CHAPTER xliii

An Act to confer further powers upon the county council of and local and highway authorities in the administrative county of the west riding of Yorkshire and for other purposes. [1st August 1951.]

WHEREAS it is expedient that further and better provision should be made for the local government improvement health and finance of the administrative county of the west riding of Yorkshire (hereinafter referred to as "the county") and that the powers of the county council of the county and of the local authorities and highway authorities within the county should be enlarged and extended as by this Act provided:

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

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

And whereas in relation to the promotion of the Bill for this Act the said county council have complied with the requirements of Part XIII of the Local Government Act 1933: 23 & 24 Geo. 5. c. 51.

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

1. This Act may be cited as the West Riding County Council (General Powers) Act 1951. Short title.

PART I —*cont.*

Act divided into Parts.

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

Part I.—Preliminary.
Part II.—Lands.
Part III.—Powers for highway authorities and others.
Part IV.—Buildings and streets.
Part V.—Sewers and drains.
Part VI.—Nuisances and offensive trades.
Part VII.—Infectious diseases and sanitary matters.
Part VIII.—Food.
Part IX.—Parks and cemeteries.
Part X.—Public order and public safety.
Part XI.—Cleansing of streams.
Part XII.—Movable dwellings and camping grounds.
Part XIII.—Finance and rating.
Part XIV.—Miscellaneous.
Part XV.—General.

Interpretation.

3. In this Act unless the subject or context otherwise requires—

"the Act of 1933" means the Local Government Act 1933;

26 Geo. 5. & 1 Edw. 8. c. 49.

"the Act of 1936" means the Public Health Act 1936;

14 Geo. 6. c. 39.

"the Act of 1950" means the Public Utilities Street Works Act 1950;

"the area boards" means the East Midlands Gas Board the North Eastern Electricity Board the North Eastern Gas Board the North Western Electricity Board the North Western Gas Board and the Yorkshire Electricity Board and "area board" means any one of the area boards;

"authorised security" means in relation to the County Council or a local authority any mortgage stock bond or other security which the County Council or the local authority (as the case may be) are for the time being authorised to grant create or issue or upon or by means of which the County Council or the local authority (as the case may be) are for the time being authorised to raise money;

"claimed road" means a county road in respect of which the council of an urban district have claimed under section 32 of the Local Government Act 1929 to exercise and are exercising the functions of maintenance and repair;

19 & 20 Geo. 5. c. 17.

PART I —*cont.*

"the commission" means the British Transport Commission and any reference to the commission in relation to any functions of the commission which are for the time being delegated to an executive in pursuance of section 5 of the Transport Act 1947 shall be construed as a reference to that executive; 10 & 11 Geo. 6. c. 49.

"contravention" includes a failure to comply and "contravene" shall be construed accordingly;

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

"the County Council" means the county council of the county;

"the county fund" means the county fund of the county;

"county road" has the same meaning as in Part III of the Local Government Act 1929;

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

"district" means a borough or an urban district or a rural district in the county and in relation to a local authority "the district" means the district of that authority;

"enactment" includes this Act and any general or local Act order byelaw or regulation for the time being in force within the county or within a district;

"food" has the meaning assigned to it by the Food and Drugs Act 1938; 1 & 2 Geo. 6. c. 56.

"the general rate fund" means the general rate fund of a district;

"highway authority" means—

(*a*) in the case of a trunk road (not being a special road) the Minister of Transport or with his consent the authority who are for the time being acting as his agents under the Trunk Roads Acts 1936 and 1946 with respect to that trunk road;

(*b*) in the case of a county road (not being a special road or a claimed road) the County Council; and

(*c*) in the case of any other road including a claimed road the local authority for the district in which the road is situate;

"local authority" means the mayor aldermen and burgesses of a borough acting by the council of the borough or an urban district council or a rural district council and "the local authority" means the local authority of the district in relation to which that expression is used;

PART I —*cont.*

" the medical officer " " the surveyor " and " the sanitary inspector " mean respectively in relation to a district the medical officer of health the surveyor and any sanitary inspector of the district ;

" the Minister " means the Minister of Local Government and Planning ;

" parish council " means the parish council of a rural parish in the county or where there is no parish council the parish meeting of such parish ;

" rural district council " means the council of a rural district in the county ;

" statutory borrowing power " includes a power of borrowing money conferred on a local authority by or under any enactment except paragraph (*a*) of subsection (1) of section 215 of the Act of 1933 ;

" statutory securities " means securities in which trustees are for the time being authorised by law to invest trust moneys and any mortgage bond debenture debenture stock stock or other security created by a local authority as defined by section 34 of the Local Loans Act 1875 but does not include any annuities rentcharges or securities transferable by delivery or in relation to the investment by a local authority of sums or moneys in statutory securities the securities of that authority ;

38 & 39 Vict. c. 58.

" street " and " road " have the meanings assigned to the word " street " in the Act of 1936 but do not include a special road within the meaning of the Special Roads Act 1949 ;

12 13 & 14 Geo. 6. c. 32.

" street byelaws " means any byelaws for the time being in force in a district with respect to the construction and laying out of new streets:

Provided that in the application of the provisions of this Act to the borough of Keighley " street byelaws " means (so long as there are no byelaws in force in the borough with respect to the construction and laying out of new streets) the provisions of the schedule to the Keighley Waterworks and Improvement Act 1872 relating to the construction and laying out of new streets as amended by any enactment ;

35 & 36 Vict. c. cviii.

" structure " means a wall fence hoarding or similar erection but for the purpose of this definition the expression " wall " does not include a wall forming part of a permanent building ;

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

" urban district council " means the council of an urban district not being a borough.

PART I —*cont.*

Date of operation of certain provisions of Act in urban districts.

4.—(1) Subject to the provisions of this section Parts II IV V VI VII VIII X (other than section 87 (Byelaws as to leading or driving animals)) XI and XII of this Act and the following sections of Part XIV of this Act shall not come into operation in an urban district until the first day of April one thousand nine hundred and fifty-two (that is to say):—

Part XIV (Miscellaneous)—
Section 120 (Hairdressers and barbers);
Section 125 (Publication of records);
Section 126 (Provisions as to motor vehicles let for hire):

Provided that—

(i) the provisions of the following sections of Parts IV VIII X and XIV of this Act shall not come into operation in an urban district until after the expiration of one month from the publication by the local authority in a local newspaper circulating in the district of a notice stating the general effect of the provision (that is to say):—

Part IV (Buildings and streets)—
Section 36 (Demolition of buildings);

Part VIII (Food)—
Section 75 (Slaughter of animals otherwise than for human consumption);
Section 76 (Registration of hawkers of food and their premises);

Part X (Public order and public safety)—
Section 88 (Safety of stands);

Part XIV (Miscellaneous)—
Section 120 (Hairdressers and barbers);

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

(*b*) a photostatic or other reproduction certified by the clerk of the local authority to be a true reproduction of a page of any such newspaper bearing the date of its publication and containing any such notice;

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

(iii) where any of the provisions referred to in paragraph (i) of this proviso requires the licensing or registration of a person carrying on any business or of premises used for any purpose it shall be lawful for any person who—

(*a*) immediately before the day on which the provision comes into operation was carrying on that business or using any premises for that purpose; and

PART I —*cont.*

(*b*) had before that day duly applied for a licence or registration required by that provision;

to continue to carry on that business and to use those premises for that purpose until he is informed of the decision with regard to his application and if the decision is adverse during such further time as is provided under subsection (2) of section 136 (Appeals) of this Act.

(2) At any time before the first day of January one thousand nine hundred and fifty-two a poll may be demanded with respect to the question whether any of the Parts or sections of this Act referred to in subsection (1) of this section or any section in those Parts (other than section 87 (Byelaws as to leading or driving animals) of this Act) shall come into operation in an urban district by the local authority or by a requisition in writing signed by not less than one hundred persons registered in accordance with the provisions of the Representation of the People Acts as local government electors in the district and delivered to the mayor of the borough or the chairman of the urban district council (as the case may be).

(3) If a poll is demanded in a district in pursuance of this section the mayor of the borough or the chairman of the urban district council (as the case may be) shall proceed by poll to take the opinion of the electors upon the question upon which the poll is demanded unless the demand is withdrawn.

(4) The provisions contained in subsection (3) of section 255 of the Act of 1933 and in paragraphs 12 to 19 of the Ninth Schedule to that Act and the regulations made and the forms prescribed under those provisions shall so far as applicable apply to and in respect of the taking of a poll under this section.

(5) If the result of a poll taken in a district under this section is against any of the Parts or sections of this Act above referred to or against any section in such Part coming into operation in the district that Part or that section shall not come into operation therein except as provided in the next succeeding subsection.

(6) If the result of any poll taken in a district under this section is against any such Part or section coming into operation in the district the local authority may at any time after the expiration of three years from the date on which the last poll was taken determine that the question shall again be submitted to the local government electors and in that case a poll shall again be taken in accordance with the provisions of this section.

(7) If in pursuance of this section a poll is taken in a district the clerk of the local authority of that district shall immediately after the result has been declared give notice of such result to the Secretary of State the Minister the Minister of Transport

PART I —*cont.*

the County Council and in the case of a poll relating to section 75 (Slaughter of animals otherwise than for human consumption) or section 76 (Registration of hawkers of food and their premises) or section 77 (Byelaws as to meat for feeding animals) of this Act to the Minister of Food.

(8) A certificate purporting to be signed by the clerk of a local authority stating—

(*a*) the result of a poll demanded under this section in respect of the district of such local authority;

(*b*) that no such poll has been demanded; or

(*c*) that no such poll has been demanded except in reference to the Parts or sections mentioned in the certificate;

shall be evidence of the statement contained therein.

Certain provisions of Act not to operate in rural districts until adopted or applied.

5. The powers and provisions of Parts II IV V VI VII VIII X XI and XII of this Act and section 120 (Hairdressers and barbers) section 125 (Publication of records) and section 126 (Provisions as to motor vehicles let for hire) of Part XIV of this Act shall not be exercisable by or apply to a rural district council unless and until they have adopted those provisions in accordance with section 6 (Adoption by rural councils of certain provisions of Act) of this Act or the provisions have been applied to them pursuant to section 7 (Application of certain provisions of Act to rural district councils) of this Act (as the case may be).

Adoption by rural councils of certain provisions of Act.

6.—(1) A rural district council may adopt all or any of the provisions of Parts II IV V (except section 51 (Recovery of expenses of sewering prospective street) and section 52 (Prevention of evasion of liabilities under last preceding section)) VI VII XI and XII of this Act or of the following sections of Parts VIII X and XIV of this Act (that is to say):—

Part VIII (Food)—

Section 74 (Food storage accommodation);

Section 78 (Provisions as to mobile canteens where food is prepared etc.);

Part X (Public order and public safety)—

Section 89 (Road safety);

Part XIV (Miscellaneous)—

Section 120 (Hairdressers and barbers);

Section 125 (Publication of records).

(2) The adoption by a rural district council of any of the said provisions of this Act shall be by a resolution of that council passed in accordance with the provisions contained in the First Schedule to this Act and upon a resolution of adoption coming into operation the provisions of this Act to which it extends shall apply to the district of that council.

PART I —*cont.*

(3) A copy of a resolution passed by a rural district council adopting any provision of this Act certified as a true copy under the hand of the clerk of that council shall be received as evidence in all legal proceedings of the resolution having been passed by that council.

Application of certain provisions of Act to rural district councils.

7.—(1) The Minister in respect of the provisions of the sections of this Act of which the numbers and marginal notes are set out in Part I of the Second Schedule to this Act and the Secretary of State in respect of the provisions of the sections of this Act of which the numbers and marginal notes are set out in Part II of that schedule may on the application of a rural district council by order to be published in the London Gazette or in such other manner as the Minister or the Secretary of State (as the case may be) may direct apply to the district of that council any of the said provisions and upon such order coming into force the provisions of this Act to which it relates shall be in force within that district as from such date as may be specified in that behalf in the order.

(2) Before any application is made to the Minister or the Secretary of State for an order under this section notice of the intended application specifying the provisions of this Act in respect of which an order is desired shall be published by the rural district council intending to apply for the order once at least in each of two successive weeks in one or more newspapers circulating in the district of that council and no order shall be made under this section until proof of such publication has been given to the satisfaction of the Minister or the Secretary of State (as the case may be) and until at least one month has elapsed after the date of the first publication of such notice.

PART II

LANDS

Extension of power to acquire land by agreement.

8.—(1) A local authority may by agreement acquire (whether by purchase lease or exchange) and hold any land which in their opinion it is desirable that they should acquire for or in connection with the purposes of any of their undertakings powers or duties or for the benefit improvement or development of the district notwithstanding that the land may not be immediately required.

(2) Any land acquired under this section may be appropriated by the local authority subject to and in accordance with the provisions of section 163 of the Act of 1933 as if it were not required for the purposes for which it was acquired.

(3) Pending such appropriation as aforesaid all expenses incurred by the local authority under this section shall be payable out of the general rate fund.

PART II —*cont.*

9.—(1) Notwithstanding anything in the Lands Clauses Acts to the contrary a local authority may— Retention and disposal of lands.

(*a*) retain and hold and use for such time as they think fit any land or interest in land acquired by them under this Act;

(*b*) sell lease exchange or otherwise dispose of any such land or interest in such manner and for such consideration and on such terms and conditions as they think fit (whether in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of payment in any other form);

(*c*) appropriate any such land for any purpose for which they are authorised to acquire land;

(*d*) sell exchange or dispose of any rents reserved on the sale lease exchange or other disposition of any such land or interest;

(*e*) make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition; and

(*f*) on any such exchange pay or receive money for equality of exchange:

Provided that a local authority shall not without the consent of the Minister sell lease exchange or otherwise dispose of any such land or any interest therein at a price or rent or for a consideration of a value less than the current market value of the land or interest but a purchaser or lessee shall not be concerned to inquire whether the consent of the Minister is necessary or has been obtained.

(2) Nothing in this section shall release a local authority or any person purchasing or acquiring any land or interest in land from them under this section from any rents covenants restrictions reservations terms or conditions made payable by or contained in any conveyance lease or other deed or instrument by which the land or interest has been conveyed or leased to or otherwise acquired by the local authority or any persons from or through whom the local authority have derived title to it.

10.—(1) With respect to any land acquired under this Act a local authority may if they think fit— Powers of leasing.

(*a*) accept a surrender of any lease of the land granted by them and grant either to the lessee or tenant under the surrendered lease or to any other person a new lease of all or any of the land leased by the surrendered lease;

(*b*) grant reversionary leases of all or any of the said land;

PART II —*cont.*

(*c*) enter into and carry into effect any agreement for or with respect to the surrender or grant of any such lease;

(*d*) in any such lease or agreement give to the lessee or tenant or intended lessee or tenant on such terms and conditions as the local authority think fit an option to purchase the fee simple in reversion or other the reversionary interest of the local authority in all or any of the land leased or agreed to be leased.

(2) In this section the expression "lease" includes a letting.

Reservation of easements etc. by local authority.

11. On selling any land a local authority—

(*a*) may reserve to themselves all or any part of the water rights or other rights or easements belonging thereto and may make the sale subject to such reservation accordingly;

(*b*) may make the sale subject to such other reservations special conditions restrictions and provisions with respect to the exercise of noxious trades or the deposit or discharge of manure sewage or other impure matter or otherwise as they think fit.

Development of land.

12.—(1) A local authority may (with the consent of the Minister) lay out and develop any land for the time being belonging to them and not required for the purpose for which it was acquired and may on any such land erect and maintain houses shops offices warehouses and any other buildings and construct sewer drain pave channel and kerb streets roads and highways:

Provided that nothing in this section shall apply to land acquired by the local authority under section 38 or section 40 of the Town and Country Planning Act 1947 or to land appropriated by them for the purposes for which land can be acquired under those sections.

10 & 11 Geo. 6, c. 51.

(2) A local authority may use or dispose of the building or other materials of any houses or structures on any land acquired or appropriated by them which they deem it necessary or desirable to pull down.

Loans for erection etc. of buildings.

13.—(1) A local authority may advance money to the purchaser or lessee of any land acquired from or leased by the local authority for the purpose of enabling or assisting him to build on such land or to extend or improve any existing building thereon:

Provided that any such advance shall not exceed in the case of a building being a house nine-tenths or in the case of any other building three-quarters of the amount which in the opinion of the local authority will be the market value of the interest of the borrower in the land after the purpose of the loan has been effected.

PART II —*cont.*

(2) Before any advance is made under this section its repayment shall be secured to the satisfaction of the local authority by a mortgage of the land and building in respect of which the advance is to be made or of the lessee's interest therein and the instrument securing the advance shall—

(*a*) fix the rate of interest to be paid being a rate not less than the rate for the time being in operation under the Small Dwellings Acquisition Acts 1899 to 1923 as amended by section 92 of the Housing Act 1935; 25 & 26 Geo. 5. c. 40.

(*b*) fix the period within which the advance is to be repaid being a period not exceeding thirty years from the date of the advance;

(*c*) require the repayment to be made either by equal instalments of principal or by an annuity of principal and interest combined;

(*d*) fix the intervals at which all payments on account of principal and interest are to be made being intervals not exceeding half a year;

(*e*) authorise the borrower at any of the usual quarter days after one month's notice and on paying all sums due on account of interest to repay the whole of the outstanding principal of the advance or any part thereof being one hundred pounds (or such less sum as may be provided in the said instrument or as the local authority may be prepared to accept) or a multiple of one hundred pounds (or of such less sum as aforesaid);

(*f*) where the repayment is to be made by an annuity of principal and interest combined provide for determining the amount by which the annuity is to be reduced when a part of the advance is paid off otherwise than by way of an instalment of the annuity;

(*g*) require the borrower either—

(i) to keep the building in respect of which the advance is made insured against fire to the satisfaction of the local authority and to produce to the local authority when required the receipts for the premiums paid in respect of the insurance; or

(ii) (if the local authority elect themselves to insure the said building against fire) to repay to the local authority the amounts of any premiums paid by them from time to time in that behalf;

(*h*) require the borrower to keep the said building in good repair.

(3) Any person acting on behalf of the local authority and authorised in writing by the clerk of the local authority shall have power at all reasonable times to enter any building in

PART II —*cont.*

respect of which an advance has been made under this section for the purpose of ascertaining whether the conditions of this section and of the instrument aforesaid are being complied with.

(4) The borrower may with the permission of the local authority (which shall not be unreasonably withheld) at any time transfer his interest in the land and building in respect of which the advance was made but any such transfer shall be made subject to the terms of the instrument securing the advance.

(5) In this section the expression " lessee " includes a person to whom the local authority have agreed to grant a lease and the expression " lease " shall be construed accordingly.

Power to reinstate owners or occupiers of property.

14.—(1) A local authority may enter into and carry into effect an agreement or arrangement with the owner or occupier of any land acquired under this Act with respect to his reinstatement elsewhere.

(2) Any such agreement or arrangement may provide for the exchange of land and for that purpose the local authority may pay or receive money for equality of exchange.

PART III

POWERS FOR HIGHWAY AUTHORITIES AND OTHERS

Adjustment of boundaries of streets.

15.—(1) Subject to the provisions of this section a highway authority other than the County Council may enter into and carry into effect agreements with persons having a legal interest in land adjoining any street maintained by the highway authority and not being a trunk road for the adjustment of the boundary of the street.

(2) For the purposes of this section the highway authority—

(*a*) may exchange land including land forming the site of the street for other land and pay or receive money for equality of exchange; and

(*b*) shall be deemed to be the owners of the land forming the site of the street and shall be entitled to convey any such land in accordance with the agreement.

(3) No such agreement shall be entered into until the expiration of one month from the date on which notice giving particulars of the proposed agreement has been published in some local newspaper circulating in the district in which the street is situate.

(4) During the said period of one month any four ratepayers of the district and in the case of a county road the County Council may appeal to a court of summary jurisdiction against the proposal to enter into the agreement.

PART III —*cont.*

(5) Nothing in this section shall be taken to dispense with the consent of any government department to any appropriation exchange or other disposition of any land of the highway authority in any case in which the consent of that department would have been required if this Act had not been passed.

(6) In this section the expression "ratepayers" has the same meaning as in the Rating and Valuation Act 1925. 15 & 16 Geo. 5. c. 90.

Variation of width of carriageways and footways.

16.—(1) Subject to the provisions of this section a highway authority may vary the relative widths of the carriageway and footway or footways in any street maintained by them.

(2) A highway authority shall not exercise the powers of this section in relation to a trunk road without the consent of the Minister of Transport.

(3) At least twenty-one days before commencing any work under this section which will materially reduce the width of the carriageway or any footway of a classified road the highway authority shall send notice of the proposed work to the Minister of Transport.

(4) A highway authority shall not exercise the powers of this section in relation to so much of any street as is situate upon a bridge over any railway canal or inland navigation or upon the approaches to any such bridge without the consent in writing of the railway canal or inland navigation undertakers concerned:

Provided that such consent shall not be unreasonably withheld and any question whether it is or is not unreasonably withheld shall be determined by the Minister of Transport.

Private street works in streets partly in rural and partly in urban districts. 55 & 56 Vict. c. 57.

17.—(1) Where any street not repairable by the inhabitants at large is situate partly in a rural district and partly in an urban district the County Council may by resolution declare that such street shall for the purposes of the Private Street Works Act 1892 be deemed to be for its entire length situate wholly in such rural district.

(2) The council of an urban district shall not be entitled to exercise any powers under the Private Street Works Act 1892 or section 150 of the Public Health Act 1875 in respect of any street in relation to which a resolution under subsection (1) of this section is for the time being in force but the County Council shall be entitled to exercise the powers of the said Act of 1892 in respect of the entire length of any such street and to apportion the expenses of any private street works executed under that Act in that street on premises abutting thereon and to recover such expenses from the owners of such premises in the like manner as if such street had for its entire length been situate in a rural district. 38 & 39 Vict. c. 55.

PART III —*cont.*

(3) Any resolution passed by the County Council under subsection (1) of this section may be amended altered or revoked by a subsequent resolution passed by the County Council.

(4) The powers conferred on the County Council by this section shall not be exercised except in pursuance of and in accordance with the provisions of an agreement to be entered into between the County Council and the council of the urban district in which the street in relation to which such powers are proposed to be exercised is partly situate.

Stopping up and diversion of highways.

18.—(1) Subject to the provisions of this section a court of summary jurisdiction—

(*a*) if satisfied on the application of the highway authority that a highway within the county is unnecessary may by order authorise the stopping up thereof; and

(*b*) if so satisfied that such a highway can be diverted so as to make it nearer or more commodious to the public may by order authorise it to be so diverted.

(2) An application or order under this section—

(*a*) may provide for the stopping up or diversion of a highway for the purposes of all traffic or subject to the reservation of a bridleway or footway;

(*b*) may be made with respect to any length of a highway;

(*c*) may be made with respect to two or more highways or lengths of highways which are connected with each other;

and in relation to any application or order in respect of a length of a highway or two or more highways or lengths of highways any reference in the subsequent provisions of this section to a highway shall be construed as a reference to that length or those highways or lengths of highways as the case may be.

(3) No application or order shall be made under this section with respect to a trunk road or a public path within the meaning of Part IV of the National Parks and Access to the Countryside Act 1949.

12 13 & 14 Geo. 6. c. 97.

(4) No order shall be made under this section unless the court is satisfied that notice of the intention to apply for the order specifying the time and place at which the application is to be made and the terms of the order applied for (embodying a plan showing the effect of the order)—

(*a*) has at least twenty-eight days before the date on which the application is made been served on the local planning authority and on the owners or reputed owners and the occupiers of all land abutting on the highway and also when the application relates to a classified road on the Minister of Transport; and

PART III —*cont.*

(*b*) has during at least twenty-eight days been exhibited in such manner and in such positions on or near the highway as may be reasonably sufficient for notifying persons using the highway of the application;

and that a similar notice (except that there may be substituted for the plan a statement of the place where the plan can be inspected at all reasonable hours without payment) has been inserted once at least in a local newspaper circulating in the district in which the highway is situate and has been sent to every local authority concerned (including a parish council).

(5) No order under this section authorising the diversion of a highway—

(*a*) shall be made unless the written consent of the local planning authority and of every person having a legal interest in the land over which the highway is to be diverted is produced to and deposited with the court;

(*b*) shall authorise the stopping up of any part of the highway until the new part to be substituted for the part stopped up has been completed to the satisfaction of two justices of the peace and a certificate to that effect signed by them has been transmitted by their clerk to the clerk of the peace.

(6) On the hearing of the application the highway authority the local planning authority and any person who is interested in land abutting on or served by the highway or uses the highway or is otherwise aggrieved shall have a right to be heard.

(7) An appeal against a decision of a court of summary jurisdiction under this section may be brought to quarter sessions by any person who was entitled under the last foregoing subsection to be and was or claimed to be heard on the application and for the purposes of the provisions of the Summary Jurisdiction Act 1879 as amended by the Summary Jurisdiction (Appeals) Act 1933 with respect to appeals to quarter sessions— 42 & 43 Vict. c. 49. 23 & 24 Geo. 5. c. 38.

(*a*) a refusal by a court of summary jurisdiction to make an order under this section shall be deemed to be an order;

(*b*) where more than two persons were heard or claimed to be heard in opposition to the application it shall be sufficient if a notice of appeal against a refusal to make an order upon that application is served upon any two of those persons in addition to the clerk to the court but without prejudice to the right of any of those persons to appear as respondents to the appeal;

(*c*) any appeal under this section whether against an order or against a refusal to make an order shall be in the nature of a rehearing.

PART III. —*cont.*

(8) Every order made under this section—

(*a*) shall have annexed thereto a plan signed by the chairman of the court; and

(*b*) shall be transmitted by the clerk of the court to the clerk of the peace together with any written consents produced to the court under subsection (5) of this section;

and the clerk of the peace shall enrol any documents so transmitted to him and any certificates transmitted to him under subsection (5) of this section among the records of quarter sessions.

(9) Every order made under this section shall be binding on all persons whatsoever.

(10) The provisions of this section shall be in addition to and not in derogation of any other provisions relating to the stopping up and diversion of highways.

Streets broken up to be reinstated.

19.—(1) When any street repairable by the inhabitants at large shall be opened or broken up by any person otherwise than in the exercise of a power to which section 1 of the Act of 1950 applies he shall with all convenient speed complete the work on account of which the same shall have been broken up and fill in the ground and reinstate and make good to the reasonable satisfaction of the surveyor of the highway authority and with materials to be reasonably approved by him the street so opened or broken up:

Provided that if the highway authority give notice to such person before he commences to reinstate and make good such street the highway authority may themselves reinstate and make good the street so opened or broken up and may recover the cost reasonably incurred by them in so doing from such person.

(2) Any person aggrieved by a requirement of the surveyor under subsection (1) of this section may appeal to a court of summary jurisdiction.

(3) If any person offends against the provisions of this section he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding two pounds.

Retaining walls.

20.—(1) In this section the expression "retaining wall on a street" means a wall which—

(*a*) is situated wholly or partly within twelve feet of a street in the county; and

(*b*) is of greater height than six feet above the level of the street at the nearest boundary thereof; and

(*c*) serves or is intended to serve as a support for earth or other material on one side only; and

(*d*) does not form part of a permanent building.

PART III —*cont.*

(2) No retaining wall on a street shall be erected otherwise than in accordance with plans sections and specifications approved by the highway authority and if any person erects such a wall in contravention of this subsection he shall be liable to a penalty not exceeding five pounds.

(3) If—

(*a*) any retaining wall on a street or the fence on such wall is in such disrepair as to be liable to endanger persons using the street; or

(*b*) any retaining wall on a street erected before the passing of this Act or erected in contravention of the last foregoing subsection is so constructed as to be liable as aforesaid;

the highway authority may by notice to the owner or occupier of the retaining wall require him to execute such work as may be necessary to prevent the wall or fence being liable as aforesaid and the provisions of section 290 of the Act of 1936 shall apply in relation to such a notice as they apply in relation to the notices mentioned in subsection (1) of that section.

(4) The provisions of this section shall not apply to a retaining wall on a street or fence erected on land belonging to any railway dock canal or inland navigation undertakers so long as that land is used by those undertakers primarily for the purpose of their railway dock canal or inland navigation undertaking.

Public seats in streets.

21.—(1) The County Council or any parish council or any person with the consent of the highway authority and subject to such conditions as the highway authority impose may in proper and convenient situations in any street in the county or the roadside waste thereof provide and erect and maintain seats for the use of the public.

(2) The County Council may contribute to the expenses incurred by any parish council in exercising the powers of this section.

Milk stands in streets.

22. Any person with the consent of the highway authority and subject to such conditions as they may impose may in proper and convenient situations in any street in the county or the roadside waste thereof erect and maintain stands for milk churns and containers.

Direction posts relating to rights of way.

23.—(1) The council of any urban district or any parish council may erect and maintain direction posts adjacent to public footpaths (not being footpaths at the side of a public road) and bridleways:

Provided that—

(i) the powers of this section shall not be exercised except with the consent of the owner in fee simple of the

PART III —*cont.*

land in which it is proposed to erect such direction posts and of any person having the control or management of such land; and

(ii) any such direction posts erected by a parish council shall be in such places and of such size and type as may be approved by the County Council.

(2) The exercise of the powers conferred by subsection (1) of this section shall be subject to the provisions of the Road Traffic Acts 1930 to 1947 and to any regulations made or any general or other directions given by the Minister of Transport in pursuance of the said provisions.

(3) The County Council may contribute to the expenses incurred by any parish council in exercising the powers of this section.

Fencing and lighting of obstructions in highways.

24.—(1) Where in any highway repairable by the inhabitants at large any danger or obstruction is caused or is likely to be caused to persons or vehicles using such highway by reason of the erection thereon or thereover of any hoarding scaffolding or the deposit thereon or therein of any material or of the presence thereon or therein of any defective gully grid grating manhole or other cover step area grate or other fitting or structure of whatsoever character or description (all of which are in this section included in the expression "defective fitting or structure") the surveyor of the highway authority by whom the highway is maintained may cause proper boards or fences to be put up for the protection of passengers or vehicles and may cause such hoarding or scaffolding or such boards or fences to be lighted during the hours of darkness.

(2) Any expenses reasonably incurred by the highway authority in erecting or removing any such board or fence or in lighting any such hoarding scaffolding board or fence shall be recoverable from the owner of such hoarding scaffolding or material or of the defective fitting or structure or from the person or persons responsible for the erection of the hoarding or structure or for the deposit of the material on over or in the highway or for the condition of the defective fitting or structure.

(3) The provisions of this section shall not apply in cases where section 8 of the Act of 1950 prescribes the requirements to be observed in connection with the execution by undertakers of code regulated works within the meaning of the Act of 1950.

For protection of Postmaster-General.

25.—(1) Where pursuant to section 15 (Adjustment of boundaries of streets) of this Act a highway authority enters into an agreement with a person having a legal interest in land adjoining any street for the conveyance to that person of the site of any part of the street and immediately before the date

PART III —*cont.*

on which the site ceases to be part of the street there was under in upon over along or across such site any telegraphic line belonging to or used by the Postmaster-General the Postmaster-General shall continue to have the same powers in respect of that line as if such site had remained part of the street:

Provided that if any person in whom such site is vested desires that such telegraphic line should be altered paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 shall apply to the alteration and accordingly shall have effect subject to any necessary modifications as if references therein to undertakers included references to the said person desiring the alteration.

41 & 42 Vict. c. 76.

(2) As between the highway authority and the Postmaster-General nothing in the foregoing subsection shall affect the operation of Part II of the Act of 1950 or the rights of the Postmaster-General and the highway authority thereunder.

(3) Where any highway or portion of a highway is stopped up in pursuance of an order made under section 18 (Stopping up and diversion of highways) of this Act the following provisions shall unless otherwise agreed in writing between the highway authority and the Postmaster-General have effect in relation to any telegraphic line belonging to or used by the Postmaster-General which is under in upon over along or across such highway or portion of a highway at the time of such stopping up:—

(*a*) The power of the Postmaster-General to remove the line shall be exercisable notwithstanding the stopping up of the highway or portion of the highway so however that the said power shall not be exercisable as respects the whole of any part of the line after the expiration of a period of three months from the date mentioned in subsection (4) of this section unless before the expiration of that period the Postmaster-General has given notice to the highway authority of his intention to remove the line or that part thereof as the case may be;

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

(*c*) The Postmaster-General shall be entitled to recover from the highway authority the expense of providing in substitution for the line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the line a telegraphic

PART III —*cont.*

line in such other place as the Postmaster-General may require;

(*d*) Where under paragraph (*b*) of this subsection the Postmaster-General abandons the whole or any part of a telegraphic line it shall vest in the highway authority and the provisions of the Telegraph Acts 1863 to 1949 shall not apply in relation to the line or part in question as respects anything done or omitted after the abandonment thereof.

(4) As soon as the whole or any portion of any highway has been stopped up the highway authority shall send by post to the Postmaster-General a notice informing him of such stopping up and the period of three months mentioned in subsection (3) of this section shall commence to run from the date on which such notice is sent.

(5) In this section the expressions "alter" and "telegraphic line" have the same meanings as in the Telegraph Act 1878.

For protection of Manchester Corporation.

26. For the protection of the lord mayor aldermen and citizens of the city of Manchester (in this section referred to as "the corporation") the following provisions shall unless otherwise agreed in writing between the corporation and the highway authority concerned apply and have effect:—

9 & 10 Geo. 5. c. cxix.

(1) In this section "the Act of 1919" means the Manchester Corporation Act 1919:

(2) Whenever—

(*a*) in the exercise of the powers of section 15 (Adjustment of boundaries of streets) of this Act a highway authority exchange land forming the site of a street; or

(*b*) in the exercise of the powers of section 18 (Stopping up and diversion of highways) of this Act a highway or any length of a highway is stopped up or diverted;

and there are situated in or under such land or highway or length of highway any aqueducts mains pipes or other works constructed by the corporation under the powers of the Act of 1919 or the corporation are by section 27 (Power to make works) of that Act authorised to construct works in under or across such land or highway or length of highway the highway authority shall give notice to the corporation of such exchange or of such stopping up or diversion (as the case may be) together with such plans and information relating thereto as the corporation may reasonably require:

PART III —*cont.*

(3) Notwithstanding the exchange of any such land or the stopping up or diversion of any such highway or length of highway the corporation shall continue to have all such rights and powers of constructing and maintaining aqueducts mains pipes and other works in under or across such land or highway or length of highway as they would have had under the Act of 1919 if such land had continued to form part of the street or such highway or length of highway had not been stopped up or diverted.

PART IV

BUILDINGS AND STREETS

Prohibition of building until street defined.

27.—(1) Where a plan and sections of a new street have been deposited with a local authority in pursuance of street byelaws and have been approved by them no person shall without their consent begin to erect a building on land abutting on the street until he has defined by posts or in some other suitable manner the approved line width and level of so much of the street as abuts on the land on which the building is to be erected and on any land which will be occupied in connection with the building.

(2) Where the approved width of a new street has been defined as aforesaid no person shall begin to erect a building or structure nearer to the centre of the street than the line of the posts or other marks by which the width has been so defined.

(3) If any person contravenes the provisions of either of the foregoing subsections he shall be liable to a penalty not exceeding twenty pounds and the local authority may—

(*a*) in the case of a contravention of subsection (1) define as aforesaid the approved line width and level of the new street; and

(*b*) in the case of a contravention of subsection (2) remove the building or structure;

and in either case recover the expenses of so doing from that person.

Prohibition of building until street formed and sewered.

28.—(1) Where a plan and sections of a new street deposited with a local authority in pursuance of street byelaws are approved by them they may by notice prohibit the erection of any building on land abutting on the street until the carriageway of the street has been constructed and the street has been sewered in accordance with the said byelaws:

Provided that where the plan shows that the street will exceed one hundred yards in length the local authority shall divide the

PART IV —*cont.*

street for the purpose of the notice into lengths not exceeding one hundred yards and each such length shall for that purpose be treated as a separate street.

(2) Any such notice shall be given to the person by whom or on whose behalf the plan and sections were deposited and the prohibition imposed thereby shall be binding on successive owners of the land to which it relates.

(3) If any person contravenes the provisions of any such notice he shall be liable to a penalty not exceeding twenty pounds and the local authority may construct the carriageway and works of sewerage which should have been constructed and recover the expenses of so doing from that person:

Provided that this subsection shall have effect subject to the provisions of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 with respect to the avoidance of any such notice for want of registration as a local land charge.

15 & 16 Geo. 5. c. 22.
16 & 17 Geo. 5. c. 11.

(4) The execution of any works under the provisions of this section shall not relieve any person from any liability under section 150 of the Public Health Act 1875 or the Private Street Works Act 1892 or any local Act relating to private street works for the time being in force in the district in which the street is situate.

(5) The provisions of this section shall not apply to a building erected by the lord mayor aldermen and citizens of the city of Sheffield as housing authority.

Means of access to buildings.

29.—(1) Where the plans of any new building intended or adapted for use as a house have been deposited with a local authority in pursuance of building byelaws they may by notice prohibit either the erection of the building or the sale letting or occupation thereof (as may be specified in the notice) until sufficient means of communication are provided between the building and a street which either is a highway repairable by the inhabitants at large or has been laid out and constructed in accordance with street byelaws.

(2) Any such notice shall be given to the person by whom or on whose behalf the plans were deposited—

(*a*) before or together with the notice required to be given under subsection (2) of section 64 of the Act of 1936; or

(*b*) where the plans have been passed but the erection of the building has not begun before the coming into force of this section in the district at any time before the erection thereof has begun;

and the prohibition imposed by any such notice shall be binding on successive owners of the building.

PART IV —*cont.*

(3) If it appears to the local authority to be necessary any such notice may require that the provision of the means of communication shall include the carrying out of constructional work not exceeding that required for a new street by street byelaws.

(4) Any person aggrieved by a decision of the local authority under this section as to the sufficiency of means of communication provided or to be provided by him between the building and any such street as is referred to in subsection (1) of this section may appeal to a court of summary jurisdiction.

(5) If any person contravenes any notice under this section he shall be liable to a penalty not exceeding twenty pounds and the local authority may themselves provide the means of communication to which the notice refers and recover the expenses of so doing from that person:

Provided that this subsection shall have effect subject to the provisions of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 with respect to the avoidance of any such notice for want of registration as a local land charge.

(6) Nothing in this section shall be deemed to extend to authorise any person other than the highway authority to carry out work in any such street as is referred to in subsection (1) of this section.

(7) The provisions of this section shall not apply to a building erected by the lord mayor aldermen and citizens of the city of Sheffield as housing authority.

Application of building line to walls etc.

30.—(1) No person shall erect or bring forward beyond the building line on land abutting on a street in a district any structure of a greater height than six feet six inches above the level of the ground at the nearest boundary of the street.

(2) If any person contravenes the provisions of the foregoing subsection he shall be liable to a penalty not exceeding five pounds.

(3) The foregoing provisions of this section shall not apply to a temporary structure required to be erected as mentioned in subsection (1) of this section for the purpose of the construction alteration repair or maintenance of any building or works:

Provided that if any such temporary structure is not removed when the construction alteration repair or maintenance of the building or works is completed the person who erected the structure shall be liable to a penalty not exceeding five pounds.

(4) Where any person is convicted of an offence under either of the last two foregoing subsections the court by which he was convicted may order him within such time as may be fixed by the order to remove the structure or if he so elects to set it

PART IV —*cont.*

back or alter it so that it no longer contravenes the provisions of subsection (1) of this section and if he fails to comply with the order—

(*a*) he shall be liable to a penalty not exceeding twenty shillings for each day on which the failure continues; and

(*b*) the local authority after giving him notice of their intention so to do may remove the structure and recover from him the expenses incurred by them in so doing:

Provided that he shall not be liable to a penalty for any day after that on which the local authority have given notice to him of their intention to remove the structure.

(5) Where after the expiration of five years from the date of the coming into force of this section in a district there is on any site in that district a structure which existed on that site at the said date and could not have been erected thereafter the said date without contravening the provisions of subsection (1) of this section—

(*a*) the local authority may by notice stating the effect of paragraphs (*b*) and (*c*) of this subsection require the owner or occupier of the site to remove set back or alter the structure within such reasonable time (not being less than seven days) as may be specified in the notice so that it will comply with those provisions;

(*b*) if the owner or occupier complies with the said notice the local authority shall on demand repay to him the reasonable expenses incurred by him in so doing;

(*c*) if the owner or occupier fails to comply with the said notice the local authority at their own expense may remove the structure but shall if he so requires re-erect it so as not to contravene the said provisions.

(6) In this section the expression "building line" in relation to any land means—

(*a*) any building line prescribed by the local authority in respect of the land under the provisions of any enactment; or

(*b*) if there be no such line then any line beyond which a house or building may not be erected on the land without infringing a condition enforceable by the local authority under subsection (2) of section 140 of the Housing Act 1936; or

26 Geo. 5. & 1 Edw. 8. c. 51.

(*c*) if there be neither of such lines then the line beyond which a house or building may not (except with the consent of the local authority) be erected or brought forward on the land without contravening the provisions of the Public Health (Buildings in Streets) Act 1888.

51 & 52 Vict. c. 52.

PART IV —*cont.*

(7) The provisions of this section shall not apply to—

(*a*) any wall erected on land belonging to any railway dock canal or inland navigation undertakers so long as that land is used by those undertakers primarily for the purposes of their railway dock canal or inland navigation undertaking; or

(*b*) any wall erected on land belonging to an area board so long as that land is used primarily for the purposes of works for the supply of electricity or the manufacture or storage of gas.

New building overreaching adjoining chimneys.

31.—(1) Where after the coming into force of this section in a district—

(*a*) any person erects or raises a building in the district (in this section referred to as the "taller building") to a greater height than an adjoining building; and

(*b*) any chimneys or flues of the adjoining building are in the party wall or in an external wall of the adjoining building;

the local authority may by notice—

(i) require that person within such time as may be specified in the notice to build up those chimneys and flues (if it is reasonably practicable so to do) so that the top thereof will be of the same height as the top of the chimneys of the taller building or the top of the taller building whichever is the higher; and

(ii) require the owner or occupier of the adjoining building to allow the first-mentioned person to enter on that building and carry out such work as may be necessary to comply with the notice served on him.

(2) Any person aggrieved by a requirement of the local authority under this section may appeal to a court of summary jurisdiction.

(3) If any person fails to comply with a notice under this section he shall be liable to a penalty not exceeding twenty pounds and in the case of a notice served under paragraph (i) of subsection (1) of this section the local authority may themselves execute such work as may be necessary to comply with the notice and recover the expenses of so doing from the person on whom the notice was served.

Cellars and rooms below subsoil water level.

32.—(1) No person shall in or in connection with any house shop or office in a district construct without the consent of the local authority any cellar or room the floor level of which is lower than the ordinary level of the subsoil water on under or adjacent to the site of the house shop or office.

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(2) Any consent under this section may be given subject to such conditions as to the construction or use of the premises as may be specified therein and any such conditions shall be binding on successive owners of the house shop or office.

(3) Any person aggrieved by the refusal of the local authority to give their consent under this section or by any conditions attached to such consent may appeal to a court of summary jurisdiction.

(4) If any person constructs a cellar or room in contravention of subsection (1) of this section or any conditions attached to any consent under this section—

(*a*) he shall be liable to a penalty not exceeding twenty pounds ; and

(*b*) the local authority may by notice require him within such reasonable time as may be specified in the notice either to alter the cellar or room so that its construction will no longer contravene the said subsection or conditions or if he so elects to fill it in or otherwise make it unusable and if he fails to comply with any such notice the local authority may themselves fill in the cellar or room or otherwise make it unusable and recover from him the expenses of so doing.

(5) If any person uses a cellar or room in contravention of any such conditions he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

(6) The provisions of the last two foregoing subsections shall have effect subject to the provisions of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 as to the avoidance for want of registration as a local land charge of any prohibition or restriction imposed by virtue of any such conditions.

(7) Nothing in this section shall apply to the construction of any cellar or room in connection with any shop or office which forms part of a railway station.

Extension of powers under section 9 of Housing Act 1936.

33.—(1) A house in a district which is occupied or is of a type suitable for occupation by persons of the working classes shall be deemed for the purposes of section 9 of the Housing Act 1936 to be not in all respects fit for human habitation if it is not kept repaired and painted sufficiently to prevent the dilapidation thereof and to secure reasonable amenities for the occupiers thereof.

(2) On an appeal to the county court under section 15 of the said Act by a person aggrieved by a notice requiring the

PART IV —*cont.*

execution of works to remedy the defects referred to in subsection (1) of this section the court shall take into consideration—

(*a*) in the case where the person aggrieved is a lessee or agent for a lessee the length of the unexpired period of the lease;

(*b*) the period for which the house is likely to continue occupied;

(*c*) the expenditure incurred on the house during the preceding three years by the person having control of the house or the owner thereof;

(*d*) in the case of any house the rent of which is subject to control in pursuance of the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 the financial return accruing to the owner in respect of his ownership of the house; and

(*e*) whether the condition of the house is or is not due to the wilful default or neglect of the occupier.

(3) The provisions of this section shall not apply to a house belonging to the lord mayor aldermen and citizens of the city of Sheffield as housing authority.

(4) In this section the expressions "house" "owner" and "person having the control of the house" have the same meanings as in the Housing Act 1936.

Ruinous and dilapidated buildings and neglected sites.

34.—(1) Paragraphs (*b*) and (ii) of subsection (1) of section 58 of the Act of 1936 and so much of subsection (2) of that section as relates to those paragraphs shall cease to have effect and the following provisions of this section shall have effect in lieu thereof in a district in which the provisions of this section are in force.

(2) Where a building or part of a building in the district is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood the local authority may by notice require the owner thereof within a reasonable time specified in the notice—

(*a*) to execute such works of repair or restoration; or

(*b*) if he so elects to take such steps for demolishing the building or any part thereof and removing any rubbish or other material resulting from or exposed by the demolition;

as may be necessary for remedying the cause of complaint.

(3) Where rubbish or other material resulting from or exposed by the demolition or collapse of a building or part of a building in the district is lying on the site of the building or that part thereof or on any land occupied with the building and by reason thereof the site or land is in such a condition as to be

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seriously detrimental to the amenities of the neighbourhood the local authority may by notice require the owner of the site or land within a reasonable time specified in the notice to take such steps for removing the rubbish or material as may be necessary for remedying the cause of complaint.

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

(5) Notwithstanding anything in subsection (3) of section 276 of the Act of 1936 as applied by this Act that section shall apply to all rubbish or other material removed by the local authority under this section.

(6) In this section the expression "building" includes any structure.

As to defective houses.

35.—(1) Where a local authority are satisfied that—

(*a*) any house in the district is in such a state (in this section referred to as a "defective state") as to be prejudicial to health or a nuisance; and

(*b*) having regard to all the circumstances unreasonable delay in remedying the defective state would be occasioned by following in relation to that house the procedure prescribed by sections 93 to 95 of the Act of 1936;

the local authority may (instead of serving an abatement notice as required by section 93 of the Act of 1936) serve upon the person upon whom it would otherwise have been appropriate under the said section 93 to serve such an abatement notice a notice to the effect that the local authority intend to remedy the defective state of the house themselves and shall in such notice specify the defects which they intend to remedy.

(2) Not later than the end of the seventh day after the local authority have served a notice under subsection (1) of this section the person upon whom such notice was served may serve a counter-notice upon the local authority stating that he intends to remedy the defective state of the house and if such person having duly served such counter-notice commences within such time thereafter as the local authority consider reasonable to execute such works and take such steps as may be necessary to remedy such defective state and so long as he progresses to the satisfaction of the local authority with the execution of such works and the taking of such steps the local authority shall not take action under subsection (3) of this section in respect of such house.

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(3) At any time after the expiration of nine days after the service of a notice under subsection (1) of this section and subject to the provisions of subsection (2) of this section the local authority may execute such works and take such steps as may be necessary to remedy the defective state of the house to which such notice relates and subject to the provisions of subsection (4) of this section may recover the expenses reasonably incurred by them in so doing from the person upon whom the notice was served.

(4) (*a*) In proceedings to recover expenses under subsection (3) of this section it shall be a defence to prove that—

(i) the alleged defective state did not exist at the time of the service of the notice; or

(ii) the need to abate the defective state was not so urgent as to justify the local authority themselves executing such works and taking such steps without first complying with the provisions of section 93 and section 94 of the Act of 1936; or

(iii) the person upon whom the notice was served having duly served a counter-notice under subsection (2) of this section commenced within a reasonable time and progressed reasonably with the execution of such works and the taking of such steps as were necessary to remedy the defective state of the house.

(*b*) A person against whom proceedings are taken under subsection (3) of this section shall upon information duly laid by him and on giving to the local authority not less than three clear days' notice of his intention be entitled to have any person to whose default or unlawful act or sufferance he alleges that the defective state of the house was due brought before the court in the proceedings and if the original defendant proves that the defective state of the house arose or continued by the default or unlawful act or sufferance of that other person the court shall have power—

(i) to order that such expenses as aforesaid may be recovered from that other person; or

(ii) to apportion the expenses between persons by whose defaults acts or sufferances the defective state of the house arose or continued in such manner as the court may deem fair and reasonable.

(5) The local authority may if they think fit exercise the powers of this section in relation to such defects in a house as may be specified in the notice notwithstanding the fact that other defects may exist in that house and in that case nothing contained in this section or done or executed thereunder shall prejudice or affect the powers of the local authority under sections 93 to 98 and section 100 of the Act of 1936 in relation to any such other defect in that house.

PART IV —*cont.*

(6) The powers and functions of the local authority under this section may be exercised by the medical officer or the sanitary inspector.

Demolition of buildings.

36.—(1) No person shall commence to demolish or take down any building or part thereof within a district without first notifying the local authority of his intention so to do and the local authority may require such person to comply with such reasonable terms and conditions as the local authority think fit including terms and conditions requiring—

(*a*) the shoring up of adjacent buildings ; and

(*b*) the removal of any material or rubbish resulting from the demolition or taking down and the clearance of the site ;

to the satisfaction of the local authority within a reasonable time to be prescribed by the local authority :

Provided that this section shall not apply to the demolition or taking down of an internal part of a building if such demolition or taking down is incidental to an internal alteration of the building the use of which it is intended to continue.

(2) Where notice is given to the local authority under subsection (1) of this section and such notice is accompanied by particulars of such building or part thereof and of the proposals in regard thereto the local authority shall be deemed to have approved the proposals unconditionally unless within six weeks from the receipt thereof or within such longer period as the applicant may agree in writing to allow they give notice to him that they have decided to the contrary.

(3) Nothing in this section shall be deemed to prohibit the execution in cases of emergency of any such works as may be reasonably necessary but without prejudice to the right of the local authority to impose such reasonable terms and conditions in accordance with subsection (1) of this section in such manner as if any such works had not been commenced.

(4) Any person aggrieved by any term or condition imposed or the time prescribed under this section may appeal to a court of summary jurisdiction.

(5) If any term or condition imposed under this section is not complied with within the time therein prescribed the local authority may themselves enter upon the building and the site thereof and carry out the work and may sell and dispose of any material or rubbish found on the site.

(6) Notwithstanding anything contained in subsection (3) of section 276 of the Act of 1936 as applied by this Act that section shall apply to all rubbish or other material removed by the local authority under this section.

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(7) All expenses incurred by the local authority under subsection (5) of this section in relation to the site of a demolished building may be recovered by the local authority from the owner of that site.

(8) Nothing in this section shall apply to—

(*a*) any poultry-house greenhouse coal-shed or cycle-shed or other similar structure;

(*b*) any building (not being a dwelling-house) belonging to the commission and held by them for the purposes of their undertaking; or

(*c*) any building (not being a dwelling-house or offices) belonging to the National Coal Board and held and used by them for the purpose of the winning and getting of coal:

Provided that the exemption conferred by paragraph (*b*) of this subsection shall not extend to houses or to buildings last used before demolition as offices other than buildings so used which form part of a railway station.

(9) If any person contravenes the provisions of this section or of any term or condition imposed under this section he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

Separate approach for separate tenements.

37. The powers of a local authority under section 6 of the Housing Act 1936 shall include power to make byelaws for requiring in the case of houses let in lodgings or occupied by members of more than one family a separate approach to each room or tenement separately occupied without passing through any other room or tenement.

Adjustment of boundaries of estates in connection with streets.

38.—(1) Where a plan and sections of a new street deposited with a local authority in pursuance of street byelaws are approved by them they may for the purpose of securing the proper laying out or development of any estate through which the street is to run by notice require that such provision shall be made—

(*a*) for adjusting and altering the boundaries of the estate and any other estate adjacent or near thereto and for effecting exchanges of land in connection therewith; and

(*b*) for the removal modification or imposition of covenants restrictions and conditions attaching to the land comprised in the estate or any such other estate;

as may be necessary or desirable having regard to the line and layout of the new street.

(2) Any such notice shall be given to the owners of all the estates affected thereby.

PART IV —*cont.*

(3) The powers conferred by subsection (1) of this section may also be exercised on the approval of a plan for the widening of an existing street or the widening or adaptation of a road footpath or way so as to form a new street.

(4) The provision so to be made and the terms and conditions upon which it is to be made shall failing agreement between the local authority and the persons interested in the respective estates be determined by a single arbitrator to be appointed in default of agreement by the Minister.

(5) An agreement or award made under this section may provide for the payment of money by the local authority but no such award shall provide for the payment of money by any other person without his consent.

(6) Any award made under this section shall operate to effect any adjustment or alteration of boundaries or exchange of land or the removal modification or imposition of covenants restrictions and conditions attaching to any land which may be provided for by the award and shall be duly stamped accordingly.

(7) The costs and expenses of any arbitration under this section shall unless and except in so far as the award may otherwise provide be paid by the local authority.

(8) Any land or money received by any person in respect of any adjustment or alteration of boundaries or exchange of land under this section shall be held by him subject to the same trusts (if any) as the land exchanged therefor.

(9) Any land received by any person as aforesaid shall also be held subject to the same covenants restrictions and conditions (if any) so far as the same are applicable as the land exchanged therefor and any such covenants restrictions or conditions shall be deemed to be applicable unless otherwise provided in an agreement or award made under this section.

(10) For the purposes of this section the local authority may themselves purchase any land by agreement and—

(*a*) may sell or lease the whole or part of any land so purchased at such time and at such price and on such conditions as they think fit; or

(*b*) may exchange the whole or part of any such land for other land at such time and on such conditions as they think fit and pay or receive money for equality of exchange; or

(*c*) may appropriate any such land for any purpose approved by the Minister;

and until any such sale lease exchange or appropriation may occupy manage or let the land or any part thereof in such manner as they think reasonable:

Provided that the local authority shall not without the consent of the Minister sell or lease any such land at a price or rent

PART IV —*cont.*

or for a consideration of a value less than the current market value of the land but a purchaser or lessee shall not be concerned to inquire whether such consent is necessary or has been obtained.

(11) In this section the expression "estate" includes any parcel of land.

Termination of new streets.

39.—(1) Where a plan and sections of a new street deposited with a local authority in pursuance of street byelaws are approved by them they may for the purpose of securing adequate means of communication between the new street and any other street (whether existing or intended) by notice prohibit the erection or retention of any structure at either end of the new street on land belonging at the time of the deposit to the owner of the land upon which the new street is proposed to be constructed or laid out:

Provided that no such notice shall affect any structure existing at the time of the deposit until both the new street and that other street have become highways repairable by the inhabitants at large.

(2) Any such notice shall be given to the person by whom or on whose behalf the plan and sections were deposited and the prohibition imposed thereby shall be binding on successive owners of the land to which it relates.

(3) If any person contravenes any notice under this section he shall be liable to a penalty not exceeding twenty pounds and the local authority may remove the structure and recover the expenses of so doing from that person:

Provided that this subsection shall have effect subject to the provisions of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 with respect to the avoidance of any such notice for want of registration as a local land charge.

Rounding or splaying off corners at street junctions.

40.—(1) Where a plan and sections of a new street deposited with a local authority in pursuance of street byelaws are approved by them they may for the purposes of safety by notice require that the corners formed at the junction of the new street with another street (whether existing or intended but not being a trunk road) shall be rounded or splayed off in such manner as may be specified in the notice.

(2) Any such notice—

(*a*) shall be given to the person by whom or on whose behalf the plan and sections were deposited; and

(*b*) shall be binding on successive owners of the land to which it relates; and

PART IV —*cont.*

(*c*) shall be treated for the purposes of section 15 of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 as if the said requirement were a restriction on the user of land imposed thereby and shall be registered accordingly under the said section as a local land charge.

(3) The local authority shall pay compensation to any person injuriously affected by the exercise of powers conferred by this section and in default of agreement the amount thereof shall be determined by arbitration in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949.

9 & 10 Geo. 5. c. 57.
12 13 & 14 Geo. 6. c. 42.

(4) If any person lays out or constructs a new street otherwise than in compliance with a notice in respect of the street under this section he shall be liable to a penalty not exceeding twenty pounds and the local authority may do such work as may be necessary to comply with the notice and recover the expenses of so doing from that person:

Provided that this subsection shall have effect subject to the provisions of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 with respect to the avoidance of any such notice for want of registration as a local land charge.

(5) This section shall not apply to a new street laid out by the County Council or to a county road except with the consent of the County Council.

Fencing of forecourts.

41.—(1) Where the forecourt of any premises abutting on a street in a district or any steps or projection or goods (whether for sale or not) placed in any such forecourt is or are a source of danger obstruction or inconvenience to the public the local authority may by notice require the owner or occupier of the premises to fence the forecourt from the street.

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

Forecourts injurious to amenities of street.

42.—(1) If a local authority by resolution determine that any stall or other erection on any forecourt in the district is by reason of its character injurious to the amenities of the street on which the forecourt abuts the local authority may by notice require the owner or occupier of the forecourt either to make such alterations in the stall or erection as may be necessary to prevent it from being injurious to the amenities of the street or if he so elects to remove it.

PART IV —*cont.*

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

(3) In this section the expression " erection " does not include an advertisement to which regulations made under section 31 of the Town and Country Planning Act 1947 for the time being apply.

Awnings over footways etc.

43.—(1) No part of any awning over the footway of a street in a district being a highway repairable by the inhabitants at large shall project over any part of the footway which is less than one foot six inches from the outer edge of the footway.

(2) If any person places or causes or permits to be placed over any such footway an awning which contravenes the foregoing subsection he shall be liable to a penalty not exceeding forty shillings.

(3) If an awning over any such footway is so constructed or maintained as to be prejudicial to the safety or convenience of the public the local authority may by notice require the owner or occupier of the premises to which the awning is appurtenant to carry out such work as may be necessary to prevent the awning being so prejudicial.

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

(5) In this section the expression " awning " includes a blind shade or other covering.

Direction signs.

44.—(1) A local authority may on a conspicuous part of any building structure or land in the district at or near to the corner of any street cause to be put up or painted signs indicating the classified road number of the street and the direction and distance to towns railway stations public buildings and other places of a public character.

(2) At least one month before exercising their powers under this section the local authority shall give to the owner of the building structure or land notice of their decision so to do together with particulars of the size design and position of the sign proposed and any person aggrieved by the decision of the local authority may appeal to a court of summary jurisdiction.

(3) If any person wilfully and without the consent of the local authority removes obliterates alters defaces or obscures any such sign otherwise than in the course of demolishing or altering the building or structure or executing work on the land he shall be liable to a penalty not exceeding forty shillings and the local authority may recover from him the expenses of replacing or making good the sign.

PART IV —*cont.*

(4) The exercise of the powers conferred by this section shall be subject to the provisions of the Road Traffic Acts 1930 to 1947 and to any regulations made or any general or other directions given by the Minister of Transport in pursuance of the said provisions.

Urgent repairs of private streets.

45.—(1) In any street in a district not being a highway repairable by the inhabitants at large the local authority may execute such repairs as are in their opinion urgently required to prevent or remove danger to persons or vehicles in the street and may themselves pay the cost of the repairs out of the general rate fund:

Provided that the cost of the repairs executed in any street in any year under this section shall not exceed ten pounds for each one hundred yards of the length of the street.

(2) The exercise by the local authority of their powers under this section shall not prejudice their powers under any statutory provision for the time being in force in the district relating to private street works or private street improvement expenses or under section 19 of the Public Health Acts Amendment Act 1907.

7 Edw. 7. c. 53.

Provision of bins for litter.

46. A local authority may provide and place and maintain on any roadside waste open space park or recreation ground belonging to or maintained by them and with the consent of the owner thereof on any other land within the district to which the public have access bins or other receptacles for the reception or deposit of litter and may from time to time empty and cleanse any such bins or receptacles.

Attachment of street lamps brackets etc.

47.—(1) Subject to the provisions of this section a local authority may affix to any building in the district such lamps brackets pipes electric lines and apparatus (in this section called "attachments") as may be required for the purposes of street lighting.

(2) The local authority shall not affix attachments to a building under this section without the consent of the owner of the building:

Provided that where in the opinion of the local authority any consent required under this subsection is unreasonably withheld they may apply to the appropriate authority who may either allow the attachments subject to such conditions (if any) as to rent or otherwise as the appropriate authority thinks fit or disallow the attachments.

(3) Where any attachments have been affixed to a building under this section and the person who gave the consent or who was the owner of the building when the attachments were allowed by the appropriate authority ceases to be the owner thereof the subsequent owner may give to the local authority notice requiring them to remove the attachments and subject to

PART IV —*cont.*

the provisions of this subsection the local authority shall comply with the requirement within three months after the service of the notice:

Provided that where in the opinion of the local authority any such requirement is unreasonable they may apply to the appropriate authority who may either annul the notice subject to such conditions (if any) as to rent or otherwise as the appropriate authority thinks fit or confirm the notice subject to such extension (if any) of the said three months as the appropriate authority thinks fit.

(4) Where any attachments have been affixed to a building under this section the owner of the building may require the local authority at their own expense temporarily to remove the attachments where necessary during any reconstruction or repair of the building.

(5) If the owner of any building suffers damage by or in consequence of the affixing to the building of any attachments under the powers of this section he shall be entitled to be paid by the local authority compensation to be determined in case of dispute in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949.

(6) In this section the following expressions have the meanings hereby assigned to them:—

"appropriate authority" means a court of summary jurisdiction except that in relation to a building mentioned in the first column of the following table it means the Minister specified in relation thereto in the second column of that table:—

Building forming part of an aerodrome licensed pursuant to an order made under the Civil Aviation Act 1949 or any enactment repealed by that Act.	The Minister of Civil Aviation.	12 13 & 14 Geo. 6. c. 67.
Building which— (i) is subject to a building preservation order made under section 29 of the Town and Country Planning Act 1947; or (ii) is included in a list of buildings of special architectural or historic interest compiled or approved by the Minister under section 30 of the last-mentioned Act; or (iii) is alleged by the owner thereof to be a building of special architectural or historic interest; or (iv) is owned by statutory water undertakers.	The Minister.	
Building owned by a highway authority or railway canal dock or inland navigation undertakers.	The Minister of Transport.	
Building owned by electricity or gas undertakers.	The Minister of Fuel and Power.	

PART IV —*cont.*

" building " includes a structure and a bridge or aqueduct over a street ;

" owner " means—

(*a*) in relation to a building occupied under a tenancy for a term of years whereof five years or more remain unexpired and not forming part of such an aerodrome as aforesaid the occupier of the building ;

(*b*) in relation to a building forming part of such an aerodrome as aforesaid the person having control of the aerodrome ;

(*c*) in relation to any other building the person who is receiving the rack rent or who would receive the rack rent if the building were let at a rack rent ;

and the expression " owned " shall be construed accordingly.

(7) The provisions of section 290 of the Act of 1933 shall apply to the determination by any Minister of any question to be determined by him under this section.

Mixing of mortar in streets.

48.—(1) No person shall mix mortar or any like substance in any street repairable by the inhabitants at large in the county except upon such board or in such receptacle as will protect the street from such mortar or substance :

Provided that this section shall not apply to the mixing in any street of mortar or like substance for the purposes of making up maintaining repairing altering or improving such street.

(2) If any person shall contravene the provisions of this section he shall be liable to a penalty not exceeding forty shillings.

PART V

SEWERS AND DRAINS

Separate sewers for foul water and surface water.

49. For the purpose of facilitating the disposal of sewage the powers of a local authority under section 157 of the Public Health Act 1875 shall extend so as to enable them to make byelaws requiring any person constructing a new street in the district to provide separate sewers for foul water drainage and surface water drainage respectively.

Penalty for improper construction or repair of water-closet etc.

50.—(1) If a water-closet drain or soil pipe in a district is so constructed or repaired as to be prejudicial to health or a nuisance the person who undertook or executed the construction or repair thereof shall unless he shows that the prejudice to health or nuisance could not have been avoided by the exercise of reasonable care be liable to a penalty not exceeding twenty pounds.

PART V —*cont.*

(2) A person charged with an offence under this section (hereafter in this section referred to as "the original defendant") shall upon information duly laid by him and on giving to the prosecutor not less than three clear days' notice of his intention be entitled to have any other person being his agent servant or workman to whose act or default he alleges the offence was due brought before the court at the time appointed for the hearing of the charge and—

(*a*) if after the commission of the offence has been proved the original defendant proves that the offence was due to the act or default of that other person that other person may be convicted of the offence; and

(*b*) if the original defendant further proves that he used all due diligence to secure that the water-closet drain or soil pipe in question was so constructed or repaired as not to be prejudicial to health or a nuisance he shall be acquitted of the offence.

(3) Where the original defendant seeks to avail himself of the provisions of subsection (2) of this section—

(*a*) the prosecutor as well as the person whom the original defendant charges with the offence shall have the right to cross-examine the original defendant if he gives evidence and any witness called by him in support of his pleas and to call rebutting evidence; and

(*b*) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

Recovery of expenses of sewering prospective street.

51. Where land in a district in which a length of sewer has after the coming into force of this section in the district been constructed at the expense of the local authority becomes a street (whether repairable by the inhabitants at large or not) then the provisions of the Third Schedule to this Act shall have effect as respects the apportionment and recovery by the local authority of the expenses incurred in constructing the length of sewer:

Provided that where compensation due to the owner of any land in respect of damage sustained by reason of the construction therein of the length of sewer has been diminished by setting off any sum on account of the enhancement in value of the land by reason aforesaid this section shall not apply to so much of the length of sewer as has been constructed in that land.

Prevention of evasion of liabilities under last preceding section.

52.—(1) If on a complaint by a local authority to a court of summary jurisdiction it is proved to the satisfaction of the court—

(*a*) that by reason of any transfer of land any part of any premises (hereafter in this section referred to as "the severed part") has been excluded from premises which

PART V —*cont.*

have subsequently become premises fronting adjoining or abutting on a street to which the last preceding section of this Act applies or has ceased to be included in premises fronting adjoining or abutting on such a street; and

(*b*) that the transfer was intended for the purpose of evading liability under the Third Schedule to this Act imposed by the said last preceding section;

then the court may make such order under the following provisions of this section as it thinks just for the purpose of ensuring that the said liability is not evaded by reason of the transfer.

(2) Any such order may direct—

(*a*) that for the purposes of paragraph 2 of the said schedule the severed part shall be deemed to be premises fronting adjoining or abutting on the street or part of the street in question and shall be deemed to have had at the relevant date within the meaning of the said schedule such frontage on the street as may be specified in the order;

(*b*) that for the purposes of sub-paragraph (*a*) of paragraph 6 of the said schedule the site of a new building erected on the severed part and the land occupied therewith shall be deemed to have such frontage on the street or part of the street as may be specified in the order;

(*c*) that any such amendment shall be made of any entry in the register of local land charges as may be specified in the order including an amendment taking effect as from a past date.

(3) Any order made under paragraph (*a*) of subsection (2) of this section may also direct that any premises from which the severed part has been excluded or in which it has ceased to be included shall not be deemed to be premises fronting adjoining or abutting on the street or part of the street or shall be deemed to have such frontage as may be specified in the order.

(4) Orders made under any provision of subsection (2) of this section may be made on separate complaints made by the local authority at different times.

(5) For the purposes of this section the expression "transfer" includes any disposal of land whether by way of sale lease exchange gift or otherwise.

Summary power to remedy stopped-up drains etc.

53.—(1) If it appears to the medical officer or the sanitary inspector that on any premises in a district a drain private sewer water-closet or soil pipe is stopped up he may by notice require the owner or occupier of the premises to remedy the defect within forty-eight hours from the service of the notice.

PART V —*cont.*

(2) If the notice is not complied with the local authority may themselves carry out the work necessary to remedy the defect and may subject to the next following subsection recover the expenses of so doing from the person on whom the notice was served :

Provided that where the said expenses do not exceed forty shillings the local authority may if they think fit remit the payment thereof.

(3) In any proceedings under this section the court may inquire—

(*a*) whether any requirement contained in a notice served under this section or any work done by the local authority was reasonable ; and

(*b*) whether the expenses incurred by the local authority in doing the work or any part thereof ought to be borne wholly or partly by the person on whom the notice was served ;

and the court may make such order concerning the expenses or their apportionment as appears to the court to be just in the circumstances of the case :

Provided that the court shall not order the expenses or any part thereof to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

Delegation of power to examine and test drains etc.

54.—(1) In lieu of section 48 of the Act of 1936 the following provisions of this section shall if a local authority by resolution so determine have effect in the district for such period as may be specified in the resolution either as respects the whole of the district or as respects such part or parts thereof as may be so specified.

(2) Where it appears to the medical officer or the sanitary inspector that there are reasonable grounds for believing—

(*a*) that a sanitary convenience drain private sewer or cesspool is in such a condition as to be prejudicial to health or a nuisance ; or

(*b*) that a drain or private sewer communicating directly or indirectly with a public sewer is so defective as to admit subsoil water ;

he may examine its condition and for that purpose may apply any test other than a test by water under pressure and if he deems it necessary open the ground.

(3) If on examination the convenience drain sewer or cesspool is found to be in proper condition the local authority shall as soon as possible reinstate any ground which has been opened by the medical officer or sanitary inspector and make good any damage done by him.

PART V —*cont.*

Power to repair drains and private sewers.

55.—(1) If any drain or private sewer in a district—

(*a*) is not sufficiently maintained and kept in good repair to the satisfaction of the local authority; and

(*b*) can in the opinion of the local authority be sufficiently repaired at a cost not exceeding fifty pounds;

the local authority may after giving not less than seven days' notice to the owner or owners cause the drain or sewer to be repaired and subject to the next following subsection recover the expenses of so doing so far as they do not exceed fifty pounds from the owner or owners of the drain or sewer in such proportions (if there is more than one owner) as the surveyor may determine:

Provided that where the said expenses do not exceed forty shillings the local authority may if they think fit remit the payment thereof.

(2) In any proceedings under this section the court may inquire—

(*a*) whether the drain or sewer in question required repair and whether the work done by the local authority was reasonable; and

(*b*) whether any apportionment made by the surveyor was fair;

and the court may make such an order concerning the expenses or their apportionment as appears to the court to be just:

Provided that the court shall not revise any apportionment unless it is satisfied that all persons affected thereby have had due notice of the proceedings and an opportunity of being heard.

Penalty for damage to surface water drains etc.

56.—(1) If any person stops up damages injures or removes any surface water drain or land drain by means of which water is conveyed from lands which do not belong to that person he shall unless—

(*a*) before stopping up damaging injuring or removing such drain he shall have provided a proper substitute to the satisfaction of the local authority; or

(*b*) he shows to the satisfaction of a court of summary jurisdiction that no material detriment is caused to such lands by stopping up damaging injuring or removing such drain;

be liable to a penalty not exceeding five pounds and the local authority may give notice to the owner or occupier of the land on which such drain is situate requiring him to restore the drain to its former condition.

(2) The provisions of section 290 of the Act of 1936 shall apply to any notice given under this section as they apply to the notices mentioned in subsection (1) of that section.

PART V —*cont.*

Sealing of drains and sewers.

57.—(1) Within six weeks from the receipt of a notice under section 36 (Demolition of buildings) of this Act the local authority may if it is reasonable so to do having regard to all the circumstances of the case by counter-notice require the person giving such notice either—

(*a*) to seal any sewer or drain on in or under the site of the building to which the notice relates; or

(*b*) to take up and remove any such sewer or drain and seal any other sewer or drain with which such first-mentioned sewer or drain may be connected;

and to make good and restore to the satisfaction of the local authority the surface of the ground disturbed by or interfered with by the execution of any works under sub-paragraph (*a*) or sub-paragraph (*b*) of this subsection.

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

(3) Where any person shall reconstruct or lay in a new position or permanently discontinue the use of any drain which communicates with any sewer or other drain such person shall cause any drain or portion of drain thereby rendered unnecessary to be cut off and sealed at each end If any person knowingly contravenes the provisions or fails to comply with the requirements of this subsection he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(4) Nothing in this section shall extend or apply to any sewer or drain on in or under the site of any premises (not being a house or a building used as offices or showrooms) belonging to the commission and held or used by them for the purposes of their undertaking.

PART VI

NUISANCES AND OFFENSIVE TRADES

Lighting ventilation and sanitation of stables.

58.—(1) A local authority may make byelaws—

(*a*) for securing the proper lighting and ventilation of any building in the district erected before the date on which the byelaws come into operation and used for the time being for stabling horses;

(*b*) for preventing insanitary conditions in or about or arising out of any building in the district so used whether erected before or after the said date.

(2) For the purposes of any byelaws made under this section a building the erection of which was commenced before the date on which the byelaws came into operation shall be deemed to have been erected before the said date.

PART VI —*cont.*

Power to order alteration of domestic chimneys.

59.—(1) If a court of summary jurisdiction is satisfied upon a complaint by a local authority that any smoke gas or vapour from any chimney flue or pipe of a building or structure forming part of or within the curtilage of a house in the district is prejudicial to the health of any of the inhabitants of the district or a nuisance the court may make an order requiring the owner of the chimney flue or pipe within such time as may be specified in the order—

(*a*) to cause it to be raised to a height so specified ; or

(*b*) to cause such other means for remedying the cause of complaint to be adopted as the court thinks fit:

Provided that the court shall not make an order under this section unless it is satisfied that the work to be done in pursuance of the order will not involve an expenditure exceeding fifty pounds.

(2) If any person fails to comply with an order made under this section he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

Discharge of steam and waste gas.

60.—(1) No person shall cause or permit to be discharged from any premises in a district so as to be prejudicial to health or a nuisance—

(*a*) any steam or waste gas ejected from any stationary engine or the boilers or condensers thereof ; or

(*b*) any condensing water above a temperature of one hundred and ten degrees fahrenheit so ejected ; or

(*c*) any spent or ejected steam arising or produced in the course of any trade or business.

(2) If any person contravenes the provisions of the foregoing subsection he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings:

Provided that in any proceedings brought under this subsection in respect of the discharge of any such matters as are referred to in paragraphs (*a*) (*b*) and (*c*) of the foregoing subsection of this section it shall be a defence for the defendant to prove that he has used the best practicable means for preventing or mitigating the prejudice to health or the nuisance having regard to cost and to other relevant circumstances.

(3) Nothing in this section shall apply to steam gas or water discharged from a railway locomotive.

Silencers for internal combustion engines.

61.—(1) A stationary internal combustion engine shall not be used in a district unless an effectual silencer is provided and used on the exhaust of the engine.

PART VI —*cont.*

(2) If any person uses any such engine in contravention of the foregoing subsection or causes or permits any such engine to be so used the local authority may give him notice that the engine is being or has been so used and if after the elapse of such time from the service of the notice as may be reasonably sufficient for remedying the cause of complaint he uses the engine as aforesaid or causes or permits it to be so used he shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding forty shillings.

(3) An authorised officer of the local authority shall on producing if so required some duly authenticated document showing his authority have the right to enter at all reasonable hours any premises on which there is reason to believe that any such engine is being or has been used in contravention of subsection (1) of this section in order to inspect any such engine and the silencer (if any) on the exhaust thereof and any expenses incurred under this subsection by any such officer may be recovered by the local authority from the occupier of the premises if there is found on the premises any such engine which is not provided with an effectual silencer on the exhaust thereof:

Provided that this subsection shall not apply to any premises belonging to railway undertakers and used by them for the purpose of their railway undertaking.

Noise nuisance.

62.—(1) Any excessive or unreasonable or unnecessary noise which is prejudicial to health or a nuisance shall be a statutory nuisance for the purposes of Part III of the Act of 1936:

Provided that—

(*a*) in any proceedings brought by virtue of this section under the said Part III in respect of a noise occasioned in the course of any trade or business it shall be a defence for the defendant to prove that he has used the best practicable means for preventing or mitigating the noise having regard to the cost and to other relevant circumstances;

(*b*) a justice shall not entertain a complaint under section 99 of the Act of 1936 with respect to a noise unless the complaint is made by not less than three occupiers of premises within hearing of the noise.

(2) Nothing in this section shall apply to a noise occasioned by the exercise by railway undertakers of statutory powers conferred in relation to their railway undertaking.

(3) Nothing in this section shall affect the power of the County Council or the council of a borough to make byelaws under section 249 of the Act of 1933.

PART VII

INFECTIOUS DISEASES AND SANITARY MATTERS

Definition of notifiable disease.

63. In this Part of this Act the expression " notifiable disease " means—

(1) any notifiable disease as defined by section 343 of the Act of 1936 ; and

(2) any infectious disease to which section 144 of the Act of 1936 for the time being applies in the district by virtue of regulations made under section 143 of that Act.

Information to be furnished by occupier in case of notifiable disease.

64.—(1) On the application of the medical officer the occupier of any building in a district which is used for human habitation and in which there is or has been any person suffering from a notifiable disease shall 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) If any person required to furnish information under this section fails to furnish it or knowingly furnishes false information he shall be liable to a penalty not exceeding forty shillings.

(3) In this section the expression " occupier " includes—

(*a*) a person having the charge management or control of the building or of the part of the building in which the person suffering from a notifiable disease is or has been ; and

(*b*) in the case of a building the whole of which is ordinarily let out in separate tenements or in the case of a lodging-house the whole of which is ordinarily let to lodgers the person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person.

Restriction on attendance at schools places of assembly etc.

65. Section 148 of the Act of 1936 in its application to a district shall have effect as if the following paragraph were substituted for paragraph (*b*) thereof :—

" (*b*) having the care of a person—

(i) whom he knows to be suffering from a notifiable disease ; or

(ii) whom he cannot permit to attend school without contravening section 150 of this Act ;

causes or permits that person to expose other persons to the risk of infection by his presence or conduct in any such place as aforesaid ; or ".

Exclusion of children from entertainments.

66.—(1) With a view to preventing the spread of a notifiable disease a local authority on the advice of the medical officer may by notice published in such manner as they think best for

PART VII —*cont.*

bringing it to the notice of persons concerned prohibit the admission of persons under the prescribed age to places of entertainment or assembly in the district for a time specified in the notice.

(2) If the person responsible for the management of any place of entertainment or assembly having been served by the local authority with a copy of a notice published under the preceding subsection admits any person under the prescribed age to that place in contravention of the notice he shall be liable to a penalty not exceeding five pounds:

Provided that in any proceedings under this subsection it shall be a defence to prove that there were reasonable grounds for believing that the person admitted had attained the prescribed age.

(3) In this section the expression " prescribed age " in relation to any notice means such age not exceeding sixteen as may be prescribed by the notice.

Compensation for discontinuing employment to prevent spread of disease.

67. If with a view to preventing the spread of—

(*a*) a notifiable disease ; or

(*b*) a milk-borne disease as defined in section 37 of the Food and Drugs Act 1938 ; or

(*c*) food poisoning ;

the medical officer requests in writing any person to discontinue his employment the local authority may if they think fit compensate him for any loss occasioned by his compliance with the request.

Entry into premises in case of notifiable disease.

68.—(1) If it is shown to the satisfaction of a justice of the peace on sworn information by the medical officer in writing—

(*a*) that in any premises in the district there is a person who is or has been suffering from a notifiable disease ; and

(*b*) that admission to the premises or examination of that person has been refused or that refusal is apprehended or that the case is one of urgency or that an application for admission would defeat the object of the entry ;

the justice may by warrant under his hand authorise the medical officer to enter the premises if need be by force and examine any person found thereon:

Provided that no such warrant shall authorise the medical officer—

(i) to enter any premises except between the hours of seven in the morning and ten in the evening ; or

(ii) to examine a person who is already under the treatment of a registered medical practitioner except with the consent of that practitioner.

PART VII —*cont.*

(2) On entering any premises by virtue of a warrant issued under this section the medical officer may take with him such other persons as may be necessary.

(3) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

Provisions as to appeals against notices relating to provision of dustbins.

69. In its application to a district section 75 of the Act of 1936 shall be read and have effect as if for the words "Any person aggrieved by a requirement of the local authority under this subsection may appeal to a court of summary jurisdiction" in subsection (1) of that section there were substituted the following words:—

"The provisions of Part XII of this Act with respect to appeals against and the enforcement of notices requiring the execution of works shall apply in relation to any notice given under this subsection and for the purposes of such application the provision of a dustbin shall be deemed to be the execution of a work".

Sanitary conveniences for persons employed on construction work.

70.—(1) A local authority may by notice require a contractor engaged in or upon any building operations or the construction or reconstruction of any works in the district within such time as may be specified in the notice—

(*a*) to provide in connection therewith sufficient and satisfactory accommodation in the way of sanitary conveniences for the accommodation of the workpeople employed thereon; and

(*b*) where persons of both sexes are employed in or in connection with the operations or works to provide separate accommodation as aforesaid for persons of each sex;

if it is reasonably practicable so to do:

Provided that this section shall not apply to building operations or works to which section 107 or section 108 of the Factories Act 1937 applies.

1 Edw. 8. & 1 Geo. 6. c. 67.

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

Provision of sanitary conveniences at places of amusement.

71.—(1) A local authority may by notice require the owner or occupier of any premises or place used for any exhibition performance amusement game or sport to which the public are admitted on payment of a charge for admission to provide to the reasonable satisfaction of the local authority and thereafter to the like satisfaction maintain in a suitable position such numbers of sanitary conveniences for the use of the public resorting to such premises or place as may be reasonable.

PART VII —*cont.*

(2) Any person aggrieved by a requirement made under subsection (1) of this section may appeal to a court of summary jurisdiction.

(3) If any person fails to comply with a notice served on him under this section within such reasonable period not being less than twenty-eight days after the date of the service of the notice as may be specified therein he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(4) On the coming into force of this section in a district section 89 of the Act of 1936 in its application to the district shall have effect as if for the words " refreshment-house or place of public entertainment " in subsection (1) of that section there were substituted the words " or refreshment-house ".

Prohibition of sale of verminous articles.

72.—(1) No dealer shall in a district—

(*a*) prepare for sale ;

(*b*) sell or offer or expose for sale ; or

(*c*) deposit for sale or preparation for sale ;

any household article if it is to his knowledge verminous or if by taking reasonable precautions he could have known it to be verminous.

(2) If any household article which is verminous is on any premises in a district—

(*a*) being prepared or offered by a dealer for sale ; or

(*b*) exposed by a dealer for sale or deposited by a dealer for sale or preparation for sale ;

the medical officer or the sanitary inspector may cause the article to be disinfected or destroyed as the case may require and if necessary for that purpose to be removed from the premises and the local authority may recover from the dealer the expenses incurred by the medical officer or the sanitary inspector in taking any action under this subsection.

(3) If any person contravenes the provisions of subsection (1) of this section he shall be liable to a penalty not exceeding twenty pounds.

(4) For the purposes of paragraph (*a*) of subsection (1) of section 287 of the Act of 1936 as applied by this Act the provisions of this section shall be provisions which it is the duty of the local authority to enforce.

(5) For the purposes of this section—

(*a*) the expression " dealer " means a person who trades or deals in any household article ;

(*b*) the expression " household article " means an article of furniture bedding or clothing or any similar article ;

(*c*) the expression " preparation for sale " shall not include disinfestation.

PART VII —*cont.*

Prohibition of tuberculous persons from handling food.

73.—(1) If the medical officer certifies—

(*a*) that any person is suffering from tuberculosis of the respiratory tract and is in an infectious state; and

(*b*) that he is occupied in the district in the cooking preparation or handling of food intended for consumption by persons other than himself or members of his household; and

(*c*) that his continuance in that occupation would in the judgment of the medical officer be a danger to the health of other persons;

the medical officer or any person authorised in that behalf by the local authority may request him in writing to discontinue his occupation as aforesaid.

(2) If any person requested as aforesaid complies with the request the local authority may if they think fit compensate him for any loss occasioned by his compliance with the request.

(3) If any person requested as aforesaid fails to comply with the request a court of summary jurisdiction may on the application of the local authority order him to comply with the request and may by any such an order if it thinks fit direct that such compensation (if any) as it thinks equitable shall be paid to him by the local authority.

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

(5) This section shall not apply to any employment or occupation to which the Public Health (Prevention of Tuberculosis) Regulations 1925 apply.

PART VIII

FOOD

Food storage accommodation.

74.—(1) Every house erected in a district after the coming into force therein of this section shall be provided with sufficient and suitable accommodation for the storage of food and any other house in the district not so provided shall if reasonably practicable be so provided within one month from the service by the local authority on the owner thereof of a notice requiring it to be so provided.

(2) Any person aggrieved by a requirement imposed by a notice under the preceding subsection may appeal to a court of summary jurisdiction.

(3) If any house required to be provided as aforesaid is occupied when not so provided the owner thereof shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

PART VIII —*cont.*

(4) The owner of any house on whom a notice is served under subsection (1) of this section shall have power notwithstanding any lease or other agreement to enter the house and carry out such work as may be necessary to comply with the notice.

(5) For the purposes of this section—

(*a*) the expression " house " includes any part of a building which is occupied or intended to be occupied as a separate dwelling ;

(*b*) the conversion of a building into two or more dwellings shall be deemed to be the erection of each of those dwellings ; and

(*c*) a house the erection whereof was commenced before the date of the coming into force of this section shall not be deemed to have been erected after that date :

Provided that where any part of a building has been let for occupation as a separate dwelling without the consent of the owner of the building the person so letting that part of the building shall be deemed to be the owner.

Slaughter of animals otherwise than for human consumption.

75.—(1) The following provisions shall have effect in a district with respect to the slaughter of any of the following animals namely horses cattle sheep goats or pigs where the animal owing to emaciation or disease is slaughtered otherwise than for sale for human consumption within the meaning of the Public Health (Meat) Regulations.

(2) The owner of any such animal shall comply with the following provisions :—

(*a*) He shall not less than twelve hours before slaughtering the animal or causing it to be slaughtered give notice to an authorised officer of the intention to slaughter it unless by reason of accidental injury illness or exposure to infection it is necessary to slaughter it before the expiration of twelve hours from the giving of such notice or before such notice is given ;

(*b*) Where it is necessary by reason aforesaid to slaughter the animal before the expiration of the said twelve hours he shall retain the carcase intact until the expiration of twelve hours from the time of slaughter or until its disposal is approved by an authorised officer whichever first occurs ;

(*c*) Where it is necessary by reason aforesaid to slaughter the animal before such notice is given he shall give notice of the slaughter to an authorised officer as soon as practicable thereafter and shall retain the carcase intact until the expiration of twelve hours from the time

PART VIII —*cont.*

when notice is given under this paragraph or until its disposal is approved by an authorised officer whichever first occurs ;

(*d*) He shall on the application of an authorised officer made within two weeks from the date of the slaughter of the animal furnish such information within his knowledge as that officer may reasonably require for the purpose of enabling him to trace the disposition of the carcase or any part thereof.

(3) If any person—

(*a*) fails to comply with any of the provisions of subsection (2) of this section ; or

(*b*) furnishes in response to an application under paragraph (*d*) of that subsection information which he knows to be false ;

he shall be liable to a penalty not exceeding ten pounds.

(4) Nothing in this section shall affect the operation of the Diseases of Animals Acts 1894 to 1937 or Part IV of the Agriculture Act 1937 or of any order licence or act of the Minister of Agriculture and Fisheries made granted or done thereunder.

1 Edw. 8. & 1 Geo. 6. c. 70.

(5) In this section—

(*a*) the expression " authorised officer " means any officer of the local authority who is by virtue of the Food and Drugs Act 1938 an authorised officer for the purpose of the examination and seizure of meat under the provisions of that Act relating to unsound food ;

(*b*) the expression " Public Health (Meat) Regulations " means regulations for the time being in force under section 8 of the Food and Drugs Act 1938 or having effect by virtue of subsection (3) of section 101 of that Act as if they had been made under the said section 8.

Registration of hawkers of food and their premises.

76.—(1) (*a*) No person shall in a district sell or offer or expose for sale any food from or upon a cart barrow or other vehicle or from or upon a basket pail tray or other receptacle unless he is registered by the local authority.

(*b*) No premises shall be used in a district as storage accommodation for food intended for sale from or upon a cart barrow or other vehicle or from or upon a basket pail tray or other receptable unless the premises are registered by the local authority :

Provided that nothing in this subsection shall apply—

(i) to the sale or offer or exposure for sale of food by a person keeping open shop for the sale of food or by a person employed and in the course of his employment by such a person or to the use by a person so keeping

PART VIII —*cont.*

open shop or by a person employed and in the course of his employment by such a person of any premises as storage accommodation for food intended for sale by him or his employer as the case may be ;

(ii) to the sale or offer or exposure for sale of food by a dairyman registered under regulations for the time being in force under Part II of the Food and Drugs Act 1938 as amended by any subsequent enactment or by a person employed and in the course of his employment by such a dairyman or to the use by any person as storage accommodation for food of a dairy so registered ;

(iii) to the use by any person as storage accommodation for food of premises registered under section 14 of the Food and Drugs Act 1938 ;

(iv) to the sale or offer or exposure for sale of food by any person on premises owned or occupied by him or his employer or to the use by any person of any premises owned or occupied by him or his employer as storage accommodation for food intended for sale by him or his employer on those or any other such premises ;

(v) to the sale or offer or exposure for sale of food by any person or to the use of any premises as storage accommodation for food intended for sale if the profits of the sale are devoted to a religious or charitable purpose ;

(vi) to the sale or offer or exposure for sale of food by any person or by any person employed by him at any market or fair for which either such person has paid a toll stallage or rent or to the use of any premises in any such market or fair as storage accommodation for food intended for sale by any such person at such market or fair.

(2) If any person contravenes the provisions of the foregoing subsection he shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

(3) An application for a person to be registered under this section shall be made by himself and an application for premises to be so registered shall be made by the occupier or intending occupier thereof.

(4) If it appears to the local authority—

(*a*) that the public health is or is likely to be endangered by any act or default of a person who has applied to be or is registered under this section being an act or default in relation to the quality storage or distribution of food ; or

PART VIII —*cont.*

(*b*) that any premises in respect of which an application has been made for registration under this section or which are registered under this section do not satisfy the requirements of subsection (1) of section 13 of the Food and Drugs Act 1938 or are otherwise unsuitable for use as storage accommodation for food intended for sale as aforesaid;

the local authority shall serve on that person or on the person applying for the registration of the premises or in the case of premises which are registered the occupier of the premises a notice—

(i) stating the place and time (not being less than seven days after the date of the service of the notice) at which it is proposed that a committee of the local authority shall take the matter into consideration; and

(ii) informing him that he may attend before the said committee with any witnesses whom he desires to call at the place and time mentioned to show cause why the local authority should not for reasons specified in the notice refuse to register him or the premises or revoke his or their registration as the case may be.

(5) If a person on whom a notice is served under the last preceding subsection fails to show cause to the satisfaction of the said committee the local authority may refuse to register him or the premises or revoke his or their registration as the case may be and shall forthwith give notice to him of their decision in the matter and shall if so required by him within fourteen days of their decision give to him within forty-eight hours a statement of the grounds on which it was based.

(6) Any person aggrieved by a decision of the local authority under the last preceding subsection may appeal to a court of summary jurisdiction.

(7) For the purposes of paragraph (*a*) of subsection (1) of section 287 of the Act of 1936 as applied by this Act the provisions of this section shall be provisions which it is the duty of the local authority to enforce.

(8) In this section the expression "food" does not include any substance contained in containers of such materials and so closed as to exclude all risk of contamination.

Byelaws as to meat for feeding animals.

77.—(1) A local authority may make byelaws—

(*a*) for requiring the sterilisation in such manner as may be prescribed by the byelaws of animal feeding meat exposed or offered for sale for consumption by dogs cats or other animals;

PART VIII —*cont.*

(*b*) for prohibiting the sale or offer or exposure for sale of animal feeding meat for consumption by dogs cats or other animals unless such meat has been so sterilised ;

(*c*) for empowering an authorised officer to examine any animal feeding meat which is offered or exposed for sale for consumption by dogs cats or other animals and to seize and destroy or cause to be destroyed such animal feeding meat if it has not been so sterilised as aforesaid :

Provide that nothing in any byelaws made under the provisions of this section shall extend or apply to require the sterilisation of animal feeding meat which is supplied to a zoological garden or to a menagerie for consumption by carnivorous animals and which has been examined and passed as fit for animal food by an authorised officer.

(2) In this section—

the expression " authorised officer " means any officer of the local authority who is by virtue of the Food and Drugs Act 1938 an authorised officer for the purpose of the examination and seizure of meat under the provisions of that Act ; and

the expression " animal feeding meat " means any flesh of cattle horses asses mules swine sheep or goats which is not sold or intended for sale for human consumption and includes any such flesh whether cooked or uncooked and whether alone or accompanied by or mixed with any other substance ; and

the expression " flesh " includes any part of an animal.

Provisions as to mobile canteens where food is prepared etc.

78.—(1) Subject to the provisions of this section the following provisions shall have effect in a district in relation to every mobile canteen in which any food intended for human consumption other than milk is prepared for sale or sold or offered or exposed for sale or deposited for the purpose of sale or preparation for sale (that is to say) :—

(*a*) No sanitary convenience dustbin or ash-pit shall be within the mobile canteen ;

(*b*) The sides roof floor windows and doors of the mobile canteen shall be kept in a proper state of repair ;

(*c*) The sides roof and doors of the mobile canteen shall be painted whitewashed cleansed or purified as often as may be necessary to keep them clean and the windows of the mobile canteen shall be kept clean ;

(*d*) The mobile canteen shall not be used as a sleeping place ;

PART VIII —*cont.*

(*e*) Suitable and sufficient means of ventilation shall be provided and suitable and sufficient ventilation shall be maintained ;

(*f*) No refuse or filth whether solid or liquid shall be deposited or allowed to accumulate in the mobile canteen except so far as may be necessary for the proper carrying on of the trade or business for which the mobile canteen is used and the floor of the mobile canteen shall be cleansed as often as may be necessary to keep it clean ;

(*g*) Cleanliness shall be observed by persons employed in the mobile canteen both in regard to the mobile canteen and all articles apparatus and utensils therein and in regard to themselves and their clothing ; and

(*h*) There shall be provided in the mobile canteen suitable washing basins and a sufficient supply of soap clean towels and clean water both hot and cold for the use of persons employed therein.

(2) If in the case of a mobile canteen to which the preceding subsection applies—

(*a*) any of the requirements of that subsection are not complied with ; or

(*b*) any person does or permits any act or thing in contravention of that subsection or fails to take all such steps as may be reasonably necessary to prevent risk of contamination of food in the mobile canteen ;

then in any such case as is mentioned in paragraph (*a*) of this subsection the person in charge of the mobile canteen and in any such case as is mentioned in paragraph (*b*) of this subsection the person in question whether he be the person in charge of the mobile canteen or not shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding five pounds.

(3) If in the case of a mobile canteen to which subsection (1) of this section applies any of the requirements specified in paragraphs (*a*) (*b*) or (*e*) of that subsection is not complied with then in so far as that requirement relates to the structure of the mobile canteen the owner thereof shall be liable to the penalty mentioned in the last preceding subsection but without prejudice to the liability of the person in charge under that subsection.

PART IX

PARKS AND CEMETERIES

Power to let parks etc. for games.

79. When any part of a park or pleasure ground provided by or under the management and control of a local authority is set apart by them under paragraph (*b*) of subsection (1) of section 76 of the Public Health Acts Amendment Act 1907 for the

PART IX —*cont.*

purpose of cricket football or any other game or recreation the local authority may permit the exclusive use by any club or other body of persons of—

(*a*) any portion of the part set apart as aforesaid; and

(*b*) the whole or any part of any pavilion convenience refreshment-room or other building provided under that section;

subject to such charges and conditions as the local authority think fit:

Provided that nothing in this section shall empower a local authority to permit at one and the same time the exclusive use of—

(i) more than one-third of the area of any park or pleasure ground; or

(ii) more than one-quarter of the total area of all the parks and pleasure grounds provided by them or under their management and control.

As to offences in cemeteries.

80. A person other than an officer of a local authority or a person or the servant of a person employed by the local authority in or about any work in connection with the cemeteries burial grounds or crematoria belonging to the local authority shall not except for the purpose of properly tending any grave pluck out or otherwise interfere with any flower plant shrub wreath ornament or other thing on any grave in a cemetery burial ground or crematorium belonging to the local authority and if any person offends against the provisions of this section he shall be liable to a penalty not exceeding forty shillings.

Agreements to maintain graves and tombstones.

81.—(1) A local authority may agree with any person in consideration of the payment of a capital sum by him to maintain for a period fixed by the agreement a grave or tombstone in a cemetery provided by the local authority and the following provisions shall apply in relation to any such agreement:—

(*a*) The said sum shall subject to the next following paragraph and any other enactment authorising its application in some other manner be invested in statutory securities;

(*b*) If and in so far as the cost of maintaining the grave or tombstone in accordance with the agreement exceeds in any year the interest received on the said sum the cost shall be defrayed out of the capital of the said sum;

(*c*) At the expiration of the period fixed by the agreement for the maintenance of the grave or tombstone the local authority may apply the capital of the said sum or so much thereof as has not been expended under the last foregoing paragraph in any manner in which capital money may properly be applied by them under any enactment;

PART IX —*cont.*

(*d*) The amount of the capital of the said sum and the interest thereon shall be shown separately in the accounts of the local authority relating to the cemetery.

(2) In this section—

the expression " cemetery " includes a burial ground and a crematorium ;

the expression " grave " includes a grave space niche or urn ;

the expression " tombstone " includes a monument or other memorial of a deceased person.

Extension of power to maintain burial grounds.

82.—(1) The powers of a local authority in relation to a burial ground provided by them or a closed or disused burial ground maintainable by them shall include power to put and keep in order any grave or tombstone therein subject to the following provisions:—

(*a*) Before exercising the powers of this section the local authority shall give notice of their intention so to do—

(i) by publishing the notice once in each of two successive weeks in a local newspaper circulating in the district with an interval between each publication of not less than six clear days ; and

(ii) by displaying the notice in a conspicuous position in the burial ground ;

(*b*) Any such notice shall—

(i) contain a description of the works intended to be executed ; and

(ii) specify the date on which it is intended that those works will commence which shall not be earlier than the fourteenth day after the last publication of the notice in a newspaper as aforesaid or the twenty-first day after the notice is first displayed in the burial ground as aforesaid; and

(iii) state the effect of paragraph (*c*) of this subsection ;

(*c*) If notice of objection to the execution of any such works and of the ground thereof is given to the local authority before the date so specified and is not withdrawn before the expiration of fourteen days from that date the works to which the objection relates shall not be executed without the consent of the Minister.

(2) In this section—

the expression " burial ground " includes a cemetery ;
the expression " grave " includes a grave space ;
the expression " tombstone " includes a monument or other memorial of a deceased person.

PART IX —*cont.*

Exercise of powers under Cremation Act 1902 and constitution of joint boards.

2 Edw. 7. c. 8.

83.—(1) A local authority shall be a burial authority for the purposes of the Cremation Act 1902 and shall have and may exercise all the powers duties and liabilities of a burial authority under that Act.

(2) Subject to the following provisions of this section if on application made to him by the local authorities of the districts to which the application relates or any of those authorities it appears to the Minister that it would be for the advantage of those districts or any of them that they should be combined for the purposes of the said Act of 1902 and that the powers of that Act should be exercised in such a combined district by a joint board he may by order constitute a joint board for that purpose consisting of representatives of the local authorities of the constituent districts:

Provided that if the County Council undertake to make annual contributions towards the expenses of the joint board provision may be made by the order constituting the joint board for the joint board to include representatives of the County Council.

(3) A joint board constituted under subsection (2) of this section shall be a body corporate by such name as may be determined by the order constituting the joint board and shall have perpetual succession and a common seal and power to hold land for the purposes of their functions without licence in mortmain.

(4) Where the Minister proposes to make an order under this section he shall give notice thereof to the local authority of every district in which the powers of the joint board are or are proposed to be exercisable and also to the County Council and if within twenty-eight days after such notice has been given to any such authority or the County Council they give notice to the Minister that they object to the proposal and the objection is not withdrawn any order made by the Minister under subsection (2) of this section shall be subject to special parliamentary procedure.

(5) Any order made under subsection (2) of this section may contain such incidental consequential and supplementary provisions as the Minister thinks necessary or expedient for the purposes of the order and in particular but without prejudice to the generality of the foregoing provision may provide for the transfer of property and liabilities and for the amendment or repeal of any local enactment relating to the constituent districts of the joint board or the local authorities of those districts.

(6) Any order for the time being in force under this section may be from time to time amended or revoked by a subsequent order made by the Minister on the like application and subject to the like provisions as apply in the case of an original order under the said subsection (2).

PART IX —*cont.*

(7) All expenses of and incidental to the constitution of a joint board under the said subsection (2) shall be payable by the joint board and so far as those expenses are expenses incurred by the Minister the amount thereof as certified by him shall be recoverable by him from the joint board as a debt due to the Crown.

PART X

PUBLIC ORDER AND PUBLIC SAFETY

Barriers in streets.

84.—(1) For the purpose of securing public order or public safety or preventing congestion of traffic a local authority may in any case of emergency or on any occasion on which it is likely by reason of some special attraction that any street in the district will be thronged or obstructed cause barriers to be erected in any street in the district and kept in position for so long as may be necessary for that purpose:

Provided that the local authority shall not exercise the powers of this subsection—

(*a*) as respects any trunk road without the consent of the Minister of Transport; or

(*b*) as respects any county road (not being a claimed road) without the consent of the County Council; or

(*c*) as respects any street belonging to or repairable by any railway dock canal inland navigation or passenger road transport undertakers and forming the approach to any station dock wharf or depot of those undertakers without the consent of those undertakers; or

(*d*) so as to deprive foot-passengers bona fide going to or from any building or land abutting on the street of reasonable access to the building or land; or

(*e*) except after consultation with the chief constable of the county.

(2) The consent of any undertakers under proviso (*c*) to the preceding subsection shall not be unreasonably withheld and any question whether or not it is unreasonably withheld shall be determined by the Minister of Transport.

(3) For the purpose of erecting barriers in a street under this section the local authority may provide slots or sockets in or under the surface of the street.

(4) If any person wilfully removes or damages any barrier erected under this section he shall be liable to a penalty not exceeding five pounds.

PART X —*cont.*

Regulation of traffic on carnival etc. days.

10 & 11 Vict. c. 89.

85.—(1) The powers of a local authority to make orders under section 21 of the Town Police Clauses Act 1847 shall be extended so as to include power for the local authority at all times of ceremonies public processions rejoicings fairs exhibitions carnivals races sports illuminations or similar occasions to make orders—

(*a*) for requiring vehicles to follow a particular route in the district;

(*b*) for prohibiting or restricting the use by vehicles of any street in the district;

(*c*) for regulating or prohibiting the stoppage of vehicles in any such street;

and for applying any such requirement prohibition restriction or regulation either to all vehicles or to any class or description of vehicle and either at all hours or at any particular hours.

(2) Except in cases of emergency the local authority shall not exercise any of the powers conferred upon them by this section except—

(*a*) after consultation with the chief constable of the county; and

(*b*) with the consent of and in accordance with such terms and conditions as may be approved by the highway authority.

Notice of street processions.

86.—(1) No procession shall pass through the streets of a district unless written notice stating the route by which and the time at which it will so pass has been delivered at the office of the clerk of the local authority and the principal police station in the district at least thirty-six hours (exclusive of Sundays) before the time so stated.

(2) If any procession passes through the streets of a district in contravention of the preceding subsection or by a route or at a time other than that stated in the notice delivered with respect thereto under that subsection any person organising or conducting the procession shall be liable to a penalty not exceeding five pounds.

(3) In this section the expression "procession" means any public or ceremonial procession or any circus procession or procession of wild animals:

Provided that nothing in this section shall apply to any public or ceremonial procession habitually held.

Byelaws as to leading or driving animals.

87. The power to make byelaws conferred on the County Council or the council of a borough by section 249 of the Act of 1933 shall be deemed to enable the County Council or the council of such borough (as the case may be) to make byelaws in accordance with the provisions of that section for prohibiting

PART X —*cont.*

animals other than animals drawing vehicles or a single horse led by an attendant from being led or driven along such streets in the county or borough as may be specified in such byelaws and for prescribing the hours during which and the manner according to which such animals may be led or driven along any such streets:

Provided that the route or routes prohibited by any such byelaws shall not be such as would prevent the passage of animals by a reasonably short and convenient route between any market or slaughter-house and any railway station or other place when such animals are merely passing between such market or slaughter-house and railway station or other place:

Provided also that no such byelaw shall prevent the owner of any animal driving the same to or from his own premises or premises used by him for the purpose of his trade or business.

Safety of stands.

88.—(1) No person shall commence to erect in a district a stand capable of affording seating or standing accommodation for twenty or more persons at any one time unless he has given notice to the local authority of his intention so to do accompanied by a plan and section of the stand and such further particulars as the local authority may reasonably require and the local authority have approved the erection of the stand under this section.

(2) Within five weeks from the receipt of such a notice from any person the local authority may give him notice that they approve the erection of the stand but only subject to—

(*a*) such modifications of the plan section and particulars submitted to them; and

(*b*) compliance with such requirements as to maintenance and otherwise;

as may be specified in the notice being modifications and requirements which appear to the local authority to be necessary for securing the stability of the stand and protection against fire and generally for securing the safety of persons to be accommodated thereon.

(3) If a notice given under subsection (1) of this section states the period for which it is proposed that the stand will remain erected the local authority shall have regard to that statement in considering what modifications and requirements shall be prescribed by a notice under subsection (2) of this section but may by the last-mentioned notice require that the stand shall be pulled down and removed within such time from the expiration of that period as may be specified in the notice or such further time as the local authority may allow.

PART X —*cont.*

(4) The local authority may at any time within the said five weeks give notice that they approve the erection of the stand in accordance with the plan section and particulars submitted to them and if within the said five weeks the local authority have not given notice under subsection (2) of this section they shall be deemed for the purposes of this section have so approved the erection of the stand.

(5) Any person aggrieved by a requirement or other decision of the local authority under this section may appeal to a court of summary jurisdiction.

(6) If any person—

(*a*) commences to erect in contravention of subsection (1) of this section a stand capable of affording seating or standing accommodation for twenty or more persons at any one time; or

(*b*) erects such a stand otherwise than in accordance with a plan section and particulars submitted to the local authority under the said subsection (1) or if notice has been given of any modifications under subsection (2) of this section otherwise than in accordance with the said plan section and particulars as modified by the notice; or

(*c*) being the owner or occupier of such a stand erected otherwise than as aforesaid allows twenty or more persons to be on the stand at any one time; or

(*d*) being the owner or occupier of such a stand fails to comply with any requirement imposed by a notice under subsection (2) or subsection (3) of this section;

he shall be liable to a penalty not exceeding fifty pounds and in the case of any such failure to a daily penalty not exceeding forty shillings:

Provided that nothing in this subsection shall apply to a stand the erection whereof was commenced before the coming into force of this section in the district.

(7) For the purposes of paragraph (*a*) of subsection (1) of section 287 of the Act of 1936 as applied by this Act the provisions of this section shall be provisions which it is the duty of the local authority to enforce.

(8) The provisions of this section shall not apply to any stand erected by the proprietor of a travelling circus roundabout or amusement fair for the purposes of his business as such.

(9) In this section the expression "stand" includes a structure but does not include a building or extension of a building to which building byelaws are applicable.

PART X —*cont.*

Road safety.

89.—(1) A local authority may for the purpose of promoting safety on roads publish leaflets and advertisements arrange lectures demonstrations and exhibitions hold competitions award prizes and organise research into the causes of accidents on roads.

(2) A local authority may contribute to the expenses incurred by any other local authority or by any person firm or body corporate in the promotion of safety on roads.

(3) Nothing contained in this section shall authorise a local authority not being the highway authority to execute works in a highway.

Byelaws as to pleasure fairs and roller-skating rinks.

90.—(1) A local authority may make byelaws—

(*a*) for regulating the hours during which pleasure fairs and roller-skating rinks may be open to the public ;

(*b*) for securing safe and adequate means of ingress to and egress from any pleasure fair or roller-skating rink ;

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

(2) In this section—

(*a*) the expression " pleasure fair " means any place—

(i) which is for the time being used wholly or mainly for providing (whether or not in combination with any other entertainment) any entertainment to which this section applies ; and

(ii) for admission to which or for the use of the contrivances in which a charge is made ;

(*b*) the expression " roller-skating rink " means any place which is for the time being used wholly or mainly for roller-skating and for admission to which a charge is made.

(3) Subject to the provisions of the next following subsection the entertainments to which this section applies are the following : —

(*a*) circuses ;

(*b*) exhibitions of human beings or of performing animals ;

(*c*) merry-go-rounds roundabouts swings switchback railways ;

(*d*) cocoanut shies hoop-las shooting galleries ;

(*e*) dodgems or other mechanical riding or driving contrivances ;

(*f*) automatic or other machines intended for entertainment or amusement ;

(*g*) anything similar to any of the foregoing.

PART X —*cont.*

(4) Nothing in this section or the byelaws made thereunder shall apply to—

(*a*) any fair held by statute royal charter royal licence letters patent or ancient custom; or

(*b*) any entertainment which is not run for profit and is not carried on for more than seven consecutive days; or

(*c*) any entertainment the profits whereof are devoted to a religious or charitable purpose.

(5) A local authority shall—

(*a*) not less than one month before making byelaws under this section furnish the Amusement Caterers' Association the Association of Amusement Park Proprietors of Great Britain and the Showmen's Guild of Great Britain with a draft of the proposed byelaws; and

(*b*) on submitting the byelaws to the Secretary of State for confirmation furnish him with a copy of any representations to the local authority in writing by any of the said bodies and a statement showing the effect if any given to any such representation.

(6) Different byelaws may be made under this section for pleasure fairs and roller-skating rinks and for different kinds of pleasure fairs.

PART XI

CLEANSING OF STREAMS

For preventing obstruction to streams by culverts etc.

91.—(1) Where any obstruction is or may be caused to any river or stream in a district by any inadequate or insufficient culvert channel or other work the local authority may within the district reconstruct improve repair or remove such culvert channel or work or may construct and maintain a proper and sufficient or enlarged culvert channel or other work:

Provided that where any such river or stream is situate partly in one district and partly in another a local authority shall before executing any works under this section in respect of that river or stream consult with the local authority of the other district.

(2) A local authority may enter into and carry into effect agreements with any other person for and with respect to the carrying out of any works of construction reconstruction improvement repair maintenance or removal for the purposes of this section.

(3) Nothing in this section shall be deemed to—

(*a*) restrict the exercise by a local authority of their powers in relation to culverts channels or other works; or

(*b*) impose upon a local authority any liability to maintain a culvert channel or other work.

PART XI —*cont.*

(4) Nothing in this section shall authorise a local authority to execute any works in through or under or so as to affect—

(*a*) any lands or works belonging to the commission and used by them for the purposes of their railway canal or inland navigation without the consent of the commission ; or

(*b*) any lands or works belonging to an area board and used by them for the supply of electricity or the manufacture storage or supply of gas without the consent of the area board ;

but such consent shall not be unreasonably withheld and any question as to whether such consent is unreasonably withheld shall be determined by arbitration.

(5) Nothing in this section shall authorise a local authority to execute any work in or in connection with any river or stream for the time being vested in or under the control of any internal drainage board without the consent in writing of that board which consent may be given subject to such reasonable terms and conditions as the said board may think fit but such consent shall not be unreasonably withheld and any question whether such consent is or is not unreasonably withheld or whether any such terms and conditions are or are not reasonable shall be determined by the Minister of Agriculture and Fisheries.

(6) For the purposes of this section the expression " river or stream " does not include any such river or stream as is for the time being a main river of the Yorkshire Ouse River Board the Lancashire River Board the Mersey River Board or the Trent River Board.

PART XII

MOVABLE DWELLINGS AND CAMPING GROUNDS

Definitions for Part XII of Act.

92. In this Part of this Act unless the context or subject otherwise requires—

" movable dwelling " includes—

(*a*) any tent ;

(*b*) any structure capable of being moved from place to place ; and

(*c*) any van cart carriage truck tramcar railway-carriage motor-car caravan trailer or other vehicle ;

used or intended to be used for the purpose of human habitation (whether temporarily or otherwise) but does not include—

(i) any tent structure or vehicle temporarily used by shepherds labourers or other persons for farming agricultural or other like purposes or in connection with building operations ;

PART XII —*cont.*

(ii) any tent structure or vehicle temporarily used for the service of the council of any county county borough borough or county district or any other public authority ;

(iii) any canal boat or any other boat ;

(iv) any shelter provided for the treatment of tuberculosis or used in connection with an open air school ;

(v) any vehicle used by railway undertakers in connection with the maintenance and repair of their railways ; or

(vi) any van or similar vehicle belonging to any statutory undertakers and any trailers drawn by such van if and so long as the van and trailers are used by those undertakers as travelling showrooms or for the purpose of giving exhibitions and demonstrations of the electrical gas or water appliances provided by those undertakers and the manner in which such appliances can be used ;

" camping ground " means any area of land on which movable dwellings are situated or which is provided for the placing of movable dwellings ;

" occupier " in relation to a movable dwelling shall be deemed to include an owner.

Further provisions as to movable dwellings.

93.—(1) A movable dwelling upon land abutting upon a street in a district shall be deemed to be a house or building within the meaning of those words where they occur in the Public Health (Buildings in Streets) Act 1888.

(2) It shall not be lawful without the written consent of the local authority to place any movable dwelling upon any square court alley or passage to which the public have access.

(3) If any person offends against the provisions of subsection (2) of this section he shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

Byelaws as to camping grounds.

94.—(1) A local authority for the purpose of securing the amenities of the district in relation to the use of camping grounds and movable dwellings situate thereon may make byelaws with respect to camping grounds within the district whether provided by the local authority or not—

(*a*) for securing sanitary conditions in and the proper control and management of any such camping ground ;

(*b*) for securing the cleanliness of any such camping ground and movable dwellings situate thereon ;

PART XII —*cont.*

(*c*) for preventing the amenities of the district being prejudicially affected by the state or condition of any such camping ground;

(*d*) for securing the good and orderly conduct of persons frequenting any such camping ground and of the occupiers of any movable dwelling situate thereon;

(*e*) for preventing annoyance to the residents in or visitors to the district by the conduct of the occupiers of or persons frequenting any movable dwelling situate on any such camping ground.

(2) (*a*) A copy of any byelaws made by a local authority under this section shall be appended to any licence granted by them under section 269 of the Act of 1936.

(*b*) The local authority in granting any licence under the said section 269 shall not attach any condition which is inconsistent with any byelaws made by them under this section.

Court may prohibit movable dwellings in certain areas.

95.—(1) Where it appears to a local authority—

(*a*) that the amenities of any part of the district are prejudicially affected by the presence of or conditions arising from any movable dwellings or movable dwellings in the district; or

(*b*) that annoyance is caused to the residents in or visitors to any part of the district by reason of the noisy indecent or other offensive conduct of the occupiers of or persons frequenting any movable dwelling or movable dwellings in the district;

the local authority may make complaint to a court of summary jurisdiction and the court may by order—

(i) require the removal by the occupier or occupiers thereof within such period as may be prescribed by the order of the movable dwelling or of all or any particular one or more of the movable dwellings to which the complaint relates; and

(ii) prohibit any movable dwelling being placed on or limit the number or define the class of movable dwellings to be at any one time situate within the whole or some part of an area to be specified in the order.

(2) An order made by a court of summary jurisdiction under subsection (1) of this section prohibiting any movable dwelling being placed or limiting the number or defining the class of movable dwellings shall not take effect until the expiration of fourteen days from the first publication of the terms of the order in the local newspaper under subsection (3) of this section and the area specified in any such order shall not extend beyond the

PART XII —*cont.*

distance of two hundred yards from the movable dwelling or all of the movable dwellings to which the complaint related and no limitation or definition in such an order shall operate so as to prevent the retention on the area specified in the order of any movable dwelling not being a movable dwelling to which the complaint related.

(3) As soon as practicable after the making of an order under subsection (1) of this section prohibiting any movable dwelling being placed or limiting the number or defining the class of movable dwellings the terms of the order shall be published by the local authority in one or more local newspapers circulating in the district and by placards posted in conspicuous positions in or near to some part of the area specified in the order and such placards shall be left so posted so long as the order is in force.

(4) (*a*) If any occupier of a movable dwelling fails within the period prescribed by the order to comply with any order of the court made under subsection (1) of this section requiring the removal of a movable dwelling he shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds and the local authority may themselves at any time after the expiration of the said period enter on the land and remove the movable dwelling and recover the expense of so doing from the occupier or occupiers.

(*b*) If any person places or retains any movable dwelling in contravention of any order of the court made under subsection (1) of this section prohibiting any movable dwelling being placed or limiting the number or defining the class of movable dwellings he shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds and the local authority may themselves enter on the land and remove the movable dwelling in respect of which the offence has been committed and recover the expense of so doing from the person guilty of the offence.

(5) (*a*) Where a court of summary jurisdiction has made an order under subsection (1) of this section prohibiting any movable dwelling being placed or limiting the number or defining the class of movable dwellings an application for the rescission of the order may be made to the court—

(i) at any time by the local authority; or

(ii) at any date not being less than three years from the date on which the order was made by any person deeming himself aggrieved by it provided that he gives to the local authority not less than fourteen days' notice of his intended application;

and the court may on the hearing of any such application rescind the order.

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(*b*) If the court rescind the order notice of the rescission of the order shall as soon as practicable be published by the local authority in one or more local newspapers circulating in the district and the local authority shall forthwith take down and remove all placards previously posted by them in or near to the area specified in the order in pursuance of subsection (3) of this section.

(6) An order made under this section shall not operate so as to prohibit any development or require the discontinuance of any use for which planning permission under Part III of the Town and Country Planning Act 1947 has already been granted otherwise than by a development order but without prejudice to the powers of the court by order to require the removal of any particular one or more movable dwellings with respect to which the local authority have complained on any of the grounds mentioned under paragraph (*b*) of subsection (1) of this section.

Savings from last two preceding sections.

96. The last two preceding sections of this Act shall not apply to—

(*a*) any movable dwelling or camping ground provided by or belonging to or used by any duly constituted religious or charitable society or any local education authority;

(*b*) any movable dwelling or camping ground provided by or belonging to or used by any association incorporated by royal charter or any organisation constituted by any such last-mentioned association in pursuance of their charter;

(*c*) any camping ground provided by or belonging to or used by members of any other duly constituted society or body operating throughout Great Britain which by their rules undertake responsibility for the management of the camping ground provided by or belonging to them and used by their members and for the good conduct of their members when in camp;

(*d*) any movable dwelling situate on any such camping ground as is referred to in the foregoing paragraph (*c*) while the dwelling is occupied or used by the members of any society or body referred to in that paragraph;

(*e*) any movable dwelling which is used by a member of any duly constituted society or organisation operating throughout Great Britain which by their rules undertake responsibility for the good conduct of their members when in camp and for the proper use by their members of movable dwellings; or

(*f*) any movable dwelling which belongs to a person who is the proprietor of a travelling circus roundabout

PART XII —*cont.*

amusement fair stall or store (not being a pedlar or hawker) and which is regularly used by him in the course of travelling for the purpose of his business:

Provided that—

(i) the exemptions conferred by the foregoing paragraphs (*a*) and (*b*) in respect of any movable dwelling or camping ground referred to in those paragraphs shall apply only for so long as the society association organisation or authority by or to which such movable dwelling or camping ground is provided or belongs or is used shall continue to make and enforce reasonable arrangements for the maintenance of good order amongst the persons using the movable dwelling and for the proper management of the camping ground;

(ii) the exemption conferred by the foregoing paragraphs (*c*) and (*d*) in respect of any camping ground or movable dwelling referred to in those paragraphs shall only apply so long as the society or body by or to which such camping ground is provided or belongs or is used or by the members of which such movable dwelling is occupied or used are duly exercising responsibility for the management of the camping ground and for the good conduct of their members when in camp thereon;

(iii) the exemption conferred by the foregoing paragraph (*e*) in respect of a movable dwelling used by a member of a society or organisation shall apply only so long as that society or organisation continue to enforce good conduct among their members and the proper use by their members of movable dwellings;

(iv) the exemption conferred by the foregoing paragraph (*f*) in respect of a movable dwelling belonging to a person referred to in that paragraph shall apply only so long as such person is not guilty of any misconduct; and

(v) if any society association organisation or authority referred to in the said paragraphs (*a*) and (*b*) are using any camping ground provided by a local authority or if any person being a member of any such society or organisation referred to in the said paragraph (*e*) or a person referred to in the said paragraph (*f*) is occupying or using a movable dwelling situate on any camping ground so provided the members of such society association organisation or authority or such person shall while camping on or occupying or using any movable dwelling situate on that camping ground comply with any byelaws made by the local authority

PART XII —*cont.*

under section 94 (Byelaws as to camping grounds) of this Act respecting that camping ground.

Saving for market rights.

97. Nothing in this Part of this Act shall affect the rights or privileges of any person in respect of any lawful fair or market.

PART XIII

FINANCE AND RATING

Scheme for equated periods.

98.—(1) The County Council may at any time and from time to time make a scheme for prescribing one or more uniform periods within which all or any loans contracted by them under statutory borrowing powers shall be discharged and such scheme may extend or vary the periods within which such loans shall be discharged and may apply to any such loans all or any of the provisions of this Act and the Act of 1933 in regard to the borrowing and repayment of money with or without modification and may make provision in regard to all matters incidental to the objects aforesaid.

(2) Any scheme made by the County Council under this section shall have no force or effect until confirmed by the Minister who may by order confirm the same with or without modifications and when so confirmed the scheme shall notwithstanding any enactment order or sanction to the contrary have full force and effect and such scheme shall be deemed to be within the powers of this Act.

(3) Nothing in any scheme made under this section shall prejudice or affect the security rights and remedies of any mortgagee under any mortgage existing at the time of the confirmation of the scheme or of the holder of any stock or bonds existing at that time except with the consent of such mortgagee or holder.

(4) The loans referred to collectively in any scheme under general headings in accordance with a classification approved by the Minister may be consolidated and dealt with in the accounts of the County Council as if the aggregate amount of the several loans relative to each heading were one loan raised under one statutory borrowing power and if approved by the Minister separate consolidations may be made of all or any of the loans included under such general headings.

(5) Any scheme confirmed under this section may be altered extended amended or annulled by any other scheme prepared and confirmed in like manner as the original scheme.

Receipt in case of persons not sui juris.

99.—(1) If any money is payable by the County Council to any employee (other than wages or salary) or creditor or the holder of any authorised security and the person entitled to such payment is a minor the receipt of the guardian shall be a sufficient discharge to the County Council.

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(2) Section 44 (Receipt in case of persons not sui juris) of the West Riding County Council (General Powers) Act 1948 shall be and is hereby repealed. 11 & 12 Geo. 6. c. lii.

Payments due to deceased employees.

100.—(1) If on the death of a person (hereinafter in this section referred to as " the deceased person ") to whom or to whose personal representative a sum not exceeding one hundred pounds is due from the County Council on account of salary wages superannuation allowance gratuity grant or repayment of contributions to any superannuation fund or of contributions otherwise made in respect of superannuation with or without interest a grant of probate of the will of the deceased person or of letters of administration to his estate is not produced to the County Council within such time (not being less than one month after his death) as the County Council may think reasonable then at the expiration of that time the County Council may pay such sum to the person or persons entitled to the residuary estate of the deceased person by virtue of the provisions of paragraphs (i) to (vi) inclusive of subsection (1) of section 46 of the Administration of Estates Act 1925 and section 9 of the Legitimacy Act 1926 to the intent that such sum shall be applied in due course of administration: 15 & 16 Geo. 5. c. 23. 16 & 17 Geo. 5. c. 60.

Provided that—

(*a*) the County Council may (notwithstanding the receipt of a notice under proviso (*b*) of this subsection) if they think fit pay out of such sum the funeral expenses of the deceased person or so much thereof as the County Council consider reasonable having regard to any death grant which has been or is to be paid under section 22 of the National Insurance Act 1946; 9 & 10 Geo. 6. c. 67.

(*b*) if the County Council receive notice in writing of any claim against the estate of the deceased person at any time before they shall have paid the whole of such sum in accordance with the provisions of this subsection they shall not (except in any case in which the provisions of section 46 (1) (vi) of the Administration of Estates Act 1925 are applicable) pay such sum or the balance thereof in their hands to any person other than to the personal representative of the deceased person unless and until such claim has been satisfied disproved or withdrawn.

(2) Before paying any sum in accordance with the provisions of subsection (1) of this section (except under proviso (*a*) thereof) to any person other than the personal representative of the deceased person the County Council shall require either—

(*a*) a statutory declaration (or when payment is made to the Crown or to the Duchy of Lancaster or to the Duchy of Cornwall a statement) by the person or one of the

PART XIII —*cont.*

persons to whom the County Council may pay or propose to pay such sum or any part thereof to the effect that the total estate of the deceased person (including such sum but after deduction of debts and funeral expenses) does not exceed four hundred pounds; or

(*b*) the production of a certificate from the Commissioners of Inland Revenue to the effect either that no death duties are payable in respect of such sum or that any duties so payable have been paid.

Payment of pensions etc. of persons of unsound mind. 53 & 54 Vict. c. 5.

101.—(1) Subject to the provisions of this section where a person entitled to receive from the County Council any sum to which this section applies is lawfully detained as a person of unsound mind in accordance with the Lunacy Act 1890 as amended by any enactment the County Council may pay the whole of that sum or so much thereof as they think fit to the person having the care of the person so detained as aforesaid and may pay or apply the whole or so much as they think fit of the surplus (if any) thereof to or for the maintenance or benefit of the wife or husband or dependants of the person so detained as aforesaid.

(2) Subject to the provisions of this section where a person entitled to receive from the County Council any sum to which this section applies is in the opinion of the County Council through mental infirmity incapable of managing his affairs the County Council may subject as hereinafter provided pay or apply the whole or so much as they think fit of that sum to or for the maintenance or benefit of such person or the wife or husband or dependants of such person.

(3) This section applies to any sum payable by the County Council to an employee or former employee or pensioner of the County Council or the widow or a child of a deceased employee or pensioner by way of salary wages pension superannuation or other allowance gratuity or annuity or by way of repayment with or without interest of contributions made to any superannuation or other fund being either a lump sum not exceeding one hundred pounds or an instalment of a periodical payment not exceeding one hundred pounds per annum.

(4) Not less than fourteen days before exercising their powers under this section for the first time in relation to any person the County Council shall give to the Master in Lunacy notice in writing of their intention in that behalf specifying the name and address of that person and the amount and nature of the sums in respect of which the County Council intend to exercise the said powers and in relation to any person to whom subsection (2) of this section applies the County Council shall at the same time give notice in writing to that person in a form approved by the Master in Lunacy:

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Provided that the County Council may with the approval of the Master in Lunacy exercise the powers of this section in respect of any person notwithstanding that the said period of fourteen days has not expired.

(5) If at any time the Master in Lunacy gives to the County Council notice in writing that he objects to the exercise by the County Council of the said powers in relation to any person the said powers shall as from the date of the receipt by the County Council of the notice cease to be exercisable by the County Council in relation to that person unless and until the master withdraws the notice.

(6) The County Council shall be discharged from all liability in respect of any payment or application of money effected by them in exercise of the said powers.

Apportionment of expenses in case of joint owners.

102. Where under the provisions of any enactment in force in the county the County Council shall execute any works of common benefit to two or more buildings belonging to different owners the expenses which under those provisions are recoverable by the County Council from the owners shall be paid by the owners of such buildings in such proportions as shall be determined by the surveyor of the County Council or in case of dispute by a court of summary jurisdiction.

Consolidated loans fund.

103.—(1) Notwithstanding anything contained in any other enactment relating to them a local authority may on and after the thirty-first day of March one thousand nine hundred and fifty-two establish a fund to be called " the consolidated loans fund " to which shall be paid—

(*a*) all moneys borrowed by the local authority by the issue of any authorised securities together with all moneys borrowed under any enactment without or pending the issue of an authorised security in connection with the exercise of any statutory borrowing power ;

(*b*) all moneys of a capital nature received by the local authority whether from the sale of capital assets or otherwise except such as are paid to the capital fund established by the local authority under section 104 (Capital fund) of this Act or are applied by the local authority with due authority to another capital purpose ; and

(*c*) the appropriate sums provided in or in respect of each financial year out of other funds of the local authority to comply with the terms and conditions as to repayment attaching to their several borrowing powers or otherwise provided for the repayment of debt :

And there shall also be carried to the credit of the consolidated loans fund the unapplied balances of all moneys so borrowed or

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received and of all sums provided by the local authority as aforesaid before the date on which the consolidated loans fund is established.

(2) The moneys in the consolidated loans fund shall be used or applied by the local authority—

(*a*) in the redemption of authorised securities the purchase of bonds or stock for extinction or the repayment of any moneys borrowed by the local authority; and

(*b*) in the exercise of any statutory borrowing power by the transfer of the required amount to the appropriate fund and account of the local authority:

And the moneys in the consolidated loans fund not used or applied in these ways or intended to be so used or applied within a reasonable period shall 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 shall not except with the consent of the Minister be used or applied otherwise than as provided by this section.

(3) There shall also be transferred to the consolidated loans fund such sums as are necessary to meet the interest charges and the financing and other revenue expenses connected with the management of that fund and separate accounts shall be kept of these sums and their application.

(4) The local authority may pay into the consolidated loans fund any moneys forming part of any reserve capital renewal repairs insurance depreciation contingency superannuation or other similar fund (in this section respectively referred to as "the lending fund") and not for the time being required for the purposes for which the lending fund was established and such moneys shall be deemed to be moneys borrowed by the local authority within the meaning of subsection (1) of this section and shall be used accordingly subject to the following conditions:—

(*a*) The moneys so used shall be repaid to the lending fund as and when required for meeting the obligations for which the lending fund was established; and

(*b*) There shall be paid out of the consolidated loans fund to the general rate fund an amount equal to the interest on any moneys so used and for the time being not repaid to the lending fund at such rate per centum per annum as may be determined by the local authority to be equal as nearly as may be to the average rate of interest payable by the local authority on their current borrowings and in the accounts of the general rate fund

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an amount equal to the interest as aforesaid shall (subject to any prescribed limit on the amount of the lending fund) be credited to the lending fund.

(5) Save as in this section expressly provided all the obligations of the local authority to the holders of authorised securities shall continue in force.

(6) The powers conferred by this section shall not be exercised by the local authority except in accordance with a scheme to be made by the local authority and approved by the Minister and such scheme may make provision for any matters incidental to the establishment and administration of the consolidated loans fund.

(7) Any scheme approved by the Minister under this section may from time to time be altered extended amended or revoked by a scheme made and approved in like manner as the original scheme.

Capital fund.

104.—(1) A local authority may establish a fund to be called " the capital fund " to which they may pay—

(*a*) any sums derived from the sale of any property of the local authority other than property forming part of the passenger road transport undertaking of the local authority ;

(*b*) the surplus of the revenue income over the revenue expenditure of the general rate fund (not required by law to be applied to or carried forward for any other purpose) on the thirty-first day of March in any year or any part of such surplus ;

(*c*) such other sums from the revenue of the general rate fund (including a sum equal to the interest earned on the capital fund and any income arising from the application of the fund to the purposes authorised) as the local authority may by resolution direct not being moneys directed by law to be applied to any other purpose :

Provided that—

(i) the aggregate amount paid to the capital fund under paragraphs (*b*) and (*c*) of this subsection shall not except with the consent of and to such extent as may be approved by the Minister exceed in any year the equivalent of twice the product of a penny rate as estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925 ; and

(ii) payments into the capital fund shall not be made whenever that fund amounts to a sum equal to one-tenth of the aggregate of the rateable value of all hereditaments

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included in the valuation list in force in the district at the commencement of the financial year in which the capital fund is established or such greater sum as may from time to time be approved by the Minister and for the purposes of this paragraph any part of a thousand pounds shall be deemed to be a thousand pounds.

(2) The local authority may apply the moneys in the capital fund—

(*a*) in defraying any expenditure to which capital is properly applicable (other than expenditure in connection with the passenger road transport undertaking or the water undertaking of the local authority); or

(*b*) in providing money for repayment of loans but not in making the annual payment required to be made in respect of such repayment:

Provided that the amount to be expended under this subsection shall not exceed in any one transaction—

(*a*) the sum of ten thousand pounds in any case in which the aggregate of the rateable value of all hereditaments included in the valuation list for the time being in force in the district is not less than five hundred thousand pounds; or

(*b*) the sum of five thousand pounds in any case in which such aggregate is less than five hundred thousand pounds;

unless a greater sum shall in any case be allowed by the Minister.

(3) (*a*) Pending the application of moneys in the capital fund to the purposes authorised by the last preceding subsection the moneys in the capital fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(*b*) Any income arising from the investment of the moneys in the capital fund in the manner provided by paragraph (*a*) of this subsection and any income arising from the application of the fund to the purposes authorised shall be carried to and form part of the general rate fund.

(4) All moneys derived from the sale of any land of the local authority which are applied from the capital fund under the provisions of this section shall and all other moneys which are applied from the capital fund may if the local authority think fit be repaid from the account to which such moneys were advanced by such annual instalments with or without interest and within such period as may be determined by the local authority.

PART XIII —*cont.*

(5) Any sum derived from the sale of any corporate land (as defined in section 305 of the Act of 1933) of the council of a borough and paid to the capital fund shall not except with the consent of the Minister be applied otherwise than in the purchase or acquisition of other corporate land.

(6) Nothing in this section shall affect the operation of paragraphs (*a*) (*b*) or (*c*) or subsection (1) of section 8 of the Local Authorities Loans Act 1945 in any case in which the moneys in the capital fund are used in pursuance of that section. 8 & 9 Geo. 6. c. 18.

Insurance fund.

105.—(1) A local authority may with the consent of the Minister establish a fund to be called " the insurance fund " with a view to providing a sum of money which shall be available for making good all such losses damages costs and expenses as may from time to time be specified in a resolution of the local authority (in this section referred to as " the specified risks ").

(2) The establishment of an insurance fund under this section shall not prevent the local authority from insuring in one or more insurance offices against the whole or any part of all or any of the specified risks.

(3) In each year after the establishment of the insurance fund the local authority shall pay into that fund either—

(*a*) such a sum as shall in their opinion be not less than the aggregate amount of the premiums which would be payable if the local authority fully insured in some insurance office of good repute against the specified risks ; or

(*b*) if the local authority insure in some insurance office against the whole or any part of all or any of the specified risks such sum as will together with the premiums paid for the last-mentioned insurance be not less than the aggregate amount aforesaid.

(4) When the insurance fund shall amount to the prescribed amount (as hereinafter defined) the local authority may if they think fit discontinue the yearly payments to the fund but if the fund is at any time reduced below the prescribed amount the local authority shall recommence and continue the yearly payments to that fund in accordance with subsection (3) of this section until the fund be restored to the prescribed amount.

(5) The local authority shall provide the yearly payments aforesaid by contributions from the revenue of the general rate fund and shall show the same in their accounts under the separate heading or division in respect of the particular undertaking department or service of the local authority which if the specified risks were insured against in an insurance office would be properly chargeable with the payment of the premium of such insurance.

PART XIII —*cont.*

(6) (*a*) Except so far as the insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet losses damages costs and expenses in consequence of the specified risks all moneys for the time being standing to the credit of the fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities and the interest and other annual proceeds received by the local authority in respect of such investments shall be carried to the general rate fund.

(*b*) In addition to the sum required to be paid into the insurance fund by subsection (3) of this section the local authority shall in every year so long as the fund is less than the prescribed amount carry to the credit of that fund out of the general rate fund an amount equal to the interest and other annual proceeds carried to the general rate fund in pursuance of the last preceding paragraph.

(*c*) If and so long as the insurance fund amounts to the prescribed amount the interest and other annual proceeds received by the local authority in respect of or on investments forming part of the insurance fund and carried to the general rate fund may be apportioned in the accounts of the local authority between the several undertakings departments or services liable to contribute to the insurance fund in such shares or proportions as may be equitable.

(7) (*a*) The insurance fund shall be applied to meet any losses damages costs or expenses sustained by the local authority in consequence of the whole or any part of all or any of the specified risks in the order of the dates on which such losses damages costs or expenses become ascertained and if at any time and from time to time the insurance fund shall be insufficient to make good any such losses damages costs or expenses the local authority may with the sanction of the Minister borrow at interest under and subject to the provisions of Part IX of the Act of 1933 such sums of money as will be necessary to make up the deficiency.

(*b*) The amounts of the annual charges in respect of interest on and repayment of principal of any sums borrowed in pursuance of this subsection and the amounts of any such deficiencies as aforesaid not made up by borrowing shall be paid out of the general rate fund and charged in the accounts of the local authority under the separate headings or divisions in respect of such undertakings departments or services of the local authority and in such proportions as the local authority may determine having regard to the risks through which such deficiencies arise.

(8) In this section "the prescribed amount" means such sum as may from time to time be prescribed by the local authority.

PART XIII —*cont.*

Renewal and repairs fund.

106.—(1) A local authority may establish a fund to be called "the renewal and repairs fund" for the purpose of defraying the expenditure to be incurred from time to time in repairing maintaining and renewing any buildings works plant tools machinery appliances horses carts vehicles boilers and equipment and apparatus in connection therewith and office machinery furniture fittings and appliances or things and in maintaining and repairing paths and apparatus in public walks and pleasure grounds and may from time to time apply the moneys in the renewal and repairs fund or any part of those moneys in defraying such expenditure but this section shall not apply to expenditure in connection with any buildings works plant appliances or things for the purposes of the passenger road transport undertaking or the water undertaking of the local authority or any building in respect of which they are required by the Acts relating to housing to keep a housing repairs account.

(2) The local authority may from time to time pay into the renewal and repairs fund such sums as they think fit from the revenue of the general rate fund (including a sum equal to the interest earned on the renewal and repairs fund and any income arising from the application of that fund to the purposes authorised) but the maximum amount standing to the credit of the renewal and repairs fund shall not at any time exceed such sum as may from time to time be approved by the Minister.

(3) (*a*) Pending the application of the moneys in the renewal and repairs fund to the purposes authorised by this section such moneys shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(*b*) Any income arising from the investment of the moneys in the renewal and repairs fund in the manner provided by this subsection and any income arising from the application of the fund to the purposes authorised shall be carried to and form part of the general rate fund.

Art fund.

107.—(1) The Minister may on the application of a local authority make an order authorising the local authority to establish a fund to be called "the art fund" to provide for the purchasing of any pictures sculptures or other objects of artistic scientific or historical interest which in their opinion it is desirable at any time to acquire for exhibition in and as additions to the collection in any art gallery museum or other building of the local authority and such fund shall be formed by annually appropriating thereto out of the general rate fund such an amount as the local authority may from time to time determine not exceeding in any year the equivalent of one-fifth of the product of a penny rate as estimated for the purpose of sub-

PART XIII —*cont.*

section (2) of section 9 of the Rating and Valuation Act 1925 or such larger fraction (not exceeding one-half) as the Minister may from time to time approve:

Provided that when the art fund shall amount to such sum as may from time to time be approved by the Minister the local authority shall discontinue such annual payments but if the said fund be at any time reduced below such sum the local authority may recommence and continue the annual payments until the said fund be restored to such sum.

(2) (*a*) Pending the application of the art fund to the purposes authorised in the last preceding subsection the moneys in the said fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(*b*) Any income arising from the investment of the moneys in the art fund in manner provided by this subsection shall be carried to and form part of the general rate fund and (subject to the limitation imposed by subsection (1) of this section) an amount equivalent to such income shall be credited to the art fund.

Application of certain provisions of Part XIII to local authorities.

108. The following provisions of this Part of this Act shall extend and apply to a local authority and to their employees and other persons as if the local authority were named therein instead of the County Council and as if the district were referred to therein instead of the county:—

Section 98 (Scheme for equated periods);

Section 99 (Receipt in case of persons not sui juris);

Section 100 (Payments due to deceased employees);

Section 101 (Payment of pensions etc. of persons of unsound mind);

Section 102 (Apportionment of expenses in case of joint owners).

Closing of registers.

109.—(1) A local authority may close any transfer books or the registers of transfers of authorised securities (other than stock) during the whole of the period of thirty days or any shorter consecutive period next before the date on which interest on the authorised securities to which such transfer book or register relates is payable.

(2) The persons who on the date on which the transfer book or register is closed are entered therein as holders of any security of the class to which such transfer book or register relates shall (as between the local authority on the one hand and such persons or their transferees or assignees on the other hand) be entitled to the payment of the interest next payable thereon.

PART XIII —*cont.*

Dividend warrants by post.

110.—(1) A local authority may give notice to any person being registered as a holder of any authorised security (other than stock) that they intend to send interest or dividends to him by post if he does not object and if such person does not within fourteen days from the receipt of such notice give notice to the local authority of such objection the local authority may from time to time send orders for the payment of interest or dividend warrants by post to the address of such person appearing in the register:

Provided that if such person gives notice to the local authority that he desires such orders or warrants to be sent to another person at a given address the local authority may from time to time send the same by post to such other person at such address.

(2) Where more persons than one are registered as joint holders of any authorised security any one of them may for the purpose of this section be regarded as the holder of the security unless contrary notice has been given to the local authority by any other of them.

(3) The posting by the local authority of an order for the payment of interest or a dividend warrant in pursuance of this section shall as respects the liability of the local authority be equivalent to the delivery of the order or warrant to the registered holder of the authorised security.

(4) Every order or warrant so sent by post shall be deemed to be a cheque and the local authority shall in relation thereto be deemed a banker within the meaning of the Bills of Exchange Act 1882. 45 & 46 Vict. c. 61.

Power to grant gratuities in certain cases.

111.—(1) A local authority may grant a gratuity by way either of a lump sum or of periodical payments to the widow or dependants of any employee who may die in their service not exceeding in the aggregate an amount equal to twice the amount of the annual emoluments of the employment:

Provided that this section shall not apply—

(*a*) in the case of a widow to whom a pension is granted in pursuance of section 9 of the Local Government Superannuation Act 1937; or 1 Edw. 8. & 1 Geo. 6. c. 68.

(*b*) in the case of a widow or dependant entitled in consequence of the death of such employee to compensation under the Workmen's Compensation Acts 1925 to 1943 or to death benefit under the National Insurance (Industrial Injuries) Act 1946. 9 & 10 Geo. 6. c. 62.

(2) Every such gratuity shall be charged on and paid out of the fund or funds on or out of which the salary wages or emoluments of such employee would have been charged or been paid if he had continued in his employment.

PART XIII —*cont.*

Recovery of rate etc. from persons removing.

112. If a justice is satisfied on complaint by any rate collector or other authorised officer of a local authority that any person is quitting or about to quit any premises and has failed to pay on demand any general rate or special rate which may be due from him to the local authority and intends to evade payment of the same by departing from the said premises the justice may in addition to issuing a summons for non-payment of the same issue a warrant under his hand authorising the person named therein forthwith to enter the premises and to seize sufficient goods and chattels of the person in default to meet the claim and to detain them until the complaint is determined upon the return of the summons.

Recovery of rates from certain owners.

113.—(1) Where the owner of any hereditament has agreed with the occupier thereof that the owner shall pay the general rate or any special rate charged on such hereditament the owner shall be liable to pay to the local authority so much of any payment in respect of rent received by him from the occupier as shall represent the proportion of rate included in such payment and so much of such payment may on proof of such agreement be recovered by the local authority from the owner in the same manner and subject to the same conditions in and subject to which rates are recovered from occupiers of rated hereditaments.

The remedy of the local authority under this section shall be in addition and without prejudice to their other remedies for the recovery of rates.

(2) For the purposes of this section the expression " owner " in relation to a hereditament means the person who is entitled to receive the rent payable in respect thereof.

(3) This section shall not apply to any hereditament to which subsection (1) of section 11 of the Rating and Valuation Act 1925 as amended by subsection (1) of section 55 of the Local Government Act 1948 applies by virtue of a resolution of the local authority acting as rating authority for the district.

11 & 12 Geo. 6. c. 26.

Subscriptions to scientific bodies and other expenses.

114. The council of a borough may pay reasonable subscriptions (whether annually or otherwise) to the funds of any scientific or other society or body (not carrying on business for profit) which or the members of which are engaged in investigations or the keeping of records of use or value to such council and any reasonable expenses of the attendance of any members or officers of such council at or of persons nominated by such council to attend conferences or meetings of such society or body and the cost of purchasing reports and contributing towards the expenses of the proceedings of any such conferences or meetings:

PART XIII —*cont.*

Provided that the payments to be made by such council under this section shall not in any financial year exceed the equivalent of one-half of the product of a penny rate as estimated for the purposes of subsection (2) of section 9 of the Rating and Valuation Act 1925.

Expenses of presenting freedom of boroughs.

115. The council of a borough may pay reasonable expenses in connection with the presentation of the freedom of the borough to persons whom such council may resolve to admit as honorary freemen.

Power to charge in respect of establishment expenses.

116. Whenever under any public general Act from time to time in force in a district (other than the Act of 1936) or under any local enactment the local authority on the application or in consequence of the default of the owner or occupier of any premises execute any work the cost of which is payable by such owner or occupier the local authority may include in and recover as part of such cost such additional sum not exceeding five per centum of the cost of the works as they think fit in respect of their establishment charges.

Prizes for garden competitions.

117. A local authority may expend on the provision of prizes in connection with any competition which they may hold relating to the gardens of their tenants such sum as they may think fit not exceeding in any one year the sum of one hundred pounds.

PART XIV

MISCELLANEOUS

Amendment of section 31 of Act of 1948.

118. Section 31 (Short service gratuity) of the West Riding County Council (General Powers) Act 1948 shall be read and have effect as if—

(i) the words " and is not entitled to a retiring allowance " in subsection (1) of that section were omitted therefrom ; and

(ii) the following proviso were added at the end of the said subsection (1) :—

" Provided that if the contributory employee is also entitled to a retiring allowance the sum payable to him by way of short service gratuity under this section shall be reduced by an amount equal to the amount of such retiring allowance.".

School attendance.

119.—(1) As a condition of the admission to a secondary school of any pupil for a course of education which will not terminate until after such pupil has ceased to be of compulsory school age the County Council may require the parent or guardian of such pupil to enter into an agreement for the retention of such pupil at such secondary school until a date to be

PART XIV —*cont.*

fixed by the agreement (not being later than the end of the term during which the pupil will attain the age of sixteen years) and such agreement may make provision for the payment by such parent or guardian to the County Council of any sum not exceeding ten pounds in the event of the pupil ceasing without the consent of the County Council to attend such school before the date fixed by such agreement and the County Council shall be entitled without proof of any actual damage incurred by reason of such pupil ceasing to attend such school to recover from such parent or guardian any sum not exceeding the sum specified in the agreement.

(2) For the purposes of this section the expressions "secondary school" "pupil" and "compulsory school age" shall have the same respective meanings assigned to such expressions by section 114 of the Education Act 1944.

7 & 8 Geo. 6. c. 31.

Hairdressers and barbers.

120.—(1) As from the day on which this section comes into force in a district no person shall carry on the business of a hairdresser or barber on any premises in the district unless he and those premises are registered by the local authority.

(2) Subject to the provisions of this section any person who makes an application in that behalf and furnishes the local authority with particulars of his name and residence and of the premises in respect of which he desires to be registered shall be registered in respect of those premises by the local authority in a book kept for the purpose and on so registering any person the local authority shall issue to him a certificate of registration.

(3) The local authority may make byelaws for the purpose of securing—

(*a*) the cleanliness of premises registered under this section and of the instruments towels materials and equipment used therein; and

(*b*) the cleanliness of persons employed in such premises in regard to both themselves and their clothing.

(4) If any person carries on business in contravention of subsection (1) of this section or contravenes or fails to comply with any byelaw made under subsection (3) of this section he shall be liable—

(*a*) in the case of a contravention of subsection (1) to a penalty not exceeding twenty pounds and a daily penalty not exceeding five pounds; and

(*b*) in the case of a contravention or failure to comply with a byelaw to a penalty not exceeding five pounds;

and in either case the court by which he is convicted may (in lieu of or in addition to imposing a penalty) order the suspension or the cancellation of his registration.

PART XIV —*cont.*

(5) Where the registration of any person is cancelled by order of a court under the last preceding subsection—

(*a*) he shall within seven days deliver up to the local authority his certificate of registration and if he fails to do so he shall be liable to a penalty not exceeding twenty shillings and a daily penalty not exceeding ten shillings ; and

(*b*) he shall not again be registered by the local authority under this section except in pursuance of a further order of a court of summary jurisdiction made on his application.

(6) A person registered under this section shall keep a copy of the said byelaws and of his certificate of registration displayed in the premises in respect of which he is registered and if he fails to do so he shall be liable to a penalty not exceeding twenty shillings and a daily penalty not exceeding ten shillings.

(7) Where an offence under this section has been committed by a body corporate every person who at the time of the commission of the offence was a director general manager or other similar officer of the body corporate or was purporting to act in any such capacity shall be deemed to be guilty of that offence unless he proves—

(*a*) that the offence was committed without his consent or connivance ; and

(*b*) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(8) For the purposes of paragraph (*a*) of subsection (1) of section 287 of the Act of 1936 as applied by this Act the provisions of this section shall be provisions which it is the duty of the local authority to enforce.

Summary recovery of damages for negligence.

121. Any compensation recoverable by a highway authority or a local authority for damage caused by negligence to any lamp or lamp-post belonging to them or any apparatus or equipment provided by them in any street or public place shall if the amount thereof does not exceed twenty pounds be recoverable summarily as a civil debt.

Shelters etc. for passengers on public service vehicles.

122.—(1) Subject to the provisions of this section the County Council or a local authority or any parish council may—

(*a*) in the case of the County Council in any county road or on land belonging to the County Council and abutting on any such road ; and

PART XIV —*cont.*

(*b*) in the case of a local authority in any road in the district or on land belonging to the local authority and abutting on any such road ; and

(*c*) in the case of any parish council in any road in the parish or on land belonging to the parish council and abutting on any such road ;

erect and maintain at stopping places on the routes of public service vehicles—

(i) shelters and other accommodation for persons intending to travel by such vehicles ; and

(ii) barriers for the regulation of queues of such persons :

Provided that the powers of this section for the erection of barriers shall not be exercisable in any district in which byelaws under section 75 of the Public Health Act 1925 are for the time being in force.

15 & 16 Geo. 5. c. 71.

(2) The County Council or a local authority or a parish council shall not exercise the powers of this section—

(*a*) without the consent of the Minister of Transport in any road being a trunk road or on land abutting on any such road ; or

(*b*) in the case of a local authority or parish council without the consent of the County Council in any county road or on land abutting on any such road ; or

(*c*) without the consent of the undertakers concerned—

(i) in or upon any bridge carrying a road over any railway canal or inland navigation or the approaches thereto or under a bridge carrying a railway canal or inland navigation over any road ; or

(ii) in any road belonging to and repairable by any transport undertakers and forming the approach to any station dock wharf or depot of such undertakers ; or

(iii) so as to obstruct or interfere with the access to or exit from any station dock wharf or depot of any transport undertakers.

(3) Any consent required by this section shall not be unreasonably withheld but may be given subject to any reasonable conditions including a condition that the County Council or the local authority or the parish council (as the case may be) shall remove any shelter or other accommodation or barrier either at any time or at or after the expiration of a period if reasonably required so to do by the person giving the consent.

(4) Any question arising as to whether any consent required by this section has been unreasonably withheld or has been given

PART XIV —*cont.*

subject to unreasonable conditions or whether the removal of any shelter or other accommodation or barrier has been unreasonably required shall—

(*a*) in the case of a consent of the Minister of Transport be referred to and determined by an arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers;

(*b*) in the case of any other consent be referred to and determined by the Minister of Transport.

(5) The County Council and a local authority or parish council may with the consent of the highway authority enter into and carry into effect agreements with any person authorised to run public service vehicles within the county district or parish (as the case may be) in relation to the erection maintenance and use of any such shelter or other accommodation or barrier and as to the contributions to be made by any such person towards the cost of the provision and maintenance thereof.

(6) In this section " public service vehicle " has the same meaning as in the Road Traffic Acts 1930 to 1947 and the expression " transport undertakers " means any railway dock canal inland navigation or passenger road transport undertakers.

Application of certain provisions of Act of 1948 to Ossett.

123. In the application to the borough of Ossett of the provisions of section 54 (Sale of coke and solid fuel) and section 55 (Personal weighing machines) of the West Riding County Council (General Powers) Act 1948 the said provisions shall be read and have effect as if references to the mayor aldermen and burgesses of the said borough were substituted in those sections for the references therein to the County Council and the powers conferred by the said sections shall cease to be exercisable by the County Council within the said borough.

Application of Part III of Act of 1936 to statutory undertakers.

124.—(1) Nothing in any local Act or Order in force in a district applying to any statutory undertakers shall prevent the provisions of Part III of the Act of 1936 from applying to any premises of those undertakers in the district.

(2) For the purposes of this section the expression " statutory undertakers " has the same meaning as is assigned thereto by section 343 of the Act of 1936.

Publication of records.

125. A local authority may publish such charters deeds records and other documents as are referred to in subsection (2) of section 279 of the Act of 1933 or such extracts from them or reference to their contents as they may think to be of public interest.

Provisions as to motor vehicles let for hire.

126. The provisions of the Town Police Clauses Act 1847 shall extend to empower a local authority to make byelaws for declaring that to the extent determined by such byelaws those

PART XIV —*cont.*

provisions and the byelaws of the local authority in force with respect to hackney-carriages shall apply to every motor vehicle standing or plying for hire notwithstanding that such vehicle stands or plies for hire on private premises only:

Provided that this section shall not apply to any such vehicle which is kept by any company firm or person in connection with any business carried on by such company firm or person as funeral directors or owners of funeral vehicles available for hire and used wholly or mainly in connection with such business or is kept and used ordinarily for the purpose of being let on hire by the day or for longer periods of hire or to a tramcar trolley vehicle or public service vehicle as defined in the Road Traffic Acts 1930 to 1947 or to any vehicle belonging to or used by the commission for the purpose of carrying passengers and their luggage to or from any of their railway stations or railway premises or to the drivers or conductors of such vehicles:

Provided also that nothing in this section shall empower the local authority to fix the site of the stand or starting place of any motor vehicle standing or plying for hire in any railway station or railway premises or in any yard belonging to the commission except with the consent of the commission.

Powers to use ladders etc. for entry or inspection.

127.—(1) Any power conferred on an officer of a local authority by any enactment or byelaw to enter upon and inspect any building or works in course of construction shall include a power to use free of expense for the purpose of the entry or inspection any ladders scaffolding and plant in or about the building or works.

(2) If the builder of or contractor for any such building or works or any person employed by him in or about the building or works—

(*a*) refuses to give to such an officer all reasonable assistance in the exercise of the powers conferred by this section; or

(*b*) otherwise obstructs such an officer in the exercise of those powers;

he shall be liable to a penalty not exceeding five pounds.

For protection of area boards.

128. For the protection of the area boards the following provisions shall unless otherwise agreed in writing between the appropriate authority and the area board concerned apply and have effect:—

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

"apparatus" means—

(*a*) in relation to the North Eastern Electricity Board or the North Western Electricity

Board or the Yorkshire Electricity Board all or any electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to such board ; and 45 & 46 Vict. c. 56.

(*b*) in relation to the East Midlands Gas Board or the North Eastern Gas Board or the North Western Gas Board mains pipes or other apparatus belonging to such board ;

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

" the area board " means in relation to any apparatus the area board to whom such apparatus belongs ;

" appropriate authority " means the County Council the highway authority or the local authority as the case may be ;

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

(2) Whenever the appropriate authority in the exercise of the powers of section 15 (Adjustment of boundaries of streets) of this Act shall give up land forming part of a street in exchange for other land and there is in such first-mentioned land any apparatus the appropriate authority shall give notice to the area board of such exchange with a plan showing the position and dimensions of the portion of the street so exchanged and the area board shall notwithstanding any agreement entered into under the said section continue to have the same powers and rights in respect of any apparatus remaining in the land previously forming the site of the street as if such land had continued to be part of the street or the area board may and (if reasonably so required by the appropriate authority) shall alter the position of such apparatus to such other position in the street as altered under the said powers as may be reasonable :

(3) The area board shall within twenty-eight days after the receipt of a notice from the appropriate authority pursuant to subsection (2) of this section give to the appropriate authority not less than twenty-eight days' notice of their intention to alter the position of any apparatus (otherwise than on the requirement of the appropriate authority) under the provisions of that subsection and shall at the same time deliver to the appropriate authority a plan and section of the proposed alteration If such plan and section be not disapproved by the appropriate authority within twenty-eight days

PART XIV —*cont.*

after the receipt thereof the proposed position of the apparatus shown thereon shall be deemed to be reasonable:

(4) Whenever by virtue of the provisions of section 18 (Stopping up and diversion of highways) of this Act any highway or any length of highway in which any apparatus is situate is stopped up or diverted the area board shall notwithstanding such stopping up or diversion continue to have the same powers and rights in respect of any apparatus remaining in the highway or length of highway so stopped up or diverted as if the same had remained a highway or may—

(i) remove the apparatus and relay or replace the same in the highway (if any) substituted for the highway or length of highway so stopped up or diverted or in such other position as the area board may reasonably determine; or

(ii) provide and lay or place other apparatus in such substituted highway or in such other position as aforesaid in lieu of such existing apparatus:

(5) The appropriate authority shall repay to the area board the reasonable expenses incurred by the area board in or in connection with—

(*a*) the alteration of the position of any apparatus under subsection (2) of this section;

(*b*) the removal and relaying or replacing of any apparatus or the provision and laying or placing of any new apparatus under the provisions of subsection (4) of this section;

and the reasonable costs of and incidental to (i) the cutting off of any apparatus from any other apparatus and (ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this subsection:

Provided that subsections (3) (4) and (5) of section 23 of the Act of 1950 which imposes limitations on undertakers' rights to payments shall so far as applicable extend and apply to any payment to be made by the appropriate authority under paragraphs (*a*) and (*b*) of this subsection as if the works therein mentioned were undertakers' works within the meaning of subsection (2) of the said section 23 and as if in the said subsection (3) the words "and the placing of apparatus of that type dimensions or capacity or the placing of apparatus at that depth as the case may be had not been specified as so necessary in a specification of the works settled

under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" were omitted therefrom:

(6) (*a*) An area board shall not be entitled to any payment in connection with the exercise of the powers of section 15 (Adjustment of boundaries of streets) or section 18 (Stopping up and diversion of highways) of this Act if the existing apparatus of the area board was laid or placed within two years immediately preceding the giving of the notice referred to in subsection (2) of this section or the making of an application under the said section 18 of this Act (as the case may be) and if notice in writing of their intention to exercise the powers of the said section 15 or of the said section 18 (as the case may be) was given by the appropriate authority to the area board within eight days from the relevant date and within twenty-nine days from the relevant date a plan and section of the proposals of the appropriate authority were furnished by them to the area board and the proposals of the appropriate authority were carried out in accordance with the said plan and section or without any departure therefrom materially affecting the area board;

(*b*) For the purposes of this subsection "the relevant date" means the date on which the intention to lay or place the apparatus was signified to the highway authority by the submission of a plan and section if the laying or placing of the apparatus was a work to which section 3 of the Act of 1950 applied or by notice under section 6 of that Act if such laying or placing was not such a work:

(7) For the purposes of section 27 (Prohibition of building until street defined) of this Act land shall not be deemed to be occupied in connection with a building by reason only of the existence of apparatus in such land:

(8) Nothing in section 28 (Prohibition of building until street formed and sewered) of this Act shall prevent an area board before a new street is constructed or sewered in accordance with street byelaws from beginning to erect or proceeding with the erection for the purposes of their undertaking of an electricity substation feeder pillar or transformer kiosk or a pressure governor house abutting on such new street:

(9) Nothing in section 36 (Demolition of buildings) of this Act shall apply to any building (not being a house offices or a showroom) belonging to an area board and held by them for the purposes of their undertaking:

PART XIV —*cont.*

(10) The appropriate authority shall so exercise the powers of the following sections of this Act (namely):—

Section 84 (Barriers in streets);

Section 122 (Shelters etc. for passengers on public service vehicles);

as not so far as reasonably practicable to render less convenient the access to any apparatus:

(11) In exercise of the powers of section 61 (Silencers for internal combustion engines) of this Act in relation to any premises occupied or used by an area board in connection with the manufacture storage or supply of gas or electricity (as the case may be) an authorised officer of the appropriate authority shall observe any precautions reasonably required by the area board in the interests of safety and for preventing interference with the supply of gas or electricity:

(12) (*a*) Any difference which may arise between the appropriate authority and an area board under this section shall be referred to arbitration;

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

For protection of certain water undertakers.

129. For the protection of the protected authority the following provisions shall unless otherwise agreed in writing between the appropriate authority and the protected authority apply and have effect:—

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

"apparatus" means any mains pipes or other apparatus belonging to the protected authority in connection with their water undertaking and includes any structure constructed for the lodging therein of apparatus;

"appropriate authority" means the County Council the highway authority or the local authority as the case may be;

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

"the protected authority" means any authority company body or person authorised by any enactment to supply water to premises within the county:

PART XIV —*cont.*

(2) Whenever the appropriate authority in the exercise of the powers of section 15 (Adjustment of boundaries of streets) of this Act shall give up land forming part of a street in exchange for other land and there is in such first-mentioned land any apparatus the appropriate authority shall give notice to the protected authority of such exchange with a plan showing the position and dimensions of the portion of the street so exchanged and the protected authority shall notwithstanding any agreement entered into under the said section continue to have the same powers and rights in respect of any apparatus remaining in the land previously forming the site of the street as if such land had continued to be part of the street or the protected authority may and (if reasonably so required by the appropriate authority) shall alter the position of such apparatus to such other position in the street as altered under the said powers as may be reasonable:

(3) The protected authority shall within twenty-eight days after the receipt of a notice from the appropriate authority pursuant to subsection (2) of this section give to the appropriate authority not less than twenty-eight days' notice of their intention to alter the position of any apparatus (otherwise than on the requirement of the appropriate authority) under the provisions of that subsection and shall at the same time deliver to the appropriate authority a plan and section of the proposed alteration If such plan and section be not disapproved by the appropriate authority within twenty-eight days after the receipt thereof the proposed position of the apparatus shown thereon shall be deemed to be reasonable:

(4) Whenever by virtue of the provisions of section 18 (Stopping up and diversion of highways) of this Act any highway or any length of highway in which any apparatus is situate is stopped up or diverted the protected authority shall notwithstanding such stopping up or diversion continue to have the same powers and rights in respect of any apparatus remaining in the highway or length of highway so stopped up or diverted as if the same had remained a highway or may—

(i) remove the apparatus and relay or replace the same in the highway (if any) substituted for the highway or length of highway so stopped up or diverted or in such other position as the protected authority may reasonably determine; or

PART XIV —*cont.*

(ii) provide and lay or place other apparatus in such substituted highway or in such other position as aforesaid in lieu of such existing apparatus:

(5) The appropriate authority shall repay to the protected authority the reasonable expenses incurred by the protected authority in or in connection with—

(*a*) the alteration of the position of any apparatus under subsection (2) of this section;

(*b*) the removal and relaying or replacing of any apparatus or the provision and laying or placing of any new apparatus under the provisions of subsection (4) of this section;

and the reasonable costs of and incidental to (i) the cutting off of any apparatus from any other apparatus and (ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this subsection:

Provided that subsections (3) (4) and (5) of section 23 of the Act of 1950 which imposes limitations on undertakers' rights to payments shall so far as applicable extend and apply to any payment to be made by the appropriate authority under paragraphs (*a*) and (*b*) of this subsection as if the works therein mentioned were undertakers' works within the meaning of subsection (2) of the said section 23 and as if in the said subsection (3) the words "and the placing of apparatus of that type dimensions or capacity or the placing of apparatus at that depth as the case may be had not been specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" were omitted therefrom:

(6) (*a*) The protected authority shall not be entitled to any payment by virtue of the last preceding subsection if the existing apparatus of the protected authority was laid or placed within two years immediately preceding the giving of the notice referred to in subsection (2) of this section or the making of an application under the said section 18 of this Act (as the case may be) and if notice in writing of their intention to exercise the powers of the said section 15 of this Act or of the said section 18 (as the case may be) was given by the appropriate authority to the protected authority within eight days from the relevant date and within twenty-nine days from the relevant date a plan and section of the proposals of the appropriate authority were furnished by them to the protected authority and the

PART XIV —*cont.*

proposals of the appropriate authority were carried out in accordance with the said plan and section or without any departure therefrom materially affecting the protected authority ;

(*b*) For the purposes of this subsection " the relevant date " means the date on which the intention to lay or place the apparatus was signified to the highway authority by the submission of a plan and section if the laying or placing of the apparatus was a work to which section 3 of the Act of 1950 applied or by notice under section 6 of that Act if such laying or placing was not such a work:

(7) Nothing in section 36 (Demolition of buildings) of this Act shall apply to any building (not being a house offices or a showroom) belonging to the protected authority and held by them for the purposes of their water undertaking:

(8) In the exercise of the powers of section 61 (Silencers for internal combustion engines) of this Act in relation to any premises occupied or used by the protected authority in connection with their water undertaking an authorised officer of the appropriate authority shall observe any precautions reasonably required by the protected authority in the interests of safety and for preventing interference with the supply of water:

(9) The appropriate authority shall so exercise the powers of the following sections of this Act (namely):—

Section 84 (Barriers in streets) ;

Section 122 (Shelters etc. for passengers on public service vehicles) ;

as not so far as reasonably practicable to render less convenient the access to any apparatus:

(10) The appropriate authority in the exercise of the powers of section 91 (For preventing obstruction to streams by culverts etc.) of this Act shall not without the consent of the protected authority execute any work in through or under any lands belonging to the protected authority and held by them for the purposes of their water undertaking in any case in which such work affects any intake for the time being authorised of the protected authority or is situate upstream of such intake but such consent shall not be unreasonably withheld and any question whether such consent is or is not unreasonably withheld shall be referred to arbitration:

(11) (*a*) Any difference which may arise between the appropriate authority and the protected authority under this section shall be referred to arbitration ;

PART XIV —*cont.*

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

For protection of Blackburn and Preston corporations.

130. For the protection of the mayor aldermen and burgesses of the borough of Blackburn and the mayor aldermen and burgesses of the borough of Preston (each of which corporations is in this section referred to as "the protected authority") the following provisions shall unless otherwise agreed in writing between the protected authority and the highway authority or the local authority concerned apply and have effect:—

(1) Whenever—

(*a*) in the exercise of the powers of section 15 (Adjustment of boundaries of streets) of this Act a highway authority exchange land forming the site of a street; or

(*b*) in the exercise of the powers of section 18 (Stopping up and diversion of highways) of this Act a highway or any length of a highway is stopped up or diverted;

and there are situated in or under such land or highway any aqueducts mains pipes or other works constructed by the protected authority for the purposes of or in connection with their water undertaking the highway authority shall give notice to the protected authority of such exchange or of such stopping up or diversion (as the case may be) together with such plans and information relating thereto as the protected authority may reasonably require:

(2) Notwithstanding the exchange of any such land or the stopping up or diversion of any such highway or length of highway the protected authority shall continue to have all such rights and powers of constructing and maintaining in under or across such land or highway aqueducts mains pipes and other works for the purposes of or in connection with their water undertaking as they would have had if such land had continued to form part of the street or such highway or length of highway had not been stopped up or diverted:

(3) A local authority in the exercise of the powers of section 91 (For preventing obstruction to streams by culverts etc.) of this Act shall not without the consent

PART XIV —*cont.*

of the protected authority execute any work in through or under any lands belonging to the protected authority and held by them for the purposes of their water undertaking in any case in which such work affects any intake for the time being authorised of the protected authority or is situate upstream of any such intake but such consent shall not be unreasonably withheld and any question whether such consent is or is not unreasonably withheld shall be referred to arbitration:

(4) (*a*) Any difference which may arise between a highway authority or a local authority on the one hand and the protected authority on the other hand under this section shall be referred to arbitration;

(*b*) In settling any difference under this section the arbitrator may if he thinks fit require the highway authority or the local authority to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purposes for which the aqueduct main pipe or other work is used.

PART XV

GENERAL

Application of section 265 of Public Health Act 1875.

131. Section 265 of the Public Health Act 1875 (which relates to the protection of members and officers of certain authorities) shall apply to a local authority as if any reference in that section to the said Act of 1875 included a reference to any local enactment.

Breach of conditions of consent.

132. Where under any enactment a local authority 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.

In executing works for owner local authority liable for negligence only.

133. Whenever a local authority or any of their officers under any enactment execute re-execute or alter any work or do any act or thing in default of the owner occupier or other persons required to execute re-execute or alter such work or do such act or thing the local authority shall not as between themselves and such owner occupier or other person in the absence of any negligence on their part or the part of any contractor or other person employed by them or him be liable to pay any damages penalties costs charges or expenses for or in respect of or consequent upon the executing re-executing or altering of such work or the doing of such act or thing and any such damages penalties costs charges

PART XV —*cont.*

or expenses paid by the local authority in the absence of negligence as aforesaid shall be deemed to be part of the expenses payable by such owner occupier or other person and shall be recoverable accordingly.

Confirming authority for byelaws.

134. As respects byelaws made under this Act the confirming authority for the purpose of section 250 of the Act of 1933 shall be the Minister except that in the case of byelaws made under the sections mentioned in the first column of the following table the confirming authority shall be the authority respectively mentioned in the second column of that table:—

1	2
Section 77 (Byelaws as to meat for feeding animals)	Minister of Food
Section 90 (Byelaws as to pleasure fairs and roller-skating rinks)	Secretary of State

Restriction on right to prosecute.

135. Proceedings in respect of an offence created by or under this Act shall not without the written consent of the Attorney-General be taken by any person other than a party aggrieved or—

(i) (in the case of an offence created by or under any of the sections which are referred to in the second column of the Fourth Schedule to this Act) the respective authority or authorities set out in the third column of that schedule opposite to the section by or under which the offence is created; or

(ii) (in any other case) the local authority.

Appeals.

136.—(1) Section 300 of the Act of 1936 shall apply with respect to appeals to a court of summary jurisdiction under any enactment in this Act as it applies with respect to such appeals under any enactment in that Act and sections 301 and 302 of the Act of 1936 shall apply accordingly.

(2) Where any requirement refusal or other decision of a local authority against which a right of appeal is conferred by this Act—

(*a*) involves the execution of any work or the taking of any action; or

(*b*) makes it unlawful for any person to carry on any business which he was lawfully carrying on up to the time of the requirement refusal or decision or to use any premises for any purpose for which they were lawfully used up to that time;

then until the time for appealing has expired or when an appeal

is lodged until the appeal is disposed of or withdrawn or fails for want of prosecution— PART XV —*cont.*

(i) no proceedings shall be taken in respect of any failure to execute the work or take the action nor shall the local authority themselves execute the work or take the action; and

(ii) that person may carry on that business and use those premises for that purpose.

Application of provisions of Act of 1936.

137.—(1) The sections of the Act of 1936 hereinafter mentioned shall have effect as if they were re-enacted in this Act and in terms made applicable thereto and as if the expression "local authority" included the County Council (that is to say):—

Section 275 (Power of local authority to execute certain work on behalf of owners or occupiers);

Section 276 (Power of local authority to sell certain materials);

Section 277 (Power of councils to require information as to ownership of premises);

Section 283 (Notices to be in writing; forms of notices &c.);

Section 284 (Authentication of documents);

Section 285 (Service of notices &c.);

Section 286 (Proof of resolutions &c.);

Section 287 (Power to enter premises);

Section 288 (Penalty for obstructing execution of Act);

Section 289 (Power to require occupier to permit works to be executed by owner);

Section 291 (Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments);

Section 293 (Recovery of expenses &c.);

Section 294 (Limitation of liability of certain owners);

Section 295 (Power of local authority to grant charging orders);

Section 296 (Summary proceedings for offences);

Section 297 (Continuing offences and penalties);

Section 299 (Inclusion of several sums in one complaint &c.);

Section 304 (Judges and justices not to be disqualified by liability to rates);

Section 305 (Protection of members and officers of certain local authorities from personal liability);

Section 328 (Powers of Act to be cumulative); and

PART XV —*cont.*

Section 329 (Saving for certain provisions of the Land Charges Act 1925):

Provided that the said sections 277 287 288 289 291 294 295 and 329 shall only apply to the provisions contained in Parts IV to VIII and Part X and in section 120 (Hairdressers and barbers) of this Act.

(2) Section 284 (Authentication of documents) of the Act of 1936 shall extend and apply in relation to any enactment for the time being in force in the county or in a district as if that section were enacted in that enactment and in terms made applicable thereto.

Application of Arbitration Act 1950.

138. Where under this Act any question difference or dispute is to be referred to an arbitrator or to arbitration other than questions differences or disputes to which the provisions of the Lands Clauses Acts apply then unless other provision is made the reference shall be to a single arbitrator to be agreed upon between the parties to the question difference or dispute or in default of such agreement 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 1950 shall apply to any such arbitration.

14 Geo. 6. c. 27.

Inquiries by Ministers.

139. The Secretary of State the Minister the Minister of Transport or the Minister of Food as the case may be may hold such inquiries as he may consider necessary in regard to the exercise of any powers conferred upon him or the giving of any consent or approval under this Act as if such powers were conferred by and such consent or approval was required to be given under the Act of 1933 and subsections (2) to (5) of section 290 of that Act shall apply accordingly.

Saving for town and country planning.

140. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

Costs of Act.

141. The costs charges and expenses preliminary to and of and incidental to the preparing and applying for and the obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the County Council out of the county fund as general county purposes.

SCHEDULES

FIRST SCHEDULE

RESOLUTION OF ADOPTION

1. A resolution of adoption must be passed at a meeting of the rural district council (hereinafter in this schedule referred to as "the council") by a majority of the whole number of the members of the council.

2. One month at least before the meeting of the council special notice of the meeting and of the intention to propose the resolution shall be given to every member of the council and such notice shall also be inserted once at least in one or more of the newspapers circulating within the district in each of two successive weeks.

3. A resolution of adoption after being passed shall be published by advertisement in some one or more newspapers circulating within the district and may also be published otherwise in such manner as the council think sufficient for giving notice thereof to all persons interested.

4. A copy of the resolution of adoption shall be sent to the Secretary of State the Minister the Minister of Transport the County Council and in the case of a resolution adopting the provisions of section 78 (Provisions as to mobile canteens where food is prepared etc.) of this Act the Minister of Food.

5. The resolution of adoption shall come into operation at such time not being less than one month after the first publication of the advertisement as may be fixed by the council.

SECOND SCHEDULE

PART I—PROVISIONS APPLICABLE TO RURAL DISTRICTS BY ORDER OF THE MINISTER

Part	Section and marginal note
Part V (Sewers and drains)	Section 51 (Recovery of expenses of sewering prospective street). Section 52 (Prevention of evasion of liabilities under last preceding section).
Part VIII (Food)	Section 75 (Slaughter of animals otherwise than for human consumption). Section 76 (Registration of hawkers of food and their premises). Section 77 (Byelaws as to meat for feeding animals).
Part X (Public order and public safety)	Section 88 (Safety of stands).

2ND SCH. —*cont.*

PART II—PROVISIONS APPLICABLE TO RURAL DISTRICTS BY ORDER OF THE SECRETARY OF STATE

Part	Section and marginal note
Part X (Public order and public safety)	Section 84 (Barriers in streets). Section 85 (Regulation of traffic on carnival etc. days). Section 86 (Notice of street processions). Section 90 (Byelaws as to pleasure fairs and roller-skating rinks).
Part XIV (Miscellaneous)	Section 126 (Provisions as to motor vehicles let for hire).

THIRD SCHEDULE

APPORTIONMENT AND RECOVERY OF EXPENSES OF CONSTRUCTING SEWERS

1. The sum apportionable shall not exceed the sum certified by the surveyor to be at the relevant date the average cost per lineal yard of providing a public sewer having an internal diameter of nine inches in a private street in the district multiplied by the extent in lineal yards (as so certified) of the sewer or length of sewer in question.

2. The expenses incurred by the local authority not exceeding the sum so apportionable shall be apportioned by the local authority on the premises fronting adjoining or abutting on the street or part of the street in question according to the frontages of the respective premises as existing at the relevant date:

Provided that no sum shall be apportioned on any premises in contravention of any agreement between the local authority and the owner of the premises and any sum which but for this proviso would have been apportioned on any premises shall be deducted from the aggregate sum to be apportioned under this paragraph.

3. As soon as the apportionment has been made the local authority shall serve on the owners of the several premises affected notice of the sums respectively apportioned to them and the notice shall state the right of appeal conferred by the next following paragraph.

4. Any person aggrieved by an apportionment under this schedule may appeal to a court of summary jurisdiction and may on the appeal dispute the correctness of the surveyor's certificate as well as any other matter affecting the validity or correctness of the apportionment.

5. If the court finds on any such appeal that the aggregate sum apportioned is excessive or that the apportionment thereof is erroneous the court—

(*a*) shall order the local authority to revise not only the sum apportioned to the appellant but also the sums apportioned to the owners of the other premises affected and to submit the revised apportionment to the court for approval; and

3RD SCH. —*cont.*

(*b*) may if satisfied that the owners of all premises affected have had due notice of the proceedings and an opportunity of being heard approve any such revised apportionment either without amendment or with such amendments as they think just.

6. Whenever a new building requiring foul water drainage is erected after the relevant date on any premises on which a sum has been or is thereafter apportioned under this schedule that sum shall be recoverable by the local authority subject to and in accordance with the following provisions:—

(*a*) The said sum shall be recoverable to an extent proportionate to the frontage on the street or part of the street of the site of the new building and the land occupied therewith:

Provided that where a sum has become payable under sub-paragraph (*c*) of this paragraph in respect of the frontage of the site of a new building and land occupied therewith no further sum shall be recoverable in respect of the same length of frontage or any part thereof by reason of the erection of another new building on that site or that land;

(*b*) At any time after whichever of the following events last occurs (that is to say)—

(i) the erection of the new building; or

(ii) the expiration of the time for appealing against the apportionment or if an appeal is brought within that time the final determination of the appeal;

the local authority may serve on the owner for the time being of the new building a demand for payment of the amount recoverable together with interest thereon from the date of the demand:

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

(*c*) As from the date of the service of the said demand the amount recoverable together with interest thereon from that date until payment thereof shall be payable by the owner on whom the demand is served and shall be charged on the new building and the land occupied therewith and on all estates and interests therein;

(*d*) The rate of interest chargeable under this paragraph shall be such rate as the local authority may determine not exceeding the maximum rate fixed by the Minister for the purpose of section 291 of the Act of 1936 at the time when the said demand is served or if different maximum rates are then so fixed the highest of those rates.

7.—(1) If any person from whom any sum becomes recoverable under the last preceding paragraph proves that by reason of the length of frontage of the land occupied with the building in respect

3RD SCH. —*cont.*

of which the sum is so recoverable the amount of that sum is disproportionate to the benefit accruing to the premises the local authority may remit such part of that sum as they may think just but in that event if another new building is subsequently erected on the said land the said paragraph shall apply to that other building as if the first-mentioned building had not been erected:

Provided that the amount recoverable in respect of that other building shall not exceed the amount remitted.

(2) Any person aggrieved by a decision of the local authority with respect to any such remission may appeal to a court of summary jurisdiction.

8.—(1) The sum apportioned on any premises under this schedule shall for the purposes of section 15 of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 be deemed to be a charge on the premises notwithstanding that it is not immediately recoverable.

(2) Where the whole or part of the sum so deemed to be a charge (hereafter in this sub-paragraph referred to as "the provisional charge") becomes actually charged on the whole or part of the premises under the foregoing provision of this schedule—

(*a*) within fourteen days the registration of the provisional charge under the said section 15 shall be cancelled and the actual charge shall be registered under that section as from the date on which the provisional charge was registered;

(*b*) where a part only of the said sum has become actually charged on a part of the premises the remainder of that sum shall be deemed to be a charge on the remainder of the premises notwithstanding that it is not immediately recoverable and shall be registered accordingly within the said fourteen days under the said section as from the said date and the foregoing provisions of this sub-paragraph shall apply thereto accordingly.

9. For the purposes of this schedule—

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

(*b*) the following alterations and extensions shall be deemed to be the erection of a new building (that is to say):—

(i) the re-erection wholly or partly of any building of which an outer wall is pulled down (otherwise than in consequence of fire or other accident) either completely or to such a distance that the part of that wall remaining is less than half the previous height of the building (the height being measured from ground level to the highest point of the building);

(ii) the conversion into a house of any building not originally constructed for human habitation;

(iii) the conversion of any premises into a factory shop or place of public resort;

3RD SCH. —*cont.*

(iv) any extension by reason whereof the area occupied by the site of the building will (with any previous extension made since the relevant date) be increased by an area of more than one-eighth or in the case of a building constructed for agricultural purposes one-quarter of that occupied by the site of the building before that date;

(*c*) the expression "the relevant date" means in respect of land becoming a street the date on which the street was laid out.

FOURTH SCHEDULE

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	Section 20 (Retaining walls).	The highway authority.
Part X (Public order and public safety).	Section 87 (Byelaws as to leading or driving animals).	The County Council. The council of the borough.

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