Section 41.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
49 & 50 Vict. c. 29.	The Crofters Holdings (Scotland) Act, 1886.	Section fourteen.
1 & 2 Geo. 5. c. 49.	The Small Landholders (Scotland) Act, 1911.	In subsection (7) of section seven the words "(except as "regards dwelling-houses or "other buildings)." In section seventeen the words from "if the Land Court" to "may prescribe." In section nineteen the words from "the feuing" to "estate or" and the word "respectively."
13 & 14 Geo. 5. c. 10.	The Agricultural Holdings (Scotland) Act, 1923.	Subsection (1) of section fifteen. The First Schedule. Paragraph 5 of the Second Schedule.

CHAPTER 45.

An Act to amend the law relating to the offices of clerk of the county council and clerk of the peace of counties and to persons holding those offices, and for purposes connected with the matters aforesaid. [31st July 1931.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The Offices of Clerk of the County Council and Clerk of the Peace.

Offices of clerk of county

1. Subject to the provisions of this Act, the office of clerk of the county council and the office of clerk

of the peace of the county shall in every county be distinct and separate offices, and so much of section eighty-three of the Local Government Act, 1888, as requires the clerk of the peace of a county to be also the clerk of the county council shall cease to have effect, but any person holding office as clerk of the peace and county council of any county immediately before the passing of this Act shall continue to hold both those offices notwithstanding the separation thereof.

council and clerk of peace to be separate offices. 51 & 52 Vict. c. 41.

2.—(1) On a vacancy occurring in the office of clerk of a county council, a person to fill the vacancy shall be appointed by the county council.

Appointment.

(2) Before appointing any person to fill the office of clerk of the county council, the council shall ascertain whether he would be willing to accept the office of clerk of the peace of the county, and shall have regard to his fitness to perform the duties of that office, and shall for that purpose consult the chairman, or, in his absence, the deputy chairman, of quarter sessions for the county.

(3) On the occurrence of any vacancy in the office of clerk of the peace of the county, the county council shall give notice in writing to the court of quarter sessions for the county, notifying that court whether the person appointed to be clerk of the county council would be willing to accept the office of clerk of the peace.

(4) On a vacancy occurring in the office of clerk of the peace of a county, a person to fill the vacancy shall, subject as hereinafter provided, be appointed by the court of quarter sessions for the county:

Provided that, if notice has been given under the last foregoing subsection that the clerk of the county council would be willing to accept the office of clerk of the peace of the county, he shall, unless the court of quarter sessions, within the period of six months next after the vacancy occurs or within such further period as the Secretary of State may, on the application of that court, by order allow, appoints some other person to be clerk of the peace, be deemed as from the expiration of that period to have been appointed clerk of the peace by that court.

Salaries and remuneration.

3.—(1) Subject as hereinafter provided, every county council shall pay out of the county fund—

(*a*) to the clerk of the county council such salary as may from time to time be determined by the county council, subject to the approval of the Minister; and

(*b*) to the clerk of the peace of the county such salary as may from time to time be determined by the court of quarter sessions or, in the event of an appeal from any such determination being made to the Secretary of State by the county council or by any clerk of the peace holding office at the date of the determination, by the Secretary of State:

Provided that, so long as any person, being a person who was holding office as clerk of the peace and county council immediately before the passing of this Act, continues to hold those offices, a single salary shall be payable to him in respect of both offices and that salary shall continue to be regulated by any order made in that behalf by the Secretary of State under the enactments repealed by this Act and in force at the passing of this Act, so, however, that—

(i) the amount fixed as the salary of a clerk by any such order shall, as from the date of the passing of this Act, be reduced by such amount, if any, as may within six months after that date be determined by the Secretary of State, after considering any recommendation made by the joint committee, to represent provision made by the order for the remuneration of any deputy clerk or of any person in the employment of the clerk for the purposes of any office held by him as such clerk; and

(ii) any such order may be varied by the Secretary of State upon receiving at any time a recommendation from the joint committee that the amount of the salary should be reconsidered.

(2) The salary paid to a clerk of the county council shall be deemed to be remuneration for all business which he may, by reason of his office as clerk of the county council, be called on to perform, and all fees and

costs payable to the clerk of the county council, except any fees and costs expressly excluded when his salary is determined, shall, in accordance with such directions as may be given by the county council, be accounted for and paid to the county fund.

In this subsection the expression "fees and costs" does not include any sums payable to the clerk of a county council in respect of the registration of electors or as charges or fees in respect of services and expenses in connection with the conduct of parliamentary elections, except such as are payable to him for his personal remuneration under section fifteen of the Representation of the People Act, 1918, as registration expenses, or under section twenty-nine of that Act. 7 & 8 Geo. 5. c. 64.

(3) The salary paid to a clerk of the peace shall be deemed to be remuneration for all business which he may by reason of his office as clerk of the peace be called on to perform, and all fees and costs payable to the clerk of the peace, except any fees and costs expressly excluded when his salary is determined, shall, in accordance with such directions as may be given by the county council, be accounted for and paid to the county fund; and in the enactments relating to such fees and costs references to the joint committee shall be substituted for references to the quarter sessions and the local authority respectively, only as respects cases where the offices of clerk of the peace and of the county council continue to be held by a person holding office as clerk of the peace and county council immediately before the passing of this Act:

Provided that the provisions of this subsection shall be without prejudice to the provisions of section eleven of the Stipendiary Magistrates Act, 1858 (which relate to the appointment and remuneration of deputies for the purpose of a second court of quarter sessions). 21 & 22 Vict. c. 73.

(4) For the purposes of the last two foregoing subsections, the salary payable to any person who was holding office as clerk of the peace and county council immediately before the passing of this Act in respect of both these offices shall be deemed to be payable to him in respect of each office.

4.—(1) If any person holding office both as clerk of the county council and as clerk of the peace of any Tenure and vacation of office.

county voluntarily resigns either of those offices he shall, whether appointed before or after the passing of this Act, be deemed thereby to vacate the other office.

(2) The office of clerk of a county council and the office of clerk of the peace of a county shall be vacant upon the holder of the office becoming incapable, by reason of permanent ill-health or infirmity of mind or body, of discharging with efficiency the duties of his office or, if he is the holder of both offices, of either office, or, subject as hereinafter provided, upon his attaining the age of sixty-five years, whichever event first occurs:

Provided that the office of a clerk shall not, by reason of the foregoing provisions of this section, be vacated upon his attaining the age of sixty-five years—

(*a*) in the case of a clerk of the peace who is not also the holder of the office of clerk of the county council;

(*b*) in the case of a clerk appointed before the passing of this Act, unless and until on attaining that age or at any time thereafter he is required to vacate office by notice in writing from the joint committee;

(*c*) in the case of a clerk appointed after the passing of this Act who is the holder of both offices, if and so long as the period of each of these offices is, with his consent, extended by resolutions passed for the purpose by the authorities having power under this Act to fill vacancies in those offices;

(*d*) in the case of a clerk of the county council appointed after the passing of this Act who is not also the holder of the office of clerk of the peace, if and so long as the period of his office is, with his consent, extended by a resolution passed for the purpose by the county council.

No such resolution as is mentioned in paragraph (*c*) or (*d*) of the foregoing proviso shall extend the period of office of any clerk for more than one year at a time.

(3) Where the office of clerk of the county council or the office of clerk of the peace of the county has been

vacated by any person by reason of the foregoing provisions of this section, that person shall not be eligible for reappointment to either of those offices.

(4) The provisions of subsection (3) of section six of the Local Government and other Officers' Superannuation Act, 1922 (hereinafter referred to as "the Act of 1922") except the second proviso to that subsection, shall, as respects clerks of county councils and clerks of the peace of counties, cease to have effect, and references in the said second proviso to an "extended period" shall be construed as references to a period extended under the foregoing provisions of this section. 12 & 13 Geo. 5. c. 59.

(5) If upon due examination the court of quarter sessions for any county is satisfied that the clerk of the peace of the county has been guilty of misconduct in the execution of his office or of such other misconduct as in the opinion of that court renders him an unfit or improper person to hold the office of clerk of the peace, the court may dismiss him from his office and thereupon the office shall become vacant, so, however, that any person so dismissed by order of a court of quarter sessions on the ground of misconduct otherwise than in the execution of his office may appeal to the High Court.

As respects any clerk of the peace and county council appointed before the passing of this Act, this subsection shall have effect as if for references therein to a court of quarter sessions there were substituted references to the joint committee, and for the purposes of the application of this subsection to any such clerk the offices of clerk to the county council and of clerk of the peace shall, notwithstanding anything in section one of this Act, be deemed to be one office.

(6) A clerk of a county council appointed after the passing of this Act shall, subject to the foregoing provisions of this section and to the terms of any agreement as to notice made between him and the county council, hold office during the pleasure of the county council, so, however, that no such clerk shall be dismissed from his office without the consent in writing of the Minister.

(7) A clerk of the peace and county council appointed before the passing of this Act and a clerk of the peace appointed after the passing of this Act shall,

subject to the provisions of this section, hold office during good behaviour.

Consequential Provisions.

Provisions as to powers and duties and as to county records.

5.—(1) The powers and duties of a clerk of the county council shall, subject to the provisions of any enactments relating thereto, be exercised and performed in accordance with such directions as may be given by the county council, and accordingly paragraph (6) of section eighty-three of the Local Government Act, 1888, shall have effect as if for the words "clerk of the peace" where those words first occur therein there were substituted the words "clerk of the county council."

(2) The powers and duties of a clerk of the peace of a county shall, subject to the provisions of any enactment relating thereto, be exercised and performed in accordance with such directions as may be given by the court of quarter sessions.

(3) Without prejudice to the enactment contained in proviso (*a*) to subsection (1) of section sixty-four of the Local Government Act, 1888, and to the power of the custos rotulorum to give directions as to records and documents of any county, the records and documents of every county and all other records and documents which, at the passing of this Act, are in the custody of the clerk of the peace and county council of the county, shall, so far as they relate to the administrative business of the county after the first day of April, eighteen hundred and eighty-nine, be in the custody of the clerk of the county council, and the records and documents of every county shall, so far as they relate to the business of quarter sessions and to judicial business generally, be in the custody of the clerk of the peace.

(4) The clerk of every county council shall be, by virtue of his office, clerk of the joint committee.

Deposit of plans, &c. with clerks of county councils.

6.—(1) In any case in which any map, plan or other document of any description is deposited with the clerk of a county council pursuant to the Standing Orders of Parliament or to any Act or rules or regulations made under any Act or by any Government Department there shall be paid to that clerk in respect thereof by the person making the deposit such fees as may be provided by a

scale prescribed by the council and approved by the Minister.

(2) The provisions of section two of the Parliamentary Documents Deposit Act, 1837 (which, as adapted by paragraph (6) of section eighty-three of the Local Government Act, 1888, relates to the inspection of certain documents deposited with clerks of county councils), shall be extended so as to apply to all maps, plans and other documents which are so deposited with the clerk of a county council as aforesaid. 7 Will.4. and 1 Vict. c. 83.

Deputies and Staff.

Appointment, remuneration, tenure and duties of deputy clerks.

7.—(1) Paragraph (4) of section eighty-three of the Local Government Act, 1888 (which relates to the appointment, powers and duties of deputy clerks), shall have effect as if for references therein to the joint committee there were substituted as respects clerks and deputy clerks of a county council references to the county council, and as respects clerks and deputy clerks of the peace of any county references to the court of quarter sessions.

(2) Every county council shall pay out of the county fund—

(*a*) to any deputy clerk of the county council, such salary as may from time to time be determined by the council; and

(*b*) to any deputy clerk of the peace of the county, such remuneration as may from time to time be determined by the court of quarter sessions, or, in the event of an appeal from any such determination being made to the Secretary of State by the county council, by the Secretary of State.

(3) Any deputy clerk appointed before the passing of this Act under the provisions of paragraph (4) of section eighty-three of the Local Government Act, 1888, shall be deemed to have been appointed under the said provisions as amended by this section to be deputy clerk of the county council and deputy clerk of the peace upon the same terms as respects notice as the terms upon which he was so appointed as aforesaid, and upon such terms as to his remuneration in respect of each

office as will entitle him to receive in respect of both offices remuneration equivalent to that received by him in respect thereof immediately before the passing of this Act, the remuneration in respect of each office being apportioned, where necessary, in such manner as may be determined by the joint committee.

6 Edw. 7. c. 46.

(4) The provisions of the Recorders, Stipendiary Magistrates and Clerks of the Peace Act, 1906, shall apply to the office of clerk of the county council as they apply to the office of clerk of the peace, and for the purposes of subsection (1) of section one of that Act and of subsection (1) of section one hundred and eighteen of the Local Government Act, 1888, a person holding office as clerk of the peace and county council of any county immediately before the passing of this Act who also held office as such on the first day of April, eighteen hundred and eighty-nine, shall so long as he continues to hold those offices be deemed to be the person having power to appoint and remove a deputy clerk of the county council as well as a deputy clerk of the peace.

Appointment of staff of clerks.

8.—(1) Every county council shall appoint to be, during the pleasure of the council, members of the staff of the council such officers and servants as they may think necessary to assist the clerk of the county council in carrying out his duties as such, other than duties in relation to the registration of electors and the conduct of parliamentary elections, and if and so long as the office of clerk of the peace is held by the clerk of the county council, in carrying out his duties as clerk of the peace.

(2) Every county council shall pay out of the county fund to every officer and servant appointed under this section such salary as may from time to time be determined by the council.

(3) Any person who immediately before the passing of this Act was in the permanent employment of a clerk of the peace and county council of any county for the purposes of any office held by him as such clerk, shall as from the passing of this Act be deemed to have been appointed under this section an officer or servant of the county council upon the same terms as respects remuneration and as respects notice as the terms upon

which he was employed in such permanent employment as aforesaid.

(4) The council of any county may assign any officers or servants to assist the clerk of the county council in carrying out any of his duties in relation to the registration of electors and the conduct of parliamentary elections upon such terms as may be agreed between the council and the clerk.

Superannuation.

Superannuation of clerks.

9.—(1) As respects every clerk of a county council appointed after the passing of this Act, the following provisions shall have effect—

(*a*) if and so long as the county council in whose service he is have not adopted the Act of 1922, the provisions of that Act, set out with modifications in Part I. of the First Schedule to this Act, shall, as so set out, apply in his case;

(*b*) where the county council in whose service he is have, whether before or after his appointment as clerk, adopted the Act of 1922, then the provisions of Part I. of the First Schedule to this Act shall not apply in his case, and, for the purposes of the Act of 1922, his office as clerk of the county council shall be deemed to be a post designated as an established post, but he shall not be deemed to have occupied that post on the appointed day;

(*c*) in the case of any person who, in addition to holding office as clerk of the county council also holds office as clerk of the peace of the county, his salary as clerk of the county council shall, for the purposes of determining the amount of the contributions to be made by and in respect of him and of calculating the amount of any superannuation allowance payable to him under the provisions of Part I. of the First Schedule to this Act or of the Act of 1922, be deemed to be increased by an amount equal to his salary as clerk of the peace (including any payments made to him as such for his own use) so, however,

that if any such person holds the office of clerk of the peace after having been dismissed from the office of clerk of the county council, any superannuation allowance payable to him in respect of any period while he so holds the office of clerk of the peace shall be of such amount only as would have been payable to him if this paragraph had not been applicable in his case;

(*d*) the provisions set out in Part II. of the First Schedule to this Act shall have effect in any case in which the Act of 1922 becomes applicable in lieu of the provisions set out in Part I. of that Schedule and in any case where the said provisions become applicable in lieu of that Act;

(*e*) where any person holding office both as clerk of the county council and as clerk of the peace of any county is by reason of his voluntarily resigning the office of clerk of the peace deemed under the provisions of this Act thereby to vacate the office of clerk of the county council, then, for the purposes of the provisions of the First Schedule to this Act or of the Act of 1922 (as the case may be), he shall be deemed voluntarily to have resigned the office of clerk of the county council.

(2) As respects every clerk of the peace and county council appointed before the passing of this Act, the following provisions shall have effect—

(*a*) as from the passing of this Act the provisions of the Act of 1922 shall not apply in his case, but, if contributions have been paid by him under that Act, the county council shall pay to him a sum equal to the amount of the contributions so paid by him (not being contributions in respect of which a payment by way of return has previously been made to him), without any interest thereon;

(*b*) upon his vacating his offices (otherwise than in consequence of any offence of a fraudulent character or of grave misconduct) the county

council by whom the remuneration in respect of his services is payable shall—

(i) if he has attained the age of sixty-five years; or

(ii) if he has attained the age of sixty years and completed forty years' service; or

(iii) if he has completed ten years' service and become incapable, by reason of permanent ill-health or infirmity of mind or body, of discharging the duties of his offices with efficiency,

pay to him during his life out of the county fund a superannuation allowance calculated in accordance with the provisions contained in the Second Schedule to this Act.

In this subsection and in the said Second Schedule, the expression "service" means, in relation to any person, whole-time or part-time service, after he has attained the age of eighteen years, being—

(*a*) service as clerk of the peace and county council; or

(*b*) service before the passing of this Act as a deputy clerk of the peace and county council of a county or in the permanent employment of a clerk of the peace and county council of a county for the purposes of any office held by him as such clerk or in the permanent employment of a local authority or in the permanent employment of an officer of a local authority for the purposes of the office held by him as such;

and as respects service after the passing of this Act means continuous service, and as respects service before the passing of this Act, means service, whether continuous or not.

In reckoning for the purposes of this subsection or for the purposes of the said Second Schedule service before the passing of this Act, any portion of a year during which a person has served shall, if it exceeds six months, be reckoned as a year.

Superannuation of deputies and staff.

10.—(1) Subject as hereinafter provided, the Act of 1922 shall cease to apply in the case of any deputy clerk of the peace of a county:

Provided that any person who immediately before the passing of this Act occupied, as deputy clerk of a county council and deputy clerk of the peace of any county whereof the council had adopted the Act of 1922, posts designated as established posts for the purposes of that Act shall, in respect of his service as deputy clerk of the county council, be deemed to continue to occupy a post so designated.

(2) Where any person occupying in the service of a county council of any county whereof the council has adopted the Act of 1922, a post designated as an established post for the purposes of that Act, also holds office as deputy clerk of the peace of the county, his salary as an officer or servant of the county council shall, for the purposes of determining the amount of the contributions to be made by and in respect of him and of calculating the amount of any superannuation allowance payable to him under the provisions of the Act of 1922, be deemed to be increased by an amount equal to his remuneration as deputy clerk of the peace:

Provided that—

(*a*) if any such person holds the office of deputy clerk of the peace after having ceased to hold his office or employment in the service of the county council, any allowance payable to him in respect of any period while he so holds the office of deputy clerk of the peace shall be of such amount only as would have been payable to him if this subsection had not been applicable in his case; and

(*b*) in the event of the resignation or dismissal of any such person from the office of deputy clerk of the peace, then, if he continues to occupy in the service of the county council a post designated as an established post, section eleven of the Act of 1922 (which relates to return of contributions) shall apply in his case as if in the office of deputy clerk of the peace he had occupied a post designated as an established post for the purposes of

that Act in the service of the county council, but the sum payable to him thereunder shall be a sum equal to the amount by which the contributions made by and in respect of him have been increased by reason of this subsection, and this subsection shall not apply for the purpose of calculating any superannuation allowance payable to him on his ceasing to hold his office or employment in the service of the county council.

(3) Subject as hereinafter provided, the Act of 1922 shall cease to apply to any person in the permanent employment of a clerk of the peace for the purposes of any office held by him as such clerk:

Provided that any person who immediately before the passing of this Act was, in the permanent employment of a clerk of the peace and county council for the purposes of any office held by him as such clerk, occupying a post designated as an established post for the purposes of the first mentioned Act by a county council who had adopted that Act, shall, on becoming an officer or servant of the county council in accordance with the provisions of this Act, be deemed to occupy a post so designated, and accordingly the first mentioned Act shall continue to apply in his case as if such employment as aforesaid had been employment in the service of the county council.

Supplemental.

Decision of certain questions.

11.—(1) If any dispute arises as to—

(*a*) whether any person is to be deemed to have been appointed under this Act an officer or servant of a county council on the ground that he was immediately before the passing of this Act in the permanent employment of a clerk of the peace and county council for the purposes of an office held by him as such clerk; or

(*b*) whether any holder of the office of clerk of a county council has become incapable by reason of permanent ill-health or infirmity of mind or body of discharging with efficiency

the duties of that office or, where he is also holder of the office of clerk of the peace of the county, of either of those offices; or

(*c*) the right of any person to a superannuation allowance or to any return of contributions under this Act, or as to the amount of any such allowance or contributions;

the dispute shall be referred to the Minister and the decision of the Minister shall be final.

(2) The Minister may at any stage of the proceedings under a reference in accordance with the provisions of this section state in the form of a special case for the opinion of the High Court any question of law arising in the course of the reference and upon any case being so stated the Court shall have power to make such order as to costs as the Court thinks fit, but this provision shall be without prejudice to the law as to costs payable by the Crown.

(3) The Minister shall be entitled to appear and be heard on any proceedings in connection with a case stated under this section.

(4) If any dispute arises as to whether any holder of the office of clerk of the peace of a county, not being also holder of the office of clerk of the county council, has become incapable by reason of permanent ill-health or infirmity of mind or body of discharging with efficiency the duties of his office, the dispute shall be referred to the Secretary of State, and his decision shall be final.

52 & 53 Vict. c. 49.

(5) The Arbitration Act, 1889, shall not apply to proceedings under this section.

Powers and duties of court of quarter sessions to be exercised and performed by committee.

12.—(1) The powers and duties which are under this Act to be exercised and performed by a court of quarter sessions shall, except to such extent as the court may resolve, be exercised and performed by a committee consisting of the chairman of quarter sessions and of such other justices as may be appointed by the court of quarter sessions to be members of the joint committee.

(2) The provisions of subsection (1) of section eighty-two of the Local Government Act, 1888 (which relate to proceedings of committees) shall apply in respect of any committee so constituted as aforesaid as if for references

therein to a county council there were substituted references to a court of quarter sessions.

Application to Duchy of Lancaster.

13.—(1) This Act shall, in its application to the County Palatine of Lancaster, have effect subject to the following modifications, that is to say:—

(*a*) for references to the Secretary of State there shall be substituted references to the Chancellor of the Duchy of Lancaster;

(*b*) for the proviso to subsection (1) of section three, there shall be substituted the following proviso:

> Provided that so long as the person holding office as clerk of the peace and county council of the county of Lancaster immediately before the passing of this Act continues to hold those offices, a single salary shall be payable to him in respect of both offices and that salary shall continue to be such as may be determined by the joint committee with the approval of the Chancellor of the Duchy of Lancaster.

34 & 35 Vict. c. 73.

(2) The Lancaster County Clerk Act, 1871, shall cease to have effect.

Special provisions as to County of Middlesex. 11 & 12 Geo. 5. c. xl.

14.—(1) The provisions of subsection (2) of section four of this Act, relating to the vacation of office on the ground of age, shall not apply as respects the clerk of the peace and county council for the County of Middlesex appointed before the commencement of the Middlesex County Council (General Powers) Act, 1921.

(2) The provisions of this Act relating to superannuation, except paragraph (*c*) of subsection (1) of section nine and subsection (2) of section ten of this Act, shall not apply with respect to the county of Middlesex; and the said paragraph and subsection shall, in their application to that county, have effect as if for the references therein to the First Schedule to this Act and to the Act of 1922 there were substituted references to the Middlesex County Council Superannuation Acts, 1921 to 1930, and as if for the references therein to a post designated as an established post there were substituted references to a position which constitutes him an "officer" for the purposes of those Acts.

(3) The provisions of the Middlesex County Council Superannuation Acts, 1921 to 1930, shall have effect subject to the modifications specified in the Third Schedule to this Act.

Interpretation.

15. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"Contributing service" means service rendered by a clerk in respect of which he is a contributor under Part I. of the First Schedule to this Act:

"Joint committee" means the standing joint committee of the quarter sessions and the county council of any county appointed in accordance with the provisions of section thirty of the Local Government Act, 1888:

"Minister" means the Minister of Health:

"Local Authority" has the same meaning as in the Act of 1922.

Saving as to Administrative County of London.

16. Nothing in this Act shall apply with respect to the Administrative County of London.

Short title, extent and repeal.

17.—(1) This Act may be cited as the Local Government (Clerks) Act, 1931.

(2) This Act shall not extend to Scotland or to Northern Ireland.

(3) The enactments mentioned in the Fourth Schedule to this Act shall, save in so far as they extend to the Administrative County of London, be repealed to the extent specified in the third column of that Schedule:

Provided that, notwithstanding the repeal of section twenty-eight of the Act of 1922, service before the passing of this Act as a deputy clerk of the peace of a county or in the permanent employment of a clerk of the peace of a county for the purposes of any office held by him as such clerk shall, in reckoning service for the purposes of the Act of 1922, continue to be treated as service in the permanent employment of a local authority, and the definition of "service" contained in section three of that Act shall have effect accordingly.

SCHEDULES.

FIRST SCHEDULE.

Sections 9, 14 and 15.

PROVISIONS OF THE LOCAL GOVERNMENT AND OTHER OFFICERS' SUPERANNUATION ACT, 1922, APPLIED WITH MODIFICATIONS AS RESPECTS CLERKS OF COUNTY COUNCILS APPOINTED AFTER THE PASSING OF THIS ACT.

PART I.

PROVISIONS APPLICABLE WHERE 12 & 13 GEO. 5. C. 59 IS NOT ADOPTED.

Contributions.

Clerks to contribute.

1.—(1) Subject to the provisions of this Schedule, every clerk of a county council shall contribute to the county fund an amount equal to five per cent. of his salary and that amount shall be deducted from the salary payable to him by the county council and shall be carried to the credit of, and form part of, the county fund:

Provided that no such contribution shall be made by any clerk in respect of service after the date upon which his office would have become vacant if the period of his office had not been extended by a resolution of the county council.

(2) No contributions shall be required to be made under this Part of this Schedule by any clerk who is fifty-five years of age or more at the date upon which the provisions of this Part of this Schedule first become applicable in his case, unless his service or any part of his service with another local authority is, under the provisions of this Schedule, reckoned as contributing service.

Superannuation Allowances and Gratuities.

Title to superannuation allowances.

2. Subject to the provisions of this Schedule every clerk of a county council who—

(*a*) having completed not less than ten years' contributing service has become incapable of discharging the duties of his office with efficiency by reason of permanent ill-health or infirmity of mind or body; or

1ST SCH. —*cont.*

(*b*) having completed not less than forty years' contributing service has attained the age of sixty years; or

(*c*) having completed not less than ten years' contributing service has attained the age of sixty-five years;

shall be entitled, on ceasing to hold his office, to receive from the county council during his life a superannuation allowance according to the scale provided by this Schedule.

Scale of superannuation allowances.

3. The superannuation allowance to be paid to a person in accordance with the provisions of this Schedule shall be calculated in accordance with the following scale, that is to say: In respect of every year of his contributing service, one-sixtieth of the average amount of his salary during the five years immediately preceding the day on which he ceases to hold his office or attains the age of sixty-five years, whichever be the earlier:

Provided that—

(i) no service in excess of forty years' service shall be reckoned for the purposes of this section; and

(ii) any part of a superannuation allowance which is calculated by reference to a war bonus or other similar allowance shall be calculated and liable to variation in accordance with the rules for the time being in force with respect to superannuation allowances of members of His Majesty's Civil Service.

Gratuities.

4.—(1) In any case in which the clerk of a county council is permanently incapacitated by an injury sustained by him in the actual discharge of his duty and without his own default and specifically attributable to the nature of his duty, the county council may grant to him, subject to such conditions as they may think fit, such gratuity by way either of a lump sum or of periodical payments as they may consider reasonable having regard to all the circumstances of the case, including any statutory right to compensation or any allowance or gratuity under this Schedule, so, however, that the sums received by him shall not exceed in the aggregate the amount of any allowance or gratuity to which he would have been entitled if he had already attained the age of sixty-five years at the date when he became incapacitated.

(2) On the retirement from service of any clerk of a county council who is not entitled to a superannuation allowance under this Part of this Schedule, the county council may grant to him such gratuity as they may by resolution determine, not exceeding a sum equal to twice the amount of his salary during the year which immediately precedes his retirement.

Return of Contributions.

1ST SCH. —*cont.*

Return of contributions with interest in certain cases.

5. If the clerk of a county council, without having become entitled to a superannuation allowance, ceases to hold his office by reason of ill-health, mental infirmity or bodily injury, he shall be entitled to receive from the county council a sum equal to the amount of all his contributions to the county fund, together with compound interest thereon, calculated to the date on which he ceases to hold his office, at the rate of three per cent. per annum by half-yearly rests.

Return of contributions without interest in certain cases.

6. If the clerk of a county council voluntarily resigns his office or is dismissed for incapacity (fraud or misconduct not being alleged) before he has, under the provisions of this Schedule, become entitled to a superannuation allowance, the county council shall pay to him a sum equal to the amount of the contributions made by him under this Part of this Schedule.

No return of contributions where transfer value paid.

7. Notwithstanding anything in the last two foregoing paragraphs of this Schedule, the county council shall not make any return of contributions with or without interest in the case of a clerk in respect of whom a transfer value is paid by the council in accordance with the provisions of this Schedule.

Return of contributions in case of death.

8.—(1) If the clerk of a county council dies before he has become entitled to or has received a superannuation allowance under this Part of this Schedule, the county council shall pay to his legal personal representative a sum equal to the amount of the contributions made by the clerk under this Part of this Schedule, together with compound interest thereon calculated to the date of his death, at the rate of three per cent. per annum by half-yearly rests.

(2) In any case in which a clerk of a county council, who is a contributor under this Part of this Schedule, dies after he has become entitled to a superannuation allowance under this Part of this Schedule and before he has received by way of superannuation allowance an amount equal in the aggregate to the amount of his contributions under this Part of this Schedule together with compound interest thereon calculated to the date of his retirement at the rate of three per cent. per annum by half-yearly rests, the county council shall pay to his legal personal representative the difference between the total amount which the clerk has received by way of superannuation allowance and the aggregate amount of his contributions under this Part of this Schedule, together with compound interest thereon calculated at the rate and in the manner aforesaid up to the date of his retirement.

1ST SCH. —*cont.*

Reckoning of Service.

Reckoning of part-time service.

9. For the purpose of calculating the superannuation allowance payable under this Part of this Schedule in respect of a full-time clerk who has formerly served as a part-time clerk or other officer or servant, the period of part-time service shall be treated as though it were whole-time service for a proportionately reduced period.

Extended service not to be reckoned.

10. Any service of a clerk after the date upon which his office would have become vacant if the period of his office had not been extended by a resolution of the county council shall be disregarded in calculating any superannuation allowance under this Part of this Schedule.

Provisions in cases of Transfer.

Provisions applicable in case of transfer from service of local authority who have not adopted 12 & 13 Geo. 5. c. 59.

11.—(1) If a clerk of a county council transfers from his office having, as the holder thereof, been a contributor to the county fund under this Part of this Schedule, so as to become, on transferring, clerk of a county council in whose case the provisions of this Part of this Schedule apply, the county council from whose service he transfers shall pay out of the county fund to the county council of which on transferring he becomes clerk a transfer value ascertained in accordance with rules to be made by the Minister, and in that case the clerk shall be entitled to such rights in respect of contributing service before the date of transfer as he would have been entitled to if that service had been contributing service with the county council to whom he has transferred :

Provided that this paragraph shall not apply where the clerk leaves the service of the council, from whose service he transfers, without the consent of that council or enters the service of the county council, to whose service he transfers, more than six months after he left the service of the first mentioned council, so, however, that any clerk may appeal to the Minister against the refusal of a county council to give their consent to his leaving their service, and the Minister, after consulting the county council, may give his consent, which shall be equivalent to the consent of the council.

(2) If any person having been in the service of a local authority and not having been, in that service, a contributor to a county fund under this Schedule or a contributor to any superannuation fund established under the Act of 1922, transfers from that service so as to become within six months after leaving that service a clerk of a county council in whose case the provisions of this Part of this Schedule apply, then, if he pays to the county council of which he so becomes clerk, in lieu of a transfer value,

1ST SCH. —*cont.*

a sum or sums to be ascertained in accordance with rules to be made by the Minister, he shall, for the purposes of this Part of this Schedule, be entitled to reckon so much of his service with the local authority as may be prescribed by the rules aforesaid in relation to the sum or sums so paid by him.

(3) The provisions of this paragraph shall not apply in the case of any clerk unless, within six months after the transfer, he satisfies the county council to whose service he transfers that the circumstances of his transfer are such as to render the said provisions so applicable.

(4) Any sum or sums paid to a county council under the foregoing provisions of this paragraph shall be paid into the county fund.

General.

Forfeiture for fraud, &c.

12. A clerk of a county council who is dismissed or resigns or otherwise ceases to hold his office in consequence of any offence of a fraudulent character or of grave misconduct shall forfeit all claim to any superannuation allowance under this Part of this Schedule:

Provided that the county council may, if they see fit, grant to him or to his wife or family a sum equal to the amount of all his contributions under this Part of this Schedule or to such part thereof as the council may think fit.

Payments and expenses under Schedule.

13. All superannuation allowances and gratuities granted, and any payments or expenses made or incurred by the county council under or in carrying into execution the provisions of this Schedule shall be paid by the council out of the county fund.

Notice to be given of certain proposals.

14. At least one month's notice in writing of any meeting of a county council at which any proposal—

(*a*) to return contributions to a clerk who has been dismissed or resigns or to grant any sum equal to the contributions paid by him; or

(*b*) to make any payment to any clerk who is dismissed or resigns or otherwise ceases to hold his office in consequence of any offence of a fraudulent character or of grave misconduct or to the wife or family of any such clerk; or

(*c*) to grant a gratuity under this Part of this Schedule;

will be considered, shall be given to every member of the council.

Superannuation allowances and gratuities not assignable.

15. Every superannuation allowance or gratuity granted under the provisions of this Part of this Schedule shall be payable to or in trust for the person to whom it is payable under those provisions and shall not be assignable or chargeable with the debts or other liabilities of the person in respect of whom it is paid.

1ST SCH. —*cont.*

Meaning of "salary."

16. For the purposes of this Part of this Schedule the expression "salary" means all salary and other payments paid or made to any clerk, as such, for his own use.

PART II.

PROVISIONS APPLICABLE WHERE 12 & 13 GEO. 5. C. 59, BECOMES APPLICABLE IN LIEU OF THE PROVISIONS OF PART I OF THIS SCHEDULE AND WHERE THE SAID PROVISIONS BECOME APPLICABLE IN LIEU OF THAT ACT.

Provisions applicable in case of clerk in office when county council adopt 12 & 13 Geo. 5. c. 59.

1. Where after the passing of this Act a county council adopt the Act of 1922, then, for the purposes of that Act, any contributing service within the meaning of this Act, rendered by the clerk of the county council before the date on which the Act of 1922 became applicable to him shall be treated as contributing service within the meaning of that Act, and contributions paid under Part I of this Schedule shall, for the purpose of the provisions of the Act of 1922 relating to the return of contributions, be treated as having been paid under that Act, and the equal annual charge payable by the council to the superannuation fund under paragraph (e) of subsection (1) of section eighteen of that Act shall be increased by such amount as may be certified by an actuary within the meaning of that Act to represent the additional burden imposed on the fund by the application of that Act to the said clerk.

Provisions applicable in case of transfer to a designated post under 12 & 13 Geo. 5. c. 59.

2. If a clerk of a county council transfers from his office, having, as the holder thereof, been a contributor to the county fund under Part I of this Schedule, to any service in which on transferring he becomes a contributor to a superannuation fund established under the Act of 1922, the county council from whose service he transfers shall pay out of the county fund a transfer value, ascertained in accordance with rules to be made by the Minister, to the local authority to whose superannuation fund the clerk becomes a contributor, and the provisions of the Act aforesaid shall apply in his case as they apply in the case of an officer transferring from the service of one local authority who have adopted that Act to a designated post in the service of another local authority who have adopted that Act.

Provisions applicable in case of transfer from a designated post under 12 & 13 Geo. 5. c. 59.

3.—(1) If any person, having been in the service of a local authority and having been, in that service, a contributor to a superannuation fund established under the Act of 1922, transfers from that service, so as to become, on transferring, a clerk of a county council in whose case the provisions of Part I of this Schedule apply, the local authority having power to administer the superannuation fund to which the person transferring has been a contributor shall pay out of that fund to the county council

1ST SCH. —*cont.*

of which on transferring he becomes clerk a transfer value ascertained in accordance with rules to be made by the Minister, and in that case any service rendered before the date of transfer by the person transferring which would have been reckoned as service for the purposes of the Act of 1922 shall, subject as hereinafter provided, be reckoned as contributing service for the purposes of Part I of this Schedule:

Provided that in respect of every period, if any, which would have been reckoned under that Act as a year of non-contributing service, the superannuation allowance payable to him under Part I of this Schedule shall not exceed one one-hundred-and-twentieth, or, if in his case the county council by resolution so decide, such proportion as may be specified by the resolution not exceeding one-sixtieth, of the average amount of his salary during the five years immediately preceding the day on which he ceases to hold his office or attains the age of sixty-five years, as the case may be.

(2) Any transfer value paid under the foregoing provisions of this paragraph shall be paid into the county fund of the county for which the person transferring becomes clerk of the county council.

Supplementary.

4.—(1) The provisions of paragraphs two, three and four of this Part of this Schedule shall not apply—

(*a*) where a person leaves the service of the local authority from whose service he transfers without the consent of that authority or enters the service of the county council to whose service he transfers more than six months after he left the service of the first mentioned local authority, so, however, that any person may appeal to the Minister against the refusal of a local authority to give their consent to his leaving their service, and the Minister, after consulting the local authority, may give his consent, which shall be equivalent to the consent of the local authority; or

(*b*) in the case of any person, unless within six months after the transfer, he satisfies the county council to whose services he transfers, that the circumstances of his transfer are such as to render the said provisions so applicable.

(2) As respects any person who, as deputy clerk of the peace for a county, has been a contributor to a superannuation fund established under the Act of 1922, the provisions of paragraphs two, three and four of this Part of this Schedule shall have effect as if, in that office, he had been in the service of a local authority.

Section 9.

SECOND SCHEDULE.

CALCULATION OF SUPERANNUATION ALLOWANCES IN THE CASE OF CLERKS APPOINTED BEFORE THE PASSING OF THIS ACT.

1. The superannuation allowance to be paid to a clerk entitled thereto under paragraph (*b*) of subsection (2) of section nine of this Act shall be calculated in accordance with the following scale, that is to say:—In respect of every year of service, one-sixtieth of the average amount of his salary and emoluments during the five years' service immediately preceding the day on which he ceases to hold his office, or, if he has been in service for less than five years, during the period for which he has been in service.

2. For the purpose of the foregoing provision—

(*a*) "salary and emoluments" means net personal salary and emoluments received by the clerk by virtue of his office as clerk of the peace, clerk of the county council, county registration officer, and any public office being an office held by him as the holder of any of the said offices or an office to which he has been appointed by or with the consent of the county council or court of quarter sessions or the joint committee, or any committee of the county council or court of quarter sessions; and

(*b*) in the case of a full-time clerk who has formerly served as a part-time officer, any period of part-time service shall be treated as though it were whole-time service for a proportionately reduced period.

Section 14.

THIRD SCHEDULE.

MODIFICATIONS OF MIDDLESEX COUNTY COUNCIL SUPERANNUATION ACTS, 1921 TO 1930.

1. The provisions of the Acts of 1921 to 1930, relating to the superannuation of officers, shall apply—

(*a*) as respects every clerk of the council of the county of Middlesex appointed after the passing of this Act subject, in the case of any person who in addition to

3RD SCH. —*cont.*

holding office as clerk of a county council also holds office as clerk of the peace of the county, to the modification that his salary as clerk of the county council shall, for the purposes of determining the amount of the contributions to be made by and in respect of him and of calculating the amount of any superannuation allowance payable to him under the provisions of those Acts, be deemed to be increased by an amount equal to his salary as clerk of the peace (including any payment made to him as such for his own use) so, however, that if any such person holds the office of clerk of the peace after having been dismissed from the office of clerk of the county council, any superannuation allowance payable to him in respect of any period while he so holds the office of clerk of the peace shall be of such amount only as would have been payable to him if this modification had not been applicable in his case;

(*b*) as respects the clerk of the peace and county council for the county of Middlesex appointed before the passing of the Act of 1921, subject to the modifications that subsection (2) of section forty-seven of the Act of 1930 shall not apply and that as from the passing of this Act the council of the county of Middlesex shall pay to him a sum equal to the amount of the contributions paid by him to the superannuation fund established under those Acts without any interest thereon, and no further contributions shall be made in respect of him to that fund, so, however, that all his service until he attains the age of sixty-five years shall nevertheless be deemed to be contributing service, and for the purposes of the provisions of those Acts relating to payments in the case of death he shall be deemed to have made all the contributions which would have been payable by him but for this provision;

(*c*) as respects any person who, immediately before the passing of this Act, held office as deputy clerk of the peace of the county of Middlesex or as an officer in the service in an established capacity of the clerk of the peace in his office as clerk of the peace of that county, as if in the office so held by him he had been and continued to be in the whole-time service of the county council:

Provided that, for the purposes of the application of the said provisions as respects the person who immediately before the commencement of the Act of 1921 held office as deputy clerk of the peace of the county of Middlesex, subsection (1) of section twenty-three of that Act shall apply as if he had attained the age of

3RD SCH. —*cont.*

sixty-five years on the date on which he resigns office and as if a resolution relating to him had been passed by the council under section forty-eight of that Act specifying the maximum number of years which may lawfully be specified in any such resolution or such number as will, with his actual number of years of service or aggregate years of service, amount on that date to forty, whichever is the less, so, however, that this proviso shall not apply as respects any person to whom the provisions of the Acts of 1921 to 1930 become applicable by virtue of sub-paragraph (*a*) of this paragraph subject to the modification therein mentioned, and the deputy clerk aforesaid shall not be deemed to have resigned office until the expiration of three months after notice in writing given by him of his resignation from the office of deputy clerk of the peace and every other office held by him under the county council or joint committee.

2. Paragraph (2) of section forty-four of the Act of 1921 (which relates to the vacation of the office of clerk of the peace on the ground of age) shall apply as respects the clerk of the peace and county council for the county of Middlesex appointed before the commencement of that Act in relation both to the office of clerk of the peace and to the office of clerk of the county council.

3. Save as hereinbefore in this Schedule expressly provided, the Acts of 1921 to 1930 shall cease to apply as respects any clerk of the county council, clerk of the peace, deputy clerk of the peace, or officer in the service in an established capacity of the clerk of the peace in his office as clerk of the peace.

4. Any officer to whom the Acts of 1921 to 1930, as modified by the foregoing provisions of this Schedule, would apply if he were a whole-time officer, shall not be deemed for the purposes of those Acts to be other than a whole-time officer by reason only of his holding the office of clerk of the peace or deputy clerk of the peace or being, with the consent of the county council, in the service of the clerk of the peace for the purposes of his office as such clerk.

5. In this Schedule, the expression "the Acts of 1921 to 1930" means the Middlesex County Council Superannuation Acts, 1921 to 1930, the expression "the Act of 1921" means the Middlesex County Council (General Powers) Act, 1921, and the expression "the Act of 1930" means the Middlesex County Council Act, 1930.

20 & 21 Geo. 5. c. clxvi.

FOURTH SCHEDULE.

Section 17.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
1 Will. & Mary, c. 21.	An Act for enabling Lords Commissioners for the Great Seale to execute the office of Lord Chancellor or Lord Keeper.	Sections four, five and six.
14 & 15 Vict. c. 55.	Criminal Justice Administration Act, 1851.	So far as they relate to clerks of the peace for counties, sections nine, ten and eleven, and in section twelve the words " by virtue of any order made under this Act " and the words " under this Act."
34 & 35 Vict. c. 73.	The Lancaster County Clerk Act, 1871.	The whole Act.
39 Vict. c. iv.	An Act to amend the Act for making regulations as to the office of clerk of the peace for the County Palatine of Lancaster.	The whole Act.
51 & 52 Vict. c. 41.	Local Government Act, 1888.	In section thirty, in subsection (1) thereof, the words " and the clerk of the peace " and in subsection (3) thereof the words " or to the clerk of the peace "; in section eighty-three, paragraphs (1), (2), (3), (5) and (9).
12 & 13 Geo. 5. c. 59.	Local Government and other Officers' Superannuation Act, 1922.	Section twenty-eight.