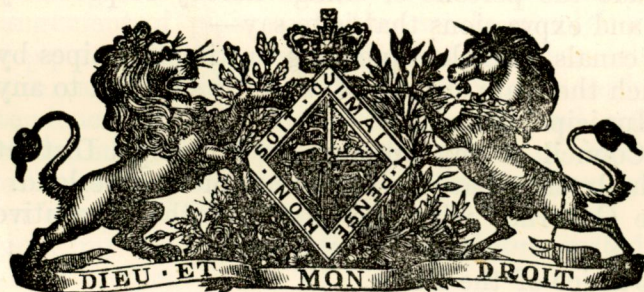


This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly Chamber,
Sydney, 10 June, 1880. }

STEPHEN W. JONES,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUADRAGESIMO TERTIO

VICTORIÆ REGINÆ.

No. .

An Act to establish a system of Water Supply and Sewerage for certain Towns.

WHEREAS it is expedient to establish a general system by means Preamble.
of which the Councils of Boroughs and Municipal Districts
may be empowered to provide an adequate Supply of Water and to
construct and maintain Sewerage Works for such Boroughs and
5 Districts where the same are not included within the operation of
the "Metropolitan Water and Sewerage Act of 1880" Be it therefore
enacted by the Queen's Most Excellent Majesty by and with the advice
and consent of the Legislative Council and Legislative Assembly of
New South Wales in Parliament assembled and by the authority of
10 the same as follows that is to say :—

PART I.

*Preliminary—General Powers and Duties of Councils as to Water
Supply and Sewerage—Borrowing Powers for construction and
maintenance of Works—Appointment of Officers—By-laws &c.*

15 1. This Act may be cited as the "Country Towns Water and Short title and
Sewerage Act of 1880" Its provisions are arranged under Five Parts arrangement of Act.
embracing the following subjects viz. :—

20 *PART I.—Preliminary—General Powers and Duties of Councils
as to Water Supply and Sewerage—Borrowing Powers for
construction and maintenance of Works—Appointment of
Officers—By-laws &c.*

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PART II.

*Country Towns Water and Sewerage.*PART II.—*Special Provisions as to Water Supply.*PART III.—*Special Provisions as to Sewerage.*PART IV.—*The acquisition and occupation by Councils of Lands for purposes of Water Supply or Sewerage—Ascertainment of Compensation in respect thereof.*PART V.—*Special provisions in respect of certain authorised Works—Miscellaneous Provisions—Legal Procedure.*

And in the construction of this Act the following words and expressions in inverted commas shall unless there be something in the subject or context repugnant thereto or inconsistent therewith bear the meanings and include the persons or things hereby respectively set against such words and expressions that is to say—

“Conduit”—The canals tunnels aqueducts cuttings or pipes by means of which the main stream of water is supplied to any Borough or Municipal District.

“Council”—The Council of any Borough or Municipal District not situate wholly or in part in the County of Cumberland.

“Governor”—The Governor with the advice of the Executive Council.

“Justice”—Any Justice of the Peace.

“Owner”—Any person who is in the receipt of the rents and profits of any house manufactory or buildings of whatsoever kind or of any land.

“Sewer”—Any sewer or drain of what kind soever whereby any liquid refuse or any water shall be carried off.

“Sewerage District”—The area within which the construction and maintenance of sewerage or drainage works for sewerage or drainage are authorized.

“Street”—Any square court alley highway lane road thoroughfare or public passage.

“Water District”—The area within which water is authorized to be supplied to the inhabitants of any Borough or Municipal District.

“Watershed”—The watershed or drainage area included within the boundaries set forth in any Proclamation under this Act.

2. So much of the one hundred and sixty-fifth and one hundred and sixty-sixth sections of the “Municipalities Act of 1867” as limits the rates leviable in respect of works for water supply or sewerage to the respective amounts therein prescribed so much of the one hundred and sixty-eighth section of the said Act as declares that special and general rates for any Municipality shall not exceed the amount therein specified And so much of the said Act as is repugnant to the provisions of this Act in respect of the construction or maintenance of works for water supply or sewerage the borrowing of money therefore and the making of rates in respect thereof are hereby repealed but only so far as the said enactments might be construed to control and limit the provisions of this Act.

3. The Council of any Borough or Municipal District may for the purposes and subject to the provisions of this Act acquire purchase or take on lease sell or exchange any land whether situated within or without such Borough or District They may also purchase any water privileges or easements which interfere with the proper drainage of or with the supply of water to such Borough or District And any lands acquired by such Council in pursuance of the power contained in this Act but not required for the purpose for which they were acquired may with the approval of the Governor be sold by such Council and the proceeds of such sale shall be applied towards discharge by means of a sinking fund or otherwise of any moneys borrowed by such Council or if no such moneys are outstanding the same shall form part of the general revenue of the Municipality.

Interpretation of terms.

Qualified repeal of parts of the Municipalities Act 1867.

Power to acquire land and sell land not required.

Country Towns Water and Sewerage.

4. Before the Council shall put into force any of the provisions contained in this Part with respect to the acquisition of land otherwise than by agreement the following conditions and provisions shall be observed :—

Conditions prior to acquisition of lands.

- 5 (1.) The Council shall publish once at the least in each of three consecutive weeks in some local newspaper circulating in the Municipality a notice describing shortly the nature of the undertaking in respect of which it is proposed to take the land naming a place where a plan of the proposed undertaking may be seen at all reasonable hours and stating the quantity of lands required.
- 10 (2.) The Council shall serve a notice on every owner or reputed owner lessee or reputed lessee and occupier of such lands defining in each case the particular lands intended to be taken and requiring an answer stating whether the person so served assents dissents or is neuter in respect of taking such lands.
- 15 (3.) On compliance with the provisions of this section with respect to notices the Council may if they think fit present a petition under their common seal to the Governor and such petition shall state the lands intended to be taken and the purposes for which they are required and the names of the owners lessees and occupiers of lands who have assented dissented or are neuter in respect of the taking such lands or who have returned no answer to the notice it shall pray that the Council may with reference to such lands be allowed to put in force the powers contained in Part IV of this Act with respect to the acquisition of lands otherwise than by agreement and such prayer shall be supported by such evidence as the Governor may require.
- 20 (4.) On the receipt of such petition and on due proof of the proper notices having been published and served the Governor shall take such petition into consideration and may either dismiss the same or direct a local inquiry as to the propriety of assenting to the prayer of such petition but until such inquiry has been made no provisional order shall be made affecting any lands without the consent of the owners lessees and occupiers thereof.
- 25 (5.) After the completion of such inquiry the Governor may by provisional order empower the Council to put in force with reference to the lands referred to in such order the powers of the said Part with respect to the acquisition of lands otherwise than by agreement or any of them and either absolutely or with such conditions and modifications as the Governor may think fit and it shall be the duty of the Council to serve a copy of any order so made in the manner and on the person in which and on whom notices in respect of such lands are required to be served.
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5. It shall be lawful for any Council for the purpose of defraying any costs charges and expenses incurred or to be incurred by them in the execution of the powers contained in this Act (if they require to do so) to borrow any sum of money necessary for defraying such costs charges and expenses but the exercise of the said power shall be subject to the conditions and regulations following viz. :—

Power to Council to borrow money.

- 55 (1.) No moneys shall be borrowed unless for the purpose of constructing permanent works for water supply or sewerage the cost of which ought in the opinion of the Governor to be spread over a term of years.

(2.)

Country Towns Water and Sewerage.

- (2.) The sum to be borrowed shall not at any time exceed a sum equal to times the gross amount collected for rates by the Council during the Municipal year immediately preceding that in which the power to borrow is sought to be exercised.
- 5 (3.) In every case the Council shall submit a statement under its corporate seal shewing the whole of the then existing charges (if any) upon the revenues of the Council created by the exercise of its borrowing powers under the "Municipalities Act of 1867" and shall also submit under the seal aforesaid a
- 10 plan of the proposed water or sewerage works for the construction of which they propose to borrow money under this Act for the consideration of the Governor accompanied by proper sections estimates and other explanations shewing the character and probable cost of the proposed works And the
- 15 Governor may at the cost of the Council cause the same to be reported upon by an officer of the Board of Water Supply and Sewerage or may require a local inquiry to be held and the result thereof to be reported to him.
- 20 (4.) If the Governor shall finally approve of the plans or of any amended plans for the proposed works such approval shall be notified in the *Gazette* and after such notification but not before it shall be lawful for the Council to exercise the borrowing powers conferred by this Act.
- 25 (5.) All moneys borrowed by the Council shall be raised by the sale of debentures to be issued in such series and at such times and with such official stamp and otherwise in such manner as the Governor shall prescribe by regulations under this Act and all such debentures shall have a currency for such time not exceeding thirty years as the Governor may sanction in each case and shall bear interest at the rate of
- 30 five pounds per centum per annum and shall be in the form in the First Schedule hereto.
- 35 (6.) Every such debenture shall be numbered in regular ascending arithmetical progression whereof the common difference shall be one and shall have annexed for every payment of interest to grow due thereon a coupon bearing the same number in the debenture.
- 40 (7.) Every such debenture shall name the principal sum secured thereby which shall not be less than five pounds the rate at which interest is payable thereon and the time and place where such principal and interest are payable And every such debenture shall be under the common seal of the Council and be signed by the Mayor and Council Clerk and shall bear date on the day on which it is sealed.
- 45 (8.) Every such debenture and any coupon whether annexed thereto or not may be transferred by simple delivery.
- 50 (9.) No debenture issued under the authority of this Act which shall be sold by the Council at or for a less price than the amount for which such debenture purports to be a security shall be deemed to entitle the holder thereof for the time being to payment of the amount of such debenture or of any sum by way of interest thereon from the Colonial Treasurer upon default made in any such payment by the said Council as hereinafter provided.
- 55 6. The holder of any debenture issued under the provisions of this Act shall be entitled to receive payment from the Council by which it was issued of the principal sum named therein upon presentation of such debenture on or after the due date thereof at the place where the same is expressed to be made payable And the holder of any coupon

First Schedule.

Payment of debentures

and of interest.

originally

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originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment in like manner of the interest mentioned in such coupon upon presentation of the same at the place where and on or after the date when interest is payable. If default be made in payment of such principal sum or interest a certificate of the fact of such default having been made under the hand of the Council Clerk shall be given to the holder of such debenture or coupon upon his demanding the same and upon presentation of such certificate of default to the Colonial Treasurer he shall within fourteen days thereafter pay to such holder the amount of such principal or interest out of the Consolidated Revenue Fund upon a warrant under the hand of the Governor which warrant shall be the said Treasurer's discharge for any such payment and every such payment shall as between the said Council and the holder of such debenture or coupon be a complete discharge of the Council to the extent of such payment but as between the Council and the Consolidated Revenue Fund shall be a debt as against the Council to be liquidated as hereinafter provided.

7. When default shall have been made by the Council in making any payment whether of principal or interest to the holder of any such debenture or coupon and if such payment has been made out of the Consolidated Revenue Fund it shall be lawful for the Colonial Treasurer forthwith to take such proceedings to enforce payment by procuring the appointment of any number of persons not exceeding three to be Receivers of the rates and other revenues of such Council as may now or hereafter be taken by a mortgagee or other secured creditor or by the holder of the debentures of a Municipal Council under the "Municipalities Act of 1867" or any Act amending the same—

Provisions for recouping Consolidated Revenue Fund on default by Council.

- (1.) The said Treasurer shall have full power to make all necessary applications to and to procure all necessary orders and directions from the Supreme Court for and touching the appointment of Receivers or a Receiver and the said Court shall have power to make all such orders for the appointment of a Receiver or for his removal and the appointment of another in his place as may be necessary and to make any orders and give any directions which the said Court may think proper. And every such Receiver shall be deemed to be an officer and shall act under the direction of the Supreme Court.
- (2.) Such Receivers shall have power to make levy and collect all rates whether for water supply or sewerage authorized by this Act to be made levied or collected by the Council and be entitled to receive all rates and revenues whatsoever payable to the Council of the Municipality for or in respect of which they shall have been appointed Receivers but the rates so to be made and levied shall not exceed the maximum limits permitted under the provisions of the law in force for the time being. And for such purposes such Receivers shall be deemed the Council of such Municipality and may exercise all the powers thereof.
- (3.) Receivers shall be entitled to such commission payable out of the rates of the Municipality as remuneration for their services as the Supreme Court may appoint.
- (4.) Receivers shall subject to any order of the Supreme Court pay over all moneys received by them to the Colonial Treasurer to be by him carried to the Consolidated Revenue Fund and if there be any balance in hand over and above the amount due and payable to the Colonial Treasurer under the provisions of this Act they shall pay such balance over to the Council of the Municipality.

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8. A Council proposing to borrow under this Act shall if required by the Governor set apart in such manner and under such conditions as he may prescribe in that behalf as a sinking fund and accumulate in the way of compound interest by investing the same in the purchase of Government securities such sum as will with accumulations in the way of compound interest be sufficient after payment of all expenses to pay off the moneys so borrowed within the period sanctioned. And the Council may at any time apply the whole or any part of a sinking fund set apart under this Act in or towards the discharge of the moneys for the repayment of which the fund has been established. Provided that they shall pay into the fund in each year and accumulate until the whole of the moneys borrowed are discharged a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied.

Provision as to
Sinking Fund.

9. After the approval by the Governor of any scheme of Water Supply or Sewerage shall be notified in the *Gazette* it shall be lawful for the Governor by Proclamation to define the boundaries of the Water or Sewerage District required for the purpose of supplying with water any Borough or Municipal District or for the sewerage thereof respectively.

Watershed and
Water and Sewerage
District boundaries
to be proclaimed by
Governor.

10. It shall be lawful for a Council to appoint such engineers or inspectors accountants collectors clerks rangers and such other officers and servants as they may require for the purposes of this Act and for the due administration thereof. And such persons so to be appointed shall where required by the Council give such security for the performance of their several duties as the Council shall prescribe.

Appointment of
officers &c. by
Council.

11. The same person may be both Surveyor and Inspector of Nuisances but neither the person holding the office of Treasurer nor his partner nor any person in the service or employ of them or either of them shall be eligible to hold or shall in any manner assist or officiate in the office of Council Clerk and neither the person holding the office of such clerk nor his partner nor any person in the service or employ of them or either of them shall be eligible to hold or shall in any manner assist or officiate in the office of Treasurer. Any person offending against this enactment shall forfeit and pay the sum of one hundred pounds which may be recovered by any person with full costs of suit in any competent Court.

Offices tenable
by same persons.

12. Before any officer or servant of a Council enters on any office or employment under this Act by reason whereof he will or may be intrusted with the custody or control of money the Council by whom he is appointed shall take from him sufficient security for the faithful execution of such office or employment and for duly accounting for all moneys which may be intrusted to him by reason thereof.

Officers intrusted
with money to give
security.

13. Subject to the provisions of this Act a Council may from time to time make alter and repeal by-laws:—

Council may make
by-laws.

(1.) For regulating the form of contract to be entered into with the Council and generally for carrying into effect the purposes of this Act

As to Water Supply.

(2.) For the appointment of a scale of charges for water supplied by measure and the minimum quantity of water to be charged for where water is so supplied

(3.) For determining making and levying the rate to be paid in respect of lands and tenements to be supplied with water for domestic purposes otherwise than by measure or in respect of lands and tenements distant not more than fifty yards from any main constructed by or vested in the Council. Provided that the valuation of any lands or tenements for the purposes of such water supply shall not exceed in any year the valuation

Country Towns Water and Sewerage.

- valuation (if any) of such lands or tenements during the same or the previous year by the Borough or Municipal District respectively in which such lands or tenements are situated And no such rate shall exceed the amount of ten pounds per cent. per annum on the assessed value Provided that no charge for the supply of water to any house tenement or lands shall in any case be less than the sum of ten shillings per annum
- 5 (4.) For imposing an extra rate for water supply in places distant more than fifty yards from the conduit
- 10 (5.) For determining the time at which any charge for water shall be payable and whether in advance or otherwise
- (6.) For regulating the form material dimensions construction and arrangement of pipes and other works supplying water from the pipes of the Council to adjacent premises—the time of executing and the notices to be given for such works—the superintendence thereof—the making good and replacing ground which may be displaced in the course of such works—and for inspecting all services at reasonable times whether situate within any buildings or otherwise
- 15 (7.) For regulating the construction disposition custody and inspection of meters
- 20 (8.) For preventing the waste or misuse of water supplied by the Council
- (9.) For compelling persons using water supplied by the Council to keep their pipes and other appliances in proper repair—for preventing any alteration of or interference with such pipes without notice to the Council—for repairing such pipes and appliances so as to prevent waste of water and for recovering the cost of such repairs
- 25 (10.) For preventing the use directly or indirectly of water supplied by the Council by persons unauthorized by the Council
- 30 (11.) For preventing persons from wilfully or negligently breaking injuring or from interfering with any pipe lock cock valve engine or work belonging to the Council and from doing any other wilful act whereby the water supplied by the Council may be wasted
- 35

As to Sewerage.

- (12.) For regulating the drainage of roads and streets into sewers
- 40 (13.) For regulating the dimensions material form construction and arrangement of and the maintenance cleansing and repairing of the pipes drains and other means of communicating with sewers and of the traps and apparatus connected therewith
- (14.) For the carrying out of such works of cleansing and removing and disposing of refuse as the Council is authorized by this Act to perform or require
- 45 (15.) For regulating the assessment form and collection of rates charges and contributions the periods for the repayment of the costs of works by the persons or rates chargeable with such repayment Provided that no Sewerage rate shall exceed ten pounds per centum on the assessed value of the premises drained
- 50 And every such by-law shall after approval by the Governor within fourteen days after such approval has been signified to the Council be laid before Parliament if in session and if not then within fourteen days after the commencement of the next Session And no such
- 55 by-law shall have any force or effect until it has been published in the *Gazette* And every such by-law shall when so published be binding upon and be observed by all persons and shall be sufficient to justify all persons acting under the same.

Country Towns Water and Sewerage.

14. Every such by-law may state a maximum penalty for the breach thereof not in any case exceeding twenty pounds and shall also state in cases of continuing offences a further penalty not exceeding five pounds for each day after notice of the offence shall be given by the Council. And the production of the *Gazette* containing any such by-law shall in any action at law or suit in equity or any other proceeding and in all Courts be sufficient evidence that such by-law as it is printed in such *Gazette* has been duly made and published as hereinbefore provided.

Penalties in by-laws.

Evidence of by-law.

15. With respect to contracts made by a Council under this Act the following regulations shall be observed viz. :—

Provisions as to contracts by Council

- (1.) Every contract made by a Council whereof the value or amount exceeds fifty pounds shall be in writing and sealed with the common seal of such Council.
- (2.) Every such contract shall specify the work materials matters or things to be furnished had or done the price to be paid and the time or times within which the contract is to be performed and shall specify some pecuniary penalty to be paid in case the terms of the contract are not duly performed.
- (3.) Before contracting for the execution of any works under the provisions of this Act a Council shall obtain from their surveyor or other competent officer an estimate in writing as well of the probable expense of executing the work in a substantial manner as of the annual expense of repairing the same also a report as to the most advantageous mode of contracting that is to say whether by contracting only for the execution of the work or for executing and also maintaining the same in repair during a term of years or otherwise.
- (4.) Before any contract of the value or amount of one hundred pounds or upwards is entered into by a Council ten days' public notice at the least shall be given expressing the nature and purpose thereof and inviting tenders for the execution of the same and such Council shall require and take sufficient security for the due performance of the same.
- (5.) Every contract entered into by a Council in conformity with the provisions of this section and duly executed by the other parties thereto shall be binding on the Council by whom the same is executed and their successors and on all other parties thereto and their executors administrators successors or assigns to all intents and purposes. Provided that a Council may compound with any contractor or other person in respect of any penalty incurred by reason of the non-performance of any contract entered into as aforesaid whether such penalty is mentioned in any such contract or in any bond or otherwise for such sums of money or other recompense as to such Council shall seem proper.
- (6.) Officers or servants appointed or employed under this Act by the Council shall not in anywise be concerned or interested in any bargain or contract made with such Council for any of the purposes of this Act. If any such officer or servant is so concerned or interested or under colour of his office or employment exacts or accepts any fee or reward whatsoever other than his proper salary wages and allowances he shall be incapable of afterwards holding or continuing in any office or employment under this Act and shall forfeit and pay the sum of fifty pounds which may be recovered by any person with full costs of suit in any competent Court.

Country Towns Water and Sewerage.

PART II.

Special provisions as to Water Supply.

16. Subject to the provisions of this Act the Council of any ^{Authority of Council to construct water-works.} Borough or Municipal District may exercise any of the powers in this Part contained for the construction of waterworks for the supply of water to such Borough or District and for the purpose of carrying out the provisions of this Act such Council may

- 10 (1.) Enter upon any lands and take levels of the same and set out such parts thereof as they shall think necessary and dig break and trench the soil of such lands and remove or use all earth stone mines minerals trees or other things dug or obtained out of or from the same
- 15 (2.) Enter upon take and hold such land as they may from time to time deem necessary for the construction maintenance repair or improvement of any of the works authorized or transferred by this Act or for obtaining or enlarging the supply of water or for improving the quality thereof for the purposes of this Act
- 20 (3.) Sink from time to time such wells or shafts and make maintain alter or discontinue such reservoirs waterworks cisterns tanks aqueducts drains cuts sluices pipes culverts engines and other works and erect such buildings upon the lands streams and watercourses authorized to be taken by them as they shall think proper for supplying the inhabitants of any such Borough or District with water
- 25 (4.) Divert from time to time and impound the water from any streams as they may think fit and alter the courses of the same and also take such waters as may be found in under or on any lands so to be taken for the purposes of this Act
- 30 (5.) Enter upon any Crown or private lands streets roads or thoroughfares and lay or place therein any pipes and may repair alter cut off or remove the same and may enter upon any such lands streets roads or thoroughfares for the purpose of repairing any watercourses or other works being their property or under their control

35 Provided always that in the exercise of any of the powers hereby conferred such Council shall inflict as little damage as may be and in all cases where it can be done shall provide other watering-places drains and channels for the use of adjoining lands in place of any taken away
40 or interrupted by them and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers Provided nevertheless that the Council shall not be liable to make compensation in respect of any damage sustained by reason of the taking or diverting of water permanently or otherwise from any
45 river stream or watercourse nor in any other case whatsoever unless a claim in writing shall be made in respect of such compensation within three months after the commencement of the exercise of the power
and that in every case where the Council cannot agree with the owner
the amount of compensation shall be ascertained and the case in other
50 respects shall be dealt with under the provisions hereinafter contained.

Provision where compensation disputed.

17. Every person who shall wilfully obstruct any person acting under the authority of the Council in setting out the line of any works undertaken under the authority of this Part or pull up or remove any poles or stakes driven into the ground for the purpose of setting out
55 the line of such works or destroy or injure any works so undertaken as aforesaid shall incur a penalty not exceeding five pounds for every such offence.

Penalty for obstructing construction of works.

Country Towns Water and Sewerage.

18. After any stream or supply of water shall have been diverted impounded or taken by the Council under the authority of this Act every person who shall illegally or without the authority of the Council divert or take any water supplying or flowing into the stream or
 5 source of supply so diverted impounded or taken by the Council or who shall do any unlawful act whereby any such stream or supply of water may be diverted or diminished in quantity or injured in quality or purity and who shall not immediately repair the injury done by him on being required by the Council so as to restore such stream or
 10 supply of water to the state in which it was before such unlawful act shall forfeit to the Council any sum not exceeding five pounds for every day during which the said supply of water shall be so diverted or diminished or injured by reason of any act done by or by the authority of such person. And any sum so forfeited shall be in addition to the
 15 sum which he may be lawfully adjudged to pay to the Council for any damage which they may sustain by reason of their supply of water being diminished. And the payment of the sum so forfeited shall not bar the right of the Council to bring any action at law or any other remedy at law or in equity in respect of the damage so committed.

Penalty for illegally diverting water.

20 19. Nothing in this Part contained shall prevent the owners and occupiers of lands through or by which such stream shall flow from using the waters thereof in such manner and to such extent as they might have done before the passing of this Act unless they shall have received compensation in respect of their right of so using such
 25 water.

Reservation of existing rights.

20. If any person unlawfully and maliciously destroy or damage or attempt to destroy or damage any reservoir dam tank tunnel water-course sluice main pipe aqueduct bridge road way or engine or other part whatever of the works of the Council every such offender shall be
 30 guilty of felony and shall be liable to be imprisoned for any term not exceeding ten years.

Penalty for destroying works.

21. The Council may open and break up the soil and pavement of the several streets and bridges within the limits of its Water District and may open and break up any sewers drains or tunnels
 35 within or under such streets and bridges and lay down and place within the same limits pipes conduits service pipes and other works and engines and from time to time repair alter or remove the same and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges and do all other acts
 40 which the Council shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits.

Power to open streets &c.

22. When the Council shall open or break up the road or pavement of any street or bridge or any sewer drain or tunnel they shall with all convenient speed complete the work for which the same shall
 45 be broken up and fill in the ground and reinstate and make good the road or pavement or the sewer drain or tunnel so opened or broken up and carry away the rubbish occasioned thereby. And shall at all times whilst any such road or pavement shall be so open or broken up cause the same to be fenced and guarded and shall cause light sufficient
 50 for the warning of passengers to be set up and kept there for every night during which such road or pavement shall be continued open or broken up.

Reinstatement of streets &c.

23. The Council shall not be liable (in the absence of express stipulation under any agreement for the supply of water) to any
 55 penalty or damages for not supplying such water if the want of such supply arises from unusual drought or other unavoidable cause or accident nor shall the Council be compellable to supply water to any person whomsoever.

Council not liable for accidental failure to supply water nor compellable to supply water.

Country Towns Water and Sewerage.

24. The Council may supply any person with water for domestic or other purposes by measure at such rates upon such terms and subject to such conditions as may be agreed upon by the Council and the person requiring to be supplied. But "domestic purposes" shall not for the purposes hereof include a supply of water for stables or for manufacturing purposes or for irrigation water power fountains or for any ornamental purpose. The supply of water for other than domestic purposes shall in all cases be by measure. Agreements to supply water—what purposes not domestic.
25. The Council may let for hire to any consumer of water supplied by measure any meter or instrument for measuring the quantity of water supplied and consumed and any pipes and apparatus for the conveyance reception or storage of the water for such remuneration in money as may be agreed upon between the Council and the consumer which shall be recoverable in the same manner as rates due to the Council for water. Council may let meters.
26. Such meters instruments pipes and apparatus shall not be subject to distress for rent of the premises where the same are used or to be attached or taken in execution under any process of any Court of Law or Equity or under or in pursuance of any sequestration or order in insolvency or other legal proceedings against or affecting the consumer of the water or the occupier of the premises or other the person in whose possession the meters pipes instruments and apparatus may be. Meters of Council not distrainable &c.
27. Every person who shall have agreed with the Council for a supply of water by measure shall at his own expense unless he hire a meter from the Council provide a meter and keep and maintain the same in good working condition to the satisfaction of such officer as may be appointed by the Council and in the event of any repairs being required notice in writing shall be immediately given by such person to the Council and a registration of the quantity used shall be taken before such repairs are effected. Meter to be supplied and maintained by consumer.
28. Every person requiring to remove or alter the position of any meter shall give six days notice in writing to that effect to the Council and a registration of the quantity of water used shall be taken before such removal or alteration is made. Notice of removal &c. of meter.
29. If any person who under the provisions hereinbefore contained ought to provide any meter neglect or refuse after having been required by the Council so to do to provide such meter he shall for every day during which such neglect or refusal continues forfeit a sum not exceeding two pounds. Penalty for neglect to provide meter.
30. If any person who has provided any meter as aforesaid fail to give the notice hereinbefore required of any repairs required for such meter he shall forfeit a sum not exceeding ten pounds. Penalty for neglecting to give notice of repairs of meters.
31. If any person refuse or delay to have such meter properly repaired and put in correct working order after having been required by any officer of the Council so to do the Council may shut off the supply of water from the premises of such person either by cutting the service-pipe or otherwise until such meter shall have been properly repaired and certified by some officer of the Council as being in proper working order. Water may be cut off if meter not in order.
32. If any plumber or other person fix or refix any meter upon any premises supplied with water by the Council without having first obtained a certificate from the Council that the said meter has been examined and found in correct working order he shall forfeit a sum not exceeding ten pounds. Penalty for fixing uncertified meter.
33. If any person remove or alter the position of or in any way interfere with any meter without giving such notice as aforesaid he shall for each such offence forfeit a sum not exceeding twenty pounds over and above the damage which he may be found liable to pay in any action at law at the suit of the Council. For removing or altering meter without notice.

Country Towns Water and Sewerage.

34. The officers of the Council may enter any house building or lands to through or into which water is supplied by the Council by measure in order to inspect the meters instruments pipes and apparatus for the measuring conveyance reception or storage of water or for the purpose of ascertaining the quantity of water supplied or consumed and may from time to time enter any house building or lands for the purpose of removing any meter instrument pipe or apparatus the property of the Council and if any person hinders any such officer from entering or making such inspection or effecting such removal he shall for each such offence be liable to a penalty not exceeding five pounds but except with the consent of a Justice this power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon.

Power to officers of Council to inspect meter.

35. In all the pipes to which any fire-plug is fixed the Council shall provide and keep constantly laid on for use without charge unless prevented by unusual drought or other unavoidable accident or during necessary repairs a sufficient supply for the following purposes (that is to say) for cleansing the sewers and drains for cleansing and watering the streets and for supplying any public hospitals or charitable institutions or any public pumps baths and washhouses that may be established for the use of the inhabitants and paid for out of any municipal rates Provided that no baths or washhouses shall be entitled to be supplied with water under the provisions of this section unless the charges for the use thereof by the inhabitants shall be approved of and shall not exceed the amounts fixed by the Council.

Supply of water for public purposes.

36. The Council shall fix proper fire-plugs in the main and other pipes belonging to them at such convenient distances and at such places as they may consider proper and convenient for the supply of water for extinguishing any fire which may break out within the Borough or Municipal District And shall from time to time renew and keep in effective order every such fire-plug And shall put up a public notice in some conspicuous place in each street in which such fire-plug is situated showing its situation And such notice may be put up on any house or building in such street And as soon as such fire-plug is completed they shall deposit a key thereof in each place where any public fire-engine is kept.

FIRE-PLUGS.

Council to place public fire-plugs in mains.

37. The Council may at the request and expense of the owner or occupier of any manufactory or works situated in or near any street or road in which or within two hundred yards of which there shall be a pipe of the Council place and maintain in effective order a fire-plug (to be used only for extinguishing fires) or near as conveniently may be to such manufactory or works.

Fire-plugs for manufactories &c.

38. The Council shall at all times keep charged with water all their pipes to which fire-plugs are fixed unless prevented by drought or other unavoidable cause or accident or during necessary repairs And shall allow all persons at all times to take and use such water for the purpose only of extinguishing fire.

Pipes to be kept charged and water taken for fires.

39. After pipes have been laid under the authority of this Act for the supply of water to any street or part thereof the Council shall cause a notice in the form contained in the Second Schedule hereto or to the like effect to be published in four consecutive numbers of some newspaper circulating in the Borough or District and the owner or occupier of every tenement referred to in such notice shall within four weeks from the date of the last publication of such notice cause a proper pipe and stop-cocks to be laid so as to convey a supply of water to such tenement And after fourteen days from such last publication the owner or occupier of such tenement shall unless the Council refuse to supply him with water be liable to pay the rates and charges for such supply although no such pipe and stop-cocks be laid or no such water be used in such tenement.

Notice to lay service pipes.

Country Towns Water and Sewerage.

40. Any owner or occupier of any dwelling-house or part of a dwelling-house within a Borough or Municipal District who shall wish to have water from the waterworks of the Council brought into his premises and who shall have paid or tendered to the Council the portion
5 of water rate in respect of such premises by this Act directed to be paid in advance may open the ground between the pipes of the Council and his premises having first obtained the consent of the owners and occupiers of such ground and lay any leaden or other pipes from such premises to communicate with the pipes of the Council.
- 10 41. Such pipes shall be of a strength and material approved of by some officer of the Council and every such owner or occupier shall before he begins to lay any such pipe give to the Council two days notice of his intention to do so.
- 15 42. Before any pipe is made to communicate with the pipes of the Council the person intending to lay such pipes shall give two days notice to the Council of the day and hour when such pipe is intended to be made to communicate with the pipes of the Council and every such pipe shall be so made to communicate under the superintendence and according to the directions of the surveyor or other officer appointed for
20 that purpose by the Council. And the bore of any such pipe shall not exceed three-quarters of an inch except with the consent of the Council.
- 25 43. Any person who shall have laid down any pipe or other works or who shall have become the proprietor thereof may remove the same after having first given six days notice in writing to the Council of his intention so to do and of the time of such proposed removal and every such person shall make compensation to the Council for any injury or damage to their pipes or works which may be caused by such removal.
- 30 44. Any such owner or occupier may open or break up so much of the pavement of any as shall be between the pipes of the Council and his house building or premises and at any sewer or drain therein for any such purpose as aforesaid (doing as little damage as may be and making compensation for any damage done in the execution of any such work) Provided always that every such owner or occupier desiring to break
35 up the pavement of any street or any sewer or drain therein shall be subject to the same necessity of giving previous notice and shall be subject to the same control restrictions and obligations in and during the time of breaking up the same and also reinstating the same and to the same penalties for any delay in regard thereto as the Council are
40 subject to under the provisions of this Part.
45. If any person supplied with water by the Council wrong-fully does or causes or permits to be done anything in contravention of any of the provisions of this Part or wrongfully fails to do any-thing which under any of those provisions ought to be done for the
45 prevention of the waste misuse undue consumption or contamination of the water of the Council the Council may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied to him or for his use and may cease to supply him with water so long as the cause of injury remains
50 or is not remedied.
46. If any person supplied with water by the Council wilfully or negligently causes or suffers any pipe valve cock cistern bath soil-pan water-closet or other apparatus or receptacle to be out of repair or to be so used or contrived that the water supplied to him by the
55 Council is or is likely to be wasted misused unduly consumed or contaminated or so as to occasion or allow the return of foul air or other noisome or impure matter into any pipe belonging to or connected with the pipes of the Council he shall for every such offence, be liable to a penalty not exceeding five pounds.

PIPES LAID BY
OWNERS OR
OCCUPIERS.

Power to inhabitants
to lay service pipes.

Notice to Council of
laying pipes.

Communication with
pipes of Council to be
made under superin-
tendence of surveyor.

Bore of service pipes.

Service pipes may be
removed after giving
notice.

Power to break up
pavements.

PROTECTION OF THE
WATER.

In case of any breach
of this Part of this
Act water may be
cut off.

Penalty for waste of
water.

Country Towns Water and Sewerage.

47. If any person—

(1.) Not having from the Council a supply of water for other than domestic purposes uses for other than domestic purposes any water supplied to him by the Council or

5 (2.) Having from the Council a supply of water for any purpose other than domestic uses such water for any purpose other than those for which he is entitled to use the same

he shall for every such offence be liable to a penalty not exceeding forty shillings without prejudice to the right of the Council to recover
10 from him the value of the water misused.

48. It shall not be lawful for the owner or occupier of any premises supplied with water by the Council or any consumer of the water of the Council or any other person to affix or cause or permit to be affixed any pipe or apparatus to a pipe belonging to or used by
15 such owner occupier consumer or any other person or to make any alteration in any such communication or service pipe or in any apparatus connected therewith without the consent in every such case of the Council And if any person acts in any respect in contravention of the provisions of the present section he shall for every such offence
20 be liable to a penalty not exceeding five pounds without prejudice to the right of the Council to recover damages from him in respect of any injury done to their property and without prejudice to their right to recover from him the value of any water wasted misused or unduly consumed.

25 49. If any person not being supplied with water by the Council wrongfully takes or uses any water from any reservoir watercourse conduit or pipe belonging to the Council or from any pipe leading to or from any such reservoir watercourse conduit or pipe or from any cistern or other like place containing water belonging to the Council
30 or supplied by them for the use of any consumer of the water of the Council he shall for every such offence be liable to a penalty not exceeding five pounds.

50. The surveyor or other person appointed for that purpose by the Council may between the hours of nine o'clock in the forenoon
35 and four o'clock in the afternoon enter into any house or premises supplied with water by the Council in order to examine if there be any waste or misuse of such water and if such surveyor or other person at any such time be refused admittance into such dwelling-house or premises for the purpose aforesaid or be prevented from
40 making such examination as aforesaid the Council may turn off the water supplied by them from such house or other premises.

51. If any person bathe in any stream reservoir aqueduct or other waterworks belonging to the Council or wash throw or cause to enter therein any dog or other animal he shall for every such
45 offence forfeit a sum not exceeding five pounds.

52. If any person throw or convey or cause or permit to be thrown or conveyed any rubbish dirt filth or other noisome thing into any such stream reservoir aqueduct or other waterworks as aforesaid or wash or cleanse therein any cloth wool leather or skin of any
50 animal or any clothes or other thing he shall for each such offence forfeit a sum not exceeding five pounds.

53. If any person cause the water of any sink sewer or drain steam-engine boiler or other filthy water belonging to him or under his control to run or be brought into any stream reservoir aqueduct
55 or other waterworks belonging to the Council or shall do any other act whereby the water of the Council shall be fouled he shall for each such offence forfeit a sum not exceeding five pounds and a further sum of twenty shillings for each day (if more than one) that such offence continues.

Penalty for misapplication of water.

No pipe to be fixed to consumer's pipe without permission of Council.

Penalty for unlawfully taking water.

Inspection of water.

POLLUTING THE WATER.

Penalty for bathing in water of the Council.

Penalty for throwing dirt therein.

Penalty for letting foul water flow thereinto.

Country Towns Water and Sewerage.

54. Where any owner or occupier of any land within the Water District to be proclaimed as hereinbefore provided or any reservoir or source of supply transferred to or vested in the Council does or permits to be done on his land any act or permits to remain thereon any matter or thing which in the opinion of the Council is likely to injure the water supply if notice to discontinue or remove the same be given to him in writing by the Council and if he neglect or refuse to discontinue such act or to remove such matter or thing he shall for each such offence forfeit a sum not exceeding five pounds and a further sum of twenty shillings for each day (if more than one) that such offence continues.

Penalty for nuisance in Water District.

55. Every person making or supplying gas within the limits of a Water District who shall at any time cause or suffer to be brought or to flow into any stream reservoir aqueduct or waterworks belonging to the Council or into any drain communicating therewith any washing or other substance which shall be produced in making or supplying gas or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream reservoir aqueduct or other waterworks shall be fouled or the pipes or conduits thereof injured shall forfeit to the Council the sum of twenty pounds to be recovered with full costs of suit for each day during which such washing or other substance shall be brought or shall flow as aforesaid or during which the act shall continue by which such water is fouled after the expiration in either case of twenty-four hours from the time when notice of the offence has been served on such person by the Council.

Penalty for permitting substances produced in making gas to flow into works.

56. Whenever the water supplied by the Council shall be fouled by the gas of any person making or supplying gas within the district aforesaid such person shall forfeit to the Council for every such offence a sum not exceeding twenty pounds and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Penalty on gasmakers causing water to be fouled.

57. For the purpose of ascertaining whether the water of the Council be fouled by the gas of any person making or supplying gas within the said district the Council may dig up the ground and examine the pipes conduits and works of the persons making or supplying gas. Provided that before proceeding so to dig and examine the Council shall give twenty-four hours notice in writing to the person so making or supplying gas of the time at which such digging and examining is intended to take place and shall give the like notice to the persons having the control or management of the pavements or place where such digging shall take place and shall be subject to the like obligation of reinstating the road and pavement and to the same penalties for delay or any nonfeasance or misfeasance therein as herein-after provided with respect to roads and pavements broken up by the Council for laying their pipes and if upon such examination it appears that such water has been fouled by any gas belonging to such person the expenses of the digging examination and repairs of the street or place disturbed in any such examination shall be paid by the person making or supplying gas but if upon such examination it appears that the water has not been fouled by the gas of such person then the Council shall pay all the expenses of the examination and repair and also make good to the said person any injury which may be occasioned to his works by such examination.

Power to examine gas pipes to ascertain cause of water being fouled.

The expenses to abide the result of the examination.

58. The following provisions shall take effect for the purpose of protecting the water in the mains or other pipes of the Council from all impurities from closets and other receptacles of faecal matter or urine—

Provisions as to connection of closet and other pipes with mains and as to cisterns &c. No closet pipes hereafter to connect directly with the main.

(1.) It shall not be lawful for any person to connect with the main any pipe delivering the water directly into the closet-

pan

Country Towns Water and Sewerage.

- pan or other receptacle for fæcal matter or urine without the intervention of a cistern or cisterns into which the water from the main shall first be received and any person so offending shall forfeit and pay a penalty not exceeding fifty pounds.
- 5 (II.) The Council may employ any artificers or workmen to cut off or otherwise disconnect from the main any pipe directly discharging the water into a closet without the intervention of a cistern [hereinafter termed "directly connected"] and which in the opinion of the Council may endanger the purity of the water by the absorption of noxious gases or suction of fæcal matter or urine into such pipe or into the main or otherwise. For the purpose of effecting such disconnection the Council's artificers and workmen may enter into and upon the premises of any person or corporation whatsoever to do or cause to be done anything in his opinion requisite or necessary in relation thereto. Council may disconnect pipes in certain cases.
- 10 (III.) Whenever the Council shall have caused any pipe to be cut off or disconnected or other work to be done in relation thereto they shall forthwith serve the owner or occupier of the premises with a notice in writing requiring him to pay the actual cost or expense incurred. And such owner or occupier shall pay the amount to the Council and if the amount be paid by an occupier only he may deduct the same from the rent then due or accruing. Upon such owner or occupier making default in any such payment after the delivery of such notice as aforesaid the Council may sue for and recover the same with full costs of suit. The expense incurred by any disconnection to be paid by tenant and deducted from his rent.
- 15 (IV.) The owner of every dwelling-house or premises which shall have therein or thereon any closet with a pipe or branch-pipe directly connected with the main shall be required to fix and erect a cistern or cisterns for the reception of the water intended to be used for the closet and every cistern shall be made of such materials and dimensions and of such model or plan of construction and with such ball-cocks stop-cocks waste-pipes and other appliances as shall be deemed requisite and have been approved by the Council for securing the water from pollution through any noxious gases or matter evolved or derived from such closets or otherwise. Every owner neglecting to comply with the provisions of this sub-section shall forfeit and pay a penalty not exceeding five pounds. Owners of premises shall fix closet-cisterns or be liable to a penalty.
- 20 (V.) Whenever any owner shall have neglected to fix and erect a cistern with its appliances as is in the last preceding section provided for the tenant or occupier of the premises is hereby authorised and required after receiving a written notice thereof from the Council in that behalf to fix and erect such cistern with its appliances before-mentioned within fourteen days after the receipt of such notice and the said tenant or occupier shall upon payment by him of the charges and expense of such fixing and erection be entitled either to deduct the amount so paid from the rent then due or accruing or at his option to sue for and recover the same with full costs of suit from the owner as for money paid to his use. Upon neglect of owner the tenant after fourteen days notice to fix cistern and deduct the expense from rent.
- 25 (VI.) Any person who shall without the authority of the Council re-establish any such connection which may have been cut off removed or severed by him or who shall in any manner wilfully injure or tamper with any connection-pipe cistern ball-cock stop-cock or waste-pipe which may have been approved by the Council so as to destroy diminish or endanger its
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Country Towns Water and Sewerage.

5 its efficiency may be summoned for such offence before two Justices and on conviction thereof shall be adjudged to pay the amount of the charges and expenses which the Council may have incurred (and which he is hereby authorized to incur) in repairing or restoring the same to a state of efficiency. Every such offender shall also forfeit and pay a penalty not exceeding ten pounds and the amount of charges and expenses and penalty respectively shall when recovered be paid over to the Council.

10 59. Where several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe or where water is supplied to courts alleys and right-of-way by stand pipes the several owners or occupiers of such houses or parts of houses or of the several houses or parts of houses in every such court alley or right-
15 of-way shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the Council by a separate pipe.

20 60. The rates and charges for water and all sums due to the Council under this Part shall be paid by and be recoverable from the owner of the premises or the occupier or person requiring receiving or using the supply of water and all rates shall be paid in advance by equal payments on the first day of January and the first day of July in each year and the first payment shall be made at the time when the
25 owner or occupier of any tenement shall become liable to pay such rates and charges and all such rates and charges may be enforced and recovered in respect of any premises situate within one hundred and fifty feet from the alignment of any street or public highway along which a main water pipe belonging to the Council is laid although such
30 premises are not actually supplied with water from such main.

61. If any person refuse or neglect to pay on demand to the Council any rate charge or sum due to the Council under this Part the Council may recover the same with costs or the Mayor may issue his warrant in the form contained in the Third Schedule hereto
35 to some constable or other person named therein to levy such rate charge or sum by distress and sale of the goods and chattels of the person occupying the premises in respect of which such rate charge or sum is due at the time when the warrant of distress is executed and in case no sufficient goods and chattels of such occupier
40 be found on the premises to satisfy such distress the owner of the premises or if he be absent from the colony his agent shall be liable for such rate charge or sum and the same may be recovered from him.

62. If any tenant of any premises be called on to pay and pay or be distrained for a greater amount of any rate charge or sum due
45 to the Council under this Part than is due for the period of his occupancy or pay any sum for laying down service pipes to such premises upon the refusal or neglect of the owner thereof to lay down such service pipes within one month of the last publication of the notice by the Council as hereinbefore mentioned requiring such owner
50 to lay down such pipes such tenant may deduct any sum so paid or recovered from the rent from time to time becoming due to such owner in respect of such premises or after demand may recover the same from such owner.

Where several houses supplied by one pipe each to pay.

WATER RATES.

Rates to be recoverable from either landlord or tenant.

Rates to be paid half-yearly in advance.

Recovery of rates and charges.

Third Schedule.

Tenant may recover from owner excessive payment or cost of laying services.

Country Towns Water and Sewerage.

PART III.

Special Provisions as to Sewerage.

63. The Council shall as soon as conveniently may be cause to be made surveys of the area within the limits and for the purpose of any Survey of area of Sewerage District.
 5 Sewerage District and a map or maps thereof on such scale or respective scales and with such indications of levels and particulars of sewers and underground works and of the surface as to them seem fit and may cause such map or maps or any part thereof to be from time to time copied engraven and published and shall from time to time cause
 10 such map or maps to be revised and such additions made thereto as may show the new sewers and drains and the new streets roads houses or other alterations and the date of revision shall be expressed therein and every such map shall be kept in the office of the Council and the same or a copy thereof shall be open at all reasonable times to the
 15 inspection of the owner or occupier of lands or houses within such District.

64. The Council may make any sewers or drains of such construction and in such manner as they think proper and may (subject Construction of sewers. to the restrictions hereinafter mentioned) break up the soil pitchings
 20 and pavements of any public highway or of any public or private street and may excavate and sink trenches for the purpose of laying down making and constructing common sewers or drains therein and subject to the provisions of the next following section may cause such common sewers or drains to communicate with the sea or any arm
 25 thereof or with any stream or watercourse (either within or without the limits of the said district) and also from time to time may open cleanse and repair such sewers or drains or alter the position thereof and also from time to time may make any drains or sewers from any
 30 of this part into any dwelling-house or houses public or private buildings and premises for the purpose of cleansing and draining any such house or houses or other premises by means of such sewers or drains and may do all such other acts matters and things as they shall from time to time deem proper for making amending repairing com-
 35 pleting or improving any such sewers and drains or other works to be made done and provided for the purposes of this Part.

65. Nothing in this Act shall authorise any Council to make or use any sewer drain or outfall for the purpose of conveying sewage or Sewage to be purified before being discharged into streams. filthy water into any natural stream watercourse lake or pond until
 40 such sewage or filthy water is freed from all excrementitious or other foul or noxious matter such as would affect or deteriorate the purity and quality of the water in such stream watercourse lake or pond.

66. In the execution of the several powers hereby granted the Council shall do as little damage as may be and shall build and con- Council to make good any damages.
 45 struct the said sewers in a sufficient and effectual manner for accomplishing all the purposes hereby intended and subject to the restrictions hereinafter mentioned and after laying or removing or altering or repairing any such drains or sewers shall immediately fill in the trenches or excavation and make good the ground soil pitchings and
 50 pavements of any such public or private street and other damage and remove the rubbish occasioned thereby and shall in the meantime fence or guard the place or places where any ground shall be opened in such manner as to prevent danger or accidents to passengers carriages horses cattle or sheep and agreeably in all respects to the
 55 provisions in this part contained And this Act shall be sufficient to indemnify the Council and all persons acting under their authority for all acts and things done by virtue thereof.

Country Towns Water and Sewerage.

67. If there be any wilful or negligent delay in the Council or any of their officers or any other person acting by or under their authority in filling in any such ground trenches or excavations or removing rubbish or making good any such ground or the soil pitchings or pavements of any such public or private street or other damage according to the provisions in this Part contained or if the same respectively be imperfectly done or if the ground so opened be not fenced or guarded in the manner herein required the person in whom the right of soil of such ground shall be or to whom there now does or hereafter shall belong any power to maintain or repair the soil pitchings and pavements of any such public or private street or any person acting for them or him may fill in such ground trenches or excavations and remove such rubbish and may repair and make good such ground so broken up and the soil pitchings and pavements of any such public or private street or other damage and may properly fence and guard any such trench or excavation and may place and maintain such light or lights during the night as to them or him shall seem necessary and the reasonable costs and charges thereof shall be paid by the Council to the persons who shall have disbursed or incurred the same and in default of payment thereof for thirty days next after demand made for the payment thereof all such reasonable costs together with any sum not exceeding five pounds by way of penalty may be recovered in a summary manner before Justices as hereinafter provided.

Where Council makes wilful default damage may be repaired by parties interested.

68. The Council may excavate the ground and may make any sewers or drains in along or above the land of any person for the purpose of communicating with any main sewer or drain made by the Council in pursuance of this Part with the consent of the owner and occupier of such land or ground in which such drain or sewer shall be made.

Sewers in private grounds.

69. The Council may open the ground and change the level or otherwise amend or enlarge any sewer lying under any public or private street within the said district for better communicating with the main sewers or drains already made or to be made in pursuance of this Part Provided always that no person shall by means of any such alteration amendment or enlargement be deprived of the use and enjoyment of any private sewer or drain which he shall be entitled to use but the Council shall at their own cost and charge so construct and alter any such private drain or sewer as to render the same as effectual for the purposes for which it was intended as any such drain or sewer may be at the time of such alteration And in case the Council refuse or neglect so to construct and alter any such private drain or sewer the use of which may be effected by the acts of the said Council for the space of twenty-eight days next after notice in writing served upon them they shall forfeit and pay to the party aggrieved any sum not exceeding forty shillings for every day during which such refusal or neglect so continues and such sum may be recovered in a summary way before Justices as hereinafter provided.

Altering sewers.

70. The Council shall cause their sewers to be constructed covered and kept so as not to be a nuisance or injurious to health and to be properly cleared cleansed and emptied And for the purpose of clearing cleansing and emptying the same may subject to the provisions hereinafter contained construct and place either above or under ground such reservoirs sluices engines and other works as may be necessary and may cause all or any of such sewers to communicate with and be emptied into such places as may be fit or cause the sewage and refuse therefrom to be collected for sale or for any purpose whatever but so as not to create a nuisance.

Sewers to be cleansed.

71. When any ground or any of the soil pitchings or pavements of any public or private street is at any time opened or broken up by the Council proper and sufficient fences and protection for the same shall

Fencing works in progress.

Country Towns Water and Sewerage.

shall immediately thereupon be made set up and continued by the Council and at all times during the progress of digging any trenches or excavations and making altering enlarging and repairing any drains and sewers and of filling in such trenches or excavations or otherwise
 5 carrying on and finishing the works hereby authorized to be done in any street every such street shall be kept and continued by the Council as free from all obstructions and annoyances of every kind as practicable.

72. When and as often as any pavement or footway is taken up
 10 or removed by the Council or by any person for the purpose of making altering or repairing any drains or sewers or any cross drains from any premises to communicate with any main sewer or drain to be made altered or enlarged by or vested or to become vested in the Council in or under any public or private street no part of any such pavement or
 15 footway respectively shall remain taken up or removed longer than a period of seven clear days exclusive of Sundays.

73. The Council shall at all times maintain and keep in good
 order and repair all drains and sewers made altered or enlarged by the Council or by this Act or hereafter to be vested in them.

20 74. No person without notice as hereinafter mentioned may make or branch any private sewer or drain into any sewer or drain made or enlarged by or vested in the Council as aforesaid or into any rain or sewer communicating therewith and in default of such notice he Council may cut off stop up or prevent the communication of such
 25 private sewer or drain with the sewers or drains so made or enlarged by the Council or any sewer communicating therewith and may recover the costs and charges occasioned thereby and also the rates for the same from the time when such private sewer or drain shall have been made from the person so offending.

30 75. All such private sewers or drains shall be permitted to be branched into any of the sewers or drains vested in the Council or hereby authorized to be made and enlarged by them by virtue of this Part shall from time to time be repaired and cleansed under the inspection and direction of some officer of the Council at the costs and
 35 charges of the occupiers of the premises to which the said sewers or drains shall respectively belong.

76. When any person desires to have a drain to the said main
 sewers or any sewer communicating therewith laid into his premises if he give the Council six days previous notice in writing of his intention
 40 so to do and if he obtain the consent of the owner of the premises through which the drain shall be conveyed he may (at his own expense but subject to the provisions hereinbefore contained) open the ground between the main sewer or the sewer communicating therewith and his premises and may lay from such premises to communicate with
 45 the said main sewer any drain made of cast-iron brick stone or some other material approved by the Council and in such manner and form and with such grates and of such workmanship as may be approved by the Council and shall pay to the Council the rates fixed for the same.

50 77. In cases of default of payment of any such rate the Council may cause the drain belonging to the person making such default and communicating with the main sewer to be separated from the said main sewer or sewers communicating therewith so as to prevent any communication therewith and the rates due and in arrear from such
 55 persons to the Council may be recovered by the Council in manner provided by the sixty-first section hereof.

78. If the soil filth or cesspools attached or belonging to or
 arising from any tenement within a Sewerage District be upon the complaint of any inhabitant thereof deemed a nuisance by the Council
 the

Pavements replaced.

Repairs of sewers.

Notice of private sewers.

Cleansing private sewers.

Opening sewers to main sewer.
Rates.

Procedure in default of payment of rates.

Nuisances removed by drains.

Country Towns Water and Sewerage.

the Council may cause a drain or sewer to be laid down from any such tenement or the premises adjoining to or near the same to convey such soil or filth to one of the main sewers or drains of the said Council and may recover in a summary way before Justices the costs charges
 5 and expenses of laying down such drain or drains from the owner or occupier of such tenement respectively such costs and charges not exceeding the sum of five pounds in respect of any tenement which shall be under the yearly value of fifteen pounds and not exceeding the sum of ten pounds in respect of any tenement which shall be above
 10 the yearly value of fifteen pounds Provided that every occupier shall be entitled to deduct against or to be repaid by his landlord the whole of such costs and charges as aforesaid as shall be recovered from such occupier unless he be liable to pay the same under or by virtue of his lease or agreement with his landlord.

15 79. Fourteen days at the least before beginning to dig or lay out the foundation of or for any new house or to rebuild any house within the limits of a Sewerage District the person intending so to build or rebuild shall give to some officer duly authorized by the Council in that behalf written notice thereof together with the level
 20 or intended levels of the cellar or lowest floor and the situation and construction of the privies and cesspools to be built constructed or used in connection with such house and it shall not be lawful to begin to build or rebuild any such house or to build or construct any such privy or cesspool until the particulars so required to be stated have
 25 been approved by such officer and he is hereby required to signify his approbation or disapprobation of the same within a space of fourteen days after receiving such notice without fee and in default of such notice or if any such house privy or cesspool be built rebuilt or constructed as aforesaid with such approval the Council may if they think
 30 fit cause such house privy or cesspool to be altered or otherwise dealt with as the case may require and the expenses incurred in so doing shall be repaid by the offender and be recoverable from him in a summary manner before Justices as hereinafter provided.

80. When it is made to appear to the satisfaction of any Justice
 35 that there is reasonable ground for believing that any house or part thereof or the premises occupied therewith within the boundaries of a Sewerage District is in a filthy or unwholesome condition such Justice may grant a warrant under his hand authorizing any officer of the Council inspector of slaughter-houses or inspector of nuisances or in-
 40 spector of police with such assistance as may be necessary and accompanied by two duly qualified medical practitioners to enter in the daytime into such house or premises and to view the same and the state and condition thereof.

81. Any Engineer surveyor or other person acting under the
 45 authority of the Council may at all reasonable times in the daytime upon giving twenty-four hours previous notice of his intention enter into any house building or other premises having a drain or sewer communicating with the sewers already made or to be made by virtue of this Act in order to inspect or examine if there be any communi-
 50 cation with any other drain or sewer into any other building or premises and if such engineer surveyor or other person be at such time refused admittance into any such dwelling-house building or other premises for the purpose of making such inspection and examination as aforesaid or on being admitted be obstructed or prevented
 55 from making such inspection and examination as aforesaid the Council may cut off the drain or sewer supplied by the Council from such house building or other premises.

82. If any person make or branch any private sewer or drain into any sewer or drain made or enlarged by or vested in the Council

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or into any drain or sewer communicating therewith without the notice required by this Part the person so offending shall for each such offence forfeit a sum not exceeding five pounds.

83. If any person permitted to branch any sewer or drain into
5 any sewer or drain vested in the Council neglect to repair or cleanse any such first-mentioned sewer or drain according to the directions of the officer appointed by the Council in that behalf he shall forfeit for each such offence a sum not exceeding five pounds.

Penalty for neglect to repair or cleanse private drains.

84. If any house privy or cesspool be built rebuilt or con-
10 structed in the said district without the notice or without the approval required by this Part the person offending herein shall forfeit a sum not exceeding twenty pounds.

Penalty for building without notice to or approval by Council.

85. If any person shall wilfully or maliciously hinder or inter-
rupt or cause or procure to be hindered or interrupted the Council or
15 any officer or person acting under their authority in doing any works or in the exercise of any power in this Part contained or shall wilfully or maliciously break throw down injure damage or destroy any sewer or drain works matter or thing belonging to the Council made and provided in pursuance of such Part or for the purpose of the execution
20 of the powers therein contained every person so offending shall for every such offence forfeit a sum not exceeding ten pounds.

Penalty for interrupting the Council and injuring works.

86. If any person supplied with a drain in pursuance of this Part or having any drain or sewer which may communicate with the sewers of the Council wilfully permit any other person not having the
25 authority or consent of the Council to use any such drain or any branch into the same every person so offending shall forfeit for every such offence any sum not exceeding five pounds over and above the full amount of the damage sustained by the Council by the acts or means in respect of which such penalty shall be incurred and the Council
30 shall be at liberty to cut off the drain of every such person so offending from the main sewer.

Penalty for giving use of drain without permission.

87. The owner or occupier of any premises within a Municipality shall be entitled to cause his drains to empty into the sewers of that Municipality on condition of his giving such notice as may be required
35 by the Municipal Council of his intention so to do and of complying with the regulations of the Council in respect of the mode in which the communications between such drains and sewers are to be made and subject to the control of any person who may be appointed by the Council to superintend the making of such communications.

Powers of owners and occupiers within district to drain into sewers of Municipality.

88. Where any house within a Borough or Municipal District is
40 without a drain sufficient for effectual drainage the Council thereof shall by written notice require the owner or occupier of such house within a reasonable time therein specified to make a covered drain or drains emptying into any sewer which the Council are entitled to use and which
45 is not more than one hundred feet from the site of such house but if no such means of drainage are within that distance then emptying into such covered cesspool or other place not being under any house as the Council direct and the Council may require any such drain or drains to be of such materials and size and to be laid at such level and with
50 such fall as on the report of their surveyor may appear to them to be necessary If such notice is not complied with the Council may at the expiration of the time specified in the notice do the work required and may recover in a summary manner the expenses incurred by them in so doing from the owner or may by order declare the same to
55 be private improvement expenses Provided that where in the opinion of the local authority greater expense would be incurred in causing the drains of two or more houses to empty into an existing sewer pursuant to this section than in constructing a new sewer and causing such drains to empty therein the Council may construct such new sewer

Power of Council to enforce drainage of undrained houses.

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sewer and require the owners or occupiers of such houses to cause their drains to empty therein and may apportion as they deem just the expenses of the construction of such sewer among the owners of the several houses and recover in a summary manner the sums 5 apportioned from such owners or may by order declare the same to be private improvement expenses.

Disposal of Sewage.

89. For the purpose of receiving storing disinfecting distributing or otherwise disposing of sewage any Council may— Powers for disposing of sewage.
- 10 (1.) Construct any works within their Municipality or (subject to the provisions of this Act as to sewerage works without their Municipality) without their Municipality and
- (2.) Contract for the use of purchase or take on lease any land buildings engines materials or apparatus either within or 15 without their Municipality and
- (3.) Contract to supply for any period not exceeding twenty-five years any person with sewage and as to the execution and costs of works either within or without their Municipality for the purposes of such supply Provided that no nuisance be created 20 in the exercise of any of the powers given by this section.

90. The Council of any Municipality may by agreement with the Council of any adjoining Municipality and with the sanction of the Board of Water Supply and Sewerage cause their sewers to communicate with the sewers of such last-mentioned Council in 25 such manner and on such terms and subject to such conditions as may be agreed on between the local Councils or in case of dispute may be settled by the said Board Provided that so far as practicable storm waters shall be prevented from flowing from the sewers of the first-mentioned Municipality into the sewers of the last-mentioned 30 Municipality and that the sewage of other districts or places shall not be permitted by the first-mentioned Council to pass into their sewers so as to be discharged into the sewers of the last-mentioned Council without the consent of such last-mentioned Council.

91. Any Council may deal with any lands held by them for the 35 purpose of receiving storing disinfecting or distributing sewage in such manner as they deem most profitable either by leasing the same for a period not exceeding twenty-one years for agricultural purposes or by contracting with some person to take the whole or a part of the produce of such land or by farming such land and disposing of the produce 40 thereof subject to this restriction that in dealing with land for any of the above purposes provision shall be made for effectually disposing of all the sewage brought to such land without creating a nuisance.

92. Where any Council agree with any person as to supply of sewage and as to works to be made for the purpose of such supply they 45 may contribute to the expense of carrying into execution by such person all or any of the purposes of such agreement and may become shareholders in any company with which any agreement in relation to the matters aforesaid has been or may hereafter be entered into by such Council, or to or in which the benefits and obligations of such agree- 50 ment may have been or may be transferred or vested.

As to Sewage Districts without Municipality.

93. A Council shall three months at least before commencing the construction or extension of any sewer or other work for sewage purposes without their Municipality give notice of the intended work 55 by advertisement in the *Gazette* and in one or more of the local newspapers circulating within the district where the work is to be made

Such

Notice to be given before commencing sewage works without Municipality.

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Such notice shall describe the nature of the intended work and shall state the intended termini thereof and the names of the roads and streets and other lands (if any) through across under or on which the work is to be made and shall name a place where a plan of the intended work is open for inspection at all reasonable hours and a copy of such notice shall be served on the owners or reputed owners lessees or reputed lessees and occupiers of the said lands.

94. The Board of Water Supply and Sewerage may on application of the Council appoint an inspector to make inquiry on the spot into the propriety of the intended work and into the objections thereto and to report to the Board on the matters with respect to which such inquiry was directed and on receiving the report of such inspector the Board may make an order disallowing or allowing with such modifications (if any) as they may deem necessary the intended work which order shall be complied with by the Council.

Inspector to hold inquiry and report to the Metropolitan Water and Sewerage Board.

PART IV.

The Acquisition and Occupation by Councils of Lands for purposes of Water Supply or Sewerage—Ascertainment of Compensation in respect thereof.

95. After the notification in the *Gazette* as hereinbefore provided of the approval by the Governor of any scheme for the supply of water to or for the Sewerage of any Borough or Municipal District but not before the Council of such Borough or Municipality shall be empowered to acquire or occupy lands for the purposes of such Water Supply or Sewerage in manner hereinafter provided and compensation for every such acquisition or occupation of lands shall be ascertained and carried out as hereinafter provided.

Lands required for Water Supply or Sewerage how acquired.

96. It shall be lawful for the Council by notification to be published in the *Gazette* and in one or more newspapers published or circulated in the Borough or Municipal District wherein is situated the land the subject of such notification to declare that the land described in such notification is required for the purpose therein expressed whether of Water Supply or Sewerage.

How and when lands can be taken.

97. Upon the publication of the notification in the *Gazette* declaring that the lands therein described are so required such lands shall upon compliance with the requirements and provisions hereinafter contained be vested in the Council for the purposes of this Act for an estate of inheritance in fee simple in possession freed and discharged from all trusts obligations estates interests contracts charges rates rights-of-way or other easements whatsoever and to the intent that the legal estate therein together with all powers incident thereto or conferred by this Act shall subject to the provisions thereof be vested in the Council.

Vesting &c. of lands.

98. Where the land required is Crown land at the date of such publication or is vested in any Corporation or person on behalf of Her Majesty or for public purposes by virtue of any statute or is within the limits with reference to centres of population prescribed by the Act next hereinafter cited the effect of such publication shall be to withdraw the said land (to the extent required) from any lease or license or promise thereof and to cancel to the like extent any dedication or reservation of the said land made under the authority of the "Crown Lands Alienation Act of 1861" or any Act or Acts amending the same or to divest the estate of such Corporation or person and to vest the said land to the extent aforesaid in the Council for

Effect of publication upon Crown lands.

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for the purposes mentioned and for the estate limited in the last preceding section. Provided however that nothing in this section contained shall have any effect or operation unless the approval of the Governor shall first have been obtained with respect to the land so required.

5 99. Where the land described in any such notification consists wholly or partly of land alienated by or not the property of the Crown or is not Crown land as defined by this Act the owners thereof shall be entitled to receive such sum of money by way of compensation for the land so described as shall be agreed upon or otherwise ascertained
10 under the provisions hereinafter contained.

100. The estate and interest of every person entitled to lands required under this Act or any portion thereof and whether to the legal or the equitable estate therein shall upon due payment of the amount of compensation tendered by the Council or assessed by the
15 jury as hereinafter provided be deemed to have been as fully and effectually conveyed to the Council as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law. And every person shall upon asserting his claim as hereinafter provided and making out his title in respect
20 of any portion of the said resumed lands be entitled to compensation on account of such resumption in manner hereinafter provided.

101. Every person claiming compensation in respect of any land so required or in respect of any work or other matter done under the authority of this Act shall within ninety days from the publication of such
25 notification or within such extended time as a Judge of the Supreme Court shall upon the application and at the cost of the claimant appoint in that behalf serve a notice in writing upon the Mayor of the Council which notice shall set forth the nature of the estate or interest of the claimant in such land together with an abstract of his title and if he claims in
30 respect of damage the nature of the damage which he has sustained or will sustain by reason of the taking of his land or of such work or matter as aforesaid and such notice may be in the form in the Fourth Schedule hereto but with any modifications required by the nature of the claim.

102. Within sixty days after the receipt of every such notice of
35 claim the Council shall cause a valuation of the land or of the estate or interest of the claimant therein to be made in accordance with the provisions of this Act and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Fifth Schedule hereto.

103. If within ninety days after the service of notice of claim
40 the claimant and the Council shall not agree as to the amount of compensation the claimant shall be at liberty to institute proceedings in the Supreme Court in the form of an action for compensation against the Council. And any such action may be tried before a Judge
45 of the said Court and a special jury of four persons to be summoned by the Sheriff from the Jurors District within which the land resumed or the greater portion thereof is situated in accordance with the law regulating the summoning of Jurors for the trial of civil issues. Provided always that upon proper application either of the Council or of
50 the claimant a special jury of twelve may be so summoned for the trial of such action.

104. The issue to be tried in any such action shall be whether the claimant is entitled to a larger sum by way of compensation than the amount of the valuation so made by the Council and notified to the
55 claimant as aforesaid and if so to what sum. And if upon the trial of the said action the verdict shall be for a greater sum than the amount of the said valuation the costs of the action shall be borne by the Council but if the verdict shall be for a sum equal to or less than such valuation then the costs shall be borne by the claimant.

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105. All moneys payable under this Act by way of compensation to any claimant whether under the verdict of a jury or otherwise shall be paid together with costs (if any) within one month after the determination of such compensation to the person lawfully entitled thereto or to his agent duly authorized in that behalf in writing but the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land. Provided that in the case of land under the surface taken for the purpose of constructing a subterranean tunnel for water supply or sewerage no compensation shall be allowed or awarded unless the surface of the overlying soil be disturbed or the support to such surface be destroyed or injuriously affected by the construction of such tunnel or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

As to payment of compensation.

106. In estimating or assessing the compensation to be paid under this Act regard shall be had by the valuers and by the jury (on any issue) not only to the value of the land taken by the Council but also to the damage (if any) to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner or other injuries suffered by such other lands by reason of the exercise of the powers expressed or incorporated in this Act and they shall assess the same according to what they shall find to have been the value of such lands estate or interest at the time of the resumption thereof or the extent of the damage or injury sustained.

Compensation how to be estimated.

107. Subject to the provisions of this Act it shall be lawful for the Council and for any officer there duly authorized in that behalf and for all persons employed in the carrying out of any authorized works and for any persons authorized by the Council to enter upon the lands of any person whomsoever which the Council may require to purchase or take and to take possession and appropriate the same for the purposes of this Act or of the execution of any such authorized works.

General power of entry.

108. Notwithstanding anything hereinbefore contained it shall be lawful for the Council if they think fit to agree with the owners of any lands the acquisition of which is authorized by this Act and with all parties having any estate or interest in such lands or by this Act enabled to sell and convey the same for the absolute purchase for a consideration in money of any such lands or such parts thereof as shall be thought proper and of all estates and interests in such lands of what kind soever.

Power to purchase lands by agreement.

109. It shall be lawful for all parties being seized possessed of or entitled to any such lands or any estate or interest therein to sell and convey or release the same to the Council and to enter into all necessary agreements for that purpose and particularly it shall be lawful for all or any of the following parties so seized possessed or entitled as aforesaid so to sell convey or release that is to say all corporations tenants in tail or for life married women seized in their own right or entitled to dower guardians committees of lunatics and idiots trustees or feoffees in trust for charitable or other purposes executors and administrators and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower or to any lease for life or for lives and years or for years or any less interest and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties other than married women entitled to dower or lessees for life or for lives and years or for years or for any less interest not only on behalf of themselves and their respective heirs executors administrators and successors but also for and on behalf of every person entitled in reversion remainder or expectancy after them or in defeasance of the estates of such

Parties under disability enabled to sell and convey and exercise other powers.

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such parties and as to such married women whether they be of full age or not as if they were sole and of full age and as to such guardians on behalf of their wards and as to such committees on behalf of the lunatics and idiots of whom they are the committees respectively and that to
 5 the same extent as such wives wards lunatics and idiots respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability and as to such trustees executors or administrators on behalf of their *cestuique* trusts whether infants issue unborn lunatics *feme covert* or other persons and that to
 10 the same extent as such *cestuique* trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability and the power hereinafter given to release lands from any rent-charge or incumbrance and to agree for the apportionment of any such rent-charge or incumbrance shall extend
 15 to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the Council.

110. It shall be lawful for the Council to sell and convey any lands appropriated or resumed under this Act which may not be required or any portion thereof in such manner and for such considerations and to such persons as he may think fit and the proceeds of all such sites shall be paid by the purchasers to the

Authority to sell
superfluous or unnecessary lands.

111. The several sections of the Government Railways Act twenty-second Victoria number nineteen hereinafter specified together with the respective powers authorities duties liabilities obligations and
 25 other the provisions therein contained are hereby declared to be incorporated with and embodied in this Act to the intent that the same may be applied as fully and effectually to the lands taken under the authority of this Act as if the said sections had been specifically enacted herein Provided always that all conveyances releases or other
 30 instruments taken by the Council from persons claiming interests in any lands taken hereunder under the sections hereby incorporated shall be deemed to be by way of acquittance or discharge only And that wheresoever in any section so incorporated the word "Commissioner" occurs there shall for the purposes of this Act be substituted in
 35 lieu of such word the expression "The Council" And whenever the word "Railway" or words implying works connected with a railway occur there shall be substituted such words respectively as denote the nature of the work undertaking or purpose in respect of which the land in question has been appropriated or resumed The following are the
 40 sections so declared to be incorporated with this Act—

Incorporation of
provisions of Government Railways Act.

- (1.) As to the deposit of compensation money in certain cases with the Master in Equity and the application and investment thereof As to payment of such money in certain cases to trustees or to the parties themselves and the exoneration of the Council in respect thereof after payment Sections forty-seven to fifty-two both inclusive.
- 45 (2.) As to the deposit and application of compensation money on refusal of the owner to accept the same or on his failing to make out a satisfactory title and as to presumption of ownership Sections fifty-three to fifty-six both inclusive.
- 50 (3.) As to the procedure by the Council in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof or hinder the Council from entering upon or taking possession of the same Section sixty-one.
- 55 (4.) As to the purchase or redemption of the interests of mortgagees and the deposit of principal and interest due on mortgages with the Master in Equity the procedure to be observed when the mortgaged lands are of less value than the mortgage debt and where part only of lands in mortgage are taken Sections sixty-five to seventy both inclusive.
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- (5.) As to the release of lands from rent charges and other incumbrances and procedure thereon Sections seventy-one to seventy-four both inclusive.
- 5 (6.) As to the apportionment of rent where lands taken are under lease and as to compensation to tenants Sections seventy-five to seventy-eight both inclusive.
- 10 (7.) As to the entry upon or temporary occupation of lands the crossing of roads and other highways the making of bridges and other works of accommodation and the provisions consequent thereon Section ten and sections eighty-four to ninety-seven both inclusive Provided that compensation shall in all respects be ascertained in accordance with this Act.
112. It shall be lawful for the Council and all persons by them authorized to enter upon any lands not being a garden orchard or plantation attached or belonging to a house nor a park planted walk avenue or ground ornamentally planted and not being nearer to the mansion-house of the owner of any such lands than therefrom and to occupy the said lands so long as may be necessary for the construction or repair of any works authorized by this Act of
 15 the accommodation works connected therewith hereinafter mentioned and to use the same for any of the following purposes that is to say—
 For the purpose of taking earth or soil by side cuttings therefrom
 For the purpose of depositing soil thereon
 20 For the purpose of obtaining materials therefrom for the construction or repair of the waterworks or sewerage works or such accommodation works as aforesaid or
 25 For the purpose of forming roads thereon to or from or by the side of the said works
- And in exercise of such powers it shall be lawful for the Council and all
 30 other persons employed therein to deposit and also to manufacture and work upon such lands materials of every kind used in constructing the said works and also to take from any such lands any timber and also to dig and take from or out thereof any clay stone gravel sand or other things that may be found therein useful or proper for constructing
 35 the said works or any such roads as aforesaid and for the purposes aforesaid to erect thereon workshops sheds and other buildings of a temporary nature Provided always that nothing in this Act contained shall exempt the Council from an action for nuisance or other injury (if any) done in the exercise of the powers hereby conferred to the
 40 lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid Provided also that no stone or slate quarry brick-field or other like place which at the time of the passing of this Act shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same shall be taken or used by the Council either wholly
 45 or in part for any of the purposes lastly hereinbefore mentioned.
113. If any such lands shall be used for any of the purposes aforesaid the Council shall if required so to do by the owner or occupier thereof separate the same by a sufficient fence from the lands adjoining
 50 thereto with such gates as may be necessary for the convenient occupation of such lands and in case of any difference between the owners or occupiers of such lands and the Council as to the necessity for such fences and gates then with such fences and gates as the Governor shall deem necessary for the purposes aforesaid.
- 55 114. In any of the cases aforesaid where the Council shall take temporary possession of lands by virtue of the powers herein granted it shall be incumbent on them within one month after their entry upon such lands upon being required to do so to pay to the occupier of the said lands the value of any crop or dressing that may be thereon as well

Power to take temporary possession of land.

Council to separate the lands before using them.

Compensation to be made for temporary occupation.

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well as full compensation for any other damage of a temporary nature which he may sustain by reason of the Council so taking possession of his lands.

115. If in the exercise of the powers hereby granted it be found Before roads interfered with others to be substituted.
 5 necessary to cross cut through raise sink or use any part of any road whether carriage-road horse-road or tram-road or railway either public or private so as to render it impassable for or dangerous or more than usually inconvenient to passengers or carriages or to the persons entitled to the use thereof the Council shall before the commencement of any such
 10 operations cause a sufficient road to be made instead of the road to be interfered with and shall at the public expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with or as nearly so as may be.

116. If the road so interfered with can be restored compatibly Period for restoration of roads interfered with.
 15 with the due completion of any works authorized under this Act the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the Council or as near thereto as may be and if such road cannot be so restored the Council shall cause the new or substituted road or some other sufficient substituted road to
 20 be put into a permanently substantial condition equally convenient as the former road or as near thereto as circumstances will allow and the former road shall be restored or the substituted road put into such condition as aforesaid as the case may be with all reasonable expedition.

117. If the conduit or any sewerage works shall cross any highway Council to make sufficient approaches and fences to bridle-ways and foot-ways crossing on the line.
 25 other than a public carriage-way on the level the Council shall make and at all times maintain convenient ascents and descents and other convenient approaches with hand-rails or other fences and shall if such highway be a bridle-way erect and at all times maintain good and sufficient gates and if the same shall be a foot-way good and sufficient
 30 gates or stiles on each side of such conduit or works where the highway shall communicate therewith.

118. The Council shall make and at all times thereafter maintain Works for benefit of owners.
 the following works for the accommodation of the owners and occupiers of lands adjoining any works authorized under this Act that is to say :—

35 Such and so many convenient gates bridges arches culverts and Gates bridges &c.
 passages over under or by the side of or leading to or from such works as shall be necessary for the purpose of making good any interruptions caused thereby to the use of the lands through which the same shall be made and such works shall
 40 be made forthwith after the part of the conduit passing over such lands shall have been laid out or formed or during the formation thereof

Also sufficient posts rails hedges ditches mounds or other fences Fences &c.
 45 for separating the land taken for the use of such works from the adjoining lands not taken and protecting such lands from trespass or the cattle of the owners or occupiers thereof from straying thereout by reason thereof together with all necessary gates made to open towards such adjoining lands and not towards the said works and all necessary stiles and such posts
 50 rails and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require and the said other works as soon as conveniently may be

Also all necessary arches tunnels culverts drains or other passages Drains.
 55 either over or under or by the sides of such works and of such dimensions as will be sufficient at all times to convey the water from the lands lying near or affected thereby

Provided always that the Council shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works for water supply or sewerage nor to make any accommodation

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accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive and shall have been paid compensation.

119. If any difference arise respecting the kind or number of any such accommodation works or the dimensions or sufficiency thereof respecting the maintaining thereof the same shall be determined by the Governor who shall also appoint the time within which such works shall be commenced and executed.

Differences as to accommodation works to be settled by Governor.

120. If any of the owners or occupiers of lands affected by such conduit shall consider the accommodation works made by the Council or directed by the Governor to be made by the Council insufficient for the commodious use of their respective lands it shall be lawful for any such owner or occupier at any time at his own expense to make such further works for that purpose as he shall think necessary and as shall be agreed to by the Council.

Power to owners of lands to make additional accommodation works.

121. If the Council so desire all such last-mentioned accommodation works shall be constructed under the superintendence of the Council's engineer and according to plans and specifications to be submitted to and approved by the Council. But the Council shall not be entitled to require either that plans shall be adopted which will involve a greater expense than that incurred in the execution of similar works by the Council or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Council.

Such works to be constructed under the superintendence of the Council's engineer.

122. If any person omit to shut and fasten any gate set up for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriages cattle or other animals under his care have passed through the same he shall forfeit for every such offence any sum not exceeding ten pounds.

Penalty on persons omitting to fasten gates.

30

PART V.

Special provisions in respect of certain authorized Works—Miscellaneous Provisions—Legal Procedure.

123. Notwithstanding anything in this Act contained it shall be lawful for the Governor to construct and complete any works whether for Water Supply or Sewerage the construction or completion whereof shall have been or shall hereafter be authorized by the said Governor but only to the extent to which moneys voted or to be voted by Parliament shall be from time to time available therefor. And all such works shall be constructed and completed under the direction of the Minister for Public Works.

Provision for works sanctioned by Governor &c.

124. Upon the completion of any such works the said Minister shall report that fact to the Governor. And the Governor shall notify such completion in the *Gazette* and thereupon the Council of the Borough or Municipal District within and for the purposes of which the said works shall have been constructed shall take over the same and the administration and management thereof upon the terms and conditions hereinafter prescribed and upon any further terms or conditions which the Governor may in any case appoint viz. :—

Report of completion of works and transfer to Council.

(1.) The whole amount [subject to such partial remission as the Governor may think just under any special circumstances] expended upon any such works as certified under the hand of the Minister for Public Works shall be a debt chargeable upon the general revenues from whatever sources derived of such Borough or Municipal District until defrayed as hereinafter provided.

(2.)

Country Towns Water and Sewerage.

- (2.) Such debt shall be liquidated by periodical payments to the Colonial Treasurer to be by him carried to the Consolidated Revenue Fund And the first payment shall be made within one year from the date of the *Gazette* notification of transfer and shall be for an amount equal to five pounds per centum of the debt so certified as aforesaid And before the end of each succeeding Municipal year thereafter a payment shall in like manner be made until the aggregate amount so paid shall equal the amount so certified as aforesaid together with interest added at the rate of four per centum on the balance remaining unpaid in each year So soon as the sums so paid shall equal such amount together with interest added as aforesaid all further payments shall cease and the rates and income arising from such works shall be discharged from any further payments in respect thereof.
- (3.) If default shall be made by the Council of any such Borough or Municipal District in making any payment prescribed by this section for a period of thirty days after the same shall have become payable the Colonial Treasurer shall be entitled forthwith to take such proceedings to enforce payment by procuring the appointment of any number of persons not exceeding three to be Receivers of the rates and other revenues of such Council as may now or hereafter be taken by a mortgagee or other secured creditor or by the holder of the debentures of a Municipal Council under the "Municipalities Act of 1867" or any Act amending the same.
- (4.) The said Treasurer thereof have full power to make all necessary applications to and to procure all necessary orders and directions from the Supreme Court for and touching the appointment of Receivers or a Receiver and the said Court shall have power to make all such orders for the appointment of a Receiver or for his removal and the appointment of another in his place as may be necessary and to make any orders and give any directions which the said Court may think proper And every such Receiver shall be deemed to be an officer and shall act under the direction of the Supreme Court.
- (5.) Receivers shall be entitled to receive all rates and other revenues payable to the Council of the Municipality for or in respect of which they shall have been appointed Receivers and to make and levy rates but so nevertheless that the rates so made and levied shall not exceed those which the Council would have been entitled to levy under the provisions of the law in force for the time being And for such purposes such Receivers shall be deemed the Council of such Municipality and may exercise all the powers thereof.
- (6.) Receivers shall be entitled to such commission payable out of the rates of the Municipality as remuneration for their services as the Supreme Court may appoint.
- (7.) Receivers shall subject to any order of the Supreme Court pay over all moneys received by them to the Colonial Treasurer to be by him carried to the Consolidated Revenue Fund and if there be any balance in hand over and above the amount due and payable to the Colonial Treasurer under the provisions of this Act they shall pay such balance over to the Council of the Municipality.
125. Upon the publication of such notification as aforesaid it shall be lawful for the Council to exercise all the powers (and they shall in that case be subject to all the obligations and other provisions) contained

Certain powers of
Councils or transfer
of works to them.

Country Towns Water and Sewerage.

contained in this Act except such as are limited in operation to the Governor or the Minister and except such as are manifestly inapplicable to the purposes of administering and managing works of Water Supply or Sewerage.

- 5 126. In any case where the Council of any Borough or Municipal District within the meaning of this Act shall have constructed or commenced to construct works for Water Supply or Sewerage within and for the purposes of such Borough or District it shall be lawful for the Governor on the petition of such Council to
10 declare by Proclamation in the *Gazette* that any specified powers and provisions applicable for the purpose contained in this Act [including powers incident to the levying of Water and Sewerage Rates or either as the case may require] shall be applied within such Borough or District by and with respect to the Council and inhabitants
15 thereof respectively And the parts of this Act and the powers and provisions so specified shall upon the publication of such Proclamation apply to and be in force within such Borough or District and with respect to such Council and inhabitants with the same effect for all purposes as if this Act had specifically declared such parts powers and
20 provisions to be so applied as aforesaid.

Application of certain parts of Act to certain Municipal Works.

127. Every officer or servant employed by the Council shall when required by the Council make out and deliver to them or to any person appointed by them for that purpose a true and perfect account in writing under his hand of all moneys received by him on behalf of
25 the Council in consequence of his employment and such account shall state how and to whom and for what purpose such moneys shall have been disposed of and together with such account such officer shall deliver the vouchers and receipts for such payments and every such officer shall pay to the Council or to any person appointed by them to
30 receive the same all moneys which shall appear to be owing from him upon the balance of such accounts.

Officers to account on demand.

128. If any such officer fail to render such account or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power or to pay the balance thereof when thereunto
35 required or if for three days after being thereunto required he fail to deliver up to the Council or to any person appointed by the Council to receive the same all papers and writings property effects matters and things in his possession or power relating to the execution of this Act or belonging to the Council then on complaint thereof being made
40 to a Justice such Justice shall summon such officer to appear before two or more Justices at a time and place to be set forth in such summons to answer such charge and upon the appearance of such officer or in his absence upon proof that such summons was personally served upon him or left at his last known place of abode such Justices
45 may hear and determine the matter in a summary way and may adjust and declare the balance owing by such officer and if it appear either upon confession of such officer or upon evidence or upon inspection of the account that any public moneys which should be paid over to the Council are in the hands of such officer or owing by him such Justices
50 may order such officer to pay the same and if he fail to pay the amount it shall be lawful for such Justices to grant a warrant to levy the same by distress or in default thereof to commit the offender to gaol for a period not exceeding three months unless the said amount be sooner paid.

Summary remedy against parties failing to account.

- 55 129. If any such officer or servant refuse to make out such account in writing or to produce and deliver to the Justices the several vouchers and receipts relating thereto or to deliver up any books papers or writings property effects matters or things in his possession or power belonging to the Council such Justices may lawfully commit such offender

Officers refusing to deliver up documents &c. to be imprisoned.

Country Towns Water and Sewerage.

offender to gaol there to remain until he shall have delivered up all the vouchers and receipts (if any) in his possession or power relating to such accounts and have delivered up all books papers writings property effects matters and things (if any) in his possession or power
5 belonging to the Council or which should be delivered up to them by such officer or servant.

130. If the Mayor or other person acting on behalf of the Council shall make oath that he has good reason to believe upon grounds to be stated in his deposition and does believe that it is the
10 intention of any such officer as aforesaid to abscond or that he has absconded it shall be lawful for the Justice before whom the complaint is made if he shall think fit to issue a warrant in the firrst instance for the bringing such officer or servant before such two Justices as aforesaid but no person executing such warrant shall keep such officer or
15 servant in custody longer than twenty-four hours or such longer period as may be rendered necessary by the distance of the place of apprehension from the residence of the nearest or most convenient Justice without bringing him before some Justice and it shall be lawful for the Justice before whom such officer may be brought either to
20 discharge such officer if he think there is no sufficient ground for his detention or to order such officer to be detained in custody so as to be brought before two Justices at a time and place to be named in such order unless such officer give bail to the satisfaction of such Justice for his appearance before such Justices to answer the complaint of the
25 said President or person Provided nevertheless that no such proceeding against or dealing with any such officer or servant as aforesaid shall deprive the Council of any remedy which they might otherwise have against such officer or any surety of such officer.

Where officer about to abscond a warrant may be issued in the first instance.

Sureties not to be discharged.

131. One half of any penalty recovered under this Act or any
30 by-law thereunder shall be paid to the informer and where any distress is made for any sum of money to be levied under this Act the distress itself shall not be unlawful nor the persons making the same be deemed trespassers on account of any defect or want of form in the information summons conviction warrant of distress or other pro-
35 ceedings relating thereto nor shall the persons distraining be deemed trespassers on account of any irregularity that shall be afterwards done by the persons distraining but the persons aggrieved by such irregularities may recover satisfaction for the special damage in an action on the case.

Molty of penalties to be paid to informers distress not unlawful for want of form.

40 132. The following provisions shall and may be applied in respect of all actions and proceedings taken in respect of claims for damages not within the meaning and operation of Part IV hereof viz. :—

Actions and executions.

45 (I.) No action against the Council shall be maintainable in any Court other than the Supreme Court and no writ of execution shall be issued against the Council until the expiration of fourteen days after final judgment has been signed and no real estate now or hereafter to be vested in the Council shall be liable to be sold under any writ of execution or other
50 process of any Court of Law or Equity.

55 (II.) No plaintiff shall recover in any such action unless notice in writing has been given to the defendant twenty-eight days before such action is commenced of such intended action signed by the attorney of the plaintiff specifying the cause of such action and the plaintiff shall not recover in any such action if tender of sufficient amends shall have been made to him or to his attorney by or on behalf of the defendant before such action brought and in case no such tender be made it shall be lawful for the defendant in any such action

Tender of amends.

Country Towns Water and Sewerage.

by leave of the Court at any time before issued joined to pay into Court such sum of money as he thinks proper whereupon such proceedings order and judgment shall be made and given by such Court as in other actions where the defendant is allowed to pay money into Court.

(III.) No such action or suit shall be brought after three months Limitation of action.

from the act committed and the defendant in every such action or suit may at his election plead specially or the general issue and give this Act and the special matter in evidence at any trial and prove that the same was in pursuance and under the authority of this Act and if the same appear to have been so done or if such action or suit have been brought before the expiration of twenty-eight days next after such notice has been given as aforesaid or after sufficient satisfaction made or tendered as aforesaid or after the time limited for bringing the same or be brought in any other place than as aforesaid the jury shall find a verdict for the defendant and upon such verdict or if the plaintiff be nonsuited or discontinue his action or suit after the defendant have appeared or upon any demurrer judgment be given against the plaintiff or plaintiffs the defendant shall recover full costs of suit and have such remedy for recovering the same as any other defendant has in other cases by law.

133. Where by this Act any question of compensation expenses charges or damages or other matter is required to be referred to the determination of any one or more Justices it shall be lawful for any Justice upon the application of either party to summon the other party to appear before one Justice or before two Justices as the case may require at a time and place to be named in such summons and upon the appearance of such parties or in the absence of any of them upon proof of due service of the summons it shall be lawful for such one Justice or such two Justices as the case may be to hear and determine such question and for that purpose to examine such parties or any of them and their witnesses on oath and the cost of every such inquiry shall be in the discretion of such Justices and they shall determine the amount thereof.

Method of proceeding before Justices in question of damages &c.

134. Every penalty forfeiture charge or sum of money imposed by or made payable under this Act or by any by-law made in pursuance thereof the recovery of which is not otherwise provided for may be recovered by summary proceedings before two Justices under the provisions of the Act or Acts in force for the time being regulating summary proceedings before Justices And where any such penalty forfeiture charge or sum be not paid either immediately after conviction or adjudication or within the time appointed thereby the same may be enforced by distress and sale of the offender's or defaulter's goods and chattels in the manner provided by the said Acts.

Penalties &c. to be summarily recovered before two Justices.

135. If any party shall feel aggrieved by any determination or adjudication of any Justice or Justices with respect to any penalty or forfeiture under the provisions of this Act such party may appeal to the General or Quarter Sessions for the district or place in which the cause of appeal shall have arisen but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication nor unless ten days notice in writing of such appeal stating the nature and grounds thereof be given to the party against whom the appeal shall be brought nor unless the appellant forthwith after such notice enter into recognizances with two sufficient sureties before a Justice conditioned duly to prosecute such appeal and to abide the order of the Court thereon At the General or Quarter Sessions for which such notice shall be given the Court shall proceed to hear and determine the appeal in a summary way or they may if they

Parties allowed to appeal to Quarter Sessions on giving security.

Court to make such order as they think reasonable.

Country Towns Water and Sewerage.

they think fit adjourn it to the following Sessions and upon the hearing of such appeal the Court may if they think fit mitigate any penalty or forfeiture or they may confirm or quash the adjudication and order any money paid by the appellant or levied by distress upon his
 5 goods to be returned to him and also may order such further satisfaction to be made to the party injured as they may judge reasonable and they may make such order concerning the costs both of the adjudication and of the appeal as they may think reasonable.

136. If through any act neglect or default on account whereof
 10 any person shall have incurred any penalty imposed by this Act any damage to any conduit main pipe sewer or other property of the Council used in connection therewith shall have been committed by such person he shall be liable to make good such damage as well as to pay such penalty and the amount of such damages shall in case
 15 of dispute be determined by the Justices by whom the party incurring such penalty shall have been convicted and on non-payment of such damages on demand the same shall be levied by distress and such Justices or one of them shall issue their warrant accordingly.

Damage to be made good in addition to penalty.

137. It shall be lawful for any officer or servant of the Council
 20 and all persons called by him to his assistance to seize and detain any person who shall have committed any offence against the provisions of this Act and whose name and residence shall be unknown to such officer or servant and convey him with all convenient dispatch before some Justice without any warrant or other authority than this Act
 25 and such Justice shall proceed with all convenient dispatch to the hearing and determining of the complaint against such offender.

Transient offenders.

138. Any notice required by this Act or any by-law or regula-
 tion made thereunder to be served on or given to any owner or occupier of any building land or premises or on or to any person may
 30 be in writing or partly in writing and partly printed or may be wholly printed And it shall be sufficient for all purposes of this Act unless the said Act in any case prescribes a different course to be pursued if any such notice is sent by post to the owner by registered letter addressed to his last-known place of abode or of business or is served
 35 on the owner or occupier of such building land or premises or left with some inmate apparently over the age of fourteen years living at the place of abode of such owner or occupier or if there be no occupier if such notice be posted on some conspicuous part of such building or land And any notice required to be served or given in respect of any public
 40 street road or lane may be served on or sent by post as aforesaid to the Council Clerk of the borough or municipal district wherein such street road or lane or the portion thereof affected by the notice is situated.

Notices.

Country Towns Water and Sewerage.

SCHEDULES.

FIRST SCHEDULE.

No. Guaranteed Debenture £

5 Issued by the Council of the [insert name of Borough or Municipal District] under the provisions of the "Country Towns Water and Sewerage Act of 1880."

TRANSFERABLE BY DELIVERY.

THIS Debenture was issued by the abovenamed Council in pursuance of the provisions of the abovementioned Act and is to secure to the bearer a principal sum of payable at the on the day of

10 Interest at the rate of five pounds per centum per annum on such principal sum in the meanwhile is payable by equal half-yearly payments on the day of and the day of and a coupon is annexed for each payment which entitles the bearer of such coupon thereto Such principal sum and interest are payable at and are guaranteed by the Consolidated Revenue in accordance with the 15 provisions of the abovenamed Act.

Dated this day of A.D.

A.B. [Mayor] (L.S.)

K.L. Council Clerk.

SECOND SCHEDULE.

20 Borough (or Municipal District) of

Notice to lay Service Pipes.

NOTICE to the owners of tenements and premises in street and the private streets lanes courts and alleys opening thereunto.

THE main pipe in the said street having been laid down the owners of all tenements and 25 premises situated as above are hereby required on or before the day of next to cause a proper pipe and stop-cocks to be laid so as to supply water from the main pipe to such tenements and premises.

A.B.

Inspector (Surveyor or other Officer) for the said Borough or District.

THIRD SCHEDULE.

Warrant of Distress.

30

New South Wales } To constable at
to wit. }

WHEREAS of in New South Wales
35 has been rated at the sum of per annum for the water rate [or charged or is liable to pay the sum of due to the Council of]
as the occupier [or owner] of a certain house or tenement situate in street in and now occupied by and whereas the sum of being due and payable on account of the said rate charge or sum
40 [as the case may be] on the day of in the year of our Lord one thousand eight hundred and and was duly demanded by the collector of rates for on the day of in the year of the said who has not yet paid the same These are therefore to require and authorize you forthwith to levy the said sum of
45 together with the costs of these presents by distress and sale of the goods found by you in the said building or tenement according to law and that you certify to me on the day of what you shall do by virtue of this warrant.

Given under my hand and seal this day of in the year of our Lord one thousand eight hundred and

50

(L.S.)

Mayor of the Council of

FOURTH

Country Towns Water and Sewerage.

FOURTH SCHEDULE.

Notice of claim and abstract.

To the Mayor of the

Council of

In pursuance of the "Country Towns Water and Sewerage Act of 1880" I (or we) hereby give you notice that I (or we) claim compensation in respect of the land hereunder described which has been resumed under the said Act The amount of such claim and other the particulars required by the said Act are stated in the subjoined abstract.

Abstract.

10	Names and descriptions of parties claiming and nature of their interests whether tenants for life in tail or otherwise.	Situation and description of property.	Quit rents payable if leasehold name of landlord term of lease and rent reserved.	Names of occupiers distinguishing whether tenants-at-will or under lease rent reserved terms &c.	Particulars of claim specifying separately the amount claimed for value of property and for compensation.	Dates and other short particulars of documents of title.	Names of persons having the custody of documents and place or places where the same may be inspected and name of claimants' solicitor or agent.
15							

(Signature)
(Address)
(Date)

FIFTH SCHEDULE.

Notice of Valuation.

To A.B. claimant in respect of the land hereunder described resumed under the "Country Towns Water and Sewerage Act of 1880."

TAKE notice that the land hereunder described being that in respect of the resumption whereof under the authority of the aforesaid Act your claim or compensation has been lodged has been valued at the sum of £

A.B.
Mayor &c.

Description of land in respect of which claim has been made.

ALL that piece or parcel of land &c. &c. &c

THE HISTORY OF THE

CITY OF NEW-YORK

FROM THE FIRST SETTLEMENT TO THE PRESENT TIME

IN TWO VOLUMES. THE FIRST VOLUME CONTAINS THE HISTORY FROM THE FIRST SETTLEMENT TO THE YEAR 1709. THE SECOND VOLUME CONTAINS THE HISTORY FROM THE YEAR 1709 TO THE PRESENT TIME.

NAME	DATE	PLACE	REMARKS
JOHN B. JONES	1709	NEW-YORK	First settled in New-York
JAMES H. JONES	1710	NEW-YORK	Second settled in New-York
WILLIAM K. JONES	1711	NEW-YORK	Third settled in New-York
THOMAS L. JONES	1712	NEW-YORK	Fourth settled in New-York
JOHN M. JONES	1713	NEW-YORK	Fifth settled in New-York
JAMES N. JONES	1714	NEW-YORK	Sixth settled in New-York
WILLIAM O. JONES	1715	NEW-YORK	Seventh settled in New-York
THOMAS P. JONES	1716	NEW-YORK	Eighth settled in New-York
JOHN Q. JONES	1717	NEW-YORK	Ninth settled in New-York
JAMES R. JONES	1718	NEW-YORK	Tenth settled in New-York
WILLIAM S. JONES	1719	NEW-YORK	Eleventh settled in New-York
THOMAS T. JONES	1720	NEW-YORK	Twelfth settled in New-York
JOHN U. JONES	1721	NEW-YORK	Thirteenth settled in New-York
JAMES V. JONES	1722	NEW-YORK	Fourteenth settled in New-York
WILLIAM W. JONES	1723	NEW-YORK	Fifteenth settled in New-York
THOMAS X. JONES	1724	NEW-YORK	Sixteenth settled in New-York
JOHN Y. JONES	1725	NEW-YORK	Seventeenth settled in New-York
JAMES Z. JONES	1726	NEW-YORK	Eighteenth settled in New-York
WILLIAM AA. JONES	1727	NEW-YORK	Nineteenth settled in New-York
THOMAS BB. JONES	1728	NEW-YORK	Twentieth settled in New-York
JOHN CC. JONES	1729	NEW-YORK	Twenty-first settled in New-York
JAMES DD. JONES	1730	NEW-YORK	Twenty-second settled in New-York
WILLIAM EE. JONES	1731	NEW-YORK	Twenty-third settled in New-York
THOMAS FF. JONES	1732	NEW-YORK	Twenty-fourth settled in New-York
JOHN GG. JONES	1733	NEW-YORK	Twenty-fifth settled in New-York
JAMES HH. JONES	1734	NEW-YORK	Twenty-sixth settled in New-York
WILLIAM II. JONES	1735	NEW-YORK	Twenty-seventh settled in New-York
THOMAS JJ. JONES	1736	NEW-YORK	Twenty-eighth settled in New-York
JOHN KK. JONES	1737	NEW-YORK	Twenty-ninth settled in New-York
JAMES LL. JONES	1738	NEW-YORK	Thirtieth settled in New-York
WILLIAM MM. JONES	1739	NEW-YORK	Thirty-first settled in New-York
THOMAS NN. JONES	1740	NEW-YORK	Thirty-second settled in New-York
JOHN OO. JONES	1741	NEW-YORK	Thirty-third settled in New-York
JAMES PP. JONES	1742	NEW-YORK	Thirty-fourth settled in New-York
WILLIAM QQ. JONES	1743	NEW-YORK	Thirty-fifth settled in New-York
THOMAS RR. JONES	1744	NEW-YORK	Thirty-sixth settled in New-York
JOHN SS. JONES	1745	NEW-YORK	Thirty-seventh settled in New-York
JAMES TT. JONES	1746	NEW-YORK	Thirty-eighth settled in New-York
WILLIAM UU. JONES	1747	NEW-YORK	Thirty-ninth settled in New-York
THOMAS VV. JONES	1748	NEW-YORK	Fortieth settled in New-York
JOHN WW. JONES	1749	NEW-YORK	Forty-first settled in New-York
JAMES XX. JONES	1750	NEW-YORK	Forty-second settled in New-York
WILLIAM YY. JONES	1751	NEW-YORK	Forty-third settled in New-York
THOMAS ZZ. JONES	1752	NEW-YORK	Forty-fourth settled in New-York
JOHN AAA. JONES	1753	NEW-YORK	Forty-fifth settled in New-York
JAMES BBB. JONES	1754	NEW-YORK	Forty-sixth settled in New-York
WILLIAM CCC. JONES	1755	NEW-YORK	Forty-seventh settled in New-York
THOMAS DDD. JONES	1756	NEW-YORK	Forty-eighth settled in New-York
JOHN EEE. JONES	1757	NEW-YORK	Forty-ninth settled in New-York
JAMES FFF. JONES	1758	NEW-YORK	Fiftieth settled in New-York
WILLIAM GGG. JONES	1759	NEW-YORK	Fifty-first settled in New-York
THOMAS HHH. JONES	1760	NEW-YORK	Fifty-second settled in New-York
JOHN III. JONES	1761	NEW-YORK	Fifty-third settled in New-York
JAMES JJJ. JONES	1762	NEW-YORK	Fifty-fourth settled in New-York
WILLIAM KKK. JONES	1763	NEW-YORK	Fifty-fifth settled in New-York
THOMAS LLL. JONES	1764	NEW-YORK	Fifty-sixth settled in New-York
JOHN MMM. JONES	1765	NEW-YORK	Fifty-seventh settled in New-York
JAMES NNN. JONES	1766	NEW-YORK	Fifty-eighth settled in New-York
WILLIAM OOO. JONES	1767	NEW-YORK	Fifty-ninth settled in New-York
THOMAS PPP. JONES	1768	NEW-YORK	Sixtieth settled in New-York
JOHN QQQ. JONES	1769	NEW-YORK	Sixty-first settled in New-York
JAMES RRR. JONES	1770	NEW-YORK	Sixty-second settled in New-York
WILLIAM SSS. JONES	1771	NEW-YORK	Sixty-third settled in New-York
THOMAS TTT. JONES	1772	NEW-YORK	Sixty-fourth settled in New-York
JOHN UUU. JONES	1773	NEW-YORK	Sixty-fifth settled in New-York
JAMES VVV. JONES	1774	NEW-YORK	Sixty-sixth settled in New-York
WILLIAM WWW. JONES	1775	NEW-YORK	Sixty-seventh settled in New-York
THOMAS XXX. JONES	1776	NEW-YORK	Sixty-eighth settled in New-York
JOHN YYY. JONES	1777	NEW-YORK	Sixty-ninth settled in New-York
JAMES ZZZ. JONES	1778	NEW-YORK	Seventieth settled in New-York
WILLIAM AAA. JONES	1779	NEW-YORK	Seventy-first settled in New-York
THOMAS BBB. JONES	1780	NEW-YORK	Seventy-second settled in New-York
JOHN CCC. JONES	1781	NEW-YORK	Seventy-third settled in New-York
JAMES DDD. JONES	1782	NEW-YORK	Seventy-fourth settled in New-York
WILLIAM EEE. JONES	1783	NEW-YORK	Seventy-fifth settled in New-York
THOMAS FFF. JONES	1784	NEW-YORK	Seventy-sixth settled in New-York
JOHN GGG. JONES	1785	NEW-YORK	Seventy-seventh settled in New-York
JAMES HHH. JONES	1786	NEW-YORK	Seventy-eighth settled in New-York
WILLIAM III. JONES	1787	NEW-YORK	Seventy-ninth settled in New-York
THOMAS JJJ. JONES	1788	NEW-YORK	Eightieth settled in New-York
JOHN KKK. JONES	1789	NEW-YORK	Eighty-first settled in New-York
JAMES LLL. JONES	1790	NEW-YORK	Eighty-second settled in New-York
WILLIAM MMM. JONES	1791	NEW-YORK	Eighty-third settled in New-York
THOMAS NNN. JONES	1792	NEW-YORK	Eighty-fourth settled in New-York
JOHN OOO. JONES	1793	NEW-YORK	Eighty-fifth settled in New-York
JAMES PPP. JONES	1794	NEW-YORK	Eighty-sixth settled in New-York
WILLIAM QQQ. JONES	1795	NEW-YORK	Eighty-seventh settled in New-York
THOMAS RRR. JONES	1796	NEW-YORK	Eighty-eighth settled in New-York
JOHN SSS. JONES	1797	NEW-YORK	Eighty-ninth settled in New-York
JAMES TTT. JONES	1798	NEW-YORK	Ninetieth settled in New-York
WILLIAM UUU. JONES	1799	NEW-YORK	Hundredth settled in New-York

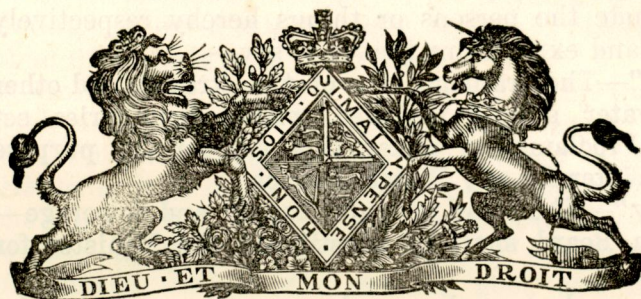
(Continued)
(See Vol. II)
(See Vol. III)

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly Chamber,
Sydney, 10 June, 1880. }

STEPHEN W. JONES,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUADRAGESIMO QUARTO

VICTORIÆ REGINÆ.

No. .

An Act to establish a system of Water Supply and Sewerage for certain Towns.

(As amended in Committee of the Whole.)

WHEREAS it is expedient to establish a general system by means ^{Preamble.}
of which the Councils of Boroughs and Municipal Districts
may be empowered to provide an adequate Supply of Water and to
construct and maintain Sewerage Works for such Boroughs and
5 Districts where the same are not included within the operation of
the "Metropolitan Water and Sewerage Act of 1880" Be it therefore
enacted by the Queen's Most Excellent Majesty by and with the advice
and consent of the Legislative Council and Legislative Assembly of
New South Wales in Parliament assembled and by the authority of
10 the same as follows that is to say :—

PART I.

*Preliminary—General Powers and Duties of Councils as to Water
Supply and Sewerage—Borrowing Powers for construction and
maintenance of Works—Appointment of Officers—By-laws &c.*

15 1. This Act may be cited as the "Country Towns Water and ^{Short title and}
Sewerage Act of 1880" Its provisions are arranged under Five Parts ^{arrangement of Act.}
embracing the following subjects viz. :—

20 PART I.—*Preliminary—General Powers and Duties of Councils
as to Water Supply and Sewerage—Borrowing Powers for
construction and maintenance of Works—Appointment of
Officers—By-laws &c.*

PART II.—*Special Provisions as to Water Supply.*

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PART III.

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

*Country Towns Water and Sewerage.*PART III.—*Special Provisions as to Sewerage.*PART IV.—*The acquisition and occupation by Councils of Lands for purposes of Water Supply or Sewerage—Ascertainment of Compensation in respect thereof.*5 PART V.—*Special provisions in respect of certain authorised Works—Miscellaneous Provisions—Legal Procedure.*

And in the construction of this Act the following words and expressions in inverted commas shall unless there be something in the subject or context repugnant thereto or inconsistent therewith bear the meanings and include the persons or things hereby respectively set against such words and expressions that is to say—

15 “Catchment Area”—The drainage area of the streams and other sources of water supply included within boundaries set forth in any Proclamation under this Act for the purpose of providing Water for any Water District.

“Central Authority”—The Board of Water Supply and Sewerage— or until such Board shall be constituted the Minister for Public Works.

20 “Conduit”—The canals tunnels aqueducts cuttings or pipes by means of which the main stream of water is supplied to any Borough or Municipal District.

“Council”—The Council of any Borough or Municipal District not situate wholly or in part in the County of Cumberland.

25 “Governor”—The Governor with the advice of the Executive Council.

“Justice”—Any Justice of the Peace.

“Owner”—Any person who is in the receipt of the rents and profits of any house manufactory or buildings of whatsoever kind or of any land.

30 “Sewer”—Any sewer or drain of what kind soever whereby any liquid refuse or any water shall be carried off.

“Sewerage District”—The area within which the construction and maintenance of sewerage or drainage works for sewerage or drainage are authorized.

35 “Street”—Any square court alley highway lane road thoroughfare or public passage.

“Water District”—The area within which water is authorized to be supplied to the inhabitants of any Borough or Municipal District.

40 “Watershed”—The watershed or drainage area included within the boundaries set forth in any Proclamation under this Act.

2. So much of the one hundred and sixty-fifth and one hundred and sixty-sixth sections of the “Municipalities Act of 1867” as limits the rates leviable in respect of works for water supply or sewerage to the respective amounts therein prescribed so much of the one hundred and sixty-eighth section of the said Act as declares that special and general rates for any Municipality shall not exceed the amount therein specified And so much of the said Act as is repugnant to the provisions of this Act in respect of the construction or maintenance of works for water supply or sewerage the borrowing of money therefor and the making of rates in respect thereof are hereby repealed but only so far as the said enactments might be construed to control and limit the provisions of this Act.

3. The Council of any Borough or Municipal District may for the purposes and subject to the provisions of this Act acquire purchase or take on lease sell or exchange any land whether situated within or without such Borough or District They may also purchase any water privileges or easements which interfere with the proper drainage of or with the supply of water to such Borough or District And any lands acquired by such Council in pursuance of the power contained in this Act but not required for the purpose for which they were acquired may with the approval of the Governor be sold by such Council

Interpretation of terms.

Qualified repeal of parts of the Municipalities Act 1867.

Power to acquire land and sell land not required.

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Council and the proceeds of such sale shall be applied ~~towards discharge~~ ^{Conditions prior to} ~~in discharging~~ by means of a sinking fund or otherwise of any moneys ^{acquisition of lands.} borrowed by such Council or if no such moneys are outstanding the same shall form part of the general revenue of the Municipality.

5 4. Before the Council shall put into force any of the provisions contained in this Part with respect to the acquisition of land otherwise than by agreement the following conditions and provisions shall be observed :—

10 (1.) The Council shall publish once at the least in each of three consecutive weeks in some local newspaper circulating in the Municipality a notice describing shortly the nature of the undertaking in respect of which it is proposed to take the land naming a place where a plan of the proposed undertaking may be seen at all reasonable hours and stating the quantity of lands required.

15 (2.) The Council shall serve a notice on every owner or reputed owner lessee or reputed lessee and occupier of such lands defining in each case the particular lands intended to be taken and requiring an answer stating whether the person so served assents dissents or is ~~neuter~~ neutral in respect of taking such lands.

20 (3.) On compliance with the provisions of this section with respect to notices the Council may if they think fit present a petition under their common seal to the Governor and such petition shall state the lands intended to be taken and the purposes for which they are required and the names of the owners lessees and occupiers of lands who have assented dissented or are ~~neuter~~ neutral in respect of to the taking such lands or who have returned no answer to the notice And it shall pray that the Council may with reference to such lands be allowed to put in force the powers contained in Part IV of this Act with respect to the acquisition of lands otherwise than by agreement and such prayer shall be supported by such evidence as the Governor may require.

25 (4.) On the receipt of such petition and on due proof of the proper notices having been published and served the Governor shall take such petition into consideration and may either dismiss the same or direct a local inquiry as to the propriety of assenting to the prayer of such petition but until such inquiry has been made no provisional order shall be made affecting any lands without the consent of the owners lessees and occupiers thereof.

30 (5.) After the completion of such inquiry the Governor may by provisional order empower the Council to put in force with reference to the lands referred to in such order the powers of the said Part with respect to the acquisition of lands otherwise than by agreement or any of them and either absolutely or with such conditions and modifications as the Governor may think fit and it shall be the duty of the Council to serve a copy of any order so made in the manner and on the person in which and on whom notices in respect of such lands are required to be served.

35 5. It shall be lawful for any Council for the purpose of defraying any costs charges and expenses incurred or to be incurred by them in ^{Power to Council to} ~~the execution of the powers contained in this Act (if they require to~~ borrow money. do so) to borrow any sum of money necessary for defraying such costs charges and expenses but the exercise of the said power shall be subject to the conditions and regulations following viz. :—

40 (1.) No moneys shall be borrowed unless for the purpose of constructing permanent works for water supply or sewerage the cost of which ought in the opinion of the Governor to be spread over a term of years.

(2.)

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- (2.) The sum to be borrowed shall not at any time exceed a sum equal to **five** times the gross amount collected for rates by the Council during the Municipal year immediately preceding that in which the power to borrow is sought to be exercised.
- 5 (3.) In every case the Council shall submit a statement under its corporate seal shewing the whole of the then existing charges (if any) upon the revenues of the Council created by the exercise of its borrowing powers under the "Municipalities Act of 1867" and shall also submit under the seal aforesaid a
- 10 plan of the proposed water or sewerage works for the construction of which they propose to borrow money under this Act for the consideration of the Governor accompanied by proper sections estimates and other explanations shewing the character and probable cost of the proposed works And the
- 15 Governor may at the cost of the Council cause the same to be reported upon by an officer of the ~~Board of Water Supply and Sewerage~~ **Central Authority** or may require a local inquiry to be held and the result thereof to be reported to him.
- 20 (4.) If the Governor shall finally approve of the plans or of any amended plans for the proposed works such approval shall be notified in the *Gazette* and after such notification but not before it shall be lawful for the Council to exercise the borrowing powers conferred by this Act.
- 25 (5.) All moneys borrowed by the Council shall be raised by the sale of debentures to be issued in such series and at such times and with such official stamp and otherwise in such manner as the Governor shall prescribe by regulations under this Act and all such debentures shall have a currency for such time not exceeding thirty years as the Governor may sanction in each case and shall bear interest at the rate of five pounds per centum per annum and shall be in the form in the First Schedule hereto.
- 30 (6.) Every such debenture shall be numbered in regular ascending arithmetical progression whereof the common difference shall be one and shall have annexed for every payment of interest to grow due thereon a coupon bearing the same number in the debenture.
- 35 (7.) Every such debenture shall name the principal sum secured thereby which shall not be less than five pounds the rate at which interest is payable thereon and the time and place where such principal and interest are payable And every such debenture shall be under the common seal of the Council and be signed by the Mayor and Council Clerk and shall bear date on the day on which it is sealed.
- 40 (8.) Every such debenture and any coupon whether annexed thereto or not may be transferred by simple delivery.
- 45 (9.) No debenture issued under the authority of this Act which shall be sold by the Council at or for a less price than the amount for which such debenture purports to be a security shall be deemed to entitle the holder thereof for the time being to payment of the amount of such debenture or of any sum by way of interest thereon from the Colonial Treasurer upon default made in any such payment by the said Council as hereinafter provided.
- 50 6. The holder of any debenture issued under the provisions of this Act shall be entitled to receive payment from the Council by which it was issued of the principal sum named therein upon presentation of such debenture on or after the due date thereof at the place where the same is expressed to be made payable And the holder of any coupon
- 55 originally
- Payment of debentures and of interest.

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originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment in like manner of the interest mentioned in such coupon upon presentation of the same at the place where and on or after the date when interest is payable. If default be
 5 made in payment of such principal sum or interest a certificate of the fact of such default having been made under the hand of the Council Clerk shall be given to the holder of such debenture or coupon upon his demanding the same and upon presentation of such certificate of default to the Colonial Treasurer he shall within fourteen days thereafter pay to
 10 such holder the amount of such principal or interest out of the Consolidated Revenue Fund upon a warrant under the hand of the Governor which warrant shall be the said Treasurer's discharge for any such payment and every such payment shall as between the said Council and the holder of such debenture or coupon be a complete discharge of the
 15 Council to the extent of such payment but as between the Council and the Consolidated Revenue Fund shall be a debt as against the Council to be liquidated as hereinafter provided.

7. When default shall have been made by the Council in making any payment whether of principal or interest to the holder of any
 20 such debenture or coupon and if such payment has been made out of the Consolidated Revenue Fund it shall be lawful for the Colonial Treasurer forthwith to take such proceedings to enforce payment by procuring the appointment of any number of persons not exceeding three to be Receivers of the rates and other revenues of such Council
 25 as may now or hereafter be taken by a mortgagee or other secured creditor or by the holder of the debentures of a Municipal Council under the "Municipalities Act of 1867" or any Act amending the same—

Provisions for recouping Consolidated Revenue Fund on default by Council.

- 30 (1.) The said Treasurer shall have full power to make all necessary applications to and to procure all necessary orders and directions from the Supreme Court for and touching the appointment of Receivers or a Receiver and the said Court shall have power to make all such orders for the appointment of a Receiver or for his removal and the appointment of
 35 another in his place as may be necessary and to make any orders and give any directions which the said Court may think proper. And every such Receiver shall be deemed to be an officer and shall act under the direction of the Supreme Court.
- 40 (2.) Such Receivers shall have power to make levy and collect all rates whether for water supply or sewerage authorized by this Act to be made levied or collected by the Council and be entitled to receive all rates and revenues whatsoever payable to the Council of the Municipality for or in respect of which they shall have been appointed Receivers but the
 45 rates so to be made and levied shall not exceed the maximum limits permitted under the provisions of the law in force for the time being. And for such purposes such Receivers shall be deemed the Council of such Municipality and may exercise all the powers thereof.
- 50 (3.) Receivers shall be entitled to such commission payable out of the rates of the Municipality as remuneration for their services as the Supreme Court may appoint.
- 55 (4.) Receivers shall subject to any order of the Supreme Court pay over all moneys received by them to the Colonial Treasurer to be by him carried to the Consolidated Revenue Fund and if there be any balance in hand over and above the amount due and payable to the Colonial Treasurer under the provisions of this Act they shall pay such balance over to the Council of the Municipality.

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8. A Council proposing to borrow under this Act shall if required by the Governor set apart in such manner and under such conditions as he may prescribe in that behalf as a sinking fund and accumulate in the way of compound interest by investing the same
 5 in the purchase of Government securities such sum as will with accumulations in the way of compound interest be sufficient after payment of all expenses to pay off the moneys so borrowed within the period sanctioned. And the Council may at any time apply the whole or any part of a sinking fund set apart under this Act in or
 10 towards the discharge of the moneys for the repayment of which the fund has been established. Provided that they shall pay into the fund in each year and accumulate until the whole of the moneys borrowed are discharged a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied.
- 15 9. After the approval by the Governor of any scheme of Water Supply or Sewerage shall be notified in the *Gazette* it shall be lawful for the Governor by Proclamation to define the boundaries of the **any Catchment Area and of any Water or Sewerage District** required for the purpose of supplying with water any boundaries of the Borough
 20 or Municipal District or for the sewerage thereof respectively.
10. It shall be lawful for a Council to appoint such engineers or inspectors accountants collectors clerks rangers and such other officers and servants as ~~they may require~~ may be required for the purposes of this Act and for the due administration thereof. And such persons
 25 so to be appointed shall where required by the Council give such security for the performance of their several duties as the Council shall prescribe.
11. The same person may be both Surveyor and Inspector of Nuisances but neither the person holding the office of Treasurer nor
 30 his partner nor any person in the service or employ of them or either of them shall be eligible to hold or shall in any manner assist or officiate in the office of Council Clerk and neither the person holding the office of such clerk nor his partner nor any person in the service or employ of them or either of them shall be eligible to hold or shall
 35 in any manner assist or officiate in the office of Treasurer. Any person offending against this enactment shall forfeit and pay the sum of one hundred pounds which may be recovered by any person with full costs of suit in any competent Court.
12. Before any officer or servant of a Council enters on any
 40 office or employment under this Act by reason whereof he will or may be intrusted with the custody or control of money the Council by whom he is appointed shall take from him sufficient security for the faithful execution of such office or employment and for duly accounting for all moneys which may be intrusted to him by reason thereof.
- 45 13. Subject to the provisions of this Act a Council may from time to time make alter and repeal by-laws:—
- (1.) For regulating the form of contract to be entered into with the Council and generally for carrying into effect the purposes of this Act
- As to Water Supply.*
- 50 (2.) For the appointment of a scale of charges for water supplied by measure and the minimum quantity of water to be charged for where water is so supplied
- 55 (3.) For determining making and levying the rate to be paid in respect of lands and tenements to be supplied with water for domestic purposes otherwise than by measure or in respect of lands and tenements distant not more than fifty yards from any main constructed by or vested in the Council. Provided that

Provision as to Sinking Fund.

Watershed and Water and Sewerage District boundaries to be proclaimed by Governor.

Appointment of officers &c. by Council.

Offices tenable by same persons.

Officers intrusted with money to give security.

Council may make by-laws.

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- that the valuation of any lands or tenements for the purposes of such water supply shall not exceed in any year the valuation (if any) of such lands or tenements during the same or the previous year by the Borough or Municipal District respectively in which such lands or tenements are situated And no such rate shall exceed the amount of ten pounds per cent. per annum on the assessed value Provided that no charge for the supply of water to any house tenement or lands shall in any case be less than the sum of ten shillings per annum
- 5
- 10 (4.) For imposing an extra rate for water supply in places distant more than fifty yards from the conduit
- (5.) For determining the time at which any charge for water shall be payable and whether in advance or otherwise
- 15 (6.) For regulating the form material dimensions construction and arrangement of pipes and other works supplying water from the pipes of the Council to adjacent premises—the time of executing and the notices to be given for such works—the superintendence thereof—the making good and replacing ground which may be displaced in the course of such works—and for inspecting all services at reasonable times whether situate within any buildings or otherwise
- 20 (7.) For regulating the construction disposition custody and inspection of meters
- (8.) For preventing the waste or misuse of water supplied by the Council
- 25 (9.) For compelling persons using water supplied by the Council to keep their pipes and other appliances in proper repair—for preventing any alteration of or interference with such pipes without notice to the Council—for repairing such pipes and appliances so as to prevent waste of water and for recovering the cost of such repairs
- 30 (10.) For preventing the use directly or indirectly of water supplied by the Council by persons unauthorized by the Council
- 35 (11.) For preventing persons from wilfully or negligently breaking injuring or from interfering with any pipe lock cock valve engine or work belonging to the Council and from doing any other wilful act whereby the water supplied by the Council may be wasted

As to Sewerage.

- 40 (12.) For regulating the drainage of roads and streets into sewers
- (13.) For regulating the dimensions material form construction and arrangement of and the maintenance cleansing and repairing of the pipes drains and other means of communicating with sewers and of the traps and apparatus connected therewith
- 45 (14.) For the carrying out of such works of cleansing and removing and disposing of refuse as the Council is authorized by this Act to perform or require
- (15.) For regulating the assessment form and collection of rates charges and contributions the periods for the repayment of the costs of works by the persons or rates chargeable with such repayment Provided that no Sewerage rate shall exceed ten pounds per centum on the assessed value of the premises drained
- 50

And every such by-law shall after approval by the Governor within fourteen days after such approval has been signified to the Council be laid before Parliament if in session and if not then within fourteen days after the commencement of the next Session And no such by-law shall have any force or effect until it has been published in the *Gazette* And every such by-law shall when so published be binding upon and be observed by all persons and shall be sufficient to justify all persons acting under the same.

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14. Every such by-law may state a maximum penalty for the breach thereof not in any case exceeding twenty pounds and shall also state in cases of continuing offences a further penalty not exceeding five pounds for each day after notice of the offence shall be given by the Council. And the production of the *Gazette* containing any such by-law shall in any action at law or suit in equity or any other proceeding and in all Courts be sufficient evidence that such by-law as it is printed in such *Gazette* has been duly made and published as hereinbefore provided.

Penalties in by-laws.

Evidence of by-law.

15. With respect to contracts made by a Council under this Act the following regulations shall be observed viz. :—

Provisions as to contracts by Council.

- (1.) Every contract made by a Council whereof the value or amount exceeds fifty pounds shall be in writing and sealed with the common seal of such Council.
- (2.) Every such contract shall specify the work materials matters or things to be furnished had or done the price to be paid and the time or times within which the contract is to be performed and shall specify some pecuniary penalty to be paid in case the terms of the contract are not duly performed.
- (3.) Before contracting for the execution of any works under the provisions of this Act a Council shall obtain from their surveyor or other competent officer an estimate in writing as well of the probable expense of executing the work in a substantial manner as of the annual expense of repairing the same also a report as to the most advantageous mode of contracting that is to say whether by contracting only for the execution of the work or for executing and also maintaining the same in repair during a term of years or otherwise.
- (4.) Before any contract of the value or amount of one hundred pounds or upwards is entered into by a Council ten days' public notice at the least shall be given expressing the nature and purpose thereof and inviting tenders for the execution of the same and such Council shall require and take sufficient security for the due performance of the same.
- (5.) Every contract entered into by a Council in conformity with the provisions of this section and duly executed by the other parties thereto shall be binding on the Council by whom the same is executed and their successors and on all other parties thereto and their executors administrators successors or assigns to all intents and purposes. Provided that a Council may compound with any contractor or other person in respect of any penalty incurred by reason of the non-performance of any contract entered into as aforesaid whether such penalty is mentioned in any such contract or in any bond or otherwise for such sums of money or other recompense as to such Council shall seem proper.
- (6.) Officers or servants appointed or employed under this Act by the Council shall not in anywise be concerned or interested in any bargain or contract made with such Council for any of the purposes of this Act. If any such officer or servant is so concerned or interested or under colour of his office or employment exacts or accepts any fee or reward whatsoever other than his proper salary wages and allowances he shall be incapable of afterwards holding or continuing in any office or employment under this Act and shall forfeit and pay the sum of fifty pounds which may be recovered by any person with full costs of suit in any competent Court.

Country Towns Water and Sewerage.

PART II.

Special provisions as to Water Supply.

16. Subject to the provisions of this Act the Council of any Borough or Municipal District may exercise any of the powers in this Part contained for the construction of waterworks for the supply of water to such Borough or District and for the purpose of carrying out the provisions of this Act such Council may

Authority of Council
to construct water-
works.

- (1.) Enter upon any lands and take levels of the same and set out such parts thereof as they shall think necessary and dig break and trench the soil of such lands and remove or use all earth stone mines minerals trees or other things dug or obtained out of or from the same
- (2.) Enter upon take and hold such land as they may from time to time deem necessary for the construction maintenance repair or improvement of any of the works authorized or transferred by this Act or for obtaining or enlarging the supply of water or for improving the quality thereof for the purposes of this Act
- (3.) Sink from time to time such wells or shafts and make maintain alter or discontinue such reservoirs waterworks cisterns tanks aqueducts drains cuts sluices pipes culverts engines and other works and erect such buildings upon the lands streams and watercourses authorized to be taken by them as they shall think proper for supplying the inhabitants of any such Borough or District with water
- (4.) Divert from time to time and impound the water from any streams as they may think fit and alter the courses of the same and also take such waters as may be found in under or on any lands so to be taken for the purposes of this Act
- (5.) Enter upon any Crown or private lands streets roads or thoroughfares and lay or place therein any pipes and may repair alter cut off or remove the same and may enter upon any such lands streets roads or thoroughfares for the purpose of repairing any watercourses or other works being their property or under their control

Provided always that in the exercise of any of the powers hereby conferred such Council shall inflict as little damage as may be and in all cases where it can be done shall provide other watering-places drains and channels for the use of adjoining lands in place of any taken away or interrupted by them and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers. Provided nevertheless that the Council shall not be liable to make compensation in respect of any damage sustained by reason of the taking or diverting of water permanently or otherwise from any river stream or watercourse ~~nor in any other case whatsoever~~ unless a claim in writing shall be made in respect of such compensation within three months after the commencement of the exercise of the power and that in every case where the Council cannot agree with the owner the amount of compensation shall be ascertained and the case in other respects shall be dealt with under the provisions hereinafter contained.

Provision where com-
pensation disputed.

17. Every person who shall wilfully obstruct any person acting under the authority of the Council in setting out the line of any works undertaken under the authority of this Part or pull up or remove any poles or stakes driven into the ground for the purpose of setting out the line of such works or destroy or injure any works so undertaken as aforesaid shall incur a penalty not exceeding five pounds for every such offence.

Penalty for obstruct-
ing construction of
works.

Country Towns Water and Sewerage.

18. After any stream or supply of water shall have been diverted impounded or taken by the Council under the authority of this Act every person who shall illegally or without the authority of the Council divert or take any water supplying or flowing into the stream or
 5 source of supply so diverted impounded or taken by the Council or who shall do any unlawful act whereby any such stream or supply of water may be diverted or diminished in quantity or injured in quality or purity and who shall not immediately repair the injury done by him on being required by the Council so as to restore such stream or
 10 supply of water to the state in which it was before such unlawful act shall forfeit to the Council any sum not exceeding five pounds for every day during which the said supply of water shall be so diverted or diminished or injured by reason of any act done by or by the authority of such person. And any sum so forfeited shall be in addition to the
 15 sum which he may be lawfully adjudged to pay to the Council for any damage which they may sustain by reason of their supply of water being diminished. And the payment of the sum so forfeited shall not bar the right of the Council to bring any action at law or any other remedy at law or in equity in respect of the damage so committed.

Penalty for illegally diverting water.

20 19. Nothing in this Part contained shall prevent the owners and occupiers of lands through or by which such stream shall flow from using the waters thereof in such manner and to such extent as they might have done before the passing of this Act unless they shall have received compensation in respect of their right of so using such
 25 water.

Reservation of existing rights.

20. If any person unlawfully and maliciously destroy or damage or attempt to destroy or damage any reservoir dam tank tunnel water-course sluice main pipe aqueduct bridge road way or engine or other part whatever of the works of the Council every such offender shall be
 30 guilty of felony and shall be liable to be imprisoned for any term not exceeding ten years.

Penalty for destroying works.

21. The Council may open and break up the soil and pavement of the several streets and bridges within the limits of its Water District and may open and break up any sewers drains or tunnels
 35 within or under such streets and bridges and lay down and place within the same limits pipes conduits service pipes and other works and engines and from time to time repair alter or remove the same and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges and do all other acts
 40 which the Council shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits.

Power to open streets &c.

22. When the Council shall open or break up the road or pavement of any street or bridge or any sewer drain or tunnel they shall with all convenient speed complete the work for which the same shall
 45 be broken up and fill in the ground and reinstate and make good the road or pavement or the sewer drain or tunnel so opened or broken up and carry away the rubbish occasioned thereby. And shall at all times whilst any such road or pavement shall be so open or broken up cause the same to be fenced and guarded and shall cause light sufficient
 50 for the warning of passengers to be set up and kept there for every night during which such road or pavement shall be continued open or broken up.

Reinstatement of streets &c.

23. The Council shall not be liable (in the absence of express stipulation under any agreement for the supply of water) to any
 55 penalty or damages for not supplying such water if the want of such supply arises from unusual drought or other unavoidable cause or accident nor shall the Council be compellable to supply water to any person whomsoever.

Council not liable for accidental failure to supply water nor compellable to supply water.

Country Towns Water and Sewerage.

24. The Council may supply any person with water for domestic or other purposes by measure at such rates upon such terms and subject to such conditions as may be agreed upon by the Council and the person requiring to be supplied. But "domestic purposes" shall not for the purposes hereof include a supply of water for stables or for manufacturing purposes or for irrigation water power fountains or for any ornamental purpose. ~~The supply of water for other than domestic purposes shall in all cases be by measure.~~ Agreements to supply water—what purposes not domestic.
25. The Council may let for hire to any consumer of water supplied by measure any meter or instrument for measuring the quantity of water supplied and consumed and any pipes and apparatus for the conveyance reception or storage of the water for such remuneration in money as may be agreed upon between the Council and the consumer which shall be recoverable in the same manner as rates due to the Council for water. Council may let meters.
26. Such meters instruments pipes and apparatus shall not be subject to distress for rent of the premises where the same are used or to be attached or taken in execution under any process of any Court of Law or Equity or under or in pursuance of any sequestration or order in insolvency or other legal proceedings against or affecting the consumer of the water or the occupier of the premises or other the person in whose possession the meters pipes instruments and apparatus may be. Meters of Council not distrainable &c.
27. Every person who shall have agreed with the Council for a supply of water by measure shall at his own expense unless he hire a meter from the Council provide a meter and keep and maintain the same in good working condition to the satisfaction of such officer as may be appointed by the Council and in the event of any repairs being required notice in writing shall be immediately given by such person to the Council and a registration of the quantity used shall be taken before such repairs are effected. Meter to be supplied and maintained by consumer.
28. Every person requiring to remove or alter the position of any meter shall give six days notice in writing to that effect to the Council and a registration of the quantity of water used shall be taken before such removal or alteration is made. Notice of removal &c. of meter.
29. If any person who under the provisions hereinbefore contained ought to provide any meter neglect or refuse after having been required by the Council so to do to provide such meter he shall for every day during which such neglect or refusal continues forfeit a sum not exceeding two pounds. Penalty for neglect to provide meter.
30. If any person who has provided any meter as aforesaid fail to give the notice hereinbefore required of any repairs required for such meter he shall forfeit a sum not exceeding ten pounds. Penalty for neglecting to give notice of repairs of meters.
31. If any person refuse or delay to have such meter properly repaired and put in correct working order after having been required by any officer of the Council so to do the Council may shut off the supply of water from the premises of such person either by cutting the service-pipe or otherwise until such meter shall have been properly repaired and certified by some officer of the Council as being in proper working order. Water may be cut off if meter not in order.
32. If any plumber or other person fix or refix any meter upon any premises supplied with water by the Council without having first obtained a certificate from the Council that the said meter has been examined and found in correct working order he shall forfeit a sum not exceeding ten pounds. Penalty for fixing uncertified meter.
33. If any person remove or alter the position of or in any way interfere with any meter without giving such notice as aforesaid he shall for each such offence forfeit a sum not exceeding twenty pounds over and above the damage which he may be found liable to pay in any action at law at the suit of the Council. For removing or altering meter without notice.

Country Towns Water and Sewerage.

34. The officers of the Council may enter any house building or lands to through or into which water is supplied by the Council by measure in order to inspect the meters instruments pipes and apparatus for the measuring conveyance reception or storage of water or for the purpose of ascertaining the quantity of water supplied or consumed and may from time to time enter any house building or lands for the purpose of removing any meter instrument pipe or apparatus the property of the Council and if any person hinders any such officer from entering or making such inspection or effecting such removal he shall for each such offence be liable to a penalty not exceeding five pounds but except with the consent of a Justice this power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon.

Power to officers of Council to inspect meter.

35. In all the pipes to which any fire-plug is fixed the Council shall provide and keep constantly laid on for use without charge unless prevented by unusual drought or other unavoidable accident or during necessary repairs a sufficient supply for the following purposes (that is to say) for cleansing the sewers and drains for cleansing and watering the streets and for supplying any public hospitals or charitable institutions or any public pumps baths and washhouses that may be established for the use of the inhabitants and paid for out of any municipal rates Provided that no baths or washhouses shall be entitled to be supplied with water under the provisions of this section unless the charges for the use thereof by the inhabitants shall be approved of and shall not exceed the amounts fixed by the Council.

Supply of water for public purposes.

36. The Council shall fix proper fire-plugs in the main and other pipes belonging to them at such convenient distances and at such places as they may consider proper and convenient for the supply of water for extinguishing any fire which may break out within the Borough or Municipal District And shall from time to time renew and keep in effective order every such fire-plug And shall put up a public notice in some conspicuous place in each street in which such fire-plug is situated showing its situation And such notice may be put up on any house or building in such street And as soon as such fire-plug is completed they shall deposit a key thereof in each place where any public fire-engine is kept.

FIRE-PLUGS.

Council to place public fire-plugs in mains.

37. The Council may at the request and expense of the owner or occupier of any manufactory or works situated in or near any street or road in which or within two hundred yards of which there shall be a pipe of the Council place and maintain in effective order a fire-plug (to be used only for extinguishing fires) or near as conveniently may be to such manufactory or works.

Fire-plugs for manufactories &c.

38. The Council shall at all times keep charged with water all their pipes to which fire-plugs are fixed unless prevented by drought or other unavoidable cause or accident or during necessary repairs And shall allow all persons at all times to take and use such water for the purpose only of extinguishing fire.

Pipes to be kept charged and water taken for fires.

39. After pipes have been laid under the authority of this Act for the supply of water to any street or part thereof the Council shall cause a notice in the form contained in the Second Schedule hereto or to the like effect to be published in four consecutive numbers of some newspaper circulating in the Borough or District and the owner or occupier of every tenement referred to in such notice shall within four weeks from the date of the last publication of such notice cause a proper pipe and stop-cocks to be laid so as to convey a supply of water to such tenement And after fourteen days from such last publication the owner or occupier of such tenement shall unless the Council refuse to supply him with water be liable to pay the rates and charges for such supply although no such pipe and stop-cocks be laid or no such water be used in such tenement.

Notice to lay service pipes.

Country Towns Water and Sewerage.

40. Any owner or occupier of any dwelling-house or part of a dwelling-house within a Borough or Municipal District who shall wish to have water from the waterworks of the Council brought into his premises and who shall have paid or tendered to the Council the portion of water rate in respect of such premises by this Act directed to be paid in advance may open the ground between the pipes of the Council and his premises having first obtained the consent of the owners and occupiers of such ground and lay any ~~lead~~ or other pipes from such premises to communicate with the pipes of the Council.
41. Such pipes shall be of a strength and material approved of by some officer of the Council and every such owner or occupier shall before he begins to lay any such pipe give to the Council two days notice of his intention to do so.
42. Before any pipe is made to communicate with the pipes of the Council the person intending to lay such pipes shall give two days notice to the Council of the day and hour when such pipe is intended to be made to communicate with the pipes of the Council and every such pipe shall be so made to communicate under the superintendence and according to the directions of the surveyor or other officer appointed for that purpose by the Council. And the bore of any such pipe shall not exceed three-quarters of an inch except with the consent of the Council.
43. Any person who shall have laid down any pipe or other works or who shall have become the proprietor thereof may remove the same after having first given six days notice in writing to the Council of his intention so to do and of the time of such proposed removal and every such person shall make compensation to the Council for any injury or damage to their pipes or works which may be caused by such removal.
44. Any such owner or occupier may open or break up so much of the pavement of any as shall be between the pipes of the Council and his house building or premises and at any sewer or drain therein for any such purpose as aforesaid (doing as little damage as may be and making compensation for any damage done in the execution of any such work) Provided always that every such owner or occupier desiring to break up the pavement of any street or any sewer or drain therein shall be subject to the same necessity of giving previous notice and shall be subject to the same control restrictions and obligations in and during the time of breaking up the same and also reinstating the same and to the same penalties for any delay in regard thereto as the Council are subject to under the provisions of this Part.
45. If any person supplied with water by the Council wrongfully does or causes or permits to be done anything in contravention of any of the provisions of this Part or wrongfully fails to do anything which under any of those provisions ought to be done for the prevention of the waste misuse undue consumption or contamination of the water of the Council the Council may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied to him or for his use and may cease to supply him with water so long as the cause of injury remains or is not remedied.
46. If any person supplied with water by the Council wilfully or negligently causes or suffers any pipe valve cock cistern bath soil-pan water-closet or other apparatus or receptacle to be out of repair or to be so used or contrived that the water supplied to him by the Council is or is likely to be wasted misused unduly consumed or contaminated or so as to occasion or allow the return of foul air or other noisome or impure matter into any pipe belonging to or connected with the pipes of the Council he shall for every such offence be liable to a penalty not exceeding five pounds.

PIPES LAID BY
OWNERS OR
OCCUPIERS.

Power to inhabitants
to lay service pipes.

Notice to Council of
laying pipes.

Communication with
pipes of Council to be
made under superin-
tendence of surveyor.

Bore of service pipes.

Service pipes may be
removed after giving
notice.

Power to break up
pavements.

PROTECTION OF THE
WATER.

In case of any breach
of this Part of this
Act water may be
cut off.

Penalty for waste of
water.

Country Towns Water and Sewerage.

47. If any person—

(1.) Not having from the Council a supply of water for other than domestic purposes uses for other than domestic purposes any water supplied to him by the Council or

5 (2.) Having from the Council a supply of water for any purpose other than domestic uses such water for any purpose other than those for which he is entitled to use the same

he shall for every such offence be liable to a penalty not exceeding forty shillings without prejudice to the right of the Council to recover
10 from him the value of the water misused.

Penalty for misapplication of water.

48. It shall not be lawful for the owner or occupier of any premises supplied with water by the Council or any consumer of the water of the Council or any other person to affix or cause or permit to be affixed any pipe or apparatus to a pipe belonging to or used by
15 such owner occupier consumer or any other person or to make any alteration in any such communication or service pipe or in any apparatus connected therewith without the consent in every such case of the Council And if any person acts in any respect in contravention of the provisions of the present section he shall for every such offence
20 be liable to a penalty not exceeding five pounds without prejudice to the right of the Council to recover damages from him in respect of any injury done to their property and without prejudice to their right to recover from him the value of any water wasted misused or unduly consumed.

No pipe to be fixed to consumer's pipe without permission of Council.

25 49. If any person not being supplied with water by the Council wrongfully takes or uses any water from any reservoir watercourse conduit or pipe belonging to the Council or from any pipe leading to or from any such reservoir watercourse conduit or pipe or from any cistern or other like place containing water belonging to the Council
30 or supplied by them for the use of any consumer of the water of the Council he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty for unlawfully taking water.

50. The surveyor or other person appointed for that purpose by the Council may between the hours of nine o'clock in the forenoon
35 and four o'clock in the afternoon enter into any house or premises supplied with water by the Council in order to examine if there be any waste or misuse of such water and if such surveyor or other person at any such time be refused admittance into such dwelling-house or premises for the purpose aforesaid or be prevented from
40 making such examination as aforesaid the Council may turn off the water supplied by them from such house or other premises.

Inspection of water.

51. If any person bathe in any stream reservoir aqueduct or other waterworks belonging to the Council or wash throw or cause to enter therein any dog or other animal he shall for every such
45 offence forfeit a sum not exceeding five pounds.

POLLUTING THE WATER.

Penalty for bathing in water of the Council.

52. If any person throw or convey or cause or permit to be thrown or conveyed any rubbish dirt filth or other noisome thing into any such stream reservoir aqueduct or other waterworks as aforesaid or wash or cleanse therein any cloth wool leather or skin of any
50 animal or any clothes or other thing he shall for each such offence forfeit a sum not exceeding five pounds.

Penalty for throwing dirt therein.

53. If any person cause the water of any sink sewer or drain steam-engine boiler or other filthy water belonging to him or under his control to run or be brought into any stream reservoir aqueduct
55 or other waterworks belonging to the Council or shall do any other act whereby the water of the Council shall be fouled he shall for each such offence forfeit a sum not exceeding five pounds and a further sum of twenty shillings for each day (if more than one) that such offence continues.

Penalty for letting foul water flow thereinto.

Country Towns Water and Sewerage.

54. Where any owner or occupier of any land within the **any** **Catchment Area or Water District** to be proclaimed as hereinbefore provided or any reservoir or source of supply ~~transferred to or vested in~~ **belonging to the Council** does or permits to be done on his land any act or permits to remain thereon any matter or thing which in the opinion of the Council is likely to injure the water supply if notice to discontinue or remove the same be given to him in writing by the Council and if he neglect or refuse to discontinue such act or to remove such matter or thing he shall for each such offence forfeit a sum not exceeding five pounds and a further sum of twenty shillings for each day (if more than one) that such offence continues.

Penalty for nuisance in Water District.

55. Every person making or supplying gas within the limits of **any Catchment Area or Water District** who shall at any time cause or suffer to be brought or to flow into any stream reservoir aqueduct or waterworks belonging to the Council or into any drain communicating therewith any washing or other substance which shall be produced in making or supplying gas or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream reservoir aqueduct or other waterworks shall be fouled or the pipes or conduits thereof injured shall forfeit to the Council the sum of twenty pounds to be recovered with full costs of suit for each day during which such washing or other substance shall be brought or shall flow as aforesaid or during which the act shall continue by which such water is fouled after the expiration in either case of twenty-four hours from the time when notice of the offence has been served on such person by the Council.

Penalty for permitting substances produced in making gas to flow into works.

56. Whenever the water supplied by the Council shall be fouled by the gas of any person making or supplying gas within the district aforesaid such person shall forfeit to the Council for every such offence a sum not exceeding twenty pounds and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Penalty on gasmakers causing water to be fouled.

57. For the purpose of ascertaining whether the water of the Council be fouled by the gas of any person making or supplying gas within the said district the Council may dig up the ground and examine the pipes conduits and works of the persons making or supplying gas. Provided that before proceeding so to dig and examine the Council shall give twenty-four hours notice in writing to the person so making or supplying gas of the time at which such digging and examining is intended to take place and shall give the like notice to the persons having the control or management of the pavements or place where such digging shall take place and shall be subject to the like obligation of reinstating the road and pavement and to the same penalties for delay or any nonfeasance or misfeasance therein as herein-after provided with respect to roads and pavements broken up by the Council for laying their pipes and if upon such examination it appears that such water has been fouled by any gas belonging to such person the expenses of the digging examination and repairs of the street or place disturbed in any such examination shall be paid by the person making or supplying gas but if upon such examination it appears that the water has not been fouled by the gas of such person then the Council shall pay all the expenses of the examination and repair and also make good to the said person any injury which may be occasioned to his works by such examination.

Power to examine gas pipes to ascertain cause of water being fouled.

The expenses to abide the result of the examination.

58. The following provisions shall take effect for the purpose of protecting the water in the mains or other pipes of the Council from all impurities from closets and other receptacles of faecal matter or urine—

(1.) It shall not be lawful for any person to connect with the main any pipe delivering the water directly into the closet-pan

Provisions as to connection of closet and other pipes with mains and as to cisterns &c. No closet pipes hereafter to connect directly with the main.

Country Towns Water and Sewerage.

pan or other receptacle for fæcal matter or urine without the intervention of a cistern or cisterns into which the water from the main shall first be received and any person so offending shall forfeit and pay a penalty not exceeding fifty pounds.

(II.) The Council may employ any artificers or workmen to cut off or otherwise disconnect from the main any pipe directly discharging the water into a closet without the intervention of a cistern [hereinafter termed "directly connected"] and which in the opinion of the Council may endanger the purity of the water by the absorption of noxious gases or suction of fæcal matter or urine into such pipe or into the main or otherwise For the purpose of effecting such disconnection the Council's artificers and workmen may enter into and upon the premises of any person or corporation whatsoever to do or cause to be done anything in his opinion requisite or necessary in relation thereto.

Council may disconnect pipes in certain cases.

(III.) Whenever the Council shall have caused any pipe to be cut off or disconnected or other work to be done in relation thereto they shall forthwith serve the owner or occupier of the premises with a notice in writing requiring him to pay the actual cost or expense incurred And such owner or occupier shall pay the amount to the Council and if the amount be paid by an occupier only he may deduct the same from the rent then due or accruing Upon such owner or occupier making default in any such payment after the delivery of such notice as aforesaid the Council may sue for and recover the same with full costs of suit.

The expense incurred by any disconnection to be paid by tenant and deducted from his rent.

(IV.) The owner of every dwelling-house or premises which shall have therein or thereon any closet with a pipe or branch-pipe directly connected with the main shall be required to fix and erect a cistern or cisterns for the reception of the water intended to be used for the closet and every cistern shall be made of such materials and dimensions and of such model or plan of construction and with such ball-cocks stop-cocks waste-pipes and other appliances as shall be deemed requisite and have been approved by the Council for securing the water from pollution through any noxious gases or matter evolved or derived from such closets or otherwise Every owner neglecting to comply with the provisions of this sub-section shall forfeit and pay a penalty not exceeding five pounds.

Owners of premises shall fix closet-cisterns or be liable to a penalty.

(V.) Whenever any owner shall have neglected to fix and erect a cistern with its appliances as is in the last preceding section provided for the tenant or occupier of the premises is hereby authorised and required after receiving a written notice thereof from the Council in that behalf to fix and erect such cistern with its appliances before-mentioned within fourteen days after the receipt of such notice and the said tenant or occupier shall upon payment by him of the charges and expense of such fixing and erection be entitled either to deduct the amount so paid from the rent then due or accruing or at his option to sue for and recover the same with full costs of suit from the owner as for money paid to his use.

Upon neglect of owner the tenant after fourteen days notice to fix cistern and deduct the expense from rent.

(VI.) Any person who shall without the authority of the Council re-establish any such connection which may have been cut off removed or severed by him or who shall in any manner wilfully injure or tamper with any connection-pipe cistern ball-cock stop-cock or waste-pipe which may have been approved by the Council so as to destroy diminish or endanger its

Any person re-establishing any connection with the main unless authorized or wilfully injuring any pipe &c. liable to a penalty.

Country Towns Water and Sewerage.

- its efficiency may be summoned for such offence before two Justices and on conviction thereof shall be adjudged to pay the amount of the charges and expenses which the Council may have incurred (and which he is hereby authorized to incur) in repairing or restoring the same to a state of efficiency. Every such offender shall also forfeit and pay a penalty not exceeding ten pounds and the amount of charges and expenses and penalty respectively shall when recovered be paid over to the Council.
59. Where several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe or where water is supplied to courts alleys and right-of-way by stand pipes the several owners or occupiers of such houses or parts of houses or of the several houses or parts of houses in every such court alley or right-of-way shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the Council by a separate pipe.
60. The rates and charges for water and all sums due to the Council under this Part shall be paid by and be recoverable from the owner of the premises or the occupier or person requiring receiving or using the supply of water and all rates shall be paid in advance by equal payments on the first day of January and the first day of July in each year and the first payment shall be made at the time when the owner or occupier of any tenement shall become liable to pay such rates and charges and all such rates and charges may be enforced and recovered in respect of any premises situate within one hundred and fifty feet from the alignment of any street or public highway along which a main water pipe belonging to the Council is laid although such premises are not actually supplied with water from such main.
61. If any person refuse or neglect to pay on demand to the Council any rate charge or sum due to the Council under this Part the Council may recover the same with costs or the Mayor may issue his warrant in the form contained in the Third Schedule hereto to some constable or other person named therein to levy such rate charge or sum by distress and sale of the goods and chattels of the person occupying the premises in respect of which such rate charge or sum is due at the time when the warrant of distress is executed and in case no sufficient goods and chattels of such occupier be found on the premises to satisfy such distress the owner of the premises or if he be absent from the colony his agent shall be liable for such rate charge or sum and the same may be recovered from him.
62. If any tenant of any premises be called on to pay and pay or be distrained for a greater amount of any rate charge or sum due to the Council under this Part than is due for the period of his occupancy or pay any sum for laying down service pipes to such premises upon the refusal or neglect of the owner thereof to lay down such service pipes within one month of the last publication of the notice by the Council as hereinbefore mentioned requiring such owner to lay down such pipes such tenant may deduct any sum so paid or recovered from the rent from time to time becoming due to such owner in respect of such premises or after demand may recover the same from such owner.

Where several houses supplied by one pipe each to pay.

WATER RATES.

Rates to be recoverable from either land-lord or tenant.

Rates to be paid half-yearly in advance.

Recovery of rates and charges.

Third Schedule.

Tenant may recover from owner excessive payment or cost of laying services.

Country Towns Water and Sewerage.

PART III.

Special Provisions as to Sewerage.

63. The Council shall as soon as conveniently may be cause to be made surveys of the area within the limits and for the purpose of any
 5 Sewerage District and a map or maps thereof on such scale or respective scales and with such indications of levels and particulars of sewers and underground works and of the surface as to them seem fit and may cause such map or maps or any part thereof to be from time to time copied engraven and published and shall from time to time cause
 10 such map or maps to be revised and such additions made thereto as may show the new sewers and drains and the new streets roads houses or other alterations and the date of revision shall be expressed therein and every such map shall be kept in the office of the Council and the same or a copy thereof shall be open at all reasonable times to the
 15 inspection of the owner or occupier of lands or houses within such District.

Survey of area of
Sewerage District.

64. Subject to the provisions of this Act the Council may exercise any of the powers in this part contained for the construction of sewerage works for any Sewerage District and for the purposes of carrying out
 20 the provisions of this Act (that is to say):—

General powers of
Council in respect
to sewerage
works.

- (1.) They may enter upon any lands and take levels of the same and set out such parts thereof as they shall think necessary and dig break and trench the soil of such lands and remove or use all earth stone mines minerals trees or other things
 25 dug or obtained out of or from the same
- (2.) They may enter upon take and hold such land as they may from time to time deem necessary for the construction main-tenance repair or improvement of any authorised works
- (3.) They may from time to time construct and maintain alter or
 30 remove such engines buildings and other sewerage works of what kind soever upon the lands authorised to be taken by them as they shall think proper for the sewerage of any such District
- (4.) They may from time to time divert and impound the water from any such streams as they may think fit and alter the
 35 courses of the same
- (5.) They may enter upon any Crown or private lands streets roads or thoroughfares and construct or lay or place therein any drains or pipes and may repair alter or remove the same
 40 and may enter upon any such lands streets roads or thoroughfares for the purpose of repairing any sewers drains or other works being their property or under their control

Provided that the Council shall make full compensation for all damage or injury committed by them in the exercise of such powers And such
 45 compensation shall in every case where the Council cannot agree with the claimant be ascertained and the case in other respects shall be dealt with under the provisions hereinafter contained.

64. 65. The Council may make any sewers or drains of such con-
 struction and in such manner as they think proper and may (subject
 50 to the restrictions hereinafter mentioned) break up the soil pitchings and pavements of any public highway or of any public or private street and may excavate and sink trenches for the purpose of laying down making and constructing common sewers or drains therein and subject to the provisions of the next following section may cause such
 55 common sewers or drains to communicate with the sea or any arm thereof or with any stream or watercourse (either within or without the limits of the said district) and also from time to time may open
 cleanse

Construction of
sewers.

Country Towns Water and Sewerage.

cleanse and repair such sewers or drains or alter the position thereof and also from time to time may make any drains or sewers from any main sewer or drains laid in any street made by the Council by virtue of this part into any dwelling-house or houses public or private
 5 buildings and premises for the purpose of cleansing and draining any such house or houses or other premises by means of such sewers or drains and may do all such other acts matters and things as they shall from time to time deem proper for making amending repairing completing or improving any such sewers and drains or other works to be
 10 made done and provided for the purposes of this Part.

65. 66. Nothing in this Act shall authorise any Council to make or use any sewer drain or outfall for the purpose of conveying sewage or filthy water into any natural stream watercourse lake or pond until such sewage or filthy water is freed from all excrementitious or other
 15 foul or noxious matter such as would affect or deteriorate the purity and quality of the water in such stream watercourse lake or pond.

Sewage to be purified before being discharged into streams.

66. 67. In the execution of the several powers hereby granted the Council shall do as little damage as may be and shall build and construct the said sewers in a sufficient and effectual manner for accomplishing all the purposes hereby intended and subject to the restrictions hereinafter mentioned and after laying or removing or altering or repairing any such drains or sewers shall immediately fill in the trenches or excavation and make good the ground soil pitchings and pavements of any such public or private street and other damage and
 20 remove the rubbish occasioned thereby and shall in the meantime fence or guard the place or places where any ground shall be opened in such manner as to prevent danger or accidents to passengers carriages horses cattle or sheep and agreeably in all respects to the provisions in this part contained And this Act shall be sufficient to indemnify the Council and all persons acting under their authority for
 25 all acts and things done by virtue thereof.

Council to make good any damages.

67. 68. If there be any wilful or negligent delay in the Council or any of their officers or any other person acting by or under their authority in filling in any such ground trenches or excavations or
 35 removing rubbish or making good any such ground or the soil pitchings or pavements of any such public or private street or other damage according to the provisions in this Part contained or if the same respectively be imperfectly done or if the ground so opened be not fenced or guarded in the manner herein required the person in whom the right of soil of such ground shall be or to whom there now
 40 does or hereafter shall belong any power to maintain or repair the soil pitchings and pavements of any such public or private street or any person acting for them or him may fill in such ground trenches or excavations and remove such rubbish and may repair and make good such ground so broken up and the soil pitchings and pavements of any
 45 such public or private street or other damage and may properly fence and guard any such trench or excavation and may place and maintain such light or lights during the night as to them or him shall seem necessary and the reasonable costs and charges thereof shall be paid by the Council to the persons who shall have disbursed or incurred the
 50 same and in default of payment thereof for thirty days next after demand made for the payment thereof all such reasonable costs together with any sum not exceeding five pounds by way of penalty may be recovered in a summary manner before Justices as hereinafter provided.

Where Council makes wilful default damage may be repaired by parties interested.

68. The Council may excavate the ground and may make any
 55 sewers or drains in along or above the land of any person for the purpose of communicating with any main sewer or drain made by the Council in pursuance of this Part with the consent of the owner and occupier of such land or ground in which such drain or sewer shall be made.

Sewers in private grounds.

Country Towns Water and Sewerage.

69. The Council may open the ground and change the level or otherwise amend or enlarge any sewer lying under any public or private street within the said district for better communicating with the main sewers or drains already made or to be made in pursuance of this Part **Sewerage** Altering sewers.

5 **District** Provided always that no person shall by means of any such alteration amendment or enlargement be deprived of the use and enjoyment of any private sewer or drain which he shall be entitled to use but the Council shall at their own cost and charge so construct and alter any such private drain or sewer as to render the same as effectual for the
10 purposes for which it was intended as any such drain or sewer may be at the time of such alteration And in case the Council refuse or neglect so to construct and alter any such private drain or sewer the use of which may be effected by the acts of the said Council for the space of twenty-eight days next after notice in writing served upon them they
15 shall forfeit and pay to the party aggrieved any sum not exceeding forty shillings for every day during which such refusal or neglect so continues and such sum may be recovered in a summary way before Justices as hereinafter provided.

70. The Council shall cause their sewers to be constructed Sewers to be cleansed.
20 covered and kept so as not to be a nuisance or injurious to health and to be properly cleared cleansed and emptied And for the purpose of clearing cleansing and emptying the same may subject to the provisions hereinafter contained construct and place either above or under ground such reservoirs sluices engines and other works as may be necessary
25 and may cause all or any of such sewers to communicate with and be emptied into such places as may be fit or cause the sewage and refuse therefrom to be collected for sale or for any purpose whatever but so as not to create a nuisance.

71. When any ground or any of the soil pitchings or pavements Fencing works in progress.
30 of any public or private street is at any time opened or broken up by the Council proper and sufficient fences and protection for the same shall immediately thereupon be made set up and continued by the Council and at all times during the progress of digging any trenches or excavations and making altering enlarging and repairing any drains
35 and sewers and of filling in such trenches or excavations or otherwise carrying on and finishing the works hereby authorized to be done in any street every such street shall be kept and continued by the Council as free from all obstructions and annoyances of every kind as practicable.

40 72. When and as often as any pavement or footway is taken up Pavements replaced. or removed by the Council or by any person for the purpose of making altering or repairing any drains or sewers or any cross drains from any premises to communicate with any main sewer or drain to be made altered or enlarged by or vested or to become vested in **belonging to** the
45 Council in or under any public or private street no part of any such pavement or footway respectively shall remain taken up or removed longer than a period of seven clear days exclusive of Sundays.

73. The Council shall at all times maintain and keep in good Repairs of sewers. order and repair all **their** drains and sewers made altered or enlarged by
50 the Council or by this Act or hereafter to be vested in them.

74. No person without notice as hereinafter mentioned may Notice of private sewers. make or branch any private sewer or drain into any sewer or drain made or enlarged by or vested in **belonging to** the Council as aforesaid or into any drain or sewer communicating therewith and in default of such notice
55 the Council may cut off stop up or prevent the communication of such private sewer or drain with the sewers or drains so made or enlarged by the Council or any sewer communicating therewith and may recover the costs and charges occasioned thereby and also the rates for the same from the time when such private sewer or drain shall have been
60 made from the person so offending. 75.

Country Towns Water and Sewerage.

75. All such private sewers or drains shall be permitted to be branched into any of the sewers or drains ~~vested in~~ **belonging to** the Council or hereby authorized to be made and enlarged by them by virtue of this Part shall from time to time be repaired and cleansed under the inspection and direction of some officer of the Council at the costs and charges of the occupiers of the premises to which the said sewers or drains shall respectively belong.

Cleansing private sewers.

76. When any person desires to have a drain to the said main sewers or any sewer communicating therewith laid into his premises if he give the Council six days previous notice in writing of his intention so to do and if he obtain the consent of the owner of the premises through which the drain shall be conveyed he may (at his own expense but subject to the provisions hereinbefore contained) open the ground between the main sewer or the sewer communicating therewith and his premises and may lay from such premises to communicate with the said main sewer any drain made of cast-iron brick stone or some other material approved by the Council and in such manner and form and with such grates and of such workmanship as may be approved by the Council and shall pay to the Council the rates fixed for the same.

Opening sewers to main sewer.

Rates.

77. In cases of default of payment of any such rate the Council may cause the drain belonging to the person making such default and communicating with the main sewer to be separated from the said main sewer or sewers communicating therewith so as to prevent any communication therewith and the rates due and in arrear from such persons to the Council may be recovered by the Council in manner provided by the sixty-first section hereof.

Procedure in default of payment of rates.

77. All sewerage rates and sums due to the Council under this Part shall be paid by and be recoverable from the owner of the premises or the occupier or person draining his premises into any sewer of the Council and all rates shall be paid in advance by equal payments on the first day of January and the first day of July in each year and the first payment shall be made at the time when the owner or occupier of any such premises shall become liable to pay such rates and charges and all such rates and charges may be enforced and recovered in respect of any premises within one hundred and fifty feet from any sewer or drain belonging to the Council and whether there be any communicating drain between such premises and any sewer or drain belonging to the Council or not And if any person refuse or neglect to pay on demand to the Council any rate charge or sum due to the Council under this part the Council may recover the same with costs or may order a warrant under the hand of the Mayor in the form contained in the Fourth Schedule hereto to be from time to time issued to some constable or other person named therein to levy such rate charge or sum by distress and sale of the goods and chattels of the person occupying the premises in respect of which such rate charge or sum is due at the time when the warrant of distress is executed and in case no sufficient goods and chattels of such occupier be found on the premises to satisfy such distress the owner of the premises or if he be absent from the Colony his agent shall be liable for such rate charge or sum and the same may be recovered from him.

Rates to be recoverable from either landlord or tenant. Rates to be paid half-yearly in advance.

Recovery.

78. If the soil filth or cesspools attached or belonging to or arising from any tenement within a Sewerage District be upon the complaint of any inhabitant thereof deemed a nuisance by the Council the Council may cause a drain or sewer to be laid down from any such tenement or the premises adjoining to or near the same to convey such soil or filth to one of the main sewers or drains of the said Council and may recover in a summary way before Justices the costs charges and expenses of laying down such drain or drains from the owner or occupier

Nuisances removed by drains.

Country Towns Water and Sewerage.

occupier of such tenement respectively such costs and charges not exceeding the sum of five pounds in respect of any tenement which shall be under the yearly value of fifteen pounds and not exceeding the sum of ten pounds in respect of any tenement which shall be above
 5 the yearly value of fifteen pounds. Provided that every occupier shall be entitled to deduct against or to be repaid by his landlord the whole of such costs and charges as aforesaid as shall be recovered from such occupier unless he be liable to pay the same under or by virtue of his lease or agreement with his landlord.

- 10 79. Fourteen days at the least before beginning to dig or lay out the foundation of or for any new house or to rebuild any house within the limits of a Sewerage District the person intending so to build or rebuild shall give to some officer duly authorized by the Council in that behalf written notice thereof together with the level
 15 or intended levels of the cellar or lowest floor and the situation and construction of the privies and cesspools to be built constructed or used in connection with such house and it shall not be lawful to begin to build or rebuild any such house or to build or construct any such privy or cesspool until the particulars so required to be stated have
 20 been approved by such officer and he is hereby required to signify his approbation or disapprobation of the same within a space of fourteen days after receiving such notice without fee and in default of such notice or if any such house privy or cesspool be built rebuilt or constructed as aforesaid with such approval the Council may if they think
 25 fit cause such house privy or cesspool to be altered or otherwise dealt with as the case may require and the expenses incurred in so doing shall be repaid by the offender and be recoverable from him in a summary manner before Justices as hereinafter provided. And if any such house privy or cesspool be built rebuilt or constructed within any
 30 such district without such notice or approval the offender shall forfeit a sum not exceeding twenty pounds.

80. When it is made to appear to the satisfaction of any Justice that there is reasonable ground for believing that any house or part thereof or the premises occupied therewith within the boundaries of a
 35 Sewerage District is in a filthy or unwholesome condition such Justice may grant a warrant under his hand authorizing any officer of the Council inspector of slaughter-houses or inspector of nuisances or inspector of police with such assistance as may be necessary and accompanied by two duly qualified medical practitioners to enter in
 40 the daytime into such house or premises and to view the same and the state and condition thereof.

81. If upon the certificate of any two duly qualified medical practitioners it appear to the Council that any house or part thereof or the premises occupied in connection therewith within the limits of any
 45 sewerage district is in such a filthy or unwholesome condition that the health of any person is or may be liable to be affected or endangered thereby and that the whitewashing cleansing or purifying of any house or part thereof or the premises occupied in connection therewith would tend to prevent or check infectious or contagious disease the said
 50 Council shall give notice in writing to the owner or occupier of such house or part thereof or the premises occupied in connection therewith to whitewash cleanse or purify the same as the case may require and if the person to whom notice is so given shall fail to comply therewith within such time as shall be specified in the said notice he shall be
 55 liable to a penalty not exceeding ten shillings for every day during which he continues to make default and the said Council shall if they shall think fit cause such house building or part thereof or the premises occupied in connection therewith to be whitewashed cleansed or purified and for such purpose shall have power to enter the same
 and

Notice of building or re-building.

Entry to view premises.

Houses to be purified on certificate of two medical practitioners.

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and the expense incurred by them in so doing shall be paid by the owner or occupier in default and be recoverable before any two Justices in a summary way in case such owner or occupier upon being summoned before any such Justices as aforesaid shall neglect or refuse to pay the same.

81. 82. Any Engineer surveyor or other person acting under the authority of the Council may at all reasonable times in the daytime upon giving twenty-four hours previous notice of his intention enter into any house building or other premises having a drain or sewer communicating with the sewers already made or to be made by virtue of this Act in order to inspect or examine if there be any communication with any other drain or sewer into any other building or premises and if such engineer surveyor or other person be at such time refused admittance into any such dwelling-house building or other premises for the purpose of making such inspection and examination as aforesaid or on being admitted be obstructed or prevented from making such inspection and examination as aforesaid the Council may cut off the drain or sewer supplied by the Council from such house building or other premises.

Inspection of communicating drains.

82. 83. If any person make or branch any private sewer or drain into any sewer or drain made or enlarged by or vested in belonging to the Council or into any drain or sewer communicating therewith without the notice required by this Part the person so offending shall for each such offence forfeit a sum not exceeding five pounds.

Penalty for making connecting drain without notice.

83. 84. If any person permitted to branch any sewer or drain into any sewer or drain vested in belonging to the Council neglect to repair or cleanse any such first-mentioned sewer or drain according to the directions of the officer appointed by the Council in that behalf he shall forfeit for each such offence a sum not exceeding five pounds.

Penalty for neglect to repair or cleanse private drains.

84. If any house privy or cesspool be built rebuilt or constructed in the said district without the notice or without the approval required by this Part the person offending herein shall forfeit a sum not exceeding twenty pounds.

Penalty for building without notice to or approval by Council.

85. If any person shall wilfully or maliciously hinder or interrupt or cause or procure to be hindered or interrupted the Council or any officer or person acting under their authority in doing any works or in the exercise of any power in this Part contained or shall wilfully or maliciously break throw down injure damage or destroy any sewer or drain works matter or thing belonging to the Council made and provided in pursuance of such Part or for the purpose of the execution of the powers therein contained every person so offending shall for every such offence forfeit a sum not exceeding ten pounds.

Penalty for interrupting the Council and injuring works.

86. If any person supplied with a drain in pursuance of this Part or having any drain or sewer which may communicate with the sewers of the Council wilfully permit any other person not having the authority or consent of the Council to use any such drain or any branch into the same every person so offending shall forfeit for every such offence any sum not exceeding five pounds over and above the full amount of the damage sustained by the Council by the acts or means in respect of which such penalty shall be incurred and the Council shall be at liberty to cut off the drain of every such person so offending from the main sewer.

Penalty for giving use of drain without permission.

87. The owner or occupier of any premises within a Municipality shall be entitled to cause his drains to empty into the sewers of that Municipality on condition of his giving such notice as may be required by the Municipal Council of his intention so to do and of complying with the regulations of the Council in respect of the mode in which the communications between such drains and sewers are to be made and subject to the control of any person who may be appointed by the Council to superintend the making of such communications.

Powers of owners and occupiers within district to drain into sewers of Municipality.

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88. Where any house within a ~~Borough or Municipal District~~ **Municipality** is without a drain sufficient for effectual drainage the Council thereof shall by written notice require the owner or occupier of such house within a reasonable time therein specified to make a covered
 5 drain or drains emptying into any sewer which the Council are entitled to use and which is not more than one hundred feet from the site of such house but if no such means of drainage are within that distance then emptying into such covered cesspool or other place not being under any house as the Council direct and the Council may require any such drain or
 10 drains to be of such materials and size and to be laid at such level and with such fall as on the report of their surveyor may appear to them to be necessary. If such notice is not complied with the Council may at the expiration of the time specified in the notice do the work required and may recover in a summary manner the expenses incurred by
 15 them in so doing from the owner or may by order declare the same to be private improvement expenses. Provided that where in the opinion of the local authority greater expense would be incurred in causing the drains of two or more houses to empty into an existing sewer pursuant to this section than in constructing a new sewer and causing
 20 such drains to empty therein the Council may construct such new sewer and require the owners or occupiers of such houses to cause their drains to empty therein and may apportion as they deem just the expenses of the construction of such sewer among the owners of the several houses and recover in a summary manner the sums
 25 apportioned from such owners or may by order declare the same to be private improvement expenses.

Power of Council to enforce drainage of undrained houses.

Disposal of Sewage.

89. For the purpose of receiving storing disinfecting distributing or otherwise disposing of sewage any Council may—
 30 (1.) Construct any works within their Municipality or (subject to the provisions of this Act as to sewerage works without their Municipality) without their Municipality and
 (2.) Contract for the use of purchase or take on lease any land buildings engines materials or apparatus either within or
 35 without their Municipality and
 (3.) Contract to supply for any period not exceeding twenty-five years any person with sewage and as to the execution and costs of works either within or without their Municipality for the purposes of such supply. Provided that no nuisance be created
 40 in the exercise of any of the powers given by this section.

Powers for disposing of sewage.

90. The Council of any Municipality may by agreement with the Council of any adjoining Municipality and with the sanction of the ~~Board of Water Supply and Sewerage~~ **Central Authority** cause their sewers to communicate with the sewers of such last-mentioned Council in such
 45 manner and on such terms and subject to such conditions as may be agreed on between the local Councils or in case of dispute may be settled by the said ~~Board~~ **Authority**. Provided that so far as practicable storm waters shall be prevented from flowing from the sewers of the first-mentioned Municipality into the sewers of the last-mentioned
 50 Municipality and that the sewage of other districts or places shall not be permitted by the first-mentioned Council to pass into their sewers so as to be discharged into the sewers of the last-mentioned Council without the consent of such last-mentioned Council.

Power to agree for communication with sewers of adjoining Municipalities.

91. Any Council may deal with any lands held by them for the
 55 purpose of receiving storing disinfecting or distributing sewage in such manner as they deem most profitable either by leasing the same for a period not exceeding twenty-one years for agricultural purposes or by contracting with some person to take the whole or a part of the produce
 of

Power to deal with land appropriated to sewage purposes.

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of such land or by farming such land and disposing of the produce thereof subject to this restriction that in dealing with land for any of the above purposes provision shall be made for effectually disposing of all the sewage brought to such land without creating a nuisance.

- 5 92. Where any Council agree with any person as to supply of sewage and as to works to be made for the purpose of such supply they may contribute to the expense of carrying into execution by such person all or any of the purposes of such agreement and may become shareholders in any company with which any agreement in relation to the matters aforesaid has been or may hereafter be entered into by such Council, or to or in which the benefits and obligations of such agreement may have been or may be transferred or vested.

Contribution to works under agreement for supply or distribution of sewage.

As to Sewage Districts without Municipality.

93. A Council shall three months at least before commencing the construction or extension of any sewer or other work for sewage purposes without their Municipality give notice of the intended work by advertisement in the *Gazette* and in one or more of the local newspapers circulating within the district where the work is to be made. Such notice shall describe the nature of the intended work and shall state the intended termini thereof and the names of the roads and streets and other lands (if any) through across under or on which the work is to be made and shall name a place where a plan of the intended work is open for inspection at all reasonable hours and a copy of such notice shall be served on the owners or reputed owners lessees or reputed lessees and occupiers of the said lands.

Notice to be given before commencing sewage works without Municipality.

94. The Board of Water Supply and Sewerage Central Authority may on application of the Council appoint an inspector to make inquiry on the spot into the propriety of the intended work and into the objections thereto and to report to the Board such Authority on the matters with respect to which such inquiry was directed and on receiving the report of such inspector the Board such Authority may make an order disallowing or allowing with such modifications (if any) as they may deem necessary the intended work which order shall be complied with by the Council.

Inspector to hold inquiry and report of the Metropolitan Water and Sewerage Board.

35 PART IV.

The Acquisition and Occupation by Councils of Lands for purposes of Water Supply or Sewerage—Ascertainment of Compensation in respect thereof.

95. After the notification in the *Gazette* as hereinbefore provided of the approval by the Governor of any scheme for the supply of water to or for the Sewerage of any Borough or Municipal District but not before the Council of such Borough or Municipality shall be empowered to acquire or occupy lands for the purposes of such Water Supply or Sewerage in manner hereinafter provided and compensation for every such acquisition or occupation of lands shall be ascertained and carried out as hereinafter provided.

Lands required Water Supply or Sewerage how acquired.

96. It shall be lawful for the Council by notification to be published in the *Gazette* and in one or more newspapers published or circulated circulating in the Borough or Municipal District wherein is situated the land the subject of such notification to declare that the land described in such notification is required for the purpose therein expressed whether of Water Supply or Sewerage.

How and when lands can be taken.

Country Towns Water and Sewerage.

97. Upon the publication of the notification in the *Gazette* Vesting &c. of lands. declaring that the lands therein described are so required such lands shall upon compliance with the requirements and provisions hereinafter contained be vested in the Council for the purposes of this Act
 5 for an estate of inheritance in fee simple in possession freed and discharged from all trusts obligations estates interests contracts charges rates rights-of-way or other easements whatsoever and to the intent that the legal estate therein together with all powers incident thereto or conferred by this Act shall subject to the provisions thereof be
 10 vested in the Council.

98. Where the land required is Crown land at the date of such publication or is vested in any Corporation or person on behalf Effect of publication upon Crown lands. of Her Majesty or for public purposes by virtue of any statute or is within the limits with reference to centres of population prescribed
 15 by the Act next hereinafter cited the effect of such publication shall be to withdraw the said land (to the extent required) from any lease or license or promise thereof and to cancel to the like extent any dedication or reservation of the said land made under the authority of the "Crown Lands Alienation Act of 1861" or any Act or Acts
 20 amending the same or to divest the estate of such Corporation or person and to vest the said land to the extent aforesaid in the Council for the purposes mentioned and for the estate limited in the last preceding section Provided however that nothing in this section contained shall have any effect or operation unless the approval of the Governor shall
 25 first have been obtained with respect to the land so required.

99. Where the land described in any such notification consists Compensation for private lands. wholly or partly of land alienated by or not the property of the Crown or is not Crown land as defined by this Act the owners thereof shall be entitled to receive such sum of money by way of compensation
 30 for the land so described as shall be agreed upon or otherwise ascertained under the provisions hereinafter contained.

100. The estate and interest of every person entitled to lands Conversion of estate of proprietor of resumed land into a claim. required under this Act or any portion thereof and whether to the legal or the equitable estate therein shall upon due payment of the
 35 amount of compensation tendered by the Council or assessed by the jury as hereinafter provided be deemed to have been as fully and effectually conveyed to the Council as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law And every person shall upon asserting
 40 his claim as hereinafter provided and making out his title in respect of any portion of the said resumed lands be entitled to compensation on account of such resumption in manner hereinafter provided.

101. Every person claiming compensation in respect of any land Notice of claim for compensation. so required or in respect of any work or other matter done under the
 45 authority of this Act shall within ninety days from the publication of such notification or at any time afterwards within such extended time as a Judge of the Supreme Court shall upon the application and at the cost of the claimant appoint in that behalf serve a notice in writing upon the Mayor of the Council which notice shall set forth the nature
 50 of the estate or interest of the claimant in such land together with an abstract of his title and if he claims in respect of damage the nature of the damage which he has sustained or will sustain by reason of the taking of his land or of such work or matter as aforesaid and such notice may be in the form in the Fourth Schedule hereto but with any modifi-
 55 cations required by the nature of the claim.

102. Within sixty days after the receipt of every such notice of Claim and report thereon. claim the Council shall cause a valuation of the land or of the estate or interest of the claimant therein to be made in accordance with the provisions of this Act and shall inform the claimant as soon as
 60 practicable of the amount of such valuation by notice in the form of the Fifth Schedule hereto.

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103. If within ninety days after the service of notice of claim the claimant and the Council shall not agree as to the amount of compensation the claimant shall be at liberty to institute proceedings in the Supreme Court in the form of an action for compensation against the Council. And any such action may be tried before a Judge of the said Court or in any Circuit Court and a special jury of four persons to be summoned by the Sheriff from the Jurors District within which the land resumed or the greater portion thereof is situated in accordance with the law regulating the summoning of Jurors for the trial of civil issues. Provided always that upon proper application either of the Council or of the claimant a special jury of twelve may be so summoned for the trial of such action. Provided also that with the consent in writing of the Mayor and the claimant any such action may be so tried at any time (to be mentioned in such consent) before the expiration of ninety days from service of the notice of claim for compensation but not within fourteen days from service of the notice of valuation on such claimant.

Compensation by
action in Supreme
Court.

104. The issue to be tried in any such action shall be whether the claimant is entitled to a larger sum by way of compensation than the amount of the valuation so made by the Council and notified to the claimant as aforesaid and if so to what sum. And if upon the trial of the said action the verdict shall be for a greater sum than the amount of the said valuation the costs of the action shall be borne by the Council but if the verdict shall be for a sum equal to or less than such valuation then the costs shall be borne by the claimant.

Issue in action of
compensation verdict
and costs.

105. A District Court shall notwithstanding anything contained in the "District Courts Act of 1858" have jurisdiction to try any such action of compensation at the District Court holden within the District wherein any land acquired under this Act (or the greater portion of such land) is situated in any case where the whole amount of the claim in respect to such land served in pursuance of the one hundred and first section of this Act does not exceed two hundred pounds or if exceeding that amount in any case where the Council and the claimant by a memorandum signed by the Mayor of such Council and such claimant or by the respective attorneys of the Council and the claimant agree thereto. For the purposes of this section the provisions of the said District Courts Act and of any Act amending the same together with all rules made or to be made thereunder shall be deemed to apply to all proceedings taken in any District Court hereunder.

Where claim may
be prosecuted in a
District Court.

106. All moneys payable under this Act by way of compensation to any claimant whether under the verdict of a jury or otherwise shall be paid together with interest at the rate of six pounds per centum per annum from the date of the publication of the notification mentioned in the ninety-sixth section hereof and costs (if any) within one month after the determination of such compensation to the person lawfully entitled thereto or to his agent duly authorized in that behalf in writing but the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land. Provided that in the case of land under the surface taken for the purpose of constructing a subterranean tunnel for water supply or sewerage no compensation shall be allowed or awarded unless the surface of the overlying soil be disturbed or the support to such surface be destroyed or injuriously affected by the construction of such tunnel or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

As to payment of
compensation.

107. In estimating or assessing the compensation to be paid under this Act regard shall be had by the valuers and by the jury (on any issue) not only to the value of the land taken by the Council but

Compensation how
to be estimated.

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but also to the damage (if any) to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner or other injuries suffered by such other lands by reason of the exercise of the powers expressed or incorporated in this

5 Act and they shall assess the same according to what they shall find to have been the value of such lands estate or interest at the time of the resumption thereof or the extent of the damage or injury sustained.

107. 108. Subject to the provisions of this Act it shall be lawful for the Council and for any officer there duly authorized in that behalf and

General power of entry.

10 for all persons employed in the carrying out of any authorized works and for any persons authorized by the Council to enter upon the lands of any person whomsoever which the Council may require to purchase or take and to take possession and appropriate the same for the purposes of this Act or of the execution of any such authorized works.

15 108. 109. Notwithstanding anything hereinbefore contained it shall be lawful for the Council if they think fit to agree with the owners of any lands the acquisition of which is authorized by this Act and with all parties having any estate or interest in such lands or by this Act enabled to sell and convey the same for the absolute purchase for a

Power to purchase lands by agreement.

20 consideration in money of any such lands or such parts thereof as shall be thought proper and of all estates and interests in such lands of what kind soever.

109. 110. It shall be lawful for all parties being seized possessed of or entitled to any such lands or any estate or interest therein to sell and

Parties under disability enabled to sell and convey and exercise other powers.

25 convey or release the same to the Council and to enter into all necessary agreements for that purpose and particularly it shall be lawful for all or any of the following parties so seized possessed or entitled as aforesaid so to sell convey or release that is to say all corporations tenants in tail or for life married women seized in their own right or

30 entitled to dower guardians committees of lunatics and idiots trustees or feoffees in trust for charitable or other purposes executors and administrators and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower or to any lease for life or for lives and years or for

35 years or any less interest and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties other than married women entitled to dower or lessees for life or for lives and years or for years or for any less interest not only on behalf of themselves and their respective heirs executors administrators and successors

40 but also for and on behalf of every person entitled in reversion remainder or expectancy after them or in defeasance of the estates of such parties and as to such married women whether they be of full age or not as if they were sole and of full age and as to such guardians on behalf of their wards and as to such committees on behalf of the lunatics

45 and idiots of whom they are the committees respectively and that to the same extent as such wives wards lunatics and idiots respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability and as to such trustees executors or administrators on behalf of their *cestuique* trusts whether

50 infants issue unborn lunatics *feme covert* or other persons and that to the same extent as such *cestuique* trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability and the power hereinafter given to release lands from any rent-charge or incumbrance and to agree for

55 the apportionment of any such rent-charge or incumbrance shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the Council.

110. 111. It shall be lawful for the Council to sell and convey any lands appropriated or resumed under this Act which may not be required or

Authority to sell superfluous or unnecessary lands.

any

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any portion thereof in such manner and for such considerations and to such persons as ~~he~~ **they** may think fit and the proceeds of all such ~~sites~~ **sales** shall be paid by the purchasers to the **Council**.

- 111. 112.** The several sections of the Government Railways Act Incorporation of provisions of Government Railways Act.
5 twenty-second Victoria number nineteen hereinafter specified together with the respective powers authorities duties liabilities obligations and other the provisions therein contained are hereby declared to be incorporated with and embodied in this Act to the intent that the same may be applied as fully and effectually to the lands taken under
10 the authority of this Act as if the said sections had been specifically enacted herein ~~Provided always that all conveyances releases or other instruments taken by the Council from persons claiming interests in any lands taken hereunder under the sections hereby incorporated shall be deemed to be by way of acquittance or discharge only~~ And
15 that wheresoever in any section so incorporated the word "Commissioner" occurs there shall for the purposes of this Act be substituted in lieu of such word the expression "The Council" And whenever the word "Railway" or words implying works connected with a railway occur there shall be substituted such words respectively as denote the
20 nature of the work undertaking or purpose in respect of which the land in question has been appropriated or resumed The following are the sections so declared to be incorporated with this Act—
- 25** (1.) As to the deposit of compensation money in certain cases with the Master in Equity and the application and investment thereof As to payment of such money in certain cases to trustees or to the parties themselves and the exoneration of the Council in respect thereof after payment Sections forty-seven to fifty-two both inclusive.
 - 30** (2.) As to the deposit and application of compensation money on refusal of the owner to accept the same or on his failing to make out a satisfactory title and as to presumption of ownership Sections fifty-three to fifty-six both inclusive.
 - 35** (3.) As to the procedure by the Council in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof or hinder the Council from entering upon or taking possession of the same Section sixty-one.
 - 40** (4.) As to the purchase or redemption of the interests of mortgagees and the deposit of principal and interest due on mortgages with the Master in Equity the procedure to be observed when the mortgaged lands are of less value than the mortgage debt and where part only of lands in mortgage are taken Sections sixty-five to seventy both inclusive.
 - 45** (5.) As to the release of lands from rent charges and other incumbrances and procedure thereon Sections seventy-one to seventy-four both inclusive.
 - (6.) As to the apportionment of rent where lands taken are under lease and as to compensation to tenants Sections seventy-five to seventy-eight both inclusive.
 - 50** (7.) As to the entry upon or temporary occupation of lands the crossing of roads and other highways the making of bridges and other works of accommodation and the provisions consequent thereon Section ten and sections eighty-four to ninety-seven both inclusive ~~Provided that compensation shall in all respects be ascertained in accordance with this Act.~~
 - 55** **112. 113.** It shall be lawful for the Council and all persons by them Power to take temporary possession of land. authorized to enter upon any lands not being a garden orchard or plantation attached or belonging to a house nor a park planted walk avenue or ground ornamentally planted and not being nearer to the mansion-house of the owner of any such lands than **one hundred yards** therefrom

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therefrom and to occupy the said lands so long as may be necessary for the construction or repair of any works authorized by this Act of the accommodation works connected therewith hereinafter mentioned and to use the same for any of the following purposes that is to say—

- 5 For the purpose of taking earth or soil by side cuttings therefrom
- For the purpose of depositing soil thereon
- For the purpose of obtaining materials therefrom for the construction or repair of the waterworks or sewerage works or such accommodation works as aforesaid or
- 10 For the purpose of forming roads thereon to or from or by the side of the said works

And in exercise of such powers it shall be lawful for the Council and all other persons employed therein to deposit and also to manufacture and work upon such lands materials of every kind used in constructing
 15 the said works and also to take from any such lands any timber and also to dig and take from or out thereof any clay stone gravel sand or other things that may be found therein useful or proper for constructing the said works or any such roads as aforesaid and for the purposes aforesaid to erect thereon workshops sheds and other buildings of a
 20 temporary nature Provided always that nothing in this Act contained shall exempt the Council from an action for nuisance or other injury (if any) done in the exercise of the powers hereby conferred to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid Provided
 25 also that no stone or slate quarry brick-field or other like place which at the time of the passing of this Act shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same shall be taken or used by the Council either wholly or in part for any of the purposes lastly hereinbefore mentioned.

30 ~~113.~~ 114. If any such lands shall be used for any of the purposes aforesaid the Council shall if required so to do by the owner or occupier thereof separate the same by a sufficient fence from the lands adjoining thereto with such gates as may be necessary for the convenient occupation of such lands and in case of any difference between the
 35 owners or occupiers of such lands and the Council as to the necessity for such fences and gates then with such fences and gates as the Governor shall deem necessary for the purposes aforesaid.

Council to separate the lands before using them.

114. 115. In any of the cases aforesaid where the Council shall take temporary possession of lands by virtue of the powers herein granted it
 40 shall be incumbent on them within one month after their entry upon such lands upon being required to do so to pay to the occupier of the said lands the value of any crop or dressing that may be thereon as well as full compensation for any other damage of a temporary nature which he may sustain by reason of the Council so taking possession of
 45 his lands.

Compensation to be made for temporary occupation.

115. 116. If in the exercise of the powers hereby granted it be found necessary to cross cut through raise sink or use any part of any road whether carriage-road horse-road or tram-road or railway either public or private so as to render it impassable for or dangerous or more than usually
 50 inconvenient to passengers or carriages or to the persons entitled to the use thereof the Council shall before the commencement of any such operations cause a sufficient road to be made instead of the road to be interfered with and shall at the public expense maintain such substituted road in a state as convenient for passengers and carriages as the road so
 55 interfered with or as nearly so as may be.

Before roads interfered with others to be substituted.

116. 117. If the road so interfered with can be restored compatibly with the due completion of any works authorized under this Act the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the Council or as near thereto as

Period for restoration of roads interfered with.

may

Country Towns Water and Sewerage.

may be and if such road cannot be so restored the Council shall cause the new or substituted road or some other sufficient substituted road to be put into a permanently substantial condition equally convenient as the former road or as near thereto as circumstances will allow and the
5 former road shall be restored or the substituted road put into such condition as aforesaid as the case may be with all reasonable expedition.

117. 118. If the conduit or any sewerage works shall cross any highway other than a public carriage-way on the level the Council shall make and at all times maintain convenient ascents and descents and other
10 convenient approaches with hand-rails or other fences and shall if such highway be a bridle-way erect and at all times maintain good and sufficient gates and if the same shall be a foot-way good and sufficient gates or stiles on each side of such conduit or works where the highway shall communicate therewith.

Council to make sufficient approaches and fences to bridle-ways and foot-ways crossing on the line.

15 118. 119. The Council shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining any works authorized under this Act that is to say :—

Works for benefit of owners.

Such and so many convenient gates bridges arches culverts and
20 passages over under or by the side of or leading to or from such works as shall be necessary for the purpose of making good any interruptions caused thereby to the use of the lands through which the same shall be made and such works shall be made forthwith after the part of the conduit passing over such lands shall have been laid out or formed or during the
25 formation thereof

Gates bridges &c.

Also sufficient posts rails hedges ditches mounds or other fences
for separating the land taken for the use of such works from the adjoining lands not taken and protecting such lands from trespass or the cattle of the owners or occupiers thereof from
30 straying thereout by reason thereof together with all necessary gates made to open towards such adjoining lands and not towards the said works and all necessary stiles and such posts rails and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require and
35 the said other works as soon as conveniently may be

Fences &c.

Also all necessary arches tunnels culverts drains or other passages
either over or under or by the sides of such works and of such dimensions as will be sufficient at all times to convey the water from the lands lying near or affected thereby

Drains.

40 Provided always that the Council shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works for water supply or sewerage nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive and shall have been paid
45 compensation.

119. 120. If any difference arise respecting the kind or number of any such accommodation works or the dimensions or sufficiency thereof respecting the maintaining thereof the same shall be deter-
50 mined by the Governor who shall also appoint the time within which such works shall be commenced and executed.

Differences as to accommodation works to be settled by Governor.

120. 121. If any of the owners or occupiers of lands affected by such conduit shall consider the accommodation works made by the Council or directed by the Governor to be made by the Council insufficient for the commodious use of their respective lands it shall be
55 lawful for any such owner or occupier at any time at his own expense to make such further works for that purpose as he shall think necessary and as shall be agreed to by the Council.

Power to owners of lands to make additional accommodation works.

121. 122. If the Council so desire all such last-mentioned accommo-
dation works shall be constructed under the superintendence of the
Council's

Such works to be constructed under the superintendence of the Council's engineer.

Country Towns Water and Sewerage.

Council's engineer and according to plans and specifications to be submitted to and approved by the Council. But the Council shall not be entitled to require either that plans shall be adopted which will involve a greater expense than that incurred in the execution of similar works by the Council or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Council.

122. 123. If any person omit to shut and fasten any gate set up for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriages cattle or other animals under his care have passed through the same he shall forfeit for every such offence any sum not exceeding ten pounds.

Penalty on persons omitting to fasten gates.

PART V.

Special provisions in respect of certain authorized Works—Miscellaneous Provisions—Legal Procedure.

123. 124. Notwithstanding anything in this Act contained it shall be lawful for the Governor to construct and complete any works whether for Water Supply or Sewerage the construction or completion whereof shall have been or shall hereafter be authorized by the said Governor but only to the extent to which moneys voted or to be voted by Parliament shall be from time to time available therefor. And all such works shall be constructed and completed under the direction of the Minister for Public Works.

Provision for works sanctioned by Governor &c.

124. 125. Upon the completion of any such works the said Minister shall report that fact to the Governor. And the Governor shall notify such completion in the *Gazette* and thereupon the Council of the Borough or Municipal District within and for the purposes of which the said works shall have been constructed shall take over the same and the administration and management thereof upon the terms and conditions hereinafter prescribed and upon any further terms or conditions which the Governor may in any case appoint viz. :—

Report of completion of works and transfer to Council.

(1.) The whole amount [subject to such partial remission as the Governor may think just under any special circumstances] expended upon any such works as certified under the hand of the Minister for Public Works shall be a debt chargeable upon the general revenues from whatever sources derived of such Borough or Municipal District until defrayed as hereinafter provided.

(2.) Such debt shall be liquidated by periodical payments to the Colonial Treasurer to be by him carried to the Consolidated Revenue Fund. And the first payment shall be made within one year from the date of the *Gazette* notification of transfer and shall be for an amount equal to five pounds per centum of the debt so certified as aforesaid. And before the end of each succeeding Municipal year thereafter a payment shall in like manner be made until the aggregate amount so paid shall equal the amount so certified as aforesaid together with interest added at the rate of four per centum on the balance remaining unpaid in each year. So soon as the sums so paid shall equal such amount together with interest added as aforesaid all further payments shall cease and the rates and income arising from such works shall be discharged from any further payments in respect thereof.

(3.) If default shall be made by the Council of any such Borough or Municipal District in making any payment prescribed by this

Country Towns Water and Sewerage.

- this section for a period of thirty days after the same shall have become payable the Colonial Treasurer shall be entitled forthwith to take such proceedings to enforce payment by procuring the appointment of any number of persons not exceeding three to be Receivers of the rates and other revenues of such Council as may now or hereafter be taken by a mortgagee or other secured creditor or by the holder of the debentures of a Municipal Council under the "Municipalities Act of 1867" or any Act amending the same.
- (4.) The said Treasurer thereof have full power to make all necessary applications to and to procure all necessary orders and directions from the Supreme Court for and touching the appointment of Receivers or a Receiver and the said Court shall have power to make all such orders for the appointment of a Receiver or for his removal and the appointment of another in his place as may be necessary and to make any orders and give any directions which the said Court may think proper And every such Receiver shall be deemed to be an officer and shall act under the direction of the Supreme Court.
- (5.) Receivers shall be entitled to receive all rates and other revenues payable to the Council of the Municipality for or in respect of which they shall have been appointed Receivers and to make and levy rates but so nevertheless that the rates so made and levied shall not exceed those which the Council would have been entitled to levy under the provisions of the law in force for the time being And for such purposes such Receivers shall be deemed the Council of such Municipality and may exercise all the powers thereof.
- (6.) Receivers shall be entitled to such commission payable out of the rates of the Municipality as remuneration for their services as the Supreme Court may appoint.
- (7.) Receivers shall subject to any order of the Supreme Court pay over all moneys received by them to the Colonial Treasurer to be by him carried to the Consolidated Revenue Fund and if there be any balance in hand over and above the amount due and payable to the Colonial Treasurer under the provisions of this Act they shall pay such balance over to the Council of the Municipality.
125. 126. Upon the publication of such notification as aforesaid it shall be lawful for the Council to exercise all the powers (and they shall in that case be subject to all the obligations and other provisions) contained in this Act except such as are limited in operation to the Governor or the Minister and except such as are manifestly inapplicable to the purposes of administering and managing works of Water Supply or Sewerage. Certain powers of Councils or transfer of works to them.
126. 127. In any case where the Council of any Borough or Municipal District within the meaning of this Act shall have constructed or commenced to construct works for Water Supply or Sewerage within and for the purposes of such Borough or District it shall be lawful for the Governor on the petition of such Council to declare by Proclamation in the *Gazette* that any specified powers and provisions applicable for the purpose contained in this Act [including powers incident to the levying of Water and Sewerage Rates or either as the case may require] shall be applied within such Borough or District by and with respect to the Council and inhabitants thereof respectively And the parts of this Act and the powers and provisions so specified shall upon the publication of such Proclamation apply to and be in force within such Borough or District and with Application of certain parts of Act to certain Municipal Works.
- 352—E respect

Country Towns Water and Sewerage.

respect to such Council and inhabitants with the same effect for all purposes as if this Act had specifically declared such parts powers and provisions to be so applied as aforesaid.

127. 128. Every officer or servant employed by the Council shall when
 5 required by the Council make out and deliver to them or to any person appointed by them for that purpose a true and perfect account in writing under his hand of all moneys received by him on behalf of the Council in consequence of his employment and such account shall state how and to whom and for what purpose such moneys shall have
 10 been disposed of and together with such account such officer shall deliver the vouchers and receipts for such payments and every such officer shall pay to the Council or to any person appointed by them to receive the same all moneys which shall appear to be owing from him upon the balance of such accounts.
- 15 128. 129. If any such officer fail to render such account or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power or to pay the balance thereof when thereunto required or if for three days after being thereunto required he fail to deliver up to the Council or to any person appointed by the Council
 20 to receive the same all papers and writings property effects matters and things in his possession or power relating to the execution of this Act or belonging to the Council then on complaint thereof being made to a Justice such Justice shall summon such officer to appear before two or more Justices at a time and place to be set forth in such
 25 summons to answer such charge and upon the appearance of such officer or in his absence upon proof that such summons was personally served upon him or left at his last known place of abode such Justices may hear and determine the matter in a summary way and may adjust and declare the balance owing by such officer and if it appear either
 30 upon confession of such officer or upon evidence or upon inspection of the account that any public moneys which should be paid over to the Council are in the hands of such officer or owing by him such Justices may order such officer to pay the same and if he fail to pay the amount it shall be lawful for such Justices to grant a warrant to levy the same
 35 by distress or in default thereof to commit the offender to gaol for a period not exceeding three months unless the said amount be sooner paid.
129. 130. If any such officer or servant refuse to make out such account in writing or to produce and deliver to the Justices the several
 40 vouchers and receipts relating thereto or to deliver up any books papers or writings property effects matters or things in his possession or power belonging to the Council such Justices may lawfully commit such offender to gaol there to remain until he shall have delivered up all the vouchers and receipts (if any) in his possession or power relating to
 45 such accounts and have delivered up all books papers writings property effects matters and things (if any) in his possession or power belonging to the Council or which should be delivered up to them by such officer or servant.
130. 131. If the Mayor or other person acting on behalf of the
 50 Council shall make oath that he has good reason to believe upon grounds to be stated in his deposition and does believe that it is the intention of any such officer as aforesaid to abscond or that he has absconded it shall be lawful for the Justice before whom the complaint is made if he shall think fit to issue a warrant in the first instance for
 55 the bringing such officer or servant before such two Justices as aforesaid but no person executing such warrant shall keep such officer or servant in custody longer than twenty-four hours or such longer period as may be rendered necessary by the distance of the place of apprehension from the residence of the nearest or most convenient Justice
 without

Officers to account on demand.

Summary remedy against parties failing to account.

Officers refusing to deliver up documents &c. to be imprisoned.

Where officer about to abscond a warrant may be issued in the first instance.

Country Towns Water and Sewerage.

without bringing him before some Justice and it shall be lawful for the Justice before whom such officer may be brought either to discharge such officer if he think there is no sufficient ground for his detention or to order such officer to be detained in custody so as to
 5 be brought before two Justices at a time and place to be named in such order unless such officer give bail to the satisfaction of such Justice for his appearance before such Justices to answer the complaint of the said President or person. Provided nevertheless that no such proceeding
 10 against or dealing with any such officer or servant as aforesaid shall deprive the Council of any remedy which they might otherwise have against such officer or any surety of such officer.

Sureties not to be discharged.

131. 132. One half of any penalty recovered under this Act or any by-law thereunder shall be paid to the informer and where any distress
 15 is made for any sum of money to be levied under this Act the distress itself shall not be unlawful nor the persons making the same be deemed trespassers on account of any defect or want of form in the information summons conviction warrant of distress or other proceedings relating thereto nor shall the persons distraining be deemed
 20 trespassers on account of any irregularity that shall be afterwards done by the persons distraining but the persons aggrieved by such irregularities may recover satisfaction for the special damage in an action on the case.

Moiety of penalties to be paid to informers distress not unlawful for want of form.

132. 133. The following provisions shall and may be applied in
 25 respect of all actions and proceedings taken in respect of claims for damages not within the meaning and operation of Part IV hereof
 viz. :—

Actions and executions.

(I.) No action against the Council shall be maintainable in any Court other than the Supreme Court and no writ of execution shall be issued against the Council until the expiration of
 30 fourteen days after final judgment has been signed and no real estate now or hereafter to be vested in the Council shall be liable to be sold under any writ of execution or other process of any Court of Law or Equity.

(II.) No plaintiff shall recover in any such action unless notice in
 35 writing has been given to the defendant twenty-eight days before such action is commenced of such intended action signed by the attorney of the plaintiff specifying the cause of such action and the plaintiff shall not recover in any such action if tender of sufficient amends shall have been made
 40 to him or to his attorney by or on behalf of the defendant before such action brought and in case no such tender be made it shall be lawful for the defendant in any such action by leave of the Court at any time before issued joined to pay into Court such sum of money as he thinks proper where-
 45 upon such proceedings order and judgment shall be made and given by such Court as in other actions where the defendant is allowed to pay money into Court.

Tender of amends.

(III.) No such action or suit shall be brought after three months
 50 from the act committed and the defendant in every such action or suit may at his election plead specially or the general issue and give this Act and the special matter in evidence at any trial and prove that the same was in pursuance and under the authority of this Act and if the same appear to have been so done or if such action or suit have been brought
 55 before the expiration of twenty-eight days next after such notice has been given as aforesaid or after sufficient satisfaction made or tendered as aforesaid or after the time limited for bringing the same or be brought in any other place than as aforesaid the jury shall find a verdict for the defendant and
 upon

Limitation of action.

Country Towns Water and Sewerage.

5 upon such verdict or if the plaintiff be nonsuited or discontinue his action or suit after the defendant have appeared or upon any demurrer judgment be given against the plaintiff or plaintiffs the defendant shall recover full costs of suit and have such remedy for recovering the same as any other defendant has in other cases by law.

133. 134. Where by this Act any question of compensation expenses charges or damages or other matter is required to be referred to the determination of any one or more Justices it shall be lawful for any
10 Justice upon the application of either party to summon the other party to appear before one Justice or before two Justices as the case may require at a time and place to be named in such summons and upon the appearance of such parties or in the absence of any of them upon proof of due service of the summons it shall be lawful for such one Justice or
15 such two Justices as the case may be to hear and determine such question and for that purpose to examine such parties or any of them and their witnesses on oath and the cost of every such inquiry shall be in the discretion of such Justices and they shall determine the amount thereof.

Method of proceeding before Justices in question of damages &c.

134. 135. Every penalty forfeiture charge or sum of money imposed
20 by or made payable under this Act or by any by-law made in pursuance thereof the recovery of which is not otherwise provided for may be recovered by summary proceedings before two Justices under the provisions of the Act or Acts in force for the time being regulating summary proceedings before Justices And where any such penalty
25 forfeiture charge or sum be not paid either immediately after conviction or adjudication or within the time appointed thereby the same may be enforced by distress and sale of the offender's or defaulter's goods and chattels in the manner provided by the said Acts.

Penalties &c. to be summarily recovered before two Justices.

135. 136. If any party shall feel aggrieved by any determination or
30 adjudication of any Justice or Justices with respect to any penalty or forfeiture under the provisions of this Act such party may appeal to the General or Quarter Sessions for the district or place in which the cause of appeal shall have arisen but no such appeal shall be entertained unless it be made within four months next after the making of such
35 determination or adjudication nor unless ten days notice in writing of such appeal stating the nature and grounds thereof be given to the party against whom the appeal shall be brought nor unless the appellant forthwith after such notice enter into recognizances with two sufficient sureties before a Justice conditioned duly to prosecute such appeal and
40 to abide the order of the Court thereon At the General or Quarter Sessions for which such notice shall be given the Court shall proceed to hear and determine the appeal in a summary way or they may if they think fit adjourn it to the following Sessions and upon the hearing of such appeal the Court may if they think fit mitigate any
45 penalty or forfeiture or they may confirm or quash the adjudication and order any money paid by the appellant or levied by distress upon his goods to be returned to him and also may order such further satisfaction to be made to the party injured as they may judge reasonable and they may make such order concerning the costs both of the adjudication
50 and of the appeal as they may think reasonable.

Parties allowed to appeal to Quarter Sessions on giving security.

Court to make such order as they think reasonable.

136. 137. If through any act neglect or default on account whereof
any person shall have incurred any penalty imposed by this Act any
damage to any conduit main pipe sewer or other property of the
Council used in connection therewith shall have been committed by
55 such person he shall be liable to make good such damage as well as to pay such penalty and the amount of such damages shall in case of dispute be determined by the Justices by whom the party incurring such penalty shall have been convicted and on non-payment of such damages on demand the same shall be levied by distress and such
60 Justices or one of them shall issue their warrant accordingly.

Damage to be made good in addition to penalty.

Country Towns Water and Sewerage.

137. 138. It shall be lawful for any officer or servant of the Council Transient offenders.
 and all persons called by him to his assistance to seize and detain any
 person who shall have committed any offence against the provisions of
 this Act and whose name and residence shall be unknown to such
 5 officer or servant and convey him with all convenient dispatch before
 some Justice without any warrant or other authority than this Act
 and such Justice shall proceed with all convenient dispatch to the
 hearing and determining of the complaint against such offender.

138. 139. Any notice required by this Act or any by-law or regula- Notices.
 10 tion made thereunder to be served on or given to any owner or
 occupier of any building land or premises or on or to any person may
 be in writing or partly in writing and partly printed or may be wholly
 printed And it shall be sufficient for all purposes of this Act unless
 the said Act in any case prescribes a different course to be pursued if
 15 any such notice is sent by post to the owner by registered letter
 addressed to his last-known place of abode or of business or is served
 on the owner or occupier of such building land or premises or left with
 some inmate apparently over the age of fourteen years living at the
 place of abode of such owner or occupier or if there be no occupier if
 20 such notice be posted on some conspicuous part of such building or land
 And any notice required to be served or given in respect of any public
 street road or lane may be served on or sent by post as aforesaid to the
 Council Clerk of the borough or municipal district wherein such street
 road or lane or the portion thereof affected by the notice is situated.

25 140. Nothing in this Act shall be construed to render lawful Nothing in this
 any act matter or thing whatsoever which but for this Act would be Act to exempt any
 deemed to be a nuisance nor to exempt any Council or person from any person from pro-
 liability prosecution or punishment to which such Council or person secution &c. for
 would but for this Act have been subject. nuisance.

SCHEDULES.

No. _____ Guaranteed Debenture £ _____
 Issued by the Council of the [*insert name of Borough or Municipal District*] under the
 5 provisions of the "Country Towns Water and Sewerage Act of 1880."

THIS Debenture was issued by the abovenamed Council in pursuance of the provisions of the abovementioned Act and is to secure to the bearer a principal sum of _____ payable at the _____ on the _____ day of _____

10 Interest at the rate of five pounds per centum per annum on such principal sum in the meanwhile is payable by equal half-yearly payments on the _____ day of _____ and the _____ day of _____ and a coupon is annexed for each payment which entitles the bearer of such coupon thereto. Such principal sum and interest are payable at _____ and are guaranteed by the Consolidated Revenue in accordance with the

15 provisions of the abovenamed Act.

Dated this day of A.D.

A.B. [Mayor] (L.S.)
K.L. Council Clerk.

20 Borough (*or* Municipal District) of

Notice to lay Service Pipes.

NOTICE to the owners of tenements and premises in street and the private streets lanes courts and alleys opening thereunto.

THE main pipe in the said street having been laid down the owners of all tenements and premises situated as above are hereby required on or before the

25 day of next to cause a proper pipe and stop-cocks to be laid so as to supply water from the main pipe to such tenements and premises.

A.B.

Inspector (Surveyor *or* other Officer) for the said Borough or District.

30

THIRD SCHEDULE.

Warrant of Distress.

New South Wales }
to wit. } To constable at

WHEREAS of in New South Wales

35 has been rated at the sum of per annum for the water rate [*or* charged
or is liable to pay the sum of due to the Council of]
as the occupier [*or* owner] of a certain house or tenement situate in
street in and now occupied by and whereas the sum
of being due and payable on account of the said rate charge or sum
40 [as the case may be] on the day of in the year of our
Lord one thousand eight hundred and and was duly demanded by
the collector of rates for on the day of
in the year of the said who has not yet paid the same These
are therefore to require and authorize you forthwith to levy the said sum of

45 together with the costs of these presents by distress and sale of the goods found by you
in the said building or tenement according to law and that you certify to me on the
day of what you shall do by virtue of this warrant.

Given under my hand and seal this day of in the year of our
Lord one thousand eight hundred and

50 (L.S.) Mayor of the Council of

FOURTH

Country Towns Water and Sewerage.

FOURTH SCHEDULE.

Notice of claim and abstract.

To the Mayor of the Council of
In pursuance of the "Country Towns Water and Sewerage Act of 1880" I (or we)
5 hereby give you notice that I (or we) claim compensation in respect of the land here-
under described which has been resumed under the said Act The amount of such claim
and other the particulars required by the said Act are stated in the subjoined abstract.

Abstract.

10	Names and descriptions of parties claiming and nature of their interests whether tenants for life in tail or otherwise.	Situation and description of property.	Quit rents payable if leasehold name of landlord term of lease and rent reserved.	Names of occupiers distinguishing whether tenants-at-will or under lease rent reserved terms &c.	Particulars of claim specifying separately the amount claimed for value of property and for compensation.	Dates and other short particulars of documents of title.	Names of persons having the custody of documents and place or places where the same may be inspected and name of claimants' solicitor or agent.
15							

(Signature)
(Address)
(Date)

FIFTH SCHEDULE.

Notice of Valuation.

20 To A.B. claimant in respect of the land hereunder described resumed under the
"Country Towns Water and Sewerage Act of 1880."

TAKE notice that the land hereunder described being that in respect of the resumption
whereof under the authority of the aforesaid Act your claim or compensation has been
25 lodged has been valued at the sum of £

A.B.
Mayor &c.

Description of land in respect of which claim has been made.

ALL that piece or parcel of land &c. &c. &c.

STATE OF NEW YORK

IN SENATE

JANUARY 1, 1901

REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE

FOR THE YEAR 1900

ALBANY:

1901

PRINTED BY THE

UNIVERSITY OF THE STATE OF NEW YORK

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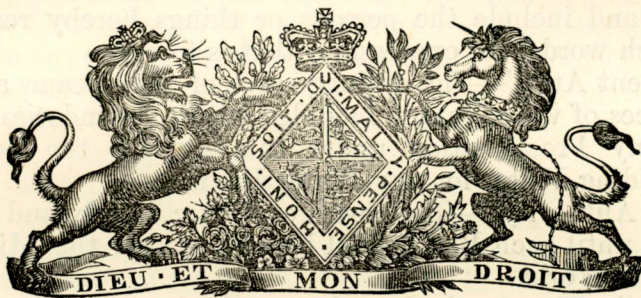
1901

THE UNIVERSITY OF THE STATE OF NEW YORK

ALBANY

1901

New South Wales.



ANNO QUADRAGESIMO QUARTO

VICTORIÆ REGINÆ.

No. XIV.

An Act to establish a system of Water Supply and Sewerage for certain Towns. [Assented to, 12th July, 1880.]

WHEREAS it is expedient to establish a general system by means ^{Preamble.} of which the Councils of Boroughs and Municipal Districts may be empowered to provide an adequate Supply of Water and to construct and maintain Sewerage Works for such Boroughs and Districts where the same are not included within the operation of the "Metropolitan Water and Sewerage Act of 1880" Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows that is to say :—

PART I.

Preliminary—General Powers and Duties of Councils as to Water Supply and Sewerage—Borrowing Powers for construction and maintenance of Works—Appointment of Officers—By-laws &c.

1. This Act may be cited as the "Country Towns Water and Sewerage Act of 1880" Its provisions are arranged under Five Parts ^{Short title and arrangement of Act.} embracing the following subjects viz. :—

PART I.—*Preliminary—General Powers and Duties of Councils as to Water Supply and Sewerage—Borrowing Powers for construction and maintenance of Works—Appointment of Officers—By-laws &c.*

A

PART II.

Country Towns Water and Sewerage.

PART II.—*Special Provisions as to Water Supply.*

PART III.—*Special Provisions as to Sewerage.*

PART IV.—*The acquisition and occupation by Councils of Lands for purposes of Water Supply or Sewerage—Ascertainment of Compensation in respect thereof.*

PART V.—*Special provisions in respect of certain authorised Works—Miscellaneous Provisions—Legal Procedure.*

Interpretation
terms.

And in the construction of this Act the following words and expressions in inverted commas shall unless there be something in the subject or context repugnant thereto or inconsistent therewith bear the meanings and include the persons or things hereby respectively set against such words and expressions that is to say—

“Catchment Area”—The drainage area of the streams and other sources of water supply included within boundaries set forth in any Proclamation under this Act for the purpose of providing Water for any Water District.

“Central Authority”—The Board of Water Supply and Sewerage—or until such Board shall be constituted the Minister for Public Works.

“Conduit”—The canals tunnels aqueducts cuttings or pipes by means of which the main stream of water is supplied to any Borough or Municipal District.

“Council”—The Council of any Borough or Municipal District not situate wholly or in part in the County of Cumberland.

“Governor”—The Governor with the advice of the Executive Council.

“Justice”—Any Justice of the Peace.

“Owner”—Any person who is in the receipt of the rents and profits of any house manufactory or buildings of whatsoever kind or of any land.

“Sewer”—Any sewer or drain of what kind soever whereby any liquid refuse or any water shall be carried off.

“Sewerage District”—The area within which the construction and maintenance of sewerage or drainage works for sewerage or drainage are authorized.

“Street”—Any square court alley highway lane road thoroughfare or public passage.

“Water District”—The area within which water is authorized to be supplied to the inhabitants of any Borough or Municipal District.

Qualified repeal of
parts of the Municipi-
palities Act 1867.

2. So much of the one hundred and sixty-fifth and one hundred and sixty-sixth sections of the “Municipalities Act of 1867” as limits the rates leviable in respect of works for water supply or sewerage to the respective amounts therein prescribed so much of the one hundred and sixty-eighth section of the said Act as declares that special and general rates for any Municipality shall not exceed the amount therein specified And so much of the said Act as is repugnant to the provisions of this Act in respect of the construction or maintenance of works for water supply or sewerage the borrowing of money therefor and the making of rates in respect thereof are hereby repealed but only so far as the said enactments might be construed to control and limit the provisions of this Act.

Power to acquire
land and sell land not
required.

3. The Council of any Borough or Municipal District may for the purposes and subject to the provisions of this Act acquire purchase or take on lease sell or exchange any land whether situated within or without such Borough or District They may also purchase any water privileges or easements which interfere with the proper drainage of

or

Country Towns Water and Sewerage.

or with the supply of water to such Borough or District And any lands acquired by such Council in pursuance of the power contained in this Act but not required for the purpose for which they were acquired may with the approval of the Governor be sold by such Council and the proceeds of such sale shall be applied in discharging by means of a sinking fund or otherwise any moneys borrowed by such Council or if no such moneys are outstanding the same shall form part of the general revenue of the Municipality.

4. Before the Council shall put into force any of the provisions contained in this Part with respect to the acquisition of land otherwise than by agreement the following conditions and provisions shall be observed :—

Conditions prior to acquisition of lands.

- (1.) The Council shall publish once at the least in each of three consecutive weeks in some local newspaper circulating in the Municipality a notice describing shortly the nature of the undertaking in respect of which it is proposed to take the land naming a place where a plan of the proposed undertaking may be seen at all reasonable hours and stating the quantity of lands required.
- (2.) The Council shall serve a notice on every owner or reputed owner lessee or reputed lessee and occupier of such lands defining in each case the particular lands intended to be taken and requiring an answer stating whether the person so served assents dissents or is neutral in respect of taking such lands.
- (3.) On compliance with the provisions of this section with respect to notices the Council may if they think fit present a petition under their common seal to the Governor and such petition shall state the lands intended to be taken and the purposes for which they are required and the names of the owners lessees and occupiers of lands who have assented dissented or are neutral in respect to the taking such lands or who have returned no answer to the notice And it shall pray that the Council may with reference to such lands be allowed to put in force the powers contained in Part IV of this Act with respect to the acquisition of lands otherwise than by agreement and such prayer shall be supported by such evidence as the Governor may require.
- (4.) On the receipt of such petition and on due proof of the proper notices having been published and served the Governor shall take such petition into consideration and may either dismiss the same or direct a local inquiry as to the propriety of assenting to the prayer of such petition but until such inquiry has been made no provisional order shall be made affecting any lands without the consent of the owners lessees and occupiers thereof.
- (5.) After the completion of such inquiry the Governor may by provisional order empower the Council to put in force with reference to the lands referred to in such order the powers of the said Part with respect to the acquisition of lands otherwise than by agreement or any of them and either absolutely or with such conditions and modifications as the Governor may think fit and it shall be the duty of the Council to serve a copy of any order so made in the manner and on the person in which and on whom notices in respect of such lands are required to be served.

5. It shall be lawful for any Council for the purpose of defraying any costs charges and expenses incurred or to be incurred by them in the execution of the powers contained in this Act (if they require to do

Power to Council to borrow money.

Country Towns Water and Sewerage.

do so) to borrow any sum of money necessary for defraying such costs charges and expenses but the exercise of the said power shall be subject to the conditions and regulations following viz. :—

- (1.) No moneys shall be borrowed unless for the purpose of constructing permanent works for water supply or sewerage the cost of which ought in the opinion of the Governor to be spread over a term of years.
- (2.) The sum to be borrowed shall not at any time exceed a sum equal to five times the gross amount collected for rates by the Council during the Municipal year immediately preceding that in which the power to borrow is sought to be exercised.
- (3.) In every case the Council shall submit a statement under its corporate seal shewing the whole of the then existing charges (if any) upon the revenues of the Council created by the exercise of its borrowing powers under the "Municipalities Act of 1867" and shall also submit under the seal aforesaid a plan of the proposed water or sewerage works for the construction of which they propose to borrow money under this Act for the consideration of the Governor accompanied by proper sections estimates and other explanations shewing the character and probable cost of the proposed works And the Governor may at the cost of the Council cause the same to be reported upon by an officer of the Central Authority or may require a local inquiry to be held and the result thereof to be reported to him.
- (4.) If the Governor shall finally approve of the plans or of any amended plans for the proposed works such approval shall be notified in the *Gazette* and after such notification but not before it shall be lawful for the Council to exercise the borrowing powers conferred by this Act.
- (5.) All moneys borrowed by the Council shall be raised by the sale of debentures to be issued in such series and at such times and with such official stamp and otherwise in such manner as the Governor shall prescribe by regulations under this Act and all such debentures shall have a currency for such time not exceeding thirty years as the Governor may sanction in each case and shall bear interest at the rate of five pounds per centum per annum and shall be in the form in the First Schedule hereto.
- (6.) Every such debenture shall be numbered in regular ascending arithmetical progression whereof the common difference shall be one and shall have annexed for every payment of interest to grow due thereon a coupon bearing the same number in the debenture.
- (7.) Every such debenture shall name the principal sum secured thereby which shall not be less than five pounds the rate at which interest is payable thereon and the time and place where such principal and interest are payable And every such debenture shall be under the common seal of the Council and be signed by the Mayor and Council Clerk and shall bear date on the day on which it is sealed.
- (8.) Every such debenture and any coupon whether annexed thereto or not may be transferred by simple delivery.
- (9.) No debenture issued under the authority of this Act which shall be sold by the Council at or for a less price than the amount for which such debenture purports to be a security shall be deemed to entitle the holder thereof for the time being to payment of the amount of such debenture or of any sum by way of interest thereon from the Colonial Treasurer upon default made in any such payment by the said Council as hereinafter provided.

First Schedule.

Country Towns Water and Sewerage.

6. The holder of any debenture issued under the provisions of this Act shall be entitled to receive payment from the Council by which it was issued of the principal sum named therein upon presentation of such debenture on or after the due date thereof at the place where the same is expressed to be made payable And the holder of any coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment in like manner of the interest mentioned in such coupon upon presentation of the same at the place where and on or after the date when interest is payable If default be made in payment of such principal sum or interest a certificate of the fact of such default having been made under the hand of the Council Clerk shall be given to the holder of such debenture or coupon upon his demanding the same and upon presentation of such certificate of default to the Colonial Treasurer he shall within fourteen days thereafter pay to such holder the amount of such principal or interest out of the Consolidated Revenue Fund upon a warrant under the hand of the Governor which warrant shall be the said Treasurer's discharge for any such payment and every such payment shall as between the said Council and the holder of such debenture or coupon be a complete discharge of the Council to the extent of such payment but as between the Council and the Consolidated Revenue Fund shall be a debt as against the Council to be liquidated as hereinafter provided.

7. When default shall have been made by the Council in making any payment whether of principal or interest to the holder of any such debenture or coupon and if such payment has been made out of the Consolidated Revenue Fund it shall be lawful for the Colonial Treasurer forthwith to take such proceedings to enforce payment by procuring the appointment of any number of persons not exceeding three to be Receivers of the rates and other revenues of such Council as may now or hereafter be taken by a mortgagee or other secured creditor or by the holder of the debentures of a Municipal Council under the "Municipalities Act of 1867" or any Act amending the same—

- (1.) The said Treasurer shall have full power to make all necessary applications to and to procure all necessary orders and directions from the Supreme Court for and touching the appointment of Receivers or a Receiver and the said Court shall have power to make all such orders for the appointment of a Receiver or for his removal and the appointment of another in his place as may be necessary and to make any orders and give any directions which the said Court may think proper And every such Receiver shall be deemed to be an officer and shall act under the direction of the Supreme Court.
- (2.) Such Receivers shall have power to make levy and collect all rates whether for water supply or sewerage authorized by this Act to be made levied or collected by the Council and be entitled to receive all rates and revenues whatsoever payable to the Council of the Municipality for or in respect of which they shall have been appointed Receivers but the rates so to be made and levied shall not exceed the maximum limits permitted under the provisions of the law in force for the time being And for such purposes such Receivers shall be deemed the Council of such Municipality and may exercise all the powers thereof.
- (3.) Receivers shall be entitled to such commission payable out of the rates of the Municipality as remuneration for their services as the Supreme Court may appoint.
- (4.) Receivers shall subject to any order of the Supreme Court pay over all moneys received by them to the Colonial Treasurer

Country Towns Water and Sewerage.

Treasurer to be by him carried to the Consolidated Revenue Fund and if there be any balance in hand over and above the amount due and payable to the Colonial Treasurer under the provisions of this Act they shall pay such balance over to the Council of the Municipality.

Provision as to
Sinking Fund.

8. A Council proposing to borrow under this Act shall if required by the Governor set apart in such manner and under such conditions as he may prescribe in that behalf as a sinking fund and accumulate in the way of compound interest by investing the same in the purchase of Government securities such sum as will with accumulations in the way of compound interest be sufficient after payment of all expenses to pay off the moneys so borrowed within the period sanctioned. And the Council may at any time apply the whole or any part of a sinking fund set apart under this Act in or towards the discharge of the moneys for the repayment of which the fund has been established. Provided that they shall pay into the fund in each year and accumulate until the whole of the moneys borrowed are discharged a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied.

Watershed and
Water and Sewerage
District boundaries
to be proclaimed by
Governor.

9. After the approval by the Governor of any scheme of Water Supply or Sewerage shall be notified in the *Gazette* it shall be lawful for the Governor by Proclamation to define the boundaries of any Catchment Area and of any Water or Sewerage District required for the purpose of supplying with water any boundaries of the Borough or Municipal District or for the sewerage thereof respectively.

Appointment of
officers &c. by
Council.

10. It shall be lawful for any Council to appoint such engineers or inspectors accountants collectors clerks rangers and such other officers and servants as may be required for the purposes of this Act and for the due administration thereof. And such persons so to be appointed shall where required by the Council give such security for the performance of their several duties as the Council shall prescribe.

Offices tenable
by same persons.

11. The same person may be both Surveyor and Inspector of Nuisances but neither the person holding the office of Treasurer nor his partner nor any person in the service or employ of them or either of them shall be eligible to hold or shall in any manner assist or officiate in the office of Council Clerk and neither the person holding the office of such clerk nor his partner nor any person in the service or employ of them or either of them shall be eligible to hold or shall in any manner assist or officiate in the office of Treasurer. Any person offending against this enactment shall forfeit and pay the sum of one hundred pounds which may be recovered by any person with full costs of suit in any competent Court.

Officers intrusted
with money to give
security.

12. Before any officer or servant of any Council enters on any office or employment under this Act by reason whereof he will or may be intrusted with the custody or control of money the Council by whom he is appointed shall take from him sufficient security for the faithful execution of such office or employment and for duly accounting for all moneys which may be intrusted to him by reason thereof.

Council may make
by-laws.

13. Subject to the provisions of this Act any Council may from time to time make alter and repeal by-laws:—

- (1.) For regulating the form of contract to be entered into with the Council and generally for carrying into effect the purposes of this Act

As to Water Supply.

- (2.) For the appointment of a scale of charges for water supplied by measure and the minimum quantity of water to be charged for where water is so supplied

(3.)

Country Towns Water and Sewerage.

- (3.) For determining making and levying the rate to be paid in respect of lands and tenements to be supplied with water for domestic purposes otherwise than by measure or in respect of lands and tenements distant not more than fifty yards from any main constructed by or vested in the Council Provided that the valuation of any lands or tenements for the purposes of such water supply shall not exceed in any year the valuation (if any) of such lands or tenements during the same or the previous year by the Borough or Municipal District respectively in which such lands or tenements are situated And no such rate shall exceed the amount of five pounds per cent. per annum on the assessed value Provided that no charge for the supply of water to any house tenement or lands shall in any case be less than the sum of ten shillings per annum
- (4.) For imposing an extra rate for water supply in places distant more than one hundred yards from the conduit.
- (5.) For determining the time at which any charge for water shall be payable and whether in advance or otherwise
- (6.) For regulating the form material dimensions construction and arrangement of pipes and other works supplying water from the pipes of the Council to adjacent premises—the time of executing and the notices to be given for such works—the superintendence thereof—the making good and replacing ground which may be displaced in the course of such works—and for inspecting all services at reasonable times whether situate within any buildings or otherwise
- (7.) For regulating the construction disposition custody and inspection of meters
- (8.) For preventing the waste or misuse of water supplied by the Council
- (9.) For compelling persons using water supplied by the Council to keep their pipes and other appliances in proper repair—for preventing any alteration of or interference with such pipes without notice to the Council—for repairing such pipes and appliances so as to prevent waste of water and for recovering the cost of such repairs
- (10.) For preventing the use directly or indirectly of water supplied by the Council by persons unauthorized by the Council
- (11.) For preventing persons from wilfully or negligently breaking injuring or from interfering with any pipe lock cock valve engine or work belonging to the Council and from doing any other wilful act whereby the water supplied by the Council may be wasted

As to Sewerage.

- (12.) For regulating the drainage of roads and streets into sewers
- (13.) For regulating the dimensions material form construction and arrangement of and the maintenance cleansing and repairing of the pipes drains and other means of communicating with sewers and of the traps and apparatus connected therewith
- (14.) For the carrying out of such works of cleansing and removing and disposing of refuse as the Council is authorized by this Act to perform or require
- (15.) For regulating the assessment form and collection of rates charges and contributions the periods for the repayment of the costs of works by the persons or rates chargeable with such repayment Provided that no Sewerage rate shall exceed five pounds per centum on the assessed value of the premises drained

And

Country Towns Water and Sewerage.

And every such by-law shall after approval by the Governor within fourteen days after such approval has been signified to the Council be laid before Parliament if in session and if not then within fourteen days after the commencement of the next Session. And no such by-law shall have any force or effect until it has been published in the *Gazette*. And every such by-law shall when so published be binding upon and be observed by all persons and shall be sufficient to justify all persons acting under the same.

Penalties in by-laws.

14. Every such by-law may state a maximum penalty for the breach thereof not in any case exceeding twenty pounds and shall also state in cases of continuing offences a further penalty not exceeding five pounds for each day after notice of the offence shall be given by the Council. And the production of the *Gazette* containing any such by-law shall in any action at law or suit in equity or any other proceeding and in all Courts be sufficient evidence that such by-law as it is printed in such *Gazette* has been duly made and published as hereinbefore provided.

Evidence of by-law.

Provisions as to contracts by Council.

15. With respect to contracts made by any Council under this Act the following regulations shall be observed viz. :—

- (1.) Every contract made by the Council whereof the value or amount exceeds fifty pounds shall be in writing and sealed with the common seal of such Council.
- (2.) Every such contract shall specify the work materials matters or things to be furnished had or done the price to be paid and the time or times within which the contract is to be performed and shall specify some pecuniary penalty to be paid in case the terms of the contract are not duly performed.
- (3.) Before contracting for the execution of any works under the provisions of this Act the Council shall obtain from their surveyor or other competent officer an estimate in writing as well of the probable expense of executing the work in a substantial manner as of the annual expense of repairing the same also a report as to the most advantageous mode of contracting that is to say whether by contracting only for the execution of the work or for executing and also maintaining the same in repair during a term of years or otherwise.
- (4.) Before any contract of the value or amount of one hundred pounds or upwards is entered into by the Council ten days' public notice at the least shall be given expressing the nature and purpose thereof and inviting tenders for the execution of the same and such Council shall require and take sufficient security for the due performance of the same.
- (5.) Every contract entered into by the Council in conformity with the provisions of this section and duly executed by the other parties thereto shall be binding on the Council by whom the same is executed and their successors and on all other parties thereto and their executors administrators successors or assigns to all intents and purposes. Provided that the Council may compound with any contractor or other person in respect of any penalty incurred by reason of the non-performance of any contract entered into as aforesaid whether such penalty is mentioned in any such contract or in any bond or otherwise for such sums of money or other recompense as to such Council shall seem proper.
- (6.) Officers or servants appointed or employed under this Act by the Council shall not in anywise be concerned or interested in any bargain or contract made with such Council for any of the purposes of this Act. If any such officer or servant is so concerned or interested or under colour of his office or employment exacts or accepts any fee or reward whatsoever other

Country Towns Water and Sewerage.

other than his proper salary wages and allowances he shall be incapable of afterwards holding or continuing in any office or employment under this Act and shall forfeit and pay the sum of fifty pounds which may be recovered by any person with full costs of suit in any competent Court.

PART II.

Special provisions as to Water Supply.

16. Subject to the provisions of this Act the Council of any Borough or Municipal District may exercise any of the powers in this Part contained for the construction of waterworks for the supply of water to such Borough or District and for the purpose of carrying out the provisions of this Act such Council may

Authority of Council
to construct water-
works.

- (1.) Enter upon any lands and take levels of the same and set out such parts thereof as they shall think necessary and dig break and trench the soil of such lands and remove or use all earth stone mines minerals trees or other things dug or obtained out of or from the same
- (2.) Enter upon take and hold such land as they may from time to time deem necessary for the construction maintenance repair or improvement of any of the works authorized or transferred by this Act or for obtaining or enlarging the supply of water or for improving the quality thereof for the purposes of this Act
- (3.) Sink from time to time such wells or shafts and make maintain alter or discontinue such reservoirs waterworks cisterns tanks aqueducts drains cuts sluices pipes culverts engines and other works and erect such buildings upon the lands streams and watercourses authorized to be taken by them as they shall think proper for supplying the inhabitants of any such Borough or District with water
- (4.) Divert from time to time and impound the water from any streams as they may think fit and alter the courses of the same and also take such waters as may be found in under or on any lands so to be taken for the purposes of this Act
- (5.) Enter upon any Crown or private lands streets roads or thoroughfares and lay or place therein any pipes and may repair alter cut off or remove the same and may enter upon any such lands streets roads or thoroughfares for the purpose of repairing any watercourses or other works being their property or under their control

Provided always that in the exercise of any of the powers hereby conferred such Council shall inflict as little damage as may be and in all cases where it can be done shall provide other watering-places drains and channels for the use of adjoining lands in place of any taken away or interrupted by them and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers. Provided nevertheless that the Council shall not be liable to make compensation in respect of any damage sustained by reason of the taking or diverting of water permanently or otherwise from any river stream or watercourse unless a claim in writing shall be made in respect of such compensation within three months after the commencement of the exercise of the power and that in every case where the Council cannot agree with the owner the amount of compensation shall be ascertained and the case in other respects shall be dealt with under the provisions hereinafter contained.

Provision where com-
pensation disputed.

Country Towns Water and Sewerage.

Penalty for obstruct-
ing construction of
works.

17. Every person who shall wilfully obstruct any person acting under the authority of the Council in setting out the line of any works undertaken under the authority of this Part or pull up or remove any poles or stakes driven into the ground for the purpose of setting out the line of such works or destroy or injure any works so undertaken as aforesaid shall incur a penalty not exceeding five pounds for every such offence.

Penalty for illegally
diverting water.

18. After any stream or supply of water shall have been diverted impounded or taken by the Council under the authority of this Act every person who shall illegally or without the authority of the Council divert or take any water supplying or flowing into the stream or source of supply so diverted impounded or taken by the Council or who shall do any unlawful act whereby any such stream or supply of water may be diverted or diminished in quantity or injured in quality or purity and who shall not immediately repair the injury done by him on being required by the Council so as to restore such stream or supply of water to the state in which it was before such unlawful act shall forfeit to the Council any sum not exceeding five pounds for every day during which the said supply of water shall be so diverted or diminished or injured by reason of any act done by or by the authority of such person And any sum so forfeited shall be in addition to the sum which he may be lawfully adjudged to pay to the Council for any damage which they may sustain by reason of their supply of water being diminished And the payment of the sum so forfeited shall not bar the right of the Council to bring any action at law or any other remedy at law or in equity in respect of the damage so committed.

Reservation of
existing rights.

19. Nothing in this Part contained shall prevent the owners and occupiers of lands through or by which such stream shall flow from using the waters thereof in such manner and to such extent as they might have done before the passing of this Act unless they shall have received compensation in respect of their right of so using such water.

Penalty for
destroying works.

20. If any person unlawfully and maliciously destroy or damage or attempt to destroy or damage any reservoir dam tank tunnel water-course sluice main pipe aqueduct bridge road way or engine or other part whatever of the works of the Council every such offender shall be guilty of felony and shall be liable to be imprisoned for any term not exceeding ten years.

Power to open
streets &c.

21. The Council may open and break up the soil and pavement of the several streets and bridges within the limits of its Water District and may open and break up any sewers drains or tunnels within or under such streets and bridges and lay down and place within the same limits pipes conduits service pipes and other works and engines and from time to time repair alter or remove the same and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges and do all other acts which the Council shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits.

Reinstatement of
streets &c.

22. When the Council shall open or break up the road or pavement of any street or bridge or any sewer drain or tunnel they shall with all convenient speed complete the work for which the same shall be broken up and fill in the ground and reinstate and make good the road or pavement or the sewer drain or tunnel so opened or broken up and carry away the rubbish occasioned thereby And shall at all times whilst any such road or pavement shall be so open or broken up cause the same to be fenced and guarded and shall cause light sufficient for the warning of passengers to be set up and kept there for every night during which such road or pavement shall be continued open or broken up.

Country Towns Water and Sewerage.

23. The Council shall not be liable (in the absence of express stipulation under any agreement for the supply of water) to any penalty or damages for not supplying such water if the want of such supply arises from unusual drought or other unavoidable cause or accident nor shall the Council be compellable to supply water to any person whomsoever.

Council not liable for accidental failure to supply water nor compellable to supply water.

24. The Council may supply any person with water for domestic or other purposes by measure at such rates upon such terms and subject to such conditions as may be agreed upon by the Council and the person requiring to be supplied. But "domestic purposes" shall not for the purposes hereof include a supply of water for stables or for manufacturing purposes or for irrigation water power fountains or for any ornamental purpose.

Agreements to supply water—what purposes not domestic.

25. The Council may let for hire to any consumer of water supplied by measure any meter or instrument for measuring the quantity of water supplied and consumed and any pipes and apparatus for the conveyance reception or storage of the water for such remuneration in money as may be agreed upon between the Council and the consumer which shall be recoverable in the same manner as rates due to the Council for water.

Council may let meters.

26. Such meters instruments pipes and apparatus shall not be subject to distress for rent of the premises where the same are used or to be attached or taken in execution under any process of any Court of Law or Equity or under or in pursuance of any sequestration or order in insolvency or other legal proceedings against or affecting the consumer of the water or the occupier of the premises or other the person in whose possession the meters pipes instruments and apparatus may be.

Meters of Council not distrainable &c.

27. Every person who shall have agreed with the Council for a supply of water by measure shall at his own expense unless he hire a meter from the Council provide a meter and keep and maintain the same in good working condition to the satisfaction of such officer as may be appointed by the Council and in the event of any repairs being required notice in writing shall be immediately given by such person to the Council and a registration of the quantity used shall be taken before such repairs are effected.

Meter to be supplied and maintained by consumer.

28. Every person requiring to remove or alter the position of any meter shall give six days notice in writing to that effect to the Council and a registration of the quantity of water used shall be taken before such removal or alteration is made.

Notice of removal &c. of meter.

29. If any person who under the provisions hereinbefore contained ought to provide any meter neglect or refuse after having been required by the Council so to do to provide such meter he shall for every day during which such neglect or refusal continues forfeit a sum not exceeding two pounds.

Penalty for neglect to provide meter.

30. If any person who has provided any meter as aforesaid fail to give the notice hereinbefore required of any repairs required for such meter he shall forfeit a sum not exceeding ten pounds.

Penalty for neglecting to give notice of repairs of meters.

31. If any person refuse or delay to have such meter properly repaired and put in correct working order after having been required by any officer of the Council so to do the Council may shut off the supply of water from the premises of such person either by cutting the service-pipe or otherwise until such meter shall have been properly repaired and certified by some officer of the Council as being in proper working order.

Water may be cut off if meter not in order.

32. If any plumber or other person fix or refix any meter upon any premises supplied with water by the Council without having first obtained a certificate from the Council that the said meter has been examined and found in correct working order he shall forfeit a sum not exceeding ten pounds.

Penalty for fixing uncertified meter.

Country Towns Water and Sewerage.

For removing or
altering meter with-
out notice.

33. If any person remove or alter the position of or in any way interfere with any meter without giving such notice as aforesaid he shall for each such offence forfeit a sum not exceeding twenty pounds over and above the damage which he may be found liable to pay in any action at law at the suit of the Council.

Power to officers of
Council to inspect
meter.

34. The officers of the Council may enter any house building or lands to through or into which water is supplied by the Council by measure in order to inspect the meters instruments pipes and apparatus for the measuring conveyance reception or storage of water or for the purpose of ascertaining the quantity of water supplied or consumed and may from time to time enter any house building or lands for the purpose of removing any meter instrument pipe or apparatus the property of the Council and if any person hinders any such officer from entering or making such inspection or effecting such removal he shall for each such offence be liable to a penalty not exceeding five pounds but except with the consent of a Justice this power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon.

Supply of water for
public purposes.

35. In all the pipes to which any fire-plug is fixed the Council shall provide and keep constantly laid on for use without charge unless prevented by unusual drought or other unavoidable accident or during necessary repairs a sufficient supply for the following purposes (that is to say) for cleansing the sewers and drains for cleansing and watering the streets and for supplying any public hospitals or charitable institutions or any public pumps baths and washhouses that may be established for the use of the inhabitants and paid for out of any municipal rates Provided that no baths or washhouses shall be entitled to be supplied with water under the provisions of this section unless the charges for the use thereof by the inhabitants shall be approved of and shall not exceed the amounts fixed by the Council.

FIRE-PLUGS.

Council to place
public fire-plugs in
mains.

36. The Council shall fix proper fire-plugs in the main and other pipes belonging to them at such convenient distances and at such places as they may consider proper and convenient for the supply of water for extinguishing any fire which may break out within the Borough or Municipal District And shall from time to time renew and keep in effective order every such fire-plug And shall put up a public notice in some conspicuous place in each street in which such fire-plug is situated showing its situation And such notice may be put up on any house or building in such street And as soon as such fire-plug is completed they shall deposit a key thereof in each place where any public fire-engine is kept.

Fire-plugs for
manufactories &c.

37. The Council may at the request and expense of the owner or occupier of any manufactory or works situated in or near any street or road in which or within two hundred yards of which there shall be a pipe of the Council place and maintain in effective order a fire-plug (to be used only for extinguishing fires) or near as conveniently may be to such manufactory or works.

Pipes to be kept
charged and water
taken for fires.

38. The Council shall at all times keep charged with water all their pipes to which fire-plugs are fixed unless prevented by drought or other unavoidable cause or accident or during necessary repairs And shall allow all persons at all times to take and use such water for the purpose only of extinguishing fire.

Notice to lay service
pipes.

39. After pipes have been laid under the authority of this Act for the supply of water to any street or part thereof the Council shall cause a notice in the form contained in the Second Schedule hereto or to the like effect to be published in four consecutive numbers of some newspaper circulating in the Borough or District and the owner or occupier of every tenement referred to in such notice shall within four weeks from the date of the last publication of such notice cause a proper
pipe

Country Towns Water and Sewerage.

pipe and stop-cocks to be laid so as to convey a supply of water to such tenement And after fourteen days from such last publication the owner or occupier of such tenement shall unless the Council refuse to supply him with water be liable to pay the rates and charges for such supply although no such pipe and stop-cocks be laid or no such water be used in such tenement.

40. Any owner or occupier of any dwelling-house or part of a dwelling-house within a Borough or Municipal District who shall wish to have water from the waterworks of the Council brought into his premises and who shall have paid or tendered to the Council the portion of water rate in respect of such premises by this Act directed to be paid in advance may open the ground between the pipes of the Council and his premises having first obtained the consent of the owners and occupiers of such ground and lay any pipes from such premises to communicate with the pipes of the Council.

PIPES LAID BY
OWNERS OR
OCCUPIERS.

Power to inhabitants
to lay service pipes.

41. Such pipes shall be of a strength and material approved of by some officer of the Council and every such owner or occupier shall before he begins to lay any such pipe give to the Council two days notice of his intention to do so.

Notice to Council of
laying pipes.

42. Before any pipe is made to communicate with the pipes of the Council the person intending to lay such pipes shall give two days notice to the Council of the day and hour when such pipe is intended to be made to communicate with the pipes of the Council and every such pipe shall be so made to communicate under the superintendence and according to the directions of the surveyor or other officer appointed for that purpose by the Council And the bore of any such pipe shall not exceed three-quarters of an inch except with the consent of the Council.

Communication with
pipes of Council to be
made under superin-
tendence of surveyor.

Bore of service pipes.

43. Any person who shall have laid down any pipe or other works or who shall have become the proprietor thereof may remove the same after having first given six days notice in writing to the Council of his intention so to do and of the time of such proposed removal and every such person shall make compensation to the Council for any injury or damage to their pipes or works which may be caused by such removal.

Service pipes may be
removed after giving
notice.

44. Any such owner or occupier may open or break up so much of the pavement of any as shall be between the pipes of the Council and his house building or premises and at any sewer or drain therein for any such purpose as aforesaid (doing as little damage as may be and making compensation for any damage done in the execution of any such work) Provided always that every such owner or occupier desiring to break up the pavement of any street or any sewer or drain therein shall be subject to the same necessity of giving previous notice and shall be subject to the same control restrictions and obligations in and during the time of breaking up the same and also reinstating the same and to the same penalties for any delay in regard thereto as the Council are subject to under the provisions of this Part.

Power to break up
pavements.

45. If any person supplied with water by the Council wrongfully does or causes or permits to be done anything in contravention of any of the provisions of this Part or wrongfully fails to do anything which under any of those provisions ought to be done for the prevention of the waste misuse undue consumption or contamination of the water of the Council the Council may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied to him or for his use and may cease to supply him with water so long as the cause of injury remains or is not remedied.

PROTECTION OF THE
WATER.

In case of any breach
of this Part of this
Act water may be
cut off.

46. If any person supplied with water by the Council wilfully or negligently causes or suffers any pipe valve cock cistern bath soil-pan water-closet or other apparatus or receptacle to be out of repair

Penalty for waste of
water.

OR

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or to be so used or contrived that the water supplied to him by the Council is or is likely to be wasted misused unduly consumed or contaminated or so as to occasion or allow the return of foul air or other noisome or impure matter into any pipe belonging to or connected with the pipes of the Council he shall for every such offence be liable to a penalty not exceeding five pounds.

47. If any person—

Penalty for misapplication of water.

- (1.) Not having from the Council a supply of water for other than domestic purposes uses for other than domestic purposes any water supplied to him by the Council or
- (2.) Having from the Council a supply of water for any purpose other than domestic uses such water for any purpose other than those for which he is entitled to use the same

he shall for every such offence be liable to a penalty not exceeding forty shillings without prejudice to the right of the Council to recover from him the value of the water misused.

No pipe to be fixed to consumer's pipe without permission of Council.

48. It shall not be lawful for the owner or occupier of any premises supplied with water by the Council or any consumer of the water of the Council or any other person to affix or cause or permit to be affixed any pipe or apparatus to a pipe belonging to or used by such owner occupier consumer or any other person or to make any alteration in any such communication or service pipe or in any apparatus connected therewith without the consent in every such case of the Council. And if any person acts in any respect in contravention of the provisions of the present section he shall for every such offence be liable to a penalty not exceeding five pounds without prejudice to the right of the Council to recover damages from him in respect of any injury done to their property and without prejudice to their right to recover from him the value of any water wasted misused or unduly consumed.

Penalty for unlawfully taking water.

49. If any person not being supplied with water by the Council wrongfully takes or uses any water from any reservoir watercourse conduit or pipe belonging to the Council or from any pipe leading to or from any such reservoir watercourse conduit or pipe or from any cistern or other like place containing water belonging to the Council or supplied by them for the use of any consumer of the water of the Council he shall for every such offence be liable to a penalty not exceeding five pounds.

Inspection of water.

50. The surveyor or other person appointed for that purpose by the Council may between the hours of nine o'clock in the forenoon and four o'clock in the afternoon enter into any house or premises supplied with water by the Council in order to examine if there be any waste or misuse of such water and if such surveyor or other person at any such time be refused admittance into such dwelling-house or premises for the purpose aforesaid or be prevented from making such examination as aforesaid the Council may turn off the water supplied by them from such house or other premises.

POLLUTING THE WATER.

Penalty for bathing in water of the Council.

51. If any person bathe in any stream reservoir aqueduct or other waterworks belonging to the Council or wash throw or cause to enter therein any dog or other animal he shall for every such offence forfeit a sum not exceeding five pounds.

Penalty for throwing dirt therein.

52. If any person throw or convey or cause or permit to be thrown or conveyed any rubbish dirt filth or other noisome thing into any such stream reservoir aqueduct or other waterworks as aforesaid or wash or cleanse therein any cloth wool leather or skin of any animal or any clothes or other thing he shall for each such offence forfeit a sum not exceeding ten pounds.

Penalty for letting foul water flow thereinto.

53. If any person cause the water of any sink sewer or drain steam-engine boiler or other filthy water belonging to him or under his control to run or be brought into any stream reservoir aqueduct

or

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or other waterworks belonging to the Council or shall do any other act whereby the water of the Council shall be fouled he shall for each such offence forfeit a sum not exceeding twenty pounds and a further sum of twenty shillings for each day (if more than one) that such offence continues.

54. Where any owner or occupier of any land within Water District to be proclaimed as hereinbefore provided or any reservoir or source of supply the Council does or permits to be done on his land any act or permits to remain thereon any matter or thing which in the opinion of the Council is likely to injure the water supply if notice to discontinue or remove the same be given to him in writing by the Council and if he neglect or refuse to discontinue such act or to remove such matter or thing he shall for each such offence forfeit a sum not exceeding ten pounds and a further sum of forty shillings for each day (if more than one) that such offence continues.

Penalty for nuisance in Water District.

55. Every person making or supplying gas within the limits of any Catchment Area or Water District who shall at any time cause or suffer to be brought or to flow into any stream reservoir aqueduct or waterworks belonging to the Council or into any drain communicating therewith any washing or other substance which shall be produced in making or supplying gas or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream reservoir aqueduct or other waterworks shall be fouled or the pipes or conduits thereof injured shall forfeit to the Council a sum not exceeding twenty pounds to be recovered with full costs of suit for each day during which such washing or other substance shall be brought or shall flow as aforesaid or during which the act shall continue by which such water is fouled after the expiration in either case of twenty-four hours from the time when notice of the offence has been served on such person by the Council.

Penalty for permitting substances produced in making gas to flow into works.

56. Whenever the water supplied by the Council shall be fouled by the gas of any person making or supplying gas within the district aforesaid such person shall forfeit to the Council for every such offence a sum not exceeding twenty pounds and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Penalty on gasmakers causing water to be fouled.

57. For the purpose of ascertaining whether the water of the Council be fouled by the gas of any person making or supplying gas within the said district the Council may dig up the ground and examine the pipes conduits and works of the persons making or supplying gas. Provided that before proceeding so to dig and examine the Council shall give twenty-four hours notice in writing to the person so making or supplying gas of the time at which such digging and examining is intended to take place and shall give the like notice to the persons having the control or management of the pavements or place where such digging shall take place and shall be subject to the like obligation of reinstating the road and pavement and to the same penalties for delay or any nonfeasance or misfeasance therein as hereinafter provided with respect to roads and pavements broken up by the Council for laying their pipes and if upon such examination it appears that such water has been fouled by any gas belonging to such person the expenses of the digging examination and repairs of the street or place disturbed in any such examination shall be paid by the person making or supplying gas but if upon such examination it appears that the water has not been fouled by the gas of such person then the Council shall pay all the expenses of the examination and repair and also make good to the said person any injury which may be occasioned to his works by such examination.

Power to examine gas pipes to ascertain cause of water being fouled.

The expenses to abide the result of the examination.

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Provisions as to connection of closet and other pipes with mains and as to cisterns &c.

No closet pipes hereafter to connect directly with the main.

Council may disconnect pipes in certain cases.

The expense incurred by any disconnection to be paid by tenant and deducted from his rent.

Owners of premises shall fix closet-cisterns or be liable to a penalty.

Upon neglect of owner the tenant after fourteen days notice to fix cistern and deduct the expense from rent.

58. The following provisions shall take effect for the purpose of protecting the water in the mains or other pipes of the Council from all impurities from closets and other receptacles of fæcal matter or urine—

(I.) It shall not be lawful for any person to connect with the main any pipe delivering the water directly into the closet-pan or other receptacle for fæcal matter or urine without the intervention of a cistern or cisterns into which the water from the main shall first be received and any person so offending shall forfeit and pay a penalty not exceeding fifty pounds.

(II.) The Council may employ any artificers or workmen to cut off or otherwise disconnect from the main any pipe directly discharging the water into a closet without the intervention of a cistern [hereinafter termed "directly connected"] and which in the opinion of the Council may endanger the purity of the water by the absorption of noxious gases or suction of fæcal matter or urine into such pipe or into the main or otherwise. For the purpose of effecting such disconnection the Council's artificers and workmen may enter into and upon the premises of any person or corporation whatsoever to do or cause to be done anything in his opinion requisite or necessary in relation thereto.

(III.) Whenever the Council shall have caused any pipe to be cut off or disconnected or other work to be done in relation thereto they shall forthwith serve the owner or occupier of the premises with a notice in writing requiring him to pay the actual cost or expense incurred. And such owner or occupier shall pay the amount to the Council and if the amount be paid by an occupier only he may deduct the same from the rent then due or accruing. Upon such owner or occupier making default in any such payment after the delivery of such notice as aforesaid the Council may sue for and recover the same with full costs of suit.

(IV.) The owner of every dwelling-house or premises which shall have therein or thereon any closet with a pipe or branch-pipe directly connected with the main shall be required to fix and erect a cistern or cisterns for the reception of the water intended to be used for the closet and every cistern shall be made of such materials and dimensions and of such model or plan of construction and with such ball-cocks stop-cocks waste-pipes and other appliances as shall be deemed requisite and have been approved by the Council for securing the water from pollution through any noxious gases or matter evolved or derived from such closets or otherwise. Every owner neglecting to comply with the provisions of this sub-section shall forfeit and pay a penalty not exceeding five pounds.

(V.) Whenever any owner shall have neglected to fix and erect a cistern with its appliances as is in the last preceding section provided for the tenant or occupier of the premises is hereby authorised and required after receiving a written notice thereof from the Council in that behalf to fix and erect such cistern with its appliances before-mentioned within fourteen days after the receipt of such notice and the said tenant or occupier shall upon payment by him of the charges and expense of such fixing and erection be entitled either to deduct the amount so paid from the rent then due or accruing or at his option to sue for and recover the same with full costs of suit from the owner as for money paid to his use.

(VI.)

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(VI.) Any person who shall without the authority of the Council re-establish any such connection which may have been cut off removed or severed by him or who shall in any manner wilfully injure or tamper with any connection-pipe cistern ball-cock stop-cock or waste-pipe which may have been approved by the Council so as to destroy diminish or endanger its efficiency may be summoned for such offence before two Justices and on conviction thereof shall be adjudged to pay the amount of the charges and expenses which the Council may have incurred (and which he is hereby authorized to incur) in repairing or restoring the same to a state of efficiency. Every such offender shall also forfeit and pay a penalty not exceeding ten pounds and the amount of charges and expenses and penalty respectively shall when recovered be paid over to the Council.

Any person re-establishing any connection with the main unless authorized or wilfully injuring any pipe &c. liable to a penalty.

59. Where several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe or where water is supplied to courts alleys and right-of-way by stand pipes the several owners or occupiers of such houses or parts of houses or of the several houses or parts of houses in every such court alley or right-of-way shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the Council by a separate pipe.

Where several houses supplied by one pipe each to pay.

60. The rates and charges for water and all sums due to the Council under this Part shall be paid by and be recoverable from the owner of the premises or the occupier or person requiring receiving or using the supply of water and all rates shall be paid in advance by equal payments on the first day of January and the first day of July in each year and the first payment shall be made at the time when the owner or occupier of any tenement shall become liable to pay such rates and charges and all such rates and charges may be enforced and recovered in respect of any premises situate within one hundred and fifty feet from the alignment of any street or public highway along which a main water pipe belonging to the Council is laid although such premises are not actually supplied with water from such main.

WATER RATES.

Rate: to be recoverable from either landlord or tenant.

Rate: to be paid half yearly in advance.

61. If any person refuse or neglect to pay on demand to the Council any rate charge or sum due to the Council under this Part the Council may recover the same with costs or the Mayor may issue his warrant in the form contained in the Third Schedule hereto to some constable or other person named therein to levy such rate charge or sum by distress and sale of the goods and chattels of the person occupying the premises in respect of which such rate charge or sum is due at the time when the warrant of distress is executed and in case no sufficient goods and chattels of such occupier be found on the premises to satisfy such distress the owner of the premises or if he be absent from the colony his agent shall be liable for such rate charge or sum and the same may be recovered from him.

Recovery of rates and charges.

Third Schedule.

62. If any tenant of any premises be called on to pay and pay or be distrained for a greater amount of any rate charge or sum due to the Council under this Part than is due for the period of his occupancy or pay any sum for laying down service pipes to such premises upon the refusal or neglect of the owner thereof to lay down such service pipes within one month of the last publication of the notice by the Council as hereinbefore mentioned requiring such owner to lay down such pipes such tenant may deduct any sum so paid or recovered from the rent from time to time becoming due to such owner in respect of such premises or after demand may recover the same from such owner.

Tenant may recover from owner excessive payment or cost laying services.

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PART III.

Special Provisions as to Sewerage.

Survey of area of
Sewerage District.

63. The Council shall as soon as conveniently may be cause to be made surveys of the area within the limits and for the purpose of any Sewerage District and a map or maps thereof on such scale or respective scales and with such indications of levels and particulars of sewers and underground works and of the surface as to them seem fit and may cause such map or maps or any part thereof to be from time to time copied engraven and published and shall from time to time cause such map or maps to be revised and such additions made thereto as may show the new sewers and drains and the new streets roads houses or other alterations and the date of revision shall be expressed therein and every such map shall be kept in the office of the Council and the same or a copy thereof shall be open at all reasonable times to the inspection of the owner or occupier of lands or houses within such District.

General powers of
Council in respect to
sewerage works.

64. Subject to the provisions of this Act the Council may exercise any of the powers in this part contained for the construction of sewerage works for any Sewerage District and for the purposes of carrying out the provisions of this Act (that is to say) :—

- (1.) They may enter upon any lands and take levels of the same and set out such parts thereof as they shall think necessary and dig break and trench the soil of such lands and remove or use all earth stone mines minerals trees or other things dug or obtained out of or from the same
- (2.) They may enter upon take and hold such land as they may from time to time deem necessary for the construction maintenance repair or improvement of any authorized works
- (3.) They may from time to time construct and maintain alter or remove such engines buildings and other sewerage works of what kind soever upon the lands authorized to be taken by them as they shall think proper for the sewerage of any such District
- (4.) They may from time to time divert and impound the water from any such streams as they may think fit and alter the courses of the same
- (5.) They may enter upon any Crown or private lands streets roads or thoroughfares and construct or lay or place therein any drains or pipes and may repair alter or remove the same and may enter upon any such lands streets roads or thoroughfares for the purpose of repairing any sewers drains or other works being their property or under their control

Provided that the Council shall make full compensation for all damage or injury committed by them in the exercise of such powers And such compensation shall in every case where the Council cannot agree with the claimant be ascertained and the case in other respects shall be dealt with under the provisions hereinafter contained.

Construction of
sewers.

65. The Council may make any sewers or drains of such construction and in such manner as they think proper and may (subject to the restrictions hereinafter mentioned) break up the soil pitchings and pavements of any public highway or of any public or private street and may excavate and sink trenches for the purpose of laying down making and constructing common sewers or drains therein and subject to the provisions of the next following section may cause such common sewers or drains to communicate with the sea or any arm thereof or with any stream or watercourse (either within or without the limits of the said district) and also from time to time may open
cleanse

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cleanse and repair such sewers or drains or alter the position thereof and also from time to time may make any drains or sewers from any main sewer or drains laid in any street made by the Council by virtue of this part into any dwelling-house or houses public or private buildings and premises for the purpose of cleansing and draining any such house or houses or other premises by means of such sewers or drains and may do all such other acts matters and things as they shall from time to time deem proper for making amending repairing completing or improving any such sewers and drains or other works to be made done and provided for the purposes of this Part.

66. Nothing in this Act shall authorise any Council to make or use any sewer drain or outfall for the purpose of conveying sewage or filthy water into any natural stream watercourse lake or pond until such sewage or filthy water is freed from all excrementitious or other foul or noxious matter such as would affect or deteriorate the purity and quality of the water in such stream watercourse lake or pond.

Sewage to be purified before being discharged into streams.

67. In the execution of the several powers hereby granted the Council shall do as little damage as may be and shall build and construct the said sewers in a sufficient and effectual manner for accomplishing all the purposes hereby intended and subject to the restrictions hereinafter mentioned and after laying or removing or altering or repairing any such drains or sewers shall immediately fill in the trenches or excavation and make good the ground soil pitchings and pavements of any such public or private street and other damage and remove the rubbish occasioned thereby and shall in the meantime fence or guard the place or places where any ground shall be opened in such manner as to prevent danger or accidents to passengers carriages horses cattle or sheep and agreeably in all respects to the provisions in this part contained And this Act shall be sufficient to indemnify the Council and all persons acting under their authority for all acts and things done by virtue thereof.

Council to make good any damages.

68. If there be any wilful or negligent delay in the Council or any of their officers or any other person acting by or under their authority in filling in any such ground trenches or excavations or removing rubbish or making good any such ground or the soil pitchings or pavements of any such public or private street or other damage according to the provisions in this Part contained or if the same respectively be imperfectly done or if the ground so opened be not fenced or guarded in the manner herein required the person in whom the right of soil of such ground shall be or to whom there now does or hereafter shall belong any power to maintain or repair the soil pitchings and pavements of any such public or private street or any person acting for them or him may fill in such ground trenches or excavations and remove such rubbish and may repair and make good such ground so broken up and the soil pitchings and pavements of any such public or private street or other damage and may properly fence and guard any such trench or excavation and may place and maintain such light or lights during the night as to them or him shall seem necessary and the reasonable costs and charges thereof shall be paid by the Council to the persons who shall have disbursed or incurred the same and in default of payment thereof for thirty days next after demand made for the payment thereof all such reasonable costs together with any sum not exceeding five pounds by way of penalty may be recovered in a summary manner before Justices as hereinafter provided.

Where Council makes wilful default damage may be repaired by parties interested.

69. The Council may open the ground and change the level or otherwise amend or enlarge any sewer lying under any public or private street within the Sewerage District Provided always that no person shall by means of any such alteration amendment or enlargement be deprived of the use and enjoyment of any private sewer or drain which

Altering sewers.

he

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he shall be entitled to use but the Council shall at their own cost and charge so construct and alter any such private drain or sewer as to render the same as effectual for the purposes for which it was intended as any such drain or sewer may be at the time of such alteration And in case the Council refuse or neglect so to construct and alter any such private drain or sewer the use of which may be effected by the acts of the said Council for the space of twenty-eight days next after notice in writing served upon them they shall forfeit and pay to the party aggrieved any sum not exceeding forty shillings for every day during which such refusal or neglect so continues and such sum may be recovered in a summary way before Justices as hereinafter provided.

Sewers to be cleansed.

70. The Council shall cause their sewers to be constructed covered and kept so as not to be a nuisance or injurious to health and to be properly cleared cleansed and emptied And for the purpose of clearing cleansing and emptying the same may subject to the provisions hereinafter contained construct and place either above or under ground such reservoirs sluices engines and other works as may be necessary and may cause all or any of such sewers to communicate with and be emptied into such places as may be fit or cause the sewage and refuse therefrom to be collected for sale or for any purpose whatever but so as not to create a nuisance.

Fencing works in progress.

71. When any ground or any of the soil pitchings or pavements of any public or private street is at any time opened or broken up by the Council proper and sufficient fences and protection for the same shall immediately thereupon be made set up and continued by the Council and at all times during the progress of digging any trenches or excavations and making altering enlarging and repairing any drains and sewers and of filling in such trenches or excavations or otherwise carrying on and finishing the works hereby authorized to be done in any street every such street shall be kept and continued by the Council as free from all obstructions and annoyances of every kind as practicable.

Pavements replaced.

72. When and as often as any pavement or footway is taken up or removed by the Council or by any person for the purpose of making altering or repairing any drains or sewers or any cross drains from any premises to communicate with any main sewer or drain belonging to the Council in or under any public or private street no part of any such pavement or footway respectively shall remain taken up or removed longer than a period of seven clear days exclusive of Sundays.

Repairs of sewers.

73. The Council shall at all times maintain and keep in good order and repair all their drains and sewers.

Notice of private sewers.

74. No person without notice as hereinafter mentioned may make or branch any private sewer or drain into any sewer or drain made or enlarged by or belonging to the Council as aforesaid or into any drain or sewer communicating therewith and in default of such notice the Council may cut off stop up or prevent the communication of such private sewer or drain with the sewers or drains so made or enlarged by the Council or any sewer communicating therewith and may recover the costs and charges occasioned thereby and also the rates for the same from the time when such private sewer or drain shall have been made from the person so offending.

Cleansing private sewers.

75. All such private sewers or drains shall be permitted to be branched into any of the sewers or drains belonging to the Council or hereby authorized to be made and enlarged by them by virtue of this Part shall from time to time be repaired and cleansed under the inspection and direction of some officer of the Council at the costs and charges of the occupiers of the premises to which the said sewers or drains shall respectively belong.

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76. When any person desires to have a drain to the said main sewers or any sewer communicating therewith laid into his premises if he give the Council six days previous notice in writing of his intention so to do and if he obtain the consent of the owner of the premises through which the drain shall be conveyed he may (at his own expense but subject to the provisions hereinbefore contained) open the ground between the main sewer or the sewer communicating therewith and his premises and may lay from such premises to communicate with the said main sewer any drain made of cast-iron brick stone or some other material approved by the Council and in such manner and form and with such grates and of such workmanship as may be approved by the Council and shall pay to the Council the rates fixed for the same.

Opening sewers to
main sewer.

Rates.

77. All sewerage rates and sums due to the Council under this Part shall be paid by and be recoverable from the owner of the premises or the occupier or person draining his premises into any sewer of the Council and all rates shall be paid in advance by equal payments on the first day of January and the first day of July in each year and the first payment shall be made at the time when the owner or occupier of any such premises shall become liable to pay such rates and charges and all such rates and charges may be enforced and recovered in respect of any premises within one hundred and fifty feet from any sewer or drain belonging to the Council and whether there be any communicating drain between such premises and any sewer or drain belonging to the Council or not And if any person refuse or neglect to pay on demand to the Council any rate charge or sum due to the Council under this part the Council may recover the same with costs or may order a warrant under the hand of the Mayor in the form contained in the Fourth Schedule hereto to be from time to time issued to some constable or other person named therein to levy such rate charge or sum by distress and sale of the goods and chattels of the person occupying the premises in respect of which such rate charge or sum is due at the time when the warrant of distress is executed and in case no sufficient goods and chattels of such occupier be found on the premises to satisfy such distress the owner of the premises or if he be absent from the Colony his agent shall be liable for such rate charge or sum and the same may be recovered from him.

Rates to be recover-
able from either
landlord or tenant.

Rates to be paid half-
yearly in advance.

Recovery.

78. If the soil filth or cesspools attached or belonging to or arising from any tenement within a Sewerage District be upon the complaint of any inhabitant thereof deemed a nuisance by the Council the Council may cause a drain or sewer to be laid down from any such tenement or the premises adjoining to or near the same to convey such soil or filth to one of the main sewers or drains of the said Council and may recover in a summary way before Justices the costs charges and expenses of laying down such drain or drains from the owner or occupier of such tenement respectively such costs and charges not exceeding the sum of five pounds in respect of any tenement which shall be under the yearly value of fifteen pounds and not exceeding the sum of ten pounds in respect of any tenement which shall be above the yearly value of fifteen pounds Provided that every occupier shall be entitled to deduct against or to be repaid by his landlord the whole of such costs and charges as aforesaid as shall be recovered from such occupier unless he be liable to pay the same under or by virtue of his lease or agreement with his landlord.

Nuisances removed
by drains.

79. Fourteen days at the least before beginning to dig or lay out the foundation of or for any new house or to rebuild any house within the limits of a Sewerage District the person intending so to build or rebuild shall give to some officer duly authorized by the Council

Notice of building or
re-building.

Council

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Council in that behalf written notice thereof together with the level or intended levels of the cellar or lowest floor and the situation and construction of the privies and cesspools to be built constructed or used in connection with such house and it shall not be lawful to begin to build or rebuild any such house or to build or construct any such privy or cesspool until the particulars so required to be stated have been approved by such officer and he is hereby required to signify his approbation or disapprobation of the same within a space of fourteen days after receiving such notice without fee and in default of such notice or if any such house privy or cesspool be built rebuilt or constructed as aforesaid with such approval the Council may if they think fit cause such house privy or cesspool to be altered or otherwise dealt with as the case may require and the expenses incurred in so doing shall be repaid by the offender and be recoverable from him in a summary manner before Justices as hereinafter provided And if any such house privy or cesspool be built rebuilt or constructed within any such district without such notice or approval the offender shall forfeit a sum not exceeding twenty pounds.

Entry to view
premises.

80. When it is made to appear to the satisfaction of any Justice that there is reasonable ground for believing that any house or part thereof or the premises occupied therewith within the boundaries of a Sewerage District is in a filthy or unwholesome condition such Justice may grant a warrant under his hand authorizing any officer of the Council inspector of slaughter-houses or inspector of nuisances or inspector of police with such assistance as may be necessary and accompanied by two duly qualified medical practitioners to enter in the daytime into such house or premises and to view the same and the state and condition thereof.

Houses to be purified
on certificate of two
medical practitioners.

81. If upon the certificate of any two duly qualified medical practitioners it appear to the Council that any house or part thereof or the premises occupied in connection therewith within the limits of any sewerage district is in such a filthy or unwholesome condition that the health of any person is or may be liable to be affected or endangered thereby and that the whitewashing cleansing or purifying of any house or part thereof or the premises occupied in connection therewith would tend to prevent or check infectious or contagious disease the said Council shall give notice in writing to the owner or occupier of such house or part thereof or the premises occupied in connection therewith to whitewash cleanse or purify the same as the case may require and if the person to whom notice is so given shall fail to comply therewith within such time as shall be specified in the said notice he shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make default and the said Council shall if they shall think fit cause such house building or part thereof or the premises occupied in connection therewith to be whitewashed cleansed or purified and for such purpose shall have power to enter the same and the expense incurred by them in so doing shall be paid by the owner or occupier in default and be recoverable before any two Justices in a summary way in case such owner or occupier upon being summoned before any such Justices as aforesaid shall neglect or refuse to pay the same.

Inspection of com-
municating drains.

82. Any Engineer surveyor or other person acting under the authority of the Council may at all reasonable times in the daytime upon giving twenty-four hours previous notice of his intention enter into any house building or other premises having a drain or sewer communicating with the sewers already made or to be made by virtue of this Act in order to inspect or examine if there be any communication with any other drain or sewer into any other building or premises and if such engineer surveyor or other person be at such

time

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time refused admittance into any such dwelling-house building or other premises for the purpose of making such inspection and examination as aforesaid or on being admitted be obstructed or prevented from making such inspection and examination as aforesaid the Council may cut off the drain or sewer supplied by the Council from such house building or other premises.

83. If any person make or branch any private sewer or drain into any sewer or drain belonging to the Council or into any drain or sewer communicating therewith without the notice required by this Part the person so offending shall for each such offence forfeit a sum not exceeding five pounds.

Penalty for making connecting drain without notice.

84. If any person permitted to branch any sewer or drain into any sewer or drain belonging to the Council neglect to repair or cleanse any such first-mentioned sewer or drain according to the directions of the officer appointed by the Council in that behalf he shall forfeit for each such offence a sum not exceeding five pounds.

Penalty for neglect to repair or cleanse private drains.

85. If any person shall wilfully or maliciously hinder or interrupt or cause or procure to be hindered or interrupted the Council or any officer or person acting under their authority in doing any works or in the exercise of any power in this Part contained or shall wilfully or maliciously break throw down injure damage or destroy any sewer or drain works matter or thing belonging to the Council made and provided in pursuance of such Part or for the purpose of the execution of the powers therein contained every person so offending shall for every such offence forfeit a sum not exceeding ten pounds.

Penalty for interrupting the Council and injuring works.

86. If any person supplied with a drain in pursuance of this Part or having any drain or sewer which may communicate with the sewers of the Council wilfully permit any other person not having the authority or consent of the Council to use any such drain or any branch into the same every person so offending shall forfeit for every such offence any sum not exceeding five pounds over and above the full amount of the damage sustained by the Council by the acts or means in respect of which such penalty shall be incurred and the Council shall be at liberty to cut off the drain of every such person so offending from the main sewer.

Penalty for giving use of drain without permission.

87. The owner or occupier of any premises within a Municipality shall be entitled to cause his drains to empty into the sewers of that Municipality on condition of his giving such notice as may be required by the Municipal Council of his intention so to do and of complying with the regulations of the Council in respect of the mode in which the communications between such drains and sewers are to be made and subject to the control of any person who may be appointed by the Council to superintend the making of such communications.

Powers of owners and occupiers within district to drain into sewers of Municipality.

88. Where any house within a Municipality is without a drain sufficient for effectual drainage the Council thereof shall by written notice require the owner or occupier of such house within a reasonable time therein specified to make a covered drain or drains emptying into any sewer which the Council are entitled to use and which is not more than one hundred feet from the site of such house but if no such means of drainage are within that distance then emptying into such covered cesspool or other place not being under any house as the Council direct and the Council may require any such drain or drains to be of such materials and size and to be laid at such level and with such fall as on the report of their surveyor may appear to them to be necessary. If such notice is not complied with the Council may at the expiration of the time specified in the notice do the work required and may recover in a summary manner the expenses incurred by them in so doing from the owner or may by order declare the same to be private improvement expenses. Provided that where in the opinion

Power of Council to enforce drainage of undrained houses.

of

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of the local authority greater expense would be incurred in causing the drains of two or more houses to empty into an existing sewer pursuant to this section than in constructing a new sewer and causing such drains to empty therein the Council may construct such new sewer and require the owners or occupiers of such houses to cause their drains to empty therein and may apportion as they deem just the expenses of the construction of such sewer among the owners of the several houses and recover in a summary manner the sums apportioned from such owners or may by order declare the same to be private improvement expenses.

Disposal of Sewage.

Powers for disposing of sewage.

89. For the purpose of receiving storing disinfecting distributing or otherwise disposing of sewage any Council may—

- (1.) Construct any works within their Municipality or (subject to the provisions of this Act as to sewerage works without their Municipality) without their Municipality and
- (2.) Contract for the use of purchase or take on lease any land buildings engines materials or apparatus either within or without their Municipality and
- (3.) Contract to supply for any period not exceeding twenty-five years any person with sewage and as to the execution and costs of works either within or without their Municipality for the purposes of such supply Provided that no nuisance be created in the exercise of any of the powers given by this section.

Power to agree for communication with sewers of adjoining Municipalities.

90. The Council of any Municipality may by agreement with the Council of any adjoining Municipality and with the sanction of the Central Authority cause their sewers to communicate with the sewers of such last-mentioned Council in such manner and on such terms and subject to such conditions as may be agreed on between the local Councils or in case of dispute may be settled by the said Authority Provided that so far as practicable storm waters shall be prevented from flowing from the sewers of the first-mentioned Municipality into the sewers of the last-mentioned Municipality and that the sewage of other districts or places shall not be permitted by the first-mentioned Council to pass into their sewers so as to be discharged into the sewers of the last-mentioned Council without the consent of such last-mentioned Council.

Power to deal with land appropriated to sewage purposes.

91. Any Council may deal with any lands held by them for the purpose of receiving storing disinfecting or distributing sewage in such manner as they deem most profitable either by leasing the same for a period not exceeding twenty-one years for agricultural purposes or by contracting with some person to take the whole or a part of the produce of such land or by farming such land and disposing of the produce thereof subject to this restriction that in dealing with land for any of the above purposes provision shall be made for effectually disposing of all the sewage brought to such land without creating a nuisance.

Contribution to works under agreement for supply or distribution of sewage.

92. Where any Council agree with any person as to supply of sewage and as to works to be made for the purpose of such supply they may contribute to the expense of carrying into execution by such person all or any of the purposes of such agreement and may become shareholders in any company with which any agreement in relation to the matters aforesaid has been or may hereafter be entered into by such Council, or to or in which the benefits and obligations of such agreement may have been or may be transferred or vested.

As to Sewage Districts without Municipality.

Notice to be given before commencing sewage works without Municipality.

93. A Council shall three months at least before commencing the construction or extension of any sewer or other work for sewage purposes

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purposes without their Municipality give notice of the intended work by advertisement in the *Gazette* and in one or more of the local newspapers circulating within the district where the work is to be made. Such notice shall describe the nature of the intended work and shall state the intended termini thereof and the names of the roads and streets and other lands (if any) through across under or on which the work is to be made and shall name a place where a plan of the intended work is open for inspection at all reasonable hours and a copy of such notice shall be served on the owners or reputed owners lessees or reputed lessees and occupiers of the said lands.

94. The Central Authority may on application of the Council appoint an inspector to make inquiry on the spot into the propriety of the intended work and into the objections thereto and to report to such Authority on the matters with respect to which such inquiry was directed and on receiving the report of such inspector such Authority may make an order disallowing or allowing with such modifications (if any) as they may deem necessary the intended work which order shall be complied with by the Council.

Inspector to hold inquiry and report of the Metropolitan Water and Sewerage Board.

PART IV.

The Acquisition and Occupation by Councils of Lands for purposes of Water Supply or Sewerage—Ascertainment of Compensation in respect thereof.

95. After the notification in the *Gazette* as hereinbefore provided of the approval by the Governor of any scheme for the supply of water to or for the Sewerage of any Borough or Municipal District but not before the Council of such Borough or Municipality shall be empowered to acquire or occupy lands for the purposes of such Water Supply or Sewerage in manner hereinafter provided and compensation for every such acquisition or occupation of lands shall be ascertained and carried out as hereinafter provided.

Lands required for Water Supply or Sewerage how acquired.

96. It shall be lawful for the Council by notification to be published in the *Gazette* and in one or more newspapers published or circulating in the Borough or Municipal District wherein is situated the land the subject of such notification to declare that the land described in such notification is required for the purpose therein expressed whether of Water Supply or Sewerage..

How and when lands can be taken.

97. Upon the publication of the notification in the *Gazette* declaring that the lands therein described are so required such lands shall upon compliance with the requirements and provisions hereinafter contained be vested in the Council for the purposes of this Act for an estate of inheritance in fee simple in possession freed and discharged from all trusts obligations estates interests contracts charges rates rights-of-way or other easements whatsoever and to the intent that the legal estate therein together with all powers incident thereto or conferred by this Act shall subject to the provisions thereof be vested in the Council.

Vesting &c. of lands.

98. Where the land required is Crown land at the date of such publication or is vested in any Corporation or person on behalf of Her Majesty or for public purposes by virtue of any statute or is within the limits with reference to centres of population prescribed by the Act next hereinafter cited the effect of such publication shall be to withdraw the said land (to the extent required) from any lease or license or promise thereof and to cancel to the like extent any dedication or reservation of the said land made under the authority of

Effect of publication upon Crown lands.

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of the "Crown Lands Alienation Act of 1861" or any Act or Acts amending the same or to divest the estate of such Corporation or person and to vest the said land to the extent aforesaid in the Council for the purposes mentioned and for the estate limited in the last preceding section. Provided however that nothing in this section contained shall have any effect or operation unless the approval of the Governor shall first have been obtained with respect to the land so required.

Compensation for private lands.

99. Where the land described in any such notification consists wholly or partly of land alienated by or not the property of the Crown or is not Crown land as defined by this Act the owners thereof shall be entitled to receive such sum of money by way of compensation for the land so described as shall be agreed upon or otherwise ascertained under the provisions hereinafter contained.

Conversion of estate of proprietor of resumed land into a claim.

100. The estate and interest of every person entitled to lands required under this Act or any portion thereof and whether to the legal or the equitable estate therein shall upon due payment of the amount of compensation tendered by the Council or assessed by the jury as hereinafter provided be deemed to have been as fully and effectually conveyed to the Council as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law. And every person shall upon asserting his claim as hereinafter provided and making out his title in respect of any portion of the said resumed lands be entitled to compensation on account of such resumption in manner hereinafter provided.

Notice of claim for compensation.

101. Every person claiming compensation in respect of any land so required or in respect of any work or other matter done under the authority of this Act shall within ninety days from the publication of such notification or at any time afterwards within such extended time as a Judge of the Supreme Court shall upon the application and at the cost of the claimant appoint in that behalf serve a notice in writing upon the Mayor of the Council which notice shall set forth the nature of the estate or interest of the claimant in such land together with an abstract of his title and if he claims in respect of damage the nature of the damage which he has sustained or will sustain by reason of the taking of his land or of such work or matter as aforesaid and such notice may be in the form in the Fourth Schedule hereto but with any modifications required by the nature of the claim.

Claim and report thereon.

102. Within sixty days after the receipt of every such notice of claim the Council shall cause a valuation of the land or of the estate or interest of the claimant therein to be made in accordance with the provisions of this Act and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Fifth Schedule hereto.

Compensation by action in Supreme Court.

103. If within ninety days after the service of notice of claim the claimant and the Council shall not agree as to the amount of compensation the claimant shall be at liberty to institute proceedings in the Supreme Court in the form of an action for compensation against the Council. And any such action may be tried before a Judge of the said Court or in any Circuit Court and a special jury of four persons. Provided always that upon proper application either of the Council or of the claimant a special jury of twelve may be summoned for the trial of such action. Provided also that with the consent in writing of the Mayor and the claimant any such action may be so tried at any time (to be mentioned in such consent) before the expiration of ninety days from service of the notice of claim for compensation but not within fourteen days from service of the notice of valuation on such claimant.

Issue in action of compensation verdict and costs.

104. The issue to be tried in any such action shall be whether the claimant is entitled to a larger sum by way of compensation than the

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the amount of the valuation so made by the Council and notified to the claimant as aforesaid and if so to what sum And if upon the trial of the said action the verdict shall be for a greater sum than the amount of the said valuation the costs of the action shall be borne by the Council but if the verdict shall be for a sum equal to or less than such valuation then the costs shall be borne by the claimant.

105. All moneys payable under this Act by way of compensation As to payment of compensation. to any claimant whether under the verdict of a jury or otherwise shall be paid together with costs (if any) and interest at the rate of six pounds per centum per annum reckoned from the date of the notification aforesaid within one month after the determination of such compensation to the person lawfully entitled thereto or to his agent duly authorized in that behalf in writing but the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land Provided that in the case of land under the surface taken for the purpose of constructing a subterranean tunnel for water supply or sewerage no compensation shall be allowed or awarded unless the surface of the overlying soil be disturbed or the support to such surface be destroyed or injuriously affected by the construction of such tunnel or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

106. A District Court shall notwithstanding anything contained in the "District Courts Act of 1858" have jurisdiction to try any such action of compensation at the District Court holden within the District wherein any land acquired under this Act (or the greater portion of such land) is situated in any case where the whole amount of the claim in respect to such land served in pursuance of the one hundred and first section of this Act does not exceed two hundred pounds or if exceeding that amount in any case where the Council and the claimant by a memorandum signed by the Mayor of such Council and such claimant or by the respective attorneys of the Council and the claimant agree thereto For the purposes of this section the provisions of the said District Courts Act and of any Act amending the same together with all rules made or to be made thereunder shall be deemed to apply to all proceedings taken in any District Court hereunder. Where claim may be prosecuted in a District Court.

107. In estimating or assessing the compensation to be paid Compensation how to be estimated. under this Act regard shall be had by the valuers and by the jury (on any issue) not only to the value of the land taken by the Council but also to the damage (if any) to be sustained by the claimant by reason of the severing of the lands taken from other lands or other injuries suffered by him by reason of the exercise of the powers expressed or incorporated in this Act and they shall assess the same according to what they shall find to have been the value of such lands estate or interest at the time of the resumption thereof or the extent of the damage or injury sustained.

108. Subject to the provisions of this Act it shall be lawful for the Council and for any officer there duly authorized in that behalf and for all persons employed in the carrying out of any authorized works and for any persons authorized by the Council to enter upon the lands of any person whomsoever which the Council may require to purchase or take and to take possession and appropriate the same for the purposes of this Act or of the execution of any such authorized works. General power of entry.

109. Notwithstanding anything hereinbefore contained it shall be lawful for the Council if they think fit to agree with the owners of any lands the acquisition of which is authorized by this Act and with all Power to purchase lands by agreement.

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all parties having any estate or interest in such lands or by this Act enabled to sell and convey the same for the absolute purchase for a consideration in money of any such lands or such parts thereof as shall be thought proper and of all estates and interests in such lands of what kind soever.

Parties under disability enabled to sell and convey and exercise other powers.

110. It shall be lawful for all parties being seized possessed of or entitled to any such lands or any estate or interest therein to sell and convey or release the same to the Council and to enter into all necessary agreements for that purpose and particularly it shall be lawful for all or any of the following parties so seized possessed or entitled as aforesaid so to sell convey or release that is to say all corporations tenants in tail or for life married women seized in their own right or entitled to dower guardians committees of lunatics and idiots trustees or feoffees in trust for charitable or other purposes executors and administrators and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower or to any lease for life or for lives and years or for years or any less interest and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties other than married women entitled to dower or lessees for life or for lives and years or for years or for any less interest not only on behalf of themselves and their respective heirs executors administrators and successors but also for and on behalf of every person entitled in reversion remainder or expectancy after them or in defeasance of the estates of such parties and as to such married women whether they be of full age or not as if they were sole and of full age and as to such guardians on behalf of their wards and as to such committees on behalf of the lunatics and idiots of whom they are the committees respectively and that to the same extent as such wives wards lunatics and idiots respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability and as to such trustees executors or administrators on behalf of their *cestuique* trusts whether infants issue unborn lunatics *feme covert* or other persons and that to the same extent as such *cestuique* trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability and the power hereinafter given to release lands from any rent-charge or incumbrance and to agree for the apportionment of any such rent-charge or incumbrance shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the Council.

Authority to sell superfluous or unnecessary lands.

111. In case any of the lands vested in any Council under the provisions of this Act shall not be required for the purposes thereof it shall be lawful for such Council to cause such lands to be offered for sale by public auction and to convey the same to the purchasers thereof in such manner and at such times and subject to such conditions as they may think fit and the proceeds of all such sales shall be paid by the purchasers to the Council.

Incorporation of provisions of Government Railways Act.

112. The several sections of the Government Railways Act twenty-second Victoria number nineteen hereinafter specified together with the respective powers authorities duties liabilities obligations and other the provisions therein contained are hereby declared to be incorporated with and embodied in this Act to the intent that the same may be applied as fully and effectually to the lands taken under the authority of this Act as if the said sections had been specifically enacted herein And that wheresoever in any section so incorporated the word "Commissioner" occurs there shall for the purposes of this Act be substituted in lieu of such word the expression "The Council" And whenever the word "Railway" or words implying works connected with a railway occur there shall be substituted such words respectively

as

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as denote the nature of the work undertaking or purpose in respect of which the land in question has been appropriated or resumed The following are the sections so declared to be incorporated with this Act—

- (1.) As to the deposit of compensation money in certain cases with the Master in Equity and the application and investment thereof As to payment of such money in certain cases to trustees or to the parties themselves and the exoneration of the Council in respect thereof after payment Sections forty-seven to fifty-two both inclusive.
- (2.) As to the deposit and application of compensation money on refusal of the owner to accept the same or on his failing to make out a satisfactory title and as to presumption of ownership Sections fifty-three to fifty-six both inclusive.
- (3.) As to the procedure by the Council in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof or hinder the Council from entering upon or taking possession of the same Section sixty-one.
- (4.) As to the purchase or redemption of the interests of mortgagees and the deposit of principal and interest due on mortgages with the Master in Equity the procedure to be observed when the mortgaged lands are of less value than the mortgage debt and where part only of lands in mortgage are taken Sections sixty-five to seventy both inclusive.
- (5.) As to the release of lands from rent charges and other incumbrances and procedure thereon Sections seventy-one to seventy-four both inclusive.
- (6.) As to the apportionment of rent where lands taken are under lease and as to compensation to tenants Sections seventy-five to seventy-eight both inclusive.
- (7.) As to the entry upon or temporary occupation of lands the crossing of roads and other highways the making of bridges and other works of accommodation and the provisions consequent thereon Section ten and sections eighty-four to ninety-seven both inclusive Provided that compensation shall in all respects be ascertained in accordance with this Act.

113. It shall be lawful for the Council and all persons by them authorized to enter upon any lands not being a garden orchard or plantation attached or belonging to a house nor a park planted walk avenue or ground ornamentally planted and not being nearer to the mansion-house of the owner of any such lands than one hundred yards therefrom and to occupy the said lands so long as may be necessary for the construction or repair of any works authorized by this Act of the accommodation works connected therewith hereinafter mentioned and to use the same for any of the following purposes that is to say—

For the purpose of taking earth or soil by side cuttings therefrom

For the purpose of depositing soil thereon

For the purpose of obtaining materials therefrom for the construction or repair of the waterworks or sewerage works or such accommodation works as aforesaid or

For the purpose of forming roads thereon to or from or by the side of the said works

And in exercise of such powers it shall be lawful for the Council and all other persons employed therein to deposit and also to manufacture and work upon such lands materials of every kind used in constructing the said works and also to take from any such lands any timber and also to dig and take from or out thereof any clay stone gravel sand or other things that may be found therein useful or proper for constructing the said works or any such roads as aforesaid and for the purposes aforesaid to erect thereon workshops sheds and other buildings of a temporary

Power to take temporary possession of land.

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temporary nature Provided always that nothing in this Act contained shall exempt the Council from an action for nuisance or other injury (if any) done in the exercise of the powers hereby conferred to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid Provided also that no stone or slate quarry brick-field or other like place which at the time of the passing of this Act shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same shall be taken or used by the Council either wholly or in part for any of the purposes lastly hereinbefore mentioned.

Council to separate the lands before using them.

114. If any such lands shall be used for any of the purposes aforesaid the Council shall if required so to do by the owner or occupier thereof separate the same by a sufficient fence from the lands adjoining thereto with such gates as may be necessary for the convenient occupation of such lands and in case of any difference between the owners or occupiers of such lands and the Council as to the necessity for such fences and gates then with such fences and gates as the Governor shall deem necessary for the purposes aforesaid.

Compensation to be made for temporary occupation.

115. In any of the cases aforesaid where the Council shall take temporary possession of lands by virtue of the powers herein granted it shall be incumbent on them within one month after their entry upon such lands upon being required to do so to pay to the occupier of the said lands the value of any crop or dressing that may be thereon as well as full compensation for any other damage of a temporary nature which he may sustain by reason of the Council so taking possession of his lands.

Before roads interfered with others to be substituted.

116. If in the exercise of the powers hereby granted it be found necessary to cross cut through raise sink or use any part of any road whether carriage-road horse-road or tram-road or railway either public or private so as to render it impassable for or dangerous or more than usually inconvenient to passengers or carriages or to the persons entitled to the use thereof the Council shall before the commencement of any such operations cause a sufficient road to be made instead of the road to be interfered with and shall at the public expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with or as nearly so as may be.

Period for restoration of roads interfered with.

117. If the road so interfered with can be restored compatibly with the due completion of any works authorized under this Act the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the Council or as near thereto as may be and if such road cannot be so restored the Council shall cause the new or substituted road or some other sufficient substituted road to be put into a permanently substantial condition equally convenient as the former road or as near thereto as circumstances will allow and the former road shall be restored or the substituted road put into such condition as aforesaid as the case may be with all reasonable expedition.

Council to make sufficient approaches and fences to bridle-ways and foot-ways crossing on the line.

118. If the conduit or any sewerage works shall cross any highway other than a public carriage-way on the level the Council shall make and at all times maintain convenient ascents and descents and other convenient approaches with hand-rails or other fences and shall if such highway be a bridle-way erect and at all times maintain good and sufficient gates and if the same shall be a foot-way good and sufficient gates or stiles on each side of such conduit or works where the highway shall communicate therewith.

Works for benefit of owners.

119. The Council shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining any works authorized under this Act that is to say:—

Gates bridges &c.

Such and so many convenient gates bridges arches culverts and passages over under or by the side of or leading to or from such

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such works as shall be necessary for the purpose of making good any interruptions caused thereby to the use of the lands through which the same shall be made and such works shall be made forthwith after the part of the conduit passing over such lands shall have been laid out or formed or during the formation thereof

Also sufficient posts rails hedges ditches mounds or other fences Fences &c. for separating the land taken for the use of such works from the adjoining lands not taken and protecting such lands from trespass or the cattle of the owners or occupiers thereof from straying thereout by reason thereof together with all necessary gates made to open towards such adjoining lands and not towards the said works and all necessary stiles and such posts rails and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require and the said other works as soon as conveniently may be

Also all necessary arches tunnels culverts drains or other passages Drains. either over or under or by the sides of such works and of such dimensions as will be sufficient at all times to convey the water from the lands lying near or affected thereby

Provided always that the Council shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works for water supply or sewerage nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive and shall have been paid compensation.

120. If any difference arise respecting the kind or number of any such accommodation works or the dimensions or sufficiency thereof respecting the maintaining thereof the same shall be determined by the Governor who shall also appoint the time within which such works shall be commenced and executed. Differences as to accommodation works to be settled by Governor.

121. If any of the owners or occupiers of lands affected by such conduit shall consider the accommodation works made by the Council or directed by the Governor to be made by the Council insufficient for the commodious use of their respective lands it shall be lawful for any such owner or occupier at any time at his own expense to make such further works for that purpose as he shall think necessary and as shall be agreed to by the Council. Power to owners of lands to make additional accommodation works.

122. If the Council so desire all such last-mentioned accommodation works shall be constructed under the superintendence of the Council's engineer and according to plans and specifications to be submitted to and approved by the Council. But the Council shall not be entitled to require either that plans shall be adopted which will involve a greater expense than that incurred in the execution of similar works by the Council or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Council. Such works to be constructed under the superintendence of the Council's engineer.

123. If any person omit to shut and fasten any gate set up for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriages cattle or other animals under his care have passed through the same he shall forfeit for every such offence any sum not exceeding ten pounds. Penalty on persons omitting to fasten gates.

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PART V.

Special provisions in respect of certain authorized Works—Miscellaneous Provisions—Legal Procedure.

Provision for works
sanctioned by
Governor &c.

124. Notwithstanding anything in this Act contained it shall be lawful for the Governor to construct and complete any works whether for Water Supply or Sewerage the construction or completion whereof shall have been or shall hereafter be authorized by the said Governor but only to the extent to which moneys voted or to be voted by Parliament shall be from time to time available therefor. And all such works shall be constructed and completed under the direction of the Minister for Public Works.

Report of completion
of works and transfer
to Council.

125. Upon the completion of any such works the said Minister shall report that fact to the Governor And the Governor shall notify such completion in the *Gazette* and thereupon the Council of the Borough or Municipal District within and for the purposes of which the said works shall have been constructed shall take over the same and the administration and management thereof upon the terms and conditions hereinafter prescribed and upon any further terms or conditions which the Governor may in any case appoint viz.:—

- (1.) The whole amount [subject to such partial remission as the Governor may think just under any special circumstances] expended upon any such works as certified under the hand of the Minister for Public Works shall be a debt chargeable upon the general revenues from whatever sources derived of such Borough or Municipal District until defrayed as hereinafter provided.
- (2.) Such debt shall be liquidated by periodical payments to the Colonial Treasurer to be by him carried to the Consolidated Revenue Fund And the first payment shall be made within one year from the date of the *Gazette* notification of transfer and shall be for an amount equal to six pounds per centum of the debt so certified as aforesaid And before the end of each succeeding Municipal year thereafter a payment shall in like manner be made until the aggregate amounts paid shall equal the amount so certified as aforesaid together with interest added at the rate of four per centum on the balance remaining unpaid in each year So soon as the sums so paid shall equal such amount together with interest added as aforesaid all further payments shall cease and the rates and income arising from such works shall be discharged from any further payments in respect thereof.
- (3.) If default shall be made by the Council of any such Borough or Municipal District in making any payment prescribed by this section for a period of thirty days after the same shall have become payable the Colonial Treasurer shall be entitled forthwith to take such proceedings to enforce payment by procuring the appointment of any number of persons not exceeding three to be Receivers of the rates and other revenues of such Council as may now or hereafter be taken by a mortgagee or other secured creditor or by the holder of the debentures of a Municipal Council under the "Municipalities Act of 1867" or any Act amending the same.
- (4.) The said Treasurer thereof have full power to make all necessary applications to and to procure all necessary orders and directions from the Supreme Court for and touching the appointment of Receivers or a Receiver and the said Court shall have power to make all such orders for the appointment
of

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of a Receiver or for his removal and the appointment of another in his place as may be necessary and to make any orders and give any directions which the said Court may think proper And every such Receiver shall be deemed to be an officer and shall act under the direction of the Supreme Court.

- (5.) Receivers shall be entitled to receive all rates and other revenues payable to the Council of the Municipality for or in respect of which they shall have been appointed Receivers and to make and levy rates but so nevertheless that the rates so made and levied shall not exceed those which the Council would have been entitled to levy under the provisions of the law in force for the time being And for such purposes such Receivers shall be deemed the Council of such Municipality and may exercise all the powers thereof.
- (6.) Receivers shall be entitled to such commission payable out of the rates of the Municipality as remuneration for their services as the Supreme Court may appoint.
- (7.) Receivers shall subject to any order of the Supreme Court pay over all moneys received by them to the Colonial Treasurer to be by him carried to the Consolidated Revenue Fund and if there be any balance in hand over and above the amount due and payable to the Colonial Treasurer under the provisions of this Act they shall pay such balance over to the Council of the Municipality.

126. Upon the publication of such notification as aforesaid it shall be lawful for the Council to exercise all the powers (and they shall in that case be subject to all the obligations and other provisions) contained in this Act except such as are limited in operation to the Governor or the Minister and except such as are manifestly inapplicable to the purposes of administering and managing works of Water Supply or Sewerage.

Certain powers of Councils or transfer of works to them.

127. In any case where the Council of any Borough or Municipal District within the meaning of this Act shall have constructed or commenced to construct works for Water Supply or Sewerage within and for the purposes of such Borough or District it shall be lawful for the Governor on the petition of such Council to declare by Proclamation in the *Gazette* that any specified powers and provisions applicable for the purpose contained in this Act [including powers incident to the levying of Water and Sewerage Rates or either as the case may require] shall be applied within such Borough or District by and with respect to the Council and inhabitants thereof respectively And the parts of this Act and the powers and provisions so specified shall upon the publication of such Proclamation apply to and be in force within such Borough or District and with respect to such Council and inhabitants with the same effect for all purposes as if this Act had specifically declared such parts powers and provisions to be so applied as aforesaid.

Application of certain parts of Act to certain Municipal Works.

128. Every officer or servant employed by the Council shall when required by the Council make out and deliver to them or to any person appointed by them for that purpose a true and perfect account in writing under his hand of all moneys received by him on behalf of the Council in consequence of his employment and such account shall state how and to whom and for what purpose such moneys shall have been disposed of and together with such account such officer shall deliver the vouchers and receipts for such payments and every such officer shall pay to the Council or to any person appointed by them to receive the same all moneys which shall appear to be owing from him upon the balance of such accounts.

Officers to account on demand.

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Summary remedy
against parties failing
to account.

129. If any such officer fail to render such account or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power or to pay the balance thereof when thereunto required or if for three days after being thereunto required he fail to deliver up to the Council or to any person appointed by the Council to receive the same all papers and writings property effects matters and things in his possession or power relating to the execution of this Act or belonging to the Council then on complaint thereof being made to a Justice such Justice shall summon such officer to appear before two or more Justices at a time and place to be set forth in such summons to answer such charge and upon the appearance of such officer or in his absence upon proof that such summons was personally served upon him or left at his last known place of abode such Justices may hear and determine the matter in a summary way and may adjust and declare the balance owing by such officer and if it appear either upon confession of such officer or upon evidence or upon inspection of the account that any public moneys which should be paid over to the Council are in the hands of such officer or owing by him such Justices may order such officer to pay the same and if he fail to pay the amount it shall be lawful for such Justices to grant a warrant to levy the same by distress or in default thereof to commit the offender to gaol for a period not exceeding three months unless the said amount be sooner paid.

Officers refusing to
deliver up documents
&c. to be imprisoned.

130. If any such officer or servant refuse to make out such account in writing or to produce and deliver to the Justices the several vouchers and receipts relating thereto or to deliver up any books papers or writings property effects matters or things in his possession or power belonging to the Council such Justices may lawfully commit such offender to gaol there to remain until he shall have delivered up all the vouchers and receipts (if any) in his possession or power relating to such accounts and have delivered up all books papers writings property effects matters and things (if any) in his possession or power belonging to the Council or which should be delivered up to them by such officer or servant.

Where officer about
to abscond a warrant
may be issued in the
first instance.

131. If the Mayor or other person acting on behalf of the Council shall make oath that he has good reason to believe upon grounds to be stated in his deposition and does believe that it is the intention of any such officer as aforesaid to abscond or that he has absconded it shall be lawful for the Justice before whom the complaint is made if he shall think fit to issue a warrant in the first instance for the bringing such officer or servant before such two Justices as aforesaid but no person executing such warrant shall keep such officer or servant in custody longer than twenty-four hours or such longer period as may be rendered necessary by the distance of the place of apprehension from the residence of the nearest or most convenient Justice without bringing him before some Justice and it shall be lawful for the Justice before whom such officer may be brought either to discharge such officer if he think there is no sufficient ground for his detention or to order such officer to be detained in custody so as to be brought before two Justices at a time and place to be named in such order unless such officer give bail to the satisfaction of such Justice for his appearance before such Justices to answer the complaint of the said President or person Provided nevertheless that no such proceeding against or dealing with any such officer or servant as aforesaid shall deprive the Council of any remedy which they might otherwise have against such officer or any surety of such officer.

Sureties not to be
discharged.

Moiety of penalties to
be paid to informers
distress not unlawful
for want of form.

132. One half of any penalty recovered under this Act or any by-law thereunder shall be paid to the informer and where any distress is made for any sum of money to be levied under this Act the distress itself

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itself shall not be unlawful nor the persons making the same be deemed trespassers on account of any defect or want of form in the information summons conviction warrant of distress or other proceedings relating thereto nor shall the persons distraining be deemed trespassers on account of any irregularity that shall be afterwards done by the persons distraining but the persons aggrieved by such irregularities may recover satisfaction for the special damage in an action on the case.

133. The following provisions shall and may be applied in respect of all actions and proceedings taken in respect of claims for damages not within the meaning and operation of Part IV hereof viz. :—

(I.) No action against the Council shall be maintainable in any Court other than the Supreme Court and no writ of execution shall be issued against the Council until the expiration of fourteen days after final judgment has been signed and no real estate now or hereafter to be vested in the Council shall be liable to be sold under any writ of execution or other process of any Court of Law or Equity.

(II.) No plaintiff shall recover in any such action unless notice in writing has been given to the defendant twenty-eight days before such action is commenced of such intended action signed by the attorney of the plaintiff specifying the cause of such action and the plaintiff shall not recover in any such action if tender of sufficient amends shall have been made to him or to his attorney by or on behalf of the defendant before such action brought and in case no such tender be made it shall be lawful for the defendant in any such action by leave of the Court at any time before issued joined to pay into Court such sum of money as he thinks proper whereupon such proceedings order and judgment shall be made and given by such Court as in other actions where the defendant is allowed to pay money into Court.

(III.) No such action or suit shall be brought after three months from the act committed and the defendant in every such action or suit may at his election plead specially or the general issue and give this Act and the special matter in evidence at any trial and prove that the same was in pursuance and under the authority of this Act and if the same appear to have been so done or if such action or suit have been brought before the expiration of twenty-eight days next after such notice has been given as aforesaid or after sufficient satisfaction made or tendered as aforesaid or after the time limited for bringing the same or be brought in any other place than as aforesaid the jury shall find a verdict for the defendant and upon such verdict or if the plaintiff be nonsuited or discontinue his action or suit after the defendant have appeared or upon any demurrer judgment be given against the plaintiff or plaintiffs the defendant shall recover full costs of suit and have such remedy for recovering the same as any other defendant has in other cases by law.

134. Where by this Act any question of compensation expenses charges or damages or other matter is required to be referred to the determination of any one or more Justices it shall be lawful for any Justice upon the application of either party to summon the other party to appear before one Justice or before two Justices as the case may require at a time and place to be named in such summons and upon the appearance of such parties or in the absence of any of them upon proof of due service of the summons it shall be lawful for such one Justice or such

Actions and executions.

Tender of amends.

Limitation of action.

Method of proceeding before Justices in question of damages &c.

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such two Justices as the case may be to hear and determine such question and for that purpose to examine such parties or any of them and their witnesses on oath and the cost of every such inquiry shall be in the discretion of such Justices and they shall determine the amount thereof.

Penalties &c. to be
summarily recovered
before two Justices.

135. Every penalty forfeiture charge or sum of money imposed by or made payable under this Act or by any by-law made in pursuance thereof the recovery of which is not otherwise provided for may be recovered by summary proceedings before two Justices under the provisions of the Act or Acts in force for the time being regulating summary proceedings before Justices. And where any such penalty forfeiture charge or sum be not paid either immediately after conviction or adjudication or within the time appointed thereby the same may be enforced by distress and sale of the offender's or defaulter's goods and chattels in the manner provided by the said Acts.

Parties allowed to
appeal to Quarter
Sessions on giving
security.

136. If any party shall feel aggrieved by any determination or adjudication of any Justice or Justices with respect to any penalty or forfeiture under the provisions of this Act such party may appeal to the General or Quarter Sessions for the district or place in which the cause of appeal shall have arisen but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication nor unless ten days notice in writing of such appeal stating the nature and grounds thereof be given to the party against whom the appeal shall be brought nor unless the appellant forthwith after such notice enter into recognizances with two sufficient sureties before a Justice conditioned duly to prosecute such appeal and to abide the order of the Court thereon. At the General or Quarter Sessions for which such notice shall be given the Court shall proceed to hear and determine the appeal in a summary way or they may if they think fit adjourn it to the following Sessions and upon the hearing of such appeal the Court may if they think fit mitigate any penalty or forfeiture or they may confirm or quash the adjudication and order any money paid by the appellant or levied by distress upon his goods to be returned to him and also may order such further satisfaction to be made to the party injured as they may judge reasonable and they may make such order concerning the costs both of the adjudication and of the appeal as they may think reasonable.

Court to make such
order as they think
reasonable.

Damage to be made
good in addition to
penalty.

137. If through any act neglect or default on account whereof any person shall have incurred any penalty imposed by this Act any damage to any conduit main pipe sewer or other property of the Council used in connection therewith shall have been committed by such person he shall be liable to make good such damage as well as to pay such penalty and the amount of such damages shall in case of dispute be determined by the Justices by whom the party incurring such penalty shall have been convicted and on non-payment of such damages on demand the same shall be levied by distress and such Justices or one of them shall issue their warrant accordingly.

Transient offenders.

138. It shall be lawful for any officer or servant of the Council and all persons called by him to his assistance to seize and detain any person who shall have committed any offence against the provisions of this Act and whose name and residence shall be unknown to such officer or servant and convey him with all convenient dispatch before some Justice without any warrant or other authority than this Act and such Justice shall proceed with all convenient dispatch to the hearing and determining of the complaint against such offender.

Notices.

139. Any notice required by this Act or any by-law or regulation made thereunder to be served on or given to any owner or occupier of any building land or premises or on or to any person may be in writing or partly in writing and partly printed or may be wholly printed. And it shall be sufficient for all purposes of this Act unless the

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the said Act in any case prescribes a different course to be pursued if any such notice is sent by post to the owner by registered letter addressed to his last-known place of abode or of business or is served on the owner or occupier of such building land or premises or left with some inmate apparently over the age of fourteen years living at the place of abode of such owner or occupier or if there be no occupier if such notice be posted on some conspicuous part of such building or land And any notice required to be served or given in respect of any public street road or lane may be served on or sent by post as aforesaid to the Council Clerk of the borough or municipal district wherein such street road or lane or the portion thereof affected by the notice is situated.

140. Nothing in this Act shall be construed to render lawful any act matter or thing whatsoever which but for this Act would be deemed to be a nuisance nor to exempt any Council or person from any liability prosecution or punishment to which such Council or person would but for this Act have been subject.

Nothing in this Act to exempt any person from prosecution &c. for nuisance.

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FOURTH SCHEDULE.

Notice of claim and abstract.

To the Mayor of the Council of
In pursuance of the "Country Towns Water and Sewerage Act of 1880" I (or we) hereby give you notice that I (or we) claim compensation in respect of the land hereunder described which has been resumed under the said Act The amount of such claim and other the particulars required by the said Act are stated in the subjoined abstract.

Abstract.

Names and descriptions of parties claiming and nature of their interests whether tenants for life in tail or otherwise.	Situation and description of property.	Quit rents payable if leasehold name of landlord term of lease and rent reserved.	Names of occupiers distinguishing whether tenants-at-will or under lease rent reserved terms &c.	Particulars of claim specifying separately the amount claimed for value of property and for compensation.	Dates and other short particulars of documents of title.	Names of persons having the custody of documents and place or places where the same may be inspected and name of claimants' solicitor or agent.

(Signature)
(Address)
(Date)

FIFTH SCHEDULE.

Notice of Valuation.

To A.B. claimant in respect of the land hereunder described resumed under the "Country Towns Water and Sewerage Act of 1880."

TAKE notice that the land hereunder described being that in respect of the resumption whereof under the authority of the aforesaid Act your claim or compensation has been lodged has been valued at the sum of £

A.B.
Mayor &c.

Description of land in respect of which claim has been made

ALL that piece or parcel of land &c. &c. &c.

