



## CHAPTER xxxix.

An Act to confirm an agreement for the acquisition by the Ilfracombe Urban District Council of part and the lease (with an option of purchase) of the remainder of the Ilfracombe Pier and Harbour Undertaking including Lantern Hill and other lands held therewith and to enable the Council to carry out street improvements and to make further and better provision for the improvement health local government and finance of the district and for other purposes. [30th June 1905.]

A.D. 1905.

**W**HEREAS the district of Ilfracombe in the county of Devon is an urban district within the meaning of the Local Government Act 1894 and is under the management and control of the Ilfracombe Urban District Council (in this Act called "the Council"):

And whereas by the Ilfracombe Improvement Act 1900 (in this Act called "the Act of 1900") powers in relation to the supply of water and with regard to the improvement and local government of the district were conferred upon the Council:

And whereas Reginald Joseph Weld of Lulworth Castle in the county of Dorset acting so long as he is a person of unsound mind by the committee of his estate is the undertaker within the meaning of the Ilfracombe Harbour Orders 1870 to 1900 and the owner of the harbour and piers and lands held therewith subject to a mortgage debt of which the balance outstanding does not exceed five hundred and fifty pounds:

And whereas the said undertaking is used both as a harbour and as a place of recreation for residents in and visitors to the district:

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And whereas an agreement has been made for the sale to the Council of part and the lease to the Council of the remainder of the said undertaking and it has been agreed that under the terms of the lease the Council shall have the right to purchase the reversion on terms failing agreement to be fixed by arbitration :

And whereas it is expedient that the said agreement should be confirmed and that the Council should be empowered to carry the said agreement into effect and if they think fit to purchase the harbour undertaking :

And whereas it is expedient that the Council should be empowered to make and maintain the street improvements and works by this Act authorised and to acquire lands for the purposes thereof :

And whereas it is expedient that further powers should be conferred on the Council with reference to buildings streets sewers and drains and recreation grounds within the district and further provision made for the improvement health and local government of the district :

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

And whereas estimates have been prepared by the Council in relation to the purchase of the lands for and for the construction of the street improvement and works authorised by this Act and such estimates amount to the sum of seven hundred pounds :

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

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

And whereas an absolute majority of the whole number of the Council at a meeting held on the twenty-second day of November one thousand nine hundred and four after ten clear days' notice by public advertisement of such meeting and of the purpose thereof

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in the *Ilfracombe Gazette and Observer* a local newspaper circulating in the district such notice being in addition to the ordinary notices required for summoning such meeting resolved that it was expedient to promote the Bill for this Act : A.D. 1905.

And whereas such resolution was published twice in the *Ilfracombe Chronicle* a local newspaper circulating in the district and has received the approval of the Local Government Board :

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the Council at a further special meeting held in pursuance of a similar notice on the seventeenth day of January one thousand nine hundred and five being not less than fourteen days after the deposit of the Bill in Parliament :

And whereas in relation to the promotion of the Bill for this Act the requirements contained in the First Schedule of the *Borough Funds Act 1903* have been observed :

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

PART I.

PRELIMINARY.

1. This Act may be cited as the *Ilfracombe Harbour and Improvement Act 1905.* Short title.

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

- Part I.—Preliminary.
- Part II.—Harbour.
- Part III.—Street improvement and lands.
- Part IV.—Infectious diseases.
- Part V.—Streets buildings and sewers.
- Part VI.—Sanitary provisions.
- Part VII.—Recreation grounds.
- Part VIII.—Finance.
- Part IX.—Miscellaneous.

Division of  
Act into  
Parts.



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—  
Incorporation  
of Acts.

3. The Lands Clauses Acts (except section 127 of the Lands Clauses Consolidation Act 1845) so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act are incorporated with and form part of this Act.

Interpreta-  
tion.

4. In this Act the following words and expressions have the meanings hereby assigned unless the subject or context otherwise requires :—

“The district” means the urban district of Ilfracombe :

“The Council” means the urban district council of the district :

“The district fund” and “general district rate” mean the district fund and general district rate of the district :

“The clerk” “the surveyor” “the medical officer” “the inspector of nuisances” mean respectively the clerk and surveyor to the Council and the medical officer of health and inspector of nuisances of the district and “medical officer” includes any person duly authorised to act temporarily as medical officer of health :

“The harbour undertaking” includes the whole of the undertaking property powers rights and privileges authorised by held under or conferred by the Ilfracombe Harbour Orders 1870 to 1900 and the lands and premises described in the scheduled agreement and especially Lantern Hill and the lessor’s interest in the lands or foreshore granted or demised by the Commissioners of Woods to the lessor by three indentures of which two are dated the 27th day of August 1897 and the third is dated the 30th day of January 1899 and in the event of a sale of the harbour undertaking pursuant to the scheduled agreement shall also include all rights of wreckage which the lessor is or may be now entitled to exercise over the said lands or foreshore and also any lands purchased by the Council in connection with or for the purposes of the harbour :

“The fixtures” means the toll gates fixtures appliances and things specified and described in a list signed by Henry Duke on behalf of the lessors and by Reginald Mark Rowe on behalf of the Council mentioned in the First Schedule to the scheduled agreement and in the scheduled agreement called “the fixtures” :

“The lessor” means the said Reginald Joseph Weld of Lulworth Castle in the county of Dorset (acting so long as he is a person of unsound mind by the committee of his estate) or other the person entitled to receive the rents and profits of the harbour at Ilfracombe or the harbour undertaking : A.D. 1905.

“The scheduled agreement” means and includes the agreement dated the fourteenth day of December 1904 and made between the lessor and the council and the form of lease intended to be executed thereunder set forth in the First Schedule to this Act :

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

“Dairyman” means any cowkeeper purveyor of milk or occupier of a dairy :

“Dairy” means and includes any farm farmhouse cowshed milk store milk shop or other place from which milk is supplied or in which milk is kept for purposes of sale :

“Daily penalty” means a penalty for every day on which any offence is continued after conviction :

“Closet accommodation” means any receptacle for human excreta and the fittings and apparatus connected therewith :

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

Unless the subject or context otherwise requires words and expressions to which meanings are assigned by the Acts wholly or partially incorporated with this Act or by the Public Health Acts have in this Act the same respective meanings.

A.D. 1905.

PART II.

HARBOUR.

Confirmation  
of scheduled  
agreement.

5. The scheduled agreement is hereby confirmed and made binding upon the Council and the lessor and the Council and the lessor shall carry the scheduled agreement into effect accordingly subject to such modification as may be agreed upon between the Council and the lessor.

Transfer of  
harbour un-  
dertaking for  
term of de-  
mise.

6. On the execution of the lease by the scheduled agreement agreed to be granted the harbour undertaking shall by virtue of this Act be transferred to and shall vest in the Council upon the terms and conditions in the lease contained until the expiration or sooner determination of the term intended to be thereby granted and may be held exercised enjoyed and enforced by the Council accordingly and upon such expiration or sooner determination the harbour undertaking shall by virtue of this Act be transferred to and shall vest in the lessor.

Power to  
Council to  
purchase har-  
bour under-  
taking.

7. If a majority consisting of two thirds of the whole Council at a meeting specially called for that purpose decide to exercise the right pursuant to the lease to purchase the reversion to the harbour undertaking and the rights excepted and reserved as in the scheduled agreement mentioned whether with or without the additional lands coloured grey on the plan attached to the scheduled agreement the Council may with the approval of the Board of Trade after local inquiry serve notice upon the lessor accordingly and the sale and purchase of the harbour undertaking and such rights as aforesaid with or without such additional lands shall be carried into effect and on payment of the purchase money being a sum in gross as agreed or determined by arbitration the harbour undertaking and such rights as aforesaid with or without such additional lands as the case may be shall by virtue of this Act vest in the Council absolutely and may be held exercised enjoyed and enforced by the Council accordingly.

Transfer of  
fixtures and  
provisions in  
relation  
thereto.

8.—(1) The sale and purchase of the fixtures shall be carried into effect and on payment of the purchase money the same shall by virtue of this Act be transferred to and shall vest in the Council and may be held and enjoyed by the Council accordingly free from all charges affecting the same.

(2) The Council may maintain and improve the fixtures or substitute other like fixtures or may remove the same to other



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lands of the Council or may sell the same or demolish the same and sell the materials thereof. A.D. 1905.

(3) The Council shall apply the proceeds of such sale whether to the lessor under the scheduled agreement or otherwise in or towards paying off moneys borrowed for the purposes of the purchase of such fixtures or otherwise in respect of the harbour undertaking or if there be no moneys owing in respect of the harbour undertaking towards paying off other moneys owing by the Council Provided that such proceeds when used to pay off the borrowed moneys shall not be applicable to the payment of instalments appropriation or annual repayments or to payments into sinking fund except to such extent and upon such terms as may be approved by the Local Government Board.

9. Upon the execution of the lease by the scheduled agreement agreed to be granted and thereafter during the continuance of the demise or for so long as the harbour undertaking is vested in the Council all the powers rights privileges and authorities duties and liabilities of the undertakers under the Ilfracombe Harbour Orders 1870 to 1900 and the Acts incorporated therewith shall be by virtue of this Act transferred to vested in and imposed upon and may so far as applicable be exercised by the Council and those Orders and Acts shall be read and have effect as if the Council had been named therein as undertakers in the place and to the exclusion of the undertakers therein named subject to the provisions of this Act and to the following exceptions and variations :—

(A) Sections 17 18 19 and 30 of the Ilfracombe Harbour Order 1870 ;

The Ilfracombe Harbour Order 1873 ;

Sections 14 17 20 21 22 23 24 25 and 26 of the Ilfracombe Harbour Order 1897 ;

And sections 2 12 13 14 15 16 and 17 of the Ilfracombe Harbour Order 1900 ;

shall not apply to the Council and shall be repealed as from the date of the purchase of the harbour undertaking by the Council :

(B) Lantern Hill and the other lands forming part of the harbour undertaking shall be deemed part of the pier and jetty within the meaning of the Ilfracombe Harbour Order 1870 so long as the harbour undertaking is vested in the Council :

Application  
of Ilfracombe  
Harbour Or-  
ders 1870 to  
1900 to  
Council.

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(c) The lessor shall continue until the purchase of the harbour undertaking to have such powers as undertaker as may be necessary to enable him to perform the obligations of the lessor under the said lease.

As to mortgages by and debts of undertaker.

**10.**—(1) Upon payment by the Council of the purchase money payable in respect of the fixtures and the harbour undertaking respectively the lessor shall with all practicable despatch pay and discharge all mortgage and other debts and liabilities created owing or incurred by him in respect of the harbour undertaking prior to or at the date of the transfer of the fixtures or the harbour undertaking as the case may be and the Council shall not be concerned to see to the application of the purchase money or be answerable to the mortgagees or creditors of the lessor for the loss or misapplication thereof or otherwise in any respect whatsoever.

(2) Sums hereafter borrowed by the lessor on mortgage of the rates and dues authorised by the Order of 1870 or otherwise secured upon the harbour undertaking shall attach to the rents or other payments receivable by the lessor under the said lease and to the purchase money in the event of a sale of the harbour undertaking but shall not attach to or be a charge on the harbour undertaking or any part thereof as transferred to or vested in the Council by virtue of this Act.

Saving rights of action against lessor.

**11.** Subject to the provisions of this Act nothing in this Act contained shall be held to prejudice or affect any right or cause of action or suit or any remedy which at the date of lease or sale of the harbour undertaking the lessor may have against any person or which any person may have against the lessor but all such rights causes and remedies may be enforced or prosecuted by or against the lessor as if this Act had not been passed and shall not be enforceable by or against the Council.

Byelaws to continue until altered.

**12.** All byelaws of the lessor as undertaker legally in force at the date of the execution of the said lease shall continue in force until repealed or altered by the Council and may be enforced by the Council and all byelaws of the Council as undertakers legally in force when the harbour undertaking ceases to be vested in the Council shall continue in force until repealed or altered by the lessor and may be enforced by the lessor.

Power to extend or vary lease.

**13.** The Council and the lessor may by agreement with the consent of the Board of Trade extend the term or vary the



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provisions of the said lease and the provisions of this Act which apply during the term agreed to be granted under the scheduled agreement shall apply during such extended term. A.D. 1905.

14.—(1) The following sections of the Ilfracombe Improvement Act 1900 shall apply to the lands which may become vested in the Council under the provisions of the scheduled agreement or otherwise as part of the harbour undertaking and which may not be required for harbour purposes as if such lands were pleasure grounds (that is to say):—

Section 49 (Pleasure grounds to be deemed streets);

Section 52 (Power to provide and let chairs &c.);

Section 128 (Power to appoint officers).

Use of part of harbour undertaking as pleasure grounds and power to advertise.

(2) In addition to the power conferred by section 48 (Power to contribute towards band) of the Ilfracombe Harbour Act 1900 the Council may provide and pay or contribute towards the payment of bands of music to play on such lands as aforesaid and subscribe towards the funds of any regatta or fête held in the vicinity of the harbour and may in respect thereof make additional charges for the use of any part of the piers or jetty or of such lands. No payments under this subsection shall be made save out of the surplus revenues of the harbour undertaking after paying all sums necessary to meet purposes (1) (2) (3) (4) and (6) of the section of this Act whereof the marginal note is "Application of revenue of harbour undertaking."

(3) The Council may for the information of the public advertise the tides harbour tolls depth of harbour and boat services connected with the harbour undertaking.

15.—(1) The Council may when and so long as the harbour undertaking is vested in them grant to passengers and promenaders or others for the use of any part of the harbour undertaking (either exclusively or not of any building or room for the time being thereon) pass tickets or family tickets at such rates on such terms and for such period not exceeding one year as may be agreed upon or may issue books containing any number of tickets at a reduced rate but so that no preference be given to any person.

Pass tickets for use of harbour undertaking.

(2) The Council may prescribe the conditions on which family tickets are issued and the persons by whom those tickets may be used.

(3) A pass ticket shall not be transferable and shall not be used by any person except the person to whom it is granted A

A.D. 1905. family ticket shall not be used otherwise than in accordance with the conditions on which it is issued. No pass ticket or family ticket shall be used by any person after the period limited for its use.

(4) There shall be printed on every pass ticket and family ticket the conditions on which the same is issued.

(5) If any person wilfully and with intent to defraud acts in any way in contravention of the provisions of this section or uses or attempts to use any false or counterfeit ticket he shall for each offence be liable to a penalty not exceeding twenty shillings.

Power to  
make bye-  
laws.

16.—(1) The Council may without prejudice to section 58 of the Act of 1900 or to the power to make byelaws under section 83 of the Harbours Docks and Piers Clauses Act 1847 make byelaws to take effect within the harbour for the regulation and control of vessels and boats and for the regulation and control of persons embarking disembarking frequenting or resorting to or employed in the harbour and for the licensing of pleasure boats and boats plying for hire and the persons in charge thereof and for regulating and fixing the fares to be charged by those licensed persons.

(2) The byelaws may provide for imposing and recovering a penalty not exceeding forty shillings for the breach or non-observance of any byelaw.

(3) No byelaw shall come into operation until it has received the allowance and confirmation of the Board of Trade and that allowance and confirmation shall be sufficient for all purposes.

(4) Sections 84 and 85 of the Harbours Docks and Piers Clauses Act 1847 shall not be incorporated with this Act.

(5) The Council shall not under this Act make or enforce byelaws for any purpose for which they have power under the Public Health Acts to make byelaws.

### PART III.

#### STREET IMPROVEMENT AND LANDS.

Power to  
construct  
works.

17. Subject to the provisions of this Act the Council may in the lines and according to the levels shown upon the deposited plans and sections relating thereto make the street improvement hereinafter mentioned and may enter upon take and use such of the lands delineated on the said plans and described in the

deposited book of reference relating thereto as may be required for that purpose or in connection therewith (that is to say) :—

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A widening of Wilder Road on the south side thereof from a point 107 feet or thereabouts measured in an easterly direction from the centre of Northfield Road for a distance of 290 feet or thereabouts and terminating at the west side of Fortescue Place.

18. The Council may during the execution and for the purposes of any work by this Act authorised stop up any street (not being a road or footway giving access to any passenger or goods station of a railway company) and prevent all persons other than those bonâ fide going to or returning from any house in the street from passing along and using the same for any reasonable time. The Council shall provide reasonable access for all persons so bonâ fide going to or returning from any such house.

Temporary stoppage of streets.

19. Subject to the provisions of this Act and within the limits defined on the deposited plans the Council in connection with the street improvement authorised by this Act and for the purposes thereof may—

Power to make subsidiary works and to alter steps areas and pipes.

(a) Make junctions and communications with any existing streets which may be intersected or interfered with by or be contiguous to the said street works and may make diversions widenings or alterations of lines or levels of any existing streets for the purpose of connecting the same with the said street works or of crossing under or over the same or otherwise and alter divert stop up enclose use or appropriate all or any part of any street square place court alley or passage whether a thoroughfare or not or of any thoroughfare road lane or way or of any drain sewer or other property shown on the deposited plans the Council providing a proper substitute before interrupting the flow of sewage in any drain or sewer ;

(b) Raise sink or otherwise alter or cause to be altered the position of any of the steps areas cellars windows and pipes or spouts belonging to any house or building and also the drains mains and the leaden and other pipes or wires which for the purpose of conveying water electricity or gas to any house or other place shall be laid into or from any main cable or pipe laid down by



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the Council and remove all other obstructions so as the same be done with as little delay and inconvenience to the inhabitants as the circumstances of the case will admit; and

(c) Construct such arches or culverts as may be necessary to cover over the Wilder stream alongside Wilder Road:

Provided that the provisions of section 308 of the Public Health Act 1875 (Compensation in case of damage by local authority) shall apply as if the acts done under the authority of this section were done in exercise of the powers of that Act:

Provided that nothing in this Act shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 and 1888 to which the provisions of section 15 of the former Act apply except in accordance with and subject to the provisions of that section.

Power to Council to make agreements with owners of property.

20. The Council may subject to the provisions of this Act from time to time enter into and carry into effect agreements with any person being the owner of or interested in any lands houses or property abutting on any portion of the works authorised by this Act or lands purchased and taken under the powers of this Act with respect to the sale by the Council to such person of any lands or property acquired under this Act (including any street or thoroughfare or any part of a street or thoroughfare appropriated by the Council under the powers of this Act and not required for the purposes of this Act) for such consideration as may be agreed upon between the Council and such person and the Council may accept as satisfaction of the whole or any part of such consideration the grant by such person of any lands or other property required by the Council for the purposes of this Act.

Power to deviate.

21. In constructing the works authorised by the foregoing provisions of this Part of this Act the Council may deviate from the lines thereof as shown on the deposited plans to any extent not exceeding the limits of deviation shown on those plans and from the levels thereof as shown on the deposited sections to any extent not exceeding two feet either upwards or downwards.

Period for completion of works.

22. If the works authorised by the foregoing provisions of this Part of this Act are not completed within three years from the passing of this Act then on the expiration of that period the powers by this Act granted for the making thereof or otherwise

in relation thereto shall cease except as to such of them or so much thereof respectively as is then completed. A.D. 1905.

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

Correction of errors &c. in deposited plans and book of reference.

**24.** The powers of the Council for the compulsory purchase of lands under this Act shall not be exercised after the expiration of three years from the passing of this Act.

Period for compulsory purchase of land.

**25.** Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Council any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Persons under disability may grant easements &c.

**26.** And whereas in the construction of the works by this Act authorised or otherwise in the exercise by the Council of the powers of this Act it may happen that portions only of certain properties shown or partly shown on the deposited plans may be sufficient for the purposes of the Council and that such portions

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

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A.D. 1905. or some other portions less than the whole can be severed from the remainder of the said properties without material detriment thereto Therefore the following provisions shall have effect:—

- (1) The owners of and persons interested in any of the properties whereof the whole or part is described in the Second Schedule to this Act and whereof a portion only is required for the purposes of the Council or each or any of them are hereinafter included in the term "the owner" and the said properties are hereinafter referred to as "the scheduled properties":
- (2) If for twenty-one days after the service of notice to treat in respect of a specified portion of any of the scheduled properties the owner shall fail to notify in writing to the Council that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto he may be required to sell and convey to the Council such portion only without the Council being obliged or compellable to purchase the whole the Council paying for the portion so taken and making compensation for any damage sustained by the owner by severance or otherwise:
- (3) If within such twenty-one days the owner shall by notice in writing to the Council allege that such portion cannot be so severed the jury arbitrators or other authority to whom the question of disputed compensation shall be submitted (hereinafter referred to as "the tribunal") shall in addition to the other questions required to be determined by it determine whether the portion of the scheduled property specified in the notice to treat can be severed from the remainder without material detriment thereto and if not whether any and what other portion less than the whole (but not exceeding the portion over which the Council have compulsory powers of purchase) can be so severed:
- (4) If the tribunal determine that the portion of the scheduled property specified in the notice to treat or any such other portion as aforesaid can be severed from the remainder without material detriment thereto the owner may be required to sell and convey to the Council the portion which the tribunal shall have determined to be so severable without the Council being obliged or



compellable to purchase the whole the Council paying such sum for the portion taken by them including compensation for any damage sustained by the owner by severance or otherwise as shall be awarded by the tribunal :

- (5) If the tribunal determine that the portion of the scheduled property specified in the notice to treat can notwithstanding the allegation of the owner be severed from the remainder without material detriment thereto the tribunal may in its absolute discretion determine and order that the costs charges and expenses incurred by the owner incident to the arbitration or inquiry shall be borne and paid by the owner :
- (6) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto (and whether or not they shall determine that any other portion can be so severed) the Council may withdraw their notice to treat and thereupon they shall pay to the owners all costs charges and expenses reasonably and properly incurred by him in consequence of such notice :
- (7) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto but that any such other portion as aforesaid can be so severed the Council in case they shall not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion of such costs charges and expenses as the tribunal shall having regard to the circumstances of the case and their final determination think fit.

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

The provisions of this section shall be stated in every notice given thereunder to sell and convey a part only of any property.

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Assessment  
of compensa-  
tion.

27. In estimating the amount of compensation or purchase money to be paid by the Council under this Act the benefits accruing to the person to whom the same shall be paid by reason of the widening or improvement of any street shall be fairly estimated and shall be set off against the said compensation or purchase money.

Costs of arbi-  
tration &c. in  
certain cases.

28. The court or person to whom any question of disputed purchase money or compensation under this Act is referred shall if so required by the Council award and declare whether a statement in writing of the amount of compensation claimed has been delivered to the Council by the claimant giving sufficient particulars and in sufficient time to enable the Council to make a proper offer and if they or he shall be of opinion that no such statement giving sufficient particulars shall have been delivered one half of the costs of the arbitration or as the case may be one half of the costs of the proceedings before the sheriff (including the costs of summoning empanneling and returning the jury and of taking the inquiry and in recording the verdict and judgment therein) shall be defrayed by the person with whom the Council shall have such question and the remaining half shall be defrayed by the Council anything in the Lands Clauses Consolidation Act 1845 to the contrary notwithstanding :

Provided that it shall be lawful for any judge of the High Court to permit any claimant after seven days' notice to the Council to amend the statement in writing of the claim delivered by him to the Council in case of discovery of any error or mistake therein or for any other reasonable cause such error mistake or cause to be established to the satisfaction of the judge after hearing the Council if they object to the amendment and such amendment shall be subject to such terms enabling the Council to investigate the amended claim and to make an offer de novo and as to postponing the hearing of the claim and as to costs of the inquiry and otherwise as to such judge may seem just and proper under all the circumstances of the case :

Provided also that this section shall be applicable only in cases where the notice to treat under the Lands Clauses Consolidation Act 1845 either contained or was endorsed with a notice of the effect of this section.

Compensa-  
tion in case  
of recently  
altered build-  
ings.

29. In settling any question of disputed purchase money or compensation under this Act the court or person settling the same shall not award any sum of money for or in respect of any



improvement alteration or building made or for or in respect of any interest in the lands created after the thirtieth day of November 1904 if in the opinion of such court or person the improvement alteration or building or the creation of the interest in respect of which the claim is made was not reasonably necessary and was made or created with a view to obtaining or increasing compensation under this Act. A.D. 1905.

**30.** Notwithstanding anything in the Lands Clauses Acts or in any other Act or Acts to the contrary the Council may retain hold and use for such time as they may think fit and may sell lease exchange or otherwise dispose of in such manner and for such consideration and purpose and on such terms and conditions as they may think fit and in case of sale either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands acquired by them under this Act or any interest therein and may sell exchange or dispose of any rents reserved on the sale exchange lease or disposition of such lands and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange. Power to retain sell lands &c.

**31.** So long as any lands remain to be acquired by the Council under the authority of this Act they may so far as they consider necessary apply any capital moneys received by them on re-sale or exchange or by way of fine or premium on the grant or renewal of leases as aforesaid in the purchase of lands so remaining to be acquired but as to any capital moneys so received and not so applied the Council shall apply the same in or towards the extinguishment of any loan raised by them under the powers of this Act and such application shall be in addition to and not in substitution for any other mode of extinguishment by this Act provided except to such extent and upon such terms as may be approved by the Local Government Board Provided that the amount to be applied in the purchase of land under this section shall not exceed the amount for the time being unexhausted of the borrowing powers conferred by this Act for the acquisition of such lands Provided further that the borrowing powers by this Act authorised for the acquisition of such lands shall be reduced to the extent of the amount applied in the purchase of lands under the provisions of this section. Proceeds of sale of surplus land.



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PART IV.

INFECTIOUS DISEASES.

Prohibiting conveyance of infected persons in public vehicle.

**32.** It shall not be lawful for any owner or driver of a public vehicle used for the carrying of passengers at separate fares knowingly to convey or for any other person knowingly to place in any such public vehicle a person suffering from any infectious disease or for a person suffering from any such disease to enter any such vehicle and every person offending against this enactment shall for every such offence be liable to a fine not exceeding forty shillings.

Driver &c. of infected person to give notice.

**33.** If any person suffering from any infectious disease is conveyed in any public vehicle the owner or driver thereof as soon as it comes to his knowledge shall give notice to the medical officer and shall cause such vehicle to be disinfected and if he fails so to do he shall be liable to a fine not exceeding five pounds and the owner or driver of such vehicle shall be entitled to recover in a summary manner from the person so conveyed by him or from the person causing that person to be so conveyed a sum sufficient to cover any loss and expense incurred by him in connection with such disinfection. It shall be the duty of the Council when so requested by the owner or driver of such public vehicle to provide for the disinfection of the same free of charge except in cases where the owner or driver conveyed such person knowing that he was so suffering.

Penalty on guardian permitting infected child to attend school.

**34.** No person being the parent or having care or charge of a child who is or has been suffering from infectious disease shall after a notice from the medical officer that the child is not to be sent to school permit such child to attend school without having procured from the medical officer a certificate (which shall be granted free of charge upon application) that in his opinion such child may attend without undue risk of communicating such disease to others. If any person offends against this enactment he shall be liable to a penalty not exceeding forty shillings.

Principals of schools to furnish lists of scholars.

**35.** Whenever any scholar who attends any school within the district shall be suffering from any infectious disease the principal or person in charge of such school or (if such school is divided into separate departments and there is no principal or person in charge

of the whole school) the person in charge of the department which such scholar attends shall forthwith on becoming aware of the fact send notice thereof to the medical officer and shall furnish to the Council at their request a list of the scholars attending thereat together with their addresses and in default thereof shall be liable to a penalty not exceeding forty shillings. The Council shall pay to the person furnishing any such list as aforesaid for such list the sum of sixpence and after the rate of sixpence for every twenty-five scholars named therein. A.D. 1905.

**36.** The medical officer may enter any public elementary school within the district at all reasonable times and examine the scholars attending the same and may exclude from attendance thereat for such period as he shall consider requisite any scholar who in his opinion is suffering from infectious disease or is likely to spread infection. Power to medical officer to examine school children.

The medical officer shall upon the exclusion of any scholar in manner aforesaid give notice thereof in writing to the principal or person in charge of such school or (if such school is divided into separate departments and there is no principal or person in charge of the whole school) the person in charge of the department which such scholar attends and shall send a copy of such notice to the parent or guardian of the scholar.

Any person who shall obstruct the medical officer in carrying into effect the provisions of this section or who shall permit any scholar to attend school after he shall have been excluded as aforesaid and before the expiration of the period of exclusion shall be liable to a penalty not exceeding forty shillings.

**37.** Any person taking or sending to any public wash-house or to any person for the purpose of being washed or mangled any bedding clothing or other things which to his knowledge have been exposed to infection from infectious disease shall previously to so taking or sending the same cause such bedding clothing or other things to be disinfected by the Council or to the satisfaction of the medical officer and in default shall be liable to a penalty not exceeding forty shillings and the Council shall make provision for disinfecting and shall on application disinfect at their expense such bedding clothing and other things. Disinfection of clothes.

**38.**—(1) Where on the certificate of the medical officer it appears to the Council that any articles in any house or part thereof are in such a filthy and dangerous or unwholesome Filthy and dangerous articles to be purified.



A.D. 1905. — condition that health is affected or endangered thereby or that the cleansing or purifying or destroying of any such articles is requisite to prevent risk of or to check infectious disease the Council may cause any such articles in any such house or part thereof to be at their own expense cleansed or purified or they may destroy the same.

(2) If any owner suffer any unnecessary damage the Council shall compensate him for the same and the Council shall also reasonably compensate the owner for any articles destroyed.

Medical officer may require dairy-men to furnish list of sources of their supply of milk and of their customers.

**39.** If the medical officer shall have reasonable cause to believe that any person in the district is suffering from infectious disease attributable to milk supplied within the district he may by notice in writing require every person supplying milk to the person so suffering or to the house of which he is an inmate to furnish him with a list of all the farms dairies or places from which such person derives his supply of milk or from which he has derived his supply during the last six weeks and a list of the persons to whom he has within such six weeks supplied milk within the district and the Council shall pay to him for every such list the sum of sixpence and after the rate of sixpence for every twenty-five names contained therein and every such person failing to comply with such request shall for each offence be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

Section 61 of the Act of 1900 is hereby repealed.

Compensation to persons ceasing employment.

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

Cleansing of infected house and removal of persons therefrom.

**41.—(1)** Where it appears to the Council upon the certificate of the medical officer that the cleansing and disinfecting of any house or part thereof and of any articles therein likely to retain infection or the destruction of such articles would tend to prevent or check any infectious disease the Council may serve notice on the occupier or where the house or part thereof is unoccupied on the owner of such house or part thereof that the same and any such articles therein will be cleansed and disinfected or (as regards the articles) destroyed by the Council unless the person so notified informs the Council within a time to be specified in the notice from the receipt of the said notice that he will cleanse or disinfect



the house or part thereof with any such articles or destroy such articles to the satisfaction of the medical officer as testified by certificate by him within a time fixed in the notice.

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(2) If either—

- (A) Within the time specified as aforesaid from the receipt of the notice the person on whom the notice is served does not inform the Council as aforesaid; or
- (B) Having so informed the Council he fails to have the house or part thereof and any such articles disinfected or such articles destroyed as aforesaid within the time fixed in the notice; or
- (C) The occupier or owner as the case may be without such notice gives his consent;

the house or part thereof and the articles shall be cleansed and disinfected or such articles destroyed by the officers of and at the cost of the Council.

(3) For the purpose of carrying into effect this section the Council may enter on any premises between nine o'clock in the morning and six o'clock in the evening.

(4) When the Council have disinfected any house part of a house or any article under the provisions of this section they shall compensate the occupier or owner of such house or part of a house or the owner of such article for any damage thereby caused to such house part of a house or article and when the Council destroy any article under this section they shall reasonably compensate the owner thereof and the amount of any such compensation shall be recoverable in a summary manner.

(5) If the Council deem it necessary to remove from any house or part thereof all or any of the residents not being themselves sick on account of the existence or recent existence therein of infectious disease or for the purpose of disinfecting such house or part thereof they may make application to a justice and the justice if satisfied of the necessity of such removal may grant a warrant authorising the Council to remove such residents and imposing such conditions as to time and otherwise as to him may seem fit Provided always that no such warrant shall be necessary when the removal is carried out with the consent of any such resident or his parent or guardian The Council shall and they are hereby empowered to provide free of charge temporary shelter with

A.D. 1905. any necessary attendants for such persons while prevented from returning to such house or part thereof.

(6) For the purposes of this section the word "house" includes any tent van shed or similar structure used for human habitation.

(7) The Council may for the purposes of this section—  
Themselves build a place of reception;  
Contract for the use of any place of reception.

Any expenses incurred by the Council under this section shall be paid out of the district fund and general district rate.

Prohibition  
of blowing or  
inflating car-  
cases.

42. It shall not be lawful to blow or to inflate the carcase or any part of the carcase of any animal slaughtered within or brought into the district and any person offending against this enactment or exposing or depositing for sale within the district a carcase blown or inflated or any part thereof shall be liable to a penalty not exceeding twenty shillings.

Public notice  
to be given of  
provisions of  
Part IV.

43. The Council shall cause public notice to be given of the effect of the provisions of this Part of this Act by advertisement in a local newspaper and by handbills or otherwise in such manner as they think sufficient and this Part of this Act shall come into operation at such time not being less than one month after the first publication of such an advertisement as aforesaid as the Council may fix.

## PART V.

### STREETS BUILDINGS AND SEWERS.

Council may  
define future  
line of exist-  
ing streets.

44.—(1) Where any street or road in the district repairable by the inhabitants at large is in the opinion of the Council narrow or inconvenient or without any sufficiently regular line of frontage the Council may from time to time prescribe and define what shall thereafter be the line of frontage to be observed on either side of such street or road. The line which in any case the Council propose to prescribe and define shall be distinctly marked and shown on a plan to be signed by and deposited with the surveyor and such plan shall be at all reasonable times thereafter open for the inspection of the public without charge and one month at least before the Council formally prescribe and define the line they shall give notice in writing of the deposit of the said plan to every owner interested whose name and address they



can ascertain No new building erection excavation or obstruction (being of a permanent character) shall be made nearer to the centre of the street or road than such line. A.D. 1905.

(2) The Council if required so to do by the owner shall purchase the land lying between any such line as aforesaid and the existing building line of the street or road where the same abuts upon the street or road and the same when purchased shall vest in the Council as part of the street or road.

(3) Whenever in any of the above cases the Council shall require the said line to be observed and kept they shall make full compensation to the owner and other persons interested in any land for any loss or damage they may sustain in consequence of the line of frontage being set back and the Council shall also make to the owner of any adjoining land or building and to all other persons interested in any such adjoining land or building full compensation in respect thereof for all damage loss or injury (if any) sustained by them to such land or building by reason of the Council requiring the said line to be observed and kept.

(4) In estimating the amount of compensation or purchase money to be paid by the Council under this section the benefits accruing to the person to whom the same shall be paid by reason of the widening or improvement of the street or road shall be fairly estimated and shall be set off against the said compensation or purchase money.

(5) If after any such line has been defined and prescribed as aforesaid any person offends against the provisions of this section he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

**45.** The Council may by resolution declare the point or limits at or within which any street is to be taken as beginning or ending. Council may declare where streets begin and end.

**46.** Every continuation of an existing street shall for the purposes of the Public Health Acts and of this Act and of any byelaws made thereunder and for the time being in force within the district be deemed to be a new street. Continuation of existing streets to be deemed new streets.

**47.** In case any building is after the passing of this Act erected or raised to a greater height than the adjoining building and any flues or chimneys of such adjoining building are in the outer or party wall or against the building so erected or raised erection of buildings to greater height than adjoining buildings.



A.D. 1905. — the person erecting or raising such building shall at his own expense build up those flues and chimneys so that the top thereof may be of the same height as the top of the chimneys of the buildings so erected or raised. Any person who shall offend against the provisions of this section shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

Deposit of building materials or excavations not to be placed without consent.

48. It shall not be lawful for any person without the consent of the Council in writing first obtained to lay any building materials rubbish or other thing or make any excavation on or in any street and when with such consent any person lays any building materials rubbish or other thing or makes any excavation on or in any street he shall at his own expense cause the same to be sufficiently fenced and a sufficient light to be fixed in a proper place on or near the same and to be continued every night from sunset to sunrise and shall remove such materials rubbish or thing or fill up such excavation (as the case may be) when required by the Council and if any person fails to comply in any respect with the requirements of this enactment he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings and the Council may remove any such materials rubbish or thing or fill up such excavation (as the case may be) and recover the expenses from the offender summarily.

Materials in streets.

49. The Council may remove appropriate use and dispose of all old materials existing in any street at the time of the execution by the Council of any works in such street unless the owners of buildings or lands in such street within forty-eight hours after notice so to do served on them by the surveyor remove such materials or their respective proportion thereof and the Council may if they think fit allow such sum as they may fix to be the reasonable value thereof to such owners for any materials which have been re-used or removed by the Council.

Means of escape from buildings in case of fire.

50. Every new building exceeding thirty-five feet in height (used or intended to be used as a tavern hotel boarding-house or school) shall be provided on the storeys the upper surface of the floor whereof is above twenty feet from the street level with such means of escape in the case of fire for the persons dwelling or employed therein as may be reasonably required under the circumstances of the case and no such building shall

be occupied until the Council shall have issued a certificate that the provisions of this section have been complied with in relation thereto.

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Nothing in this section contained shall be deemed to interfere with the operation of sections 14 and 15 of the Factory and Workshop Act 1901 or of any Act amending the same.

Any person offending against the provisions of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

51. If the footway of any street repairable by the inhabitants at large be injured by or in consequence of any excavations or other works on lands adjoining thereto the Council may repair or replace the footway injured and all damages and expenses of or arising from such injury and repair or replacement shall be paid to the Council by the owner of the lands on which such excavations or other works have been made or by the person causing or responsible for the injury.

Recovery of damages caused to footways by excavations.

52. All buildings or parts of buildings which may in future be erected on the site of any building or on any land which site or land in consequence of any improvement made by the Council becomes front land shall be erected according to such elevation as the Council approve and if the owner lessee or occupier of any building or land which on the making of any such improvement acquires a frontage to the street makes any door or entrance opening upon or communicating with the street or any wall or fence by the side of the street every such owner lessee or occupier shall make the building wall or fence in a line and the elevation thereof fronting to or towards the street in accordance with a plan approved by the Council and in case the Council for the space of one month after any plan of such elevation is submitted to them neglect to notify their determination in writing with reference thereto they shall be deemed to have approved thereof Any person who shall offend against this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings The Council shall make compensation to the owner of any building or land for any loss or damage he may suffer by reason of the setting back or bringing forward of such building wall or fence.

Elevation of buildings erected on front land to be subject to approval of Council.

53.—(1) Before any person erects or sets up any temporary or movable building he shall apply to the Council for permission

As to temporary and movable buildings.



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A.D. 1905. — so to do and such application shall be accompanied by a plan and sections of the proposed building drawn to a scale of not less than one inch to every eight feet and a block plan drawn to a convenient scale showing the intended situation and surroundings of the proposed building together with a specification describing the materials proposed to be used in the construction thereof and the purpose for which the building is intended.

(2) The Council shall within one month after the delivery of the plan and sections and specification signify in writing their approval or disapproval of the intended building to the person proposing to erect or set up the same.

(3) The Council may attach to their approval any condition which they may deem proper with regard to the sanitary arrangements of such building the ingress thereto and the egress therefrom protection against fire and the period during which such building shall be allowed to stand.

(4) If any such building is commenced erected or set up without such application accompanied by such plan sections and specification or after the disapproval of the Council or before the expiration of one month without such approval or is in any respect not in conformity with any condition attached by the Council to their approval the person who commenced erected or set up such building or if any such building is not removed within the period allowed by the Council or any prolongation thereof the owner of such building shall be liable to a penalty for every such offence not exceeding forty shillings and to a daily penalty not exceeding the like amount and the Council may cause such building to be pulled down or removed and any expense incurred by them in or about the pulling down or removal of the building may be recovered in a summary manner from the owner of the building or from the person erecting or setting up the same at their discretion.

(5) The following buildings and works shall be exempt from the operation of this section:—

(A) Buildings expressly exempt from the operation of the Acts or byelaws for the time being in force within the district in respect to new buildings and any tent not remaining for more than seven days:

(B) Any wooden or other structure or erection of a movable or temporary character erected or set up for use during



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the construction alteration or repair of any building but such structure or erection shall be pulled down or removed immediately after the completion of such construction alteration or repair and if not so taken down or removed the Council may cause the same to be pulled down or removed and any expense incurred by them in or about the pulling down or removal of the building may be recovered in a summary manner from the owner of the building or from the person erecting or setting up the same at their discretion:

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- (c) Any wooden or other structure or erection erected or set up for the purpose of protecting or of preventing the acquisition of right of light.

54. When a temporary or other building referred to in the last preceding section is taken down or removed by the Council under the powers of this Part of this Act the Council may sell the materials thereof or any part of them and shall apply the proceeds of the sale in or towards payment of the costs and expenses incurred by them in relation to such building and shall pay the balance thereof to the owner of such building.

Power to sell materials of temporary buildings.

55. If any land (other than land now forming part of any common) adjoining any street is allowed to remain unfenced or the fences thereof are allowed to be or remain out of repair and such land is owing to the absence or inadequate repair of any such fence a source of danger to passengers or is used for any immoral or indecent purposes or for any purpose causing inconvenience or annoyance to the public then after the expiration of fourteen days' notice from the clerk to the owner or occupier of the same or without any notice if the Council are unable after diligent inquiry to discover the name or place of abode of such owner or occupier the Council may cause the same to be fenced or may cause the fences to be repaired in such manner as they think fit and the expenses thereby incurred shall be recoverable from such owner or occupier summarily as a civil debt.

Fencing lands adjoining streets.

56. With respect to the repairing or enclosing of dangerous places the following provisions shall have effect (namely):—

Dangerous places to be repaired or enclosed.

- (1) If any building wall steps structure or other thing or any well excavation reservoir pond stream dam or bank is for want of sufficient repair protection or enclosure

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dangerous to the passengers along any street or foot-path the Council may order the owner within the period specified in such order to repair remove protect or enclose the same so as to prevent any danger therefrom :

- (2) If after service of the order on the owner he shall neglect to comply with the requirements thereof within the prescribed period the Council may cause such works as they think proper to be done for effecting such repair removal protection or enclosure and the expenses thereof shall be payable by the owner and may be recovered summarily.

Council to make communications between private drains and their sewers on payment &c.

**57.** If the owner or occupier of any premises within the district desires that the sewer or drain from such premises shall be made to communicate with any sewer of the Council such communication shall be made by the Council upon the cost or estimated cost of making the communication being paid to the Council or the payment thereof to them being secured to their satisfaction and the Council may execute all works necessary for that purpose.

Council may require enlarged sewer.

**58.** If in any new street the Council for the purpose of main drainage or otherwise shall require a larger sewer or drain to be made than they consider necessary for the ordinary sewerage or drainage of such new street the person laying out such new street shall construct such enlarged sewer or drain in accordance with the requirement of the Council and the additional cost thereof as ascertained by the surveyor shall be paid by the Council.

For preventing soil and sand from being washed into streets.

**59.** The owners or occupiers of all lands abutting upon any public street and the owners or occupiers of all lands abutting upon or adjoining any private street communicating with any public street shall so fence off channel or embank their lands as to prevent the soil and sand of such lands from falling upon or being washed or carried into any public street sewer or gully in such quantities as will obstruct the highway or choke up such sewer or gully and any person who shall offend against this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings For the purpose of this section "public street" means a street repairable by the inhabitants at large and "private street" means a street not so repairable.



**60.**—(1) Where any tree hedge or shrub overhangs any street or footpath so as to obstruct or interfere with the light from any public lamp or to interfere with vehicular traffic or with the free passage or comfort of passengers the Council may serve a notice on the owner of the tree hedge or shrub or on the occupier of the premises on which such tree hedge or shrub is growing requiring him to lop the tree hedge or shrub so as to prevent such obstruction or interference and in default of compliance the Council may themselves carry out the requisition of their notice doing no unnecessary damage.

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Trees or shrubs overhanging streets and footpaths.

(2) Section 78 of the Act of 1900 is hereby repealed.

**61.** The Council may with the consent of two thirds in number and value of the ratepayers in any street alter the name of such street or any part of such street. The Council may also cause the name of any street or any part of a street to be painted or otherwise marked on a conspicuous part of any building or other erection.

Power to alter names of streets.

Any person who wilfully and without the consent of the Council obliterates defaces obscures removes or alters any such name shall be liable to a penalty not exceeding forty shillings.

**62.** When a road or lane within the district becomes in consequence of building operations a new street within the meaning of the Public Health Act 1875 but the land on only one side of such street has been or is in course of being built on the Council may instead of requiring the owner of the land built on or in course of being built on to widen such road or lane to the width prescribed by the byelaws in force in the district require such owner to widen such road or lane so as to give a width not less than one half of such prescribed width from the old centre line of such road or lane to the boundary thereof adjoining such land. Provided that if and when the land on the opposite side of such road or lane shall be built on the Council shall require the owner of such land to complete the widening of such road or lane so as to give the complete width prescribed by the byelaws of the Council.

Further provisions as to new streets.

**63.**—(1) In cases where urgent repairs are required to any street not being a highway repairable by the inhabitants at large and where for want of such repairs danger exists to passengers or vehicles in such street the Council may give notice in writing to the owners of the premises fronting adjoining or abutting on

Urgent repairs to private streets.



A.D. 1905. such parts thereof as may require such repairs requiring them to execute within a time to be specified in such notice such repairs.

(2) If within such reasonable time as the Council may in such notice have specified repairs are not executed the Council may execute the repairs and may recover the cost of so doing from the owner or owners in default or if there be more than one owner in proportion to the frontage summarily as a civil debt.

(3) If the Council are unable to discover the name or abode of any owner the Council may execute such repairs without having served upon him any notice.

Courts to be  
flagged.

**64.** The owner or owners of any existing or future court yard or passage used in common by two or more occupiers (not being a public highway adopted and kept in repair by the Council) or of any part of such court yard or passage shall flag asphalt concrete or pave such court yard or passage or part thereof and make a drain through or along the same or such part thereof as the Council require and keep such flagging asphalt concrete or paving and drain in good repair and if any such owner or owners for one month after notice in writing from the Council fail in any respect to comply with this provision he or they shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings and the Council may themselves if they think fit do the work and recover the expense incurred by them in that behalf from such owner or owners summarily.

## PART VI.

### SANITARY PROVISIONS.

Council may  
require old  
drains to be  
laid open for  
examination  
by surveyor  
before com-  
municating  
with sewers.

**65.** Before any drain existing at the time of the passing of this Act and then not communicating with any sewer of the Council shall be made to communicate with any sewer of the Council the Council may require the same to be laid open for examination by the surveyor and no such communication shall be made until the surveyor shall certify that such drain may be properly made to communicate with such sewer.

Definition of  
drain in section  
79 of Act of  
1900.

**66.** For the purposes of section 79 of the Act of 1900 the word "drain" includes a drain used for the drainage of more

than one building whether owned or occupied by the same person or not. A.D. 1905.

**67.** It shall not be lawful for any person to reconstruct or alter the course of any drain communicating with any sewer of the Council except in accordance with the provisions of the byelaws and regulations relating to the drainage of new buildings. Reconstruction of drains.

Any person offending against this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding five shillings.

**68.** If any trade refuse or any building materials or other materials or rubbish of a like description be deposited in any dust-bin or ash-tub the Council may make a reasonable charge for the removal of the same which charge shall be paid to the Council by the occupier of the premises in respect of which the charge is made and may be recovered summarily as a civil debt. Charge for removal of trade refuse.

**69.** For the purposes of the Public Health Act 1875—

- (A) Any gutter drain shoot stackpipe or down spout of a building which by reason of its insufficiency or its defective condition shall cause damp in such building or in an adjoining building;
- (B) Any deposit of material in or on any building or land which shall cause damp in such building or in an adjoining building so as to be dangerous or injurious to health;

As to nuisances.

shall be deemed to be a nuisance within the meaning of the said Act.

**70.** Every pipe from any slopstone bath or basin in a building shall where practicable be carried through the external wall of such building and be constructed so as to discharge in the open air on the outside of such building over a channel leading to a gully-grating at a suitable distance and every gully-grating or other inlet to the drains shall be properly trapped Any person neglecting or refusing to comply with a notice from the Council requiring him to carry out the provisions of this section shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding ten shillings Provided always that any Pipes from slopstones to be disconnected from sewers.

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penalty for an offence against the provisions of this section shall not be enforced unless default has been made for twenty-eight days in complying with such notice. Provided also that this section shall only apply to buildings existing at the passing of this Act and any expense incurred in respect of any such building beyond a sum of two pounds shall be borne by the Council.

Cleansing  
cisterns.

71. The Council may make byelaws for securing the cleanliness and freedom from pollution of tanks cisterns and other receptacles used for the storing of water used or likely to be used for drinking or domestic purposes or for manufacturing any article for human consumption.

Houses with-  
out proper  
supply of  
water.

72. The owner of any dwelling-house which is not provided with a proper and sufficient water supply who shall occupy such dwelling-house or who shall allow such dwelling-house to be occupied shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

Power to re-  
quire water-  
closets for  
new build-  
ings.

73.—(1) The Council may on the erection of any new building when a sewer and water supply sufficient for the purpose are reasonably available require that such new building shall be provided with proper and sufficient waterclosets.

(2) The Council may on the erection of any new building when a sewer and water supply sufficient for a watercloset are not reasonably available require one or more proper and sufficient earth-closets to be provided at or in connection with such building.

(3) Any person offending against any requirement of the Council under this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

Conversion  
of existing  
accommoda-  
tion into  
watercloset.

74.—(1) When a sewer and water supply sufficient for the purpose are reasonably available the Council may require any existing closet accommodation (other than a watercloset) provided at or in connection with any building to be altered so as to be converted into a watercloset which shall comply with the byelaws for the time being in force and shall communicate with a sewer and they may also require a separate receptacle for ashes and house refuse to be provided at or in connection with such building.

(2) If the owner of any such building fail in any respect to comply with a notice from the Council under this section the



Council may at the expiration of a time to be specified in the notice (not being less than twenty-one days after the service of the notice) do the work specified in such notice and may recover from the owner the expenses incurred by the Council in so doing. A.D. 1905.

(3) If in any case such alteration shall be required in respect of any existing closet accommodation which prior to the service of the notice under this section shall not have been certified by the medical officer to be insufficient for the necessities of the inhabitants of the building or to be in such a state as to create a nuisance or to be injurious to health then the Council shall bear and pay such sum towards the expenses incurred by them (not being less than one half thereof) as they may consider just and proper according to the circumstances and the remainder of the expenses shall be borne by the owner.

(4) The Council may contribute towards the expenses incurred in making any alteration of any closet accommodation in pursuance of this section in any case in which they may not be required to bear any part of such expense.

(5) The notice under this section shall state the effect of the provisions of this section.

**75.**—(1) Where any person deems himself aggrieved by any requirements of the Council under either of the two last preceding sections or disputes the reasonableness of the expenses charged to him by the Council under such sections such person may within fourteen days after the service of notice of the requirement or of a demand for payment of the expenses appeal to a court of summary jurisdiction and the court may make such order in the matter as to them may seem equitable and the order so made shall be binding and conclusive on all parties ;

As to appeal under two last preceding sections.

Provided nevertheless that the right of appeal subsequent to the service of a demand of a payment shall be restricted to the ground of the reasonableness of the amount of the expenses and the appellant shall be precluded from raising at that stage any other question.

(2) Pending the decision of the court upon such appeal the Council shall not be empowered to execute any works included in the notice and any proceedings which may have been commenced for the recovery of such expenses shall be stayed.

A.D. 1905.

Rain-water  
pipes not to  
be used as  
soil pipes.

**76.** No pipe used for the carrying off of rain water from any roof shall be used for the purpose of carrying off the soil or drainage from any privy or watercloset. Any person who shall offend against this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

Water or  
stack pipes  
not to be used  
as ventilating  
shafts.

**77.** No water pipe stack pipe or down spout in existence at the date of the passing of this Act used for conveying surface water from any premises shall be used or be permitted to serve or to act as a ventilating shaft to any drain. Any person who shall offend against this section after fourteen days from the service upon him by the Council of notice of such offence shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

Soil pipes to  
be ventilated.

**78.** The soil pipes of waterclosets within houses and buildings shall be properly ventilated by means of a pipe carried up therefrom or by such other method as the Council shall direct and any owner or occupier of a house or building who shall neglect or fail to comply with any requirement of the Council under this section for a period of twenty-eight days after notice in writing of such requirement and the mode in which the same is to be complied with shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

Regulation  
dust-bins.

**79.** The owner of every dwelling-house may be required by the Council to provide galvanised iron dust-bins in lieu of ash-pits and such bins shall be of such size and construction as may be approved by the Council and any owner who fails within fourteen days after notice given to him to comply with the requirements of the Council shall for every such offence be subject to a penalty not exceeding twenty shillings and to a daily penalty not exceeding five shillings. Provided that this section shall not apply to any bins or ashpits in use at the commencement of this Act so long as the same are of suitable size and in proper order and condition.

Amendment  
of section 19  
of Public  
Health Acts  
Amendment  
Act 1890.

**80.** The powers given by section 19 of the Public Health Acts Amendment Act 1890 in relation to two or more houses belonging to different owners shall extend and apply to two or more houses belonging to the same owner.



**81.**—(1) Any person being a manufacturer or vendor of or merchant or dealer in ice cream or other similar commodity who within the district—

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—  
For regulat-  
ing manufac-  
ture and sale  
of ice cream  
&c.

- (A) Causes or permits ice cream or any similar commodity or any materials used in the manufacture thereof to be manufactured sold or stored in any cellar room or place which is in a condition likely to render such commodity injurious to health or in which there is an inlet or opening to a drain; or
- (B) In the manufacture sale or storage of any such commodity does any act or thing likely to expose such commodity to infection or contamination or omits to take any proper precaution for the due protection of such commodity from infection or contamination; or
- (C) Omits on the outbreak of any infectious disease amongst the persons employed in his business to give notice thereof to the medical officer;

shall be liable for every such offence on summary conviction to a penalty not exceeding forty shillings.

(2) In the event of any inmate of any building any part of which is used for the manufacture of ice cream or any similar commodity suffering from any infectious disease the medical officer may seize and destroy all ice cream or similar commodity or materials for the manufacture of the same in such building and the Council shall compensate the owners of the ice cream or similar commodity or materials so destroyed.

(3) The Council shall cause public notice to be given of the effect of the provisions of this and the next two succeeding sections by advertisement in local newspapers and by hand bills or otherwise in such manner as they think sufficient and this section shall come into operation at such time not being less than one month after the first publication of such an advertisement as aforesaid as the Council may fix.

**82.**—(1) Any officer duly authorised by the Council in that behalf shall at all reasonable times have the same power of entry and inspection into and of the premises of any manufacturer or vendor of or merchant or dealer in ice cream or other similar commodity for the purpose of inspecting such premises and the materials or commodities or articles of food therein as an officer

Inspection of  
premises.



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A.D. 1905. — of the Council would have under section 102 of the Public Health Act 1875 in the cases therein mentioned.

(2) Any person refusing entry into such premises as aforesaid or obstructing such officer as aforesaid in the execution of his duty shall be liable to a penalty not exceeding forty shillings for each offence.

As to dealers in ice cream.

**83.** Every dealer in ice cream or other similar commodity vending his wares from any cart barrow or other vehicle or stand must have his name and address legibly painted or inscribed on such cart barrow or stand and if he fails to comply with this enactment he shall be liable to a penalty not exceeding forty shillings.

Defining the establishing of a new business of an offensive character.

**84.** For the purposes of section 112 of the Public Health Act 1875 a trade business or manufacture shall be deemed to be established anew not only if it is established newly but also if it is removed from any one set of premises to any other premises or if it is renewed on the same set of premises after having been discontinued for a period of six months or upwards or if any premises on which it is for the time being carried on are enlarged without the sanction of the Council but a trade business or manufacture shall not be deemed to be established anew on any premises by reason only that the ownership of such premises is wholly or partly changed or that the building in which it is established having been wholly or partially pulled down or burnt down has been reconstructed without any extension of its area.

Council may provide ambulances.

**85.** The Council may provide ambulances for use in cases of sickness and accidents happening within the district and may provide attendants and horses and maintain and keep the same.

Time for recovery of expenses.

**86.** The Council may if they think fit allow to the owners time for the repayment of any expenses incurred by them under this Part of this Act and in that case section 257 of the Public Health Act 1875 shall apply as if such expenses were expenses for the repayment whereof the owner of the premises was made liable under that Act.

PART VII.

RECREATION GROUNDS.

Extended definition of public place and street for

**87.** Any place of public resort or recreation belonging to or under the control of the Council and any unfenced ground adjoining or abutting upon any street shall for the purposes of the

Vagrancy Act 1824 and of any Act for the time being in force altering or amending the same be deemed to be an open and public place and shall be deemed to be a street for the purposes of section 29 of the Town Police Clauses Act 1847 and also for the purposes of so much of section 28 of that Act as relates to the following offences:—

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—  
certain purposes.

Every person who suffers to be at large any unmuzzled ferocious dog or urges any dog or other animal to attack worry or put in fear any person or animal:

Every person who rides or drives furiously any horse or carriage or drives furiously any cattle:

Every common prostitute or night walker loitering or importuning passengers for the purpose of prostitution:

Every person who wilfully and indecently exposes his person:

Every person who publicly offers for sale or distribution or exhibits to public view any profane indecent or obscene book paper print drawing painting or representation or sings any profane or obscene song or ballad or uses any profane or obscene language:

Every person who wantonly discharges any fire-arm or throws or discharges any stone or other missile or makes any bonfire or throws or sets fire to any firework:

Every person who throws or lays any dirt litter or ashes or night soil or any carrion fish offal or rubbish on any street.

## PART VIII.

### FINANCE.

**88.**—(1) The Council may from time to time in addition to any moneys they are now authorised to borrow or which they may be authorised to borrow under the provisions of the Public Health Acts or any public general Act borrow at interest any sums not exceeding the following sums:—

Power to borrow.

(A) For paying the costs charges and expenses preliminary and of and in relation to this Act as hereinafter defined and of and in relation to the scheduled agreement and the intended lease the sums required for those purposes;

(B) For and in relation to the purchase of the fixtures any sum not exceeding six hundred and fifty pounds;

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- (c) For and in relation to the purchase of the harbour undertaking and the costs charges and expenses incident to such purchase and the cost of and incident to the transfer of the undertaking to the Council the sums required for those purposes ;
- (D) For and in relation to the purchase of additional lands for harbour purposes pursuant to the provisions of the scheduled agreement and the cost of and incident to the transfer thereof the sum required for that purpose ;
- (E) For the improvement of the harbour undertaking or other the purposes of the Ilfracombe Harbour Orders 1870 to 1900 or of Part II. (Harbour) of this Act with the sanction of the Board of Trade any sums required for those purposes ;
- (F) For the purchase of lands for and for the street improvement and works by Part III. (Street improvement and lands) of this Act authorised the sum of seven hundred pounds ;

and with the consent of the Local Government Board such further moneys as the Council may require for any other purposes of this Act.

(2) In order to secure the repayment of the money borrowed under this section and the payment of the interest thereon the Council may mortgage or charge as regards the purposes (c) (D) and (E) the revenue of the harbour undertaking and if they think fit as a collateral security the district fund and general district rate and as regards other purposes the district fund and general district rate.

Certain regulations of Public Health Act 1875 as to borrowing not to apply.

**89.** The powers of borrowing money given by this Act shall not be restricted by any of the regulations contained in section 234 of the Public Health Act 1875 and in calculating the amount which the Council may borrow under that Act any sums which they may borrow under this Act shall not be reckoned.

Mode of raising moneys.

**90.** The Council may raise all or any moneys which they are authorised to borrow under this Act by mortgage or by the issue of debentures or annuity certificates under and subject to the provisions of the Local Loans Act 1875 or partly in one way and partly in another Provided that the provisions of this Act whereof



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the marginal note is "Sinking fund" shall apply in lieu of the provisions of section 15 of the Local Loans Act 1875. A.D. 1905.

91. The following sections of the Public Health Act 1875 (that is to say) :— Provision as to mortgages.

- Section 236 (Form of mortgage);
- Section 237 (Register of mortgages);
- Section 238 (Transfer of mortgages);

shall extend and apply to and in relation to all mortgages made under the powers of this Act.

92. The Council shall pay off all moneys borrowed by them under this Act within the respective periods (in this Act referred to as "the prescribed periods") following (that is to say) :— Periods for payment off of money borrowed.

As to moneys borrowed for the purpose (B) mentioned in the section of this Act the marginal note whereof is "Power to borrow" within seven years from the date or dates of borrowing the same :

As to moneys borrowed for the purposes (C) (D) and (E) mentioned in the said section within such periods not exceeding sixty years from the date or dates of borrowing the same as the Board of Trade may sanction :

As to moneys borrowed for the purpose (F) mentioned in the said section within forty years from the date or dates of borrowing the same :

As to moneys borrowed for the purpose (A) mentioned in the said section within five years from the date of the passing of this Act :

As to moneys borrowed with the sanction of the Local Government Board within such periods as that Board may sanction.

93. The following provisions of the Act of 1900 shall extend and apply with the necessary modifications to moneys borrowed under this Act except that the prescribed periods for the payment off of moneys borrowed under this Act shall be the periods prescribed by this Act (that is to say) :— Application of certain provisions of Act of 1900.

- Section 98 (Mode of payment off of money borrowed) provided that the words after sinking fund in the fifth line of that section shall not apply to moneys borrowed under this Act;

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- Section 100 (Annual return to Local Government Board with respect to sinking fund);  
Section 101 (Power to re-borrow);  
Section 102 (Council not to regard trusts);  
Section 103 (Protection of lender from inquiry);  
Section 104 (Saving for existing charges); and  
Section 105 (Application of borrowed moneys).

Sinking fund.

94.--(1) If the Council determine to repay by means of a sinking fund any moneys borrowed by virtue of this Act such sinking fund shall be formed or maintained either—

- (A) By payment to the fund throughout the prescribed periods of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed. A sinking fund so formed is hereinafter called "a non-accumulating sinking fund"; or  
(B) By payment to the fund throughout the prescribed periods of such equal annual sums as with accumulations at a rate not exceeding three per centum per annum will be sufficient to pay off within the prescribed periods the moneys for the repayment of which such sinking fund is formed. A sinking fund so formed is hereinafter called "an accumulating sinking fund."

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in any statutory security the Council being at liberty to vary and transpose such investment.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Council towards the equal annual payments to the fund.

(4) The Council may at any time apply the whole or any part of any sinking fund in or towards the discharge of the money for the repayment of which the fund is formed. Provided that in the case of an accumulating sinking fund the Council shall pay into the fund each year and accumulate during the residue of the prescribed periods a sum equal to the interest which would have been produced by such sinking fund so applied if invested at the

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rate per centum per annum on which the annual payments to the sinking fund are based. A.D. 1905.

(5)—(A) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the Council :

(B) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any such excess may be applied towards such annual payments.

(6) Any expense connected with the formation maintenance investment application management or otherwise of any sinking fund under this Act shall be paid by the Council in addition to the payments provided for by this Act.

(7) If it appears to the Council at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Act together with the accumulations thereon (in the case of an accumulating sinking fund) will probably not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Council to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose. Provided that if it appears to the Local Government Board that any such increase is necessary the Council shall increase the payments to such extent as that Board may direct.

(8) If the Council desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Act together with the accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Local Government Board be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Council may reduce the payments to be made to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Local Government Board be sufficient to repay within the prescribed periods the moneys for the repayment of which the sinking fund is formed.



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(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Local Government Board be sufficient to repay the loan in respect of which it is formed within the prescribed periods the Council may with the consent of that board discontinue the annual payments to such sinking fund until the Local Government Board shall otherwise direct.

(11) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose as the Council with the consent of the Local Government Board may determine.

Appointment  
of receiver.

**95.**—(1) Any mortgagee of the Council by virtue of this Act may enforce the payment of arrears of interest or of principal or of principal and interest by the appointment of a receiver. The amount of arrears of principal due to such mortgagee or in the case of a joint application by two or more mortgagees to such mortgagees collectively to authorise the appointment of a receiver shall not be less than five hundred pounds in the whole.

(2) The application for the appointment of a receiver shall be made to the High Court.

Separate ac-  
count of har-  
bour under-  
taking.

**96.** The Council shall keep separate accounts of the moneys received by them and expended by them in relation to the harbour undertaking including all the purposes of Part II. (Harbour) of this Act so long as that undertaking is vested in the Council.

Contingency  
fund.

**97.**—(1) Subject to the provisions of this Act with reference to the application of the revenue arising from the harbour undertaking the Council may in any year if they think fit for the purpose of forming and maintaining a contingency fund not exceeding at any one time (inclusive of accumulations of income) the sum of five thousand pounds to meet any deficiency of revenue or any extraordinary claim or demand or any unforeseen accident or extraordinary damage which may happen or be caused to the harbour undertaking set apart out of the revenue such a sum as they may think fit.

(2) Every sum set apart under this section shall be invested in any statutory security the Council being at liberty to vary and transpose such investment and the interest thereon shall be accumulated until the fund reaches the total sum of five thousand pounds or is required for any of the purposes mentioned in this

section and so soon as the fund reaches the total sum of five thousand pounds such interest shall be placed to the credit of the revenue of the harbour undertaking.

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98. All rates tolls dues and other sums received by the Council in respect of the harbour undertaking except money borrowed and money derived from the sale of surplus lands or other moneys received on capital account shall be applied for the purposes and in the order following and not otherwise (that is to say):—

Application  
of revenue of  
harbour un-  
dertaking.

- (1) In paying all expenses connected with the working management and maintenance of the harbour undertaking including all the purposes of Part II. (Harbour) of this Act other than the purposes of subsections 2 and 3 of the section of this Act whereof the marginal note is "Use of part of harbour undertaking as pleasure grounds and power to advertise":
- (2) In paying the rents and other payments due under the scheduled agreement so long as the same are payable:
- (3) In paying the interest for the time being due in respect of moneys borrowed by the Council for the fixtures or for the purchase and improvement of the harbour undertaking if the Council purchase the same or for the purchase of lands under the scheduled agreement or for other the purposes of the Ilfracombe Harbour Orders 1870 to 1900 or of Part II. (Harbour) of this Act:
- (4) In paying the instalments as they become due of the principal or the payments to a sinking fund for the repayment of the moneys so borrowed:
- (5) In creating and maintaining if they think fit a contingency fund in manner specified in the last preceding section:
- (6) In repaying to the district fund or general district rate all moneys and interest paid thereout for the purposes of the harbour undertaking whether in respect of money borrowed or otherwise:
- (7) In paying any expenses incurred in and about the purposes of subsections 2 and 3 of the section of this Act whereof the marginal note is "Use of part of harbour undertaking as pleasure grounds and power to advertise":

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(8) In the general improvement of the harbour undertaking :

And the Council shall carry to the district fund so much of any balance remaining in any year as may in the opinion of the Council not be required for carrying on the harbour undertaking and for paying the current expenses connected therewith.

Deficiency in revenue from harbour undertaking.

**99.** Any deficiency in the revenue of the Council in respect of their harbour undertaking shall be from time to time made good out of the district fund and general district rate and the next general district rate after such deficiency shall have been ascertained shall be increased accordingly.

Expenses of executing Act.

**100.** All expenses incurred by the Council in carrying into execution the provisions of this Act (except such of those expenses as are to be paid out of borrowed moneys or out of the revenue of the harbour undertaking) shall be paid out of the district fund and general district rate :

Provided that when any expenditure is incurred or any money is received for purposes common to two or more accounts the Council may apportion the same between those accounts in such manner as they deem equitable.

Application of money borrowed.

**101.** All money borrowed by the Council under the powers of this Act shall be applied only to the purposes for which it is authorised to be borrowed and to which capital is properly applicable.

Audit of accounts.

**102.** Section 58 of the Local Government Act 1894 shall apply to the accounts of the Council and their committees and officers under this Act and to the audit of such accounts.

## PART IX.

### MISCELLANEOUS.

Amendment of section 87 of Act of 1900.

**103.—(1)** Every hoarding or similar structure in or abutting on or adjoining any street or so near to any street that it might if not supported fall thereon shall be securely erected and maintained.

(2) It shall not be lawful after the passing of this Act to erect wholly or partly for advertising purposes any hoarding or similar structure to a greater height than twelve feet above the level of the street without the consent of the Council and such consent may be given subject to such conditions as to the submission of a plan and elevation and as to the maintenance of such hoarding or similar structure as the Council may determine.



(3) The owner or other person using any hoarding wall or similar structure for advertising purposes whether erected before or after the passing of this Act shall at all times hereafter keep and maintain the same in proper and safe repair and condition and in the event of any papers affixed for advertising purposes to such hoarding wall or other structure falling off or becoming detached shall forthwith remove and clear away such papers.

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(4) Any person who acts in contravention of any of the provisions of this section or who violates any conditions or the terms of any consent given in pursuance of such provisions shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(5) Any consent or condition made under this section may be under the hand of the clerk or surveyor.

(6) Section 87 of the Act of 1900 is hereby repealed.

**104.** Every person who shall ride or drive so as to endanger the life or limb of any person or to the common danger of the passengers in any thoroughfare shall be liable to a penalty not exceeding forty shillings and may be arrested without warrant by any constable who witnesses the offence.

Reckless driving.

**105.** Every person who shall on Sunday in any street within the district cry or call out for sale any newspapers journal or serial or advertise by any cry or call any newspaper journal or serial or ring any bell or use any horn whistle or noisy instrument or create any noise whatsoever or howsoever for the purpose of selling any newspaper journal or serial or attract or attempt to attract the attention of any person or persons by means of any noise whatsoever whether vocal or otherwise for the purposes aforesaid or any of them shall for every such offence be liable to a penalty not exceeding forty shillings.

Street cries &c.

**106.—**(1) The Council may put up continue remove or discontinue drinking fountains and cattle troughs with proper conveniences for the gratuitous supply of water for drinking and for watering of cattle and horses at such fountains or troughs respectively and may furnish or discontinue such gratuitous supply (but for such drinking and watering only) in such public places as the Council may think fit and every person who shall wilfully use any water so gratuitously supplied elsewhere or otherwise than as hereinbefore mentioned or foul such water shall for every such

Public drinking fountains.

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A.D. 1905. offence be liable to a penalty not exceeding forty shillings which penalty may be recovered by the Council.

(2) No such fountain or trough shall be erected against any building without the consent of the owner and occupier thereof.

(3) Section 38 of the Act of 1900 is hereby repealed.

General provisions as to byelaws.

**107.** All the provisions with respect to byelaws contained in sections 182 to 186 of the Public Health Act 1875 (except so much thereof as relates to byelaws of a rural sanitary authority) shall apply to all byelaws made by the Council under the powers of this Act other than byelaws made under Part II. of this Act.

Work done on two or more properties.

**108.** Where under the provisions of this Act or the Act of 1900 the Council shall construct or do any works for the common benefit of two or more buildings belonging to different owners the expenses which under this Act are recoverable by the Council from the owners shall be paid by the owners of such buildings in such proportions as shall be determined by the surveyor or in case of dispute by a court of summary jurisdiction.

Application of sections of Act of 1900.

**109.** The following sections of the Act of 1900 shall be incorporated with this Act and shall apply in the same manner as if they were re-enacted in this Act (that is to say):—

Section 112 (Informations may be laid by duly authorised officer);

Section 113 (Authentication and service of notices);

Section 116 (Penalties to be paid to the treasurer);

Section 117 (Saving as to indictments);

Section 118 (Judge not to be disqualified by payment of rates);

Section 119 (Powers of Act to be cumulative);

Section 123 (Consent of Council to be in writing);

Section 124 (In executing works for owner Council not liable for damage);

Section 125 (Power to Local Government Board to direct inquiries);

Section 126 (Compensation how to be determined);

Section 127 (Service of notice on Council); and

Section 129 (Saving rights of Crown in foreshore).

**110.** Any person deeming himself aggrieved by any order judgment determination or requirement or the withholding of any certificate licence or consent or approval of or by the Council or of or by any officer or valuer of the Council or by any conviction or order by a court of summary jurisdiction under any provision of this Act may appeal to the next practicable court of quarter sessions under and according to the provisions of the Summary Jurisdiction Acts. A.D. 1905.  
As to appeal.

**111.** Save as otherwise by this Act expressly provided all offences against this Act and all penalties forfeitures costs and expenses imposed or recoverable under this Act or any byelaw made in pursuance thereof may be prosecuted and recovered in a summary manner Provided that costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts. Recovery of penalties.

**112.** Nothing in this Act affects prejudicially any right power privilege or exemption of the Crown. Crown rights.

**113.** Nothing in this Act shall affect prejudicially any estate right power privilege or exemption of the King's most Excellent Majesty and in particular nothing herein contained shall authorise the Council to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose which consent such Commissioners and such Board are hereby respectively authorised to give. Saving rights of Crown.

**114.** The costs charges and expenses preliminary to and of and incidental to preparing and obtaining this Act including the costs charges and expenses preliminary to and of and connected with the obtaining of the resolution of owners and ratepayers aforesaid shall after taxation by the taxing officer of the House of Lords or of the House of Commons be paid by the Council out of moneys to be borrowed by the Council under this Act but may in the first instance be paid by the Council out of the district fund and general district rate and moneys so paid shall be recouped by and charged to the moneys to be borrowed under this Act. Expenses of Act.



A.D. 1905.

The SCHEDULES referred to in the foregoing Act.

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FIRST SCHEDULE.

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AN AGREEMENT made the fourteenth day of December 1904 between REGINALD JOSEPH WELD of Lulworth Castle in the county of Dorset esquire a person of unsound mind so found by inquisition acting by Edward Talbot Wolseley of Rayscourt Ascot in the county of Berks esquire and Agnes Frances Weld of Bindon Abbey Wool near Wareham in the county of Dorset spinster the committees of his estate (hereinafter called the "lessor") of the one part and the urban district council of Ilfracombe in the county of Devon (hereinafter called the "lessees") of the other part whereby (subject to such orders consents and Act of Parliament being obtained as hereinafter mentioned) it is agreed as follows :—

1. The lessor shall grant to the lessees and the lessees shall accept and execute a counterpart of a lease of the undertaking and premises described in the form of lease set forth in the Second Schedule hereto and (so far as capable of delineation on a plan) shown on the plan annexed hereto (which undertaking and premises are hereinafter called "the demised undertaking") for the term at the rent and subject to the covenants purported to be granted reserved and contained by and in such form of lease and generally in the terms of such form of lease with such modifications as having regard to the circumstances existing at the date of the execution thereof may be necessary or proper.

2. The said lease shall be executed as soon as may be after the passing of the intended Act of Parliament hereinafter mentioned but the term to be granted by the lease shall commence from the 1st day of April 1905.

3. As between the said 1st day of April and the date of the execution of the said lease the following provisions shall have effect :—

(a) The lessor shall carry on the demised undertaking (subject as hereinafter mentioned) according to his ordinary course for the account and on behalf of the lessees :

(b) The appointment of the harbour master and of any other officers and servants whom it may be necessary to engage for the proper and efficient carrying on of the demised undertaking shall be made

and their respective salaries and wages shall be fixed by the lessor in conjunction with the lessees and after any such appointment shall have been made no alteration in the rate of salary or wages shall be made without the sanction of the lessees and no expense except such as is usual and necessary in the ordinary course of the business shall be incurred by the lessor without the sanction of the lessees and particularly before incurring any expenditure on entertainments the lessor shall obtain the consent thereto of the lessees in writing by their clerk :

- (c) The lessor shall keep proper and sufficient accounts and vouchers for all expenditure incurred by him and will before the execution of the lease produce such accounts for examination and audit by any person appointed for that purpose by the lessees :
- (d) The lessor shall on the execution of the lease pay or account to the lessees for all the rents and receipts of the demised undertaking and the lessees shall pay or account to the lessor for all expenditure properly incurred by the lessor in the doing of work or the performance of duties which the lessees would have been liable to do or perform under the provisions of the said lease if the same had been executed on 1st April 1905 including duly apportioned parts of rates taxes and all other outgoings and will also pay the sums which shall have accrued due for rent under the said lease as from the commencement of the term to be thereby granted.

4. The lessor shall sell and the lessees shall purchase for the sum of £650 the toll gates cranes bandstand furniture fixtures appliances machinery articles and things specified in the list in the First Schedule hereto mentioned (and hereinafter called "the fixtures") and shall pay for the same on or before the execution of the lease.

5. The lessor shall remove the kursaal within two months after the passing of the intended Act.

6. Subject as hereinafter mentioned the lessees on completing the purchase in clause 4 hereof mentioned shall be absolutely entitled to the fixtures and may renew alter or remove or let or hire the same at any time during the term to be granted by the said lease and the fixtures shall not in the event of a purchase of the reversion expectant on the determination of the said term pursuant to the provisions of the said lease be taken into account in fixing the price to be paid for such reversion and the repairing covenants on the part of the lessor to be contained in the said lease shall not extend to the fixtures or any of them.

7. During the subsistence of the said lease the lessor shall be entitled to the custody and use for the purposes of the lessor's repairing covenant to be contained in the said lease of all the articles and things specified in the second part of the said list and at the end or sooner determination of the term to be granted by the said lease or upon completion of the purchase



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8. If upon the expiration or sooner determination of the term to be granted by the said lease the lessees not having purchased the reversion expectant on the determination of the said term shall so require the lessees shall sell and the lessor shall buy any of the fixtures then remaining or any other like fixtures then on the demised premises which shall have been provided by the lessees and be suitable to be used for the purpose of carrying on the demised undertaking at a price to be determined in case of difference by arbitration. Provided that in the event of the said term being determined by effluxion of time not less than three calendar months' notice in writing of such re-purchase as in this clause provided for shall be given by the lessees to the lessor by leaving the same at the office of his solicitors Messrs. Eland Nettleship and Butt.

9. The lessor shall out of the purchase moneys in clauses 4 and 5 hereof mentioned discharge all mortgages still outstanding in respect of the demised undertaking and henceforward until the expiration or sooner determination of the term to be granted by the said lease shall not so mortgage or charge the demised undertaking that such mortgage or charge shall be a charge upon the demised undertaking in the event of a sale thereof to the lessees pursuant to the provisions of the said lease.

10. If the lessees on or before the 1st day of April 1907 serve notice of their intention to exercise the right of purchase intended to be given by the said lease and at the same time by notice in writing under the hand of their clerk require the lessor to sell the lands coloured grey on the said plan the lessor shall sell and the lessees shall purchase the said lands coloured grey for an estate in fee simple in possession subject to existing tenancies but free from incumbrances at a price to be fixed failing agreement by arbitration at the same time and in the same manner as the price payable for the demised undertaking is fixed. The title of the lessor shall commence with an indenture dated the 8th day of August 1838.

All objections or requisitions by the lessees in respect of title or abstract or otherwise shall be stated and delivered in writing at the offices of the lessor's solicitors within 14 days from the delivery of the abstract to the lessees or their solicitor and any objection or requisition not so stated and delivered shall be deemed to be waived. If the lessees shall make any objection or requisition as to title or abstract or conveyance or any other objection or requisition whatsoever which the lessor shall be unable or unwilling to remove or comply with and shall not within three days after being informed of such inability or unwillingness communicate in writing to the lessor's solicitors their unconditional waiver of such objection or requisition the lessor shall be entitled at any time after the expiration of such three days (notwithstanding any negotiation or any attempt to remove or comply with such objection or requisition or any litigation in respect thereof)



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by notice in writing to rescind the contract for sale of the said reversion and the lessees shall not be entitled to receive from the lessor any costs or compensation whatsoever For all the purposes of this clause time shall be of the essence of the contract.

11. The said lease and the counterpart thereof shall be prepared by the lessor's solicitors and the lessees shall within three calendar months after the execution of the said lease pay the professional charges and disbursements of the said lessor's solicitors of and incidental to the preparation and execution of this agreement and the preliminary negotiations relating thereto the amount whereof shall not whether on taxation or otherwise exceed the sum of £200 and shall also pay the professional charges of the said solicitors for preparing settling and completing the said lease and the counterpart thereof according to Schedule I. Part II. to the said general order and shall also pay all reasonable and proper fees paid to counsel in connection with any of the aforesaid matters.

12. Each of the said parties shall pay his or their own costs of and incidental to the obtaining or endeavouring to obtain the orders consents and Act of Parliament to be obtained as hereinafter mentioned.

13. The lessor by the said committees shall in due course (a) apply to the Masters in Lunacy for an order directing them to be at liberty to carry this agreement into effect with the usual consequential directions (b) apply to the Chancery Division of the High Court of Justice in an action *Weld v. Philpot* 1901 W. No. 5933 for an order discharging the receiver appointed in and staying all further proceedings in the said action and (c) apply to the Commissioner of Woods under the lease dated the 27th day of August 1897 in the said form of lease referred to for the consent of such Commissioner to the lessor executing such lease as aforesaid and to the assignment necessary for giving effect to the said option to purchase if exercised by the lessees and the lessees (d) shall forthwith take the necessary steps and endeavour with all practicable speed to obtain an Act of Parliament enabling the lessees to carry into effect this agreement and accept and execute a counterpart of the said lease and also to exercise and carry out the said option to purchase to be therein contained and if the said orders consents and Act of Parliament or any of them shall not be obtained on or before the 31st day of December 1905 then and in such case this agreement shall be absolutely void but without prejudice to the liability of the lessees to pay such of the charges disbursements and fees referred to in clause 11 hereof as shall then already have been paid or incurred.

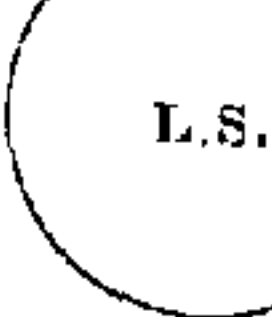
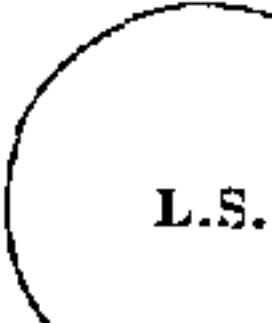
14. This agreement is made subject to the assent of Parliament and to such alterations as Parliament may think fit to make therein or in the scheduled form of lease Provided nevertheless that if Parliament shall make any material alteration in this agreement or the said form of lease either party may by written notice withdraw from this agreement and in such case the same shall be absolutely void but without prejudice to the liability of the lessees to pay such of the charges and disbursements referred

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The question whether any alteration is material shall in case of difference  
be referred to the arbitration of a barrister appointed in the absence of  
agreement by the attorney-general Save as aforesaid any difference arising  
under this agreement shall be referred to the arbitration of a single arbitrator  
and these presents shall be deemed to be a submission to arbitration under  
the Arbitration Act 1889 or any statutory modification thereof for the  
time being in force.

In witness whereof the lessor hath hereunto set his hand and seal  
and the lessees have hereunto caused their common seal to be affixed the  
day and year first above written.

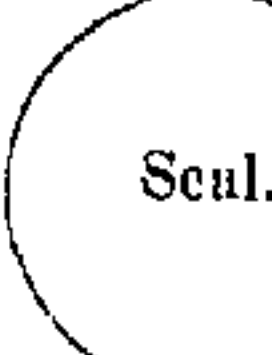
Original executed thus:—

Signed sealed and delivered by } EDWARD T. WOLSELEY.   
the above-named Reginald }  
Joseph Weld acting by Edward }  
Talbot Wolseley and Agnes }  
Frances Weld in the presence } AGNES F. WELD.   
of }

CHAS. ROWBOTTOM  
4 Trafalgar Square  
London W.C.

Counterpart executed thus:—

The common seal of the above-named Council was hereunto }  
affixed at a meeting and pursuant to a resolution of the }  
said Council in the presence of }



JNO. C. CLARKE Chairman.  
R. M. ROWE Clerk.

---

The FIRST SCHEDULE above referred to.

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A list dated the 18th day of May 1905 and signed for purposes of  
identification by Reginald Mark Rowe on behalf of the Council and  
Henry Duke on behalf of the lessor.

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The SECOND SCHEDULE above referred to.

A.D. 1905.

FORM OF LEASE.

THIS INDENTURE made the \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_  
between Reginald Joseph Weld of Lulworth Castle in the county of  
Dorset esquire a person of unsound mind so found by inquisition  
acting by Edward Talbot Wolseley of Rays Court Ascot in the county  
of Berks esquire and Agnes Frances Weld of Bindon Abbey Wool  
near Wareham in the county of Dorset spinster the committees of his  
estate (hereinafter called "the lessor" which expression shall include  
the person or persons for the time being entitled to receive the  
rents hereby reserved where the context so admits) of the one part  
and the urban district council of Ilfracombe in the county of Devon  
(hereinafter called "the lessees" which expression shall include their  
successors and assigns where the context so admits) of the other part.

WHEREAS the lessor acting by the said committees recently agreed with  
the lessees to demise to them the undertaking and premises hereinafter  
described for the term hereby granted and subject to the payment of the  
rents hereby reserved and the performance and observance of the covenants  
on the part of the lessees hereinafter contained and generally upon the  
terms hereinafter expressed such agreement being conditional upon such  
order of the Masters in Lunacy directing the said agreement to be carried  
into effect as next hereinafter mentioned being obtained And whereas  
by an order made on the \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_  
by \_\_\_\_\_ one of the Masters in Lunacy in the matter of  
the lunacy of the said Reginald Joseph Weld on the application of the  
said Edward Talbot Wolseley and Agnes Frances Weld as such committees  
as aforesaid it was ordered that the said committees should be at liberty  
to carry the said conditional agreement into effect and that it should be  
referred to the Masters in Lunacy to settle and approve of a proper lease  
of the said undertaking and premises to the lessees accordingly and that  
the said Edward Talbot Wolseley and Agnes Frances Weld as committees  
of the lessor should execute and join with all necessary parties in executing  
such lease when approved by the said Masters And whereas  
one of the said Masters in Lunacy has settled and approved of these  
presents as a proper lease of the said undertaking and premises pursuant  
to the said order of the \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_ and in testimony  
of such his approval the seal of the said Masters has been impressed in the  
margin hereof Now this indenture witnesseth that in pursuance of the  
said agreement and order and in consideration of the rents hereinafter  
reserved and the covenants on the part of the lessees hereinafter contained  
the lessor acting by the said Edward Talbot Wolseley and Agnes Frances  
Weld as aforesaid hereby demises unto the lessees All that undertaking



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known as the harbour of Ilfracombe in the county of Devon constituted by the Ilfracombe Harbour Orders 1870 to 1900 and the lands and premises (including Lantern Hill) shown on the plan hereto annexed and thereon coloured (a) brown (b) green (c) pink (d) vermilion and (e) yellow respectively and such right and interest as the lessor has in the land shown on the said plan and thereon coloured (f) blue and the pier quays jetty lighthouse sea and harbour walls offices buildings and other works erected or being on the said lands and all powers privileges and authorities by the said Orders conferred on the undertakers as therein defined and all rates duties and other income receivable under the said Orders or any of them or otherwise from the said undertaking and premises except and reserving unto the lessor All manorial rights which the lessor has or claims to have as to wreckage and otherwise with full power to enforce the same and receive and enjoy the income profits and emoluments thereof during the subsistence of the term hereby granted and except and reserving also unto the King's Majesty His heirs and successors all mines and minerals and other substrata whatsoever within or under the said lands coloured (c) pink and (d) vermilion respectively on the said plan and the powers relating thereto as the same were respectively reserved by the indentures dated the 27th day of August 1897 and the 30th day of January 1899 whereby the said lands were conveyed to the lessor And except and reserving also unto the lessor during the subsistence of the term hereby granted All mines minerals sand stone shingle and other like substances (not so reserved as last aforesaid) lying on in or under any of the said lands shown on the said plan but without power for the lessor (except for the purpose of executing such repairs as hereinafter mentioned) to dig for work or remove the same except with the consent in writing of the lessees And except and reserving unto the lessor during the subsistence of the said term the right in common with the lessees of entering upon and using the lands coloured (a) green on the said plan and the offices workshops and other buildings thereon And except and reserving also all rights of the Crown and all public rights and easements affecting the same premises or any part thereof To hold the demised undertaking (which undertaking lands premises pier quays jetty lighthouse sea and harbour walls offices buildings powers rates and income subject to the reservations aforesaid are hereinafter called "the demised undertaking") unto the lessees from the 1st day of April 1905 for the term of seven years Paying therefor yearly during the said term hereby granted and so in proportion for any less time than a year the yearly rents following to be paid without any deduction (except for landlord's property tax) namely (a) the yearly rent of £1,750 by equal quarterly payments on the 1st day of July the 1st day of October the 1st day of January and the 1st day of April in every year the first payment to be made of the sum then due on the first of such days immediately succeeding the date of the execution hereof and (b) the yearly rent of such a sum as shall represent one fifth of the excess (if any) over the sum of £3,500 of the gross receipts derived from the demised undertaking in each twelve months ending the 1st day

of April such last-mentioned rent to be paid on the 1st day of April in every year and the first payment in respect thereof to be made on the 1st day of April next and for the purpose of apportioning such last-mentioned rent for any less time than a year the said sum of £3,500 shall be treated as abating proportionately to the fraction of a year involved And the lessees do hereby for themselves their successors and assigns covenant with the lessor in manner following namely during the continuance of the term hereby granted to pay the said yearly rents hereby reserved and made payable at the times and in the manner at and in which the same are respectively hereinbefore reserved and made payable without any deduction (except as aforesaid) And also from time to time and at all times during the said term to pay discharge and fulfil all Crown rents rates taxes duties charges assessments and outgoings whatsoever whether parliamentary parochial local or of any other description which are now or may at any time hereafter be assessed charged or imposed upon the demised undertaking or the rent hereby reserved or the owner lessee or occupier in respect thereof (landlord's property tax only excepted) And also during the continuance of the term hereby granted to carry on the demised undertaking in a proper and efficient manner And in conformity in every respect with the said recited Orders and Act of Parliament relating thereto and all other orders Acts and regulations applicable thereto and to duly perform carry out and observe all the duties and obligations imposed upon or attaching to the lessor as undertaker of the demised undertaking and to keep the lessor at all times indemnified in respect thereof except such as are hereby expressly covenanted to be performed and carried out by the lessor and in the last-mentioned case to do everything necessary to enable the lessor to perform and carry out the same And also at all times during the said term to permit the lessor and his agents and workmen to enter upon the demised undertaking to see the state and condition thereof and to repair or renew the same and also to examine and inquire into the mode of carrying on the said undertaking And also to keep at the offices of the lessees accurate and regular daily accounts showing the gross receipts derived from the demised undertaking and on the said day of in every year and also on the day of the determination of the term hereby granted to deliver to the lessor or his agent a true statement or summary showing the total amount of such gross receipts during the preceding year or fraction of a year as the case may be and (if required) to verify such accounts and summary by the statutory declaration of a competent officer or servant of the lessees and at all times to permit the lessor or his agent to have access to the said accounts and to examine and take copies of or extracts from the same And also at all times during the said term if and when required by the lessor or his agent so to do to carry out such repairs to the surface of Quay Road shown in the said plan as in the opinion of the lessor or his agent shall be necessary or proper in order to maintain the same in a fit state of repair and condition for use by the

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A.D. 1905. tenants of the houses adjoining thereto belonging to the lessor the lessor repaying to the lessees the expenses incurred by them in carrying out such repairs such expenses to be duly vouched if required and such repairs to be carried out at convenient times And also to pay the annual contributions payable under three agreements dated respectively the 15th day of October 1903 the 28th day of September 1904 and the 14th day of October 1904 and made by the lessor with the Ilfracombe Electric Light and Power Company Limited in connection with the demised undertaking And also at all times during the said term to duly perform and observe all the covenants and provisions on the part of the lessor to be performed and observed contained in the lease dated the 27th day of August 1897 whereby the said land coloured (e) yellow on the said plan and certain rights in respect of the said land coloured (f) blue on the said plan were demised to the lessor including the covenants for payment of the rent and royalties thereby reserved and not at any time to do permit or suffer anything whereby such lease may be avoided or forfeited And also at all times to perform and observe all the covenants on the part of the lessor contained in the said indentures dated the 27th day of August 1897 and the 30th day of January 1899 and to keep the lessor indemnified against all actions proceedings costs damages claims demands and liability for or in respect of any breach which may be committed during the said term of any of the said covenants and provisions And the lessor hereby covenants with the lessees at all times during the said term to keep the pier quays jetty sea and harbour walls lighthouse offices buildings and other works comprised in this demise in good and substantial repair and condition however the want of such repair and condition may arise And also to forthwith insure and at all times during the said term to keep insured against loss or damage by fire all buildings and works of an insurable nature which form part of the demised undertaking in the sum of £  
at the least in the insurance office or in some other office of repute and that in case the said buildings and works or any of them or any part thereof shall at any time during the said term be destroyed or damaged by fire then and so often as the same shall happen all moneys received in respect of such insurance shall with all convenient speed be laid out in rebuilding repairing or otherwise reinstating the said premises in a good and substantial manner and in case the moneys received in respect of such insurances shall be insufficient for that purpose to make good the deficiency out of his own moneys And it is hereby agreed and declared that when and so often as any fire shall happen a just proportion of the rent hereby reserved according to the extent of the injury sustained shall cease and be suspended until reinstatement and the amount of abatement to be made in the said rent or the period for which the rent or any part thereof shall be suspended shall be dealt with in default of agreement as a dispute in manner hereinafter in that behalf provided Provided always that the lessor shall be entitled to all moneys recovered from any person or corporation by way of compensation for any injury or damage to



any of the said works and that the lessees will at the cost of the lessor render to the lessor all such assistance as may be reasonably required in order to enable him to recover such compensation And the lessor hereby also covenants with the lessees that the lessees paying the several rents hereby reserved and performing and observing the several covenants and conditions herein contained and on their part to be performed and observed shall and may peaceably and quietly hold and enjoy the demised undertaking during the term hereby granted without any lawful interruption or disturbance from or by the lessor his heirs or assigns or any person or persons claiming under or in trust for him Provided always and these presents are upon this condition that if the said yearly rents hereby reserved or any of them or any part thereof shall at any time be in arrear and unpaid for 21 days after the same shall have become due (whether any formal or legal demand thereof shall have been made or not) or if the lessees shall at any time fail or neglect to perform or observe any of the covenants or conditions herein contained and on their part to be performed and observed then and in any of such cases it shall be lawful for the lessor or any person or persons duly authorised by him in that behalf into or upon the demised undertaking or any part thereof in the name of the whole to re-enter and the said premises or undertaking peaceably to hold and enjoy thenceforth as if these presents had not been made without prejudice to any right of action or remedy of the lessor in respect of any antecedent breach of any of the covenants by the lessees herein contained Provided always and it is hereby agreed that nothing herein contained shall prevent the lessees from reducing the existing pier dues during the continuance of this demise from twopence to one penny for promenading each time of entry and from threepence to twopence for day tickets in respect of the period between 1st June and 30th September in each year Provided always and it is hereby agreed that if at any time during the term hereby granted the lessees shall desire to purchase the reversion expectant on the determination of such term of the demised undertaking and also all the before excepted rights other than those reserved by the aforesaid indentures dated the 27th August 1897 and 30th January 1899 and shall signify such desire by a notice in writing signed by their clerk and given to the lessor or the committees of his estate if he be still a person of unsound mind or left at the office of Messrs. Eland Nettleship and Butt the solicitors to the lessor not less than three calendar months before the expiration or sooner determination of the said term and shall up to the date of such notice and subsequently up to the time of completion of the purchase have duly performed the covenants on the part of the lessees herein contained then and in such case the lessor shall sell and the lessees shall purchase such reversion including the goodwill of the demised undertaking and the before excepted rights other than those reserved by the aforesaid indentures dated the 27th August 1897 and 30th January 1899 on the following terms (1) The sale and purchase shall be completed as soon as practicable after the giving of the said notice

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A.D. 1905. and on a date failing agreement to be fixed by arbitration and the rents due or accruing due hereunder up to that date shall be apportioned and paid on that date (2) The price shall be such sum as shall be mutually agreed upon or in case the parties differ as shall be determined by arbitration in manner hereinafter provided in case of disputes (3) The lands and premises comprised in the demised undertaking shall be sold and conveyed subject to all rights of the Crown and to all public and private rights and easements affecting the same or any part thereof and as to the said lands coloured (c) pink and (d) vermilion respectively on the said plan subject to the reservations covenants and provisions contained in the said respective conveyances thereof to the lessor dated the 27th day of August 1897 and the 30th day of January 1899 respectively and as to the said land coloured (e) yellow on the said plan and the said rights in respect of the said lands coloured (f) blue on the said plan the same shall be assigned for the residue of a term of 21 years from the 5th day of January 1897 (determinable as therein mentioned) granted by the said lease thereof to the lessees dated the 27th day of August 1897 and subject to the rent and royalties thereby reserved and the covenants on the part of the lessee and conditions therein contained but save as aforesaid free from all charges or encumbrances whatsoever (4) The lessees shall covenant with the lessor to duly perform carry out and observe all the duties and obligations (if any) imposed upon or attaching to him in respect of the demised undertaking after the conveyance thereof to the lessees and to keep him at all times indemnified in respect thereof (5) The title of the lessor to the said undertaking and premises hereby demised shall commence as to the respective parts thereof with the said Ilfracombe Harbour Orders 1870 to 1900 and the said indentures dated the 27th day of August 1897 and the 30th day of January 1899 respectively and as to the residue thereof with an indenture dated the 8th day of August 1838 (6) All objections or requisitions by the lessees in respect of title or abstract or otherwise shall be stated and delivered in writing at the offices of the lessor's solicitors within 14 days from the delivery of the abstract to the lessees or their solicitor and any objection or requisition not so stated and delivered shall be deemed to be waived If the lessees shall make any objection or requisition as to abstract or title or conveyance or any other objection or requisition whatsoever which the lessor shall be unable or unwilling to remove or comply with and shall not within three days after being informed of such inability or unwillingness communicate in writing to the lessor's solicitors their unconditional waiver of such objection or requisition the lessor shall be entitled at any time after the expiration of such three days (notwithstanding any negotiations or any attempt to remove or comply with such objection or requisition or any litigation in respect thereof) by notice in writing to rescind the contract for sale of the said reversion and the lessees shall not be entitled to receive from the lessor any costs or compensation whatsoever For all the purposes of this clause time shall be of the essence of the contract Provided also and it is hereby declared that if at any time hereafter any dispute doubt

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or question shall arise between the lessor and the lessees touching the construction meaning or effect of these presents or any clause or thing herein contained or their respective rights or liabilities under these presents or otherwise in relation to the premises then every such dispute doubt or question shall be referred to the arbitration of a single arbitrator and these presents shall be deemed to be a submission to arbitration within the Arbitration Act 1889 or any statutory modification or re-enactment thereof for the time being in force.

A.D. 1905.

In witness &c.

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SECOND SCHEDULE.

LANDS HOUSES BUILDINGS OR MANUFACTORIES OF WHICH  
PORTIONS ONLY ARE REQUIRED.

Parish.	Numbers on deposited Plan.
Ilfracombe - -	4 6 7 8 10 11 13 14 16 17 19 and 20.

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