CHAPTER lxx.

An Act to empower the urban district council of Paignton to construct additional waterworks to make further provision with regard to their water undertaking and the supply of water to other local authorities in bulk to extend the Council's water limits to make further and better provision for the health local government and improvement of their district and for other purposes. [4th August 1926.] A.D. 1926.

WHEREAS by virtue of the Paignton Urban District Water Act 1900 and the Paignton Urban District Council Act 1911 the urban district council of Paignton (in this Act referred to as "the Council") are the owners of waterworks and are empowered to supply and are supplying water within the urban district of Paignton (in this Act referred to as "the district") and also to certain local authorities in bulk:

And whereas the supply of water from the said waterworks is inadequate to meet the present and growing demand for such supply within the district and it is expedient to empower the Council to make and maintain the additional waterworks by this Act authorised:

And whereas by virtue of certain agreements made between the Council on the one hand and the urban district council of Teignmouth and the urban district

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council of Brixham respectively on the other hand under the powers of section 30 (Power to supply water in bulk) of the Paignton Urban District Water Act 1900 the Council have undertaken certain obligations in regard to the supply of water in bulk to the said district councils subject to the provision required by the said section that the supplies shall not be given if and so long as the supplies would interfere with the supply of water for domestic purposes within the district:

And whereas the local sources of water supply of the urban district council of Teignmouth and the urban district council of Brixham are insufficient for the requirements of their respective districts and it is therefore expedient that the Council should be empowered as by this Act provided to enter into agreements with the said district councils whereby a definite proportion of the quantity of water which may from time to time be obtained from certain of the existing and the proposed new waterworks of the Council may be made available to meet the requirements of consumers of water in the urban districts of Teignmouth and Brixham:

And whereas it is expedient to extend the limits of the Council for the supply of water as by this Act provided:

And whereas it is expedient to increase the maximum charges which the Council are entitled to demand and receive for the supply of water and to increase the borrowing powers of the Council in respect of their water undertaking and to make further provision in regard to such undertaking:

And whereas it is expedient that further powers be conferred upon the Council for the regulation of streets buildings sewers and drains and other sanitary matters and otherwise in relation to the health local government regulation and improvement of the district:

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

And whereas an estimate has been prepared by the Council for the purpose hereinafter mentioned and such estimate is as follows:—

	£
For the construction of the waterworks authorised by this Act - - -	65,550

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

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

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

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

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the Paignton Urban District Council Act 1926.

Division of Act into Parts.

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

Part I.—Preliminary.
Part II.—Waterworks.
Part III.—Lands.
Part IV.—Supply of water.
Part V.—Streets buildings sewers and drains.
Part VI.—Infectious disease and sanitary provisions.
Part VII.—Financial.
Part VIII.—Miscellaneous.

Incorporation of Acts.

3. The following Acts and parts of Acts (so far as the same are applicable for the purposes and are not

A.D. 1926. inconsistent with the provisions of this Act) are hereby incorporated with this Act (that is to say) :—

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

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

(2) The Waterworks Clauses Act 1847 except the words "with the consent in writing of the "owner or reputed owner of any such house "or of the agent of such owner" in section 44 and except sections 75 to 83 of that Act;

(3) The Waterworks Clauses Act 1863; and

(4) The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway.

Interpretation.

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

"the Council" means the Paignton Urban District Council;

"the district" means the urban district of Paignton;

"the district fund" and "the general district rate" mean respectively the district fund and the general district rate of the district;

"the clerk" "the treasurer" "the surveyor" "the medical officer" and "the sanitary inspector" mean respectively the clerk the treasurer the surveyor and the medical officer of health of the district and any sanitary inspector appointed by the Council in pursuance of the powers of any local or public Act and respectively include any person duly appointed by the Council to discharge temporarily the duties of any such officers;

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

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

"the Act of 1898" means the Paignton Improvement Act 1898;

"the Act of 1900" means the Paignton Urban District Water Act 1900;

"the Act of 1911" means the Paignton Urban District Council Act 1911;

"the water limits" means the limits within which the Council are for the time being authorised to supply water;

"the water undertaking" means the water undertaking of the Council as from time to time authorised;

"infectious disease" means any infectious disease to which the Infectious Disease (Notification) Act 1889 for the time being applies within the district;

"child" means a person under the age of fourteen years;

"Sunday school" means any school in which children are assembled for instruction on a Sunday or specially for religious instruction whether or not on a Sunday;

"food" includes every article used for food or drink by man other than drugs or water;

"daily penalty" means a penalty for each day on which any offence is continued by a person after conviction;

"revenues of the Council" includes the revenues of the Council from time to time arising from any land undertaking or other property for the time being of the Council and the rates or contributions leviable by or on the order or precept of the Council;

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"the Public Health Acts" means the Public Health Act 1875 and the Acts amending and extending the same;

"statutory borrowing power" means any power whether or not coupled with a duty of borrowing or continuing on loan or re-borrowing money or of redeeming or paying off or creating or continuing payment of or in respect of any annuity rentcharge rent or other security representing or granted in lieu of consideration money for the time being existing under any Act of Parliament public or local passed or to be passed or under any Provisional Order confirmed by Act of Parliament passed or to be passed or under any order or sanction of any Government department made or given or to be made or given by authority of any Act of Parliament passed or to be passed;

"statutory security" means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or other local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Council.

(2) For the purposes of this Act the expressions "the promoters of the undertaking" "the company" and "the undertakers" in the Lands Clauses Acts the Railways Clauses Consolidation Act 1845 and the Waterworks Clauses Acts 1847 and 1863 shall be construed to mean the Council and the expression "the railway" shall be construed to mean so much of any aqueduct conduit line or lines of pipes by this Act authorised as shall not be constructed in a highway and "the centre of the railway" shall be construed to mean so much of such aqueduct conduit line or lines of pipes as aforesaid.

PART II.

WATERWORKS.

Power to make waterworks.

5.—(1) Subject to the provisions of this Act the Council may wholly in the county of Devon and in the lines and situation and upon the lands delineated on the deposited plans and described in the deposited book of reference make and maintain the following works shown on the deposited plans and sections (that is to say) :—

Work No. 1 An aqueduct conduit or line or lines of pipes with weir and intake from the River Swincombe commencing in the said river at a point thereon distant one thousand and seventy yards or thereabouts measured in a south-westerly direction from the centre of the bridge over the said river carrying the footpath to the farmstead known as Swincombe in the parish of Lydford in the rural district of Tavistock and terminating in the Venford reservoir at or near the western end of the dam thereof in the parish of Holne in the rural district of Totnes the whole of the said work being situated in the parishes and rural districts named;

Work No. 2 An aqueduct conduit or line or lines of pipes commencing at or in the aqueduct conduit or line or lines of pipes of the Council at or near the intersection of roads distant one hundred yards or thereabouts measured along the highway in a south-easterly direction from the junction of roads known as Parkhill Cross in the parish of Ipplepen in the rural district of Newton Abbot and terminating in the reservoir of the Council on Beacon Hill in the parish of Marldon in the rural district of Totnes the whole of the said work being situated in the parishes and rural districts named;

Work No. 3 An aqueduct conduit or line or lines of pipes commencing at or in the intended aqueduct conduit or line or lines of pipes (Work No. 2) at or near the junction of roads situated at a distance of ninety yards or thereabouts measured in a southerly direction from

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the south-eastern corner of the building called Westerland House in the parish of Marldon in the rural district of Totnes and terminating in the district at or near the junction of roads distant one hundred and sixty yards or thereabouts measured in a westerly direction from the north-western corner of Windmill Cottage in the district the whole work being situated in the parishes rural and urban districts named.

(2) In addition to the foregoing works the Council may upon the said lands make and maintain all such buildings machinery works and apparatus of whatever character as may be necessary or convenient in connection with or subsidiary to the before-mentioned works or any of them but nothing in this subsection shall exonerate the Council from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them.

Limits of deviation.

6. In the construction of the works authorised by this Act the Council may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and where in any street or road no such limits are shown the boundaries of such street or road shall be deemed to be such limits and they may also deviate vertically from the levels shown on the deposited sections to any extent not exceeding five feet upwards and to any extent downwards:

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

Provided also that in constructing Work No. 2 by this Act authorised in or under the highway over the Dainton Tunnel in the parish of Ipplepen the Council shall not without the consent in writing of the Great Western Railway Company deviate vertically in a downward direction from the levels shown on the deposited sections to a greater extent than twenty feet.

Power to take waters.

7. Subject to the provisions of this Act the Council may collect impound take use divert and appropriate for the purposes of their waterworks or for any purposes of this Act the waters of the rivers Strane and Swincombe and their respective tributaries and all such springs

streams and waters as may be situate or flowing within the drainage area of the said rivers and tributaries or may be intercepted by the works authorised by this Act. A.D. 1926.

Period for completion of works.

8.—(1) If the works authorised by this Part of this Act are not completed within the period of ten years from the thirty-first day of December one thousand nine hundred and twenty-six then on the expiration of that period the powers by this Act granted for the making thereof or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

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

Restrictions on taking of water from River Swincombe.

9.—(1) The Council shall not take any water from the River Swincombe during such time as the flow of water in the said river at the point of abstraction shall be less than at the rate of one million eight hundred thousand gallons per day of twenty-four hours but during such time as the flow is in excess of such rate the Council may take three-fourths of the excess beyond the said one million eight hundred thousand gallons subject to the restrictions in this section hereinafter contained Provided that the Council (after giving notice in writing to the Dart District Fishery Board and to the owners of the mills on the River Dart known as Buckfast Woollen Mills Kilbury Paper Mills Town Mills Totnes Staverton Bridge Mills and Town Mills Staverton) may apply to the Minister of Agriculture and Fisheries for leave to take the whole of the excess beyond the said one million eight hundred thousand gallons and the said Minister if he is satisfied (after considering any representations which may be made to him and holding an inquiry if he deems it necessary) that further supplies of water are required by the Council shall make an order removing the said limitation of three-fourths of the excess beyond one million eight hundred thousand gallons subject to the said restrictions which order shall have effect as if enacted in this Act.

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(2) The Council shall not take from the said river any quantity of water exceeding seven million gallons in any day of twenty-four hours.

(3) During any period when the Venford reservoir is full the Council shall not take from the said river any quantity of water exceeding the quantity required to maintain the full storage of the said reservoir.

(4) During the five weeks commencing on the first day of October in each year the Council shall not take any water from the said river except in any period when the surface of the water in the said reservoir is more than ten feet below the sill of the waste weir thereof The said depth shall be clearly marked on the dam of the Venford reservoir.

(5) For the purpose of measuring the quantity of water taken by the Council from time to time from the said river and except during the prevalence of an abnormal flood the quantity of water flowing from time to time in the said river immediately below the point of abstraction the Council shall erect and maintain at or near the commencement of Work No. 1 by this Act authorised proper and sufficient automatically recording measuring gauges over or through which respectively the water so taken and the water so flowing shall pass.

(6) The said gauges and the records obtained by means thereof shall be open to the examination of all persons interested in the flow of the said river or their duly accredited representatives and such persons or representatives as aforesaid may take copies of the said records if they so desire.

(7) The design of the said gauges shall be such as may be agreed between the Minister of Agriculture and Fisheries and the Council or as failing such agreement shall be determined by an engineer to be appointed by the President of the Institution of Civil Engineers on the application of either the said Minister or the Council.

(8) If after commencing to take water from the said river the Council shall be guilty of any breach of any of the provisions of this section they shall for every day on which such breach occurs forfeit and pay to the persons injuriously affected by such breach (including the

Dart District Fishery Board) who shall sue for and recover the same the sum of five pounds. A.D. 1926.

(9) Nothing in this Act shall exempt the Council from the obligations imposed by sections 19 and 23 of the Salmon and Freshwater Fisheries Act 1923.

(10) Before commencing to take water from the said river by means of Work No. 1 by this Act authorised the Council shall pay to the Minister of Agriculture and Fisheries the sum of two hundred and fifty pounds to be applied by him in the improvement of the fisheries of the River Dart.

Council may provide gauges.

10.—(1) The Council may provide place and maintain at any point or points in the River Swincombe and above or below the intake authorised by the section of this Act of which the marginal note is "Power to make waterworks" such gauges and other apparatus for measuring the flow of the river as they may consider necessary.

(2) The said gauges shall be erected and maintained to the approval of the Minister of Agriculture and Fisheries and in such manner as to interfere as little as reasonably possible with the natural flow of the said River Swincombe and with the passage of fish up and down the said river.

Access to commons.

11. The public shall be entitled to a privilege at all times of enjoying air exercise and recreation on such parts of any common or unenclosed land acquired by the Council in the county of Devon (and whether any common or commonable rights in or over such land shall have been acquired or extinguished under the provisions of this Act or not) as shall not be included within the limits of deviation for such of the works mentioned in this Act as may be constructed on or above the surface of the ground subject nevertheless to the provisions of and to the byelaws authorised by this Act.

Byelaws for preventing pollution of water.

12.—(1) The Council may make byelaws for preventing the pollution fouling or contamination of the water which they are authorised to take for the purposes of any of their waterworks and may by such byelaws prescribe the construction maintenance and use of proper drains sewers and works and make provision for

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(2) The byelaws made under this section shall be in force within the areas from or through which the said waters flow or within so much of those areas as may be defined in the byelaws.

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

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

(5) All byelaws made under this section shall be subject to the approval of the council of every district comprising any part of the area within which it is proposed that they shall be in force Provided that such approval shall not be necessary where in the opinion of the Minister of Health it has been unreasonably withheld.

(6) The Council shall pay compensation to the owners of and other persons interested in any lands in respect of which byelaws shall be made under the provisions of this section whose legal rights shall be injuriously affected by the restrictions imposed by such byelaws or who are required by such byelaws to construct any works or to do any act or thing which could not lawfully be required by the local sanitary authority of the district in which such lands are situate and such compensation shall be settled in default of agreement by arbitration in accordance with the provisions of the Arbitration Act 1889.

(7) If for the purpose of complying with any byelaws made by the Council under this section any local authority shall construct any new drain sewer or works

or enlarge any existing drain sewer or works the Council shall pay to the local authority—

(*a*) the interest and sinking fund payments or contributions incurred annually by the local authority in respect of any moneys borrowed for and/or

(*b*) such annual sum as the Council and the local authority agree or the Minister of Health on the application of either party determines in respect of the amount expended by the local authority otherwise than out of borrowed moneys on

the construction of the whole or such part of the drain sewer and works or the whole or such portion of the enlargement of the drain sewer and works (as the case may be) as from time to time the Council and the local authority agree or the said Minister on the application of either party determines would not be necessary except for the purpose of complying with the said byelaws :

Provided that no application shall be made to the said Minister for a determination of any question as to any annual sum to be paid by the Council under this subsection within two years after the last previous occasion on which the same question shall have been agreed or determined by the said Minister as the case may be.

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

Works to form part of undertaking.

13. The works authorised by and all lands acquired by the Council under the powers of this Act shall for all purposes whatsoever form part of and be comprised in the water undertaking.

Discharge of water into streams.

14.—(1) For the purpose of executing constructing enlarging extending repairing cleansing emptying or examining any reservoir tank aqueduct line of pipes or other work for the time being belonging to the Council the Council may cause the water in any such work to be discharged into any available stream watercourse or ditch :

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Provided that any water so discharged shall be as free as may be reasonably practicable from mud or solid or offensive matter and from matter injurious to fish or spawn or spawning beds.

(2) In the exercise of the powers conferred by this section the Council shall do as little damage as may be and shall pay compensation to all persons for all damage sustained by them by reason or in consequence of the exercise of such power the amount of compensation to be settled in case of difference by arbitration in accordance with the provisions of the Arbitration Act 1889.

(3) The powers of this section shall not be exercised so as to damage or affect the railway works or property of the Great Western Railway Company.

Telephonic wires and apparatus in streets.

15.—(1) Subject to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets the Council may for the purposes of effecting telegraphic or telephonic communication between to or from the Council's works and offices lay down maintain alter repair and renew mains tubes electric and other wires and apparatus in the soil of any street road highway or footpath within the water limits or in which any mains pipes or apparatus of the Council may be constructed or laid under the powers of this Act.

(2) Any electric wires telegraphs telephones or other apparatus or appliances laid down or maintained by the Council under the provisions of this Act shall not be used for the transmission of telegrams in contravention of the exclusive privileges conferred upon the Postmaster-General by the Telegraph Act 1869 and shall be so constructed maintained and used as to prevent interference with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General or with telegraphic communication by means of any such telegraphic line.

(3) Provided that the Council shall not lay down any tubes electric and other wires and apparatus in across or under any road bridge or approach belonging to the Great Western Railway Company except with the consent in writing of that company which consent shall not be unreasonably withheld and under the superintendence (if given) and to the reasonable satisfaction of the engineer of that company and if any

difference arises as to whether such consent is unreasonably withheld or whether the requirements of the said engineer are reasonable or otherwise such difference shall be referred to an arbitrator to be appointed on the application of either party by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any such reference.

Powers in relation to water mains.

16. Subject to the provisions of this Act the Council shall have and may exercise the powers which a local authority would have under section 54 of the Public Health Act 1875 with respect to the carrying of water mains within and without their district and for the purposes thereof the water limits shall be deemed to be the district.

Dwelling-houses for persons in Council's employ.

17. The Council may purchase or take on lease dwelling-houses for persons employed by them for the purposes of the water undertaking and may erect maintain and let dwelling-houses for and to such persons upon any lands for the time being belonging to the Council for the purposes of the water undertaking and (subject to the terms of the lease) upon any lands for the time being leased to the Council for the purposes of the water undertaking.

Extension of time for construction of waterworks authorised by Act of 1911.

18. Section 10 (Period for completion of works) of the Act of 1911 shall have effect as if the words "seventeen years" were inserted therein instead of the words "ten years."

For protection of Plymouth Corporation.

19. Notwithstanding anything contained in this Part of this Act the following provisions for the protection and benefit of the mayor aldermen and burgesses of the borough of Plymouth (in this section referred to as "the corporation") shall unless otherwise agreed in writing between the Council and the corporation apply and have effect (that is to say) :—

(1) In the event of the Council's acquiring under the provisions of this Act any of the lands shown on the deposited plans and adjoining the Devonport leat shown on the deposited plans the Council shall not interfere with or disturb any flood hatches wash-outs or overflows from the Devonport leat or obstruct the

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flow of water from such flood hatches wash-outs or over-flows over the said lands to be acquired by the Council and shall not interfere with or disturb the tunnel known as the Nun's Cross Tunnel in which the Devonport leat is conveyed or the surface of the ground over that tunnel :

(2) The Council shall not interfere with the rights of the Corporation under the Act 33 George III. chapter LXXXV. to take the waters of the two streams forming the head waters of the River Swincombe near Nun's Cross above the point at which the said streams communicate with the Devonport leat :

(3) The Council shall not in the construction of the works authorised by this Part of this Act or in the exercise of the powers conferred thereby take away diminish alter prejudice or affect any property and rights belonging to or enjoyed by the corporation :

(4) If any dispute shall arise between the Council and the corporation respecting the provisions of this section or any of them such dispute shall be settled by the arbitration of a single arbitrator to be agreed upon or failing agreement to be appointed on the application of either party after notice in writing to the other by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any such arbitration.

For protection of Great Western Railway Company.

20. The provisions of paragraphs (*b*) to (*e*) inclusive and (*g*) and (*h*) of section 13 (For protection of Great Western Railway Company) of the Act of 1900 shall (mutatis mutandis) apply to the works authorised by and constructed under the powers of this Part of this Act.

As to Wheal Emma leat.

21. Nothing in this Act shall annul or be deemed to annul such rights (if any) as at the passing of this Act may be incident to the abstraction of water from the River Swincombe by means of the Wheal Emma leat and the use of such water but this provision shall not imply or recognise or be deemed to imply or recognise the existence of any such rights.

Part III.

Lands.

Power to acquire lands.

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

Limiting quantity of common lands to be taken.

23. The quantity of common or commonable lands which may be taken by the Council under the powers of this Act shall not exceed the following (that is to say) :—

Name of Common.	Parish in which the lands are situate.	Quantity to be taken.
		Acres.
Dartmoor Forest -	Lydford - - -	3,000
Holne Moor - -	Holne - - -	1

Period for compulsory purchase of lands.

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

Owners may be required to sell parts only of certain lands and buildings.

25.—(1) Whereas in the construction of the works authorised by this Act or otherwise in the exercise by the Council of the powers of this Act it may happen that portions only of the properties numbered on the deposited plans 80 and 89 in the parish of Lydford (in this section referred to as "the said properties") will be sufficient for the purposes of the Council and that such portions or some other portions less than the whole can be severed from the remainder of the said properties without material detriment thereto Therefore the following provisions shall have effect :—

(*a*) The owners of and persons interested in any of the said properties or each or any of them are hereinafter included in the term "the owner";

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(*b*) If for twenty-one days after the service of notice to treat in respect of a specified portion of any of the said properties the owner shall fail to notify in writing to the Council that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto he may be required to sell and convey to the Council such portion only without the Council being obliged or compellable to purchase the whole the Council paying for the portion so taken and making compensation for any damage sustained by the owner by severance or otherwise;

(*c*) If within such twenty-one days the owner shall by notice in writing to the Council allege that such portion cannot be so severed the tribunal shall in addition to the other questions required to be determined by it determine whether the portion of the said property specified in the notice to treat can be severed from the remainder without material detriment thereto and if not whether any and what other portion less than the whole (but not exceeding the portion over which the Council have compulsory powers of purchase) can be so severed;

(*d*) If the tribunal determine that the portion of the said property specified in the notice to treat or any such other portion as aforesaid can be severed from the remainder without material detriment thereto the owner may be required to sell and convey to the Council the portion so determined to be so severable without the Council being obliged or compellable to purchase the whole the Council paying such sum for the portion taken by them including compensation for any damage sustained by the owner by severance or otherwise as shall be awarded by the tribunal;

(*e*) If the tribunal determine that the portion of the said property specified in the notice to treat can notwithstanding the allegation of the owner be severed from the remainder without material detriment thereto the tribunal may in its absolute discretion determine and order that

the costs charges and expenses incurred by the owner incident to the determination of any matters under this section shall be borne and paid by the owner;

(*f*) If the tribunal determine that the portion of the said property specified in the notice to treat cannot be severed from the remainder without material detriment thereto (and whether or not it shall determine that any other portion can be so severed) the Council may withdraw their notice to treat and thereupon they shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice;

(*g*) If the tribunal determine that the portion of the said property specified in the notice to treat cannot be severed from the remainder without material detriment thereto but that any such other portion as aforesaid can be so severed the Council in case they shall not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion thereof as the tribunal shall having regard to the circumstances of the case and their final determination think fit.

(2) The provisions of this section shall be in force notwithstanding anything in the Lands Clauses Consolidation Act 1845 contained and nothing contained in or done under this section shall be held as determining or as being or implying an admission that any of the said properties or any part thereof is or is not or but for this section would or would not be subject to the provisions of section 92 of the Lands Clauses Consolidation Act 1845.

(3) The provisions of this section shall be stated in every notice given thereunder to sell and convey any premises.

Extinction of private rights of way.

26.—(1) All private rights of way over any lands which the Council are authorised by this Act to acquire compulsorily shall as from the date of the acquisition of such lands by the Council be extinguished.

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(2) Provided that the Council shall make full compensation to all persons interested in respect of any such rights and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Compensation in case of recently acquired interests.

27. In settling any question of disputed purchase money or compensation under this Act the tribunal settling the same shall not award any sum of money for or in respect of any improvement alteration or building made or for or in respect of any interest in lands created after the nineteenth day of November one thousand nine hundred and twenty-five if in the opinion of such tribunal the improvement alteration or building or the creation of the interest in respect of which the claim is made was not reasonably necessary and was made or created with a view to obtaining or increasing compensation under this Act.

Powers for protection of water supply.

28.—(1) For the purpose of protecting against pollution nuisance encroachment or injury any of the waters which the Council are empowered to take or which may flow into any waterworks of the Council the Council may by agreement purchase take on lease or acquire any lands and may hold such lands and any other lands which the Council may have acquired for the purposes of the water undertaking so long as they shall deem it necessary or expedient for those purposes:

Provided that the Council shall not create or permit the creation or continuance of any nuisance on any lands acquired under this section nor without the approval of the Minister of Health erect any buildings thereon except offices and dwellings for persons in their employment and such buildings and works as may be incident to or connected with the water undertaking.

(2) The Council may in and upon the lands referred to in subsection (1) of this section construct and lay down drains sewers watercourses and other works and conveniences necessary or proper for the purpose of intercepting or taking all foul waters arising or flowing upon such lands or necessary or proper for preventing the water which the Council are empowered to take from being polluted and the Council may for the purposes aforesaid carry any such drain sewer or watercourse under across or along any street or road traversing the said lands

subject and according to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes.

(3) The Council may make and carry into effect agreements with the owners lessees or occupiers of any lands with reference to the execution by the Council or such owners lessees or occupiers of such works as may be necessary for the purpose of draining such lands or any of them or for more effectually collecting conveying and preserving the purity of the waters which the Council are for the time being authorised to take.

Purchase of additional lands by agreement.

29.—(1) Subject to the provisions of this Act the Council in addition to any other lands acquired by them in pursuance of this Act or any other Act or Order relating to the water undertaking may by agreement purchase take on lease acquire and hold further lands for the purposes of this Act or of the water undertaking but (except with the consent of the Minister of Health) the quantity of lands held by the Council in pursuance of this section shall not at any time exceed ten acres.

(2) The Council may on any lands acquired under this section or held for the purposes of the water undertaking execute for the purposes of or in connection with their waterworks any of the works (other than wells and works for taking or intercepting water) and exercise any of the powers mentioned in or conferred by section 12 of the Waterworks Clauses Act 1847.

(3) Provided that the Council shall not create or permit the creation or continuance of any nuisance on any such lands nor erect any buildings thereon except offices and dwellings for persons in their employment and such buildings and works as may be incident to or connected with the water undertaking.

Power to retain sell &c. lands.

30. Notwithstanding anything in any other Act or Acts to the contrary the Council may retain hold and use for such time as they may think fit or may sell lease exchange or otherwise dispose of in such manner and for such consideration and purpose and on such terms and conditions as they may think fit and in case of sale either in consideration of the execution of works or of a supply of water or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands or any interest therein acquired by them

A.D. 1926. under this Act or any other Act or Order relating to the water undertaking and may sell exchange or dispose of any rents reserved on the sale lease exchange or disposition of such lands or interests therein and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange.

Proceeds of sale of surplus lands.

31.—(1) So long as any lands remain to be acquired by the Council under the authority of this Act or any other Act or Order relating to the water undertaking the Council may so far as they consider necessary apply any capital moneys received by them on the re-sale or exchange of or by leasing any lands acquired under the powers of the said Acts in the purchase of lands so remaining to be acquired but the Council shall apply any capital moneys so received and not applied as aforesaid in or towards the extinguishment of any loan raised by them under the powers of the said Acts or under any other power of raising money for the purpose of the water undertaking and such application shall be in addition to and not in substitution for any other mode of extinguishment provided for by this Act or any other Act under which such loans have been raised except to such extent and upon such terms as may be approved by the Minister of Health.

(2) Provided that—

(*a*) The amount to be applied in the purchase of lands under this section shall not exceed the amount for the time being unexhausted of the borrowing powers conferred by the said Acts;

(*b*) The borrowing powers conferred by the said Acts shall be reduced to the extent of the amount applied in the purchase of lands under the provisions of this section.

(3) Subject as aforesaid any capital moneys received by the Council under the section of this Act of which the marginal note is "Power to retain sell &c. lands" shall be applied in such manner as may be approved by the Minister of Health.

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32. Subject to the provisions of this Act the following provisions of the Acts of 1900 and 1911 shall apply for the purposes of this Act as if the same were with any necessary modifications re-enacted herein (that is to say) :—

Application of provisions of Acts of 1900 and 1911 relating to lands.

Act of 1900—

Section 24. (Reservation of water rights &c. on sale).

Act of 1911—

Section 12 (Council may acquire easements only in certain cases);

Section 13 (Correction of errors &c. in deposited plans and book of reference);

Section 14 (Persons under disability may grant easements &c.).

Part IV.

Supply of Water.

Extension of water limits.

33. From and after the passing of this Act the limits within which the Council may supply water shall extend to and include the parish of Churston Ferrers in the rural district of Totnes and the Council may for the purposes of such supply exercise within the said parish the same powers as they are authorised to exercise under the Acts and Orders relating to the water undertaking and shall be subject to the same obligations as they are subject to in respect of water supply under the said Acts and Orders.

Confirming scheduled agreements and provisions as to supply of water in bulk.

34.—(1) The agreement made between the Council of the one part and the urban district council of Teignmouth (in this section referred to as "the Teignmouth Council") of the other part as set forth in the First Schedule to this Act and the agreement made between the Council of the one part and the urban district council of Brixham (in this section referred to as "the Brixham Council") of the other part as set forth in the Second Schedule to this Act are hereby confirmed and made binding upon the parties thereto respectively.

(2) The Council on the one hand and the Teignmouth Council or the Brixham Council on the other hand may

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from time to time enter into and carry into effect agreements for the modification or amendment of the scheduled agreements and for the supply of water in bulk to the Teignmouth Council and the Brixham Council and if and so long as the maximum quantity of water to be supplied thereunder shall not exceed—

(*a*) In the case of the Teignmouth Council six hundred thousand gallons per day or such quantity as may from time to time be substituted therefor under the provisions of clause 9 of the agreement set forth in the First Schedule to this Act; and

(*b*) In the case of the Brixham Council one hundred and eighty thousand gallons per day or such quantity as may from time to time be substituted therefor under the provisions of clause 7 of the agreement set forth in the Second Schedule to this Act;

any such agreement may provide notwithstanding anything contained in the proviso to section 30 (Power to supply water in bulk) of the Act of 1900 that in the event of a deficiency in the quantity of water available from the works of the Council a definite proportion or share of the water available shall be supplied to the Teignmouth Council or the Brixham Council as the case may be.

Rates for supply of water for domestic purposes.

35. As from the thirtieth day of September one thousand nine hundred and twenty-six section 33 (Provisions as to water rates) of the Act of 1900 shall be repealed and in lieu thereof the following provisions shall have effect (that is to say):—

The Council shall at the request of the owner or occupier of any dwelling-house or part of a dwelling-house entitled to demand a supply of water for domestic purposes furnish to such owner or occupier a sufficient supply of water for domestic purposes at a rate per annum not exceeding fifteen per centum upon the rateable value of the premises so supplied:

Provided that the Council shall not be required to supply any premises with water at a less sum than eight shillings and eight-pence per annum.

The rateable value of any such premises as aforesaid shall be ascertained by the valuation list in force at the commencement of the quarter for which the rate accrues or if there is no such list in force by the last rate made for the relief of the poor Provided that where the water rate is chargeable on the rateable value of a part only of any hereditament entered in the valuation list or poor rate such rateable value shall be a fairly apportioned part of the rateable value of the whole hereditament ascertained as aforesaid the apportionment in case of dispute to be ascertained by a court of summary jurisdiction.

Rates payable by owners of small houses.

36. Where a house supplied with water is let to monthly or weekly tenants or tenants holding for any other period less than a quarter of a year the owner instead of the occupier shall if the Council so determine pay the rate for the supply but the rate may be recovered from the occupier and may if the occupier be not himself liable therefor under any lease or agreement be deducted by him from the rent from time to time due from him to the owner Provided that no greater sum shall be recovered at any one time from any such occupier than the amount of rent owing by him or which shall have accrued due from him subsequent to the service upon him of a notice to pay the rate.

Price of supply by measure.

37. The price to be charged for a supply of water by measure shall not exceed two shillings per thousand gallons Provided that the Council shall be entitled to charge for each such supply (other than a supply given under section 25 (Supply to houses partly used for trade) of the Act of 1911) such minimum sum not exceeding ten shillings as they may prescribe in respect of the water supplied in any quarter of a year.

Revision of water rates.

38. The Minister of Health may if he thinks fit from time to time on the application of the Council or of a local authority having jurisdiction within the water limits by order vary either by way of increase or decrease the rates and charges for the supply of water which the Council are by this Act or the Act of 1900 authorised to charge Provided that the rates and charges prescribed in any such order shall be of such amounts as in the opinion of the Minister will provide

A.D. 1926. a reasonable sum as a contribution towards a reserve fund in respect of the portion of the water undertaking other than the bulk supply works referred to in clause 17 of the agreement set forth in the First Schedule to this Act so long as such fund does not amount to the maximum prescribed in relation to that fund by the section of this Act of which the marginal note is "Reserve funds."

Exemption of fittings from distress &c.

39. Any pipes valves cocks cisterns baths meters soil-pans waterclosets and other fittings (in this section referred to as "fittings") let for hire under the provisions of section 31 (Power to Council to supply materials) of the Act of 1911 shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under any process of any court or any proceedings in bankruptcy against the persons in whose possession the same may be provided that such fittings have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Council as the owners thereof.

Dates for payment of water rates &c.

40. Notwithstanding the provisions of section 70 of the Waterworks Clauses Act 1847 the Council may from time to time by resolution declare that all or any of the rates rents and charges which they are by this Act or any other Act or Order relating to the water undertaking authorised to demand and make shall commence and be payable at such time or times as the Council may by any such resolution determine Provided that nothing herein contained shall authorise the Council to require the payment of any rate rent or charge under this Act or any other Act or Order relating to the water undertaking more than three months in advance.

Council to connect communication pipes with mains.

41. Notwithstanding anything contained in any Act relating to the Council the Council shall have the exclusive right of executing any works on any of the water mains of the Council for connecting any communication pipe therewith and the Council shall on the request of any owner or occupier of any premises who is entitled to be supplied with water by the Council execute on any such main any work which shall be necessary to connect the communication or service pipe of such owner or occupier therewith and any

expenses incurred by the Council in so doing shall be repaid by the owner or occupier so requesting and shall be recoverable as a civil debt. A.D. 1926.

Power to Council to repair communication pipes.

42.—(1) If it should appear to the Council that by reason of any injury to or defect in any communication pipe which the Council are not under obligation to maintain there is any waste or risk of waste of water or injury or risk of injury to person or property it shall be lawful for the Council to execute such repairs as they may think necessary or expedient in the circumstances of the case without being requested so to do and if any injury to or defect in the communication pipe shall have been ascertained the expense incurred by the Council for the purposes of ascertaining the injury or defect and executing the repairs (including the expense of breaking up filling in reinstating and making good any road pavement or soil for those purposes) shall be recoverable by the Council from the owner of the premises supplied or in cases where the communication pipe is repairable by the occupier of such premises from the occupier.

(2) Provided that except in case of emergency the Council shall not under the powers of this section enter into any house or private premises unless they shall have given to the occupier of such house or premises and in any case where the communication pipe is repairable by the owner of such house or premises to such owner not less than twenty-four hours' previous notice of their intention so to enter.

Maintenance of common pipe.

43. When several houses or parts of houses in the occupation of several persons are supplied with water by one common pipe belonging to the several owners or occupiers of such houses or parts of houses the said several owners or occupiers shall be liable to contribute the amount of any expenses from time to time incurred by the Council in the maintenance and repair of such pipe and their respective proportions of contributions shall be settled by the waterworks engineer of the Council or other officer duly authorised in that behalf by the Council.

Interference with valves pipes and fittings.

44. Every person who shall wilfully (without the consent of the Council) or negligently close or shut off any valve cock or other work or apparatus belonging

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to the Council whereby the supply of water shall be interfered with shall (without prejudice to any other right or remedy of the Council) be liable on conviction to a penalty not exceeding five pounds and the Council may in addition thereto recover the amount of any damage by them sustained:

Provided that this section shall not apply to a consumer closing a valve fixed on his communication pipe.

Opening of ground by person liable to maintain pipes &c.

45.—(1) For the purpose of complying with any obligation under the Waterworks Clauses Acts 1847 and 1863 to maintain any pipe or apparatus the person liable to maintain the same shall have the like power to open the ground as is conferred upon him by and subject to the conditions of sections 48 to 52 of the Waterworks Clauses Act 1847 in relation to the laying of communication pipes.

(2) The Council may by agreement with any owner or occupier entitled or required to lay maintain repair or remove any communication pipe and for that purpose to open or break up any street execute such works on behalf of such owner or occupier and any expenses incurred by the Council shall be repaid by the owner or occupier with whom the agreement is made.

Cleansing of cisterns.

46. The Council may make byelaws for securing the cleanliness and freedom from pollution of tanks cisterns and other receptacles for storing water supplied by the Council and used or likely to be used by man for drinking or domestic purposes or for manufacturing drink for the use of man.

Application of section 35 of Waterworks Clauses Act 1847.

47. Section 35 of the Waterworks Clauses Act 1847 in its application to the Council shall be read and construed as if the words "one-sixth part" and "five successive years" were substituted therein for the words "one-tenth part" and "three successive years" respectively.

PART V.

STREETS BUILDINGS SEWERS AND DRAINS.

Frontage line in new streets.

48.—(1) Every person who intends to lay out a new street shall in addition to the information required to be supplied to the Council by virtue of any enactments

or byelaws with respect to streets and buildings in force within the district distinctly define and mark on a plan drawn to such scale as the Council may require and to be prepared and submitted by such person to the Council for their approval the proposed line of frontage of any house or building to be erected in or fronting such street (in this section called "the building line") and the Council shall within six weeks after the date of submission thereof signify to the person submitting the same their approval or disapproval thereof.

(2) The Council may also prescribe the building line to be observed in those parts of any street (not being a highway maintainable by them or by any highway authority) already laid out upon which buildings have not already been erected.

(3) It shall not be lawful to erect or bring forward in any such street any house or building or any part thereof or any addition to any house or building if the building line for such street has been disapproved by the Council or before the expiration of the six weeks aforesaid without their approval nor beyond or in front of the building line approved or prescribed by the Council and any person offending against this enactment shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

(4) The provisions of section 3 of the Public Health (Buildings in Streets) Act 1888 shall not apply to any house or building erected or proposed to be erected on lands in respect of which a building line as aforesaid shall have been approved or prescribed by the Council.

(5) In the event of the Council requiring as a condition of their approval of any such plan the setting back of the building line shown on the plan to a greater distance from the centre of a new street than one-half of the width of the street and ten feet in addition or of their prescribing a building line at a greater distance from the centre of a street already laid out than the line at which buildings could be erected having regard to the provisions of the Public Health (Buildings in Streets) Act 1888 the Council shall make compensation to the owner of any land lying between the said distance from the centre of the street and the building line as

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set back for any damage sustained by him by reason of his being unable to build upon such land.

(6) For the purpose of this section the surveyor shall by certificate under his hand at or before the time of the approval of the building line by the Council determine the centre of any street or intended street.

(7) The amount of any compensation payable under this section shall in default of agreement be determined by arbitration in accordance with the provisions of the Arbitration Act 1889.

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

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

Secondary means of access.

49. The power of the Council to make byelaws with respect to secondary means of access under section 23 of the Public Health Acts Amendment Act 1890 shall extend to enable them to require every person who shall erect fronting a street or intended street terraces or other continuous blocks of houses not giving access through their own grounds to the backs of such houses to make and construct a back and side roads at the back and at each end of such terraces or continuous blocks of houses of such widths as may be prescribed by such byelaws.

Byelaws as to intersecting streets.

50. The power of the Council to make byelaws with respect to new streets under section 157 of the Public Health Act 1875 shall extend to enable them to require intersecting streets in connection with the laying out of new streets at such intervals as the byelaws may determine For the purposes of this section "intersecting street" means a side or cross street forming a junction with another street.

As to forecourts.

51.—(1) In any case in which the forecourt of any premises adjoining a street is a source of danger obstruction or inconvenience to the public or in which

any steps or projection are or is placed in any such forecourt or any goods are placed therein whether for sale or not the Council may require the owner of the premises well and sufficiently to fence such forecourt from the street.

(2) Any person who shall offend against this enactment or shall fail to comply with any requirement thereunder shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

Cleansing of courts passages outbuildings &c. used in common.

52.—(1) Section 46 of the Public Health Act 1875 shall extend to—

(*a*) the walls of any court or yard or passage (not being a highway repairable by the inhabitants at large) used in common by the occupiers of separate premises or any part of such walls (whether or not such walls or part thereof form a portion of any building); or

(*b*) any sanitary convenience used in common by the occupiers of separate premises or the walls floors seats or fittings thereof or any part of the same; or

(*c*) any outbuilding used in common as a washhouse or other domestic convenience by the occupiers of separate premises or the walls floors or fittings thereof or any part of the same;

and the provisions of that section (including the penal provision) shall accordingly apply as if each of the owners or occupiers of such separate premises as are hereinbefore mentioned were the owner or occupier of a house or part thereof and with such other modifications as may be necessary.

(2) Where under the powers conferred by this section the Council have executed works on the default of two or more owners or occupiers of premises any expenses incurred by the Council in the execution of the works shall be paid by such owners or occupiers in such proportions as shall be determined by the surveyor or in case of dispute by a court of summary jurisdiction.

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Erection of buildings to greater height than adjoining buildings.

53.—(1) In case any building is at any time after the passing of this Act erected or raised to a greater height than the adjoining building and any flues or chimneys of such adjoining building are in the outer or party wall or against the building so erected or raised the person erecting or raising such building shall at his own expense build up those flues and chimneys so that the top thereof may be of the same height as the top of the chimneys of the building so erected or raised.

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

Byelaws as to materials and construction of buildings &c.

54.—(1) Section 157 of the Public Health Act 1875 in its application to the district shall be extended so as to empower the Council to make byelaws with respect to—

(*a*) the materials with which new buildings shall be constructed;

(*b*) the manner in which and the materials with which grates stoves and fireplaces shall be set in new buildings or be newly set or re-set in existing buildings and the thickness and construction of walls of and near ovens and furnaces;

(*c*) the uniting of buildings and the making and stopping up of openings in party walls of buildings and the provision of fire-resisting doors in connection therewith and as to the occupation of buildings when united;

(*d*) the adequate lighting of buildings;

(*e*) the testing of drains of new buildings;

(*f*) requiring the plans and sections deposited in pursuance of any provision in any local Act for the time being in force to be drawn on such materials and in such manner as may be prescribed in such byelaws.

(2) Any byelaws under the said section 157 as above extended with respect to the matters dealt with in paragraphs (*a*) (*b*) (*c*) and (*d*) of subsection (1) of

this section may be made so as to affect buildings erected before the times mentioned in the said section 157. A.D. 1926.

As to area of habitable rooms and restriction of air space.

55. Section 23 of the Public Health Acts Amendment Act 1890 in its application to the district shall have effect as if the words "and floor area" had been inserted therein after the word "height" in subsection (1) of that section and as if the words "space about buildings" had been inserted therein before the words "drainage of buildings" in subsection (2) of that section.

Food storage accommodation to be provided.

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

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

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

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

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

A.D. 1926. of being heard may make such order as appears to the court just and equitable under all the circumstances of the case.

As to dangerous buildings.

57.—(1) In the case of any building which may appear to the Council on the report of any duly qualified officer to be dangerous to the inmates or to persons working therein the Council may order a complete external and internal inspection and examination of any such building to be made by a competent person and for that purpose such person may on giving not less than twenty-four hours' notice to the occupier of the building and on producing written authority from the clerk at any hour of the day between nine o'clock in the morning and six o'clock in the afternoon with such other persons as he may deem necessary enter upon such building and examine and inspect the same.

(2) If upon such examination and inspection it shall appear necessary that any works should be executed or alterations made for the purpose of putting such premises into a safe and proper condition for the purposes for which the same are used the Council in respect of such building and the works to be carried out therein shall have and may exercise all or any of the powers vested in the Council with respect to dangerous structures.

As to hoardings and similar structures.

58.—(1) (*a*) No fence hoarding or other similar structure (in this section referred to as a "structure") of a greater height than six feet six inches shall be erected or brought forward on any land in any street—

(i) beyond any building line prescribed by the Council under the provisions of any enactment for the time being in force within the district; or

(ii) if there be no such line beyond any line which is enforceable by the Council for buildings under subsection (2) of section 100 of the Housing Act 1925; or

(iii) if there be neither of such lines beyond the line to which any house or building erected or brought forward on the land would have to conform under the provisions of the Public Health (Buildings in Streets) Act 1888.

(*b*) Any person who shall offend against the provisions of this subsection shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings and the Council may take down or remove any structure erected in contravention of those provisions and recover the expense incurred by them in so doing from the offender.

(2) (*a*) The Council may by notice in writing require the owner or occupier of any land upon which any structure exists at the passing of this Act which would (if erected after the passing of this Act) have contravened the provisions of subsection (1) of this section to remove or alter such structure within such time (not being less than six days) as may be specified in the notice in such a manner as to comply with those provisions and the Council shall on demand repay to the owner or occupier of such land the reasonable expenses incurred by him in so doing.

(*b*) Any person who shall neglect or refuse to comply with a notice from the Council given in pursuance of this subsection shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings and the Council may at their own expense take down or remove any structure erected or maintained in contravention of those provisions.

(3) The provisions of this section shall not be enforceable with regard to any structure existing at the date of the passing of this Act for a period of five years from such date and shall not apply to any wooden structure fence or hoarding of a movable or temporary character erected by a builder for his use during the construction alteration or repair of any building unless the same is not taken down or removed immediately after such construction alteration or repair is complete.

As to repair of hoardings.

59. The Council may by notice in writing require the owner of any hoarding to maintain the same and any advertising matter thereon in good order and condition and if any owner shall neglect or refuse to comply with any such notice the Council may carry out such alterations or repairs as may be reasonably necessary and recover summarily from the owner any expense incurred by them in so doing.

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As to erection of retaining walls.

60.—(1) Before any person shall erect on any land a retaining wall of greater height than six feet abutting on or adjacent to or within twelve feet of any street or road he shall submit to the Council plans sections and specifications thereof and no such wall shall be erected except in accordance with such plans sections and specifications as may be approved by the Council.

(2) Any person who shall erect a retaining wall contrary to the provisions of this section or any owner who after erection shall after reasonable notice in writing from the Council requiring him so to do fail to put such wall in proper repair shall without prejudice to any other right or remedy of the Council be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

Sanitary conveniences for workmen engaged on buildings.

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

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

Combined drains.

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

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

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

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

Provision in lieu of section 19 of Public Health Acts Amendment Act 1890.

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

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

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

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Power of medical officer to test drains.

64. Section 55 (Power of medical officer to test drains) of the Act of 1898 shall extend and apply to any joint or combined drain which conveys the drainage of two or more houses or premises into a public sewer or into a cesspool or other receptacle for drainage.

As to defective drains &c.

65.—(1) In any case where it appears to the medical officer or sanitary inspector that any drain watercloset or soil pipe is stopped up or otherwise defective the medical officer or sanitary inspector shall give notice to the owner or occupier of the premises to remedy such defect and if such notice is not complied with within twenty-four hours from the service thereof the Council may carry out the work necessary to remedy such defect and may subject as hereinafter provided recover the expenses incurred in that behalf from such owner or occupier in a summary manner as a civil debt.

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

Pipes from slopstones &c. to be disconnected from sewer.

66.—(1) The Council may require that the pipe from any sink trough slopstone bath or basin in a building erected before the passing of this Act shall be altered so as to conform with the byelaws for the time being in force with respect to the drainage of existing buildings.

(2) Any person neglecting or refusing for a period of twenty-eight days to comply with a notice from the Council requiring him to carry out the provisions of this section shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding ten shillings.

Partial saving for railway companies.

67. Nothing in this Part of this Act except the sections whereof the marginal notes are :—

Secondary means of access;

As to hoardings and similar structures;

As to repair of hoardings;

Sanitary conveniences for workmen engaged on buildings;

Power of medical officer to test drains;

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

PART VI.

INFECTIOUS DISEASE AND SANITARY PROVISIONS.

Restriction on attendance of children at Sunday schools and places of assembly when infectious disease prevails.

68.—(1) No person being the parent or having the charge or care of a child who is or has been attending any school or any part thereof which for the time being is closed by order of the Council with the view of preventing the spread of infectious disease or of a child who is suffering from an infectious disease or who with the view of preventing the spread of infectious disease has been prohibited from attending school by the medical officer shall permit such child to attend any Sunday school or place of public entertainment or assembly without having procured from the medical officer a certificate (which if granted shall be granted free of charge upon application) that in his opinion such child may attend such Sunday school or place of public entertainment or assembly without undue risk of communicating disease to others.

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

Power to close Sunday schools in certain events.

69.—(1) If the Council or any committee of the Council acting on the advice of the medical officer with the view of preventing the spread of infectious disease require the closing of any Sunday school or any department thereof or the exclusion of certain children therefrom for a

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specified time or the exclusion of children from places of public entertainment or assembly for a specified time such requirement shall be at once complied with.

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

Extended meaning of "infectious disease" for certain purposes.

70. For the purposes of the foregoing provisions of this Part of this Act the expression "infectious disease" includes measles German measles whooping cough chicken pox and influenza.

Penalty on withholding information from medical officer.

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

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

(3) For the purposes of this section the expression "occupier" shall have the same meaning as in the Infectious Disease (Notification) Act 1889.

As to filthy premises.

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

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

Public notice to be given of foregoing provisions of this Part of Act.

73. Public notice of the effect of the foregoing provisions of this Part of this Act shall be given as soon as is reasonably practicable after the passing of this Act by advertisement in two newspapers published or circulating in the district and by a notice affixed outside the offices of the Council.

Byelaws as to meat.

74.—(1) The Council may make and enforce byelaws for preventing meat (other than foreign meat or meat which has been inspected and passed as fit for the food of man by a medical officer of health or a duly qualified inspector being an official of or authorised to act on behalf of the sanitary authority of the district in which the animal has been slaughtered) brought into the district and intended for the food of man from being used for the food of man or being offered for sale or sold or deposited for sale or for the preparation for sale until after inspection by an officer of the Council.

(2) Provided that any byelaws made by the Council under this section shall provide—

(*a*) that any person bringing any meat (other than foreign meat or meat which has been inspected and passed as fit for the food of man by a medical officer of health or a duly qualified inspector being an official of or authorised to act on behalf of the sanitary authority of the district in which the animal has been slaughtered) into the district shall give to the medical officer or sanitary inspector reasonable notice thereof in writing and of the day and hour and place in the district at which the meat can be inspected as aforesaid; and

(*b*) that if within such reasonable period after the notified hour as may with due regard to the requirements of the trade be prescribed by the byelaw an officer of the Council shall not have attended at the place so notified for the purpose of inspection the restriction in subsection (1) of this section referred to shall not apply to the meat in respect of which the notice was given.

Compensation to persons ceasing employment.

75. If any person shall at the request of the Council stop his employment for the purpose of preventing the spread of infectious disease the Council may make compensation to him for any loss he may sustain by reason of such stoppage.

Power to prohibit persons suffering from tuberculosis from handling &c. food.

76.—(1) If the medical officer shall certify that any person is suffering from tuberculosis of the respiratory tract and is in an infectious state and that he is employed in the cooking preparation or handling of food (other than milk) intended for consumption by persons other than himself or members of his household and that his continuance in such employment would in the judgment of the medical officer be detrimental to the public health the Council may request such person to discontinue his employment and on such request being made the Council may if they think fit make compensation to him in respect of any loss which he may sustain by reason of such stoppage.

(2) If any such person shall fail to comply with such request the Council may apply to a court of summary jurisdiction for an order requiring him to discontinue his employment and the court shall have power to make such an order if after consideration of all the circumstances it thinks fit to do so.

(3) If such person fails to comply with any such order he shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding ten shillings.

Disinfection in case of tuberculosis.

77.—(1) (*a*) Where the medical officer certifies that the cleansing and disinfecting of any building (including in that term any tent van shed or similar structure used for human habitation) or any part thereof would tend to prevent or check tuberculosis the clerk shall give notice in writing to the owner or occupier of such building that the same or such part thereof will be cleansed and disinfected by and at the cost of the Council unless the owner or occupier of such building informs the Council within twenty-four hours from the receipt of the notice that he will cleanse and disinfect the building or the part thereof to the satisfaction of the medical officer within the time to be fixed in the notice.

(*b*) If within twenty-four hours from the receipt of such notice the owner or occupier of such building has

not informed the Council as aforesaid or if having so informed the Council as aforesaid he fails to have the building or the part thereof cleansed and disinfected as aforesaid within the time fixed by the notice the building or the part thereof shall be cleansed and disinfected by and at the cost of the Council under the superintendence of the medical officer Provided that any such building or part thereof may without any such notice being given as aforesaid but with the consent of the owner or occupier be cleansed and disinfected by and at the cost of the Council under the superintendence of the medical officer.

(*c*) For the purpose of carrying into effect the provisions of this subsection the Council may by any person who shall be authorised in that behalf in writing under the hand of the clerk and who shall produce his authority enter on any premises between the hours of nine o'clock in the forenoon and six o'clock in the afternoon.

(*d*) Every person who shall wilfully obstruct any person duly authorised by the Council in carrying out the provisions of this subsection shall be liable to a penalty not exceeding forty shillings and if the offence is a continuing one to a daily penalty not exceeding twenty shillings.

(2) (*a*) The medical officer if generally empowered by the Council in that behalf may by notice in writing require the owner of any household or other articles books things bedding or clothing which have been exposed to the infection of tuberculosis of the lung or other forms of tuberculosis with discharges to cause such articles books things bedding or clothing to be delivered to the Council for removal for the purpose of disinfection and any person who fails to comply with such requirement shall be liable to a penalty not exceeding five pounds.

(*b*) Such articles books things bedding and clothing shall be disinfected by the Council and returned to the owner free of charge.

(3) If any person sustains any damage by reason of the exercise by the Council of any of the powers of subsections (1) and (2) of this section in relation to any matter as to which he is not himself in default full compensation shall be made to such person by the Council and the amount of compensation shall be

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recoverable in and in the case of dispute may be settled by a court of summary jurisdiction.

Byelaws as to transport &c. of food.

78.—(1) The Council may make byelaws for promoting sanitary and cleanly conditions in the transport or the conveyance through the streets of the district of any article intended to be sold for food.

(2) Before confirming any byelaws made under this section as regards any business carried on in any factory or workshop to which the Factory and Workshop Acts 1901 to 1920 apply the Minister of Health shall consult the Secretary of State.

(3) At least one month before applying to the Minister of Health for confirmation of any byelaws made under this section applicable to the transport by a railway company of any article intended for food the Council shall give notice to the company of their intention to make such application and such notice shall be accompanied by a copy of the proposed byelaws and such company shall be entitled to make representations to the Minister of Health with regard thereto.

Penalty on original vendor of unsound food.

79.—(1) Where it is shown that any animal or article liable to be seized under section 116 of the Public Health Act 1875 (as extended by section 28 of the Public Health Acts Amendment Act 1890) and found in the possession of any person was sold to him by another person for food (the proof that the same was not sold for food resting with the party charged) and when so sold was in such a condition as to be liable to be so seized and to be condemned under section 117 of the Public Health Act 1875 the person who so sold the same shall be punishable as mentioned in the last-mentioned section unless he proves that at the time he sold the animal or article he did not know and had no reason to believe that it was in such condition.

(2) Where any animal or article of food has been condemned by a justice under section 117 of the Public Health Act 1875 (as extended by section 28 of the Public Health Acts Amendment Act 1890 and this section) the person to whom the same belongs or did belong at the time of deposit of such animal or article for the purpose of sale or of preparation for sale as well as the persons in those sections mentioned shall also be punishable as mentioned in section 117 of the

Public Health Act 1875 unless he proves that at the time of such deposit he did not know and had no reason to believe that the said animal or article was in such a condition as to be liable to be so condemned.

(3) Before any animal or article liable to be condemned under section 117 of the Public Health Act 1875 (as extended by section 28 of the Public Health Acts Amendment Act 1890 and this section) is dealt with by a justice the medical officer or the sanitary inspector shall inform the person in whose custody or possession the same was at the time when it was inspected by the medical officer or sanitary inspector of the intention of the medical officer or sanitary inspector to have the same dealt with by a justice and any person who may be liable in respect of such animal or article to prosecution under the aforesaid provisions shall be entitled to attend the proceedings before the justice and to be heard with his witnesses upon the application for the condemnation of any such animal or article.

Regulation dustbins.

80.—(1) The Council may by notice in writing require the owner or occupier of any dwelling-house warehouse or shop to provide portable covered galvanised iron dustbins in lieu of ashpits or ashtubs or other receptacles for refuse and such dustbins shall be of such size and construction as may be approved by the Council.

(2) Every owner or occupier having provided dustbins pursuant to this section shall maintain the same in good order and condition and shall remove or fill in to the reasonable satisfaction of the sanitary inspector any ashpit for which the same has been substituted.

(3) Any owner or occupier who fails within fourteen days after notice given to him to comply with the requirements of the Council under subsection (1) of this section or who fails to comply with his obligations under subsection (2) of this section shall be liable to a penalty not exceeding twenty shillings and to a daily penalty not exceeding five shillings.

(4) Except as is hereinafter provided this section shall not authorise the Council to require the provision of a dustbin thereunder in any case in which a receptacle in use at the first day of January one thousand nine hundred and twenty-six is of suitable size and in proper

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order and condition Provided that the Council may in any case they think fit require the provision of a dustbin in lieu of any ashpit in use at the first day of January one thousand nine hundred and twenty-six but in such case they shall except where the medical officer or the sanitary inspector shall have certified that owing to wilful neglect on the part of the owner or occupier after due notice to keep the same in proper repair any such ashpit is in such a state as to create a nuisance or be injurious to health bear and pay such sum towards the expense of providing such dustbin (being not less than one-half thereof) as they may consider just and proper according to the circumstances and the remainder of such expenses shall be borne by the owner or occupier.

(5) Nothing in this section shall apply to any warehouse belonging to the Great Western Railway Company.

Restriction as to use of dustbins.

81.—(1) It shall not be lawful for any person to use any dustbin for any purpose other than the deposit of dust cold ashes or other house refuse (not being of a liquid or partly liquid character) intended for removal by or on behalf of the Council.

(2) Any person contravening the provisions of this section shall be liable to a penalty of ten shillings.

Discontinuance of offensive trade.

82.—(1) In any case where premises are being used for the carrying on of an offensive trade within the meaning of section 112 of the Public Health Act 1875 as extended by section 51 of the Public Health Acts Amendment Act 1907 and by section 44 of the Public Health Act 1925 and in the opinion of the Council it is inexpedient in the interests of public health or having regard to any change since the date of the establishment of such offensive trade in the character of the neighbourhood in which such premises are situate that such trade should be carried on in such premises the owner or occupier of the same may be required after six months' notice in writing by the Council under the hand of the clerk to cease to use such premises for the carrying on of such offensive trade :

Provided that the formation or expression by the Council of an opinion under this subsection shall be

deemed to be a determination of the Council within the meaning of section 94 (As to appeal) of the Act of 1898 as applied for the purposes of this Act by the section of this Act of which the marginal note is "Application of miscellaneous provisions of Acts of 1898 and 1911" and that the provisions of the said section 94 of the Act of 1898 shall accordingly apply with respect to such opinion as well as to any requirement by the Council under this subsection.

(2) Any person who fails or neglects to comply with any requirement of the Council under the provisions of subsection (1) of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(3) If the Council require any person to cease to use such premises for the carrying on of an offensive trade they shall pay to such person compensation for any loss sustained by him in consequence of the action of the Council Provided that this subsection shall not apply in the case of any premises with respect to which the consent of the Council shall have been given for a period only unless the Council shall have required that the user of such premises for the carrying on of an offensive trade shall cease before the expiration of such period.

(4) The powers of this section shall be in addition to and not in derogation of the existing powers of the Council with reference to offensive trades.

PART VII.

FINANCIAL.

Power to borrow.

83.—(1) The Council may from time to time independently of any other borrowing power borrow at interest for the purposes mentioned in the first column of the following table the respective sums mentioned in the second column thereof and in order to secure the repayment thereof and the payment of interest thereon they may mortgage or charge the revenues of the Council and they shall pay off all

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moneys so borrowed within the respective periods mentioned in the third column thereof (namely) :—

1 Purpose.	2 Amount.	3 Period for repayment.
(*a*) The purchase of lands and easements for the works authorised by Part II. (Waterworks) of this Act.	The sum requisite	Sixty years from the date or dates of borrowing.
(*b*) The construction of the works authorised by Part II. (Waterworks) of this Act.	£65,550	Forty-five years from the date or dates of borrowing.
(*c*) The payment of the costs charges and expenses of this Act.	The sum requisite	Five years from the passing of this Act.

(2) (*a*) The Council may also with the consent of the Minister of Health borrow such further money as may be necessary for any of the purposes of this Act or of the water undertaking and in order to secure the repayment thereof and the payment of interest thereon they may mortgage or charge the revenues of the Council.

(*b*) Any money borrowed under this subsection shall be repaid within such period as may be prescribed by the Minister of Health.

As to section 234 of Public Health Act 1875.

84. In calculating under subsection (2) of section 234 of the Public Health Act 1875 the amount which the Council may borrow the amount of any sinking fund or redemption fund accumulated for the purpose of providing for the repayment of loans contracted by the Council under the Sanitary Acts and the Public Health Act 1875 shall be deducted from the total debt of the Council under those Acts.

Sinking fund.

85. Section 67 (Sinking fund) of the Act of 1911 shall be read and have effect as if in lieu of the words "three pounds per centum per annum" the words "three pounds ten shillings per centum per annum or such other rate as the Minister of Health may from time to time approve" had been inserted in subsection (1) thereof and as so amended shall extend

and apply to any sinking fund formed for the redemption of loans raised under the Acts of 1898 and 1900.

Investment of and payments into sinking fund.

86. When under the provisions of this Act or of any Act of Parliament or of any Order confirmed by or having the effect of an Act of Parliament whether passed confirmed or made before or after the passing of this Act the Council are empowered or required to form a sinking fund or loans fund the following provisions shall have effect with respect to the appropriate yearly sums and to the accumulations thereof (if any) required to be set apart for or paid into such sinking fund or loans fund for the purpose of providing for the repayment of moneys borrowed by the Council (that is to say) :—

(1) The Council may (in addition to any other powers for the time being vested in them) invest the said yearly sums and accumulations in statutory securities the Council being at liberty from time to time to vary and transpose such investments :

(2) The appropriate yearly sums and the accumulations of the said yearly sums shall be paid and provided out of the district fund and general district rate and any interest dividends and annual proceeds arising from the investment of the said yearly sums and the accumulations thereof (including such annual sums and accumulations as have been provided prior to the passing of this Act) shall be paid into and form part of the district fund.

Power to use sinking fund instead of borrowing.

87.—(1) Where the Council are authorised by any statutory borrowing power to raise money they may instead of exercising such borrowing power by the issue of any fresh security in respect thereof exercise the said power and raise the said money either wholly or partially by using for such purpose so much of any money for the time being forming part of a sinking fund as shall be available for the repayment of moneys borrowed by the Council Provided that the Council shall not use for such purpose any sinking fund which has been set aside in respect of any loan raised on mortgage and shown by the mortgage to have been raised in exercise of a particular borrowing power

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Provided also that when exercising the powers of this section the Council shall—

(*a*) Withdraw from the sinking fund a sum equal to the amount of the statutory borrowing power proposed to be exercised by the user of moneys from such sinking fund;

(*b*) Credit such sinking fund with the repayment of an amount of the principal moneys for the repayment of which the fund is established equal to the sum withdrawn from the sinking fund and thereupon the amount so credited shall be deemed to be principal moneys discharged by application of the sinking fund;

(*c*) Debit the account of the statutory borrowing power proposed to be exercised with an amount of the principal moneys equal to the sum withdrawn from such sinking fund and thereupon the statutory borrowing power shall be deemed to have been exercised as fully as if the said amount had been raised by the issue of a fresh security and the provisions of any enactment as to the repayment and re-borrowing of sums raised under the statutory borrowing power shall apply thereto accordingly.

(2) When any of the moneys are discharged by the application of any part of the sinking fund the moneys so discharged shall be deemed to be in respect of such one or more of the borrowing powers under which the moneys for the repayment of which the sinking fund is established were borrowed and if in respect of more than one in such proportions as the Council shall determine Provided that the amount of the moneys deemed to be discharged in respect of any borrowing power shall not exceed the amount of the contributions paid in to the sinking fund in respect of that borrowing power and the accumulations (if any) thereon.

Power to re-borrow.

88.—(1) The Council shall have power—

(*a*) to borrow for the purpose of paying off any moneys previously borrowed under any statutory borrowing power which are intended to be forthwith repaid; or

(*b*) to borrow in order to replace moneys which during the previous twelve months have been temporarily applied from other funds of the Council in repaying moneys previously borrowed under any statutory borrowing power and which at the time of such repayment it was intended to replace by borrowed moneys.

(2) Any moneys borrowed under this section shall for the purposes of repayment be deemed to form part of the original loan and shall be repaid within that portion of the period prescribed for the repayment of that loan which remains unexpired and the provisions which are for the time being applicable to the original loan shall apply to the moneys borrowed under this section.

(3) The Council shall not have power to borrow for the purpose of making any payment to a sinking fund or of paying any instalment or making any annuai payment which has or may become due in respect of borrowed moneys.

(4) The Council shall not have power to borrow in order to replace any moneys previously borrowed which have been repaid—

(*a*) by instalments or annual payments; or

(*b*) by means of a sinking fund; or

(*c*) out of moneys derived from the sale of land; or

(*d*) out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose.

Use of moneys forming part of reserve and other funds.

89. Notwithstanding anything contained in any previous enactment the Council may use for the purpose of any statutory borrowing power exerciseable by them any moneys forming part of but not for the time being required for the purposes of any reserve renewals depreciation contingent or other similar fund (in this section referred to as "the lending fund") subject to the following conditions:—

(1) The moneys so used shall be repaid to the lending fund within the period and by the methods within and by which a loan raised

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under the statutory borrowing power would be repayable :

Provided that the Council shall repay to the lending fund the moneys so used or the balance thereof for the time being outstanding as the case may be as and when the same shall be required for the purposes of the lending fund and may if they so decide repay the same at any time within the period aforesaid :

(2) Interest shall be paid to the lending fund on any moneys so used and for the time being not repaid at such rate per centum per annum as may be determined by the Council to be equal as nearly as may be to the rate of interest which would be payable on a loan raised on mortgage under the statutory borrowing power :

(3) Any repayment made or interest paid shall be treated in the accounts of the Council as if it were the repayment of or the payment of interest on a loan raised under the statutory borrowing power :

(4) The statutory borrowing power shall be deemed to be exercised by such use as fully in all respects as if a loan of the same amount had been raised in exercise of the power and the provisions of any enactment as to the re-borrowing of sums raised under the statutory borrowing power shall apply accordingly.

Consolidated loans fund.

90.—(1) Notwithstanding anything contained in the Public Health Acts Amendment Act 1890 or in any other Act or Order the Council may if they think fit as from the thirty-first day of March one thousand nine hundred and twenty-seven or as from any succeeding thirty-first day of March establish a fund to be called "the consolidated loans fund" to which shall be paid as and when they are received—

(*a*) All moneys borrowed by the Council whether by the issue of stock or other security together with any moneys borrowed without security in connection with the exercise of the statutory borrowing power;

(*b*) All moneys of a capital nature received by the Council whether from the sale of capital assets or otherwise except such as are applied by the Council with due authority to another capital purpose; and

(*c*) The appropriate sums provided in each year out of other funds of the Council to comply with the terms and conditions as to repayment attaching to their several borrowing powers:

And there shall also be carried to the credit of the consolidated loans fund the unapplied balances of all moneys borrowed or received except such moneys as have been borrowed from the Public Works Loan Commissioners and of all sums provided by the Council as aforesaid before the date as from which the consolidated loans fund is established.

(2) The moneys of the consolidated loans fund shall be used or applied by the Council—

(*a*) in the exercise of any statutory borrowing power by transfer of the required amount to the appropriate fund and account of the Council; or

(*b*) in the redemption of stock or any other securities issued by the Council the purchase of stock for extinction or the repayment of any moneys borrowed by the Council:

And any moneys of the consolidated loans fund not used or applied in these ways may be invested in statutory securities and the sums realised by the sale of such securities shall be repaid on receipt to the consolidated loans fund and the moneys of the consolidated loans fund including the interest arising from the investments shall not be used or applied otherwise than as provided in this subsection.

(3) Save as in this section expressly provided all the obligations of the Council to the holders of stock or other securities of the Council shall continue in force.

(4) The powers conferred by this section shall not be put into operation by the Council except in accordance with a scheme to be approved by the Minister of Health and such scheme may make provision for any matters incidental to the establishment and administration of the consolidated loans fund.

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All stock and loans to rank equally.

91. Subject to any priority existing at the passing of this Act all stock of and loans to the Council and the dividends and interest thereon shall be charged indifferently on all the revenues of the Council and shall rank equally one with the other without any priority whatsoever.

Reserve funds.

92.—(1) The Council may if they think fit form and maintain a reserve fund in respect of the bulk supply works referred to in clause 17 of the agreement set out in the First Schedule to this Act and a reserve fund in respect of the remaining portion of the water undertaking by setting aside to each such fund such an amount as they may from time to time think reasonable and investing the same in statutory securities (with power to vary and transpose such investments) until the fund so formed amounts to the maximum reserve fund for the time being prescribed by the Council not exceeding a sum equal to one-tenth of the aggregate capital expenditure for the time being by the Council upon the portion of the undertaking in respect of which such fund is formed and any such fund shall be applicable to meet any extraordinary claim or demand at any time arising against the Council in respect of the portion of the undertaking in respect of which such fund is formed or for payment of the cost of renewing improving or extending any part of the works comprised in that portion of the undertaking or otherwise for the benefit of that portion of the undertaking and so that if the fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens.

(2) Any reserve fund which has been formed for the purpose of the water undertaking and which is in existence on the date of the passing of this Act shall be deemed to have been formed under this section in respect of the portion of the undertaking other than the said bulk supply works.

(3) All interest received in any year from the investments of any reserve fund so formed shall be carried to and shall form part of the revenue for that year of the district fund but the reserve fund shall in that year be increased by a sum equal to the amount of such interest.

(4) Resort may be had to either reserve fund under the foregoing provisions although the fund may not at the time have reached or may have been reduced below the prescribed maximum.

Separate accounts in respect of water undertaking.

93. As from the thirty-first day of March one thousand nine hundred and twenty-seven the Council shall keep their accounts so as to distinguish capital from revenue and as regards the revenue account to show under a separate heading or division in respect of the water undertaking on the one side all receipts including the interest on any reserve fund by this Act authorised when that fund amounts to the prescribed maximum and on the other side all payments and expenses in respect of the undertaking such payments and expenses being divided so as also to show in each case the amounts expended in respect of each of the following purposes (that is to say) :—

(*a*) The working and establishment expenses and costs of maintenance of the undertaking;

(*b*) The interest on moneys borrowed by the Council for the purposes of or connected with the undertaking;

(*c*) The requisite appropriations instalments or sinking fund payments in respect of moneys borrowed for the purposes of the undertaking;

(*d*) The amount (if any) paid to a reserve fund created by the Council in accordance with the provisions of the section of this Act of which the marginal note is "Reserve funds";

(*e*) All other expenses (if any) of the undertaking properly chargeable to revenue.

Water receipts and expenses.

94. All moneys from time to time received by the Council on account of the revenue of the water undertaking shall be carried to and shall form part of the district fund and all payments and expenses on revenue account made and incurred in respect of that undertaking shall be paid out of that fund.

Interest on stock and mortgages held jointly.

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

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Receipt in case of persons not sui juris.

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

Evidence of transfer or transmission of securities.

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

Return to Minister of Health with respect to repayment of debt.

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

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

(3) If it appears to the Minister by such a return as aforesaid or otherwise that the Council have failed to pay any instalment or annual payment required to be paid or to appropriate any sum required to be appropriated or to set apart any sum required for any sinking fund (whether such instalment or annual payment or sum is required by any enactment relating to the

statutory borrowing power or by the Minister in virtue thereof to be paid appropriated or set apart) or have applied any portion of any sinking fund to any purposes other than those authorised the Minister may by order direct that the sum in such order mentioned not exceeding the amount in respect of which default has been made shall be paid or applied in the manner and by the date in such order mentioned and the Council shall notify the Minister as soon as the order is complied with and any such order shall be enforceable by writ of mandamus to be obtained by the Minister out of the High Court.

Application of financial provisions of Acts of 1898 and 1911.

99. Subject to the provisions of this Act the following provisions of the Acts of 1898 and 1911 as amended by this Act shall apply for the purposes of this Act as if the same were with any necessary modifications re-enacted herein (that is to say) :—

Act of 1898—

Section 78 (Certain regulations of Public Health Act 1875 as to borrowing not to apply);

Section 86 (Protection of lender from inquiry);

Section 87 (Council not to regard trusts);

Section 89 (Application of moneys borrowed);

Section 96 (Penalties to be paid to treasurer).

Act of 1911—

Section 63 (Mode of raising money);

Section 64 (Provisions as to mortgages);

Section 66 (Mode of payment off of money borrowed);

Section 67 (Sinking fund) as amended by this Act;

Section 74 (Expenses of execution of Act).

PART VIII.

MISCELLANEOUS.

Regulation as to horses carriages &c. on

100.—(1) The Council may by order during the period from the thirtieth day of April to the thirtieth day of September in each year prohibit the use of all horses or carriages within the meaning of the Highway

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esplanade &c.

Acts as extended by the Local Government Act 1888 on the esplanade (being the promenade on the eastern side of the Paignton Green adjoining the beach) on any future extension thereof and in the Victoria Park and such order shall be painted or placed on boards which shall be kept fixed or placed on some conspicuous parts of the esplanade the Paignton Green and the Victoria Park Any person offending against any such order shall for every offence be liable to a penalty not exceeding forty shillings.

(2) During the period of the operation of any order made under this section the Council shall have with respect to such parts of the esplanade referred to in subsection (1) of this section and any extension thereof whether constructed before or after the passing of this Act as are subject to the order the same powers of making and enforcing byelaws as if the esplanade and any such extension thereof were a public walk or pleasure ground provided by them under section 164 of the Public Health Act 1875.

Penalty for crying newspapers on Sunday.

101. Every person who shall on Sunday in any street or public place call or shout or ring any bell or use any other noisy instrument for the purpose of selling or advertising any newspaper journal or serial shall for every such offence be liable to a penalty not exceeding forty shillings.

Power to enter premises.

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

Penalty on occupier refusing execution of Act.

103. If the occupier of any house or part of a house shall prevent the owner thereof from carrying into effect any requirement of the Council under Part V. (Streets buildings sewers and drains) and Part VI. (Infectious disease and sanitary provisions) of this Act or under any byelaw made thereunder respectively then after notice of this provision shall have been given by the owner to the occupier any court of summary jurisdiction upon proof thereof may make an order in writing requiring the occupier to permit the owner to execute the works

required by the Council to be done and if after the expiration of seven days from the service of such order the occupier shall continue to refuse to permit the owner to execute the said works he shall for every day during which he shall so continue to refuse be liable to a penalty not exceeding two pounds and during the continuance of his refusal the owner shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such work.

Consent of Council to be in writing.

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

As to breach of conditions of consent of Council.

105. Where under this Act or under any general or local Act for the time being in force in the district the Council give their consent to the execution of any work or the doing of any act or thing subject to any terms or conditions which they are authorised to impose any breach of any such terms or conditions shall be deemed as regards liability to a penalty and other consequences equivalent to the execution of the work or the doing of the act or thing without the required consent.

Expenses may be declared private improvement expenses.

106. The Council may declare any expenses incurred by them under the provisions of this Act which are recoverable from the owner or owners of any premises to be private improvement expenses and thenceforth those expenses may be recovered and shall be charged upon the premises in respect of which they were incurred in accordance with the provisions of section 257 of the Public Health Act 1875.

Damages and charges to be settled by justices.

107. Where any damages expenses costs or charges are directed or authorised to be paid or recovered in addition to any penalty for any offence in this Act mentioned the amount of such damages expenses costs or charges in case of dispute respecting the same may be settled or determined by a court of summary jurisdiction before whom any offender is convicted.

Apportionment of expenses in case of

108. Where under the provisions of this Act or any local Act in force in the district the Council shall construct or do any works for the common benefit of two or more

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joint owners.

buildings belonging to different owners the expenses which under those Acts or any of them are recoverable by the Council from the owners shall be paid by the owners of such buildings in such proportions as shall be determined by the surveyor or in case of dispute by a court of summary jurisdiction.

Penalties to be paid over to treasurer.

109. All penalties recovered on the prosecution of the Council or any officer of the Council on their behalf under this Act or under any byelaw thereunder shall be paid to the treasurer and be by him carried to the credit of the district fund or to such other fund as the Council shall direct.

Application of section 265 of Public Health Act 1875.

110. Section 265 (Protection of local authority and their officers from personal liability) of the Public Health Act 1875 shall extend and apply for the purposes of any enactment for the time being in force within the district.

Application of miscellaneous provisions of Acts of 1898 and 1911.

111. Subject to the provisions of this Act the following provisions of the Acts of 1898 and 1911 shall apply for the purposes of this Act as if the same were with any necessary modifications re-enacted herein (that is to say) :—

Act of 1898—

Section 94 (As to appeal);

Section 97 (Saving as to indictments);

Section 105 (Compensation how to be determined).

Act of 1911—

Section 75 (Informations by whom to be laid);

Section 76 (General provisions as to byelaws);

Section 77 (Recovery of penalties &c.);

Section 78 (Recovery of demands);

Section 79 (Powers of Act cumulative);

Section 82 (Inquiries by Local Government Board);

Section 85 (Summons or warrant may contain several sums);

Section 89 (Crown rights) :

Provided that in the application of section 82 of the Act of 1911 that section shall be read and have effect as

if the words "five guineas" were substituted therein for the words "three guineas."

Repeal of certain provisions of former Acts.

112. The Paignton Order 1920 confirmed by the Ministry of Health Provisional Orders Confirmation (No. 6) Act 1920 and the following sections of the Paignton Water Act 1867 as applied to the Council by section 32 (Repeal of parts of Paignton Water Act 1867) of the Act of 1900 and of the Acts of 1898 1900 and 1911 are hereby repealed (that is to say) :—

Paignton Water Act 1867—

Section 34 (Company may contract with landlords of houses not exceeding rent of ten pounds per annum).

Act of 1898—

Section 49 (Provision as to back and side roads to terraces);

Section 83 (Provisions as to sinking fund);

Section 85 (Power to re-borrow).

Act of 1900—

Section 16 (Power to take additional lands by agreement);

Section 22 (Power to hold lands for protection of works);

Section 23 (Power to sell &c. lands);

Section 25 (Application of moneys from sale &c. of lands);

Section 26 (Power to make byelaws);

Section 31 (Powers for repairs of aqueducts and temporary discharge of water into streams);

Subsection (2) of section 41 (Mode of paying off of borrowed moneys);

Section 42 (Power to re-borrow);

Section 43 (Annual return to Local Government Board with respect to sinking fund);

Section 48 (Application of water revenue);

Section 49 (As to deficiency in receipts).

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Act of 1911—

Section 26 (Price of supply by measure);
Section 34 (Revision of water rates);
Section 39 (Intersecting streets);
Section 45 (Area of habitable rooms);
Section 47 (Amendment of section 19 of Public Health Acts Amendment Act 1890);
Section 48 (Council may order houses to be drained by a combined drain);
Section 68 (Power to re-borrow);
Section 72 (Return to Local Government Board as to repayment of debt).

Saving rights of Duchy of Cornwall.

113. Nothing contained in this Act shall extend to authorise the Council to take use enter upon or interfere with any land soil or water or take away diminish alter prejudice or affect any property rights profits privileges powers or authorities belonging to or enjoyed by His Majesty in right of the Duchy of Cornwall or to or by the Duke of Cornwall for the time being without (in the case of land soil water property rights profits privileges or authorities belonging to or enjoyed by His Majesty in right of the said duchy) the consent in writing of some two or more of such of the regular officers of the said duchy or of such other persons as may be duly authorised under the provisions of the Duchy of Cornwall Management Act 1863 section 39 to exercise all or any of the rights powers privileges and authorities by the said Act made exerciseable in relation to the said duchy or (in the case of land soil water property rights profits privileges or authorities belonging to or enjoyed by the Duke of Cornwall for the time being) the consent of such Duke testified in writing under the seal of the Duchy of Cornwall first had and obtained for that purpose.

Costs of Act.

114. All 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 as taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council out of the district fund and general district rate or out of moneys borrowed under the powers of this Act.

The SCHEDULES referred to in the foregoing Act.

FIRST SCHEDULE.

AGREEMENT WITH THE URBAN DISTRICT COUNCIL OF TEIGNMOUTH.

This AGREEMENT made the twenty-third day of November one thousand nine hundred and twenty-five between the URBAN DISTRICT COUNCIL OF PAIGNTON (hereinafter referred to as "the Paignton Council") of the one part and the URBAN DISTRICT COUNCIL OF TEIGNMOUTH (hereinafter referred to as "the Teignmouth Council") of the other part.

WHEREAS in pursuance of the provisions of the Public Health Acts and the Paignton Urban District Water Act 1900 (hereinafter referred to as "the Act of 1900") and the Paignton Urban District Council Act 1911 (hereinafter referred to as "the Act of 1911") the Paignton Council are empowered to supply and are supplying water within limits which comprise the urban district of Paignton :

And whereas the Paignton Council are the owners of certain waterworks which they acquired from the Paignton Water Company incorporated by the Paignton Water Act 1867 :

And whereas the Paignton Council in pursuance of powers conferred upon them by the Act of 1900 have constructed certain waterworks including a storage reservoir known and hereinafter referred to as "the Venford reservoir" and other works at Holne Moor in the parish of Holne and a nine-inch main from the said reservoir to Paignton :

And whereas by section 30 of the Act of 1900 it was enacted that it should be lawful for the Paignton Council to supply water by agreement in bulk to any local authority company or person on such terms and conditions in all respects and for such periods as the Paignton Council and such local authority company or person might from time to time agree but such enactment was made subject to the following proviso "Provided that such "supply shall not be given except with the consent of the local "authority of and of any company or person supplying water "under Parliamentary authority within the district to be "supplied nor if and so long as such supply would interfere

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" with the supply of water for domestic purposes within the " limits of this Act " :

And whereas in exercise of the powers conferred by the said section 30 of the Act of 1900 the Paignton Council by an agreement in writing between them and the Teignmouth Council dated the 5th day of July 1904 supplemented by further agreements between the same parties dated respectively the 7th day of February 1905 the 3rd day of October 1905 and the 2nd day of December 1919 (which agreements are hereinafter referred to as " the present agreements ") agreed to give a supply of water in bulk from the said works at Holne Moor to the Teignmouth Council upon the terms and conditions in the present agreements set forth and the point at which under the present agreements the said supply in bulk is delivered is a meter house (hereinafter referred to as " the point of delivery ") erected on a piece of land purchased by the Teignmouth Council and situate on the line of the said main from the Venford reservoir to Paignton at a point one hundred yards or thereabouts south of Park Hill Cross in the Parish of Ipplepen :

And whereas the Paignton Council are under obligation to afford in addition to the said supply to the Teignmouth Council certain supplies of water to other parties (particulars of which supplies have been furnished to the Teignmouth Council) from the said main between the Venford reservoir and Paignton pursuant to existing agreements and the requirements of the Act of 1900 :

And whereas by the Act of 1911 as varied by the Paignton Order 1920 confirmed by the Ministry of Health Provisional Orders Confirmation (No. 6) Act 1920 the Paignton Council were empowered to construct within a period of fifteen years from the 18th day of August 1911 and maintain an additional line or additional lines of pipes commencing at the Venford reservoir and terminating at a point one hundred yards or thereabouts south of Park Hill Cross aforesaid by a junction with the said nine-inch main leading from the said reservoir to Paignton but such additional line of pipes has not been constructed :

And whereas by the Paignton Water (Modification of Charges) Order 1923 made by the Minister of Health in pursuance of the powers given to him by the Water Undertakings (Modification of Charges) Act 1921 certain modifications as in that Order mentioned were made in the present agreements with respect to the prices chargeable for the supply of water under those agreements :

And whereas the needs of both the Paignton Council and the Teignmouth Council as regards the quantity of water required for their respective water undertakings are rapidly increasing and in order to meet those needs it is expedient that the Paignton Council should seek power to construct and should construct

new works including an additional main from the Venford reservoir to the point of delivery of the size hereinafter mentioned and the Paignton Council are willing so to do upon condition that such new arrangements are made with respect to the supply of water by them to the Teignmouth Council as are hereinafter set forth and the Teignmouth Council are willing to enter into such new arrangements upon the terms and conditions hereinafter appearing :

Now it is hereby agreed between the parties hereto as follows :—

Promotion of Bill.

1. The Paignton Council shall promote and use their best endeavours to procure the passing of a Bill in Parliament in the session of 1926 which shall include provision for the following purposes :—

(*a*) The construction and maintenance of new waterworks and the obtaining of an additional supply of water by means thereof in the neighbourhood of their existing source of supply at Holne Moor aforesaid;

(*b*) The confirmation of this agreement; and

(*c*) The repeal or amendment of the said proviso to section 30 of the Act of 1900 so far as such proviso limits or affects the powers of the Paignton Council to supply water in bulk to the Teignmouth Council as contemplated by this agreement.

Teignmouth to assist promotion of Bill.

2. The Teignmouth Council shall at the request of the Paignton Council give all such assistance by the provision of information and evidence as the Paignton Council may reasonably require in the promotion of the said Bill.

Agreement to be provisional.

3. This agreement (save as to clauses 1 2 and 4 thereof) is provisional and shall take effect only if and when the said Bill is passed into law confirming this agreement and making such provision as may be necessary to enable this agreement to be carried out.

Agreement subject to alteration by Parliament.

4. This agreement is made subject to such alterations as Parliament may think fit to make therein but if the Committee of either House of Parliament to whom the said Bill may be referred shall make any material alteration in this agreement it shall be competent to either party to this agreement to withdraw from the same.

Cancellation of existing agreements.

5. Upon this agreement taking effect as aforesaid the present agreements (as modified by the said Order of the Minister of Health as aforesaid) shall cease to have any effect Provided that until the 31st day of March next following the passing of the said Bill the price payable by the Teignmouth Council under the present agreements as modified by the said Order and as

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modified by an agreement of even date herewith between the parties hereto for water supplied to them by the Paignton Council and all provisions of the present agreements as so modified with respect to the payment and recovery of such price shall apply to the water supplied by the Paignton Council to the Teignmouth Council under this agreement in lieu of the corresponding provisions of this agreement.

Future applications to Parliament.

6. Nothing in this agreement contained shall operate so as to prevent either the Paignton Council or the Teignmouth Council from applying to Parliament at any future time for the abrogation or revision of this agreement or so as to prejudice either of the said Councils in reference to any such application.

Construction of 15-inch main.

7. The Paignton Council shall forthwith after this agreement takes effect as aforesaid commence and shall with all due diligence complete (in so far as such commencement and completion shall not have already been carried into effect under the provisions of the said agreement of even date herewith) the construction of a fifteen-inch main from the Venford reservoir to the point of delivery and all such additional filtration works incidental works and meters as may in the opinion of the Paignton Council be reasonably necessary in view of the extent of their obligations in regard to the supply of water and the probable demands upon them.

Further works to be constructed.

8. The Paignton Council shall also be under obligation so long as this agreement shall continue in force to construct from time to time any such further works (including the replacement of works for the time being existing) as shall in their opinion be necessary to enable them (in addition to meeting any other demands for water for the time being binding upon them) to afford to the Teignmouth Council a supply of water equal to the maximum supply which the Teignmouth Council are entitled to demand under this agreement:

Provided that in the event of the Teignmouth Council's being of opinion that further works are necessary at any time or that any works proposed to be constructed by the Paignton Council are insufficient for the purposes aforesaid they may serve a notice upon the Paignton Council to that effect and thereupon further or additional works shall be constructed by the Paignton Council unless such notice is withdrawn or it is determined by arbitration in manner hereinafter provided that any further or additional works are in whole or in part unnecessary for the purposes aforesaid; and

Provided also that if the Paignton Council shall require any additional Parliamentary or other powers for enabling them to construct any such further works as aforesaid they shall use their best endeavours to obtain such powers and their obligation

to construct such further works shall be conditional upon their succeeding in obtaining such powers. A.D. 1926.

Supply of water to Teignmouth.

9. The Paignton Council shall supply to the Teignmouth Council and the Teignmouth Council shall take in perpetuity at the point of delivery such quantity of water as the Teignmouth Council may from time to time require:

Provided that the maximum quantity of water which the Paignton Council shall be under obligation to supply in any consecutive period of twenty-four hours reckoned from midnight to midnight shall be six hundred thousand gallons; and

Provided also that the Teignmouth Council shall at all times take or pay for as if taken a supply of not less than three hundred thousand gallons of water in each consecutive period of twenty-four hours reckoned as aforesaid; and

Provided further that if (*a*) at the expiration of a period of twelve years from the date when this agreement takes effect or at the expiration of any succeeding period of twelve years either the Paignton Council or the Teignmouth Council shall by six calendar months' notice in writing to the other require a revision of the said maximum and minimum quantities of water or of any maximum and minimum quantities for the time being standing in place thereof under any previous revision and (*b*) at the date of such requisition for a revision either (i) the population (ascertained according to the annual estimates of the Registrar-General) of the limits of supply for the time being of the Paignton Council or of the urban district for the time being under the jurisdiction of the Teignmouth Council differs by not less than ten per cent. from the population (ascertained as aforesaid) of the limits of supply for the time being of the Paignton Council or of the urban district for the time being under the jurisdiction of the Teignmouth Council at the date of the coming into effect of this agreement or the date of the last preceding revision (as the case may be) or (ii) the circumstances in connection with the water undertaking of the Paignton Council or the water undertaking of the Teignmouth Council have materially changed since the date when this agreement takes effect or the date of the last preceding revision (as the case may be) such revision shall be duly carried out including any necessary revision of the quantity of water to be reserved for the Teignmouth Council under clause 10 hereof and any question as to the right of the party making such requisition to claim a revision and as to what the revised maximum and minimum quantities and the revised quantity under clause 10 hereof shall be shall failing agreement between the parties be determined by arbitration in manner hereinafter provided.

Provision in event of shortage.

10. If at any time the Paignton Council are unable to meet in full the demands for the time being for water made by the Teignmouth Council and by the other parties to whom the

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Paignton Council are for the time being supplying or under obligation to supply water outside their limits of supply and the demands for water in the limits of supply for the time being of the Paignton Council the Paignton Council shall divide the water for the time being available for supply from the bulk supply works so as to give to the Teignmouth Council six-twentieths of the first two million gallons per day or of the whole quantity if less than two million gallons per day the remainder of the water so available being reserved for such other parties as aforesaid and the Paignton Council for supply within their limits of supply :

Provided that if and so long as the Paignton Council in pursuance of this clause reduce the quantity of water delivered to the Teignmouth Council to less than six hundred thousand gallons per day or (if the quantity demanded for the time being by the Teignmouth Council is less than six hundred thousand gallons per day) to less than the quantity for the time being demanded by the Teignmouth Council the Paignton Council shall not supply any water in bulk to any party for use outside the limits for the time being of the Paignton Council for the supply of water in pursuance of any agreement made after the date of the execution of these presents (such agreement being for a new supply and not merely for the continuance of a supply which the Paignton Council are now bound by agreement or otherwise to afford) and in entering into any such agreement hereafter for a new supply of water in bulk for use outside the said limits the Paignton Council shall make any necessary stipulations for securing that effect shall be given to this proviso.

Teignmouth not to utilise new sources.

11. The Teignmouth Council during the continuance of this agreement unless they are then taking and have by agreement bound themselves to take in perpetuity the quantity of water which for the time being constitutes the maximum quantity to be supplied by the Paignton Council under this agreement as aforesaid shall not obtain any supply of water from any new source that is to say from any source other than the supply in bulk from the Paignton Council or the works now existing which belong to the Teignmouth Council and from which they have been supplying water during the year immediately preceding the date of this agreement (particulars of which works have been furnished to the Paignton Council) nor shall the Teignmouth Council during the continuance of this agreement unless they are then taking and have by agreement bound themselves to take in perpetuity the quantity of water which for the time being constitutes the maximum quantity aforesaid enlarge or extend any such existing works or provide additional machinery thereat or otherwise alter such existing works or the equipment thereof so as to augment the supply of water obtainable therefrom :

Provided that if (*a*) the Paignton Council shall at any time fail for a consecutive period of three years to supply to the

Teignmouth Council six hundred thousand gallons of water per day or (if the quantity demanded for the time being by the Teignmouth Council is less than six hundred thousand gallons per day) the quantity of water for the time being demanded by the Teignmouth Council and (*b*) within three calendar months after the expiration of such period of three years the Teignmouth Council shall give notice in writing to the Paignton Council claiming release from the stipulations of this clause it shall thereupon be settled by agreement between the parties hereto or failing such agreement by arbitration in manner hereinafter provided whether and if so to what extent and whether wholly or for what period the Teignmouth Council shall be released from the stipulations of this clause and whether any and if so what further variations shall be made in the provisions of this agreement.

Paignton not to utilise new sources.

12. The Paignton Council during the continuance of this agreement shall not obtain any supply of water from any source other than (*a*) works which are or will be within the class of the bulk supply works hereinafter referred to or (*b*) the existing works (not within that class) which belong to the Paignton Council and from which they have been supplying water during the year immediately preceding the date of this agreement (particulars of which works have been supplied to the Teignmouth Council) nor shall the Paignton Council during the continuance of this agreement enlarge or extend any such last-mentioned existing works or provide additional machinery thereat or otherwise alter such last-mentioned existing works or the equipment thereof so as to augment the supply of water obtainable therefrom.

Teignmouth not to supply water to others.

13. The Teignmouth Council during the continuance of this agreement shall not supply to any local authority company or person for use outside the urban district of Teignmouth any of the water supplied to them by the Paignton Council except with the previous consent in writing of the Paignton Council but this restriction shall not apply in the case of any supplies which the Teignmouth Council are under obligation to give at the date of this agreement.

Saving for agreements and undertakings.

14. Save as herein expressly provided nothing in these presents shall limit restrict or prejudice the rights of the Paignton Council and the Teignmouth Council respectively to enter into agreements in relation to the supply of water or to manage and develop their respective water undertakings as they may see fit.

Failure to supply.

15. The Paignton Council shall not be liable in damages or otherwise to the Teignmouth Council for any failure in the supply of water to be delivered to the Teignmouth Council under this agreement if such failure shall be occasioned by frost unusual drought strikes or any cause beyond the control of the Paignton Council or by their inability to carry out further works for the

A.D. 1926. purpose of augmenting the supply or shall occur during any time when the works of the Paignton Council or any of them shall be undergoing necessary repairs renewals or cleansing:

Provided that if it shall be found necessary by the Paignton Council at any time to stop the supply of water to the Teignmouth Council for the purpose of cleansing or renewing or doing any repairs to any of the bulk supply works of the Paignton Council the Paignton Council shall (except in case of emergency) serve on the Teignmouth Council a notice in writing of their intention so to do not less than forty-eight hours previously to such stoppage and shall diligently carry out the necessary cleansing renewal or repairs in a workmanlike manner and recommence the supply to the Teignmouth Council as speedily as circumstances will permit.

Meters for Teignmouth supply.

16. For the purpose of measuring the quantity of water supplied by the Paignton Council to the Teignmouth Council under this agreement two proper and sufficient water meters shall be provided and maintained by the Paignton Council One of the said meters shall be fixed by the Paignton Council at or near the point of delivery on land provided for that purpose by the Teignmouth Council The other meter shall be held in reserve by the Paignton Council so that whenever it shall be desired to test repair or replace the one for the time being in use the other meter having been first fixed and connected with the main so as to be in working order may be employed in its stead The meter for the time being in use shall be so fixed and maintained that all water supplied to the Teignmouth Council shall pass through such meter before entering the mains or pipes of the Teignmouth Council The meter for the time being in use shall be read on the first day of each calendar month by two persons one appointed by the Paignton Council and the other by the Teignmouth Council at such hour as shall be agreed upon by such persons and the quantity of water appearing from the record to have been supplied during the month to which the record relates shall for the purposes of this agreement be deemed (except in the case of some manifest error) to be the amount actually supplied during such month At the expiration of thirty minutes from the hour appointed for the reading of the said meter if a person shall be present on behalf of one of the said Councils and no person shall during such period of thirty minutes have been present on behalf of the other of them the person so present shall read the said meter and his record of the reading shall be accepted as correct Either the Paignton Council or the Teignmouth Council may inspect remove and test the meter for the time being in use at any time at the expiration of twenty-four hours from the service of a notice of their intention so to do upon the other of them and for this purpose the necessary duplicate keys of the meter house shall be supplied by the

Paignton Council to the Teignmouth Council If the meter shall be found to be defective all expenses connected with the testing removing replacing or repair thereof shall be borne by the two Councils in equal shares but if the meter shall be found to be correct the expenses shall be borne by the Council requiring the test.

In respect of any period during which any meter shall be found to have measured inaccurately or shall have been removed and not replaced by another meter the quantity of water supplied shall be deemed to be the quantity supplied during the corresponding period of the previous year with such addition or deduction in respect of estimated increase or decrease in the supply as may be agreed between the Paignton Council and the Teignmouth Council or as failing agreement shall be determined by arbitration in manner hereinafter provided.

Bulk supply works.

17. For the purposes of this agreement the following works shall together constitute the bulk supply works :—

(*a*) The said Venford reservoir and any works in connection therewith at or in the neighbourhood of Holne Moor for the time being constructed and maintained by the Paignton Council;

(*b*) Any new waterworks for the time being constructed and maintained by the Paignton Council under the powers to be sought by the said Bill or otherwise for the purpose of obtaining additional supplies of water for the bulk supplies as hereinafter defined;

(*c*) The said existing nine-inch main and the said fifteen-inch main to be constructed as aforesaid and any other main or mains for the time being constructed and maintained by the Paignton Council in addition to or in substitution for the said nine-inch and fifteen-inch mains for the purpose of conveying water from the said reservoir and works at Holne Moor or from any such new waterworks as aforesaid to Paignton or Teignmouth or to the area of any authority to whom supplies of water may for the time being be given by the Paignton Council;

(*d*) Any mains reservoirs and works for the time being belonging to the Paignton Council and maintained by them for the purpose of bringing supplies of water into the mains referred to in paragraph (*c*) of this clause or conveying or storing water which has been brought through those mains except any mains reservoirs and works below the point of delivery which now are or shall hereafter be used for and in connection with the distribution of water within the limits of supply of the Paignton Council as they may from time to time

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be constituted and also except any distribution mains which may hereafter be laid above the point of delivery and which may be used solely for the supply of premises within the said limits of supply;

(*e*) Any drainage filtration subsidiary or other works for the time being constructed and maintained by the Paignton Council in connection with any of the works described in paragraphs (*a*) (*b*) (*c*) and (*d*) of this clause;

(*f*) Any meters provided and maintained by the Paignton Council for measuring any of the bulk supplies; and

(*g*) Any other works which either the Paignton Council or the Teignmouth Council may at any time claim as proper to be treated as bulk supply works and which shall thereupon be agreed between the Paignton Council and the Teignmouth Council or failing such agreement shall be determined by arbitration in manner hereinafter provided on the application of either Council to be bulk supply works for the purposes of this agreement.

Definition of bulk supplies.

18. For the purposes of this agreement the following supplies of water shall together constitute the bulk supplies :—

(*a*) The supply of water by the Paignton Council to the Teignmouth Council in pursuance of this agreement;

(*b*) Any supplies of water for the time being given by the Paignton Council to parties other than the Teignmouth Council from any of the bulk supply works except any such supplies which the Paignton Council are for the time being under obligation to give free of charge or at a nominal price in consideration of the grant of easements for the laying of aqueducts pipes or other works; and

(*c*) The quantity of water taken by the Paignton Council from the bulk supply works for the purpose of distribution within the limits of supply of the Paignton Council as they may from time to time be constituted.

Meters for bulk supplies.

19. The Paignton Council shall provide and maintain proper and sufficient water meters for measuring the supplies of water referred to in paragraph (*b*) of the last preceding clause and the quantity of water mentioned in paragraph (*c*) of that clause and shall cause the said supplies and the said quantity of water duly to pass through the respective meters so provided and shall keep records of the water passing from time to time through the said meters The Teignmouth Council shall be entitled at all reasonable times to inspect the said meters and records and to take copies of such records or to have such copies supplied to them at the usual stationers' charges.

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Accounts.

20. The Paignton Council shall keep proper books and accounts with respect to their water undertaking and shall therein distinguish properly between receipts and expenditure on capital account and income and expenditure on revenue account respectively and also between receipts and expenditure on capital account and income and expenditure on revenue account relating to the bulk supplies and the bulk supply works and also between receipts and expenditure on capital account and income and expenditure on revenue account relating to the other supplies and works of the Paignton Council All proper and equitable apportionments shall be made in the said books and accounts in respect of items relating to both capital and revenue (including payments and receipts in respect of any loans sinking fund or reserve fund as referred to in clause 21 hereof) and in respect of items relating to both the bulk supplies or bulk supply works and to other supplies or works The Teignmouth Council shall be entitled at all reasonable times to inspect the said books and accounts and all vouchers time-sheets minutes and other records relating to the said water undertaking including records of the Paignton water engineer and his department and records of meetings of the Paignton Council so far as they are concerned with the water undertaking and matters relating thereto The Teignmouth Council shall also be entitled to take copies of any such accounts or to have such copies supplied to them at the usual stationers' charges As soon as possible after the expiration of each year ending on the 31st day of March the Paignton Council shall send to the Teignmouth Council a detailed abstract of the accounts of the said water undertaking for that year together with a statement of the water supplied during that year in respect of each of the bulk supplies Any question raised by the Teignmouth Council within four calendar months after the receipt of the said abstract of accounts for any year as to the way in which any items in the books and accounts of the said undertaking in respect of that year should be charged credited or apportioned shall failing agreement between the Paignton Council and the Teignmouth Council be determined by arbitration in manner hereinafter provided.

Price.

21. The price payable by the Teignmouth Council for the water supplied to them by the Paignton Council in each year ending on the 31st day of March (being a year subsequent to the 31st day of March next following the passing of the said Bill) shall be such proportion of the total expenditure of the Paignton Council for that year in maintaining managing and financing the bulk supply works and providing and giving the bulk supplies as the quantity of water taken or to be paid for as if taken by the Teignmouth Council under this agreement in that year bears to the total quantity of the bulk supplies in that year The said

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expenditure shall for the purposes of this clause include (*a*) all expenditure on revenue account in respect of the bulk supply works and the bulk supplies and all costs and expenses legal Parliamentary or otherwise incurred in connection therewith (except so far as such costs and expenses may be charged as capital expenditure) credit being given for all income received by the Paignton Council in respect of rents revenue and income from any land or property forming part of the bulk supply works (*b*) the interest on and repayments of loans and sinking fund charges in respect of capital expenditure on the bulk supply works and the bulk supplies and (*c*) such sums (if any) as the Paignton Council may from time to time set aside to a reserve fund in relation to the bulk supply works Provided that the amount to be set aside to such reserve fund in any year shall not exceed one per cent. of the aggregate capital expended by the Paignton Council on the bulk supply works up to the end of the last preceding year and the total amount standing to the credit of that fund at any time shall not exceed ten per cent. of such aggregate capital.

Calculation of price triennially.

22. The amount of the said price in respect of the water taken or to be paid for as if taken by the Teignmouth Council during each of the three consecutive years after the 31st day of March next following the passing of the said Bill and during each year of every three consecutive years thereafter shall be determined as soon as possible after the termination of such three consecutive years by agreement between the Paignton Council and the Teignmouth Council or failing such agreement by arbitration in manner hereinafter provided.

Payments on account.

23. Within one calendar month after the expiration of every consecutive half-year after the 31st day of March next following the passing of the said Bill the Teignmouth Council shall pay to the Paignton Council in respect of that half-year a sum on account of the said price Until the determination as aforesaid of the price for each of the first three consecutive years the sum so payable on account shall be such sum as the Paignton Council may fix on the basis of a reasonable estimate of the average of the prices which will eventually be determined as payable in respect of the first three consecutive years After the determination as aforesaid of the price for each of the first three consecutive years and after each subsequent determination of the prices for three consecutive years the average of the prices for such three consecutive years shall be the price on which the payment on account in respect of each half-year shall be based until the next following determination of the prices for three consecutive years.

Adjustment of prices.

24. When the actual prices have been determined as aforesaid in respect of the first three or any subsequent three consecutive years the difference between the sums actually payable by the Teignmouth Council in respect of those three years according to the actual prices so determined and the sums paid on account in respect of those three years shall be paid by the Teignmouth Council to the Paignton Council or by the Paignton Council to the Teignmouth Council (as the case may be) by six equal half-yearly instalments commencing on the 31st day of March or the 30th day of September then next ensuing.

Default in payment.

25. If the Teignmouth Council shall at any time make default in paying to the Paignton Council any sum under this agreement for a period of three calendar months after the same becomes due and payable the Paignton Council without prejudice to any other remedy available to them in respect of such default may if they think fit at any time within two calendar months after the expiration of the said period give notice in writing to the Teignmouth Council determining this agreement as from a date six calendar months after such notice.

Default by Paignton.

26. If the Paignton Council shall at any time make default in supplying to the Teignmouth Council the water which the Teignmouth Council require and are entitled to receive under this agreement and such default continues for a period of one year the Teignmouth Council without prejudice to any other remedy available to them in respect of such default may if they think fit at any time within six calendar months after the expiration of the said period give notice in writing to the Paignton Council determining this agreement as from any date not exceeding six years from the date of such notice.

Saving for rights under existing agreements.

27. Nothing in this agreement contained shall extend or be construed so as to override or prejudice the rights of any parties other than the Teignmouth Council under any agreements by which the Paignton Council are already at the date of these presents bound to supply water to such parties.

Arbitration.

28. If any difference shall at any time arise between the parties hereto as to the meaning or effect of these presents or anything therein contained or as to anything to be done or not to be done in pursuance of this agreement or as to any matter hereinbefore agreed to be referred to arbitration such difference shall unless otherwise settled be referred to the arbitration of a single arbitrator to be appointed by the Minister of Health on the application of either of the parties and in other respects the provisions of the Arbitration Act 1889 or any statutory modification thereof for the time being in force shall apply to any such reference.

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In witness whereof the Paignton Council and the Teignmouth Council have caused their respective common seals to be hereunto affixed the day and year first above written.

One part. The common seal of the urban district council of Paignton was hereunto affixed in the presence of

L.S.

R. A. ARNOLD JENKINS
Chairman.

JOHN HARTLEY,
Clerk.

Other part. The common seal of the urban district council of Teignmouth was hereunto affixed in the presence of

L.S.

K. A. CARTWRIGHT
Chairman.

W. T. WOODGATES
Clerk.

SECOND SCHEDULE.

AGREEMENT WITH THE URBAN DISTRICT COUNCIL OF BRIXHAM.

This AGREEMENT made the thirtieth day of March one thousand nine hundred and twenty-six between the URBAN DISTRICT COUNCIL OF PAIGNTON (hereinafter referred to as "the Paignton Council") of the one part and the URBAN DISTRICT COUNCIL OF BRIXHAM (hereinafter referred to as "the Brixham Council") of the other part.

WHEREAS in pursuance of the provisions of the Public Health Acts and the Paignton Urban District Water Act 1900 (hereinafter referred to as "the Act of 1900") and the Paignton Urban District Council Act 1911 (hereinafter referred to as "the Act of 1911") the Paignton Council are empowered to supply and are supplying water within limits which comprise the urban district of Paignton:

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And whereas the Paignton Council are the owners of certain waterworks which they acquired from the Paignton Water Company incorporated by the Paignton Water Act 1867 :

And whereas the Paignton Council in pursuance of powers conferred upon them by the Act of 1900 have constructed certain waterworks (including a storage reservoir known and hereinafter referred to as "the Venford reservoir") and other works at Holne Moor in the parish of Holne and a nine-inch main from the said reservoir to Paignton :

And whereas by section 30 of the Act of 1900 it was enacted that it should be lawful for the Paignton Council to supply water by agreement in bulk to any local authority company or person on such terms and conditions in all respects and for such periods as the Paignton Council and such local authority company or person might from time to time agree but such enactment was made subject to the following proviso "Provided "that such supply shall not be given except with the consent "of the local authority of and of any company or person "supplying water under parliamentary authority within the "district to be supplied nor if and so long as such supply would "interfere with the supply of water for domestic purposes within "the limits of this Act" :

And whereas pursuant to an agreement made between the Paignton Council and the Brixham Council and dated the 16th day of June 1902 and an agreement supplemental thereto made between the same parties and dated the 11th day of April 1904 (which agreements were made in exercise of the powers conferred by the said section 30 of the Act of 1900 and are hereinafter referred to as "the present agreements") the Paignton Council are under obligation to afford and are affording and the Brixham Council are under obligation to take and are taking a supply of water in bulk for the period and subject to the limits as to quantity and upon and subject to the terms and conditions set forth in the present agreements :

And whereas the said supply is delivered by the Paignton Council to the Brixham Council in a meter house known as the Churston meter house at a point (hereinafter referred to as "the present point of delivery") on the southern boundary of the urban district of Paignton and is conveyed thence by the Brixham Council through a main belonging to them to their reservoir known as "the Hill Head reservoir" situate in the urban district of Brixham :

And whereas pursuant to an agreement dated the 7th day of June 1910 and made between the Brixham Council and the rural district council of Totnes (hereinafter called "the Totnes Council") the Brixham Council are affording a supply of water to the Totnes Council for distribution in the parish of Churston

A.D. 1926. Ferrers and by the said last-mentioned agreement the Brixham Council are required to afford and the Totnes Council are required to take such a supply of water as aforesaid for a period which expires on the 31st day of March 1940 upon the terms and conditions contained in the said agreement but subject to the right of the Brixham Council at any time after the expiration of fifteen years from the date of the said agreement to determine the same upon six months' notice if they are unable to furnish a sufficient supply for their own district:

And whereas the Paignton Council in exercise of the powers conferred by the said section 30 of the Act of 1900 and in pursuance of certain existing agreements between themselves and the urban district council of Teignmouth (hereinafter called "the Teignmouth Council") are affording and under obligation to afford a supply of water in bulk to the Teignmouth Council upon the terms and conditions in the said agreements set forth:

And whereas the Paignton Council are under obligation to afford in addition to the said supplies to the Brixham Council and the Teignmouth Council certain supplies of water to other parties from the said main between the Venford reservoir and Paignton pursuant to existing agreements and the requirements of the Act of 1900:

And whereas by the Act of 1911 as varied by the Paignton Order 1920 confirmed by the Ministry of Health Provisional Orders Confirmation (No. 6) Act 1920 the Paignton Council were empowered to construct within a period of fifteen years from the 18th day of August 1911 and maintain an additional line or additional lines of pipes commencing at the Venford reservoir and terminating at a point one hundred yards or thereabouts south of Park Hill Cross by a junction with the said nine-inch main leading from the said reservoir to Paignton but such additional line of pipes has not been constructed:

And whereas by the Paignton Water (Modification of Charges) Order 1923 made by the Minister of Health in pursuance of the powers given to him by the Water Undertakings (Modification of Charges) Act 1921 certain modifications as in that Order mentioned were made in the agreements hereinbefore referred to or some of them with respect to the prices chargeable for the supply of water under those agreements:

And whereas the needs of the Paignton Council the Brixham Council and the Teignmouth Council as regards the quantity of water required for their respective water undertakings are rapidly increasing and in order to meet those needs it is expedient that the Paignton Council should seek power to construct and should construct new works including an additional main from the Venford reservoir to the point at which the water is

delivered by the Paignton Council to the Teignmouth Council under the agreements hereinbefore mentioned (hereinafter called "the Teignmouth point of delivery") and the Paignton Council have agreed to seek such power upon condition that such new arrangements are made with respect to the supply of water by them to the Brixham Council as are hereinafter set forth and that such new arrangements are made with respect to the supply of water by the Paignton Council to the Teignmouth Council as are contained in a provisional agreement between those Councils and dated the 23rd day of November 1925:

And whereas the Brixham Council are desirous of ensuring an adequate water supply for their needs and are willing to enter into such new arrangements between themselves and the Paignton Council upon the terms and conditions hereinafter appearing:

And whereas the Totnes Council have given their consent to the determination of the said agreement dated the 7th day of June 1910 and to the inclusion of the said parish of Churston Ferrers within the limits of supply of the Paignton Council:

And whereas the Paignton Council are promoting a Bill in Parliament in the present session including provision for the construction and maintenance of new waterworks and the obtaining of an additional supply of water by means thereof in the neighbourhood of their existing source of supply at Holne Moor aforesaid:

Now it is hereby agreed between the parties hereto as follows:—

Promotion of Bill.

1. The Paignton Council shall use their best endeavours to procure the passing of the said Bill and the inclusion therein of provisions for the confirmation of this agreement and the repeal or amendment of the said proviso to section 30 of the Act of 1900 so far as such proviso limits or affects the powers of the Paignton Council to supply water in bulk to the Brixham Council as contemplated by this agreement.

Agreement to be provisional.

2. This agreement (save as to clauses 1 and 3 hereof) is provisional and shall take effect only if and when the said Bill is passed into law (*a*) confirming this agreement (*b*) empowering the Paignton Council to construct the works referred to in the last recital to this agreement and (*c*) making such provision as may be necessary to enable this agreement to be carried out.

Agreement subject to alteration by Parliament.

3. This agreement is made subject to such alterations as Parliament may think fit to make therein but if the Committee of either House of Parliament to whom the said Bill may be referred shall make any material alteration in this agreement it shall be competent to either party to this agreement to withdraw from the same.

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Cancellation of existing agreements.

4. Upon this agreement taking effect as aforesaid the present agreements (as modified by the said Order of the Minister of Health as aforesaid) shall cease to have any effect Provided that until the completion of the construction of and the commencement of the supply of water through the fifteen-inch main hereinafter referred to the price payable by the Brixham Council under the present agreements as modified by the Paignton Water (Modification of Charges) Order 1923 shall apply to the water supplied by the Paignton Council to the Brixham Council under this agreement in lieu of the corresponding provisions of this agreement.

Construction of 15-inch main.

5. The Paignton Council shall forthwith after this agreement takes effect as aforesaid (if the sanction of the Minister of Health to the raising of the necessary loan has then been obtained) commence and shall with all due diligence complete (in so far as such commencement and completion shall not have already been carried into effect) the construction of a fifteen-inch main from the Venford reservoir to the Teignmouth point of delivery and all such additional filtration works incidental works and meters as may in the opinion of the Paignton Council be reasonably necessary in view of the extent of their obligations in regard to the supply of water and the probable demands upon them.

Further works to be constructed.

6. The Paignton Council shall also be under obligation so long as this agreement shall continue in force to construct from time to time any such further works (including the replacement of works for the time being existing but other than the enlargement or supplementing of their mains as to which provision is made by clause 22 of this agreement) as shall in their opinion be necessary to enable them (in addition to meeting any other demands for water for the time being binding upon them) to afford to the Brixham Council such supply of water as they may reasonably be expected to require (having regard to their existing and prospective independent sources of supply) not exceeding the maximum supply which the Brixham Council are for the time being entitled to demand under this agreement :

Provided that in the event of the Brixham Council's being of opinion that further works are necessary at any time or that any works proposed to be constructed by the Paignton Council are insufficient for the purposes aforesaid they may serve a notice upon the Paignton Council to that effect and thereupon further or additional works shall be constructed by the Paignton Council unless such notice is withdrawn or it is determined by arbitration in manner hereinafter provided that any further or additional works are in whole or in part unnecessary for the purposes aforesaid ; and

Provided also that if the Paignton Council shall require any additional Parliamentary or other powers for enabling them

to construct any such further works as aforesaid or to borrow the sums required therefor they shall use their best endeavours to obtain such powers and their obligation to construct such further works shall be conditional upon their succeeding in obtaining such powers.

Supply of water to Brixham.

7. The Paignton Council shall supply to the Brixham Council and the Brixham Council shall take in perpetuity at a point of delivery (hereinafter referred to as "the new point of delivery") at the existing meter house at the said Hill Head reservoir such quantity of pure and wholesome water as the Brixham Council may from time to time require :

Provided that the maximum quantity of water which the Paignton Council shall be under obligation to supply in any consecutive period of twenty-four hours reckoned from midnight to midnight shall be one hundred and eighty thousand gallons ; and

Provided also that the Brixham Council shall at all times take or pay for as if taken a supply of not less than sixty thousand gallons of water in each consecutive period of twenty-four hours reckoned as aforesaid ; and

Provided also that if the Paignton Council are unable from any cause to supply during any one period of seven consecutive days the daily minimum quantity for the time being in force multiplied by seven the Brixham Council shall only be required to pay for the quantity actually supplied during that period ; and

Provided further that if (*a*) at the expiration of a period of twelve years from the date when this agreement takes effect or at the expiration of any succeeding period of twelve years either the Paignton Council or the Brixham Council shall by six calendar months' notice in writing to the other require a revision of the said maximum and minimum quantities of water or of any maximum and minimum quantities for the time being standing in place thereof under any previous revision and (*b*) at the date of such requisition for a revision either (i) the population (ascertained according to the annual estimates of the Registrar-General) of the limits of supply for the time being of the Paignton Council or of the urban district for the time being under the jurisdiction of the Brixham Council differs by not less than ten per cent. from the population (ascertained as aforesaid) of the limits of supply for the time being of the Paignton Council or of the urban district for the time being under the jurisdiction of the Brixham Council at the date of the coming into effect of this agreement or the date of the last preceding revision (as the case may be) or (ii) the circumstances in connection with the water undertaking of the Paignton Council or the water undertaking of the Brixham Council have materially changed since the date when this agreement takes effect or the date of

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Provision in event of shortage.

8. If at any time the Paignton Council are unable to meet in full the demands for the time being for water made by the Brixham Council and by the Teignmouth Council and the other parties to whom the Paignton Council are for the time being supplying or under obligation to supply water outside their limits of supply and the demands for water in the limits of supply for the time being of the Paignton Council the Paignton Council shall divide the water for the time being available for supply from the sources of water supply for the time being of the Paignton Council other than such sources as may be situate within the urban district of Paignton so as to give to the Teignmouth Council fifteen-fiftieths and to the Brixham Council at the new point of delivery four-fiftieths of the first two million gallons per day or of the whole quantity if less than two million gallons per day the remainder of the water so available being reserved for such other parties as aforesaid and the Paignton Council for supply within their limits of supply Provided that if and so long as the Paignton Council in pursuance of this clause reduce the quantity of water delivered to the Brixham Council to less than one hundred and eighty thousand gallons per day or (if the quantity demanded for the time being by the Brixham Council is less than one hundred and eighty thousand gallons per day) to less than the quantity for the time being demanded by the Brixham Council the Paignton Council shall not supply any water in bulk to any party for use outside the limits for the time being of the Paignton Council for the supply of water in pursuance of any agreement made after the date of the execution of these presents (such agreement being for a new supply and not merely for the continuance of a supply which the Paignton Council are now bound by agreement or otherwise to afford) and in entering into any such agreement hereafter for a new supply of water in bulk for use outside the said limits the Paignton Council shall make any necessary stipulations for securing that effect shall be given to this proviso.

Utilisation of new sources by Brixham.

9. The Brixham Council during the continuance of this agreement unless they are then taking and have by agreement bound themselves to take in perpetuity the quantity of water which for the time being constitutes the maximum quantity to be supplied by the Paignton Council under this agreement as

aforesaid shall not obtain any supply of water from any source other than (*a*) the supply in bulk from the Paignton Council or (*b*) the proposed works on the Greenway Estate in the parish of Churston Ferrers or (*c*) any works for the time being belonging solely to the Brixham Council and situate within the urban district of Brixham as constituted at the date of this agreement.

Transfer of Brixham main to Paignton.

10. Upon this agreement taking effect as aforesaid the said existing main of the Brixham Council so far as the same extends from the present point of delivery to the new point of delivery and all apparatus of the Brixham Council subsidiary or accessory thereto shall be transferred to and vested in the Paignton Council Provided that the Paignton Council shall on the termination of this agreement re-transfer to the Brixham Council so much of the said existing main and apparatus as is situate within the urban district of Brixham as at present constituted which portion shall thereupon be severed from the Paignton main at the boundary of the said urban district and the Brixham Council shall thereupon pay to the Paignton Council the value of such portion to be ascertained in the event of dispute by arbitration as hereinafter provided.

Payment for Brixham main.

11. From and after the completion of the construction of and the commencement of the supply of water through the fifteen-inch main hereinbefore referred to the Paignton Council shall pay to the Brixham Council within six weeks after they become due the amount of the annual or half yearly instalments of principal and interest (less income tax) from time to time paid by the Brixham Council in respect of the loan raised by them for the construction of the Brixham main the first of such payments being apportioned if necessary having regard to the date of the commencement of supply through the said fifteen-inch main.

Payment for meters belonging to Brixham Council.

12. Upon this agreement taking effect the Paignton Council shall pay to the Brixham Council the sum of one hundred pounds being the agreed value of thirty-one meters belonging to the Brixham Council and installed in consumers' premises in the parish of Churston Ferrers which meters shall thereupon be transferred to the Paignton Council.

Transfer of Totnes agreement to Paignton.

13. Upon this agreement taking effect as aforesaid all rights and obligations of the Brixham Council under the said agreement between the Brixham Council and the Totnes Council with respect to the supply of water for distribution in the parish of Churston Ferrers after this agreement so takes effect shall (subject to the terms of any supplemental or other agreement which may be entered into between the Paignton Council and the Totnes Council) be and become transferred to and vested in the Paignton Council free of any payment by the Paignton Council to the Brixham Council and the Paignton Council shall

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thereafter keep the Brixham Council indemnified against any claims or demands of the Totnes Council with respect to the discharge of the obligations imposed on the Brixham Council under that agreement after the date of such transfer.

Brixham not to supply water to others.

14. The Brixham Council during the continuance of this agreement shall not supply to any local authority company or person for use outside the urban district of Brixham except in the parish of Kingswear or in the harbour of Brixham as defined by section 5 of the Brixham Harbour Order 1912 confirmed by the Pier and Harbour Orders Confirmation (No. 2) Act 1912 any of the water supplied to them by the Paignton Council except with the previous consent in writing of the Paignton Council.

Saving for agreements and undertakings.

15. Save as herein expressly provided nothing in these presents shall limit restrict or prejudice the rights of the Paignton Council and the Brixham Council respectively to enter into agreements in relation to the supply of water or to manage and develop their respective water undertakings as they may see fit.

Failure to supply.

16. The Paignton Council shall not be liable in damages or otherwise to the Brixham Council for any failure in the supply of water to be delivered to the Brixham Council under this agreement if such failure shall be occasioned by frost unusual drought strikes or any cause beyond the control of the Paignton Council or by their inability to carry out further works for the purpose of augmenting the supply or shall occur during any time when the works of the Paignton Council or any of them shall be undergoing necessary repairs renewals or cleansing Provided that if it shall be found necessary by the Paignton Council at any time to stop the supply of water to the Brixham Council for the purpose of cleansing or renewing or doing any repairs to any of the works of the Paignton Council the Paignton Council shall (except in case of emergency) serve on the Brixham Council a notice in writing of their intention so to do not less than forty-eight hours previously to such stoppage and shall if possible give a supply of water to enable the Hill Head reservoir to be filled at the time of stoppage and shall diligently carry out the necessary cleansing renewal or repairs in a workmanlike manner and recommence the supply to the Brixham Council as speedily as circumstances will permit.

Meters for Brixham supply.

17. For the purpose of measuring the quantity of water supplied by the Paignton Council to the Brixham Council under this agreement a proper and sufficient water meter shall be provided and maintained by the Paignton Council and shall be fixed by the Paignton Council in a meter-house to be constructed or provided by and at the expense of the Brixham Council and to be maintained by them (but to be controlled by the Paignton

Council who shall at all times have access thereto) at or near the new point of delivery on land provided for that purpose by the Brixham Council The meter shall be so fixed and maintained that all water supplied to the Brixham Council shall pass through such meter before entering the mains pipes or works of the Brixham Council The meter shall be read on the first day of each calendar month by two persons one appointed by the Paignton Council and the other by the Brixham Council at such hour as shall be agreed upon by such persons and the quantity of water appearing from the record to have been supplied during the month to which the record relates shall for the purposes of this agreement be deemed (except in the case of some manifest error) to be the amount actually supplied during such month At the expiration of thirty minutes from the hour appointed for the reading of the said meter if a person shall be present on behalf of one of the said Councils and no person shall during such period of thirty minutes have been present on behalf of the other of them the person so present shall read the said meter and his record of the reading shall be accepted as correct Either the Paignton Council or the Brixham Council may inspect remove and test the meter at any time at the expiration of twenty-four hours from the service of a notice of their intention so to do upon the other of them and for this purpose the necessary duplicate keys of the meter-house shall be supplied by the Brixham Council to the Paignton Council If the meter shall be found to be defective all expenses connected with the testing removing replacing or repair thereof shall be borne by the Paignton Council but if the meter shall be found to be substantially correct and the testing is done at the request of the Brixham Council the expenses shall be borne by the Brixham Council.

In respect of any period during which any meter shall be found to have measured inaccurately or shall have been removed and not replaced by another meter the quantity of water supplied shall be deemed to be the quantity supplied during the corresponding period of the previous year with such addition or deduction in respect of estimated increase or decrease in the supply as may be agreed between the Paignton Council and the Brixham Council or as failing agreement shall be determined by arbitration in manner hereinafter provided.

Price of water.

18. The price to be paid by the Brixham Council to the Paignton Council for all water supplied to the Brixham Council under this agreement shall be one shilling and threepence per one thousand gallons during the first fifty years from the coming into effect of this agreement The price to be payable from time to time after the expiration of the said fifty years shall from time to time be fixed by agreement between the Paignton Council and the Brixham Council or failing such agreement by arbitration

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in manner hereinafter provided and on the occasion of the fixing of any such price the period during which the same shall apply the minimum and maximum quantities of water to be supplied and the nature and extent of any works to be constructed by the Paignton Council for the purposes of the supply shall also be fixed by agreement or arbitration as aforesaid.

Accounts and payment.

19. Forthwith after the monthly readings of the meter hereinbefore mentioned in the months of April and October the Paignton Council shall render to the Brixham Council a written statement of the amount payable for water supplied during the preceding six months to which such reading relates and the Brixham Council shall pay the amount of such account to the Paignton Council at or before the expiration of six weeks after the rendering of such account.

Default in payment.

20. If the Brixham Council shall at any time make default in paying to the Paignton Council any sum due under this agreement for a period of three calendar months after the same becomes due and payable the Paignton Council without prejudice to any other remedy available to them in respect of such default may if they think fit at any time within two calendar months after the expiration of the said period give notice in writing to the Brixham Council determining this agreement as from a date six calendar months after such notice.

Default by Paignton.

21. If the Paignton Council shall at any time make default in supplying to the Brixham Council the water which the Brixham Council require and are entitled to receive under this agreement and such default continues for a period of one year the Brixham Council without prejudice to any other remedy available to them in respect of such default may if they think fit at any time within six calendar months after the expiration of the said period give notice in writing to the Paignton Council determining this agreement as from any date not exceeding six years from the date of such notice.

Enlargement of mains to convey Brixham supply.

22. (*a*) Nothing in clause 6 (Further works to be constructed) of this agreement shall impose any obligation upon the Paignton Council to enlarge or supplement their mains for the purpose of supplying water to the Brixham Council but the obligations of the Paignton Council in that behalf during the first period of fifty years from the date on which this agreement takes effect shall be regulated and determined in pursuance of the provisions hereinafter contained.

(*b*) At any time during the period of twelve years from the date on which this agreement takes effect the Brixham Council may require the Paignton Council to enlarge or supplement the main from the present point of delivery to the new point of delivery (in this clause referred to as "the Brixham main") if

the Paignton Council are unable to supply one hundred thousand gallons of water per day through the Brixham main to the Brixham Council.

(*c*) At any time after the expiration of twelve years from the date on which this agreement takes effect or from the date on which any requirement by the Brixham Council under sub-clause (*b*) of this clause may have been complied with the Brixham Council may require the Paignton Council to enlarge or supplement the Brixham main if the Paignton Council are unable to supply to the Brixham Council through the Brixham main such daily quantity of water as they may reasonably require not being greater than the maximum quantity which the Paignton Council are for the time being bound to supply.

(*d*) The Brixham Council shall have the same right of calling for the enlargement or supplementing of the Brixham main at the expiration of twelve years from the date of any requirement under sub-clause (*c*) of this clause.

(*e*) Upon any requirement being made by the Brixham Council under sub-clauses (*b*) (*c*) or (*d*) of this clause it shall be determined by agreement or failing agreement by arbitration whether and if so to what extent the enlargement or supplementing of the Brixham main is necessary and in the determination of the size of the enlarged or additional main regard shall be had to the probable average daily demand upon the Brixham main during such period from the date of the requirement as may be agreed or the arbitrator may determine to be reasonable.

(*f*) Upon any such requirement being made it shall also be determined by agreement or failing agreement by arbitration whether and if so to what extent the minimum daily quantity of water which the Brixham Council are for the time being required under clause 7 (Supply of water to Brixham) of this agreement to take or pay for as if taken shall be increased having regard to the expenditure to be incurred by the Paignton Council in connection with the enlargement or supplementing of the Brixham main and its future maintenance repair and renewal.

(*g*) Upon the settlement by agreement or arbitration of any questions which may arise upon any requirement by the Brixham Council under this clause the Paignton Council shall forthwith proceed to carry out the necessary works Provided that if the Paignton Council shall require any additional Parliamentary or other powers for enabling them to construct such works or to borrow the sums required therefor they shall use their best endeavours to obtain such powers and their obligation to construct such works shall be conditional upon their obtaining such powers.

Saving for rights under existing agreements.

23. Nothing in this agreement contained shall extend or be construed so as to override or prejudice the rights of any parties other than the Brixham Council under any agreements by which

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the Paignton Council are already at the date of these presents bound to supply water to such parties.

Arbitration.

24. If any difference shall at any time arise between the parties hereto as to the meaning or effect of these presents or anything therein contained or as to anything to be done or not to be done in pursuance of this agreement or as to any matter hereinbefore agreed to be referred to arbitration such difference shall unless otherwise settled be referred to the arbitration of a single arbitrator to be appointed by the Minister of Health on the application of either of the parties and in other respects the provisions of the Arbitration Act 1889 or any statutory modification thereof for the time being in force shall apply to any such reference.

In witness whereof the Paignton Council and the Brixham Council have caused their respective common seals to be hereunto affixed the day and year first before written.

One part — The common seal of the urban district council of Paignton was hereunto affixed in the presence of — L.S.

R. A. ARNOLD JENKINS
Chairman.

JOHN HARTLEY
Clerk.

Other part. — The common seal of the urban district council of Brixham was hereunto affixed in the presence of — L.S.

GEORGE HENRY HELLINGS
Chairman.

JOHN PUTT DECENT
Vice-Chairman.

WILLIAM JEFFERY SANDERS
Member of the Council.

SANDERS LEAR
Clerk.

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