CHAPTER xciii.

An Act to empower the Corporation of Torquay to execute street works and harbour and sea front improvements and to acquire and develop lands to confer further powers upon the Corporation with respect to the local government of the borough and for other purposes. A.D. 1937.

[20th July 1937.]

WHEREAS the borough of Torquay (in the preamble to this Act referred to as "the borough") is a borough under the government of the mayor aldermen and burgesses of the borough (in the preamble to this Act referred to as "the Corporation"):

And whereas it is expedient to empower the Corporation to construct the street works and works for the improvement of the harbour and sea front which are referred to in this Act:

And whereas it is expedient to empower the Corporation to purchase the lands referred to in this Act for the purposes of the said works and for the other purposes which are referred to in this Act:

And whereas it is expedient to confer powers upon the Corporation with reference to the development of lands acquired by them in connection with the construction of the works authorised by this Act and not required for such works and of other lands:

A.D. 1937.

And whereas it is expedient to make further and better provision with regard to the local government and improvement of the borough and to enlarge the powers of the Corporation with regard to those matters as provided by this Act:

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

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

And whereas estimates have been prepared by the Corporation for the following purposes:—

	£
For and in connection with the purchase of land and easements - - -	75,000
For and in connection with the construction of the works authorised by Part III (Street work) of this Act	7,000
For and in connection with the construction of the works authorised by Part IV (Harbour) of this Act	64,000
For and in connection with the construction of the works authorised by Part V (Sea front improvement) of this Act - - - - -	67,500

And whereas the several works included in such estimates respectively are permanent works and it is expedient that the Corporation should be empowered to borrow money for those purposes as provided by this Act:

23 & 24 Geo. 5. c. 51.

And whereas in relation to the promotion of the Bill for this Act the requirements of the Local Government Act 1933 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 county council of the administrative county of Devon which plans sections and book of reference are in this Act 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 (that is to say) :— A.D. 1937.

Part I.

Preliminary.

1. This Act may be cited as the Torquay Corporation Act 1937. Short title.

2. This Act is divided into Parts as follows (that is to say) :— Division of Act into Parts.

Part I.—Preliminary.
Part II.—Lands.
Part III.—Street work.
Part IV.—Harbour.
Part V.—Sea front improvement.
Part VI.—Sewers &c.
Part VII.—Finance.
Part VIII.—Miscellaneous.

3. The following enactments (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act (namely) :— Incorporation of Acts.

The Lands Clauses Acts with the following exception and modification :—

(*a*) Sections 127 to 132 of the Lands Clauses Consolidation Act 1845 (relating to the sale of superfluous lands) are not incorporated with this Act; 8 & 9 Vict. c. 18.

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

A.D. 1937.

PART I. —*cont.* *Interpretation.*

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

(2) In this Act unless the subject or context otherwise requires—

"The borough" means the borough of Torquay;

"The Corporation" means the mayor aldermen and burgesses of the borough;

"The town clerk" and "the surveyor" mean respectively the town clerk and the surveyor of the borough;

"The general rate fund" and "the general rate" mean respectively the general rate fund and the general rate of the borough;

"The county council" means the council of the administrative county of Devon;

9 & 10 Geo. 5. c. 57.

"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 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;

"Daily penalty" means a penalty for every day on which an offence is continued by a person after conviction thereof;

3 Edw. 7. c. cvi.

"The Act of 1903" means the Torquay Corporation Water Act 1903;

10 Edw. 7. & 1 Geo. 5. c. lxxii.

"The Order of 1910" means the Torquay Harbour Order 1910 (confirmed by the Pier and Harbour Orders Confirmation (No. 2) Act 1910);

13 & 14 Geo. 5. c. cii.

"The Act of 1923" means the Torquay Corporation Act 1923;

"The former Harbour Acts and Orders" means—

43 Geo. 3. c. lxxxviii.

An Act passed in the forty-third year of the reign of His Majesty King George III intituled "An Act for repairing enlarging and

A.D. 1937.

PART I. —*cont.*

"improving the Pier and Quay within the "Port or Harbour of Torquay in the County "of Devon";

The Torquay Harbour Order 1864 (confirmed by the Pier and Harbour Orders Confirmation Act 1864); 27 & 28 Vict. c. xciii.

The Torquay Harbour Order 1868 (confirmed by the Pier and Harbour Orders Confirmation Act 1868 (No. 2)); 31 & 32 Vict. c. xlvii.

The Torquay Harbour and District Act 1886; 49 & 50 Vict. c. cxix.

The Torquay Harbour Order 1888 (confirmed by the Pier and Harbour Orders Confirmation (No. 2) Act 1888); 51 & 52 Vict. c. clxx.

The Torquay Harbour Order 1892 (confirmed by the Pier and Harbour Orders Confirmation (No. 3) Act 1892); 55 & 56 Vict. c. cciv.

The Torquay Harbour Order 1893 (confirmed by the Pier and Harbour Orders Confirmation (No. 1) Act 1893); 56 & 57 Vict. c. ciii.

The Torquay Harbour Order 1906 (confirmed by the Pier and Harbour Orders Confirmation (No. 1) Act 1906); 6 Edw. 7. c. cxiii.

The Order of 1910; and

So much of the Torquay Corporation Act 1934 as relates to the harbour; 24 & 25 Geo. 5. c. lxxii.

"The Minister" means the Minister of Health;

"The Public Health Acts" means the Public Health Act 1875 and the Acts amending and extending the same. 38 & 39 Vict. c. 55.

PART II.

LANDS.

Power to take lands.

5. Subject to the provisions of this Act the Corporation (in so far as they are not already possessed of the same) 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—

(*a*) for the purposes of the works authorised by Part III (Street work) of this Act and for the improvement and development of lands abutting

A.D. 1937.

Part II. —*cont.*

on or adjacent to such works and for the provision of space for the erection of buildings adjoining or near to such works; and

(*b*) for the purposes of the works authorised by Part IV (Harbour) and Part V (Sea front improvement) of this Act.

Correction of errors in deposited plans and book of reference.

6. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Corporation after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two justices having jurisdiction in the place in which the lands are situate for the correction of such plans or book of reference and if it appear to the justices that the omission misstatement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and such certificate shall be deposited with the clerk of the county council and a duplicate thereof shall be deposited with the town clerk and such certificate and duplicate respectively shall be kept by such clerks respectively with the other documents to which the same relate and thereupon such plans or books of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the Corporation to take the lands and execute the works in accordance with such certificate.

Period for compulsory purchase of lands.

7. The powers granted by this Act for the compulsory purchase of lands shall cease on the thirty-first day of July nineteen hundred and forty.

Compensation may be in land &c.

8. The Corporation when they are required by any enactment to make compensation to any person interested in any lands may by agreement with such person make such compensation wholly or partly in works land or money but in the case of land for the alienation of which the consent of any Government department is required only with such consent.

Purchase of lands for exchange.

9. The powers of the Corporation of purchasing lands by agreement shall be deemed to extend to and to authorise the purchase by the Corporation by agreement of any lands which they may think it desirable

to purchase in order to provide substituted sites or facilities for any persons whose lands may be acquired by them for the purposes of this Act.

Extinction of private rights of way.

10.—(1) All private rights of way over any lands which the Corporation are authorised by this Act to acquire compulsorily shall be extinguished as from the date of the acquisition of such lands by the Corporation if the Corporation shall by resolution so determine and give notice in writing of such their resolution to the owner of any right of way referred to therein.

(2) Provided that the Corporation shall make full compensation to all persons interested in respect of any rights extinguished under the provisions of this section 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.

Power to enter upon property for survey and valuation.

11. The Corporation and their surveyors officers and workmen and any person duly authorised in writing under the hand of the town clerk may from time to time at all reasonable times in the day upon giving in writing for the first time twenty-four hours' and afterwards from time to time twelve hours' previous notice enter upon and into the lands houses and buildings authorised by this Act to be taken and used or any of them for the purpose of surveying and valuing the said lands houses and buildings without being deemed trespassers and without being subject or liable to any fine penalty or punishment on account of entering or continuing upon any part of the said lands houses and buildings.

Compensation in case of recently acquired interest.

12. For the purposes of determining any question of disputed compensation payable in respect of lands taken under the powers of this Act the tribunal 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 the land created after the fifteenth day of November nineteen hundred and thirty-six if in the opinion of the 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.

A.D. 1937.

PART II. —*cont.*

Power to reinstate owners of property.

13. The Corporation may enter into and carry into effect agreements with the owners of or other persons interested in any land which may be acquired under the provisions of this Act or which may be in the neighbourhood of the works authorised by Part III (Street work) of this Act with respect to the reinstatement of such owners or other persons and with respect to the exchange of lands for that purpose and the Corporation may pay or receive money for equality of exchange.

Agreements with owners of property &c.

14. The Corporation may subject to the provisions of this Act enter into and carry into effect agreements with any person being the owner of or interested in any lands or property abutting on any portion of the street work (Work No. 1) by this Act authorised or of the lands which the Corporation may acquire under the powers of this Act with respect to the sale by the Corporation to such person of any lands or property (including any part of a street or thoroughfare appropriated by the Corporation under the powers of this Act and not required for the said street work (Work No. 1)) for such consideration as may be agreed upon between the Corporation and such person and the Corporation may accept as satisfaction of the whole or any part of such consideration the grant by such person of any lands or other property required by them for the purposes of this Act.

Land laid into streets to form part thereof.

15. All lands acquired by the Corporation under this Act and laid into or appropriated as part of any street shall form part of that street and shall be maintained and repaired in all respects as the rest of that street is for the time being by law maintained and repaired.

Power to develop lands.

16.—(1) The Corporation may lay out and develop any lands acquired by them under the powers of this Act and not required for the purposes of the works authorised by Part III (Street work) Part IV (Harbour) or Part V (Sea front improvement) of this Act and (with the consent of the Minister) any other lands belonging to the Corporation and not required for the purposes for which they were acquired and may erect and maintain houses shops offices warehouses and other buildings and construct sewer pave flag channel and kerb streets roads and ways on any of such lands.

(2) The Corporation may use or dispose of the building or other materials of any houses or premises on any lands acquired or appropriated by them which they may deem it necessary or desirable to pull down.

Part III.

Street work.

Power to make work.

17. Subject to the provisions of this Act the Corporation may make and maintain in the lines and situations and according to the levels shown on the deposited plans and sections the street work in the borough hereinafter described together with all necessary or proper junctions connections slopes approaches abutments retaining walls sewers drains works and conveniences connected therewith or incident thereto (namely) :—

Work No. 1 A widening and improvement of Abbey Place on the south side thereof where it is known as Lawrence Place and of Cary Parade on the south-east side thereof between the junction of Lawrence Place with the Strand and the junction of Cary Parade with Vaughan Road.

Limits of deviation.

18. In constructing the street work authorised by this Part of this Act the Corporation may deviate laterally from the lines thereof as shown on the deposited plans to any extent not exceeding the limits of deviation shown on those plans and they may deviate vertically from the levels of the said work as shown on the deposited sections to any extent not exceeding five feet upwards and to any extent downwards.

Carriageways footways sewers and other works.

19. Subject to the provisions of this Act the Corporation may cause such parts of the street work authorised by this Part of this Act to be laid out for carriageway and such parts thereof for footway as they may think proper and may upon the lands acquired by or vested in them under the powers of this Act and within the limits of deviation defined on the deposited plans construct erect and provide such vaults cellars arches sewers drains subways and other works and conveniences as they may think proper for the purposes of or in connection with the said work.

A.D. 1937.

Part III. —*cont.*

Power to close streets.

20.—(1) The Corporation may stop up and discontinue the use of the highways in the borough known as Palk Street Marine Road Marine Square Vaughan Road and the public footpath leading from Abbey Place to Vaughan Road through Cary Green but none of such highways shall be stopped up unless and until the Corporation are owners in possession of all houses and lands on both sides of the highway proposed to be stopped up except so far as the owners lessees and occupiers of those houses and lands may otherwise agree.

(2) As from the date upon which a highway is stopped up under the powers of this section all rights of way over or along the same shall be extinguished and the Corporation may appropriate and use the site thereof.

Part IV.

Harbour.

Power to make works.

21. Subject to the provisions of this Act the Corporation may in the parish of Torquay in the borough in the county of Devon and where so shown on the foreshore and bed of the outer harbour and in the lines and situations and according to the levels shown on the deposited plans and sections make and maintain the works hereinafter described with all necessary or proper works and conveniences connected therewith and incidental thereto (namely) :—

Work No. 2 An extension of Haldon Pier from the cant or elbow thereof for a distance of two hundred and thirty-five feet or thereabouts in a westerly direction;

Work No. 2A A pier commencing at or near the termination of Work No. 2 extending in a north-easterly direction for a distance of one hundred and forty feet or thereabouts and terminating at the seaward end of the existing Haldon Pier.

Limits of deviation.

22. In the construction of the works by this Part of this Act authorised the Corporation may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plans and they may

also deviate vertically from the levels shown on the deposited sections to any extent not exceeding ten feet upwards and to any extent downwards Provided that no deviation either lateral or vertical below high-water mark shall be made without the consent in writing of the Board of Trade.

Power to make subsidiary works.

23. Within the limits of deviation shown on the deposited plans the Corporation subject to the provisions of this Act may for the purposes of the works hereinbefore described and by this Part of this Act authorised make execute maintain enlarge alter modify and remove wholly or partially and either temporarily or permanently all such quays wharves wharf walls retaining walls parapets jetties groynes shipping places staiths stairs stages gantries cranes drops dolphins moorings buoys beacons fixed and moveable bridges caissons transporters coal hoists and other works and conveniences as may be necessary or convenient in connection with or subsidiary to the before-mentioned works.

Period for completion of works.

24. If the works by this Part of this Act authorised are not completed within seven years from the passing of this Act then on the expiration of that period the powers by this Act given for the making thereof or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Works below high-water mark to be subject to approval of Board of Trade.

25.—(1) Subject to the provisions of this Act the works and any subsidiary works by this Part of this Act authorised shall only be constructed so far as the same shall be on under or over tidal waters or tidal lands below high-water mark of ordinary spring tides in accordance with plans and sections approved by the Board of Trade under the hand of one of the secretaries under-secretaries or assistant secretaries of the Board of Trade and subject to such restrictions and regulations as the said Board may prescribe before such work is begun.

(2) Any alteration or extension of any such work shall be subject to the like approval.

(3) If any such work be commenced or completed contrary to the provisions of this section the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the cost of the Corporation and the amount of such cost shall be a debt

A.D. 1937.

Part IV. —*cont.*

due from the Corporation to the Crown and shall be recoverable either as a debt due to the Crown or by the Board of Trade summarily as a civil debt.

Survey of works by Board of Trade.

26. If at any time the Board of Trade deem it expedient for the purposes of this Act to order a survey and examination of any work constructed by the Corporation under the powers of this Part of this Act which shall be on under or over tidal waters or tidal lands below high-water mark of ordinary spring tides or of the site upon which it is proposed to construct any such work the Corporation shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Corporation to the Crown and shall be recoverable either as a debt due to the Crown or by the Board of Trade summarily as a civil debt.

Abatement of work abandoned or decayed.

27.—(1) Where any work constructed by the Corporation under the powers of this Part of this Act situate wholly or partially on under or over the shore or bed of the sea or of any creek bay arm of the sea or navigable river communicating therewith below high-water mark of ordinary spring tides is abandoned or suffered to fall into decay the Board of Trade may by notice in writing either require the Corporation at their own expense to repair and restore such part of such work as is situate below high-water mark of ordinary spring tides or any portion thereof or require them to abate or remove the same and restore the site thereof to its former condition to such extent and within such limits as the Board of Trade may think proper.

(2) Where any part of any such work which has been abandoned or suffered to fall into decay is situate above high-water mark of ordinary spring tides and is in such condition as to interfere or to cause reasonable apprehension that the same may interfere with the right of navigation or other public rights over the foreshore the Board of Trade may include any such part of such work or any portion thereof in any notice under this section.

(3) If during the period of thirty days from the date when the notice is served upon the Corporation they have failed to comply with such notice the Board of Trade may execute the works required to be done by the notice at the expense of the Corporation and the amount

of such expense shall be a debt due from the Corporation to the Crown and shall be recoverable either as a debt due to the Crown or summarily as a civil debt.

Lights on works during construction.

28.—(1) The Corporation shall at or near such part of the works by this Part of this Act authorised as shall be below high-water mark of ordinary spring tides during the whole time of the construction alteration or extension of the same exhibit and keep burning every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Board of Trade shall from time to time require or approve.

(2) If the Corporation fail to comply in any respect with the provisions of this section they shall be liable on summary conviction to a penalty not exceeding twenty pounds and in the case of a continuing offence to an additional penalty not exceeding two pounds for every day on which after conviction thereof they so fail.

Permanent lights on works.

29.—(1) After the completion of the works by this Part of this Act authorised the Corporation shall at the outer extremity of the works by this Part of this Act authorised below high-water mark of ordinary spring tides exhibit and keep burning every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Corporation of Trinity House Deptford Strond shall from time to time direct.

(2) If the Corporation fail to comply in any respect with the provisions of this section they shall be liable on summary conviction to a penalty not exceeding twenty pounds and in the case of a continuing offence to an additional penalty not exceeding two pounds for every day on which after conviction thereof they so fail.

Provision against danger to navigation.

30.—(1) In case of injury to or destruction or decay of the works by this Part of this Act authorised or any part thereof so far as the same shall be constructed on under or over any tidal waters or tidal lands below high-water mark of ordinary spring tides the Corporation shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time be directed by the Corporation of Trinity House Deptford Strond and shall apply to that corporation for directions as to the means to be taken.

A.D. 1937.

PART IV. —*cont.*

(2) If the Corporation fail to comply in any respect with the provisions of this section they shall be liable on summary conviction to a penalty not exceeding ten pounds and in the case of a continuing offence to an additional penalty not exceeding one pound for every day during which they omit after conviction thereof so to apply or refuse or neglect to obey any direction given in reference to the means to be taken.

Works part of harbour.

31. Subject to the provisions of this Act the Corporation their officers and servants shall have all such powers authorities and rights in respect of the works by this Part of this Act authorised as if the same had been made and provided by them by virtue of or for the purposes of the former Harbour Acts and Orders and the works by this Part of this Act authorised shall for the purpose of charging demanding and receiving tolls charges rates and dues and for all other purposes be part of Torquay Harbour within the meaning of the former Harbour Acts and Orders and this Act.

Works to be within parish of Torquay.

32. So much of the works by this Part of this Act authorised as is to be made and constructed upon the foreshore and bed of the outer harbour and is not included in any parish shall from and after the completion thereof be deemed to be for all purposes within the parish and borough of Torquay in the county of Devon.

PART V.

SEA FRONT IMPROVEMENT.

Power to make works.

33. Subject to the provisions of this Act the Corporation may make and maintain in the parish of Torquay in the borough in the county of Devon and where so shown on the foreshore and bed of Torquay Harbour in the lines and situations and according to the levels shown on the deposited plans and sections the works hereinafter described with all necessary or proper works and conveniences connected therewith or incident thereto (namely) :—

Work No. 3 A wall on the bed of the outer harbour commencing at a point on the east side of Princess Pier fifty-seven yards or thereabouts measured in a southerly direction along the said pier from the north-west corner of the outer harbour and terminating at a point on the

west side of the North Quay eleven yards or thereabouts measured in a northerly direction from the seaward extremity of the said quay;

Work No. 4 A widening (by means of decking supported by piles in openwork construction) of the footpath along the northern end of the inner harbour between Vaughan Parade and Victoria Parade.

Power to reclaim land from sea.

34.—(1) The Corporation may reclaim from the sea and fill in and make level with the said intended wall (Work No. 3) the portion of the bed of the outer harbour lying between and bounded by the said intended wall (Work No. 3) the said Princess Pier Princess Parade and the said North Quay.

(2) The land so reclaimed shall cease to form part of the harbour undertaking of the Corporation and may be retained used and appropriated by the Corporation for such purposes as they may think fit.

Limits of deviation.

35. In the construction of the works by this Part of this Act authorised the Corporation may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plans 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 no deviation either lateral or vertical below high-water mark shall be made without the consent in writing of the Board of Trade.

Application of certain sections of Act to works authorised by this Part of Act.

36. The sections of this Act of which the marginal notes are respectively—

"Power to make subsidiary works";
"Period for completion of works";
"Works below high-water mark to be subject to approval of Board of Trade";
"Survey of works by Board of Trade";
"Abatement of work abandoned or decayed";
"Lights on works during construction";
"Permanent lights on works";
"Provision against danger to navigation";

shall extend or apply so far as applicable to the works by this Part of this Act authorised as if such sections were re-enacted in this Part of this Act.

A.D. 1937.

Part VI.

Sewers &c.

Apportionment to frontagers of expenses of sewer constructed under public highway.

37.—(1) Where the Corporation resolve to construct a sewer in a street or part of a street within the borough repairable by the inhabitants at large which has not been previously sewered and the resolution states that the construction of the sewer will in the opinion of the Corporation increase the value of premises fronting adjoining or abutting on such street or part of a street then subject to the provisions of the section of this Act of which the marginal note is "Provisions applicable to the last two preceding sections" the expenses incurred by the Corporation in constructing the sewer so far as they do not exceed the sum authorised by the last mentioned section shall be apportioned by the Corporation on the premises fronting adjoining or abutting on the street or part of a street according to the frontages of the respective premises as existing at the date when the resolution becomes operative.

(2) Such resolution as aforesaid shall not become operative unless and until notice thereof has been published in a local newspaper circulating in the borough but shall become operative as from the date of such publication Copies of the newspaper containing the notice shall be sufficient evidence of the publication thereof.

(3) Nothing in this section shall authorise the apportionment of any sum on any land in contravention of any agreement between the Corporation and the owner of the land.

Apportionment to frontagers of expenses of construction of sewer before land became a street.

38.—(1) Where the Corporation have incurred expenses in constructing after the passing of this Act a length of sewer in or under land within the borough and that land has subsequently become a street (whether repairable by the inhabitants at large or not) then subject to the provisions of the next succeeding section of this Act the expenses so incurred so far as they do not exceed the sum authorised by that section shall be apportioned by the Corporation on the premises fronting adjoining or abutting on the street according to the frontages of the respective premises.

(2) Where on the construction of the length of sewer compensation became due to the owner of any land

in on or over which the length of sewer was constructed in respect of the damage he sustained by reason of such construction and any sum was set off against such compensation on account of the value of the land belonging to such owner having been enhanced by the construction of the length of sewer this section shall not apply to the length of sewer or to such part thereof as was constructed in on or over such land as aforesaid.

(3) Nothing in this section shall authorise the apportionment of any sum on any land in contravention of any agreement between the Corporation and the owner of the land.

Provisions applicable to the last two preceding sections.

39.—(1) The sum apportionable under either of the two last preceding sections of this Act shall not exceed the sum certified by the surveyor to be at the time the average cost per lineal yard of providing a sewer having an internal diameter of nine inches in a private street in the borough multiplied by the extent in lineal yards (as so certified) of the sewer or length of sewer in question.

(2) As soon as the apportionment has been made the Corporation shall serve on the owners of the several premises affected notice in writing of the sums respectively apportioned to them and the notice shall state the right of appeal hereinafter conferred and the time within which such an appeal may be brought.

(3) Any owner on whose premises any sum has been apportioned shall be entitled within fourteen days of the service upon him of such notice as aforesaid to appeal to a court of summary jurisdiction against the amount of the sum so apportioned and may on such appeal dispute the correctness of the surveyor's certificate The procedure upon any such appeal shall be by way of complaint for an order and the Summary Jurisdiction Acts shall apply to the proceedings For the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

If the court finds that the certificate of the surveyor is erroneous the court shall order the revision of the sums apportioned not only to the appellant but also to the owners of the other premises affected.

(4) Whenever a new building (other than a building not requiring a foul water drainage system) is erected on any premises fronting adjoining or abutting on the street or part of the street after the date when the

A.D. 1937.

Part VI. —*cont.*

resolution became operative or the street was laid out (as the case may be) the sum apportioned on those premises shall be recoverable to an extent proportional to the frontage on the street or part of the street of the site of and the land occupied with the new building:

Provided that where the drains of such new building are at the time of its erection made to connect with a sewer other than the sewer the expenses of the construction of which are apportioned no sum shall be recoverable in respect of the building unless and until the drains thereof are connected with the last-mentioned sewer.

For the purposes of this subsection—

(*a*) a building shall be deemed to be a new building erected after the date in question unless the erection of the building was completed before that date;

(*b*) any such re-erection alteration or extension of a building as is mentioned in the Third Schedule to the Restriction of Ribbon Development Act 1935 shall be deemed to be the erection of a new building:

25 & 26 Geo. 5. c. 47.

Provided that references in the said schedule to the date on which the restrictions came into force shall for the purposes of this subsection be construed as references to the date when the resolution became operative or the street was laid out as the case may be.

(5) The sum apportioned on any premises shall notwithstanding that no part thereof is immediately recoverable be treated as a local land charge for the purposes of the Land Charges Act 1925 and where part thereof has become recoverable the balance shall be so treated.

15 & 16 Geo. 5. c. 22.

(6) No interest shall be chargeable on any apportioned sum or any part thereof until it becomes recoverable.

(7) Where such a resolution as is mentioned in the section of this Act of which the marginal note is "Apportionment to frontagers of expenses of sewer constructed under public highway" has been passed but the construction of the sewer to which it relates has not been completed within two years from the date when the resolution became operative all liabilities of frontagers consequent thereon shall cease to have effect.

A.D. 1937.

PART VI. —*cont.*

(8) If any person from whom an apportioned sum or any part thereof becomes recoverable proves that by reason of the length of frontage of the land occupied with the building in respect of which the sum so recoverable is payable the amount recoverable is disproportionate to the benefit accruing to the premises the Corporation or on appeal a court of summary jurisdiction may remit such part of that sum as they may think just but in such case if another new building is subsequently erected on the land occupied with the first-mentioned building the sum remitted or such part thereof as is proportional to the frontage of the site of and land occupied with that other building shall become recoverable.

(9) Where under this section any sum becomes recoverable in respect of any premises that sum together with interest from the date of service of a demand therefor may be recovered summarily as a civil debt by the Corporation from the person who is the owner of the premises at the date when a demand for payment is served and as from that date that sum and interest accrued due thereon shall until recovered be a charge on the premises and on all estates and interests therein and the following provisions of the Public Health Act 1936 shall apply as if they were re-enacted in this Act and in terms made applicable thereto (that is to say) :— 26 Geo. 5. & 1 Edw. 8. c. 49.

Subsections (2) to (4) of section 291;

Subsection (2) of section 293;

Section 329.

(10) This section and the last two preceding sections of this Act shall come into operation on the first day of October nineteen hundred and thirty-seven.

As to evasion by owners of sewerage expenses.

40. Where on a complaint by the Corporation to a court of summary jurisdiction it is proved to the satisfaction of the court—

(i) that the owner of any land has sold leased or otherwise disposed of a portion of his land; and

(ii) that by reason of such disposal the residue of the land has ceased to be or has not become land fronting adjoining or abutting on a street within the meaning of the section of this Act of which the marginal note is "Apportionment "to frontagers of expenses of sewer constructed "under public highway" or of the section

A.D. 1937.

Part VI. —*cont.*

of this Act of which the marginal note is "Apportionment to frontagers of "construction of sewer before land became "a street" as the case may be; and

(iii) that the disposal of such portion of the land was effected with the intention and for the purpose of evading the payment of expenses under the said sections of this Act;

then such expenses may to such extent as the court may determine be recovered from that owner in the same manner as any sum apportioned under the said sections of this Act may be recovered under the section of this Act of which the marginal note is "Provisions applicable to the last two preceding sections" as though that owner had not made such disposal and as though the said amount of the said expenses had been apportioned on the land of that owner which but for such disposal would have fronted adjoined or abutted on such street and (in the case of the section of this Act of which the marginal note is "Apportionment to frontagers of "expenses of construction of sewer before land became "a street") as though the said amount of the said expenses had been apportioned on the land so disposed of together with the remaining land of that owner.

As to evasion by owners of private street works expenses.

41. If—

(*a*) any owner of land fronting adjoining or abutting on a street to which section 150 of the Public Health Act 1875 applies conveys sells leases or otherwise disposes of the part or any portion of the part of that land which fronts adjoins or abuts on that street; and

(*b*) any expenses of private street works carried out by the Corporation in or in relation to that street under such Act are apportioned on such part or portion of that land; and

(*c*) the Corporation are unable to recover such expenses in whole or in part from the person to whom such part or portion of that land was conveyed sold leased or disposed of or by the sale of such part or portion of that land; and

(*d*) a court of summary jurisdiction is satisfied that such conveyance sale lease or disposal was intended for the purpose of evading the payment of any expenses under the said Act;

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

Part VII.

Finance.

Power to borrow.

42.—(1) The Corporation shall have power in addition and without prejudice to their powers of borrowing under the Local Government Act 1933 from time to time to borrow without the consent of any sanctioning authority for and in connection with the purposes mentioned in the first column of the following table the respective sums mentioned in the second column of the said table and they shall pay off all moneys so borrowed within such periods as the Corporation may determine not exceeding those respectively mentioned in the third column of the said table (namely) :—

1	2	3
Purpose.	Amount.	Period for repayment.
	£	
(1) The acquisition of lands and easements for the purposes of this Act.	75,000	Sixty years from the date or dates of borrowing.
(2) The construction of the works authorised by Part III (Street work) of this Act.	7,000	Thirty years from the date or dates of borrowing.
(3) The construction of the works authorised by Part IV (Harbour) of this Act.	64,000	Forty years from the date or dates of borrowing.
(4) The construction of the works authorised by Part V (Sea front improvement) of this Act.	67,500	Forty years from the date or dates of borrowing.
(5) For paying the costs charges and expenses of obtaining this Act.	The sum requisite.	Five years from the passing of this Act.

A.D. 1937.

Part VII. —*cont.*

(2) The provisions of Part IX of the Local Government Act 1933 so far as they are not inconsistent with this Part of this Act shall extend and apply to money borrowed under this section as if it were borrowed under Part IX of that Act and the period fixed for the repayment of any money borrowed under this section shall as respects that money be the fixed period for the purposes of the said Part IX.

Amendment of consolidated loans fund scheme.

43. Any scheme approved by the Minister under section 141 (Consolidated loans fund) of the Act of 1923 may be altered amended or revoked by a scheme made in like manner as the original scheme.

Part VIII.

Miscellaneous.

Extension of pavilion.

44.—(1) The Corporation may extend the pavilion upon lands belonging to them adjacent to the pavilion and comprising eight hundred and fourteen square yards such lands being coloured red on the signed plan and described in the schedule to this Act.

(2) Section 5 (Power for Corporation to erect pavilion &c.) of the Order of 1910 and section 147 (Entertainments undertaking severed from harbour undertaking) of the Act of 1923 shall continue to apply to the said pavilion as extended in accordance with the provisions of subsection (1) of this section.

(3) "The signed plan" means the plan marked "Torquay Pavilion as extended by the Torquay Corporation Act 1937" and signed in triplicate by the Right Honourable Robert Croft Bourne the chairman of the committee of the House of Commons to whom the Bill for this Act was referred one copy of which has been deposited in the Parliament Office House of Lords one copy in the Committee and Private Bill Office House of Commons and one copy with the town clerk in his office.

Power to set apart parts of parks pleasure grounds &c. as parking

45.—(1) The provisions of section 68 of the Public Health Act 1925 as amended by section 16 of the Restriction of Ribbon Development Act 1935 shall extend to enable the Corporation from time to time to utilise as lands which may lawfully be appropriated as a parking place or as parking places for vehicles such part

or parts of their parks recreation grounds pleasure grounds or promenades (not being highways) not exceeding in the case of any park recreation ground or pleasure ground one acre as the Minister may sanction and the provisions of the said section relating to the utilisation for parking places of land not forming part of a street shall mutatis mutandis apply and have effect for the purposes of this subsection.

Parking places for vehicles and stations for public service vehicles.

(2) The provisions of section 90 of the Road Traffic Act 1930 except subsections (1) (7) and (9) thereof shall apply to any parking place provided under this section.

15 & 16 Geo. 5. c. 71.

(3) No power conferred upon the Corporation by this section shall be exercised in such a manner as to be at variance with any trust subject to which any lands are held managed or controlled by the Corporation without an order of the High Court or of the Charity Commissioners or the Board of Education or (where the trust instrument reserves to the donor or any other person the power to vary the trust) without the consent of such donor or other person.

20 & 21 Geo. 5 c. 43.

Penalty for unauthorised erection of booths &c.

46. If any person shall erect provide or place or maintain on the seashore belonging to the Corporation any booth tent chair shed bathing hut shop stall stand or other erection or obstruction or shall use or carry on the same except in pursuance of the provisions of this or some other Act of Parliament or except with the consent in writing of the Corporation he shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings:

Provided that nothing in this section shall prevent the bringing by any person on to the seashore of any chair for his own personal use or that of his family.

Byelaws as to pleasure fairs.

47.—(1) The Corporation may from time to time make byelaws—

(*a*) for regulating the hours during which pleasure fairs may be open to the public;

(*b*) for securing safe and adequate means of ingress and egress to the ground upon which any pleasure fair is held;

(*c*) for the prevention and suppression of nuisances and for preserving sanitary conditions cleanliness order and public safety at any pleasure fair.

A.D. 1937.

Part VIII. —*cont.*

(2) In this section the expression "pleasure fair" means any entertainment which is run for profit and which consists of or includes any or all of the following whether or not in combination with any other forms of entertainment that is to say any travelling circus exhibition of human beings or performing animals merry-go-round roundabout switchback railway cocoanut shy hoop-la shooting gallery or swings or anything similar to any of the foregoing:

Provided that the said expression does not include any fair held by statute charter Royal licence letters patent or ancient custom.

Byelaws as to certain places of amusement.

48.—(1) The Corporation may from time to time make byelaws for regulating in such part or parts of the borough as may be specified therein the days and hours during which amusement arcades may be open to the public.

(2) In this section the expression "amusement arcade" means any premises at which are provided all or any of the following miniature motor cars electric launches skittles skeeball coin-operated or other automatic machines provided for amusement or entertainment or any similar amusements.

Planting of trees in private streets.

49. The Corporation when carrying out any private street works may with the consent in writing of a majority in number and rateable value of the owners of houses and land in such street cause trees or shrubs to be planted and grass margins to be laid out in such street and erect guards or fences and otherwise do everything expedient for the protection of such trees shrubs and grass margins and any expense incurred by the Corporation under this section shall be deemed part of the expenses of carrying out the private street works in any such street:

Provided that no such tree shrub grass margin guard or fence shall be placed or laid out in such a situation as to hinder the reasonable use of the highway by any person entitled to the use thereof or so as to be a nuisance or injurious to the owner or occupier of any land or premises adjacent to the said street:

Provided also that for the purposes of section 7 of the Telegraph Act 1878 any work done in exercise of the powers conferred by this section shall be deemed to be work done in the execution of an undertaking

41 & 42 Vict. c. 76.

authorised by an Act of Parliament and the Corporation shall be deemed to be the undertakers.

A.D. 1937.

PART VIII. —*cont.*

50.—(1) A noise nuisance shall be liable to be dealt with as a statutory nuisance under the Public Health Act 1936 :

Noise nuisance.

Provided that no complaint shall be made to a justice under section 99 of the said Act unless it is signed by not less than three householders or occupiers of premises within hearing of the noise nuisance complained of.

(2) For the purpose of this section a noise nuisance shall be deemed to exist where any person makes or continues or causes to be made or continued any excessive or unreasonable or unnecessary noise and where such noise (*a*) is injurious or dangerous to health and (*b*) is capable of being prevented or mitigated having due regard to all the circumstances of the case :

Provided that if the noise is occasioned in the course of any trade business or occupation it shall be a good defence that the best practicable means within the meaning of the said Act of preventing or mitigating it have been adopted.

(3) Nothing in this section shall apply to a railway company or their servants exercising statutory powers.

(4) Nothing in this section shall affect the power of the Corporation to make byelaws under section 249 of the Local Government Act 1933.

(5) This section shall come into operation on the first day of October nineteen hundred and thirty-seven.

As to byelaws.

51. As respects byelaws made under this Act the confirming authority for the purposes of section 250 of the Local Government Act of 1933 shall be—

(*a*) in the case of byelaws made under the sections of this Act of which the marginal notes are " Byelaws as to pleasure fairs " and " Byelaws as to certain places of amusement " respectively the Secretary of State;

(*b*) in all other cases the Minister.

As to appeals.

52.—(1) Where a person aggrieved by any order determination or other decision of a court of summary jurisdiction under this Act is not by any other enactment authorised to appeal to a court of quarter sessions he may except where otherwise provided appeal to such a court.

A.D. 1937.

Part VIII. —*cont.*

(2) Where upon an appeal under this Act a court varies or reverses any requirement refusal or other decision of the Corporation effect shall be given to the order of the court and in particular any necessary consent certificate or other document shall be granted or issued and any necessary entry in any register shall be made.

Inquiries by Minister.

53. The Minister may hold such inquiries as he may consider necessary in regard to the exercise of any powers conferred upon him or the giving of consents under this Act and section 290 of the Local Government Act 1933 shall apply accordingly.

Amendment of section 14 of Order of 1888.

54. Section 14 (Powers to dredge &c. at or near harbour and works authorised by this Order) of the Torquay Harbour Order 1888 shall be read and have effect as if the words " and dredge the area below high-water mark within the limits referred to in paragraphs (*a*) (*b*) (*c*) and (*d*) of the last preceding section of this Order " were inserted therein after the word " thereto " :

Provided that no material dredged or removed under the powers of this Act shall be deposited below high-water mark of ordinary spring tides without the consent of the Board of Trade.

Application of provisions of Acts of 1903 and 1923.

55. The following provisions of the Act of 1903 and the Act of 1923 shall so far as applicable and except where otherwise provided extend and apply to and in relation to the like matters as if they were with any necessary modifications re-enacted in this Act (namely) :—

The Act of 1903—

Section 75 (Application of section 265 of Public Health Act 1875);

Section 79 (Compensation how to be determined);

Section 82 (Powers of Act cumulative);

Section 83 (Saving for indictments);

Section 84 (Recovery of penalties).

The Act of 1923—

Section 167 (Damages and charges to be settled by court);

Section 168 (Recovery of demands).

A.D. 1937.

PART VIII. —*cont.*

Judges not disqualified.

56.—(1) A judge of any court or a justice shall not be disqualified from acting in the execution of this Act or any other local Act or Order from time to time in force in the borough by reason of his being liable to any rate.

(2) Section 87 (Judges not disqualified) of the Act of 1903 is hereby repealed.

Crown rights.

57. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Corporation to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Crown Lands or the Board of Trade respectively without the consent in writing of the Commissioners of Crown Lands or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose.

For protection of Torquay and Paignton Gas Company.

58. Notwithstanding anything in this Act the following provisions for the protection of the Torquay and Paignton Gas Company (in this section referred to as "the company") shall unless otherwise agreed between the Corporation and the company have effect :—

(1) In this section "apparatus" means and includes all or any mains pipes or apparatus belonging to the company and "authorised work" means any work authorised by Part III (Street work) of this Act :

(2) The company may where reasonably necessary employ inspectors to inspect any authorised work during the construction of so much thereof as will interfere with or affect any apparatus and the reasonable wages of such inspectors shall be paid by the Corporation to the company :

(3) The Corporation in executing any authorised work shall not remove or displace any apparatus or do anything to endanger such apparatus or impede the passage of gas into or through any apparatus or interfere with the access thereto in any case where the supply of gas by means of such apparatus is to be continued until good and sufficient apparatus and other

A.D. 1937.

Part VIII. —*cont.*

works necessary or proper for continuing the supply of gas at least as efficiently as the same was supplied by the apparatus proposed to be removed or displaced shall at the expense of the Corporation have been first completed in lieu thereof to the reasonable satisfaction of the engineer of the company:

(4) If any repairs or renewals of any apparatus be at any time hereafter rendered necessary by reason of the execution by the Corporation of any authorised work or by the acts or defaults of the Corporation their contractors agents workmen or servants or any person in the employ of the Corporation in connection with or in relation to the execution of any such work the expenses of such repairs or renewals shall be borne and paid by the Corporation:

(5) Wherever under this Act any public rights of way over any existing street or road in which any apparatus shall be situate shall be extinguished the Corporation shall if required by the company remove such apparatus to and relay the same in such position as may be reasonably required by the company or shall provide and lay in such position as aforesaid similar apparatus equally suitable in lieu thereof and the relaying of the existing apparatus or laying of the substituted apparatus shall (save as hereinafter provided) be executed under the superintendence (if given) and to the reasonable satisfaction of the engineer of the company and in such manner as not to cause any interruption in the supply of gas through or by means of such apparatus:

(6) Whenever by reason of the exercise by the Corporation of the powers of this Act any apparatus in any street or road shall be rendered derelict useless or unnecessary the Corporation shall (except in cases to which the last preceding subsection applies) pay to the company such a sum as may be agreed between the Corporation and the company to be the value of such apparatus and the apparatus shall thereupon become the property of the Corporation and

the Corporation shall also pay to the company any expense reasonably incurred by them in executing any works necessary as a consequence of any such apparatus being so rendered derelict useless or unnecessary:

(7) If the company shall desire themselves to execute any works or to provide any apparatus which the Corporation may be required under this section to execute or provide and shall give notice in writing of such desire to the Corporation the company may and shall with all reasonable dispatch themselves carry out such works and provide such apparatus to the reasonable satisfaction of the Corporation and the reasonable costs expenses and charges incurred by them in so doing shall be repaid to them by the Corporation and be recoverable summarily as a civil debt:

(8) Any difference which shall arise between the Corporation and the company under the provisions of this section shall be referred to and settled by an arbitrator to be agreed upon between the parties or failing agreement appointed on the application of either party (after notice thereof in writing to the other) by the President of the Institution of Civil Engineers and subject thereto the provisions of the Arbitration Act 1889 and the Arbitration Act 1934 shall apply to the reference.

52 & 53 Vict. c. 49.
24 & 25 Geo. 5. c. 14.

Costs of Act.

59. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed and ascertained by the taxing officer of the House of Lords or the House of Commons shall be paid by the Corporation out of the general rate fund and general rate or out of money to be borrowed under this Act for that purpose.

A.D. 1937.

The SCHEDULE referred to in the foregoing Act.

Lands on which the pavilion may be extended.

(*a*) A piece of land bounded on the north by Vaughan Road on the east by the existing pavilion on the south by Princess Parade and on the west by Princess Gardens and comprising three hundred and ninety-one square yards or thereabouts.

(*b*) A piece of land bounded on the north by Vaughan Road on the east by land belonging to the Corporation and used as general stores on the south by the existing restaurant premises forming part of the existing pavilion and on the west by the existing pavilion and comprising four hundred and twenty-three square yards or thereabouts the said piece of land being bounded by an imaginary line commencing at a point on the east side of the existing pavilion five yards measured in a south-westerly direction from the north-east corner thereof thence proceeding in a south-easterly direction for a distance of seven yards thence proceeding in a south-westerly direction for a distance of fourteen yards thence proceeding in a south-easterly direction for a distance of twelve yards thence proceeding in a south-westerly direction for a distance of twenty-nine yards thence proceeding in a north-westerly direction for a distance of nineteen yards thence proceeding in a north-easterly direction for a distance of one yard thence proceeding in a south-easterly direction for a distance of six yards thence proceeding in a north-easterly direction for a distance of twenty-nine yards thence proceeding in a north-westerly direction for a distance of six yards thence proceeding in a north-easterly direction for a distance of three yards thence proceeding in a south-easterly direction for a distance of four yards thence proceeding in an easterly direction for a distance of three yards thence proceeding in a north-easterly direction for a distance of three yards thence proceeding in a northerly direction for a distance of three yards thence proceeding in a north-westerly direction for a distance of four yards thence proceeding in a north-easterly direction for a distance of two yards to and terminating at the point of commencement.

Printed by Eyre and Spottiswoode Limited
for
Sir William Richard Codling, C.B., C.V.O., C.B.E., the King's Printer of Acts of Parliament

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
Adastral House, Kingsway, London, W.C.2; 120 George Street, Edinburgh 2;
26 York Street, Manchester 1; 1 St. Andrew's Crescent, Cardiff;
80 Chichester Street, Belfast;
or through any bookseller

Price 1*s.* 0*d.* net