherwise than by agreement:

PART V —*cont.*

(3) The following provisions of this paragraph shall, notwithstanding paragraph (i) of the proviso to subsection (2) of section 22 of the Act of 1950 (which prohibits the making of a requirement under that section with respect to the permanent removal of apparatus from a street or controlled land), apply where, in consequence of the execution of any works, any apparatus is required to be removed permanently from the land in which it is situated, that is to say:—

(*a*) If the Council in the exercise of the powers of this Act acquire any interest in any lands in which any such apparatus is placed, that apparatus shall not be removed from any land or street in which it is situated, nor shall any right of the undertakers to use, maintain, repair, renew or inspect any apparatus in that land or street be extinguished, until any necessary adequate alternative apparatus has been provided and is in operation to the reasonable satisfaction of the undertakers;

(*b*) If the Council, for the purpose of or in connection with the construction of any of the works in any lands acquired under this Act, require the permanent removal of any apparatus from those lands, they shall give to the undertakers written notice of such requirement together with a plan and section of the work proposed and of the proposed position of the alternative apparatus (if any) to be provided;

(*c*) If the Council require the undertakers to remove any apparatus permanently from any land or street, or if in consequence of the exercise of the powers of this Act the undertakers shall reasonably require the permanent removal of any apparatus, the Council shall if practicable afford to the undertakers the necessary facilities and rights for the laying down or erection in other lands of the Council of adequate alternative apparatus and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

Provided that if the alternative apparatus or any part thereof is to be laid down or erected elsewhere than in other lands of the Council, and the Council are unable to afford such facilities and rights as aforesaid in the lands in which the alternative apparatus or such part thereof is to be laid down or erected, the undertakers shall, on receipt of a written notice to that effect from the Council, forthwith use their best endeavours to obtain the necessary facilities and rights;

PART V —*cont.*

(*d*) Any alternative apparatus to be laid down or erected in lands of the Council in pursuance of this paragraph shall be laid down or erected in such manner and in such line and position as may be agreed between the undertakers and the Council or, in default of agreement, settled by arbitration;

(*e*) The undertakers shall, after the line and position of any necessary alternative apparatus and manner in which the alternative apparatus shall be laid down or erected has been agreed or settled by arbitration as aforesaid and after the grant to the undertakers of any such facilities and rights as are referred to in sub-paragraph (*c*) of this paragraph, proceed with all reasonable dispatch to lay down or erect and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Council to be removed under the provisions of this paragraph and in default the Council may remove the apparatus;

(*f*) Notwithstanding anything in the preceding provisions of this paragraph, if the Council give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, as will be situate in any lands of the Council, such work in lieu of being executed by the undertakers shall be executed by the Council with all reasonable dispatch under the superintendence (if given) and to the reasonable satisfaction of the undertakers:

Provided that nothing in this sub-paragraph shall authorise the Council to execute the actual placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or any filling around such apparatus (where the apparatus is laid in a trench) within 12 inches above the apparatus:

(*g*) Where in accordance with the provisions of this paragraph the Council afford to the undertakers facilities and rights in lands of the Council for the laying down or erection, maintenance, repair, renewal and inspection of alternative apparatus in substitution for apparatus to be removed as aforesaid those facilities and rights shall be granted upon such terms and conditions as may be agreed between the Council and the undertakers or, in default of agreement, determined by arbitration:

PART V —*cont.*

Provided that—

(i) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be laid down or erected in or through any of the works the arbitrator shall—

(A) give effect to all reasonable requirements of the Council for ensuring the safety and efficient use of the works and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with the works; and

(B) so far as it may be reasonable or practicable to do so in the circumstances of the particular case, give effect to the terms and conditions applicable to the apparatus (if any) constructed through the lands of the Council for which the alternative apparatus is to be substituted;

(ii) if the facilities and rights to be afforded by the Council in respect of any alternative apparatus and the terms and conditions subject to which the same are to be granted are, in the opinion of the arbitrator, more or less favourable on the whole to the undertakers than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbitrator shall make such provision for the payment of compensation to or by the Council by or to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:

(4) Where any street, road or footpath or part thereof in which any apparatus is situated has been permanently stopped up or diverted by the Council under the powers of section 19 (Subsidiary works), section 26 (Power to Council to stop up, etc., roads) or section 27 (Power to divert road and footpaths) of this Act the undertakers shall, notwithstanding such stopping up or diversion, continue to have the same powers and rights in respect of apparatus remaining in the land which by reason of the stopping up or diversion has ceased to be a street, road or footpath as they would have had if it had remained a street, road or footpath or the undertakers may and, if reasonably so required by the Council, shall—

(*a*) remove the apparatus and relay or replace it in such other position as the undertakers may reasonably determine; or

PART V —*cont.*

(*b*) provide and lay or place in such other position as aforesaid other apparatus in place of the existing apparatus:

(5) The Council shall repay to the undertakers the reasonable expenses incurred by the undertakers in, or in connection with—

(*a*) the removal and relaying or replacing of any apparatus and the provision, laying down, erection or placing of any new apparatus rendered necessary by reason or in consequence of the construction of any of the works less the value of any apparatus removed in pursuance of the provisions of paragraph (3) of this section (such value being calculated after removal);

(*b*) the cutting off of any apparatus from any other apparatus in pursuance of the provisions of the said paragraph (3);

(*c*) any other work or thing rendered reasonably necessary in consequence of the operations referred to in the foregoing sub-paragraphs (*a*) and (*b*); and

(*d*) the carrying out of such works as are referred to in sub-paragraphs (*a*) and (*b*) of paragraph (4) of this section (whether or not the Council have required those works to be carried out) including expenses incurred in cutting off any apparatus from any other apparatus and in doing any work rendered necessary in consequence of carrying out the said works:

Provided that subsections (3) and (4) of section 23 of the Act of 1950 (which imposes limitations on undertakers' rights to payment) shall, so far as applicable, extend and apply to any payment to be made under this paragraph as if the works in respect of which the payment is to be made were such undertakers' works as are referred to in the said subsection (3) and as if in that subsection for the words " specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act" there were substituted the words " agreed or settled by arbitration under section 57 (For protection of certain statutory undertakers) of the Essex County Council (Canvey Island Approaches, etc.) Act 1967":

(6) Notwithstanding the temporary stopping up or diversion of any street under the powers of section 28 (Temporary stoppage of streets) of this Act, the undertakers shall be at liberty to execute and do all such works and things in, upon or under any such street as may be reasonably

PART V —*cont.*

necessary for inspecting, repairing, maintaining, renewing, replacing or removing any apparatus which at the time of the stopping up or diversion was in that street:

(7) The consent of the Council under section 32 (No mains or pipes to be laid in works) of this Act—

(*a*) to the entering upon or breaking up of or interfering with the works for the purpose of inspecting, maintaining, adjusting, repairing, altering or renewing or the changing of position or the removal of any apparatus laid therein at the passing of this Act and not required by the Council or by the undertakers to be removed under the provisions of this section, or any apparatus laid therein with the consent of the Council shall not be withheld but the undertakers shall give effect to all reasonable requirements of the Council for ensuring the safety and efficient use of the works; and

(*b*) to the entering upon, breaking up or interfering with so much of the works as is not substantially above or below the level of the adjoining land for the purpose of laying or placing new apparatus in such part of the said works if the apparatus is to be laid along a line crossing the work which is as short as is reasonably practicable and not along the route of the works shall not be unreasonably withheld:

Provided that the Council shall not as a condition of any consent which may be given under the said section 32 in respect of such apparatus as is referred to in this paragraph require the payment of any rent or other valuable consideration:

(8) Notwithstanding anything contained in section 33 (Prohibition of persons, vehicles, etc., on reserved areas) of this Act, the undertakers, their officers, engineers, workmen and contractors shall be at liberty, at all times, to enter upon any reserved area for the purpose of inspecting, repairing, maintaining, renewing, or removing any apparatus situated in the reserved area:

(9) The powers of the following sections of this Act shall be so exercised as not to obstruct or render less convenient, so far as is reasonably practicable, the access to any apparatus—

Section 29 (Underpinning of houses near works);

Section 34 (Power to prevent access to or from works):

PART V —*cont.*

(10) If by reason or in consequence of any of the works or any subsidence resulting therefrom any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the undertakers or any interruption in the supply of electricity, gas or water shall be caused, the Council shall—

(*a*) make reasonable compensation to the undertakers for any loss sustained; and

(*b*) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the undertakers;

by reason or in consequence of any such damage or interruption:

Provided that—

(i) nothing in this paragraph shall impose any liability on the Council with respect to any damage or interruption which may be attributable to the act, neglect or default of the undertakers or their contractors or workmen;

(ii) the undertakers shall give to the Council reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent in writing of the Council:

(11) (*a*) Any difference which may arise between the Council and the undertakers under this section shall be referred to and determined by arbitration;

(*b*) In settling any difference under this section the arbitrator shall have regard to any duty or obligation the undertakers may be under in respect of any apparatus and may if he thinks fit require the Council to execute any temporary or other works so as to avoid as far as may be reasonably possible interference with any purpose for which the apparatus is used.

For further protection of North Thames Gas Board.

58. For the protection of the North Thames Gas Board (in this section referred to as " the board ") the following provisions shall, unless otherwise agreed in writing between the Council and the board, apply and have effect:—

(1) In the exercise of the powers of section 37 (Power to dredge) of this Act in relation to Benfleet Creek the Council shall not interfere with, damage or injuriously affect any apparatus;

PART V —*cont.*

(2) Before exercising the said powers within a distance of 50 yards of any submarine apparatus the Council shall give in writing to the board as long notice as possible and in any case not less than twenty-eight days' notice of their intention so to do:

(3) Any material raised under the said powers shall not be deposited in such place or manner as to cover any apparatus or in any way obstruct or impede any work of or connected with the inspection or repair of any apparatus:

(4) In this section "apparatus" has the same meaning in relation to the board as in section 57 (For protection of certain statutory undertakers) of this Act.

For protection of Essex River Authority.

59. For the protection of the Essex River Authority the following provisions shall, unless otherwise agreed in writing between the Council and the river authority, apply and have effect:—

(1) In this section—

"authorised work" means so much of—

(*a*) Work No. 1 or Work No. 2 or any work (whether temporary or permanent) forming part of or constructed in connection with either of the said works under the powers of this Act and includes any footpath diverted under section 27 (Power to divert road and footpaths) of this Act; or

(*b*) the work of removing the existing bridge and any work carried out in connection therewith under the powers of this Act;

as will or may interfere with or affect (either directly or indirectly) a sea defence work and includes the maintenance or renewal of any authorised work;

"construction" includes execution, placing and altering and in relation to temporary works and the removal of the existing bridge also includes removal and "construct" and "constructed" have corresponding meanings;

"existing" means existing at the passing of this Act;

"plans" includes sections, particulars and descriptions (including descriptions of the method of construction);

PART V —*cont.*

"the prescribed height" means in relation to a sea defence work not less than 18.5 feet above ordnance datum (Newlyn) after making due allowance for subsidence;

"the river authority" means the Essex River Authority;

"sea defence work" means so much of the sea defence wall on either bank of East Haven Creek and Benfleet Creek as is for the time being under the jurisdiction of the river authority and the area on either such bank lying between low-water mark of ordinary tides and a line drawn parallel to and at a distance of 50 feet measured landwards from the landward toe of the sea wall;

"signed plan No. 1" and "signed plan No. 2" mean the two plans each of which has been signed in duplicate by Laurence George Lewis on behalf of the Council and by George Leigh Sturgess on behalf of the river authority and marked respectively "Signed Plan No. 1." and "Signed Plan No. 2.";

"specified sea defence work" means so much of the sea wall as lies between the points marked "A" and "B" on signed plan No. 1:

(2) (*a*) If the river authority have not raised the existing height of the specified sea defence work to the prescribed height before the Council commence the construction of the East Haven Bridge, the Council shall before commencing the construction of that bridge raise the height of the specified sea defence work to the prescribed height and shall improve the work to such a standard as may be reasonably required by the river authority having regard to the improvements which it is intended to effect in the adjoining sea defences;

(*b*) The cost reasonably incurred by the Council under the foregoing sub-paragraph (including a proper proportion of the overhead costs of the Council) shall be repaid by the river authority to the Council on demand:

(3) If the river authority have raised the existing height of the specified sea defence work to the prescribed height before the Council commence to construct the East Haven Bridge no part of that bridge and no other authorised work shall be constructed so as—

(*a*) to damage or otherwise impair the efficiency of a sea defence work; or

PART V —*cont.*

(*b*) to prejudice or prevent the strengthening or improving of a sea defence work by the river authority;

and, in particular but without prejudice to the generality of the foregoing—

(i) no work shall be constructed and no excavation shall be made within so much of the limits of deviation of Work No. 1 as is hatched red on the signed plan No. 1 except (in relation only to so much of the limits of deviation as is cross-hatched blue on signed plan No. 1) with the consent of the river authority, which consent shall not be unreasonably withheld:

Provided that if within twenty-eight days of the submission by the Council to the river authority of particulars of any such work or excavation within so much of the limits of deviation of Work No. 1 as is cross-hatched blue on signed plan No. 1 the river authority shall not notify to the Council their decision to grant or withhold their consent to such work or excavation they shall be deemed to have granted consent thereto;

(ii) the Council shall not under the powers of this Act carry out any improvement or development of so much of the land within the limits of land to be acquired as is hatched green on signed plan No. 2:

(4) Any part of Work No. 1 constructed on, in or over a sea defence work shall be so maintained by the Council that the sea defence work after such construction is not less effective as a sea defence work than it was before the said part was constructed:

(5) Not less than twenty-eight days before commencing an authorised work the Council shall subject as hereinafter in this paragraph provided submit plans of such work to the river authority for their reasonable approval:

Provided that if the river authority do not within twenty-eight days after the receipt of any such plans signify to the Council their approval or disapproval thereof they shall be deemed to have approved thereof:

(6) (*a*) An authorised work shall not be constructed except in accordance with such plans as may be approved or be deemed to be approved by the river authority as aforesaid or settled by arbitration, subject however to any modification of those plans from time to time agreed upon between the engineer of the Council and the engineer of the river authority and shall be constructed to the reasonable satisfaction of the engineer of the

PART V —*cont.*

river authority who shall be given reasonable notice of the date and time on and at which the authorised work is to be commenced;

(*b*) The Council shall at all reasonable times afford to the engineer of the river authority and his duly authorised representatives access to such authorised work for the purpose of inspection and shall comply with any reasonable directions given by such engineer:

(7) If there shall be any inconsistency between any plans approved or deemed to be approved by the river authority or settled by arbitration under the provisions of this section and the plans approved by the Board of Trade under section 244 (Certain works to be approved by the Board of Trade) of the Port of London (Consolidation) Act, 1920, the authorised works shall be constructed in accordance with the plans approved by the Board of Trade: **1920 c. clxxiii.**

(8) If by reason of the removal of either or both the abutments of the existing bridge or of the construction, maintenance or renewal of any authorised work or if by reason of the failure of that work or of the Council to maintain as an efficient barrier against inundation by the sea any authorised work which when constructed constitutes such a barrier a sea defence work shall be breached or (as the case may be) shall at any time be injured or damaged or its efficiency as a sea defence work is otherwise impaired the river authority may fill in the breach or (as the case may be) make good such injury or damage and in either such a case restore it to a proper standard of efficiency as a sea defence work and recover the reasonable cost thereof (including a proper proportion of the overhead charges of the river authority) from the Council:

(9) If at any time after the construction of a new bridge the river authority raise the height of or otherwise strengthen or improve the sea defence works adjoining any part of a new bridge the Council shall to the reasonable satisfaction of the river authority carry out such works in relation to the new bridge as are agreed with the river authority or in default of agreement settled by arbitration to be reasonably necessary to make it conform with the adjacent parts of the sea defence works as so raised in height, strengthened or improved:

Provided that so much of the cost reasonably incurred by the Council in carrying out such works (including a proper proportion of the overhead charges of the

PART V —*cont.*

Council) as would have had to be incurred by the river authority if the new bridge had not been constructed shall be repaid by the river authority to the Council on demand:

(10) The Council shall indemnify and hold harmless the river authority from all claims, demands, costs, expenses, damages or loss which may be made on or against them or which they may incur or have to pay or which they may sustain in consequence of the construction, maintenance or renewal of an authorised work or of the failure or want of repair thereof or any subsidence caused by the construction thereof or in consequence of any act or omission of the Council, their contractors, agents, workmen or servants whilst engaged upon the authorised works:

Provided that—

(*a*) the river authority shall give to the Council reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement of the Council; and

(*b*) nothing in this paragraph shall impose any liability on the Council with respect to any claim, demand, costs, expenses, damage or loss which is attributable to the act, neglect or default of the river authority or their servants or agents:

(11) The fact that any work or thing has been executed or done in accordance with a plan approved or not objected to by the river authority or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the Council from any liability under the provisions of this section:

(12) The Council shall at all times and for all purposes allow the river authority, their servants and contractors (with or without vehicles and equipment) a right of passage between the land hatched red on signed plan No. 1 and the sea defence works south of that land through an aperture in the viaduct forming part of Work No. 1 such aperture having a clear headway of not less than 14 feet and a width of not less than 25 feet:

(13) Any difference arising between the Council and the river authority under this section (other than a difference as to the construction of this section) shall be settled by arbitration.

PART V —*cont.*

For protection of Benfleet Yacht Club.

60. Notwithstanding anything in this Act, the Council shall not under the powers of this Act acquire compulsorily the interest or rights of the Benfleet Yacht Club in the land in the urban district of Benfleet delineated and numbered 16 on the deposited plans otherwise than in accordance with the terms and conditions contained in the Heads of Agreement dated 15th June 1967 and signed by L. G. Lewis on behalf of the Council and by Raymond G. Jones, S. K. Fisher and S. J. A. Howitt on behalf of the said club.

As to powers of Board of Trade.

61. Anything required or authorised by or under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any Minister of State with duties concerning the affairs of the Board, any secretary, under-secretary or assistant secretary of the Board or any person authorised in that behalf by the President.

Saving for town and country planning. 1962 c. 38.

62. The provisions of the Town and Country Planning Act, 1962, and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development thereof is, or may be, authorised or regulated by or under this Act.

Costs of Act.

63. The costs, charges and expenses preliminary to, and of and incidental to, the preparing, applying for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Council out of the county fund.

SCHEDULE

Section 54.

SECTIONS OF ACT OF 1936 APPLIED

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Section	Marginal note
271	Interpretation of " provide ".
283	Notices to be in writing; forms of notices, etc.
288	Penalty for obstructing execution of Act.
296	Summary proceedings for offences.
297	Continuing offences and penalties.
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328	Powers of Act to be cumulative.

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Section	Marginal note
275	Power of local authority to execute certain work on behalf of owners or occupiers.
276	Power of local authority to sell certain materials.
277	Power of councils to require information as to ownership of premises.
289	Power to require occupier to permit works to be executed by owner.
291	Certain expenses recoverable from owners to be a charge on the premises: Power to order the payment by instalments.
293	Recovery of expenses, etc.
294	Limitation of liability of certain owners.
295	Power of local authority to grant charging orders.
299	Inclusion of several sums in one complaint, etc.
329	Saving for certain provisions of the Land Charges Act, 1925.

1925 c. 22.

PART III

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Section	Marginal note
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SECTION APPLIED TO SECTION 47 OF THIS ACT

SCH. —*cont.*

Section	Marginal note
300	Appeals and applications to courts of summary jurisdiction.

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Essex County Council (Canvey Island Approaches, etc.) Act 1967

CHAPTER xxxviii

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3. Interpretation.
4. Application of Act of 1965.
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10. Power to use subsoil of streets.

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12. Grant of easements by persons under disability.
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14. Compensation for extinction of private rights of way.
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32. No mains or pipes to be laid in works.
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36. Marking of works in the creeks.
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Part III—Section applied to sections 43, 45, 46 and 47 of this Act.

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