



CHAPTER lxxii.

An Act to empower the Corporation of Torquay to construct additional waterworks to execute street improvements and to acquire lands to authorise the acquisition by the Corporation of certain lands and to make special provision with regard to the use management control and development of the said lands and certain other lands belonging to the Corporation to confer further powers upon the Corporation with respect to their water harbour and electricity undertakings to make further and better provision in relation to the improvement health local government and finance of the borough and for other purposes. A.D. 1934.

[25th July 1934.]

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

And whereas the Corporation are supplying water within and without the borough:

And whereas the demand for a supply of water within the limits for the supply of water by the Corporation has increased and is increasing and it is expedient that the Corporation be authorised to construct waterworks as in this Act described and to acquire lands and

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A.D. 1934. — easements for the purposes thereof and for the general purposes of their water undertaking and that further powers should be conferred upon the Corporation with respect to their water undertaking :

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

And whereas it would be of local and public advantage if certain lands (in the preamble to this Act referred to as " the Cockington lands ") comprising two hundred and seventy-eight acres or thereabouts and situate as to the greater part thereof in the borough and other certain lands (in the preamble to this Act referred to as " the Northern Coastal lands ") comprising two hundred and ninety-three acres or thereabouts and now situate in the parish of Stoke-in-Teignhead in the rural district of Newton Abbot were acquired by the Corporation :

And whereas the Corporation have entered into a lease whereby the Cockington lands are demised to the Corporation :

And whereas the said lease contains a covenant by the lessor whereby the Corporation have the option at any time within fifteen years from the commencement of the term thereby created to purchase the Cockington lands in fee simple at a price of not more than fifty thousand pounds :

And whereas the Corporation have entered into provisional agreements for the purchase of the Northern Coastal lands for the total sum of twenty-two thousand five hundred and fifty pounds :

And whereas the Corporation are the owners of certain lands (in the preamble to this Act called " the Torre Abbey lands ") comprising seventeen and one-half acres or thereabouts and situate in the borough :

And whereas it is expedient that the Corporation should be empowered to purchase the fee simple of the Cockington lands and the Northern Coastal lands and that the use management control and development of the Cockington lands the Northern Coastal lands and the Torre Abbey lands should be regulated in accordance with the provisions in this Act contained .

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And whereas the Corporation as the owners of the harbour undertaking in the borough are empowered to levy duties rates dues tolls and charges in respect of vessels frequenting and goods shipped and unshipped at the harbour and for services rendered thereat and it is expedient that some of such duties rates dues tolls and charges be varied and increased as in this Act provided :

And whereas it is expedient that further powers should be conferred upon the Corporation with respect to their electricity undertaking and that further and better provision should be made with reference to streets buildings sewers and drains and infectious disease and otherwise for the local government of the borough and with reference to the finance of the borough and the application of revenue from the undertakings of the Corporation and that the powers of the Corporation in relation thereto should be enlarged and extended :

And whereas the Corporation are the owners of a piece or parcel of freehold land in the borough known as " the Tessier Garden " and the said land was the gift to the Corporation of Amy Amelia Elizabeth Tessier :

And whereas the gift of the said garden was made upon the condition that the Corporation should maintain the same as a public garden but so however that the use and enjoyment thereof should be reserved as a place of retreat for elderly persons and it is expedient that the Corporation be empowered to fulfil the said condition :

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

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

And whereas estimates have been prepared by the Corporation for the purposes hereinafter mentioned and such estimates are as follows :—

	£
For and in connection with the construction of Water Works Nos. 1 2 and 3 authorised by this Act - - -	145,750
For and in connection with the construction of Street Works Nos. 1 2 and 3 authorised by this Act - - -	5,285
For the purchase of lands for the purposes of water works and street works -	4,250

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

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

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

PART I.

PRELIMINARY.

- Short title. 1. This Act may be cited as the *Torquay Corporation Act 1934.*
- Division of Act into Parts. 2. This Act is divided into Parts as follows :—
- Part I.—Preliminary.
 - Part II.—Lands.
 - Part III.—Water.
 - Part IV.—Street works.
 - Part V.—Acquisition and management of certain lands.
 - Part VI.—Harbour rates and dues.
 - Part VII.—Electricity supply.
 - Part VIII.—Streets buildings sewers and drains.
 - Part IX.—Infectious disease.
 - Part X.—Finance.
 - Part XI.—Miscellaneous.

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

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—
Incorporation of Acts.

(a) The Lands Clauses Acts with the following exceptions and modification:—

(i) Sections 127 to 131 of the Lands Clauses Consolidation Act 1845 (relating to the sale of superfluous lands) are not incorporated with this Act;

(ii) The bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be sufficient without the addition of the sureties mentioned in that section;

(b) The Waterworks Clauses Act 1847 except—

(i) The words “with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner” in section 44;

(ii) So much of section 70 as refers to the payment of rates by quarterly instalments sections 75 to 82 relating to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and section 83 relating to accounts;

(c) The Waterworks Clauses Act 1863;

(d) The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and in such provisions for the purposes of this Act “the railway” means the waterworks authorised by this Act and “the centre of the railway” means the centre of such waterworks respectively.

(2) In the construction of the provisions of the Lands Clauses Acts the Waterworks Clauses Acts 1847 and 1863 and the Railways Clauses Consolidation Act 1845 the expressions “the promoters of the undertaking” “the undertakers” and “the company” mean respectively the Corporation.

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Interpreta-
tion.

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

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

“The borough” means the borough of Torquay;

“The Corporation” means the mayor aldermen and burgesses of the borough;

“The council” means the council of the borough;

“The town clerk” “the treasurer” “the surveyor” and “the sanitary inspector” mean respectively the town clerk the treasurer the surveyor and the sanitary inspector of the borough;

“The water undertaking” means the water undertaking of the Corporation as from time to time authorised;

“The water limits” means the limits within which the Corporation are from time to time authorised to supply water;

“The fishery board” means the board of conservators for the River Teign Fishery District;

“The street works” means the street widenings improvements of streets and other works authorised by Part IV of this Act or any of them or any part thereof respectively and “street work” means any of the street works or any part thereof;

“The signed plan” means the plan signed in triplicate by the Right Honourable Lord Askwith the chairman of the committee of the House of Lords to whom the Bill for this Act was referred one of which has been deposited in the Parliament Office of the House of Lords one in the Committee and Private Bill Office of the House of Commons and one with the town clerk;

“The Cockington lands” means certain freehold lands and hereditaments forming part of the

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estate generally known as the Cockington Estate and situate partly in the borough partly in the urban district of Paignton and partly in the parish of Marldon in the rural district of Totnes and containing two hundred and seventy-eight acres or thereabouts which said lands are coloured pink green red and blue on the signed plan;

“The Northern Coastal lands” means certain freehold lands and hereditaments situate in the parish of Stoke-in-Teignhead in the rural district of Newton Abbot and lying mainly to the east of the main road from Shaldon to the borough and in and around the village of Maidencombe and containing two hundred and ninety-three acres or thereabouts which said lands are coloured yellow on the signed plan;

“The Torre Abbey lands” means certain freehold lands and hereditaments situate in the borough and containing seventeen and one-half acres or thereabouts which said lands are coloured brown on the signed plan;

“Authorised rates” and “authorised rate” mean respectively the rates or rate which the Corporation are for the time being authorised to levy demand and recover in pursuance of the Order of 1864 as varied by the Order of 1888 and the schedule thereto the Order of 1906 and this Act;

“The electricity undertaking” means the electricity undertaking of the Corporation as from time to time authorised;

“The electricity limits” means the limits within which the Corporation are from time to time authorised to supply electricity;

“The Minister” means the Minister of Health;

“The Public Health Acts” means the Public Health Act 1875 and the Acts amending and extending the same;

“The Lands Clauses Acts” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919;

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“The Act of 1886” means the Torquay Harbour and District Act 1886;

“The Act of 1903” means the Torquay Corporation Water Act 1903;

“The Act of 1922” means the Torquay Corporation (Electricity) Act 1922;

“The Act of 1923” means the Torquay Corporation Act 1923;

“The Act of 1927” means the Torquay Corporation Act 1927;

“The Order of 1864” “the Order of 1888” and “the Order of 1906” mean the Torquay Harbour Order 1864 the Torquay Harbour Order 1888 and the Torquay Harbour Order 1906 respectively;

“The arbitrator” means the arbitrator to whom any question of disputed purchase money or compensation under this Act is referred;

“Daily penalty” means a penalty for each day on which any offence is continued by a person after conviction;

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

“Statutory security” means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any

county council or municipal corporation or other local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Corporation;

“The general rate fund” and “the general rate” mean respectively the general rate fund and the general rate of the borough;

“Revenues” in relation to the Corporation includes the general rate fund and all rates Exchequer contributions and other revenues whether arising from land or undertakings or from any other source receivable by the Corporation;

“Security of the Corporation” means any mortgage bond debenture annuity stock or other security granted issued or created by the Corporation;

“Stock regulations” means regulations made under section 52 of the Public Health Acts Amendment Act 1890 or section 204 of the Local Government Act 1933;

“The registrar” means the person or bank appointed by the Corporation under the stock regulations;

“Telegraphic line” has the same meaning as in the Telegraph Act 1878;

“The Tessier Garden” means all that piece or parcel of land formerly known as “Gieslands Meadow” adjoining the Furroughs Cross Church at Babbacombe in the borough containing by admeasurement two acres two roods and ten perches except the hedge between the said land and the adjoining property known as “Carrigbawn” St. Marychurch Torquay.

PART II.

LANDS.

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

Power to
take lands.

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—
Acquisition
of ease-
ments.

6.—(1) The Corporation may in lieu of acquiring any lands for the purposes of the waterworks authorised by this Act acquire such easements or rights only in such lands as they may require for such purposes (including the making enlarging renewing maintaining repairing inspecting cleaning managing using working and obtaining access to such works) and may give notice to treat in respect of such easements or rights describing the nature thereof and the rights which the Corporation require for or incidental to the said purposes and the restrictions subject to which the owners and occupiers may use the lands and the provisions of the Lands Clauses Acts and of this Act shall apply to and in respect of the acquisition of such easements and rights as fully as if the same were lands within the meaning of those Acts.

(2) As regards any lands in respect of which the Corporation have acquired easements or rights only under the provisions of this section the Corporation shall not be required or entitled to fence off or sever such lands from the adjoining lands but unless otherwise agreed the owners or occupiers for the time being shall subject to such easements or rights and any other restrictions imposed upon the owners and occupiers have the same rights to use and cultivate the said lands at all times as if this Act had not been passed.

(3) Provided always that nothing in this section contained shall authorise the Corporation to acquire by compulsion any such easement in any case in which the owner in his particulars of claim shall require the Corporation to acquire the lands in respect of which they have given notice to treat for the acquisition of an easement only and every notice to treat for the acquisition of an easement shall be endorsed with notice of this provision.

Correction
of errors in
deposited
plans and
book of
reference.

7. If there is any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Corporation after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two justices having jurisdiction in the place in which the lands are situate for the correction thereof

and if it appears to the justices that the omission or 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 or a copy thereof shall be deposited with the clerk of the council of the administrative county of Devon and a duplicate thereof shall be deposited with the clerk to the council of the county district and with the clerk to the council (if any) of the parish in which the lands are situate and such certificate or copy and duplicate respectively shall be kept by such clerks 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 the certificate and it shall be lawful for the Corporation to take the lands and execute the works in accordance with the certificate.

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8. The Corporation and their surveyors officers contractors and workmen may from time to time at all reasonable times in the day upon giving in writing for the first time twenty-four hours' and afterwards from time to time twelve hours' previous notice to the occupiers thereof enter upon and into the lands houses and buildings by this Act authorised to be taken and used as aforesaid or any of them or any premises in respect of which a claim for compensation under this Act is received for the purpose of surveying and valuing the said lands houses and buildings and of inspecting the said premises without being deemed trespassers and without being subject or liable to any fine penalty or punishment on account of entering or continuing upon any part of the said lands houses and buildings or premises.

Power to enter upon property for survey and valuation.

9. At any time after notice to treat has been served for any land which the Corporation are by this Act authorised to purchase compulsorily the Corporation may after giving to the owner and occupier of the land not less than fourteen days' notice enter upon and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections 84 to 90 of the Lands Clauses Consolidation Act 1845 but subject to the payment of the like compensation for the land of which possession is taken

Further powers of entry.

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Owners
may be
required
to sell part
only of
certain
premises.

10.—(1) Whereas in the construction of the works by this Act authorised or otherwise in the exercise by the Corporation of the powers of this Act it may happen that portions only of certain properties shown or partly shown on the deposited plans will be sufficient for the purposes of the Corporation and that such portions or some other portions less than the whole can be severed from the remainder of the said properties without material detriment thereto Therefore the following provisions shall have effect :—

(a) The owner of and persons interested in any of the properties whereof the whole or part is described in the First Schedule to this Act and whereof a portion only is required for the purposes of the Corporation or each or any of them are in this section included in the term "the owner" and the said properties are in this section collectively referred to as "the scheduled properties" and severally as a "scheduled property";

(b) 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 Corporation 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 Corporation such portion only without the Corporation being obliged or compellable to purchase the whole the Corporation paying for the portion so taken and making compensation for any damage sustained by the owner by severance or otherwise;

(c) If within such twenty-one days the owner shall by notice in writing to the Corporation allege that such portion cannot be so severed the arbitrator shall in addition to the other questions required to be determined by him determine whether the portion of the scheduled property

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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 Corporation have compulsory powers of purchase) can be so severed;

- (d) If the arbitrator determines 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 Corporation the portion which the arbitrator shall have determined to be so severable without the Corporation being obliged or compellable to purchase the whole the Corporation 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 arbitrator;
- (e) If the arbitrator determines 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 arbitrator may in his absolute discretion determine and order that the costs charges and expenses incurred by the owner incident to the determination of any matters under this section shall be borne and paid by the owner;
- (f) If the arbitrator determines 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 he shall determine that any other portion can be so severed) the Corporation may withdraw their notice to treat and thereupon they shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice;
- (g) If the arbitrator determines that the portion of the scheduled property specified in the

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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 Corporation in case they shall not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion thereof as the arbitrator shall having regard to the circumstances of the case and his final determination think fit.

(2) The provisions of this section shall be in force notwithstanding anything contained in the Lands Clauses Consolidation Act 1845 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.

(3) The provisions of this section shall be stated in or endorsed on every notice given thereunder to sell and convey any of the scheduled properties.

Persons
under dis-
ability may
grant ease-
ments &c.

11. 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 Corporation 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.

Benefits to
be set off
against
compensa-
tion.

12. In estimating the amount of compensation or purchase money to be paid by the Corporation in respect of the acquisition under this Act of any part of the lands of any person the enhancement in value of the adjoining lands of such person not so acquired or of any other lands of such person which are continuous with such adjoining lands arising out of the execution

of the works by this Act authorised shall be fairly estimated and shall be set off against the said compensation or purchase money. A.D. 1934.

13. For the purpose of determining any question of disputed compensation payable in respect of lands taken under the powers of this Act the following provisions shall apply and have effect (that is to say):— Compensation in case of recently created interest.

(1) The arbitrator shall not take into account any building erected or any improvement or alteration made or any interest in land created after the first day of November one thousand nine hundred and thirty-three and before the date of the passing of this Act if in the opinion of the arbitrator the erection of the building or the making of the improvement or alteration or the creation of the interest in respect of which the claim is made was not reasonably necessary and was carried out with a view to obtaining or increasing compensation under this Act:

(2) Subject as is hereinafter in this section provided the arbitrator shall not take into account—

(a) any building erected after the date of the passing of this Act or any improvement or alteration of any premises (other than any improvement or alteration reasonably necessary for properly maintaining such premises) made after that date which in the opinion of the arbitrator materially enhances the value of such premises; or

(b) any interest in land greater than that of a quarterly tenant created after the date of the passing of this Act:

(3) If at any time after the date of the passing of this Act and before the expiration of the period limited by this Act for the compulsory purchase of lands any person being the owner of or having any estate or interest in any premises which are liable to be acquired compulsorily under the powers of this Act gives notice in writing to the Corporation of his intention to erect any building upon or to make any improvement or alteration of or to

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create any such new interest as aforesaid in those premises (such intended building improvement alteration or new interest being specifically described in the notice) and the Corporation do not within one month after receiving any such notice serve upon such person notice to sell and convey or release his estate or interest in the said premises but serve such notice at any time after the expiration of the said period of one month—

(a) subsection (2) of this section shall not apply with respect to the building improvement alteration or new interest described as aforesaid; and

(b) subsection (1) of this section shall apply with respect to the said building improvement alteration or new interest as if the same had been erected made or created after the said first day of November and before the date of the passing of this Act :

- (4) The Corporation shall forthwith after the passing of this Act send by post or deliver a copy of this section to all persons named in the deposited book of reference having an interest greater than that of a yearly tenant in any lands which are liable to be acquired compulsorily under the powers of this Act.

Limit of time for compulsory purchase of lands.

14. The powers of the Corporation for the compulsory purchase of lands under the powers of this Act shall cease on the first day of October one thousand nine hundred and thirty-seven.

Extinction of private rights of way.

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

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

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by means of a dam or embankment across the river South Teign;

Water Work No. 2 A diversion of the public road leading from Chagford to Fernworthy Farm to be situate in the parish of Lydford in the rural district of Tavistock commencing at a point in the occupation road (being a continuation of the said public road) one hundred and thirty-three yards or thereabouts measured in a westerly direction from the south-west corner of Fernworthy Farmhouse and terminating at a point in the said public road twenty-eight yards or thereabouts measured in a south-easterly direction along the centre of the said road from the north-west boundary of the enclosure numbered 2093 in the parish of Chagford on the 1/2500 Ordnance map Devonshire sheet LXXXIX.15 (edition of 1905);

Water Work No. 3 An access road in the parish of Chagford in the rural district of Okehampton commencing at a point in the said public road twenty-seven yards or thereabouts measured in a north-easterly direction along the said road from the centre of the stream known as the Metherall Brook and terminating at the south-eastern end of the dam or embankment of the said reservoir (Water Work No. 1).

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

Provided that any electrical works or apparatus made or maintained under the provisions of this subsection shall be so constructed maintained and used as to prevent any interference with any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

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

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Power to
Corpora-
tion to
make agree-
ments with
owners of
property
&c.

17. The public shall be entitled to a privilege at all times of enjoying air exercise and recreation on such parts of any common or unenclosed land acquired by the Corporation in the parishes of Chagford and Lydford and not used for the purposes of the works or submerged by the formation of the reservoir authorised by Part III (Water) of this Act (and whether any common or commonable rights in or over such land shall have been acquired or extinguished under the provisions of this Act or not) subject nevertheless to the provisions of and to the byelaws authorised by that Part of this Act.

Access to
commons.

PART III.

WATER.

18.—(1) Subject to the provisions of this Act the Corporation may make and maintain in the lines and situations within the limits of deviation shown on the deposited plans and according to the levels shown upon the deposited sections the following works situate in the county of Devon (that is to say):—

Construc-
tion of
water-
works.

Water Work No. 1 A reservoir (to be called the "Fernworthy reservoir") to be situate in the parish of Chagford in the rural district of Okehampton and the parish of Lydford in the rural district of Tavistock and to be formed

19. In the construction of the waterworks authorised by this Part of this Act the Corporation may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and they may also deviate from the levels shown on the deposited sections to any extent upwards not exceeding five feet and to any extent downwards :

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Power to deviate.

Provided that the Corporation shall not construct the dam or embankment of the Fernworthy reservoir of a greater height above the general surface of the ground than that shown on the deposited sections in respect of that dam or embankment and five feet in addition.

20. The road diversion (Water Work No. 2) authorised by this Part of this Act shall be maintained in repair by and at the cost of the Corporation for twelve months after completion of which completion a certificate of two justices shall be conclusive evidence (which certificate two justices shall give on such completion being proved to their satisfaction) and from and after the expiration of the said period of twelve months such road diversion shall be maintained in repair by and at the expense of the authority or person by whom or at whose expense the road in substitution for which the road diversion is made was repairable.

Mainten-
ance of
diverted
road.

21.—(1) The Corporation may with the consent of the road authority (such consent not to be unreasonably withheld) during the execution and maintenance of the works authorised by this Part of this Act temporarily stop up and interfere with any street for the purpose of executing such works and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or returning from any house or other premises in the street from passing along and using the same.

Temporary
stoppage
of streets.

Any dispute as to whether any such consent has been unreasonably withheld shall be referred to arbitration.

(2) The Corporation shall provide reasonable access for foot passengers bona fide going to or returning from any such house or other premises.

22. If the works authorised by this Part of this Act and shown on the deposited plans and sections or any part or parts thereof are not completed within seven years from the passing of this Act then on the expiration

Period for
completion
of water-
works.

A.D. 1934. of that period the powers granted by this Act for making those works shall cease as to such of them or so much thereof respectively as are not then completed :

Provided that the Corporation may extend enlarge alter reconstruct renew or remove any of their works and plant and lay down additional lines of pipes as and when occasion may require.

Works to form part of water undertaking.

23. Subject to the provisions of this Act the water-works to be constructed by the Corporation under the authority of this Part of this Act shall be deemed to be part of the water undertaking.

Power to take water.

24. Subject to the provisions of this Act the Corporation may collect impound take divert appropriate and use for the purposes of the water undertaking the waters of the river South Teign and the tributaries thereof and all such springs streams and waters as may be intercepted by the works authorised by this Part of this Act and any subsidiary works in connection with those works.

Compensation water.

25.—(1) During the construction and until the completion of the Fernworthy reservoir the Corporation may take divert appropriate and use from the river South Teign any water they may require for the purposes of the water undertaking not exceeding three million gallons in any day of twenty-four hours Provided that they shall not take divert or appropriate any such water—

- (a) during such time as the flow of water in the said river immediately below the weir pool and weir Work No. 1 authorised by the Act of 1927 shall be less than at the rate of one million two hundred and fifty thousand gallons per day of twenty-four hours; or
- (b) during such time as water is flowing over the sill of the waste-water weir of the Trenchford reservoir of the Corporation as the same existed on the thirty-first day of March one thousand nine hundred and twenty-seven; or
- (c) during the period of five weeks commencing on the fifteenth day of October in each year except at such time or times (if any) during that period

as the water in the said Trenchford reservoir is at a lower level than thirteen feet below the said sill as the same existed on the thirty-first day of March one thousand nine hundred and twenty-seven.

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(2) During the first filling of the Fernworthy reservoir the Corporation may impound water therein so long only as the quantity of water which would be required by this section to be discharged into the river South Teign if the reservoir had been completed and filled shall be allowed to flow into such river.

(3) After the completion and first filling of the Fernworthy reservoir the Corporation shall during every day of twenty-four hours discharge or deliver into the river South Teign at a point situate not more than one hundred yards below the foot of the embankment of the reservoir not less than one million two hundred and fifty thousand gallons of water in a continuous flow.

(4) After the completion of the Fernworthy reservoir notwithstanding anything in subsections (2) and (3) of this section the Corporation shall not during such time as water is flowing over the sill of the waste-water weir of the Trenchford reservoir of the Corporation cause to flow into that reservoir any water from the Fernworthy reservoir.

26.—(1) Before taking water from the river South Teign under the powers of this Part of this Act the Corporation shall erect and so long as they continue to take water therefrom they shall (except during the prevalence of abnormal flood) maintain in a state of efficiency on such river below the Fernworthy reservoir not more than one hundred yards from the foot of the embankment thereof a suitable gauge with an automatic recorder for the purpose of ascertaining and recording the quantity of water discharged from the reservoir as compensation water.

Provision of gauge.

(2) The design of the said gauge and recorder shall be reasonably approved by the fishery board on behalf of the persons interested in the flow of the said river before construction of the said gauge and recorder and the records obtained by means of any gauge provided in pursuance of this section shall be open at all reasonable times to the inspection and examination of the fishery

A.D. 1934. board and all persons interested in the flow of the river South Teign or their duly accredited representatives and such persons or representatives may if they so desire take copies of any such records.

(3) If any difference arises between the Corporation and the fishery board or any person so interested with respect to the construction maintenance or use of any gauge or recorder or the state of repair or condition thereof such difference shall be referred to the arbitration of an engineer to be nominated (unless otherwise agreed) on the application of either party after notice in writing to the other of them by the President of the Institution of Civil Engineers.

Penalties.

27. In case of any neglect on the part of the Corporation to provide and maintain the gauge which they are by this Part of this Act required to provide and maintain or in case of any neglect by or in consequence of which the quantity of compensation water required by this Part of this Act to be discharged from the Fernworthy reservoir shall not be discharged or water shall be taken by the Corporation in contravention of the provisions of this Part of this Act the Corporation shall for every day on which such neglect occurs forfeit and pay to each of the persons injuriously affected thereby including the fishery board (who may sue for and recover the same) the sum of five pounds and shall in addition make compensation for any loss or injury sustained by the fishery board or any other persons injuriously affected thereby the amount of such compensation in case of dispute to be determined by arbitration.

Compensation water to be taken in satisfaction.

28. The foregoing provisions of this Part of this Act shall be accepted and taken by all persons interested as full compensation for all water which the Corporation can collect impound take divert appropriate and use by means of the works authorised by this Part of this Act.

Discharge of water into streams.

29.—(1) For the purpose of constructing enlarging extending repairing cleansing emptying or examining Water Work No. 1 by this Part of this Act authorised the Corporation may cause the water in such work to be discharged into any available stream or watercourse Provided that any water so discharged shall be as free as may be reasonably practicable from mud or silt or

offensive matter and other matter injurious to fish or spawn or spawning beds or food of fish. A.D. 1934.

(2) In the exercise of the powers conferred by this section the Corporation shall do as little damage as may be and shall make full compensation to all persons interested for all damage sustained by them by reason or in consequence of the exercise of such power the amount of compensation to be settled in case of difference by arbitration.

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

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

Power to hold lands and exercise powers for protection of waters.

Provided that the Corporation shall not create or permit the creation or continuance of any nuisance on any lands acquired under this section nor erect any buildings thereon except offices and dwellings for persons in their employment and such buildings and works as may be incident to or connected with the water undertaking but the restrictions of this section shall not apply in respect of lands leased or sold by the Corporation.

(2) The Corporation may in and upon the lands referred to in subsection (1) of this section construct and lay down drains sewers watercourses catchpits and other works and conveniences necessary or proper for the purpose of intercepting or taking any foul waters arising or flowing upon such lands or necessary or proper for preventing the water which the Corporation are from time to time empowered to take from being polluted and the Corporation may for the purposes aforesaid carry any such drain sewer or watercourse under across or along any street or road subject to and according to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes.

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

Byelaws
for pre-
venting pol-
lution of
water.

31.—(1) The Corporation may make byelaws for preventing the pollution fouling or contamination of the water which they are authorised to take for the purposes of the water undertaking and may by such byelaws prescribe the construction maintenance and use of proper drains sewers and works and make provision for the prevention of any act or thing tending to the pollution of the water.

(2) The byelaws made under this section shall be in force within the area defined in the byelaws being the whole or part of the areas from or through which the said water flows.

(3) In addition to the requirements of section 250 of the Local Government Act 1933 the Corporation shall exhibit in some conspicuous place in every rural district in which the byelaws will be in force copies of the notice referred to in that section and any landowner who may be affected by any such byelaws shall be entitled to be furnished with a copy thereof and to oppose the confirmation thereof.

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

(5) The Corporation shall pay compensation to the owners of and other persons interested in any lands in respect of which byelaws shall be made under the provisions of this section whose legal rights shall be injuriously affected by the restrictions imposed by such byelaws or who are required by such byelaws to construct any works or to do any act or thing which could not lawfully be

required by the local sanitary authority of the district in which such lands are situate and such compensation shall be settled in default of agreement by arbitration. A.D. 1934.

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

32.—(1) The Corporation shall erect fit up and maintain or provide— Accommodation of workmen employed on authorised works.

(a) Such huts or buildings for the accommodation of the workmen employed in and about the construction of the works authorised by this Part of this Act;

(b) Such hospital accommodation for the treatment of cases of sickness or accident among such workmen including accommodation for dealing with infectious diseases;

as shall be reasonably necessary having regard to the accommodation available in the neighbourhood of or conveniently accessible from the said works and shall provide and maintain proper and sufficient sanitary accommodation in connection with every such building and hospital.

(2) The Corporation shall pay all reasonable costs and expenses incurred in respect of the medical and surgical treatment of any workman employed on the construction of the said works who is treated in any hospital accommodation provided by them except in so far as such costs and expenses are payable under the provisions of the National Health Insurance Acts 1924 to 1930 or otherwise.

(3) The medical officer of health of the council of the administrative county of Devon (in this section called "the county council") and any officer duly authorised by the county council shall be entitled at any time to enter into inspect and examine such accommodation in order to ascertain whether overcrowding exists therein and whether proper and sufficient sanitary arrangements are provided.

(4) The Corporation shall give such officer all facilities and information which he may reasonably require for

A.D. 1934. — the purpose of the performance of his duties including the right to enter upon the said works and any person obstructing such officer in the performance of his duty under this section shall be liable to a penalty not exceeding forty shillings.

(5) If at any time it appears to the county council that the Corporation have failed to afford or maintain accommodation in accordance with subsection (1) of this section the Corporation shall afford and maintain such accommodation as the county council may reasonably require :

Provided that if within fourteen days after the receipt of notice of any requirement of the county council under this subsection the Corporation give notice to that council that they dispute the reasonableness of any such requirement the difference shall be determined by the Minister on the application of either of the parties to the difference and the Minister may make such requirements (if any) in variation of the requirements of the county council as he may think fit.

(6) If the Corporation fail to afford and maintain accommodation in accordance with the provisions of this section they shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding five pounds.

For benefit
of fisheries
and other
interests.

33.—(1) The Corporation shall during the construction maintenance repair and renewal of the works by this Part of this Act authorised for the abstraction of water from the river South Teign at all times take or cause to be taken such steps as are reasonably practicable to prevent the escape or discharge from the said works or from land in the occupation of the Corporation into the said river of any solid or liquid matter detrimental to fish the spawn of fish and the food of fish and in the event of damage arising from this cause by reason of any failure to take such steps compensation shall be payable by the Corporation to the fishery board and to the fishery owners affected the amount of such compensation in case of difference to be determined by an arbitrator to be appointed by the President of the Institution of Civil Engineers and subject thereto the provisions of the Arbitration Act 1889 shall apply.

(2) Within one month after the commencement of the construction of the Fernworthy reservoir the Corporation shall pay—

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(a) to the fishery board the sum of two hundred and fifty pounds; and

(b) to Wallace John Perryman or other the person then owning the premises known as Yeo Farm in the parish of Chagford the sum of fifty pounds.

34.—(1) The power of making byelaws conferred by section 32 (Byelaws for preventing waste &c. of water) of the Act of 1903 shall extend to enable the Corporation to make byelaws as to the testing and stamping of taps cocks ferrules valves flushing cisterns flushing apparatus and other similar fittings and apparatus and prescribing the charge to be made for such testing and stamping.

Extension of powers for preventing waste &c. of water.

(2) Nothing in the preceding subsection or in any byelaws made thereunder shall apply to any pipes or fittings used on any premises not being a dwelling-house which form part of the railway of the Great Western Railway Company.

(3) Any person who shall forge or counterfeit any stamp or mark used by the Corporation or by the authority of the Corporation for any of the purposes of this section or who shall use or supply anything marked with any such stamp or mark knowing the same to be forged or counterfeited shall for every such offence be liable to a penalty not exceeding twenty pounds.

35. Where a person who takes a supply of water for domestic purposes from the Corporation desires to use the water so supplied for or in connection with a refrigerating apparatus or for or in connection with any apparatus depending while in use on a supply of continuously running water the Corporation may if they think fit require that all water used for or in connection with the said apparatus shall—

Charges for supplies for refrigerating apparatus.

(a) be taken by measure on the conditions and at the rates for the time being in force for the supply of water by measure and if the person only takes a supply for domestic purposes the minimum quarterly charge for the water so taken by measure shall be ten shillings; or

(b) be paid for at such rates as may be agreed between the person and the Corporation.

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Special
terms for
supplies to
caravans
&c.

36. Notwithstanding anything in any Act or Order relating to the Corporation a person shall not be entitled to demand or continue to receive from the Corporation a supply of water to any caravan shack hut tent or other like structure unless he has agreed with the Corporation to take such supply by meter or on such terms as he and the Corporation shall agree and unless he has secured to the reasonable satisfaction of the Corporation by way of deposit or otherwise payment of such a sum as may be reasonable having regard to the possible maximum demand of such person for his caravan shack hut tent or structure.

Extension
of power
to inspect
premises.

37. In addition to the powers conferred by section 57 of the Waterworks Clauses Act 1847 the water engineer of the Corporation or any person duly authorised by the Corporation in writing may at all reasonable times between the hours of seven and nine in the morning and also between the hour of four in the afternoon and one hour after sunset enter into any house or premises supplied with water by the Corporation in order to examine if there be any waste or misuse of such water and if any person hinder any such engineer or authorised person from entering (either under the said section 57 or under this section) or making such examination as aforesaid he shall for every such offence be liable to a penalty not exceeding five pounds:

Provided that no person shall for the same offence have the water supplied to him turned off in pursuance of the said section 57 and also be liable to a penalty under this section.

Meters in
streets to
measure
water or
detect
waste.

38.—(1) Subject to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes the Corporation may for the purpose of measuring the quantity of water supplied or of preventing and detecting waste affix and maintain meters and similar apparatus on the service pipes and mains of the Corporation and stopcocks in the pipes supplying houses with water and may insert in the roads or footways the necessary covers or boxes for giving access and protection thereto and may for that purpose break up and interfere temporarily with public and private streets tramways sewers gas air or water pipes electric lines wires and apparatus:

Provided that—

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- (a) the Corporation shall not interfere with any telegraphic line belonging to or used by the Postmaster-General except in accordance with and subject to the provisions of the Telegraph Act 1878;
- (b) nothing in this section shall extend to or authorise any interference with any works or apparatus of the Central Electricity Board except in accordance with the provisions of section 15 of the Electric Lighting Act 1882;
- (c) the Corporation shall not interfere with any gas main pipe or other apparatus belonging to or used by the Torquay and Paignton Gas Company or the Newton Abbot Gas and Coke Company Limited except in accordance with and subject to the provisions of sections 153 and 308 of the Public Health Act 1875; and
- (d) the Corporation shall not without the previous consent of the Great Western Railway Company exercise the powers of this section in respect of any street road footway or property belonging to such company but such consent shall not be unreasonably withheld and any question as to whether such consent is in any case unreasonably withheld shall be determined by an engineer to be appointed failing agreement by the President of the Institution of Civil Engineers on the application of either party after notice in writing to the other.

(2) Section 40 (Detection of waste) of the Act of 1903 is hereby repealed.

39. Any person who shall cover over or wilfully or negligently obstruct or interfere with the convenient access to any fire-alarm fire-plug or hydrant in the borough or who shall remove or efface any plate or mark indicating the position of such alarm plug or hydrant shall be liable to a penalty not exceeding five pounds and the Corporation may recover the expenses of replacement and making good from such person.

As to fire-plugs &c.

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PART IV.

STREET WORKS.

Power to
execute
street
works.

40. Subject to the provisions of this Act the Corporation may execute and construct in the lines and situations and within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections the works in the borough hereinafter described (that is to say):—

Street Work No. 1 A widening of Torbay Road on the western side thereof from the junction with the footpath leading to Wheatridge Lane under the Great Western Railway (Torquay branch) to Livermead Hill with a rounding off of the corner at the junction with the said footpath;

Street Work No. 2 A widening of Torbay Road on the eastern side thereof from Cliff Road to the northern extremity of the premises known as "Livermead Cliff" with a rounding off of the corner at Cliff Road;

Street Work No. 3 A widening of Hele Road on the northern side thereof from its junction with Barton Hill Road to its junction with Salisbury Avenue.

Limits of
deviation.

41. In the construction of the street works the Corporation may deviate from the lines or situations 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 five feet either upwards or downwards.

Subsidiary
works.

42.—(1) Subject to the provisions of this Act and within the limits of deviation shown on the deposited plans the Corporation may in connection with the street works and for the purposes thereof—

(a) make junctions and communications with any existing streets which may be intersected or interfered with by or be contiguous to the street works and divert widen or alter the

line or level of any existing street for the purpose of connecting the same with the street works or of crossing under or over the same or otherwise;

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- (b) alter and remove any drinking troughs lamp-posts railings refuges or other structures erected upon any street or land within the said limits;
- (c) execute any works for the protection of any adjoining land or buildings;
- (d) execute any works and do any things necessary for the strengthening and supporting of any walls of adjoining buildings;
- (e) alter divert or stop up all or any part of any drain sewer channel or gas or water main or pipe wire or apparatus within the said limits the Corporation providing a proper substitute before interrupting the flow of sewage in any drain or sewer or of gas or water in any main or pipe or of electricity or telephonic communication in any wire or apparatus and making compensation for any damage done by them in carrying out such alteration diversion or stopping up.

(2) Provided that the Corporation shall not alter divert or otherwise interfere with any telegraphic line belonging to or used by the Postmaster-General except in accordance with and subject to the provisions of the Telegraph Act 1878.

43. Within the limits of deviation shown on the deposited plans the Corporation may raise sink or otherwise alter the position of any of the steps areas cellars windows and pipes or spouts belonging to any house or building and also the drains and the pipes or wires for the purpose of conveying water gas or electricity to any house or other place and may remove all other obstructions so that the same be done with as little delay and inconvenience to the inhabitants as the circumstances of the case will admit and the provisions of section 308 (Compensation in case of damage by local authority) of the Public Health Act 1875 shall apply as if the acts done under the authority of this section were done in exercise of the powers of that Act.

Power to
alter steps
pipes areas
&c..

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—
Temporary
stoppage of
streets.

44.—(1) The Corporation during and for the purpose of the execution of the street works may break up and also temporarily stop up divert and interfere with any street and may for any reasonable time prevent all persons other than those bona fide going to or from any house in the street from passing along and using the same.

(2) The Corporation shall provide reasonable access for foot passengers bona fide going to or from any such house.

Carriage-
ways foot-
ways sewers
and other
works.

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

Application
of road
materials
excavated
in con-
struction of
works.

46. Any paving metalling or material excavated by the Corporation in the construction of any works authorised by this Part of this Act from any road under their jurisdiction and control shall absolutely vest in and belong to the Corporation and may be dealt with removed and disposed of by them in such manner as they may think fit.

PART V.

ACQUISITION AND MANAGEMENT OF CERTAIN LANDS.

Power to
purchase
Cockington
and
Northern
Coastal
lands.

47. The Corporation may purchase by agreement (subject to any existing tenancies) the Cockington lands and the Northern Coastal lands and any other lands not exceeding in the whole forty acres in extent adjoining any part of the said lands or any of them or convenient to be held therewith and may enter into and carry into effect any contracts or agreements necessary or proper for the purpose and the Corporation shall hold and may use manage control and develop the said lands and other lands so acquired by them for the purposes and subject to and in accordance with the powers and provisions contained in this Act.

48.—(1) The Corporation shall have the control and management of the Cockington lands and the Northern Coastal lands including any other lands from time to time held in connection therewith after they shall have purchased the same together with all buildings now or hereafter erected thereon.

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—
Management of
Cockington
lands
Northern
Coastal
lands and
Torre
Abbey
lands.

(2) Subject to the provisions of this Part of this Act the Corporation may exercise the following powers with respect to the Cockington lands the Northern Coastal lands and any other lands from time to time held in connection therewith and all buildings now or hereafter erected thereon and the Torre Abbey lands and all buildings now or hereafter erected thereon (all of which lands and buildings are in this section referred to as "the said lands" and "the said buildings") (that is to say):—

- (i) They may fence and improve the said lands and improve and extend the buildings and lay out form fence construct and maintain grounds for games sports entertainments recreation and other purposes and also gardens roads riding tracks footpaths ways walks fences plantations ornamental lakes and spaces for physical drill and exercise and may plant trees and shrubs for the purpose of shelter or ornament and erect and provide buildings enclosures pavilions stands lavatories kiosks and seats;
- (ii) They may close the said lands and buildings against the public and make and recover such reasonable charges as they may think fit for admission to and for the use of the whole or any part of the said lands and buildings and the enclosures pavilions stands lavatories and kiosks therein and for the use of chairs and for parking motor vehicles and other vehicles in any part of the said lands and buildings other than any part of the said lands dedicated as a public highway or added to a highway under paragraph (ix) of this subsection;
- (iii) (a) They may sell and supply or enter into any agreement or arrangement with any person for the sale and supply or let any rights (exclusive or otherwise) of selling and supplying refreshments to the public resorting to

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and using any of the said lands and buildings to which the public have access and may erect or permit the erection for those purposes of such buildings and the enclosure and provision of such spaces and accommodation as may be requisite or necessary for adequate and proper catering;

(b) They or any person appointed by them in that behalf may apply for and hold licences for the sale of beer or intoxicating liquors or of tobacco for the purposes of this paragraph;

(iv) They may let for such term not exceeding twenty-one years and subject to such covenants and conditions as they think fit the whole or any part or parts of the said lands and buildings for games or for purposes of recreation;

(v) They may set apart and appropriate the whole or any portion of the said lands and buildings for such purposes of public utility instruction or benefit for such periods and on such terms and conditions as they may think fit;

(vi) They may in any portion or portions of the said lands lay out and maintain golf courses bowling greens cricket hockey and football grounds tennis courts and croquet lawns and grounds for other games and recreation and provide the necessary proper and convenient houses pavilions works buildings garages equipment conveniences appliances and apparatus for use in connection therewith and may do all such acts and employ such persons as may be required for the purposes of this section and may make and recover such reasonable charges for admission to and use of such golf courses bowling greens cricket hockey and football grounds tennis courts and croquet lawns and grounds for other games and recreation and the houses pavilions works buildings garages equipment conveniences appliances and apparatus in connection therewith respectively as they may from time to time prescribe and may make and enforce byelaws with respect thereto and for regulating the use thereof

respectively and the conduct of persons using the same or resorting thereto : A.D. 1934.

Provided that the Corporation shall not in connection with any garages provided by them themselves undertake repairs to or the rendering of services for motor vehicles (other than vehicles belonging to the Corporation and used in the public service) or the supply of fuel or spare parts for use in or in connection with such vehicles ;

(vii) (a) They may from time to time let to any club company or body of persons any portions of the said lands which may have been or which may be intended to be laid out and maintained as golf courses bowling greens cricket hockey and football grounds tennis courts and croquet lawns and grounds for other games and recreation together with the houses pavilions works buildings garages equipment conveniences appliances and apparatus (if any) provided in connection therewith ;

(b) Any lessee or tenant of the Corporation under this paragraph shall have the like powers of making and recovering reasonable charges for admission to and the use of the golf courses bowling greens cricket hockey and football grounds tennis courts and croquet lawns and grounds for other games and recreation and the houses pavilions works buildings garages equipment conveniences appliances and apparatus as are conferred upon the Corporation by this subsection ;

(viii) They may exercise over and in respect of the said lands and buildings any powers conferred upon the Corporation by the Public Health Acts so far as such Acts relate to public walks pleasure grounds open spaces or playing fields ;

(ix) They may make construct and maintain streets roads sewers and drains on any part of the said lands and may if they think fit dedicate any such street or road to public use or utilise

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any part of the said lands for the widening and improvement of a highway; and

- (x) They may appoint pay and remove officers servants and workmen to perform any services in connection with the said lands and buildings.

Temporary use of parts of Cockington Northern Coastal and Torre Abbey lands as pleasure grounds &c.

49.—(1) The Corporation may temporarily and from time to time allow the use of any part or parts of the Cockington lands and the Northern Coastal lands and other lands acquired and held in connection therewith and the Torre Abbey lands for the purposes of a public walk pleasure ground public park or recreation ground for such period or periods as they may think fit.

(2) During such period or periods the said part or parts of the lands so used shall be deemed to be public walks or pleasure grounds within the meaning of the Public Health Acts.

(3) At the expiration of such period or periods the Corporation shall have and may exercise over and in respect of the said part or parts of the lands so used the same powers as they had and might exercise prior to such user.

(4) Provided that during such period or periods the Corporation shall exhibit and keep exhibited at each gate or entrance to the said part or parts of the lands so used a notice specifying the period during which the same is or are to be used for the purposes of a public walk pleasure ground public park or recreation ground and a printed copy of the byelaws made by the Corporation under section 164 of the Public Health Act 1875.

Application of provisions of Public Health Acts as to public walks and pleasure grounds.

50. From and after the date when and during such period as the Corporation shall have appropriated any portion of the Cockington lands the Northern Coastal lands and other lands acquired and held in connection therewith or the Torre Abbey lands for the purpose of a public walk pleasure ground public park or recreation ground the provisions of the Public Health Acts shall apply thereto as if such portion had been acquired by the Corporation in pursuance of section 164 of the Public Health Act 1875.

51. The Corporation may subject to such conditions as they may think fit exchange any part or parts of the Cockington lands the Northern Coastal lands and the Torre Abbey lands for other lands in the neighbourhood of those lands respectively and any conveyance from the Corporation expressed to be made in pursuance of this section shall operate as a valid conveyance of the land to be conveyed and the lands received by the Corporation by way of exchange shall for ever thereafter be subject in all respects to the provisions of this Part of this Act and be deemed to be part of the Cockington lands the Northern Coastal lands or the Torre Abbey lands as the case may be and any money received by the Corporation by way of equality of exchange shall be applied in the extinguishment of loans raised by them under the powers of this Act or any other 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 Minister :

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—
Exchange of
Cockington
Northern
Coastal and
Torre
Abbey
lands.

Provided that nothing in section 34 (Retention and disposal of lands) of the Act of 1927 shall apply to the lands referred to in this section.

52. Subject to the provisions of this Part of this Act and without prejudice to the generality of the provisions of the section of this Act of which the marginal note is "Management of Cockington lands Northern Coastal lands and Torre Abbey lands" the Corporation may exercise the following powers with respect to the Cockington lands and the Northern Coastal lands in addition to the powers conferred upon the Corporation by the said section (namely) :—

Special pro-
visions as to
Cockington
lands and
Northern
Coastal
lands.

(1) With respect to the Cockington lands—

(a) They may arrange for the holding presentation or provision or may contribute either directly or by way of guarantee towards the expenses of carnivals pageants and historical and pastoral plays and other like entertainments or representations on the said lands or in any building or enclosure thereon :

Provided that the expenditure of the Corporation under this paragraph shall not exceed in any year the equivalent of a rate of one

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halfpenny in the pound calculated according to the rules made pursuant to section 9 of the Rating and Valuation Act 1925;

(b) They may let the whole or any part of the said lands for such terms not exceeding twenty-one years and subject to such covenants and conditions as they think fit;

(c) (i) They may lay out and develop the portion of the said lands which is coloured blue on the signed plan and erect and maintain dwelling-houses shops and other buildings and construct sewer pave flag channel and kerb streets roads and ways thereon;

(ii) They may grant any easements rights or privileges in under or over the said portion of such lands and pull down and remove any house or building thereon and use or dispose of the materials thereof;

(iii) They may sell or grant building leases of any part of the said portion of such lands subject to such terms conditions and restrictions as they may think fit including conditions and restrictions as to the buildings to be erected and the use to which such buildings may be put;

(iv) The powers conferred by this paragraph shall be in addition to and not in derogation of any other powers vested in or exerciseable by the Corporation;

(v) Notwithstanding the foregoing provisions of this paragraph the Corporation shall not under the powers of this paragraph lay out or develop such portion of the said lands or erect thereon any houses shops or other buildings in any manner which infringes any then existing legal right of any owner lessee or occupier of adjoining lands nor except with the consent of the Minister sell lease or dispose of any part of the said portion of such lands except at the best price or on the best terms which can reasonably be obtained having regard to the terms conditions and restrictions imposed by the Corporation but nothing in this subparagraph shall require a purchaser or lessee

from the Corporation to inquire whether the consent of the Minister is necessary or has been obtained;

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(vi) For the removal of doubts it is hereby declared that nothing in this paragraph shall authorise the Corporation or any other person to lay out or develop any lands or erect or maintain any buildings except subject to and in accordance with the provisions of any scheme order and regulations made under the Town and Country Planning Act 1932 or the Town Planning Act 1925 which may be applicable to such lands or buildings:

(2) With respect to the Northern Coastal lands—

(a) They may provide and maintain bathing-cabins huts and tents thereon and make and recover reasonable charges for the use of such bathing-cabins huts and tents;

(b) They may make and recover reasonable charges for the use of the said lands for the purposes of camping and for the erection of bathing-cabins huts and tents thereon;

(c) They may let the whole or any part of the said lands for such terms not exceeding twenty-one years and subject to such covenants and conditions as they think fit;

(d) They may with respect to such portions of the said lands not exceeding seventy-five acres in the whole as they may from time to time think fit exercise the powers which are conferred upon them with respect to the portion of the Cockington lands which is coloured blue on the signed plan by subparagraphs (i) (ii) and (iii) of paragraph (c) of subsection (1) of this section and those subparagraphs and the remaining subparagraphs of the said paragraph shall extend and apply accordingly.

53.—(1) Without prejudice to the generality of the provisions of the sections of this Act of which the marginal notes are “Management of Cockington lands Northern Coastal lands and Torre Abbey lands” and “Special provisions as to Cockington lands and Northern Coastal lands” the Corporation may with respect to

Special provisions as to certain buildings on Cockington and Torre Abbey lands.

A.D. 1934. — the buildings existing at the passing of this Act on the Cockington lands and the Torre Abbey lands and mentioned in this section (in addition to the powers with respect to buildings now or hereafter erected on the Cockington lands and the Torre Abbey lands conferred upon the Corporation by the said sections) exercise the powers set forth in this section.

(2) The existing buildings above referred to are—

(a) the mansion house known as Cockington Court situate on the Cockington lands (in this section called “Cockington Court”);

(b) the mansion house known as Torre Abbey Mansion situate on the Torre Abbey lands (in this section called “Torre Abbey Mansion”); and

(c) the ruined abbey situate on such last-mentioned lands (in this section called “the Abbey”).

(3) The Corporation may exercise all or any of the following powers with respect to Cockington Court (namely):—

(i) Notwithstanding anything in any other Act they may provide and maintain an art gallery and make and recover such reasonable charges for admission to the art gallery and the use thereof as they may from time to time prescribe;

(ii) They may hold assemblies and conferences and provide lectures;

(iii) They may let the whole or any part for the purpose of assemblies conferences and the delivery of lectures;

(iv) They may appoint pay and remove officers and servants to perform any services.

(4) The Corporation may exercise with respect to Torre Abbey Mansion the powers which in pursuance of subsection (3) of this section they may exercise with respect to Cockington Court.

(5) The Corporation may restore and maintain the Abbey.

(6) The amount expended by the Corporation on the provision of lectures under subsections (3) and (4) of this section shall not exceed the sum of one hundred pounds in any one year.

54. Notwithstanding anything contained in this Part of this Act the Corporation shall not lay out develop or use the portions of the Cockington lands which are numbered 4 5 6 and 10 on the signed plan except as a public open space.

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—
Restriction on user of portions of Cockington lands.

55. Notwithstanding anything contained in this Part of this Act the Corporation shall not lay out develop or use the Cockington lands otherwise than in accordance with the terms of (a) the lease of the said lands made the twenty-sixth day of August one thousand nine hundred and thirty-three between Richard Herbert Mallock of the first part Cockington Trust Limited of the second part and the Corporation of the third part (b) any deed or instrument already or which may at any time hereafter be entered into between the owners for the time being of the Cockington Estate and the Corporation affecting the Cockington lands or (c) any conveyance of the said lands to the Corporation pursuant to the terms of the said lease.

Saving for lease and agreements.

56. Nothing in this Part of this Act empowers the Corporation to exercise in respect of any ancient monument any of the powers conferred upon them by this Part of this Act except subject to and in accordance with the provisions of the Ancient Monuments Acts 1913 and 1931.

Saving provisions of Ancient Monuments Acts.

PART VI.

HARBOUR RATES AND DUES.

57. On and after the first day of November one thousand nine hundred and thirty-four the schedule to the Order of 1864 as varied by the Order of 1888 and the schedule thereto and the Order of 1906 shall be further varied as follows:—

Variation of harbour rates and dues.

- (i) The rates for the use of cranes in the first group of Table III of the schedule to the Order of 1864 shall be and the same are hereby repealed and in lieu thereof the Corporation may demand and take rates not exceeding the rates specified in Part I of the Second Schedule to this Act;
- (ii) The items specified in Part II of the Second Schedule to this Act shall be deemed to be included in Table II of the schedule to the

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Order of 1864 and the schedule to the Order of 1864 and that Order as varied by the Order of 1888 the Order of 1906 and this Act shall have effect accordingly;

- (iii) Part I of the schedule to the Order of 1888 (except the portions thereof which relate to rates on fish and luggage and except the rates and dues which by the Order of 1906 are deemed to be included in the schedule to the Order of 1888) shall be and the same is hereby repealed and in lieu thereof the Corporation may demand and take rates not exceeding the rates specified in Part III of the Second Schedule to this Act; and
- (iv) The rates and dues specified in Part IV of the Second Schedule to this Act shall be deemed to be included in the portions of Part I of the schedule to the Order of 1888 which are by this Act excepted from repeal and the schedule to the Order of 1888 and that Order as varied by the Order of 1906 and this Act shall have effect accordingly.

Revision
of rates.

58.—(1) If it is represented by application in writing to the Minister of Transport (in this section referred to as “the Minister”)—

- (a) by any chamber of commerce or shipping or any representative body of traders or any person who in the opinion of the Minister is a proper person for the purpose; or
- (b) by the Corporation;

that under the circumstances then existing the authorised rates or any of them should be revised the Minister if he thinks fit may make an order revising the authorised rates referred to in the application or any of them and may fix the date as from which such order shall take effect and thenceforth such order shall remain in force until the same expires or is revoked or modified by a further order of the Minister made in pursuance of this section.

(2) Where upon an application for revision of authorised rates or an authorised rate an order has been made or the Minister has decided not to make

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an order no further application for a revision of the rates or rate to which the application related shall be made within twelve months from the date of such order or decision as the case may be.

(3) Before making an order under this section the Minister shall cause an inquiry to be held with reference thereto and in the application of section 290 of the Local Government Act 1933 such inquiry shall be held by the rates advisory committee constituted under the Ministry of Transport Act 1919 or any sub-committee thereof to which the said advisory committee may under section 2 of the Harbours Docks and Piers (Temporary Increase of Charges) Act 1920 have delegated their powers or in the event of the said advisory committee ceasing to exist some persons with similar qualifications to be appointed for the purpose by the Minister.

(4) Section 25 (Rates to be revised) of the Order of 1888 is hereby repealed.

59.—(1) The Corporation shall within two months after the thirty-first day of March in each year or such longer period as the Minister of Transport may allow send a copy of their accounts in regard to the harbour undertaking to the Minister of Transport.

As to
annual
account of
harbour
under-
taking.

(2) Section 24 (Annual account to be sent to Board of Trade) of the Order of 1888 and section 149 (Amending section 24 of Torquay Harbour Order 1888) of the Act of 1923 are hereby repealed.

PART VII.

ELECTRICITY SUPPLY.

60. For the purposes of section 13 (Restriction on breaking up private streets railways and tramways) of the Electric Lighting Act 1882 and section 12 (Powers for execution of works) of the schedule to the Electric Lighting (Clauses) Act 1899 in their application to the Corporation a county council shall be deemed to be a local authority.

Removal of
restriction
on breaking
up streets.

61.—(1) If the owner or occupier of any premises erected or in process of erection within the electricity limits on land abutting on any street laid out as such

Power to
break up
private
streets.

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A.D. 1934. but not dedicated to the public use or if so dedicated not repairable by the local authority including a county council applies to the Corporation for a supply of electricity to those premises then—

- (a) so much of any Act or Order applying to the Corporation as requires the consent of the person by whom the street is repairable to the breaking up by the Corporation of the street shall not have effect in relation to the street;
- (b) the Gasworks Clauses Act 1847 in its application to the Corporation shall have effect in relation to the land comprised in that street as if section 7 thereof had been excepted therefrom; and
- (c) except in the case of such streets as are referred to in subsection (2) of this section the authority who will be responsible for the maintenance and repair of the street when it becomes repairable by the inhabitants at large shall have the like rights under section 15 of the schedule to the Electric Lighting (Clauses) Act 1899 as are thereby conferred on the person by whom the street is repairable.

(2) Nothing in this section shall authorise the breaking up of any street which is repairable by any railway company or by any gas or water undertakers unless the consent in writing of such company or undertakers is obtained by the Corporation but such consent shall not be unreasonably withheld. Any question as to whether any such consent is unreasonably withheld shall be determined by the Minister of Transport.

Use for lighting purposes of electricity supplied for power.

62.—(1) No person shall without the consent in writing of the Corporation use or suffer to be used (whether after transformation or conversion or not) for purposes of lighting or illumination (in this section referred to as “lighting purposes”) the whole or any part of any electricity supplied to him by the Corporation for any other purpose.

(2) Any person who without such consent shall use or suffer to be used for lighting purposes electricity supplied to him by the Corporation through a meter for

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any other purpose shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings and shall in addition be liable to pay to the Corporation at such higher rate as they may be for the time being charging for the supply of electricity for lighting purposes for all or any portion of the electricity which has been supplied to him for such other purpose within one year previous to the date when the Corporation shall sue for any penalty as aforesaid.

(3) Any court having jurisdiction to impose such penalty may and on the application of the Corporation shall decide as to the portion (if any) of such electricity in respect of which the higher charge as aforesaid shall be payable.

(4) The powers of the Corporation under section 21 of the Electric Lighting Act 1882 and section 18 of the Electric Lighting Act 1909 shall be exerciseable in respect of any supply which the Corporation have reasonable grounds for believing to be used contrary to the provisions of this section.

63. The Corporation may refuse to supply electricity to any person from whom payment for the supply of electricity or meter rent is for the time being in arrear (not being the subject of a bona fide dispute) whether the payment be due to the Corporation in respect of the premises for which a supply is demanded or in respect of other premises.

Corporation may refuse to supply electricity in certain cases.

64. If the Corporation commence proceedings for the summary recovery of a sum due for the supply of electricity any other payment due to the Corporation by the same consumer for the sale hire connection repair or maintenance of lamps meters electric lines fittings apparatus and appliances for lighting heating or motive power may be included in the same summons and may be recovered summarily as a civil debt provided that the amount due in respect thereof does not exceed twenty pounds.

As to charges for electric fittings &c.

65.—(1) The powers conferred by section 24 of the Electric Lighting Act 1882 of entering premises for the purposes mentioned in that section shall extend to enable the Corporation to enter any premises to which electricity is or has been supplied by them (whether for the time being occupied or not) for the purpose of ascertaining

Further powers as to entry upon premises.

[Ch. lxxii.] *Torquay Corporation* [24 & 25 GEO. 5.]
Act, 1934.

A.D. 1934. — whether there is or has been any contravention of any of the Acts or Orders relating to the electricity undertaking or of any byelaw or regulation made thereunder and to inspect any electric lines wires fuses casings switches fittings lamps lamp-holders or other apparatus therein.

(2) Where any premises which the Corporation are entitled to enter in pursuance of the said section 24 section 16 of the Electric Lighting Act 1909 or this section are unoccupied they may in any case of emergency without notice and in any other case after giving not less than forty-eight hours' notice to the owner thereof or if he is unknown to them and cannot be ascertained by them after diligent inquiry by affixing such notice upon a conspicuous part of the premises forcibly enter the same doing no unnecessary damage and the undertakers shall on quitting the premises leave the same not less secure than they were on entry.

(3) Any person who shall refuse or neglect to admit any officer of the Corporation to any premises which they are entitled to enter in pursuance of the said section 24 section 16 of the Electric Lighting Act 1909 or this section or shall hinder any such officer from entering any such premises or from exercising the powers contained in any of the said sections shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(4) The provisions of this section shall not apply to or in respect of any buildings or premises (not being a dwelling-house) belonging to any railway company.

Acquisition
of land for
sub-
stations.

66.—(1) The Corporation may be authorised to purchase land within the electricity limits compulsorily for the purpose of the erection thereon in pursuance of the powers of the Acts and Orders relating to the electricity undertaking of a station for transforming converting or distributing electricity by means of an order made by the Corporation and submitted to the Minister of Transport and confirmed by him in accordance with the provisions (so far as they are applicable) of sections 161 and 162 of the Local Government Act 1933 and the provisions of those sections with any necessary modifications shall have effect for the purposes of this section with the

substitution of the Minister of Transport for the Minister of Health. A.D. 1934.

(2) Nothing in this section or in any order made thereunder shall authorise the compulsory acquisition of any land which is the property of any local authority (including a county council) or has been acquired by any person for the purpose of a railway dock canal water gas electricity or other public undertaking or which at the date of the order forms part of any park garden or pleasure ground or is otherwise required for the amenity or convenience of any house.

(3) If an order is made under this section for the purchase of land which a local authority (including a county council) have specific statutory power to acquire compulsorily such local authority shall be entitled to make objection to the Minister of Transport to the confirmation of such order and any such objection if duly made shall for the purpose of the said section 161 as applied by this section be deemed to have been made by a person upon whom notice is required to be served.

67. The Corporation may purchase or take on lease and maintain houses for persons in their employment in connection with the electricity undertaking and may also erect and maintain houses upon any land for the time being held by them for the purposes of the said undertaking. Dwelling-houses for employees.

68. Where the electricity limits are bounded by or abut upon any street wholly or for part of its width outside those limits the Corporation may for the purpose of supplying electricity to the owner or occupier of any premises within the electricity limits exercise with respect to the whole width of the street the like powers of breaking up the street for the purpose of laying maintaining inspecting repairing and renewing electric lines and works as are exerciseable by them in respect of streets within the electricity limits and subject to the like conditions : As to area of supply of electricity.

Provided that nothing in this section shall entitle or require the Corporation to supply electricity to the owner or occupier of any premises outside the electricity limits.

69. The Corporation may supply electricity to any house or building which is partly within and partly outside the electricity limits in the same manner as if those premises were wholly within such limits : Supply to premises partly without electricity limits.

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Provided that the Corporation shall not supply electricity under this section to any such house or building within the limits of any other authorised electricity undertakers without the consent of such undertakers which consent shall not be unreasonably withheld. Any question as to whether any such consent is unreasonably withheld shall be determined by the Electricity Commissioners.

Attachment
of brackets
&c. to
buildings
and bridges.

70.—(1) The Corporation may with the consent of the owner of any building or any bridge over any street or road attach thereto such brackets electric lines and attachments as may be required for the purposes of the electricity undertaking :

Provided that—

- (a) where in the opinion of the Corporation any consent under this section is unreasonably withheld they may appeal to a court of summary jurisdiction who shall have power by order having regard to the character of the building or bridge and to the other circumstances of the case to allow the attachment subject to such terms as to compensation or rent and otherwise as they may think reasonable or to disallow the same and may determine by which of the parties the costs of the appeal are to be paid;
- (b) any consent of an owner and any order of a court of summary jurisdiction under this section shall not have effect after the person who gave the consent or was the owner at the date of the order ceases to be the owner of the building or bridge but the Corporation shall not be required to remove any attachments fixed under the provisions of this section until the expiration of three months after any subsequent owner shall have given to them notice in writing requiring the attachments to be removed and where such notice is given the preceding provisions of this section shall apply and the court of summary jurisdiction shall have the same powers as under the preceding paragraph of this proviso ;

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(c) the owner may require the Corporation temporarily to remove the electric lines or attachments where necessary during any reconstruction or repair of the building or bridge;

(d) the Corporation shall not attach any brackets electric lines or attachments to any part of any building forming part of an aerodrome licensed pursuant to an order made under the Air Navigation Act 1920 without the consent of the person having control thereof or to any building of architectural or historic interest or any part of any building or bridge of any highway authority or railway company without the consent in writing of the owner but such consent shall not be unreasonably withheld and any question as to whether or not any such consent is unreasonably withheld shall be determined by the Minister of Transport after consultation in the case of a building forming part of such an aerodrome as aforesaid with the President of the Air Council and in the case of a building of architectural or historic interest with the Commissioners of Works.

(2) For the purposes of this section any occupier of a building whose tenancy exceeds one year unexpired and in the case of any other tenancy the person receiving the rack-rent shall be deemed to be the owner.

71. If any question shall arise under section 23 (Stand-by supplies of electricity) of the Electricity (Supply) Act 1922 as to whether a supply of electricity is demanded or received for the purpose of a stand-by supply only or as to whether a supply of electricity or of gas steam or other form of energy is in use or ready for use for the purposes for which a stand-by supply of electricity is required the same shall in default of agreement be determined by arbitration in manner provided by the Electric Lighting Acts.

For determining stand-by supplies.

72. If any person without lawful excuse (the proof whereof shall lie on him) shall wilfully interfere with any electric line or other work or apparatus used for or in connection with the supply of electricity by the Corporation or do or cause to be done anything which is calculated

Penalty for interference with works.

A.D. 1934. — to interfere with or damage any such work or apparatus he shall for every such offence (without prejudice to any other liability or cause of action which may arise out of or by reason of such Act) be liable to a penalty not exceeding five pounds.

Interference with works with intent to cut off supply of electricity.

73.—(1) Any person who unlawfully and maliciously cuts injures or tampers with any electric line or work of the Corporation with the intent to cut off or injuriously affect the supply of electricity by the Corporation shall be guilty of a felony and be liable to penal servitude for any term not exceeding five years but nothing in this section shall exempt the person from any proceeding for any offence which is punishable under any provision of the Electricity (Supply) Acts 1882 to 1933 or under any other Act or the common law but so that no person be punished twice for the same offence.

(2) The Electric Lighting Act 1882 in its application to the Corporation shall be read and have effect as if section 22 of the said Act was hereby repealed.

For prevention of improper use.

74.—(1) If any consumer uses or deals with the electricity supplied to him by the Corporation in such manner as to interfere improperly with the efficient supply of electricity by the Corporation to any other consumer the Corporation may if they think fit cease to supply electricity to the first-mentioned consumer.

(2) If any difference arises under this section as to any improper use of electricity the same shall be determined by arbitration.

Form of notice by consumer to discontinue supply.

75.—(1) A notice to the Corporation from a consumer for the discontinuance of a supply of electricity shall not be of any effect unless it be in writing signed by or on behalf of the consumer and left with or sent by post to the Corporation.

(2) Notice of the effect of this section shall be endorsed on any demand note for charges for electricity.

Byelaws as to wires apparatus and fittings.

76.—(1) The Corporation may for the purpose of preventing fire in or injury to any building or premises supplied or proposed to be supplied with electricity by them or injury to any person make byelaws with respect to the nature material workmanship and mode of arrangement of the wires apparatus and fittings in any such building or premises or required or used for the purpose

of such supply and may refuse to supply electricity or cut off and discontinue the supply of electricity to any building or premises in or in respect of which such byelaws are not complied with. A.D. 1934.

(2) Any dispute as to whether any wires apparatus and fittings comply with the provisions of any byelaws made in pursuance of this section shall be referred for decision to an electric inspector appointed under the Acts and Orders relating to the electricity undertaking and that inspector shall also order by which of the parties the costs of and incidental to the proceedings before him shall be paid and the decision of the inspector shall be final and binding on all parties.

(3) The Corporation may by any byelaws made under this section impose on offenders against the same such reasonable penalties as they think fit not exceeding the sum of five pounds for each offence and in the case of a continuing offence a further penalty not exceeding forty shillings for each day after written notice of the offence from the Corporation and such penalties may be recovered in a summary manner.

(4) No byelaw made under this section shall apply to or in respect of any premises (not being a dwelling-house) belonging to a railway company or to or in respect of any premises occupied as a factory or workshop to which the Factory and Workshop Act 1901 applies.

77.—(1) The provisions of section thirty-eight (Penalty for injuring meters) of the Gasworks Clauses Act 1871 incorporated with the Electric Lighting Act 1882 shall apply to any person who wilfully fraudulently or by culpable negligence injures or detaches or suffers to be injured or detached any of the sealing or locking devices attached to any sealed or locked receptacle meter or apparatus inserted by the Corporation in any electric line within a consumer's premises or who opens or suffers to be opened any such sealed or locked receptacle meter or apparatus.

Protection
of seals &c.
belonging to
Corpora-
tion.

(2) If any person accidentally injures or detaches or suffers to be injured or detached any such sealing or locking device as aforesaid he shall within forty-eight hours of such injury or detachment give notice in writing thereof to the Corporation and any person who fails to comply with the provisions of this subsection shall be liable to a penalty not exceeding five pounds.

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PART VIII.

STREETS BUILDINGS SEWERS AND DRAINS.

Develop-
ment
scheme may
be required
in connec-
tion with
new streets.

78.—(1) Whenever application shall be made to the Corporation to approve the laying out of or notice shall be given to the Corporation of intention to lay out a new street within the meaning of the byelaws of the Corporation with respect to new streets or any provision in a local Act with respect to the width of new streets the Corporation may require the owner of the estate or lands the development of which will be commenced or continued by the laying out of such new street to furnish the Corporation with plans and particulars showing the general scheme (if any) for the development or laying out of such estate or lands and in such case the date of the making of application or of the giving of notice as aforesaid shall for the purpose of any enactments or provisions in force from time to time with respect to the laying out of new streets be deemed to be the date on which plans and particulars required as aforesaid shall be so furnished.

(2) If after the submission of the plans and particulars referred to in subsection (1) of this section the Corporation shall approve the laying out of such new street either unconditionally or subject to any modification of such plans and particulars neither the owner of the estate or lands nor his successors in title shall carry out the development of such estate or lands in such a manner as to conflict with such plans and particulars as approved and if any such owner shall offend against the provisions of this section he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

(3) The said owner may at any time submit to the Corporation for their approval any alteration in the said plans and particulars and the Corporation may if they think fit approve such alteration.

(4) (a) Any person deeming himself aggrieved by any requirement of or by the Corporation under this section or by any modification required in the said plans and particulars by the Corporation or by any refusal on the part of the Corporation to approve any such alteration as aforesaid therein may within fourteen

days from the date of such requirement or of the intimation to him by the Corporation of such refusal appeal to a court of summary jurisdiction and such court may and is hereby empowered to make such order in the premises and on such terms and conditions as to the court shall seem just.

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

(5) Nothing in this section shall be deemed to authorise any contravention of any byelaw of the Corporation or statutory provision.

79.—(1) The Corporation may enter into and carry into effect agreements with any owner of lands adjoining any street for the adjustment of the boundary of any such street and for such purpose may give up to such owner land including land forming part of the street in exchange for other land. For the purposes of this section the Corporation shall be deemed to be the owners of the land forming the site of the street and shall be entitled to convey the same in accordance with an agreement entered into in pursuance of this section.

Adjustment
of boundar-
ies of
streets.

(2) Provided that no such agreement shall be entered into until the expiration of one month from the date on which notice of the proposals has been given by advertisement in some local newspaper circulating in the borough and if during such period of one month any four inhabitant householders of the borough by themselves or their agent give notice to the Corporation of their intention to appeal under the provisions of this section the Corporation shall not proceed with their proposals (unless the notice of appeal is withdrawn) pending a decision on or a withdrawal of the appeal. The advertisement in the newspaper shall include notice of this proviso.

(3) Any four inhabitant householders of the borough may appeal to a court of summary jurisdiction against any proposal of the Corporation for an adjustment of the boundaries of a street under this section within the period mentioned in subsection (2) of this section.

(4) On any such appeal the court may make such order in the premises and on such terms and conditions as to the court shall seem just.

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

(6) Notwithstanding any agreement entered into under this section the Postmaster-General shall continue to have the same powers and rights in respect of any telegraphic line belonging to or used by him which remains in under upon over along or across the site of any such street as if the same had continued to be part of the street and if by reason or in consequence of any such agreement it becomes necessary to alter any such telegraphic line the enactments contained in section 7 of the Telegraph Act 1878 shall apply to any such alteration as though the Corporation or the owner of the adjoining land (as the case may be) were "undertakers" within the meaning of the said Act.

(7) Notwithstanding any agreement entered into under this section the Central Electricity Board shall continue to have the same powers and rights in respect of any electric lines and other apparatus belonging to or used by them which remain in under upon over along or across the site of any such street as if the same had continued to be part of the street and if by reason or in consequence of any such agreement the Central Electricity Board deem it necessary to alter the position of any such electric lines or other apparatus they shall be at liberty so to do and the expenses incurred by them in so doing shall be paid to them by the Corporation.

(8) Nothing in this section shall be taken to dispense with the consent of any Government department to any appropriation exchange or other disposition of any lands of the Corporation in any case in which such consent would have been required if this Act had not been passed.

Adjustment
of boundar-
ies of
estates.

80.—(1) For the purpose of securing the proper laying out or development of any estate or lands in respect of or in connection with which plans for any new street within the meaning of the byelaws of the Corporation with respect to new streets or any provisions in a local Act with respect to the width of new streets are submitted to the Corporation for approval the Corporation may require that provision shall be made for adjusting and altering the boundaries of any such

estate or lands or any lands adjacent or near thereto and for effecting such exchanges of land and the removal imposition or other regulation of covenants restrictions and conditions attaching to such lands as may be necessary or convenient for such purposes and the provision so to be made and the terms and conditions upon which such provision is to be made shall failing agreement between the Corporation and the respective persons interested in such estates or lands be determined on the application of the Corporation or any such person by arbitration under the Arbitration Act 1889 and the Corporation may for securing the execution of any such purposes agree to pay and may and shall pay to any such person or persons such sums as may be agreed upon or in default of agreement be determined by arbitration as aforesaid :

Provided that the payment of money by any such person shall not be made a term or condition of any award made under this section otherwise than with his consent.

(2) Any award made under the provisions of this section shall operate to effect any adjustment or alteration of boundaries or exchange of lands or the removal imposition or other regulation of covenants restrictions and conditions attaching to such lands which may be provided for by such award or be necessary for giving effect thereto and shall be duly stamped accordingly and the costs charges and expenses of any such arbitration shall unless and except in so far as the award shall otherwise provide be borne and paid by the Corporation.

(3) Any lands or moneys received by any person in or in respect of any adjustment or alteration of boundaries or exchange of lands under the provisions of this section shall be held by such person subject to the same trusts (if any) and any lands so received shall also be held subject to the same covenants restrictions and conditions (if any) so far as the same are applicable as the lands exchanged therefor Where any such covenants restrictions or conditions shall in any case be agreed to be inapplicable or be determined by the arbitrator to be inapplicable the same shall be indicated in any agreement or award made under the provisions of this section.

A.D. 1934.

(4) For the purpose of the adjustment or alteration of the boundaries of any such estate or lands as aforesaid the Corporation may themselves purchase any land and may sell or lease the land so purchased in whole or in part at such time or times at such price or prices and on such conditions as they may think fit or may appropriate the same for any public purpose approved by the Minister and until such sale or appropriation may occupy manage or let the same or any part thereof in such manner as the Corporation may think reasonable.

Further powers as to future line of street.

81.—(1) The Corporation may at any time after prescribing the improvement line of any street in pursuance of the power conferred upon them by section 33 of the Public Health Act 1925 on giving six months' previous notice in writing to the owner require that any building or erection which or any part of which was beyond or in front of any such improvement line at the date when the same was so prescribed shall be pulled down set back or altered so that the same shall not project beyond or in front of such improvement line.

(2) The owner may and if so required by the Corporation shall notwithstanding any contract lease or agreement or any provision therein contained enter upon any land building or erection affected by any requirement of the Corporation under this section and carry out such requirement.

(3) In the event of any building or erection being pulled down set back or altered in accordance with any requirement of the Corporation under this section the Corporation shall make compensation to the owner lessee and tenant of any such building or erection and to any or either of them for any loss or damage sustained by such owner lessee or tenant in consequence of such building or erection being pulled down set back or altered as aforesaid.

(4) The amount of any compensation payable under this section and any other question under this section the determination whereof is not otherwise provided for by this Act shall in default of agreement be determined in accordance with the provisions of the Lands Clauses Acts but in estimating the amount of any such compensation the benefit arising from the widening or

improvement of the street and accruing to the property in respect of which such compensation shall be payable shall be fairly estimated and set off against such compensation.

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(5) Any person who shall fail to comply with a requirement of the Corporation under this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

82.—(1) Any person who lays out or intends to lay out a new street or part of a new street shall as soon as any building is erected and roofed in abutting on such new street or part of a new street if required by the Corporation so to do construct the carriageway of such new street or such part of the new street as may be required by the Corporation with a foundation of suitable materials and of sufficient depth to be capable of carrying the traffic which will make use of the same and shall also if required sewer such street or such part of such street :

No buildings to be erected until street formed.

Provided that where any new street is or is intended to be constructed of a length exceeding one hundred yards the Corporation shall not be empowered to require such new street to be constructed in its entire length by one operation but such new street may be constructed in parts and in such event nothing in this section shall prevent the erection or roofing in of a new building abutting on any part of such street in reference to which the foregoing provisions of this section have been complied with.

(2) The execution of any works under the provisions of this section shall not relieve any person of any liability under section 150 of the Public Health Act 1875 or under the Private Street Works Act 1892 or under the local Acts for the time being in force within the borough.

(3) Any person offending against this enactment shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding five pounds.

83. Where in the opinion of the Corporation repairs are required in the case of any street not being a highway repairable by the inhabitants at large to obviate or remove danger to any passenger or vehicle in the street the Corporation may from time to time at their own

As to urgent repairs of private streets.

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expense execute such repairs as they deem necessary and the execution thereof shall not prejudice or affect the operation with regard to such street at any subsequent date of section 150 of the Public Health Act 1875 the Private Street Works Act 1892 or of section 19 of the Public Health Acts Amendment Act 1907 Provided that the cost of any such repairs shall not exceed ten pounds in the case of any such street.

Provisions
as to fore-
courts.

84.—(1) If the Corporation shall by resolution determine that any stall structure or other erection on or in which goods or articles are placed whether for sale or not in a front garden or forecourt within the borough is by reason of its character injurious to the amenities of the street in which such garden or forecourt is situate they may by notice in writing require the owner of or person responsible for such stall structure or other erection within such period (not being less than seven days) as may be specified in the notice to make such alterations to such stall structure or other erection as may be necessary to prevent the same from being injurious to the amenities of such street.

(2) Any person neglecting or refusing to comply with the requirement of any such notice shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

(3) Any person aggrieved by any requirement of any notice of the Corporation under the provisions of this section may appeal to a court of summary jurisdiction within seven days after the service upon him of such notice by the Corporation provided he give written notice of such appeal and of the grounds thereof to the town clerk before lodging his appeal and the court shall have power to make such order as the court may think fit and to award costs.

(4) Notice of the right to appeal shall be endorsed upon every such notice served by the Corporation.

Provisions
as to tents
vans &c.

85.—(1) Any tent van shed or similar structure standing upon land abutting upon a street shall for the purpose of section 3 of the Public Health (Buildings in Streets) Act 1888 in its application to the borough be deemed to be a house or building within the meaning of those words where they first occur in the said section.

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(2) It shall not be lawful without the written consent of the Corporation to place any tent van shed or similar structure used for human habitation so as to stand upon any square court alley or passage to which the public have access or which is required by law to be left free from obstructions.

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

86.—(1) The Corporation may cause to be put up or painted on a conspicuous part of any house building or place at or near to the corner of any street in the borough signs indicating the direction or the distance to towns railway stations public buildings and other places of a public character. Direction signs.

(2) In the exercise of the powers conferred by this section the Corporation shall be subject to any regulations or orders made by the Minister of Transport or any general or special directions given by such Minister with respect to traffic signs and signals in pursuance of the Road Traffic Act 1930.

(3) Before putting up or painting a sign on a house building or place the Corporation shall give notice thereof to the owner of such house building or place and such owner if aggrieved by such notice may appeal to a court of summary jurisdiction within one month after the service of such notice provided he give written notice of such appeal and of the grounds thereof to the town clerk and the court shall have power to make such order as the court may think fit and to award costs.

Notice of the right to appeal shall be endorsed on every notice given by the Corporation under this section.

(4) Any person who shall wilfully and without the consent of the Corporation obliterate deface obscure remove or alter any such sign shall be liable to a penalty not exceeding forty shillings and the Corporation may recover the expenses of replacement and making good from such person summarily as a civil debt :

Provided that nothing in this subsection shall extend to prohibit the owner of any such house building or place from demolishing the same.

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—
As to pave-
ment lights.

87.—(1) From and after the passing of this Act it shall not be lawful for the owner or occupier of any property to construct in any pavement forming part of any street in the borough any work for the admission of light through such pavement to any room or premises situate under or adjoining the same (in this section referred to as “pavement lights”) without the consent in writing of the Corporation.

(2) In giving their consent to the construction of any pavement lights the Corporation may attach thereto such terms and conditions as they may think fit.

(3) Any agreements entered into by the Corporation with any person prior to the passing of this Act which would have been valid under the provisions of this section if made after the passing thereof are hereby confirmed.

Extension of
section 157
of Public
Health Act
1875.

88.—(1) Section 157 (Power to make byelaws respecting new buildings &c.) of the Public Health Act 1875 in its application to the borough shall be extended so as to empower the Corporation to make byelaws with respect to—

- (i) the number of dwelling-houses which may be erected in one block or in one continuous row;
- (ii) the provision of an open space for separating blocks or rows of dwelling-houses and the width of such space;
- (iii) the situation construction and height of walls or fences upon or across such open spaces;
- (iv) the materials with which new buildings shall be constructed and the manner in which and the materials with which grates stoves and fireplaces shall be set in new buildings or be newly set or reset in existing buildings and the thickness and construction of walls of all ovens and furnaces wholly or partially built after the passing of this Act;
- (v) the uniting of buildings and the making and stopping up of openings in party walls of buildings and the provision of fire-resisting doors in connection therewith and as to the occupation of buildings when united;
- (vi) the testing of drains of new buildings;

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- (vii) the securing that waterclosets shall be so constructed and supplied with water that they can be adequately flushed by mechanical means and the provision to be made for securing the protection of the same from frost and preventing the improper use of such closets and of the blocking of the pipes therefrom;
- (viii) the provision of fixed baths in such classes of new dwelling-houses as may be prescribed in the byelaws;
- (ix) the ensuring that any hole made through the wall of a building below the level of the ground shall be so stopped as to prevent the free passage of gas into the building;
- (x) the securing that any geyser or similar gas-heated water apparatus of the rapid water-heating type or any gas apparatus for heating a building or any part of one is properly fixed and adequately ventilated.

(2) Any byelaws made under paragraphs (ix) and (x) of subsection (1) of this section or under the said section 157 with respect to the ventilation of a room in which any apparatus of the kind specified in paragraph (x) of that subsection is fixed may be made so as to affect buildings erected before the times mentioned in the said section 157.

(3) Before making any byelaws under paragraph (iv) or paragraph (x) of subsection (1) of this section the Corporation shall give reasonable notice of their intention so to do to the Torquay and Paignton Gas Company and such notice shall be accompanied by a copy of the proposed byelaws. The Company shall be entitled to make representations to and to be heard by the Corporation with regard to the proposed byelaws and to object to the confirmation thereof if made by the Corporation.

(4) Section 33 (Byelaws as to materials and construction of buildings &c.) of the Act of 1923 is hereby repealed.

89.—(1) Section 157 (Power to make byelaws respecting new buildings &c.) of the Public Health Act 1875 in its application to the borough shall be altered

Further
amendment
of section

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—
157 of Public Health
Act 1875.

and construed as if the following subparagraphs were added immediately after the subparagraph numbered (4) in the said section :—

(5) For requiring work to be done in connection with alteration whether in use or structure of a building or part thereof for securing stability and the prevention of fire and for purposes of health;

(6) For securing the adequate lighting of new buildings.

(2) The said section 157 shall also in its application to the borough be read and have effect as if it empowered the Corporation to require by byelaws the deposit of plans and sections by persons intending to construct any drain in connection with a building.

Separate
sewers for
sewage and
surface
water.

90.—(1) Where under the provisions of any local or general Act the Corporation have power to require any street to be sewered by reason of such street not having theretofore been sewered to their satisfaction they may require the provision of separate sewers for the reception of surface water and of sewage respectively. Provided that the cost of providing in pursuance of this section separate surface water sewers in a street already sewered shall be borne by the Corporation.

(2) The Corporation may also from time to time by resolution declare that any sewer or sewers for the time being belonging to them shall be appropriated and used for surface water only or for sewage only.

(3) Where in any street provision has been made for separate sewers for surface water and for sewage as aforesaid no sewage shall be allowed to pass into the surface water sewer and so far as practicable no surface or storm water shall be allowed to pass into the sewage sewers.

(4) Any person who offends 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.

(5) In the case of any house or premises existing at the time of the provision of separate sewers as

aforesaid the drains whereof would but for the provisions of this section have been sufficient effectually to drain such house or premises the Corporation shall at their own expense make all necessary alterations to the drains and pipes of such house or premises in order to keep separate the sewage and surface water drainage thereof and no penalty shall be incurred under this section in the case of such house or premises until the completion of such alterations as aforesaid.

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(6) Any contracts or agreements entered into by the Corporation with any person and any undertakings given to or by the Corporation prior to the commencement of this Act which would have been valid under the provisions of this section if made after the passing thereof are hereby confirmed.

91. Nothing contained in this Part of this Act except the sections whereof the marginal notes are—

Saving for
Great
Western
Railway
Company.

“ Adjustment of boundaries of streets ” ;

“ Provisions as to forecourts ” ;

“ Provisions as to tents vans &c. ” ;

“ Direction signs ” ;

“ As to pavement lights ” ;

“ Extension of section 157 of Public Health Act 1875 ” ;

“ Further amendment of section 157 of Public Health Act 1875 ” ;

“ Separate sewers for sewage and surface water ” ;

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

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PART IX.

INFECTIOUS DISEASE.

Extended meaning of "infectious disease" for certain purposes.

92.—(1) For the purposes of section 53 (Power to close Sunday schools and exclude children from entertainments) and section 54 (Restriction on attendance of children at Sunday schools and places of assembly when infectious disease prevails) of the Act of 1923 the expression "infectious disease" includes mumps and scabies as well as infectious disease as defined by section 4 (Interpretation) of the said Act and as extended by section 55 (Extended meaning of "infectious disease" for certain purposes) of the said Act.

(2) For the purposes of section 126 of the Public Health Act 1875 as amended by section 62 of the Public Health Acts Amendment Act 1907 the expression "dangerous infectious disorder" includes infectious disease as defined by section 4 (Interpretation) of the Act of 1923 and also (in the case of exposure in covered buildings or public conveyances) measles and whooping cough.

Supply of antidotes against infectious disease.

93. The Corporation may provide and supply (with or without charge therefor) to any medical practitioner antidotes and remedies against any infectious disease to which the Infectious Disease (Notification) Act 1889 is for the time being applicable within the borough.

PART X.

FINANCE.

Power to borrow.

94.—(1) The Corporation shall have power in addition and without prejudice to their powers of borrowing under the Local Government Act 1933 from time to time to borrow without the consent of any sanctioning authority for and in connection with the purposes mentioned in the first column of the following table the respective sums mentioned in the second column thereof and they shall pay off all moneys so borrowed within such periods as the Corporation may

determine not exceeding the respective periods mentioned in the third column of the said table (that is to say):—

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1	2	3
Purpose.	Amount.	Period for repayment.
	£	
(a) The purchase of lands for the purposes of the water works and street works by this Act authorised.	4,250	Sixty years from the date or dates of borrowing.
(b) The construction of Water Works No. 1 No. 2 and No. 3 by this Act authorised.	145,750	Sixty years from the date or dates of borrowing.
(c) For the construction of Street Works No. 1 No. 2 and No. 3 by this Act authorised.	5,285	Thirty years from the date or dates of borrowing.
(d) For the purchase of the Cockington lands.	50,000	Sixty years from the date or dates of borrowing.
(e) For the purchase of the Northern Coastal lands.	22,550	Sixty years from the date or dates of borrowing.
(f) For paying the costs charges and expenses of and incident to the purchases of the Cockington lands and the Northern Coastal lands.	The sum requisite.	Sixty years from the date or dates of borrowing.
(g) For paying the costs charges and expenses of obtaining this Act as hereinafter defined.	The sum requisite.	Five years from the passing of this Act.

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

(3) The provisions of this section shall not limit the powers conferred upon the Corporation by section 140 (Power to use one form of mortgage for all purposes) of the Act of 1923.

95. In addition to the modes in which money may be raised under section 196 of the Local Government Act 1933 the Corporation may raise any money which

Mode of raising money.

A.D. 1934. — they are authorised to borrow under any statutory borrowing power by the issue of Corporation stock under and subject to the provisions of Part VI (Stock) of the Act of 1886.

Receipts
and ex-
penses.

96.—(1) Notwithstanding anything contained in any enactment all money received by the Corporation whether on capital or revenue account (including all money received by the Corporation on account of the revenue of any undertaking of the Corporation as from time to time existing from which revenue is derived and interest and other annual proceeds from time to time received by the Corporation on the investments forming part of any fund accumulated for the redemption of debt or as a reserve renewals depreciation contingency superannuation insurance consolidated loans capital reserve or other similar fund) shall be carried to and form part of the general rate fund and all payments and expenses made and incurred by the Corporation in respect of any such undertaking or in carrying into execution the powers and provisions of this or any other Act and not otherwise provided for shall be paid out of the general rate fund or the general rate :

Provided that an amount equivalent to the interest and other annual proceeds as aforesaid shall (subject in the case of any of the said funds to any prescribed limit on the amount thereof) be credited in the accounts to the fund on the investments of which the same is received.

(2) Nothing in this section shall authorise the Corporation to apply capital money to any purpose other than a purpose to which capital money is properly applicable.

Application
of revenues
of under-
takings.

97. If in respect of any year moneys received by the Corporation on account of the revenue of any undertaking of the Corporation as from time to time existing from which revenue is derived exceed the moneys expended by the Corporation in respect of that undertaking in respect of the expenses mentioned in paragraphs (a) (b) (c) (d) and (e) of subsection (1) of the section of this Act of which the marginal note is "Accounts of undertakings" the Corporation may in respect of that year (if they think fit) apply out of the general

rate fund a sum not exceeding the amount of such excess to any of the following purposes :— A.D. 1934.

- (a) reduction of capital moneys borrowed for the purpose of the undertaking;
- (b) (subject in the case of the electricity undertaking to the consent of the Electricity Commissioners) the construction renewal extension and improvement of the works and conveniences for the purposes of the undertaking.

98.—(1) The Corporation shall notwithstanding the provisions of any Act or Order to the contrary keep their accounts so as to distinguish capital from revenue and as to revenue so as to show under a separate heading or division in respect of each of the undertakings of the Corporation as from time to time existing from which revenue is derived (each of which is in this section separately referred to as “the undertaking”) on the one side all receipts in respect of the undertaking including the income from any reserve fund authorised in connection with such undertaking and on the other side all ~~payments and expenses in respect of the undertaking~~ such payments and expenses being divided so as also to show in each case the amounts expended in respect of each of the following purposes (that is to say) :—

Accounts of
under-
takings.

- (a) The working and establishment expenses and cost of maintenance of the undertaking;
- (b) The interest on moneys borrowed by the Corporation for the purposes of or connected with the undertaking;
- (c) The requisite appropriations instalments or sinking fund payments in respect of moneys borrowed for the purposes of the undertaking;
- (d) All other expenses (if any) of the undertaking properly chargeable to revenue;
- (e) The amount (if any) paid to any reserve fund which the Corporation are from time to time authorised to maintain;
- (f) Any money expended on any of the purposes mentioned in the section of this Act of which the marginal note is “Application of revenues of undertakings.”

A.D. 1934.

(2) The Corporation shall show in their accounts relating to any undertaking or purpose all items (including receipts and payments in respect of loans applicable thereto) which ought to be entered therein in order to show the financial position of the undertaking or purpose.

(3) In all cases in which the Corporation keep separate accounts for separate purposes they shall so far as reasonably practicable apportion between those accounts or carry to any of them any receipts credits payments and liabilities which from time to time ought to be so apportioned or carried.

Reserve
funds.

99.—(1) The Corporation may (if they think fit) provide a reserve fund in respect of each of the undertakings of the Corporation as from time to time existing from which revenue is derived by setting aside such an amount as they may from time to time think reasonable and (subject to the provisions of the section of this Act of which the marginal note is "Use of moneys forming part of sinking and other funds") investing the same in statutory securities until the fund so formed amounts to a sum equal to one-tenth of the aggregate capital expenditure of the Corporation on each such undertaking.

(2) Any reserve fund which has been formed for the purpose of any undertaking of the Corporation as from time to time existing from which revenue is derived and which is in existence at the passing of this Act shall be deemed to have been formed under this section and any moneys standing to the credit of any such reserve fund shall be carried to the credit of the reserve fund authorised by this section.

(3) Any reserve fund formed under this section shall be applicable to answer any deficiency at any time happening in the income of the Corporation from the undertaking in respect of which it is formed or to meet any extraordinary claim or demand at any time arising against the Corporation in respect of that undertaking or (subject in the case of the electricity undertaking to the consent of the Electricity Commissioners) for payment of the cost of renewing improving or extending any part of the works forming part thereof or otherwise for the benefit of that undertaking and so that if that

fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens. A.D. 1934.

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

100.—(1) The following provisions shall apply with respect to the electricity undertaking (in addition to the provisions of the section of this Act of which the marginal note is “Application of revenues of undertakings”) (namely):—

Provisions
as to sur-
plus elec-
tricity
revenue.

If in any year the accounts of the electricity undertaking kept under the section of this Act of which the marginal note is “Accounts of undertakings” shall show that the revenue of the electricity undertaking in respect of that year (including if and so long as any reserve fund established in connection with the electricity undertaking amounts to a sum equal to one-tenth part of the aggregate capital expenditure of the Corporation on that undertaking the interest and other annual proceeds received by the Corporation in respect of that year on the investments forming part of that reserve fund) has exceeded the total amount of the payments and expenses in respect of the year for the several purposes mentioned in paragraphs (a) to (f) of subsection (1) of the last-mentioned section then—

(a) if the reserve fund in respect of the electricity undertaking does not amount to more than one-twentieth of the aggregate capital expenditure on that undertaking an amount equal to such excess shall be deemed for the purposes of the section of this Act of which the marginal note is “Accounts of undertakings” to be revenue of the electricity undertaking in respect of the next following year and a reduction shall be made in the charges for electricity supplied by the Corporation of such respective amounts as will as nearly as reasonably practicable be equivalent in the aggregate to the said excess;

A.D. 1934.

(b) if the said reserve fund amounts to more than one-twentieth of the said aggregate capital expenditure such an amount as the Corporation may think fit (not being less in cases where the said excess is more than a sum equal to one and a half per centum of the outstanding debt of the electricity undertaking than the difference between the said excess and that sum) shall be deemed for the purposes of the section of this Act of which the marginal note is "Accounts of undertakings" to be revenue of the electricity undertaking in respect of the next following year and a reduction shall be made in the charges for electricity supplied by the Corporation of such respective amounts as will as nearly as reasonably practicable be equivalent in the aggregate to the amount so deemed to be revenue.

(2) Subsection (1) of section 7 of the schedule to the Electric Lighting (Clauses) Act 1899 as amended by section 43 of and the Fifth Schedule to the Electricity (Supply) Act 1926 shall be deemed to be excluded from incorporation with any of the Torquay Electricity Acts and Orders 1891 to 1931.

(3) In respect of any year in which the Corporation apply in relief of the general rate in the borough any contribution from the revenue of the electricity undertaking of the preceding year the Corporation shall pay out of that contribution to the Newton Abbot Urban District Council a sum certified by the treasurer to be equivalent to the proportion of the said contribution which the number of units sold in the urban district of Newton Abbot bears to the total number of units sold to all consumers supplied by the Corporation during the year preceding that in which the said contribution was applied.

Date of
operation of
certain sec-
tions and
repeal.

101.—(1) The sections of this Act of which the marginal notes are "Receipts and expenses," "Application of revenues of undertakings," "Accounts of undertakings," "Reserve funds" and "Provisions as to surplus electricity revenue" shall be deemed to have come into operation on the first day of April one thousand nine hundred and thirty-four.

(2) As from the said date the following enactments are repealed:— A.D. 1934.

The Act of 1923—

Subsection (1) of section 87 (Water receipts and expenses);

Section 95 (Electricity receipts and expenses);

Subsection (1) of section 106 (Gas receipts and expenses);

Subsection (3) of section 147 (Entertainments undertaking severed from harbour undertaking);

Subsection (1) of section 148 (Harbour receipts and expenses);

Section 150 (Form of accounts in relation to water electricity &c. undertakings);

Section 151 (Reserve funds).

The Act of 1927—

Paragraph (a) of section 43 (Application of income of certain funds);

Section 44 (Apportionment of items).

102.—(1) The Corporation may if they think fit in any year apply from the general rate fund or from the proceeds of the general rate to a fund to be called the “renewal and repairs fund” (a) any sum not exceeding an amount equal to twelve and one-half per centum of the cost incurred by the Corporation (otherwise than for the purposes of the undertakings of the Corporation from which revenue is derived) in connection with the provision of horses carts mechanically propelled vehicles stables depots boilers and equipment and apparatus in connection therewith as shown in the accounts at the thirty-first day of March in any such year and (b) any sum not exceeding the average annual cost incurred by the Corporation during the previous three years in connection with the maintenance and repair of buildings.

(2) The maximum amount standing to the credit of the renewal and repairs fund shall not at any time exceed ten thousand pounds.

(3) The renewal and repairs fund shall be applicable only to meet expenses requisite for the maintenance and

A.D. 1934. renewal of the appliances works equipment and buildings referred to in subsection (1) of this section which are not comprised in the undertakings of the Corporation from which revenue is derived and shall be so applied from time to time for the purpose of equalising so far as may be the annual charge to revenue in respect of such expenses.

Capital
reserve
fund.

103.—(1) The Corporation may establish a fund to be called “the capital reserve fund” for the purpose of defraying any expenditure to which capital is properly applicable (other than expenditure in connection with the undertakings of the Corporation from which revenue is derived) to an amount not exceeding five thousand pounds in any one transaction and such fund shall be formed by appropriating such sums out of the general rate fund (other than moneys derived from the above-mentioned undertakings) as the Corporation from time to time deem expedient:

Provided that—

(a) any sum so appropriated to the capital reserve fund from the general rate fund shall not exceed in any year the equivalent of a rate of two pence in the pound calculated according to the rules made pursuant to section 9 of the Rating and Valuation Act 1925;

(b) appropriations to and payments into the capital reserve fund shall cease to be made whenever the said fund amounts to the sum of fifty thousand pounds.

(2) Pending the application of the capital reserve fund to the purposes authorised in the foregoing subsection the moneys in the fund shall be either invested in statutory securities or used in the manner provided by the section of this Act of which the marginal note is “Use of moneys forming part of sinking and other funds.”

Insurance
fund.

104.—(1) The Corporation may (if they think fit) establish a fund to be called “the insurance fund” with a view of providing a sum of money which shall be available for making good all losses damages costs and expenses to which the Corporation may be subjected in consequence

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—

against the several risks for which the insurance fund is intended to provide; or

(b) if the Corporation partly insure in some insurance office of good repute against the whole or any part of the several risks for which the insurance fund is intended to provide such sum as will together with the premiums paid for the last-mentioned insurance be not less than the aggregate amount aforesaid.

(4) When the insurance fund shall amount to fifty thousand pounds the Corporation may if they think fit discontinue the yearly payments to the fund but if the fund is at any time reduced below fifty thousand pounds the Corporation shall recommence and continue the yearly payments to that fund in accordance with subsection (3) of this section until the fund be restored to the sum of fifty thousand pounds.

(5) The Corporation shall provide the yearly payments aforesaid by contributions from the general rate fund and shall show the same in their accounts under the separate heading or division in respect of the particular undertaking or department of the Corporation which if the risks were insured against in an insurance office would be properly chargeable with the payment of the premium of such insurance.

~~(6) Except so far as the insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet losses, damages, costs and expenses in consequence of risks for which the fund is intended to provide all moneys for the time being standing to the credit of the fund shall (subject to the provisions of this Act) be invested in statutory securities and the interest and annual proceeds arising from those securities shall be invested and accumulated until the fund amounts to the sum of fifty thousand pounds and when and so long as the fund amounts to that sum the interest and annual proceeds of the securities shall be apportioned in the accounts of the Corporation between the several undertakings, departments or services liable to contribute to the insurance fund in such shares or proportions as may be equitable.~~

(7) For the purposes of this section the Corporation may if they deem it expedient include in the risks

of the whole or any part of all or any of the following risks (that is to say):— A.D. 1934.

- (a) Risk of fire in respect of buildings works premises and the contents thereof and other property whether belonging or on loan to or under the care custody or control of the Corporation;
- (b) Risk of accident and claims by third parties in respect of any vehicles whether belonging to or hired by or under the control of the Corporation and whether drawn or propelled by man or horse or mechanical or other means or power;
- (c) Risk of explosion in respect of boilers;
- (d) Risks under the common law the Employers' Liability Act 1880 the Workmen's Compensation Act 1925 or any Act or Acts for the time being amending or extending those Acts or otherwise in respect of accidents to the officers servants or workmen of the Corporation or to third parties;
- (e) Risks of injuries to school children through accident caused by the negligence of a teacher attendant or other person or defect in any school premises of or leased to the Corporation;
- (f) Risks of mechanical or electrical breakdown at or in connection with any of the electricity works of the Corporation;
- (g) Risks of loss due to infidelity of officers or servants of the Corporation;
- (h) Any other risks against which in the absence of such an insurance fund the Corporation would ordinarily insure.

(2) The establishment of an insurance fund under this section shall not prevent the Corporation from insuring in one or more insurance offices of good repute against the whole or any part of all or any of the several risks for which the insurance fund is intended to provide.

(3) In each year after the establishment of the insurance fund the Corporation shall pay into that fund either—

- (a) such a sum as shall in their opinion be not less than the aggregate amount of the premiums which would be payable if the Corporation fully insured in some insurance office of good repute

provided for under paragraph (d) of subsection (1) of this section risks of accident to any teacher employed in any public elementary school maintained by the Corporation notwithstanding that such school has not been provided by the Corporation as the local education authority.

A.D. 1934.
—

(8) The insurance fund shall be applied to meet any losses damages costs or expenses sustained by the Corporation in consequence of risks for which it is intended to provide in the order of the dates on which such losses damages costs or expenses become ascertained and if at any time and from time to time the insurance fund shall be insufficient to make good any such losses damages costs or expenses the Corporation may with the sanction of the Minister borrow at interest under and subject to the provisions of this Act such sums of money as will be necessary to make up the deficiency. The amounts of the annual charges in respect of interest on and repayment of principal of any sums so borrowed and the amounts of any such deficiencies as aforesaid not made up by borrowing shall be paid out of the general rate fund and charged in the accounts of the Corporation under the separate headings or divisions in respect of such undertakings or departments of the Corporation and in such proportions as the Minister may direct having regard to the risks through which such deficiencies arise.

105. Sections 213 and 214 of the Local Government Act 1933 shall apply with respect to any sinking fund formed by the Corporation for the repayment of any money borrowed (otherwise than by the issue of stock) before the passing of this Act under any statutory borrowing power as if it had been borrowed by way of mortgage and the Corporation shall make such adjustments of any existing sinking funds as may be proper.

Application
of Act of
1933 to
existing
sinking
funds.

106. Notwithstanding anything contained in this or any other Act the Corporation may use for the purpose of any statutory borrowing power exercisable by them any moneys forming part but not for the time being required for the purposes of any sinking fund or any other fund accumulated for the redemption of debt or as a capital reserve reserve renewals depreciation contingency superannuation insurance or other similar fund (in this

Use of
moneys
forming
part of
sinking and
other funds.

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A.D. 1934. section referred to as "the lending fund") subject to the following conditions:—

- (1) The moneys so used shall be repaid out of the general rate or the general rate fund to the lending fund within the period and by the methods within and by which a loan raised under the statutory borrowing power would be repayable:

Provided that the Corporation shall repay to the lending fund the moneys so used or the balance thereof for the time being outstanding (as the case may be) as and when the same shall be required for the purposes of the lending fund and may if they so resolve repay the same at any time within the period aforesaid and in either case the repayment shall be made out of the general rate or the general rate fund or out of moneys which would have been applicable to the repayment of a loan if raised under the statutory borrowing power:

- (2) In the accounts of the general rate fund an amount equal to interest calculated at such a rate per centum per annum as may be determined by the Corporation to be equal as nearly as may be to the rate of interest which would be payable on a loan raised on mortgage under the statutory borrowing power on any moneys so used and for the time being not repaid shall be credited to the lending fund and debited to the undertaking or purpose with reference to which the moneys are so used:
- (3) The statutory borrowing power shall be deemed to be exercised by such use as fully in all respects as if a loan of the same amount had been raised in exercise of the power and the provisions of any enactment as to re-borrowing of sums raised under the statutory borrowing power shall apply accordingly:
- (4) Section 144 (Power to use sinking fund instead of borrowing) of the Act of 1923 and section 42 (Use of moneys forming part of sinking and other funds) of the Act of 1927 are hereby repealed.

107.—(1) The Corporation or the registrar in the case of stock may give notice to any person being registered as a holder of any security of the Corporation that they intend or he intends to send interest or dividends to him by post if he does not object and if such person does not within fourteen days from the receipt of such notice give notice to the Corporation or to the registrar as the case may require of such objection the Corporation or the registrar may from time to time send letters containing orders for the payment of interest or dividend warrants to the address of such person appearing in the register. Provided that if such person give notice to the Corporation or the registrar (as the case may require) that he desires such orders or warrants to be sent to any person at a given address the Corporation or the registrar may from time to time send letters containing the same to such other person at such address.

A.D. 1934.

—
Dividend
warrants by
post.

(2) Where more persons than one are registered as joint holders of any security of the Corporation any one of them may for the purpose of this section be regarded as the holder of the security unless contrary notice has been given to the Corporation or to the registrar in the case of stock by any other of them.

(3) The posting by the Corporation or the registrar of a letter containing an order for the payment of interest or a dividend warrant in pursuance of this section shall as respects the liability of the Corporation or the registrar be equivalent to the delivery of the order or warrant to the registered holder of the security.

(4) Every order or warrant so sent by post shall be deemed to be a cheque and the Corporation and the registrar shall in relation thereto be deemed a banker within the meaning of the Bills of Exchange Act 1882.

108.—(1) The Corporation or the registrar with the approval of the Corporation as regards stock may close the register of transfers of any class of securities of the Corporation (including the stock transfer books) on any day not more than thirty days next before the date on which any interest or dividends on the class of securities to which such register relates are payable but so that the register be not at any time kept closed for more than thirty days.

Closing of
transfer
books.

A.D. 1934.

(2) The persons who on such closing day are entered in the register as holders of any securities of the class of which the register of transfers is so closed shall as between them and the transferees of those securities be entitled to the interest or dividends next payable thereon.

(3) Section 78 (Closing of transfer books) of the Act of 1886 is hereby repealed.

PART XI.

MISCELLANEOUS.

As to
Tessier
Garden.

109. Notwithstanding anything in the Public Health Acts or any other Act the Corporation may (subject to the stipulations and restrictions set out in the schedule to the conveyance dated the twenty-seventh day of October one thousand nine hundred and thirty-three and made between Amy Amelia Elizabeth Tessier and the Corporation) make such byelaws as they may deem necessary with regard to the use of the Tessier Garden and in particular byelaws to secure that the Tessier Garden shall be used and enjoyed only by adult persons.

Power to
provide
carry on
and let
winter gar-
den and
other build-
ings.

110. Subject to the provisions of this Act—

(1) The Corporation may on any lands of which for the time being they may be the owners erect and hold furnish equip maintain insure carry on and charge for admission to a winter garden and assembly room with all necessary and suitable offices reading rooms ante-rooms waiting rooms refreshment rooms kitchens cloak rooms lavatories conveniences and appurtenances all of which are in this section included in the expression "winter garden";

(2) The Corporation may from time to time let or lease the winter garden for such term at such rent and under such covenants and conditions and with and subject to such rights powers privileges reservations and authorities as the Corporation may think fit:

Provided that no winter garden provided by the Corporation under the powers of this section shall be

used for the purpose of a cinematograph theatre or for the giving of cinematograph performances other than the showing of films illustrative of local or geographical subjects (other than exploration) or of questions relating to health or disease or being of an educational character. A.D. 1934.

111. The Corporation may establish and maintain an information bureau or information bureaux in the borough for the purpose of supplying such information with regard to the borough as may be desired by visitors or intending visitors to the borough and others or may subscribe towards the establishment of any such bureau and may employ and pay such number of clerks assistants and servants as they may think fit for the purpose and may if they think fit make charges for the use of such bureau or bureaux or for information supplied by means thereof Any expenditure incurred by the Corporation under this subsection shall (after deduction of any receipts thereunder) form part of the expenditure of the Corporation for the purposes of the Health Resorts and Watering Places Act 1921. Power to establish information bureaux.

112. If a justice is satisfied on complaint by any rating officer that any person is quitting or about to quit any premises in the borough and has failed to pay on demand any general rate or any water rental which may be due from him and intends to evade payment of the same by departing from the borough the justice may in addition to issuing a summons for non-payment of the same issue a warrant under his hand authorising the said rating officer to seize forthwith and detain the goods and chattels of such person until the complaint is determined upon the return of the summons. Recovery of rate from persons removing.

113. Notices and demand notes orders or other documents in respect of charges leviable by and due to the Corporation may be served in the same manner as notices demand notes orders or other documents under the Rating and Valuation Act 1925 are by section 59 (Service of notices &c.) of that Act authorised to be served. Service of notices &c.

114.—(1) In the event of the Corporation establishing in pursuance of section 8 of the Air Navigation Act 1920 an aerodrome and any subsidiary business in connection therewith (in this section referred to as "the Aerodrome undertaking.

A.D. 1934.

aerodrome undertaking") they may make such charges in respect thereof as they may think fit and may grant a lease of or let the same or any part thereof for such period and upon and subject to such terms and conditions as they may think fit:

Provided that the charges to be made in respect of the aerodrome shall be subject to the approval of the Secretary of State for Air.

(2) The Corporation may make byelaws with respect to the aerodrome undertaking and for maintaining order in and for regulating the use of any premises used in connection therewith.

(3) The aerodrome undertaking shall be in the same relation to the Air Council and the Secretary of State for Air and subject to the like control by them under the Air Navigation Act 1920 or any Act amending, replacing or consolidating the same as if this Act had not been passed.

Byelaws as
to boats.

115.—(1) The Corporation for securing safety in navigation or the prevention of noise or of danger obstruction or annoyance to persons boating or bathing or using the beach and foreshore for either of those purposes or otherwise may make byelaws—

- (a) prohibiting regulating or controlling the use of boats propelled otherwise than by hand within the borough;
- (b) prohibiting regulating or controlling the keeping or landing of boats on such parts of the beach and foreshore as shall be specified in such byelaws;
- (c) requiring boats of any specified class or description to be kept on such parts of the beach and foreshore as may be specified in such byelaws.

(2) The Corporation may charge for any licence or permission granted by them to keep a boat on any part of the beach or foreshore owned by them such sum (not exceeding one pound for each such licence or permission) as they may think fit and such sum may be recovered summarily as a civil debt.

(3) No byelaw made under this section shall affect any right or privilege of owners of boats engaged in the

fishing industry which may exist at the time of the making of such byelaw. A.D. 1934.

116.—(1) Every person who uses a stationary internal combustion engine in the borough shall provide and use an effective silencer on the exhaust of such engine and shall at all times at his own expense keep such silencer in proper repair. Silencers
for internal
combustion
engines.

(2) The Corporation shall have access to and be at liberty to take off remove test inspect and replace any such silencer at all reasonable times such taking off removing testing inspecting and replacing to be done at the expense of the Corporation if the silencer be found in proper order but otherwise at the expense of the person aforesaid Provided that this subsection shall not apply to any stationary internal combustion engine belonging to any railway company and used by them for the purposes of their railway undertaking.

(3) Any person who shall use a stationary engine or permit the same to be used contrary to the provisions of this section after having received reasonable notice in writing from the Corporation to the effect that he is or has been so using such engine or permitting the same to be used shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding forty shillings.

117. Every person who negligently or wilfully breaks throws down or otherwise damages any public lamp or lamp-post street danger signal or street orderly bin or other receptacle for the temporary deposit and collection of dust ashes and rubbish street sand bin fire alarm or street box provided in connection with the supply of electricity being the property of the Corporation shall make full compensation to the Corporation for the damage done and such compensation to an amount not exceeding ten pounds shall be recoverable summarily as a civil debt. Compensa-
tion for
injuring
lamps &c.

118. Whenever the Corporation the surveyor or the sanitary inspector under any enactment or byelaw for the time being in force within the borough execute re-execute or alter any work or do any act or thing in default or at the request of the owner occupier or other person required to do such work act or thing the Corporation shall not as between themselves and such In execu-
ting works
for owner
Corporation
liable for
negligence
only.

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Act, 1934.

A.D. 1934. — owner occupier or other person in the absence of any negligence on the part of the Corporation or the surveyor or the sanitary inspector or of any contractor or other person employed by them or him be liable to pay any damages penalties costs charges or expenses for or in respect of or consequent upon the executing re-executing or altering of such work or the doing of such act or thing and any such damages penalties costs charges or expenses paid by the Corporation in the absence of negligence as aforesaid shall be deemed to be part of the expenses payable by such owner occupier or other person and shall be recoverable accordingly.

Byelaws.

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

- (a) in the case of byelaws made under the section of this Act of which the marginal note is "Aerodrome undertaking" a Secretary of State;
- (b) in the case of byelaws made under the section of this Act of which the marginal note is "Byelaws as to boats" the Board of Trade;
- (c) in all other cases the Minister.

(2) Notwithstanding the provisions of any Act or Order of the Corporation in regard to the procedure for making byelaws the provisions of section 250 of the Local Government Act 1933 shall apply to all byelaws to be made by the Corporation in respect of the harbour undertaking of the Corporation and the Minister of Transport shall be the confirming authority for such byelaws :

Provided that in the case of any such byelaws which the Minister of Transport in consultation with the Board of Trade shall deem primarily to concern the interests of navigation the provisions of this section shall apply as if the Board of Trade were substituted for the Minister of Transport and the confirmation of any such byelaw by the Minister of Transport or the Board of Trade respectively shall be sufficient evidence of compliance with the provisions of this section.

(3) No byelaws affecting any area below high-water mark shall come into operation until the consent of the

Board of Trade has been given thereto and confirmation by a confirming authority shall be sufficient evidence that such consent has been given. A.D. 1934.
—

(4) Notwithstanding the provisions of any Act or Order applying to the Corporation in regard to the procedure for making byelaws the provisions of section 250 of the Local Government Act 1933 shall apply to all byelaws to be made by the Corporation in respect of the electricity undertaking and the Electricity Commissioners shall be the confirming authority for such byelaws.

120.—(1) Any person aggrieved by an order made by a court of summary jurisdiction under the provisions of this Act may if no other mode of appeal is provided by this Act appeal against the order to a court of quarter sessions and the Corporation may likewise appeal against the refusal of a court of summary jurisdiction to make any such order. As to appeals.

(2) Any person aggrieved by any order judgment determination or requirement or by the withholding of any certificate licence consent or approval of or by the Corporation or of or by any officer thereof under the provisions of Part VIII (Streets buildings sewers and drains) of this Act may if no other mode of appeal is provided by this Act appeal in manner provided by the Quarter Sessions Act 1849 to the next practicable court of quarter sessions held not less than thirty days after notice of the decision appealed against has been sent to him and the notice of appeal shall be given to the Corporation and to the clerk of the peace.

121. The Minister or the Minister of Transport may hold such inquiries as they may consider necessary in regard to the exercise of any powers and duties conferred upon them or the giving of consents under this Act and section 290 of the Local Government Act 1933 shall apply accordingly. Inquiries.

122. The following provisions of the Act of 1903 and the Act of 1923 shall so far as applicable and except where otherwise provided extend and apply to and in relation to the like matters as if they were with any Incorporation of provisions of Acts of 1903 and 1923.

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Act, 1934.

A.D. 1934. necessary modifications re-enacted in this Act
— (namely) :—

The Act of 1903—

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

Section 79 (Compensation how to be determined);

Section 82 (Powers of Act cumulative);

Section 83 (Saving for indictments);

Section 84 (Recovery of penalties);

Section 87 (Judges not disqualified).

The Act of 1923—

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

Section 168 (Recovery of demands).

Application
of Arbitra-
tion Act
1889.

123. Where under this Act any question or dispute is to be referred to an arbitrator or to arbitration other than questions or disputes to which the provisions of the Lands Clauses Acts apply then unless other provision is made the reference shall be subject to the provisions of the Arbitration Act 1889.

For protec-
tion of
Torquay
and Paignton Gas
Company.

124. For the protection of the Torquay and Paignton Gas Company (in this section referred to as "the company") the following provisions shall notwithstanding anything in this Act contained and unless otherwise agreed in writing between the company and the Corporation apply and have effect (that is to say) :—

(1) In this section "apparatus" means and includes all or any mains pipes syphons tubes meters fittings or other apparatus belonging to the company :

(2) Whenever the Corporation in the exercise of the powers of the sections of this Act of which the marginal notes respectively are "Power to Corporation to make agreements with owners of property &c." and "Adjustment of boundaries of streets" shall give up land forming part of a street (whether in exchange for other land or not) there then being in such

first-mentioned land any apparatus the Corporation shall give notice in writing to the company and the company may alter the position of such apparatus to such other position as may be reasonable having regard to the circumstances and the Corporation shall repay to the company the reasonable expenses of and in connection with such alteration of position :

- (3) Nothing in the section of this Act of which the marginal note is "Further powers as to future line of street" shall apply to or affect any land specifically authorised by any Act or Order to be used by the company for the manufacture or storage of gas without the consent of the company but such consent shall not be unreasonably withheld Any question as to whether any such consent is unreasonably withheld shall be determined by the Minister who may dispense with such consent if having regard to all the circumstances of the case he is satisfied that such consent ought to be dispensed with :
- (4) The provisions of the sections of this Act of which the marginal notes are respectively "Extension of section 157 of Public Health Act 1875" and "Further amendment of section 157 of Public Health Act 1875" shall not extend or apply to any structure building or erection (not being a dwelling-house office or showroom) ground or land belonging to the company and used or intended to be used exclusively for the purposes of their undertaking under the provisions of any Act of Parliament or Order :
- (5) (a) If any difference shall arise between the Corporation and the company under this section (other than a difference as to the meaning or construction of this section) such difference shall except where otherwise provided in this section be referred to and determined by an arbitrator to be agreed upon between the parties or failing agreement to be appointed upon the application of either party (after

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A.D. 1934.

notice in writing to the other) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any such reference and determination;

(b) In settling any difference under this section the arbitrator shall have regard to any duties or obligations which the company may be under in respect of their apparatus and may if he thinks fit require the Corporation to execute any temporary or other works so as to avoid as far as may be reasonably possible interference with any purposes for which the apparatus is used.

Saving
rights of
Duchy of
Cornwall.

125. Nothing contained in this Act shall extend to authorise the Corporation to take use enter upon or interfere with any land soil or water or take away diminish alter prejudice or affect any property rights profits privileges powers or authorities belonging to or enjoyed by His Majesty in right of the Duchy of Cornwall or to or by the Duke of Cornwall for the time being (a) in the case of land soil water property rights profits privileges powers or authorities the subject of the lease from His Royal Highness the Prince of Wales to the Corporation dated the fifth day of June one thousand nine hundred and twenty-nine otherwise than in accordance with the terms of the said lease and (b) in the case of any other land soil water property rights profits privileges powers or authorities without (in the case of land soil water property rights profits privileges powers or authorities belonging to or enjoyed by His Majesty in right of the said duchy) the consent in writing of some two or more of such of the regular officers of the said duchy or of such other persons as may be duly authorised under the provisions of the Duchy of Cornwall Management Act 1863 section 39 to exercise all or any of the rights powers privileges and authorities by the said Act made exerciseable in relation to the said duchy or (in the case of land soil water property rights profits privileges powers or authorities belonging to or enjoyed by the Duke of Cornwall for the time being) the consent of such duke testified in writing under the seal of the Duchy of Cornwall first had and obtained for that purpose.

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

A.D. 1934.
—
Crown
rights.

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

Costs of
Act.

A.D. 1934.

The SCHEDULES referred to in the
foregoing Act.

FIRST SCHEDULE.

PROPERTIES OF WHICH PARTS ONLY MAY BE ACQUIRED
BY THE CORPORATION.

Area.	No. on deposited plans.									
—	—									
	1	3	4	5	6	7	9	10.		
Parish and borough of Torquay	-	-	1	3	4	5	6	7	9	10.

SECOND SCHEDULE.

PART I.

Rates for the use of cranes :—

	<i>s.</i>	<i>d.</i>
Goods or packages not exceeding 10 tons per ton -	1	0
Goods or packages exceeding 10 tons such special charges as may be agreed with the harbour master of the Corporation provided that no crane shall be used to lift a greater weight than that for which the same is constructed.		

PART II.

Additional rates on goods shipped unshipped or transhipped in the new or old harbour (as the case may be) :—

Breeze slabs per ton	-	-	-	-	-	-	1	0
Concrete blocks per ton	-	-	-	-	-	-	1	0

PART III.

Rates on vessels using or entering the harbour :—

For every vessel (not being an undecked boat and not being a vessel in respect of which specific provision is made elsewhere in this schedule) per register ton	-	-	-	-	-	-	0	6
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	s.	d.	A.D. 1934.
For every vessel remaining in the harbour beyond one month for each additional 14 days (every fraction of 14 days being considered as 14 days) per register ton - - - - -	0	3	—
	Charge per annum.		
	s.	d.	
For every licensed undecked boat - - - - -	1	6	
For every other undecked boat—			
not exceeding 12 feet in length - - - - -	3	6	
exceeding 12 feet but not exceeding 20 feet in length - - - - -	5	0	
exceeding 20 feet in length - - - - -	7	6	
For every two-oared boat engaged solely in fishing -	1	6	
For every four-oared boat engaged solely in fishing	2	6	
For sailing boats—			
not exceeding 16 feet in length - - - - -	10	0	
exceeding 16 feet but not exceeding 20 feet in length - - - - -	15	0	
exceeding 20 feet in length the same charge as for yachts.			
For motor boats or launches plying for hire—			
not exceeding 20 feet in length - - - - -	10	0	
exceeding 20 feet in length but not exceeding 30 feet in length - - - - -	20	0	
exceeding 30 feet but not exceeding 50 feet in length - - - - -	30	0	
exceeding 50 feet in length per week	5s. 0d.		
	Per week.	Season from 1st April to 31st October.	Season from 1st November to 31st March.
For sailing yachts—			
not exceeding 10 tons register - - - - -	s. d.	£ s. d.	£ s. d.
	2 6	1 0 0	1 0 0
For mechanically propelled yachts—			
not exceeding 10 tons register - - - - -	2 6	1 0 0	1 5 0
For every undecked boat sailing boat or motor boat not having a registered tonnage not making a yearly seasonal or weekly payment and not plying for hire - - - - -		6d.	per day

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PART IV.

House Boats.

	<i>s.</i>	<i>d.</i>
For house boats and yachts used as house boats—		
not exceeding 45 feet in length per calendar		
month - - - - -	7	6
exceeding 45 feet in length per calendar		
month - - - - -	15	0

Scrubbing Berth.

Use of scrubbing berth by yachts not belonging to members of the Royal Torbay Yacht Club or the Torquay Corinthian Sailing Club per scrub -	7	6
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In calculating the length of any craft for the purpose of this schedule all measurements shall be taken over all that is from the foreside of the stem to the afterside of the sternpost increased along the midship line.

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