



CHAPTER lii

An Act to authorise the mayor aldermen and burgesses of the county borough of West Bromwich to supply heat by means of hot water or steam to make further provision for the improvement health local government and finances of the borough and for other purposes.

[30th July 1949.]

WHEREAS the borough of West Bromwich is a county borough under the local government of the mayor aldermen and burgesses of the borough (in this Act called "the Corporation"):

And whereas it is expedient to empower the Corporation to supply heat by means of hot water or steam in the borough:

And whereas it is expedient to make further provision in relation to the health local government and improvement of the borough:

And whereas it is expedient to make further provision in regard to the finances of the Corporation:

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

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

And whereas in relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have been observed:

23 & 24 Geo. 5.
c. 51.

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

PART I

PRELIMINARY

Short and
collective
titles.

17 & 18 Vict.
c. clxiii.
18 & 19 Vict.
c. cxxxviii.
28 & 29 Vict. c. clx.

45 & 46 Vict. c. lxii.

49 & 50 Vict. c. lxi.

52 & 53 Vict. c. xcvi.

60 & 61 Vict. c. lxxii.

62 & 63 Vict. c. cxiii.

63 & 64 Vict.
c. ccxlv.

2 Edw. 7. c. lxxxii.
3 Edw. 7. c. cciii.
3 & 4 Geo. 5. c. lxix.
8 & 9 Geo. 5. c. xvi.
13 & 14 Geo. 5.
c. lxxxii.
17 & 18 Geo. 5.
c. lxxxvi.
20 & 21 Geo. 5.
c. cxx.

Division of
Act into
Parts.

1.—(1) This Act may be cited as the West Bromwich Corporation Act 1949.

(2) The West Bromwich Improvement Act 1854 the West Bromwich Improvement (Amendment) Act 1855 the West Bromwich Improvement (Amendment) Act 1865 the Order relating to West Bromwich dated the eleventh day of May eighteen hundred and eighty-two (confirmed by the Local Government Board's Provisional Orders Confirmation (No. 4) Act 1882) the two Orders relating to West Bromwich dated the twenty-first day of May eighteen hundred and eighty-six (confirmed by the Local Government Board's Provisional Orders Confirmation (No. 4) Act 1886) the West Bromwich Corporation (Consolidation of Loans) Act 1889 the Order relating to West Bromwich dated the sixth day of May eighteen hundred and ninety-seven (confirmed by the Local Government Board's Provisional Orders Confirmation (No. 7) Act 1897) the Orders relating to West Bromwich dated the fifteenth day of May eighteen hundred and ninety-nine and the sixteenth day of May eighteen hundred and ninety-nine (confirmed by the Local Government Board's Provisional Orders Confirmation (No. 11) Act 1899) the West Bromwich Corporation Act 1900 the Order relating to West Bromwich dated the twenty-sixth day of April nineteen hundred and two (confirmed by the Local Government Board's Provisional Orders Confirmation (No. 5) Act 1902) the West Bromwich Corporation Act 1903 the West Bromwich Corporation Act 1913 the West Bromwich Corporation Act 1918 the West Bromwich Corporation Act 1923 the West Bromwich Corporation Act 1927 the West Bromwich Corporation Act 1930 and this Act may be cited jointly as the West Bromwich Corporation Acts and Orders 1854 to 1949.

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

- Part I.—Preliminary.
- Part II.—Heating undertaking.
- Part III.—Streets and buildings.
- Part IV.—Sewers and drains.
- Part V.—Infectious disease and sanitary matters.
- Part VI.—Food.
- Part VII.—Establishments for massage or special treatment.
- Part VIII.—Entertainments parks &c.
- Part IX.—Sale of coke wood fuel &c.
- Part X.—Finance and rating.
- Part XI.—Miscellaneous.
- Part XII.—General.

3. The Lands Clauses Acts except sections 127 to 132 (which relate to the sale of superfluous lands) of the Lands Clauses Consolidation Act 1845 (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with and form part of this Act:

PART I
—cont.

Incorporation
of Lands
Clauses Acts.
8 & 9 Vict.
c. 18.

Provided that the bond required by section 85 (Compensation for damage) of the Lands Clauses Consolidation Act 1845 shall be sufficient without the addition of the sureties mentioned in that section.

4.—(1) In this Act the several words and expressions to which meanings are assigned by sections 90 110 and 343 of the Public Health Act 1936 have the same respective meanings unless there be something in the subject or context repugnant to such construction.

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

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

“The borough” means the county borough of West Bromwich;

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

“The council” means the council of the borough;

“The town clerk” “the surveyor” “the medical officer” and “the sanitary inspector” mean respectively the town clerk the surveyor the medical officer of health and any sanitary inspector of the borough;

“Contravention” includes failure to comply and “contravene” shall be construed accordingly;

“Daily penalty” means a penalty for each day on which an offence is continued after conviction therefor;

“Electric line” has the same meaning as in the Electric Lighting Act 1882;

45 & 46 Vict.
c. 56.

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

41 & 42 Vict.
c. 76.

“The heating undertaking” means the undertaking authorised by Part II (Heating undertaking) of this Act and includes all lands stations boiler-houses properties works buildings machinery plant mains pipes ducts apparatus appliances easements rights powers and privileges for the time being belonging to or held used or enjoyed by the Corporation for or in connection with the supply of heat by means of hot water or steam;

“The authority” means the British Electricity Authority;

PART I
—cont.

“The electricity board” means the Midlands Electricity Board ;

“The gas board” means the West Midlands Gas Board ;

“The Birmingham Corporation” means the lord mayor aldermen and citizens of the city of Birmingham ;

“The commission” means the British Transport Commission and any reference to the commission in relation to any functions of the commission which are for the time being delegated to an executive in pursuance of section 5 of the Transport Act 1947 shall be construed as a reference to that executive ;

10 & 11 Geo. 6.
c. 49.

“The company” means the South Staffordshire Waterworks Company ;

“Local planning authority” has the same meaning as in the Town and Country Planning Act 1947 ;

10 & 11 Geo. 6.
c. 51.

“Sunday school” means any school in which children are assembled for instruction on a Sunday or specially for religious instruction whether on a Sunday or not ;

“Child” has the same meaning as in the Education Act 1944 ;

7 & 8 Geo. 6.
c. 31.

“Food” has the meaning assigned to it by the Food and Drugs Act 1938 ;

1 & 2 Geo. 6.
c. 56.

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

“Statutory borrowing power” includes a power of borrowing money conferred on the Corporation by or under any enactment except paragraph (a) of subsection (1) of section 215 of the Act of 1933 ;

“Statutory security” means any security in which trustees are for the time being authorised by law to invest trust moneys and any mortgage bond debenture debenture stock stock or other security created by a local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rent-charges or securities transferable by delivery or any securities of the Corporation ;

38 & 39 Vict.
c. 83.

“Authorised security” means any mortgage stock bond or other security which the Corporation are for the time being authorised to grant create or issue or upon or by means of which the Corporation are for the time being authorised to raise money ;

“Financial year” means the period of twelve months ending on the thirty-first day of March ;

“The Minister” means the Minister of Health ;

“The Corporation undertakings” means the undertakings of the Corporation from time to time existing from which revenue is derived ;

“The aerodrome undertaking” means any aerodrome established or maintained by the Corporation in pursuance of section 8 (Establishment of aerodromes by Air Council and local authorities) of the Air Navigation Act 1920 and any subsidiary business in connection therewith ; 10 & 11 Geo. 5.
c. 80.

“The Lands Clauses Acts” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 by Part V of the Town and Country Planning Act 1947 and by this Act ; 9 & 10 Geo. 5
c. 57.

“The Act of 1933” means the Local Government Act 1933 ;

“The Act of 1936” means the Public Health Act 1936 ;

“The Public Health Acts” means the Public Health Act 1875 and any Acts amending or extending that Act ; 38 & 39 Vict.
c. 55.

“Enactment” includes this Act and any general or local Act Order byelaw or regulation for the time being in force within the borough.

(3) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act.

PART II

HEATING UNDERTAKING

5.—(1) The Corporation may supply heat by means of hot water or steam to such premises as they think fit in the borough upon and subject to the terms and conditions provided by this Part of this Act and such other terms and conditions as may be agreed between the Corporation and the owners or occupiers of those premises : Supply of
heat.

Provided that in the exercise of the powers of this section the Corporation shall not show undue preference to any person and shall not exercise any undue discrimination against any person.

(2) Before the Corporation enter into an agreement with the occupier of any premises for the supply of heat to such premises they shall give notice of their intention so to do to the owner of the premises and in the event of the supply of heat to such premises being discontinued notice of such discontinuance shall be given by the Corporation to the owner of such premises.

PART II
—cont.
Works for
provision of
heat.

6.—(1) Subject to the provisions of this Part of this Act the Corporation may on lands in the borough belonging or leased to them erect lay down maintain work and use stations boiler-houses mains pipes and other works for providing storing transmitting and distributing heat by means of hot water or steam and for producing any material product matter or thing arising or used in the process of such provision of heat by means of hot water or steam including the generation of electricity together with such buildings boilers engines machinery sidings electric lines matters and things of whatever description as may be required by the Corporation to enable them to provide store transmit and distribute heat by means of hot water or steam and the Corporation may accordingly on those lands provide store transmit and distribute heat by means of hot water or steam and may produce such materials products matters and things:

Provided that—

- (a) nothing in this section shall be taken to dispense with the consent of any government department to any use of any lands of the Corporation in any case in which such consent would have been required if this section had not been enacted;
- (b) any electrical works or apparatus erected laid down maintained worked and used in pursuance of this section shall be so constructed maintained worked and used as to prevent interference with any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

(2) Any electricity generated by the Corporation as aforesaid may be sold—

- (a) to the authority; or
- (b) with the approval of the authority to the electricity board;

and any electricity so generated and not so sold as aforesaid may only be used for or in connection with the supply of heat under the powers of this Part of this Act at the works at which it is generated or (with the consent of the authority and the electricity board) elsewhere.

(3) (a) The authority shall take all the electricity generated by the Corporation as aforesaid which is not—

- (i) required for or in connection with the supply of heat; or
- (ii) supplied to the electricity board with the approval of the authority;

upon such terms and conditions as may be agreed between the Corporation and the authority or in default of agreement determined by arbitration as hereinafter provided on the basis of a supply by a willing seller to a willing buyer.

PART II
—cont.

(b) Any matter to be determined by arbitration under this subsection shall be referred to and determined by an arbitrator to be agreed upon between the Corporation and the authority or in default of agreement to be appointed by the President of the Institution of Electrical Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference and determination.

7.—(1) If the council shall resolve to construct extend modify or enlarge a station for providing heat under the powers of this Part of this Act the Corporation shall forthwith give to the Minister of Fuel and Power and to the authority and to the gas board notice of such resolution together with such information with regard to such station as the authority or the gas board as the case may be may within six weeks of the service of such notice reasonably require including information as to the nature position and capacity of the proposed station (but not details of design) the proposed method of producing heat thereat the area proposed to be supplied therefrom and an estimate of the quantity or quantities of heat required by the Corporation for the purposes of the heating undertaking and of the times and form at and in which such quantity or quantities will be required Any dispute between the Corporation on the one hand and the authority and the gas board or either of them on the other hand as to whether any information is reasonably required by the authority and the gas board or either of them under this subsection shall be referred to and determined by the Minister of Fuel and Power.

As to construction of station for providing heat.

(2) Within three months after the service of the said notice or the receipt of such information (whichever is the later) the authority and the gas board or either of them may serve upon the Corporation a counter-notice offering a supply of heat by means of hot water or steam to them upon such terms and conditions as may be specified in the counter-notice or as may be agreed between the Corporation and the authority or the gas board as the case may be.

(3) If within three months after the receipt of such counter-notice or such longer period as may be agreed between the Corporation and the authority or the gas board as the case may be the terms and conditions upon which a supply of heat by means of hot water or steam is to be given to the Corporation by the authority or the gas board as the case may be for the purposes of the heating undertaking are not agreed between

PART II
—cont.

them the Corporation shall submit to the Minister of Health for determination the question whether a supply of heat by means of hot water or steam shall be afforded to the Corporation by the authority or the gas board and (if he determines that a supply of heat is to be afforded by the authority or the gas board) the terms and conditions upon which such a supply is to be afforded.

(4) If the Minister determines that a supply of heat by means of hot water or steam shall be afforded to the Corporation by the authority or the gas board the authority or the gas board as the case may be shall afford such a supply in accordance with terms and conditions approved by the Minister:

Provided that if the Minister makes a substantial alteration in the terms or conditions on which the authority or the gas board offered a supply of heat by means of hot water or steam to the Corporation then if within twenty-eight days after the receipt of the determination of the Minister the authority or the gas board as the case may be give notice in writing to the Minister and the Corporation that the said terms or conditions are not acceptable they shall not be required to afford a supply of heat by means of hot water or steam to the Corporation and the Corporation shall be entitled to proceed with their proposals as if this section had not been enacted unless within twenty-eight days of such last-mentioned notice the Corporation serve on the authority or the gas board as the case may be a notice requiring a supply in which case the authority or the gas board as the case may be shall afford a supply on the terms and conditions specified in the counter-notice referred to in subsection (2) of this section.

Power to buy
heat in bulk.

8.—(1) The Corporation may enter into and carry into effect agreements with any persons competent to supply heat by means of hot water or steam for the furnishing to the Corporation by such persons of a supply of heat by means of hot water or steam for the purposes of this Part of this Act and any such agreement may provide for the provision by the Corporation or for the joint user by them and any other party to the agreement of any works plant materials or things required for the purposes of the agreement.

(2) The Corporation may for the said purposes also enter into and carry into effect agreements for the taking and use of waste heat hot water or steam from any generating station or gasworks and any authority entitled to give any such supply may enter into such an agreement.

Purchase of
land for
heating
undertaking.

9.—(1) The Corporation may be authorised by the Minister to purchase land in the borough compulsorily for the purposes of the heating undertaking.

(2) The Acquisition of Land (Authorisation Procedure) Act 1946 (except section 2 thereof) shall apply as if this section were an enactment contained in a public general Act and in force immediately before the commencement of that Act.

PART II
—cont.

9 & 10 Geo. 6.
c. 49.

10.—(1) The provisions of Part V (Power to lay mains &c.) and Part VI (Breaking open streets &c.) and section 93 (Protection for works of navigation authorities and for catchment boards and railways) of the Third Schedule to the Water Act 1945 are hereby incorporated with this Part of this Act.

Power to lay
mains &c. and
break open
streets.
8 & 9 Geo. 6.
c. 42.

(2) For the purposes of this Part of this Act in the construction of the enactments incorporated by this section—

“the undertakers” means the Corporation;

“supplying water” means supplying heat by means of hot water or steam and “supply of water” shall be construed accordingly;

“service pipe” means a pipe for supplying heat by means of hot water or steam from a main to any premises; and

“the limits of supply” means the borough.

(3) Nothing in the enactments incorporated by this section shall authorise the Corporation—

(a) to lay down a main outside the borough except for the purpose of—

(i) giving or facilitating a supply of heat by means of hot water or steam within the borough; or

(ii) taking a supply of heat by means of hot water or steam from any works or premises outside the borough;

(b) to supply heat by means of hot water or steam to any premises outside the borough.

11.—(1) For the purposes of the heating undertaking or in connection with the use or sale of electricity under the provisions of subsection (2) of section 6 (Works for provision of heat) of this Act the Corporation may lay down or erect electric lines and apparatus—

Power to lay
down or
erect electric
lines &c.

(a) in under or over any street in the borough subject however to the provisions of subsection (3) of this section; and

(b) with the consent of every owner and occupier of any land in the borough not forming part of a street in under or over that land;

PART II
—cont.

and may from time to time inspect repair alter or renew or may at any time remove any electric line or apparatus laid down or erected by them whether by virtue of this section or otherwise:

Provided that a consent required for the purposes of this subsection shall not be unreasonably withheld and any question whether such consent is or is not unreasonably withheld shall be referred to and determined by the Minister.

(2) (a) Where the Corporation in the exercise of the powers of this section lay down or erect any electric line or apparatus in under or over any land not forming part of a street or inspect repair alter renew or remove any electric line or apparatus laid down or erected in under or over any such land they shall from time to time pay compensation to every person interested in that land for any damage done to or injurious affection of that land by reason of the inspection laying erection repair alteration renewal or removal of the electric line or apparatus.

(b) Any dispute as to the amount of compensation to be paid under this subsection shall be determined by arbitration.

(3) The provisions of Part VI (Breaking open streets &c.) of the Third Schedule to the Water Act 1945 (except in section 22 thereof the words "and outside those limits for the purpose of laying any mains which they are authorised to lay and of inspecting repairing renewing or removing mains" and in section 25 subsection (4) thereof) and section 93 of the said Third Schedule shall apply with the necessary modifications to the laying down erection inspection repair alteration renewal or removal of electric lines and apparatus under this section and for the purpose of such application the borough shall be deemed to be the limits of supply.

(4) The provisions for the protection of the Postmaster-General and his telegraphic lines which are contained in the Electricity (Supply) Acts 1882 to 1936 and in the schedule to the Electric Lighting (Clauses) Act 1899 shall so far as applicable extend and apply to any electric lines or apparatus laid down or erected under this section and references in those provisions to the undertakers shall be construed as references to the Corporation.

(5) The powers of this section shall not be exercised except with the consent of the authority and the board.

62 & 63 Vict.
c. 19.

Application of
Special Roads
Act 1949 to
heating
undertaking.
12 & 13 Geo. 6.
c. 32.

12. Section 4 (Restriction on laying of mains etc. in special roads) of the Special Roads Act 1949 shall apply in relation to the powers conferred on the Corporation by this Part of this Act to lay down or erect mains pipes electric lines and apparatus in under or over any land for the purpose of the heating undertaking as it applies in relation to the powers conferred on statutory undertakers as defined in the first-mentioned Act by

or under any enactment to lay down or erect any apparatus on under or over any land and the expression "statutory undertakers" in the said section 4 shall be construed accordingly.

PART II
—cont.

13.—(1) Before the Corporation—

- (a) apply to the appropriate sanctioning authority for consent to the borrowing of money for the purpose of constructing laying down or executing any works for providing storing transmitting or distributing heat under the powers of this Part of this Act ; or
- (b) lay down any main under the provisions of this Part of this Act other than a main extending for a distance of not more than two hundred yards from any main laid down in accordance with proposals previously made under this section ;

Consultation with electricity gas and water undertakers as to certain works.

they shall give to the Minister and to the authority and the electricity board and the gas board and the water undertakers notice of their proposals and such information with regard thereto as the authority or the electricity board or the gas board or the water undertakers may within six weeks of the receipt of such notice reasonably require and shall consult with the authority and the electricity board and the gas board and the water undertakers on such proposals Any dispute between the Corporation and the authority or the electricity board or the gas board or the water undertakers as to whether any information is reasonably required by the authority or the electricity board or the gas board or the water undertakers under this subsection shall be referred to and determined by the Minister.

(2) Without prejudice to the generality of subsection (1) of this section such information shall include particulars of the proposals (if any) of the Corporation as to the standards of heat proposed to be maintained in premises supplied with heat under the powers of this Part of this Act and the measures to be taken with respect to—

- (a) the securing of the safety of the mains pipes and apparatus of the authority and the electricity board and the gas board and the water undertakers from damage or injury arising directly or indirectly from any mains or pipes to be laid down or placed by the Corporation under the powers of this Part of this Act ;
- (b) the insulation of any such last-mentioned mains or pipes so as to prevent the escape of heat therefrom ;
- (c) the maximum and minimum temperatures and pressures at which hot water or steam may be stored transmitted or distributed by the Corporation ;
- (d) the methods for measuring the volume temperature and pressure of the hot water or steam so stored transmitted or distributed ; and
- (e) the independent testing of such measurements.

PART II
—cont.

(3) The authority and the electricity board and the gas board or any of them may within three months after the receipt of such notice or the receipt of such information (whichever is the later) make representations to the Minister with respect to such proposals.

(4) The water undertakers may within three months after the receipt of such notice or the receipt of such information (whichever is the later) make representations to the Minister with respect to the laying down of a main in any street or to the laying down in any street of a main in the position or at the depth proposed by the Corporation or to any of the other proposals of the Corporation referred to in subsection (2) of this section.

(5) If no such representations are made the Corporation shall not proceed except in accordance with the proposals sent to the authority and the electricity board and the gas board and the water undertakers or any alteration thereof which may be agreed.

(6) If any such representations are made the Corporation shall not proceed with their proposals except with the approval of the Minister and in accordance with any modification of such proposals which the Minister may require.

(7) The provisions of this section shall not apply to the construction extension modification or enlargement of a station for providing heat under the powers of this Part of this Act.

(8) In and for the purposes of this section—

(a) “the Minister” means the Minister of Fuel and Power;

(b) “the water undertakers” means the Birmingham Corporation in respect of any works proposed to be constructed or mains proposed to be laid down in that corporation’s limits for the supply of water and the company in respect of any works proposed to be constructed or mains proposed to be laid down in the company’s limits for the supply of water.

Power to
supply
fittings.

14.—(1) In any premises to which the Corporation supply or propose to supply heat by means of hot water or steam they may provide (but not manufacture) and may supply by way either of sale or hire any such radiators pipes apparatus and fittings (in this Part of this Act called “fittings”) as may be required for or in connection with the utilisation of the heat so supplied and may instal repair renew or alter any fittings whether supplied by them or not and may provide any materials and do any work required in connection with such installation repair renewal or alteration.

(2) The Corporation may make such charges as may be agreed or in default of agreement as may be reasonable for any fittings

supplied or any materials provided or work done under this section at the request of the owner or occupier of the premises supplied.

PART II
—cont.

(3) Any fittings let by the Corporation for hire and marked or impressed with a sufficient mark or brand indicating the Corporation as the actual owners thereof—

(a) shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession the same may be; and

(b) shall notwithstanding that they be fixed or fastened to any part of the premises in which they may be situate or to the soil under any such premises at all times continue to be the property of and (subject to the provisions of the Hire Purchase Act 1938) removable by the Corporation:

1 & 2 Geo. 6.
c. 53.

Provided that nothing in this subsection shall affect the valuation for rating of any rateable hereditament.

(4) All fittings supplied by the Corporation under any hire purchase agreement shall until payment of the final instalment of the purchase money for such fittings be deemed for the purposes of subsection (3) of this section to be fittings let for hire by the Corporation.

(5) (a) The Corporation shall so adjust the charges to be made by them under this section as to meet any expenditure by them thereunder including interest upon any moneys borrowed for the purposes thereof and any sums carried to a sinking fund for repayment of moneys so borrowed.

(b) The total sums expended and received by the Corporation in connection with the purposes of this section in each year including interest and any sums carried to a sinking fund shall be separately shown in the abstract of accounts of the Corporation for that year.

(6) If any person wilfully injures or suffers to be injured any fittings belonging to the Corporation he shall be liable to a penalty not exceeding five pounds and the Corporation may do all such work as is necessary for repairing any injury done and may recover the expenses reasonably incurred by them in so doing from the offender and if the amount does not exceed twenty pounds summarily as a civil debt.

15.—(1) The Corporation may from time to time prescribe a scale of charges (in this section called "heating charges") for heat supplied to premises under the powers of this Part of this Act and where heat is so supplied to any premises the heating

PART II
—cont.

charges in accordance with the scale shall be payable by the occupier of those premises except in any case where the owner has agreed to pay the same in which case they shall be payable by the owner.

(2) The heating charges payable by any person may after a demand therefor be recovered from him by the Corporation either as a simple contract debt in any court of competent jurisdiction or if the amount does not exceed twenty pounds summarily as a civil debt and subject as hereinafter provided where a person fails to pay within seven days after a demand therefor any instalment of a heating charge payable by him in respect of any premises the Corporation may (without prejudice to any other right or remedy) cut off the supply of heat to the premises and recover the expenses reasonably incurred by them in so doing in the same manner as the instalment due:

Provided that if before the expiration of the said seven days notice in writing is given to them that there is a dispute as to the amount due in respect of the heating charge or as to the liability to pay the charge they shall not cut off the supply of heat until the dispute has on the application of either party been determined by a court of competent jurisdiction.

Power to enter
premises.

16. Subject to the provisions of this section any authorised officer of the Corporation shall on producing if so required some duly authenticated document showing his authority have a right to enter at all reasonable hours any premises to which the Corporation are supplying or have agreed to supply heat under the powers of this Part of this Act or any premises upon which any fittings have been installed for the purpose of or in connection with supplying heat to any premises as aforesaid for the purpose of—

- (a) inspecting and examining any fittings whether belonging to the Corporation or not;
- (b) ascertaining whether there is or has been on or in connection with the premises any contravention of the provisions of this Part of this Act;
- (c) ascertaining whether or not circumstances exist which would authorise the Corporation to take any action or execute any work under this Part of this Act;
- (d) taking any action or executing any work authorised or required by this Part of this Act to be taken or executed by the Corporation:

Provided that (except in cases of emergency arising from defects in any fittings) admission to any premises shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier:

Provided also that nothing in this section shall authorise any officer of the Corporation without the previous consent in writing

of the authority or the electricity board or the gas board (as the case may be) to enter any premises occupied or used by the authority or the electricity board or the gas board in connection with the generation or supply of electricity or the manufacture storage or supply of gas other than offices or showrooms.

PART II
—cont.

17.—(1) If any person wilfully and without the consent of the Corporation turns on opens closes shuts off or otherwise interferes with any valve cock or other work or apparatus belonging to the Corporation and thereby improperly causes the supply of heat or hot water or steam to be interfered with he shall be liable to a penalty not exceeding five pounds and (whether proceedings be taken against him in respect of his offence or not) the Corporation may recover from him the amount of any damage sustained by them either as a simple contract debt in any court of competent jurisdiction or if the amount does not exceed twenty pounds summarily as a civil debt.

(2) If any person wrongfully takes uses or diverts any heat or hot water or steam from any apparatus provided for the purposes of this Part of this Act he shall (without prejudice to any other right or remedy of the Corporation) be liable to a penalty not exceeding five pounds.

18.—(1) The Corporation may make byelaws for preventing the waste misuse or contamination of or interference with the circulation of hot water or steam used by them in connection with the supply and use of heat under this Part of this Act or for preventing the waste or undue consumption of heat supplied under this Part of this Act:

Byelaws for
protection
of heating
undertaking.

Provided that nothing in this section or any byelaw made thereunder shall prejudice or affect the operation of any byelaws for the time being in force in any part of the borough made by the Birmingham Corporation as water undertakers under any local or general enactments.

(2) Byelaws under this section may include provisions—

(a) prescribing the size nature materials strength and workmanship and the mode of arrangement connection disconnection insulation alteration and repair of the heating fittings to be used; and

(b) forbidding the use of any heating fittings which are of such a nature or are so arranged or connected as to cause or permit or be likely to cause or permit—

(i) waste misuse or contamination of or interference with the circulation of hot water or steam;

(ii) reverberation in pipes; or

(iii) waste or undue consumption of heat.

PART II
—cont.

(3) If any person contravenes the provisions of any byelaw made under this section the Corporation may without prejudice to their right to take proceedings for a penalty in respect of such contravention cause any heating fittings belonging to or used by that person which are not in accordance with the requirements of the byelaws of the Corporation to be altered repaired or replaced and may recover the expenses reasonably incurred by them in so doing from the person in default either as a simple contract debt in any court of competent jurisdiction or if the amount does not exceed twenty pounds summarily as a civil debt.

(4) In this section the expression "heating fittings" includes air heaters water heaters pipes (other than mains) taps cocks valves ferrules and other works used in connection with the supply or use of heat by means of hot water or steam.

(5) Nothing in this section or in any byelaw made thereunder shall apply to any heating fittings used on premises which belong to the commission and are held or used by them for the purposes of their railway so long as those fittings are not of such a nature or so arranged or connected as to cause or permit or be likely to cause or permit—

- (a) waste misuse or contamination of or interference with the circulation of hot water or steam ;
- (b) reverberation in pipes ; or
- (c) waste or undue consumption of heat :

Provided that the exemption conferred by this subsection shall not extend to fittings used in hotels or dwelling-houses or in offices not forming part of a railway station.

(6) Nothing in this section or in any byelaw made thereunder shall extend to any station for generating electricity belonging to the authority.

Reports &c.
with respect
to heating
undertaking
&c.

19.—(1) The Corporation shall give to the authority and the electricity board and the gas board such reports and returns and such information with respect to the heating undertaking as the authority or the electricity board or the gas board may reasonably require and the authority and the gas board shall give to the Corporation such reports and returns and such information with respect to any supply by them of heat by means of hot water or steam as the Corporation may reasonably require.

(2) Any dispute between the Corporation on the one hand and the authority or the electricity board or the gas board on the other hand as to whether any reports returns or information are reasonably required by the authority or the electricity board or the gas board or the Corporation (as the case may be) shall be determined by the Minister of Fuel and Power.

20. For the protection of the authority and the electricity board and the gas board and the Birmingham Corporation and the company (each of whom is in this section referred to as "the undertakers") the following provisions shall unless otherwise agreed in writing between the Corporation and the undertakers apply and have effect:—

PART II
—cont.

For protection
of electricity
gas and water
undertakers.

(1) In this section—

the expression "apparatus" means—

(a) as regards the authority and the electricity board any electric lines or works (as respectively defined in the Electric Lighting Act 1882) belonging to the authority or the electricity board (as the case may be);

(b) as regards the gas board and the company any mains pipes or other apparatus belonging to the gas board or the company (as the case may be);

(c) as regards the Birmingham Corporation the mains pipes siphons tubes works or other apparatus belonging to the Birmingham Corporation as water undertakers;

the expression "authorised work" means any main service pipe conduit duct or other work laid down placed or executed by the Corporation for the purposes of the heating undertaking in the exercise of the powers of this Part of this Act or any Act incorporated therewith:

(2) Where the Corporation require to dig or sink any trench for laying down placing or constructing any authorised work near to which any apparatus has been lawfully placed the Corporation shall give to the undertakers to whom such apparatus belongs notice of such requirement together with plans sections and particulars of the authorised work to be laid in such trench and if it should appear to the undertakers that the laying down placing or construction of such authorised work would injure interfere with or endanger any apparatus or interfere with the access thereto or impede the supply of electricity or gas or water by means thereof the undertakers may within fourteen days from the receipt of such notice give to the Corporation notice requiring them to alter the position or depth of such apparatus in such manner as may be reasonably necessary for avoiding any such injury interference danger or impediment and any difference as to the necessity for such alteration or the manner of carrying out the alteration

PART II
—cont.

shall be determined by arbitration as hereinafter provided. All such alterations shall (save as in this section provided) be carried out by and at the expense of the Corporation with as little detriment and inconvenience to the undertakers as the circumstances will admit and to the reasonable satisfaction of the engineer of the undertakers and under his superintendence unless after receiving not less than three days' notice for that purpose (which notice the Corporation are hereby required to give except in cases of emergency) he refuses or neglects to give such superintendence at the time specified in the notice for the commencement of such work or discontinues the same during the laying down placing or construction of such work:

- (3) The Corporation in laying down placing or constructing any authorised work shall not interfere with the access to any apparatus to any greater extent than is necessary for the purpose of or in connection with the carrying out of that work and shall not remove or displace any apparatus or do anything to endanger any apparatus or impede the passage of electricity or gas or water into or through any apparatus without the consent (which shall not be unreasonably refused) of the undertakers or in any other manner than the undertakers shall reasonably approve nor in the case of apparatus proposed to be removed or displaced until good and sufficient apparatus and other works reasonably necessary or proper for continuing the supply of electricity or gas or water as the same was supplied by the apparatus proposed to be removed or displaced shall at the expense of the Corporation have been first made and laid down in lieu thereof and be ready for use to the reasonable satisfaction of the engineer of the undertakers:
- (4) The reasonable expense of all repairs or renewals of—
- (i) any apparatus existing at the time of the laying down placing or construction of the authorised work; or
 - (ii) any apparatus substituted for such existing apparatus or any part thereof and being of reasonably similar size and type;

which may at any time hereafter be rendered reasonably necessary by reason of—

- (a) the act or defaults of the Corporation their contractors agents workmen or servants or any person in the employ of them or any of them in the exercise of the powers of this Part of this Act; or

(b) any subsidence resulting from the laying down placing construction or removal of any authorised work whether during the laying down placing construction or removal of the authorised work or at any time within two years thereafter ;

shall be borne and paid by the Corporation :

(5) The Corporation in laying down placing constructing or removing any authorised work shall make good all damage done by them to any apparatus and shall make compensation to the undertakers for any loss damage costs or expenses which they may sustain by reason of any interference with such apparatus or the access thereto or with the private service or supply lines or pipes of any person supplied by the undertakers with electricity or gas or water :

(6) If the undertakers shall desire—

(a) to alter the position or depth of any apparatus which the Corporation may be required to alter under paragraph (2) of this section and shall within the period of fourteen days referred to in that paragraph give not less than seven days' notice in writing thereof to the Corporation ; or

(b) to provide any apparatus in lieu of any apparatus proposed to be removed or displaced under paragraph (3) of this section and shall within the period of fourteen days from the date of the giving of their consent under that paragraph or as the case may be from the date of a determination that such consent is unreasonably refused give not less than seven days' notice thereof to the Corporation ; or

(c) to make good any damage under paragraph (5) of this section ;

the undertakers may themselves carry out any of the said works or (as the case may be) make good such damage and shall commence execute and complete the same with all reasonable dispatch and to the reasonable satisfaction of the Corporation and all reasonable expenses properly incurred by them under this paragraph shall be repaid to them by the Corporation :

(7) Except with the consent of the Birmingham Corporation as water undertakers or the company (as the case may be) it shall not be lawful for any authorised work provided or used by the Corporation for the storage transmission distribution and use of heat supplied by them to any premises to be connected with any apparatus provided or used for the storage transmission

PART II
—cont.

distribution and use of water supplied to the same premises by the Birmingham Corporation or the company in such manner as to permit the flow of water through such connection.

Any person committing a breach of this provision shall be subject to a penalty not exceeding five pounds:

- (8) All water supplied by the Birmingham Corporation and the company to the Corporation for the purposes of this Part of this Act shall be taken by measure and paid for accordingly:
- (9) If any difference shall arise between the Corporation and the undertakers or their respective engineers with respect to any matter under this section the matter in difference shall be referred to arbitration:
- (10) In settling any difference under this section the arbitrator shall have regard to any duties or obligations which the undertakers may be under in respect of their apparatus and any duties or obligations which the Corporation may be under in respect of the authorised work 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 purpose for which the apparatus is used.

Corporation not to be water undertakers.

21. Nothing in this Part of this Act shall be deemed to constitute the Corporation water undertakers within the meaning of the Water Act 1945 except for the purpose of section 10 (Power to lay mains &c. and break open streets) of this Act.

Corporation not to be exempted from proceedings for nuisance.

22. Nothing in this Part of this Act shall exonerate the Corporation from any indictment action or other proceedings for nuisance in the event of any nuisance being caused or permitted by them.

PART III

STREETS AND BUILDINGS

Stopping up and diversion of highways.

23.—(1) Subject to the provisions of this section a court of summary jurisdiction if satisfied on the application of the Corporation made with the consent of the local planning authority for the district in which the highway is situate that a highway within the borough is unnecessary may by order authorise the stopping up thereof and if so satisfied that a highway within the borough can be diverted so as to make it nearer or more commodious to the public may by order authorise it to be so diverted.

(2) Any such application or order may be made with respect to any length of a highway and in the subsequent provisions of

this section any reference to a highway shall be construed as a reference to that length thereof to which the application or order relates.

PART III
—cont.

(3) No order shall be made under subsection (1) of this section unless the court is satisfied that notice of the intention to make the application specifying the time and place at which it is to be made and the order which will be asked for and embodying a plan showing what will be the effect of the order asked for—

- (a) has at least twenty-eight days before the date on which the application is made been served on the owners or reputed owners and the occupiers of all land abutting on the highway and (when the application relates to a classified road as defined in the Local Government Act 1929) on the Minister of Transport; and 19 & 20 Geo. 5.
c. 17.
- (b) has during at least twenty-eight days been exhibited in such manner and in such positions on or near the highway as are reasonably sufficient for notifying persons using the highway of the application;

and that a similar notice (except that there may be substituted for the plan a statement of the place where such a plan can be inspected at all reasonable hours without payment) has been inserted once at least in each of four successive weeks in a local newspaper circulating in the borough.

A notice which is required by this subsection to be served and which is sent by post shall be sent by registered post.

(4) On the hearing of such an application the Corporation and any person who is interested in land abutting on or served by the highway or uses the highway or is otherwise aggrieved shall have a right to be heard and an appeal against the decision of the court may be brought to quarter sessions either by the Corporation or by any such person as aforesaid who was or claimed to be heard by the court.

(5) For the purposes of the provisions of the Summary Jurisdiction Act 1879 as amended by the Summary Jurisdiction (Appeals) Act 1933 with respect to appeals to quarter sessions— 42 & 43 Vict.
c. 49.
23 & 24 Geo. 5.
c. 38.

- (a) a refusal by a court of summary jurisdiction to make an order under this section shall be deemed to be an order;
- (b) in a case where more than two persons were heard or claimed to be heard in opposition to an application under this section it shall be sufficient if a notice of appeal against a refusal to make an order upon that application is served upon any two of those persons in

PART III
—cont.

addition to the clerk to the court of summary jurisdiction but any of those persons whether served with such a notice or not may appear at quarter sessions as respondents to the appeal ;

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

(6) Every order made under this section shall have annexed thereto a plan signed by the chairman of the court and shall be binding on all persons whatsoever.

(7) (a) Nothing in this section shall authorise the diversion over any land of any highway unless the written consent of the local planning authority for the district in which the land is situate and of every person having a legal interest in that land is produced to and deposited with the court and (b) an order under this section authorising the diversion of a highway shall not authorise the stopping up of any part thereof until the new part to be substituted for the part stopped up has been completed to the satisfaction of two justices and a certificate to that effect signed by them has been transmitted by their clerk to the town clerk.

(8) Where an order is made by a court of summary jurisdiction under this section authorising the stopping up or diversion of a highway the clerk of the court shall forthwith transmit the order to the town clerk together if the order be for diverting a highway with the written consents produced to the court and the town clerk shall enrol any documents so transmitted to him and any certificates transmitted to him under subsection (7) of this section among the records of the Corporation.

(9) Where any highway is diverted in accordance with an order made under this section the substituted highway shall be repairable by the person (if any) by whom the original highway was repairable :

Provided that the owner of any land shall not be required to maintain so much of a highway as is diverted from his land.

(10) Any application or order under this section—

- (a) may include two or more highways which are connected with each other ;
- (b) may relate to the stopping up or diversion of a highway for the purposes of all traffic or subject to the reservation of a bridle way or footway.

(11) The Corporation and the owner of or other person interested in any land affected by the exercise of the powers of

this section may enter into and fulfil agreements relative thereto and to the payment of any expenses incurred by the Corporation in or in consequence of the exercise of those powers.

PART III
—cont.

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

(13) The powers of this section shall not be exercisable with respect to any trunk road.

24. The powers conferred upon the Corporation by section 17 (Power to vary position or direction and to fix beginning and end of new streets) of the Public Health Acts Amendment Act 1907 to vary the intended position of a new street so far as is necessary for the purpose of securing more direct easier or more convenient means of communication with any other street or intended street shall be extended so as to enable them (subject to the provisions of that section) to require that the corners formed at the junction of a new street with another street (whether new or existing) shall for the purposes of safety either be splayed or be rounded off in a manner determined by the Corporation.

Rounding of
corners at
street
junctions.
7 Edw. 7.
c. 53.

25.—(1) In connection with the purposes mentioned in section 154 (Power to purchase premises for improvement of streets) of the Public Health Act 1875 and section 68 (Power to provide parking places for vehicles) of the Public Health Act 1925 the Corporation may temporarily stop up and divert and interfere with any street and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land house or building in the street from passing along and using the same:

Temporary
stoppage
of streets.
15 & 16 Geo. 5.
c. 71.

Provided that the powers of this subsection shall not be exercised with reference to any trunk road without the consent of the Minister of Transport.

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

(3) The Corporation shall not exercise the powers of this section in such manner as to obstruct or interfere with the access to or exit from any station wharf or depot of any railway canal or inland navigation undertakers without the consent in writing of such undertakers. Provided that such consent shall not be unreasonably withheld and any question as to whether or not such consent is unreasonably withheld shall be determined by the Minister of Transport.

PART III
—cont.Power to vary
width of
carriageways
and footways.

26.—(1) The Corporation may if they think fit in any case vary the relative widths of the carriageway and footway or footways in any street repairable by the inhabitants at large:

Provided that twenty-one days before commencing any work under this section which will materially reduce the width of any carriageway or footway the Corporation shall send notice of the proposed work to the Minister of Transport.

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

(3) The Corporation shall not exercise the powers of this section in respect of so much of any street as is situate upon a bridge over any railway canal or inland navigation or upon the approaches to any such bridge without the consent in writing of the railway canal or inland navigation undertakers:

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

Maintenance
of footpaths
&c.

27.—(1) The owner of every house fronting adjoining or abutting on a highway which is not repairable by the inhabitants at large shall maintain the footpath on the frontage of such house and the approach to such house from the highway in accordance with the reasonable requirements of the Corporation:

Provided that nothing in this section shall authorise the Corporation to make any requirement with regard to the maintenance of any such footpath or approach as is within the curtilage of a house.

(2) Any person who contravenes the provisions of this section after receiving not less than twenty-eight days' notice from the Corporation shall be liable to a penalty not exceeding two pounds and to a daily penalty not exceeding one pound.

Security for
private street
works.

28.—(1) In any case in which the Corporation shall have required plans and particulars of the proposed development of land to be furnished the Corporation as a condition of their approval thereof may require the owner of the land upon which the new street is to be laid out to undertake to pay and to give security for the payment of any expenses which may be incurred by the Corporation in executing any private street works with respect to such street or any part thereof and such owner or his successors in title shall not lay out such street unless any undertaking and security required by the Corporation shall have been given.

(2) In this section "private street works" means the works referred to in section 150 (Power to compel paving &c. of private

streets) of the Public Health Act 1875 or if the Corporation adopt the Private Street Works Act 1892 the works referred to in section 6 (Private street works) of that Act.

PART III
—cont.

55 & 56 Vict.
c. 57.

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

(b) If any person after conviction for an offence under this section fails to give the aforesaid undertaking and security he shall be liable to a penalty not exceeding two pounds for each day on which he fails to give the said undertaking and security.

29.—(1) If the owner of any land in the borough fronting adjoining or abutting on a street which is not a highway repairable by the inhabitants at large agrees to sell such land or any part thereof upon terms which include a provision to the effect that he shall pay or procure the payment of such expenses of any private street works executed or to be executed by the Corporation as may be apportioned against the land agreed to be sold he shall unless security has been given for the payment of those expenses under the last foregoing section before the completion of the conveyance of such land deposit with the Corporation or otherwise secure to the satisfaction of the Corporation the payment of such sum as will in the opinion of the Corporation be sufficient to pay the amount of the expenses apportioned or to be apportioned against the land agreed to be sold so far as such expenses have not previously been paid to the Corporation.

Deposit in
respect of
private street
works
expenses.

(2) If any sum deposited with the Corporation or otherwise secured to the satisfaction of the Corporation in accordance with the provisions of subsection (1) of this section is not sufficient to pay the amount of the expenses apportioned against the land agreed to be sold the Corporation may recover the deficiency from the person making the deposit or giving the security and if any sum so deposited exceeds the amount of the expenses the Corporation shall repay the excess to the person making the deposit.

(3) (a) For the purpose of this section the expression "sell" shall include the granting or assigning of a lease for an unexpired term of not less than fifty years in consideration of a premium and the transfer of the benefit of an agreement to grant such a lease and the expression "conveyance" shall be construed accordingly.

(b) In this section "private street works" means the works referred to in section 150 (Power to compel paving &c. of private streets) of the Public Health Act 1875 or if the Corporation adopt the Private Street Works Act 1892 the works referred to in section 6 (Private street works) of that Act.

PART III
—cont.

(4) Any person who shall contravene the provisions of this section shall be liable to a penalty not exceeding twenty pounds or in the case of a second or subsequent contravention one hundred pounds.

30.—(1) If—

(a) any owner of land fronting adjoining or abutting on—

(i) a street within the meaning of section 150 (Power to compel paving &c. of private streets) of the Public Health Act 1875 ; or

(ii) land which is deemed to be a private street by virtue of a declaration made in accordance with the provisions of section 48 (Construction and improvement of private streets) of the Town and Country Planning Act 1947 ;

and situate in the borough conveys sells leases or otherwise disposes of the part or any portion of the part of that land which fronts adjoins or abuts on that street or land which is so deemed to be a private street ; and

(b) any expenses of works executed by the Corporation under the said section 150 in or in relation to that street or in or in relation to land which is so deemed to be a private street are apportioned on such part or portion of the land fronting adjoining or abutting thereon ; and

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

(d) a court of summary jurisdiction is satisfied that such conveyance sale lease or disposal was intended for the purpose of evading the payment of any expenses under the said section 150 ;

then such expenses or so much thereof as has not been recovered by the Corporation may to such extent as the court may determine be recovered from that owner in the same manner as expenses of the execution of works under the said section 150 may be recovered as though he had not made such conveyance sale lease or disposal and as though the said amount of the said expenses had been apportioned on the land of that owner which before such conveyance sale lease or disposal was made fronted adjoined or abutted on such street or such land which is so deemed to be a private street.

(2) In respect of land which is deemed to be a private street by virtue of a declaration made in accordance with the provisions of section 48 of the Town and Country Planning Act 1947.

references to section 150 of the Public Health Act 1875 in the preceding subsection shall be construed as including references to that section subject to such exceptions adaptations and modifications as may be prescribed by regulations made under the said section 48.

(3) If the Corporation adopt the Private Street Works Act 1892 references in this section to section 150 of the Public Health Act 1875 shall be deemed to be references to the Private Street Works Act 1892.

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

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

(2) The exercise by the Corporation of their powers under this section shall not prejudice their powers under any statutory provision for the time being in force in the borough relating to private street works or private improvement expenses or under section 53 (As to urgent repairs to private streets) of the West Bromwich Corporation Act 1900.

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

Provided that—

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

(2) For the purposes of section 7 (Provision as to work which involves alteration in telegraphic line) of the Telegraph Act 1878 any work done in exercise of the powers conferred by this section shall be deemed to be work done in the execution of an undertaking authorised by an Act of Parliament and the Corporation shall be deemed to be the undertakers.

PART III

—cont.

As to erection
of hoardings
&c. at street
corners.

33.—(1) Before placing or erecting any hoarding wall (not being a wall forming part of the structure of a permanent edifice) or fence at or within a distance of ten yards from the corner of any street the person proposing to place or erect such hoarding wall or fence shall give notice of his intention so to do to the Corporation and such notice shall be accompanied by plans and particulars of the hoarding wall or fence proposed so to be placed or erected.

(2) If the placing or erection of such hoarding wall or fence would constitute a danger to the traffic in the streets upon adjoining or near to which the same is proposed to be placed or erected by obstructing the view of any foot passenger or the driver of any vehicle in a street of vehicular or pedestrian traffic the Corporation may within one month of the receipt of the said notice prohibit such placing or erection or may allow the same subject to such conditions or modifications of the said plans and particulars as they may think fit.

If within one month of the receipt of the said notice or (if the notice is submitted less than three clear days before a meeting of the council) within five weeks of such receipt the Corporation shall not have prohibited such placing or erection or allowed the same subject to a condition or to a modification of such plans or particulars they shall be deemed to have allowed such placing or erection.

(3) Any person who places or erects any hoarding wall or fence in contravention of the provisions of this section shall be liable to a penalty not exceeding five pounds and the Corporation may remove the hoarding wall or fence so placed or erected and may recover the expense incurred by them in so doing from such person.

(4) For the purposes of this section the corner of any street shall be deemed to be the point at which the frontage or boundary line of that street (if necessary continued in a straight line) intersects the frontage or boundary line of any other street (if necessary similarly continued).

(5) The provisions of this section shall not apply—

(a) to any part of a street with respect to which restrictions have been imposed under section 4 (Prevention of obstruction to view at corners) of the Roads Improvement Act 1925;

(b) to any advertisement to which regulations made in pursuance of section 31 (Control of advertisements) of the Town and Country Planning Act 1947 for the time being apply.

(6) Section 97 (As to erection of hoardings &c. at street corners) of the West Bromwich Corporation Act 1930 is hereby repealed.

34.—(1) (a) No wall fence hoarding or other similar structure (in this section referred to as “structure”) of a greater height than six feet six inches above the level of the ground at the nearest boundary of the street shall be erected or brought forward on any land in any street—

PART III
—cont.

As to
hoardings and
similar
structures.

(i) beyond any building line prescribed by the Corporation in respect of the land under the provisions of any Act ;
or

(ii) if there be no such line beyond any line which is enforceable by the Corporation for buildings under subsection (2) of section 140 (Provision as to byelaws relating to new streets) of the Housing Act 1936 ; or

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

(iii) if there be neither of such lines beyond the line to which any house or building erected or brought forward on the land would have to conform under the provisions of the Public Health (Buildings in Streets) Act 1888.

51 & 52 Vict.
c. 52.

(b) Any person who contravenes the provisions of this subsection shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding two pounds and the Corporation may take down or remove any structure erected in contravention of those provisions and recover the expenses incurred by them in so doing from the offender.

(2) (a) The Corporation may by notice require the owner or occupier of any land upon which any structure exists at the passing of this Act which would (if erected after the passing of this Act) have contravened the provisions of subsection (1) of this section to remove or alter such structure within such time (not being less than six days) as may be specified in the notice in such a manner as to comply with those provisions and the Corporation shall on demand repay to the owner or occupier of such land the reasonable expenses incurred by him in so doing.

(b) Any person who shall neglect or refuse to comply with a notice from the Corporation given in pursuance of this subsection shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding two pounds and the Corporation may at their own expense take down or remove and if required by the owner or occupier shall re-erect so as not to contravene the provisions of subsection (1) of this section any structure erected or maintained in contravention of those provisions.

(3) The provisions of this section shall not—

(a) be enforceable with regard to any structure existing at the passing of this Act for a period of five years from such date ; or

(b) apply to any wooden structure fence or hoarding of a movable or temporary character erected by a builder

PART III
—cont.

for his use during the construction alteration or repair of any building unless the same is not taken down or removed immediately after such construction alteration or repair is complete; or

- (c) apply to any advertisement to which regulations made in pursuance of section 31 of the Town and Country Planning Act 1947 for the time being apply; or
- (d) apply to any wall erected on land belonging to any railway canal or inland navigation undertakers so long as such land is used by such undertakers primarily for the purposes of their undertaking without the consent in writing of such undertakers:

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

Restrictions
on rights of
breaking up
streets.

35.—(1) If not less than three months before commencing any work involving the closing to vehicular traffic of any street or part of a street in the borough either absolutely or to the extent of one-third or more of the width of the carriageway thereof the Corporation shall give notice of their intention to execute such work to all undertakers having statutory powers to break up that street then when such work has been executed by the Corporation it shall not be lawful for any such undertakers within twelve months of the completion of such work to break up the street or part of a street so closed without the consent of the Corporation which consent shall not be unreasonably withheld and the Corporation may if they think fit and without prejudice to their other rights and powers attach to any consent given under this section such conditions as may be reasonable with respect to the times at which and the period within which the work of the undertakers shall be executed and completed:

Provided that as respects any work executed by any undertakers which but for the provisions of this section would have been lawfully executed nothing in this section shall deprive such undertakers of any right or immunity as between themselves and any person other than the Corporation to which but for the said provisions such undertakers would have been entitled in respect of such work.

(2) Any dispute or difference which may arise between the Corporation and any undertakers under the provisions of the preceding subsection shall be referred to arbitration.

(3) Nothing in this section shall prevent any such undertakers as aforesaid from carrying out extending or enlarging works in any street in case of emergency or prevent any such undertakers from carrying out any works necessary to enable them to perform

their statutory duties as such undertakers or their obligations under any contract subsisting at the date of the giving of the notice by the Corporation in default of which they would be liable to any penalty or damages or from making altering repairing extending enlarging or disconnecting communication pipes or service connections or laying service lines between premises and distributing mains or altering repairing extending enlarging or disconnecting any service line or from laying mains or pipes for the supply of property not previously supplied with gas. In this subsection the expression "service line" has the meaning assigned thereto by the schedule to the Electric Lighting (Clauses) Act 1899.

36.—(1) Any person erecting setting up or placing any blind Window shade covering or awning over any footway shall so erect set up blinds &c. or place the same that no part thereof shall project over any part of the footway which is less than one foot six inches from the outer edge of the kerb of such footway.

(2) Every such blind shade covering or awning shall be constructed and maintained so as to secure in accordance with the requirements of the Corporation the safety and convenience of the public.

(3) Every person who contravenes the provisions of this section shall be liable to a penalty not exceeding two pounds and to a daily penalty not exceeding one pound.

37. The Corporation may lay out with grass margins or plant Power to lay out grass margins &c. in streets. with trees or lay out as gardens any part of any street repairable by the inhabitants at large and may erect guards or fences for the protection of such grass margins trees or gardens and the Corporation may maintain in good order any grass margins trees gardens guards and fences in any such street and alter or renew the same and may add to the carriageway or footway of any such street any part of such grass margins parts planted with trees or parts laid out as gardens as aforesaid and may alter or rearrange the parts of any street laid out as carriageway or footway respectively:

Provided that—

(1) Nothing in this section shall empower the Corporation to prevent the occupier of or any person residing in any premises in or abutting on any such street having full and free right and liberty of access to and from such premises from and to the metalled or paved portion of such street:

(2) For the purposes of section 7 (Provision as to work which involves alteration in telegraphic line) of the Telegraph

PART III
—cont.

Act 1878 any work done in exercise of the powers conferred by this section shall be deemed to be work done in the execution of an undertaking authorised by Act of Parliament and the Corporation shall be deemed to be the undertakers.

Prohibition of persons vehicles &c. on grass margins.

38.—(1) In so far as the Corporation may indicate by notices conspicuously placed on or in proximity to any grass or other area which is situate in or forms part of or adjoins any street and is mown or maintained by the Corporation in an ornamental condition that such area is not intended for use by foot passengers horses cattle or vehicles any person who shall wilfully walk or otherwise proceed or lead ride or drive any horse cattle or vehicle on over or across any such area shall be liable to a penalty not exceeding one pound.

(2) Nothing contained in this section shall affect the duty of the Corporation under section 58 (Provision of footpaths and grass or other margins) of the Road Traffic Act 1930.

Power to provide tubs for trees &c.

39. The Corporation may provide and maintain in any street repairable by the inhabitants at large tubs for trees or plants:

Provided that this power shall not be exercised so as to hinder the reasonable use of the street by any person entitled to use the same or so as to become a nuisance or injurious to the owner or occupier of the land adjacent to the street.

As to barriers &c. in streets.

40.—(1) It shall be lawful for the Corporation—

(a) at all times of ceremonies public processions rejoicings fairs exhibitions carnivals races sports or illuminations or in emergencies to cause barricades to be erected in or across any of the streets of the borough; and

(b) at all times of ceremonies public processions rejoicings fairs exhibitions carnivals races sports or illuminations to cause flagpoles and pylons to be erected in any of such streets for the purpose of displaying decorations;

and to continue the same for such time as may be deemed reasonably necessary and any person who wilfully removes or interferes with any such barricade flagpole pylon or decorations or any part thereof shall be liable to a penalty not exceeding two pounds.

(2) For the purpose of the erection of such barricades flagpoles and pylons the Corporation may construct or place and maintain in and under the surface of the streets of the borough such sockets or slots as may in their opinion be necessary or convenient.

(3) The Corporation shall not exercise the powers of this section in such manner as to obstruct or interfere with the access to or exit from any station wharf or depot of any railway canal

or inland navigation undertakers without the consent in writing of such undertakers:

PART III
—cont.

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

41. For the purpose of preventing danger to pedestrians from traffic the Corporation may as respects roads (not being highways repairable by the inhabitants at large) adjacent to the entrances to or exits from any schools Sunday schools public baths public parks public halls recreation grounds playing fields alley-ways and passage-ways exercise the like powers of placing fences rails and posts on the sides of any footways or carriageways of such roads as under section 149 (Vesting of streets &c. in urban authority) of the Public Health Act 1875 are exercisable by them as respects roads so repairable and the Corporation may from time to time repair renew maintain or remove any fences rails or posts so placed by them. Power to place fences near school entrances &c.

42.—(1) After the passing of this Act no part of any building (including the foundations) shall except with the consent of the Corporation be constructed so as to extend under the footway of any street at a less depth than six feet below the surface of such footway. Restriction on buildings under footways.

(2) Any person who shall contravene the provisions of this section shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding two pounds.

(3) Nothing in this section shall extend or apply to the construction of any building (not being a house or building to be used as offices) by any railway canal or inland navigation undertakers in the exercise of their statutory powers.

43. If any tree fence wall or structure or any part thereof shall fall on or across any street the Corporation may remove the same and recover the reasonable cost of so doing from the owner thereof. Removal of trees &c. from streets.

44.—(1) The Corporation may remove and store any furniture articles goods or materials which may have been placed or dropped (whether accidentally or otherwise) in or upon any street and which— Removal of furniture from streets.

(a) may have remained there for more than forty-eight hours; or

(b) are likely to cause an obstruction;

and the Corporation shall not be liable for any loss or damage caused by such removal or storage.

PART III
—cont.

(2) If the Corporation remove any furniture articles goods or materials under the powers of this section—

- (a) they shall if and as soon as it is reasonably practicable so to do notify the person whom they believe to be the owner thereof ; and
- (b) they shall not exercise any power to sell any such furniture articles goods or materials whether under section 276 (Power of local authority to sell certain materials) of the Act of 1936 or otherwise until after the expiration of fourteen days from the date of such notification or three months from the day on which they removed the furniture articles goods or materials whichever shall first occur.

Mixing of
mortar in
streets.

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

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

(2) Any person who shall contravene the provisions of this section shall be liable to a penalty not exceeding two pounds.

Restriction
on erection
of stands &c.

46.—(1) Every person intending to erect any stand or structure for affording sitting or standing accommodation for not less than twenty persons shall not less than fourteen days prior to the commencement of the erection thereof submit to the Corporation a plan and section thereof and shall comply with such conditions as the Corporation may prescribe for securing the stability of such stand or structure and protection against fire and for securing the safety of persons to be accommodated thereon.

(2) Any person aggrieved by any conditions prescribed by the Corporation under this section may appeal in accordance with section 159 (As to appeals) of this Act :

Provided that pending the determination of such appeal twenty or more persons shall not be admitted to such stand or structure unless the conditions prescribed by the Corporation have been complied with.

(3) Any person acting in contravention of this section or offending against any such condition shall be liable to a penalty not exceeding fifty pounds and to a daily penalty not exceeding two pounds.

(4) The provisions of this section shall not apply to any stand or structure erected by a person who is the proprietor of a

travelling circus roundabout or amusement fair for the purposes of his business as such.

PART III
—cont.

(5) Section 112 (Restriction on erection of temporary stands &c.) of the West Bromwich Corporation Act 1930 is hereby repealed.

47.—(1) Any tent van shed or similar structure standing upon land abutting upon a street shall for the purpose of section 3 (Buildings not to be brought forward) 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. Provisions as to tents vans &c.

(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.

(3) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding two pounds and to a daily penalty not exceeding one pound.

(4) Section 113 (Provisions as to tents vans &c.) of the West Bromwich Corporation Act 1930 is hereby repealed.

48.—(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 signs indicating the classified road number of such street and the direction or the distance to towns railway stations public buildings and other places of a public character. Direction signs.

(2) Before putting up or painting a sign on a house building or place the Corporation shall give to the owner of such house building or place notice of their decision so to do.

(3) Any person who shall wilfully and without the consent of the Corporation obliterate deface obscure remove or alter any such sign otherwise than in the course of demolishing or altering the house or building shall be liable to a penalty not exceeding two pounds and the Corporation may recover the expenses of replacement and making good from such person.

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

(5) Section 100 (Direction signs) of the West Bromwich Corporation Act 1930 is hereby repealed.

PART III
—cont.
Power to order
alteration of
chimneys.

49.—(1) It shall be lawful for a court of summary jurisdiction upon complaint by the Corporation in pursuance of a report by the medical officer or the sanitary inspector that any smoke gas or vapour from any chimney flue or pipe of a washhouse or out-building forming part of or in proximity to a house in the borough is a nuisance to any of the inhabitants of the borough to make an order requiring the owner of such chimney flue or pipe within such time as shall be specified in such order to cause the same to be raised or such other means for preventing or mitigating such nuisance to be adopted as may seem fitting to such court and as shall not involve an expenditure exceeding fifty pounds and any such owner as aforesaid who shall neglect or refuse to obey such order shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding two pounds.

(2) Section 124 (Power to order alteration of chimneys) of the West Bromwich Corporation Act 1930 is hereby repealed.

Demolition
of buildings.

50.—(1) As from the commencement of this section no person shall commence to demolish or take down any building or part thereof within the borough without first notifying the Corporation of his intention so to do and the Corporation may require such person to comply with such reasonable terms and conditions as they think fit including terms and conditions requiring—

(a) the shoring up of adjacent buildings ; and

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

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

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

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

(3) If any term or condition imposed under this section is not complied with within the time therein prescribed the Corporation may themselves enter upon the building and the site thereof and carry out the work.

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

(5) All expenses incurred by the Corporation under subsection (3) of this section may be recovered by the Corporation from the owner of the site of the demolished building.

(6) Any person who contravenes the provisions of this section or of any term or condition imposed under this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding two pounds.

(7) Nothing in this section shall apply in relation to—

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

(b) any building, belonging to any statutory undertakers and held by them for the purposes of their undertaking :

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

51.—(1) Paragraphs (b) and (ii) of subsection (1) of section 58 (Dangerous or dilapidated buildings and structures) of the Act of 1936 and so much of subsection (2) of that section as relates to those paragraphs shall cease to have effect in the borough and the following provisions of this section shall have effect in lieu thereof. Ruinous and dilapidated buildings and neglected sites.

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

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

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

as may be necessary for remedying the cause of complaint.

(3) Where rubbish or other material resulting from or exposed by the demolition or collapse of a building or part of a building in the borough is lying on the site of the building or that part thereof or on land within the curtilage of the building and by reason thereof the site or such land is in such a condition as to be seriously detrimental to the amenities of the neighbourhood the Corporation may by notice require the owner of the site

PART III
—cont.

within a reasonable time specified in the notice to take such steps for removing the rubbish or material as may be necessary for remedying the cause of complaint.

(4) If any person fails to comply with a notice served on him under this section the Corporation may themselves—

(a) in the case of a notice served under subsection (2) execute such works of repair or restoration as they think necessary or if they think fit demolish the building or any part thereof and remove any rubbish resulting from or exposed by the demolition ; or

(b) in the case of a notice served under subsection (3) remove the rubbish or material ;

and in either case recover from that person the expenses reasonably incurred by them in so doing.

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

(6) In this section the expression “ building ” includes a structure.

Further
provision for
public and
other buildings.

52.—(1) If it appears to the Corporation that for the purpose of preventing fire to any building to which section 59 (Exits entrances &c. in the case of certain public and other buildings) of the Act of 1936 applies or for the purpose of preventing injury or danger to persons resorting thereto—

(a) the apparatus or fittings for lighting or heating the building require alteration ; or

(b) the arrangement of the chairs and seating requires alteration ; or

(c) any floor requires strengthening in order to prevent overloading ; or

(d) any of the materials from which such building is constructed or which forms part of such building requires alteration ;

the Corporation may by notice require the owner of the building to make such provision in regard to the matters aforesaid as may be necessary :

Provided that—

(i) this subsection shall not apply to premises in respect of which a licence under the Theatres Act 1843 or the Cinematograph Act 1909 is for the time being in force ;

6 & 7 Vict.
c. 68.
9 Edw. 7.
c. 30.

(ii) nothing in this section shall affect the operation of the Factories Act 1937 or any regulation or order made thereunder.

PART III
—cont.

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

(2) The provisions of Part XII of the Act of 1936 with respect to appeals against and the enforcement of notices requiring the execution of works shall apply in relation to any notice given under this section.

53.—(1) For the purposes of Part II (Provisions for securing the repair maintenance and sanitary condition of houses) of the Housing Act 1936 any house which is occupied or is of a type suitable for occupation by persons of the working classes the person having control of which fails to keep such house sufficiently repaired and painted and the interior surface of the walls thereof sufficiently papered or distempered with washable distemper of a suitable quality so as to prevent the dilapidation thereof and so as to secure reasonable amenities for the occupier or occupiers shall be deemed to be a house not in all respects fit for human habitation and the powers of the Corporation under the said Part II shall apply in respect of such house accordingly.

Further provisions as to working-class houses.

(2) On an appeal to the county court by the person having control of a house upon whom the Corporation have served notice under section 9 (Power of local authority to require repair of insanitary house) of the Housing Act 1936 in consequence of his failure to comply with the provisions of this section the county court judge shall take into consideration—

- (a) if the person upon whom the notice is served is a lessee or agent for a lessee the length of the unexpired period of the lease ;
- (b) the period for which the house is likely to continue occupied ;
- (c) the expenditure incurred by the person having control of the house or the owner during the preceding three years upon the house ;
- (d) whether the condition of the house is or is not due to the wilful default or neglect of the tenant.

54.—(1) At any time within one month after the deposit of the plans of any new building intended or adapted for use as a house (or where such plans have been approved but the erection of the building has not been begun before the passing of this Act at any time before the erection thereof has been commenced) the Corporation may by notice require the provision either before the building is erected or before it is sold let or occupied (as the Corporation shall specify) of sufficient means of communication between the building and a street which is either a highway repairable by the inhabitants at large or has

Means of access to buildings.

PART III
—cont.

been laid out and constructed in accordance with the byelaws or other provisions for the time being in force with respect to new streets.

(2) If it appears to the Corporation to be necessary that the means of communication to be provided under this section shall be in the form of a street the Corporation may by their notice require a new street to be laid out and if the construction of such means of communication appears to them necessary they may by their notice require constructional work in connection with such means of communication not exceeding that required for a new street by the byelaws or other provisions in force with respect to the construction of new streets.

(3) Where notice of a requirement under this section has been given by the Corporation to any person such person shall not begin to erect or proceed with the erection of any building to which the notice relates nor sell let or occupy such building (as the notice shall specify) until the notice of the Corporation has been complied with or until security has been given to the satisfaction of the Corporation that the notice will be complied with.

(4) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding five pounds.

Powers of
inspection.

55.—(1) In exercising any powers of entry upon and inspection of any building or works in course of construction or repair the surveyor or the medical officer or the sanitary inspector or their assistants shall have from the builder of or contractor for such building or works free of expense all reasonable use and assistance of ladders scaffolding and plant in and about such building or works.

(2) Any person who shall refuse such use and assistance as aforesaid shall be liable to a penalty not exceeding two pounds and to a daily penalty not exceeding one pound.

(3) Section 114 (Powers on inspection) of the West Bromwich Corporation Act 1930 is hereby repealed.

For protection
of Postmaster-
General.

56.—(1) Where any highway or portion of a highway is stopped up in pursuance of an order made under section 23 (Stopping up and diversion of highways) of this Act the following provisions shall unless otherwise agreed in writing between the Corporation and the Postmaster-General have effect in relation to any telegraphic line belonging to or used by the Postmaster-General which is under in upon over along or across such highway or portion of a highway at the time of such stopping up:—

(a) The power of the Postmaster-General to remove the line shall be exercisable notwithstanding the stopping up

of the highway or portion of the highway so however that the said power shall not be exercisable as respects the whole or any part of the line after the expiration of a period of three months from the date mentioned in subsection (2) of this section unless before the expiration of that period the Postmaster-General has given notice to the Corporation of his intention to remove the line or that part thereof as the case may be ;

- (b) The Postmaster-General may by notice to the Corporation in that behalf abandon the said line or any part thereof and shall be deemed as respects the line or any part thereof to have abandoned it at the expiration of the said period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it ;
- (c) The Postmaster-General shall be entitled to recover from the Corporation the expense of providing in substitution for the line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the line a telegraphic line in such other place as the Postmaster-General may require ;
- (d) Where under paragraph (b) of this subsection the Postmaster-General abandons the whole or any part of a telegraphic line it shall vest in the Corporation and the provisions of the Telegraph Acts 1863 to 1943 shall not apply in relation to the line or part in question as respects anything done or omitted after the abandonment thereof.

(2) As soon as the whole or any portion of any highway has been stopped up the Corporation shall send by post to the Postmaster-General a notice informing him of such stopping up and the period of three months mentioned in subsection (1) of this section shall commence to run from the date on which such notice is sent.

(3) If in exercise of the powers conferred by section 24 (Rounding of corners at street junctions) or section 26 (Power to vary width of carriageways and footways) of this Act (which said sections are hereinafter referred to as "the specified sections") the Corporation require an alteration either temporarily or permanently in any telegraphic line belonging to or used by the Postmaster-General the enactments numbered (1) to (8) in section 7 of the Telegraph Act 1878 shall apply with respect to such alteration.

(4) If in consequence of the exercise or intended exercise by the Corporation of any of the powers conferred on them by the

PART III
—cont.

specified sections the Postmaster-General considers it necessary or expedient that an alteration should be made in any telegraphic line belonging to or used by him and placed in any highway affected by the exercise or intended exercise by the Corporation of any of the said powers the Postmaster-General may himself make such alteration in such telegraphic line as he deems necessary or expedient and the Corporation shall pay to the Postmaster-General all the expenses incurred by him in respect of such alteration and the amount of any loss or damage sustained by him in consequence thereof:

Provided that—

- (a) before making such alteration the Postmaster-General shall give a notice to the Corporation containing particulars of the telegraphic line to be altered and of the nature of the alteration he intends to make;
- (b) the Corporation may within fourteen days of the receipt of the notice give to the Postmaster-General a notice objecting to the alteration on the ground that it is unnecessary or unreasonable and thereupon a difference shall be deemed to have arisen and sections 4 and 5 of the Telegraph Act 1878 shall apply accordingly and the tribunal by which the difference is determined may make such order as it thinks just as to the alteration (if any) to be made in the telegraphic line and as to the manner in which the proposed work of the Corporation is to be carried out.

(5) In this section the expression "alteration" has the same meaning as in the Telegraph Act 1878.

PART IV

SEWERS AND DRAINS

Apportionment of expenses of sewer constructed under street.

57.—(1) Where the Council resolve to construct a sewer in a street or part of a street repairable by the inhabitants at large which has not been previously sewered and the resolution states that the construction of the sewer will in the opinion of the Corporation increase the value of premises fronting adjoining or abutting on such street or part of a street then subject to the provisions of section 59 (Provisions applicable to last two preceding sections) of this Act the expenses incurred by the Corporation in constructing the sewer so far as they do not exceed the sum authorised by the said section shall be apportioned by the Corporation on the premises fronting adjoining or abutting on the street or part of a street according to the frontages of the respective premises as existing at the date when the resolution becomes operative.

(2) A resolution under this section shall not become operative unless and until notice thereof has been published twice in a local newspaper circulating in the borough but shall become operative as from the date of the second of such publications.

Copies of newspapers containing the notice shall be sufficient evidence of the publication thereof.

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

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

Apportionment of expenses of sewer before land became a street.

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

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

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

Provisions applicable to last two preceding sections.

(2) As soon as the apportionment has been made the Corporation shall serve on the owners of the several premises affected notice of the sums respectively apportioned to them and the notice shall state the right of appeal hereinafter conferred.

(3) Any owner on whose premises any sum has been apportioned shall be entitled within fourteen days of the service upon him of such notice as aforesaid to appeal to a court of summary

PART IV
—cont.

jurisdiction against the amount of the sum so apportioned and may on such appeal dispute the correctness of the surveyor's certificate.

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

(4) Whenever a new building (other than a building not requiring a foul water drainage system) is erected on any premises fronting adjoining or abutting on the street or part of the street after the date when the resolution became operative or the street was laid out (as the case may be) the sum apportioned on those premises shall be recoverable to an extent proportional to the frontage on the street or part of the street of the site of and the land occupied with the new building:

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

For the purposes of this subsection—

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

(b) the erection of a new building shall be deemed to include—

(i) the re-erection wholly or partially of any building of which an outer wall is pulled down otherwise than in consequence of fire or other accident to such a distance that the part of that wall remaining (if any) is less than half the previous height of the building the height being measured from the ground level to the highest point of the building;

(ii) the conversion into a house of any building not originally constructed for human habitation;

(iii) the conversion of any premises into a factory workshop shop or place of public resort;

(iv) any extension by reason whereof the area occupied by the site of the building will with any previous extension made since the date when the resolution became operative or the street was laid out (as the case may be) be increased by an area equal to more than one-eighth or in the case of a

building constructed for agricultural purposes one-quarter of that occupied by the site of the building before that date.

PART IV
—cont.

(5) The sum apportioned on any premises shall notwithstanding that no part thereof is immediately recoverable be treated as a local land charge for the purposes of the Land Charges Act 1925 and where part thereof has become recoverable the balance shall be so treated. 15 & 16 Geo. 5. c. 22.

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

(7) Where such a resolution as is mentioned in section 57 (Apportionment of expenses of sewer constructed under street) of this Act has been passed but the construction of the sewer to which it relates has not been completed within two years from the date when the resolution became operative all liabilities of frontagers consequent thereon shall cease.

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

(9) Where under this section any sum becomes recoverable in respect of any premises that sum together with interest from the date of service of a demand therefor may be recovered either as a simple contract debt in any court of competent jurisdiction or if the amount does not exceed twenty pounds summarily as a civil debt by the Corporation from the person who is the owner of the premises at the date when a demand for payment is served and as from that date that sum and interest accrued due thereon shall until recovered be a charge on the premises and on all estates and interests therein.

60. If on a complaint by the Corporation to a court of summary jurisdiction it is proved to the satisfaction of the court— As to evasion by owners of sewerage expenses.

- (a) that the owner of any land has conveyed sold leased or otherwise disposed of a portion of the land; and
- (b) that by reason of such disposition any part of the land has ceased to be or has not become land fronting adjoining or abutting on a street within the meaning of

PART IV
—cont.

section 57 (Apportionment of expenses of sewer constructed under street) of this Act or as the case may be of section 58 (Apportionment of expenses of sewer before land became a street) of this Act ; and

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

then the court shall order that such expenses shall be apportioned on the land which immediately before the date of such conveyance sale lease or disposal included the land so conveyed sold leased or disposed of and thereafter such expenses may be recovered from the owner of any part of that land on which a new building within the meaning of the last preceding section is erected and shall be a charge on any such part of that land and on all estates and interests therein to the same extent and in the same manner as any sum apportioned under either of the said sections 57 and 58 of this Act may be recovered and is charged on the premises under the last preceding section.

Abandoned
drains to be
cut off.

61.—(1) Where after the passing of this Act any person shall—

- (a) reconstruct any drain which communicates with any sewer or other drain ;
(b) lay such drain in a new position ; or
(c) on the occasion of the execution of any works to or in connection with such drain permanently discontinue the use of such drain ;

such person shall cause any drain or portion of drain thereby rendered unnecessary to be cut off and sealed at each end.

(2) Any person who knowingly contravenes the provisions of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding one pound.

As to defective
drains &c.

62.—(1) In any case where it appears to the medical officer or the sanitary inspector that any drain private sewer water-closet or soil-pipe is stopped up the medical officer or the sanitary inspector may give notice to the owner or occupier of the premises to remedy the defect and if such notice is not complied with within forty-eight hours from the service thereof the Corporation may carry out the work necessary to remedy the defect and may subject as hereinafter provided recover the expenses incurred in that behalf from such owner or occupier.

(2) Upon any proceedings under this section the court may inquire whether any requirements contained in any notice given under this section or work done by the Corporation was reasonable and whether the expenses incurred by the Corporation in

doing such work or any part thereof ought to be borne wholly or in part by the person to whom notice was given and the court may make such order concerning such expenses or their apportionment as appears to the court to be just and equitable in the circumstances of the case.

PART IV
—cont.

63.—(1) The powers of section 48 (Power of local authority to examine and test drains &c. believed to be defective) of the Act of 1936 may be exercised in pursuance of any general or special directions given by the Corporation in any case where it appears to the medical officer or the sanitary inspector that there are reasonable grounds for believing that a sanitary convenience drain private sewer or cesspool is in such a condition as to be prejudicial to health or a nuisance or that a drain or private sewer communicating directly or indirectly with a public sewer is so defective as to admit subsoil water. Further power to examine and test drains &c. believed to be defective.

(2) Section 60 (Inspection of drains &c.) of the West Bromwich Corporation Act 1900 is hereby repealed.

64. If any drain or private sewer shall not be well and sufficiently maintained and kept in good repair to the satisfaction of the Corporation it shall be lawful for the Corporation if in their opinion such drain or sewer can be sufficiently repaired at a cost not exceeding fifty pounds to cause the same to be repaired and the expenses of such repairs may be recovered by them from the owner or owners of such drain or sewer in such proportions as the surveyor shall determine: As to repair of drains.

Provided that where such expenses do not exceed two pounds the Corporation may remit the payment of the same by the owner or owners if the Corporation think fit.

65. The Corporation at the request in writing of the owner or occupier of any premises may undertake the cleansing of any water-closets drains sinks or gullies in or connected with such premises for such remuneration as may be determined by the Corporation and the amount thereof shall be recoverable from the person by or on behalf of whom the request is made. Cleansing of sinks and gullies.

PART V

INFECTIOUS DISEASE AND SANITARY MATTERS

66. In this Part of this Act “notifiable disease” has the same meaning as is assigned thereto by the Act of 1936 but also includes measles whooping-cough cerebro-spinal fever dysentery encephalitis lethargica acute influenzal pneumonia acute primary pneumonia and acute poliomyelitis including polio-encephalitis and polio-encephalomyelitis. Definition of notifiable disease.

PART V

—cont.

Information to
be furnished
in case of
notifiable
disease.

67.—(1) The occupier of any building which is used for human habitation and in which there is or has been any person suffering from a notifiable disease shall on the application of the medical officer at any time during the illness of such person or within six weeks from the existence of such illness furnish such information within his knowledge as the medical officer may reasonably require for the purpose of enabling measures to be taken to prevent the spread of the disease.

(2) Any occupier refusing to furnish such information or knowingly furnishing false information shall be liable to a penalty not exceeding two pounds.

(3) In this section the expression “occupier” includes a person having the charge management or control of the building or of the part of a building in which there is or has been any person suffering from a notifiable disease and in the case of a building the whole of which is ordinarily let out in separate tenements or in the case of a lodging-house the whole of which is ordinarily let to lodgers the person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person.

(4) Section 80 (Information to be furnished in case of infectious disease) of the West Bromwich Corporation Act 1913 is hereby repealed.

Parents &c. to
notify certain
diseases.

68.—(1) As from the commencement of this section any parent or other person having the care or charge of a child attending at a school in the borough who is aware of or has reason to suspect the occurrence of a notifiable disease in any person residing with him or is himself suffering from such a disease and who fails forthwith to notify such occurrence to the head teacher principal or superintendent of the school shall be liable to a penalty not exceeding one pound.

In any proceeding under this subsection a certificate purporting to be under the hand of the head teacher principal or superintendent of the school at which the child named in the certificate is in attendance stating that he has or has not received any notification as required under this section shall be evidence of the facts stated in such certificate unless the defendant shall require that the person by whom the certificate has been signed shall be called as a witness.

(2) For the purpose of this section the expression “school” shall include a Sunday school.

Restrictions on
attendance at
schools and
places of
assembly.

69.—(1) As from the commencement of this section no person of or exceeding the age of sixteen years who has the custody charge or care of a child—

(a) who is or has been attending any school or any part thereof which for the time being is closed by order of

the Corporation or of the education committee of the council with the view of preventing the spread of a notifiable disease; or

- (b) who is suffering from a notifiable disease; or
- (c) who with the view of preventing the spread of a notifiable disease has been prohibited from attending school by the medical officer or school medical officer;

shall permit such child to attend any Sunday school or day school or place of public entertainment or assembly without having procured from the medical officer or school medical officer or the medical practitioner attending the child a certificate (which if granted shall be granted free of charge upon application) that in his opinion such child may attend such Sunday school or day school or place of public entertainment or assembly without undue risk of communicating disease to others.

(2) In this section the expression "day school" means a school (not being a county school voluntary school or county college maintained by a local education authority) at which some or all of the children are not boarders but the provisions of this section shall not apply to the attendance at a day school of children who are boarders at that school.

(3) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding two pounds.

(4) Upon the coming into operation of the provisions of this section section 77 (Restrictions on attendance of children at Sunday school when infectious disease exists) of the West Bromwich Corporation Act 1913 shall cease to have effect.

70.—(1) If the Corporation acting on the advice of the medical officer with the view of preventing the spread of a notifiable disease require the closing of any Sunday school or day school or any department thereof or the exclusion of certain children therefrom for a specified time or the exclusion of children from places of public entertainment or assembly for a specified time such requirement shall be at once complied with.

Power to close schools and exclude children from entertainments.

(2) Any person responsible for the conduct or management of any Sunday school or day school or any department thereof or place of public entertainment or assembly wilfully failing to comply with any such requirement shall for every such failure be liable to a penalty not exceeding five pounds.

(3) In this section the expression "day school" means a school (not being a county school voluntary school or county college maintained by a local education authority) at which some or all of the children are not boarders but the provisions of this section shall not apply to the attendance at a day school of children who are boarders at that school.

PART V
—cont.

(4) Section 78 (Power to close Sunday schools to prevent spread of infectious disease) of the West Bromwich Corporation Act 1913 is hereby repealed.

Compensation to persons for ceasing employment to prevent spread of disease.

71.—(1) If any person at the request in writing of the Corporation or the medical officer stops his employment for the purpose of preventing the spread of a notifiable disease or of a milk-borne disease as defined in section 37 (Provisions as to ice-cream likely to cause milk-borne disease) of the Food and Drugs Act 1938 or of food poisoning the Corporation may make compensation to him in respect of any loss which he may sustain by reason of such stoppage.

(2) Section 87 (Power to compensate persons ceasing employment &c.) of the West Bromwich Corporation Act 1900 is hereby repealed.

Entry into premises in case of disease.

72.—(1) If the medical officer has reasonable cause to believe that in any premises there is a person who is suffering or who has recently suffered from a notifiable disease he may on obtaining a warrant from a justice of the peace which such justice is hereby authorised to grant enter such premises and examine any person found therein with a view to ascertaining whether he is suffering or has recently suffered from such disease :

Provided that the medical officer shall not under the powers of this section—

- (a) enter any premises except between the hours of seven in the morning and ten in the evening ; or
- (b) examine a person who is already under the treatment of a medical practitioner except with the consent of the latter.

(2) Any person who obstructs the medical officer in the exercise of his powers under this section shall in addition to any other punishment to which he may be subject be liable to a penalty not exceeding five pounds.

Power to require persons to vacate premises during fumigation.

73.—(1) If the Corporation take action under subsection (1) of section 83 (Cleansing of filthy or verminous premises) of the Act of 1936 in reference to premises which appear to be verminous and in the opinion of the Corporation it is necessary to use gas to destroy vermin on the premises they may serve notices on the occupiers of premises in the fumigation area and the risk area as defined in the Hydrogen Cyanide (Fumigation of Buildings) Regulations in force for the time being requiring all persons to vacate those premises during such period as may be specified by the Corporation :

Provided that the Corporation shall not require any person to vacate his premises under this section unless temporary shelter or house accommodation shall have been provided for him.

(2) Any person who contravenes a notice served under this section shall be liable to a penalty not exceeding five pounds.

PART V
—cont.

(3) The Corporation may pay to any person required to vacate premises in pursuance of the powers contained in this section such reasonable allowance as they think fit towards his expenses in removing.

(4) The Rent and Mortgage Interest Restrictions Acts 1920 to 1939 shall not be deemed to cease to apply to a house or premises by reason only of the fact that such a house or premises have been vacated in compliance with a notice served under this section.

74.—(1) No dealer shall—

(a) prepare for sale ;

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

(c) deposit for the purpose of sale or preparation for sale ;

any furniture mattress bed-linen clothing or similar article (in this section called “ article ”) if the same is to his knowledge infested with bugs or other vermin or if by taking reasonable precautions he could have known the same to be so infested.

Prohibition on
sale of
verminous
articles.

(2) If a dealer contravenes the provisions of this section he shall be liable to a penalty not exceeding five pounds and the Corporation upon a certificate of the medical officer or the sanitary inspector may remove any such verminous article and cause the same to be cleansed purified disinfected or destroyed as the case may require and may recover the cost of so doing from such dealer.

(3) The medical officer and the sanitary inspector may enter any premises in which any article is sold or exposed for sale for the purpose of examining whether there be any contravention of the provisions of this section or for the purpose of removing any verminous article.

(4) For the purposes of this section—

“ dealer ” means any person who trades or deals in any article ;

“ preparation for sale ” shall not include disinfestation.

75.—(1) Where the Corporation are satisfied that—

(a) any house is in such a state (in this section referred to as a “ defective state ”) as to be prejudicial to health or a nuisance ; and

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

As to defective
premises.

PART V
—cont.

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

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

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

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

- (i) the alleged defective state did not exist at the time of the service of the notice ; or
- (ii) the need to abate the defective state was not so urgent as to justify the Corporation themselves executing such works and taking such steps without first complying with the provisions of section 93 and section 94 of the Act of 1936 ; or
- (iii) the person upon whom the notice was served having duly served a counter-notice under subsection (2) of this section commenced within a reasonable time and progressed reasonably with the execution of such works and the taking of such steps as were necessary to remedy the defective state of the house.

(b) A person against whom proceedings are taken under subsection (3) of this section shall upon information duly laid by him and on giving to the Corporation not less than three clear

days' notice of his intention be entitled to have any person to whose act default or sufferance he alleges that the defective state of the house was due brought before the court in the proceedings and if the original defendant proves that the defective state of the house arose or continued by the act default or sufferance of that other person the court shall have power—

- (i) to order that such expenses as aforesaid may be recovered from that other person ; or
- (ii) to apportion the expenses between persons by whose acts defaults or sufferances the defective state of the house arose or continued in such manner as the court may deem fair and reasonable.

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

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

76.—(1) As from the commencement of this section every person who shall carry on the trade or business of a hairdresser or barber shall register his name and place of abode and also the premises in which such trade or business is carried on in a book to be kept at the offices of the Corporation for the purpose and the Corporation shall thereupon issue a certificate of registration.

Registration of
hairdressers
and barbers
and their
premises.

(2) The Corporation may make byelaws for the purpose of securing the cleanliness of—

- (a) any premises registered under this section and of the instruments towels materials and equipment used therein ; and
- (b) persons employed in such premises in regard to both themselves and their clothing.

(3) (a) The person registered shall keep a copy of the byelaws made by the Corporation under this section and the certificate of registration displayed in the registered premises.

(b) If the registration is cancelled or suspended under the provisions of subsection (5) of this section the certificate of registration shall be returned to the Corporation within seven days from such cancellation or suspension.

PART V
—cont.

(4) Any officer of the Corporation or other person duly authorised in writing in that behalf by the Corporation and if so required exhibiting his authority shall at all reasonable times be afforded by the person registered full and free power of entry into the registered premises for the purpose of inspecting such registered premises and examining whether there is any contravention of the provisions of this section or any byelaw made thereunder and any such officer or person as aforesaid shall have the like power of entry into any premises in which there is reasonable cause to suppose that the said trade or business is being carried on:

Provided that the powers conferred by this subsection of entering premises for the purpose of examining whether there is any contravention of any byelaw made for the purposes mentioned in paragraph (b) of subsection (2) of this section shall not be exercised by any officer except the medical officer or the sanitary inspector.

(5) (a) Any person carrying on such trade or business as aforesaid whose name place of abode and premises in which such trade or business is carried on have not been registered in accordance with subsection (1) of this section or whose registration has been cancelled or suspended as hereinafter provided or who contravenes any of the provisions of this section shall be liable to a penalty not exceeding two pounds and to a daily penalty not exceeding one pound.

(b) Any person who contravenes any byelaw made under this section shall be liable to a penalty not exceeding two pounds and a court of summary jurisdiction may (in lieu of or in addition to imposing a penalty) order the cancellation or suspension of the registration.

Prevention of
smoke from
industrial
furnaces.

77.—(1) As from the commencement of this section no person shall instal in any building whether erected before or after the passing of this Act any furnace for steam raising or for any manufacturing or trade purpose unless such furnace is so far as practicable capable of being operated continuously without emitting smoke.

(2) If a person before installing in a building a furnace to which this section applies submits to the Corporation plans proposals and particulars of the proposed furnace and furnishes them with such other necessary information in regard thereto as they may require the Corporation shall within a period of six weeks from the date upon which such plans proposals particulars and information are received by them serve a notice upon such person stating whether or not they are satisfied that the furnace is so far as practicable capable of being operated continuously without emitting smoke and if they are so satisfied or if they do

not serve a notice upon such person before the expiration of the said period of six weeks no proceedings shall be taken against him under this section in respect of the installation of that furnace in accordance with the plans proposals particulars and information so submitted and furnished.

PART V
—cont.

(3) Before serving a notice under this section stating that they are not satisfied that the furnace is so far as practicable capable of being operated continuously without emitting smoke the Corporation shall consult with the Minister of Fuel and Power.

(4) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding ten pounds and any person who after conviction of an offence of installing a furnace in contravention of those provisions uses that furnace shall unless it has been amended so as to comply with those provisions be liable to a penalty not exceeding two pounds for each day on which he so uses the furnace.

(5) In determining for the purposes of this section whether a furnace is so far as practicable capable of being operated continuously without emitting smoke the Corporation or a court shall if either of the parties so desire have regard to cost and to local conditions and circumstances.

78. Section 82 (Byelaws as to removal through streets of offensive matter or liquid) of the Act of 1936 in its application to the borough shall be extended so as to empower the Corporation to make byelaws prescribing the times and the days of the week during which trade refuse may be set fire to or burned in yards and gardens. Byelaws as to burning of refuse.

79.—(1) Section 81 (Byelaws for the prevention of certain nuisances) of the Act of 1936 shall extend to empower the Corporation to make byelaws for regulating the tipping of dust spoil and refuse and for prohibiting the use of any dust spoil or refuse tip so as to be a nuisance to the occupiers of any premises in the neighbourhood thereof. Byelaws as to tipping refuse.

(2) The Corporation may by any byelaws made by them in pursuance of this section impose on persons contravening the byelaws penalties recoverable on summary conviction not exceeding fifty pounds for each offence and a daily penalty not exceeding ten pounds.

(3) Without prejudice to any other remedy available the Corporation if satisfied of the existence of any conditions constituting a breach of any byelaw made in pursuance of this section may proceed in the same way as they are by the Act of 1936 authorised to proceed with respect to a statutory nuisance of the existence of which they are satisfied and sections 93 to 98 and section 100 of that Act shall apply accordingly.

PART V
—cont.

(4) A person contravening any byelaws made in pursuance of this section shall not in respect of such offence be subjected both to a penalty under the byelaws and to a penalty under section 94 (Power of court to make nuisance order if abatement notice disregarded) of the Act of 1936 as applied by subsection (3) of this section nor shall any such offender be subjected in respect of one and the same period both to a further penalty under the byelaws for the continuance of his offence after conviction and to a penalty under section 95 (Penalty for contravention of nuisance order and abatement of nuisance by local authority) of the Act of 1936 (as so applied) for contravening an order.

(5) No byelaw under this section shall extend to regulate or control the tipping of spoil and refuse by any railway canal or inland navigation undertakers for the purpose of constructing widening or maintaining any railway canal or wharf works or the tipping by the authority upon any lands for the time being belonging to or occupied by them and forming part of the site of or used in connection with a station for generating electricity of any dust spoil or refuse arising from the generation of electricity.

Nuisance from
pigeons &c.24 & 25 Vict.
c. 96.

80.—(1) For the purpose of abating or mitigating any nuisance annoyance or damage caused by house doves pigeons or starlings having or believed by the Corporation to have no owner or of preventing or minimising any such nuisance annoyance or damage which might in the opinion of the Corporation be so caused the Corporation may notwithstanding anything in the Larceny Act 1861 or in any other Act—

- (a) seize and humanely destroy or cause to be seized and humanely destroyed any such house doves pigeons or starlings in excess of such number as the Corporation consider reasonable ;
- (b) sell or otherwise dispose of or cause to be sold or otherwise disposed of the carcasses of any such house doves pigeons or starlings ; and
- (c) take such other steps as they think necessary for any such purpose :

Provided that the Corporation shall not in the exercise of the powers conferred by this section—

- (a) enter upon any premises (other than a public highway) without the consent of the occupier or the person having the exclusive control and management of the premises ; or
- (b) execute or do any work or thing affecting the structure of any building or the use of any land without the consent of the owner of the building or land.

(2) Nothing in this section shall authorise the seizure or destruction of any wild bird in contravention of the provisions of the Wild Birds Protection Acts 1880 to 1939 or any order made thereunder.

PART V
—cont.

PART VI

FOOD

81.—(1) As from the commencement of this section the following provisions shall have effect:—

Registration of hawkers of food and their premises.

(a) No person other than a person keeping open shop for the sale of food shall either by himself or by any person employed by him sell offer or expose for sale any food from any cart barrow or other vehicle or from any basket pail tray or other receptacle unless he is registered with the Corporation;

(b) No premises shall be used as storage accommodation for any food intended for sale from a cart barrow or other vehicle or from a basket pail tray or other receptacle unless the premises are registered as aforesaid.

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

(3) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding two pounds and to a daily penalty not exceeding one pound.

(4) (a) The Corporation may refuse to register any person or premises under this section or (after giving one month's notice to the person registered or in whose name any premises are registered) may revoke the registration of any person or premises under this section if they are satisfied—

(i) as regards a person that the public health is or is likely to be endangered by any act or default of his in relation to the quality storage or distribution of food; or

(ii) as regards premises that the premises are not suitable to be used for the purposes aforesaid:

Provided that before refusing or revoking such registration the Corporation shall serve upon the person applying for registration or upon the person registered or in whose name such premises are registered a notice to appear before them not less than seven days after the date of the notice to show cause why the Corporation should not for reasons to be specified in the notice refuse to register or revoke the registration of the person or premises. Any such notice shall state the effect of paragraphs (b) and (c) of this subsection.

PART VI
—cont.

(b) If the Corporation refuse to register or revoke the registration of any such person or premises they shall if required by the person applying for such registration or the person registered or in whose name the premises are registered deliver to him within seven days of the receipt of such requirement a statement in writing of the ground or grounds upon which such refusal or revocation is based.

(c) Any person appealing to a court of summary jurisdiction under section 159 (As to appeals) of this Act against any such refusal or revocation shall do so within fourteen days from the date of the notice of such refusal or revocation.

(5) The medical officer the sanitary inspector or any other officer of the Corporation appointed for the purpose shall have power at all reasonable times to enter and inspect any premises in respect of which an application has been received for registration under the provisions of this section and also any premises which he shall have reason to believe are being used as storage accommodation for food intended for sale from a cart barrow or other vehicle or from a basket pail tray or other receptacle.

(6) The Corporation shall keep a register of the persons and premises registered under the provisions of this section.

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

(a) to any premises registered under section 14 (Registration of premises used in connection with the manufacture or sale of ice-cream or preserved food &c.) of the Food and Drugs Act 1938 or to any dairy or dairyman registered under Part II (Provisions as to milk dairies and artificial cream) of that Act or under any regulations made thereunder or under an enactment thereby repealed ; or

(b) to any premises used as a theatre cinematograph theatre music hall or concert hall or to any person in respect of the sale or offer or exposure for sale of any food in any such premises ; or

(c) to cases where food is only sold or offered or exposed for sale or is stored in connection with a canteen provided by the owner or occupier of a factory for the benefit of persons in their employment.

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

82.—(1) If the medical officer certifies in writing—

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

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

Power to prohibit persons in advanced state of tuberculosis from selling &c. food.

(c) that his continuance in such employment would in the judgment of the medical officer be detrimental to the public health ;

PART VI
—cont.

the Corporation may request such person to stop his employment and on such request being made the Corporation may if they think fit make compensation to him in respect of any loss which he may sustain by reason of such stoppage.

(2) If any such person shall fail to comply with such request the Corporation may apply to a court of summary jurisdiction for an order requiring him to stop his employment and the court shall have power to make such an order if after consideration of all the circumstances it thinks fit to do so and may direct that such compensation as it deems equitable shall be paid by the Corporation to such person.

(3) If any such person contravenes any such order he shall be liable to a penalty not exceeding two pounds and to a daily penalty not exceeding ten shillings.

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

83.—(1) Every person who sells or exposes for sale or deposits for the purpose of sale or of preparation for sale or with a view to future sale any food shall take all such steps as may be reasonably necessary to guard against the contamination of such food by animals and insects and shall cause such food to be so placed as to prevent mud filth or other contaminating substance being splashed or blown thereon.

Precautions
against
contamination
of food.

(2) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding two pounds and to a daily penalty not exceeding ten shillings.

(3) In this section the expression “ food ” does not include—

(a) milk ;

(b) meat to which the Public Health (Meat) Regulations 1924 to 1948 apply ; or

(c) any substance which is contained in a container of such materials and so closed as to exclude all risk of contamination.

84.—(1) As from the commencement of this section where any person being the owner of any bull ox cow heifer calf sheep lamb goat or pig which is emaciated or diseased and unfit for food is about to slaughter the same or about to cause the same to be slaughtered he shall give not less than twelve hours' previous notice to an authorised officer of such intention and shall on the application of an authorised officer within six weeks

Notice of
slaughter of
animal unfit
for food.

PART VI
—cont.

from the date of such slaughter furnish such information within his knowledge as such authorised officer may reasonably require for the purpose of enabling inquiries to be made to trace the disposition of the carcasses or any part thereof:

Provided that where by reason of accidental injury illness or exposure to infection it is necessary that any such animal should be slaughtered without delay the provisions of this section shall be deemed to be satisfied if—

- (a) notice of the slaughter is given to an authorised officer as soon as reasonably possible whether before or after the slaughter takes place ; and
- (b) the carcass is not disposed of until the expiration of twelve hours from the delivery of such notice or the disposal of the carcass has been approved by an authorised officer.

(2) Any person failing to give such notice or refusing to furnish such information or knowingly furnishing false information shall be liable to a penalty not exceeding ten pounds.

(3) This section shall not apply to the slaughter of any animal to which the Public Health (Meat) Regulations 1924 to 1948 apply.

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

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

(5) In this section the expression “ authorised officer ” means any officer of the Corporation who is by virtue of the Food and Drugs Act 1938 an authorised officer for the purpose of the examination and seizure of meat under the provisions of that Act.

Animals
slaughtered
outside
slaughter-
houses.

85.—(1) As from the commencement of this section where the slaughter of an animal intended for human consumption shall take place outside a slaughter-house and the carcass of the animal shall be brought into a slaughter-house within the borough such carcass and all the organs thereof shall be retained and kept separate and apart from any other meat intended for human consumption until such carcass and organs have been inspected or their removal has been authorised in accordance with the provisions of the Public Health (Meat) Regulations 1924 to 1948 or any regulations substituted therefor.

(2) Where there is any contravention of the provisions of this section the occupier of the slaughter-house and also the person by whom the carcass is prepared or dressed shall be liable to a penalty not exceeding five pounds.

(3) In this section "animal" "slaughter-house" and "meat" have the same respective meanings as in the Public Health (Meat) Regulations 1924 to 1948.

PART VI
—cont.

86.—(1) The Corporation may make byelaws—

Byelaws as to
meat for
feeding
animals.

- (a) for requiring the sterilisation in such manner as may be prescribed by the byelaws of animal feeding meat exposed or offered for sale for consumption by dogs cats or other animals ;
- (b) for prohibiting the sale or offer or exposure for sale of animal feeding meat for consumption by dogs cats or other animals unless such meat has been so sterilised ;
- (c) for empowering an authorised officer to examine any animal feeding meat which is offered or exposed for sale for consumption by dogs cats or other animals and to seize and destroy or cause to be destroyed such animal feeding meat if it has not been so sterilised as aforesaid :

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

(2) In this section—

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

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

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

PART VII

ESTABLISHMENTS FOR MASSAGE OR SPECIAL TREATMENT

87. In this Part of this Act the expression "establishment for massage or special treatment" means any premises used or represented as being or intended to be used for the reception or treatment of persons requiring—

Definition of
establishment
for massage or
special
treatment.

- (a) massage or chiropody ; or
- (b) electric treatment or radiant heat light electric vapour or other baths for therapeutic treatment ; or
- (c) other similar treatment.

PART VII
—cont.
Establishments
for massage
or special
treatment to be
licensed.

Applications
for licences.

88. As from the commencement of this Part of this Act no person shall carry on an establishment for massage or special treatment without a licence from the Corporation authorising him so to do.

89.—(1) A person requiring a licence or the renewal of a licence under this Part of this Act shall make application in writing to the Corporation and shall in the application state—

- (a) his full name ;
- (b) his age and nationality ;
- (c) his technical qualifications ;
- (d) his private address or if the application be made by or on behalf of a company society association or body the registered or principal office (if any) of such company society association or body and so far as may reasonably be required the names and private addresses of the directors or other persons directly or indirectly responsible for the management of such company society association or body ;
- (e) the name under which and the address at which the establishment is carried on or proposed to be carried on ;
- (f) the nature of the establishment and of the business carried on or proposed to be carried on thereat ;
- (g) whether and if so to what extent he is or has been interested in any other establishment for massage or special treatment ; and
- (h) such further information (if any) as the Corporation may reasonably require with respect to him or the establishment carried on or proposed to be carried on by him.

(2) The person making an application under this section shall when making the same pay to the Corporation such fee as the Corporation may fix not exceeding—

	£	s.	d.
(a) in respect of an application for the grant of a licence	2	2	0
(b) in respect of an application for the renewal of a licence	1	1	0

And the fees paid on any application for the grant or renewal of a licence may be retained by the Corporation whether such licence is or is not granted or renewed.

(3) Subject to the foregoing provisions of this section the Corporation may make such regulations as they think fit as to the manner in which and the dates at which applications for a licence or the renewal of a licence under this Part of this Act shall be made.

90.—(1) The Corporation shall as soon as reasonably practicable after the receipt of an application under this Part of this Act grant or renew a licence to the applicant to carry on an establishment for massage or special treatment of the description and in the name and at the address specified in the application and may attach such conditions thereto as they may consider reasonably necessary for securing the due notification to them of any change in the name or private address of the licensee or in the treatment afforded or in the nature of the business carried on at the establishment and generally for securing the proper conduct of the establishment:

PART VII
—cont.
Grant of
licences.

Provided that the Corporation may refuse to grant or renew a licence or may revoke a licence granted—

- (a) to any person under the age of twenty-one years; or
- (b) to any person who may be unsuitable to hold such licence; or
- (c) in respect of any premises which are unsuitable for the purposes of an establishment for massage or special treatment or in which the accommodation or provision for such treatment is not reasonably adequate or suitable; or
- (d) in respect of any establishment which has been or is being improperly conducted; or
- (e) in respect of any establishment in which massage or special treatment is or may be administered by any person who does not possess such technical qualifications as may be reasonably necessary; or
- (f) in respect of any establishment which is being carried on in contravention of the provisions of this Part of this Act or any byelaw made thereunder.

(2) If the Corporation refuse to grant or renew a licence or revoke a licence under this Part of this Act they shall if required by the applicant or holder (as the case may be) send or deliver to him within seven days of the receipt of such requirement particulars in writing of the ground or grounds for such refusal or revocation.

(3) Where an application is made for the renewal of a licence and objections have been taken to such renewal or when it is proposed to revoke a licence notice in writing to that effect shall at least seven days before the question of renewal or revocation is considered be given to the applicant or holder of the licence and if within three days after the receipt of such notice the applicant or holder requires to be heard the application shall not be refused or the licence revoked unless the Corporation has afforded him an opportunity of being heard against the refusal or revocation.

PART VII
—cont.

Any notice served under this subsection shall state the objections to renewal or the grounds on which revocation is proposed and shall notify the aforesaid opportunity of being heard and also the effect of subsection (2) of this section and the right of appeal conferred by section 159 (As to appeals) of this Act and the time within which such appeal may be brought.

(4) Every licence granted or renewed as aforesaid shall (unless revoked) be valid until the date of the next annual meeting fixed for the purpose of considering applications under this Part of this Act and no longer.

Byelaws as to establishments for massage or special treatment.

91.—(1) The Corporation may make byelaws—

- (a) prescribing the keeping by every person holding a licence under this Part of this Act of books cards or forms showing the business conducted by him so far as it relates to his establishment for massage or special treatment ;
- (b) prescribing the entries to be made in connection with such business in such books or cards or forms ;
- (c) prescribing the technical qualifications to be possessed by any person who administers massage or special treatment at any establishment licensed under this Part of this Act ;
- (d) for preventing fraud and immorality in the conduct of establishments so licensed ; and
- (e) generally for regulating any premises used for the purposes of or in connection with any such establishment.

(2) Every person holding a licence under this Part of this Act shall keep exhibited in a suitable place (to be approved by the Corporation) in the premises to which the licence relates a copy of the byelaws made under this section.

Powers of entry and inspection.

92. Any officer of or other person duly authorised by the Corporation in that behalf may—

- (a) enter the premises specified in any licence or application under this Part of this Act or any premises which are used or which there is reasonable cause to believe are used for the purposes of or in connection with an establishment for massage or special treatment ; and
- (b) inspect such premises and the books cards or forms kept in connection with the establishment carried on at those premises.

Penalties for offences in respect of establishments for massage &c.

93.—(1) Every person who carries on an establishment for massage or special treatment without a licence under this Part of this Act or otherwise than in accordance with the terms and conditions of such licence or obtains a licence or the renewal of a licence by wilful misrepresentation or by wilfully omitting to

give such particulars as are required by this Part of this Act to be given shall be liable to a penalty not exceeding fifty pounds and to a daily penalty not exceeding twenty pounds and in respect of a second or subsequent offence the court may in lieu of or in addition to inflicting a penalty impose any period of imprisonment not exceeding three months.

PART VII
—cont.

(2) Every person who—

(a) contravenes the provisions of any byelaw made under this Part of this Act ; or

(b) issues publishes or displays or causes to be issued published or displayed any advertisement relating to an establishment for massage or special treatment which is not licensed in accordance with the provisions of this Part of this Act after the expiration of a period of seven days from the receipt of notice from the Corporation that the licence relating to such establishment has expired or has been refused or revoked under the provisions of this Part of this Act ; or

(c) contravenes the provisions of subsection (2) of section 91 (Byelaws as to establishments for massage or special treatment) of this Act ;

shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding two pounds.

(3) In respect of any conviction for an offence under this Part of this Act the court may (in lieu of or in addition to imposing a penalty) make an order revoking the licence (if any).

94. Where any company within the meaning of the Companies Act 1948 commits any offence for which a penalty is provided by this Part of this Act proceedings may be taken in respect of such offence against every person who at the time of the commission of the offence was a director manager secretary or other officer of such company or was purporting to act in such capacity as well as or instead of against the company and every such person shall be liable on conviction to the like penalty as if he were the person committing the offence unless he proves to the satisfaction of the court—

Liability of directors &c.
11 & 12 Geo. 6.
c. 38.

(a) that the offence was committed without his consent or connivance ; and

(b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

95. Subject as hereinafter provided the provisions of this Part of this Act shall not apply to an establishment for massage or special treatment carried on by a registered medical practitioner.

Saving for establishments carried on by medical practitioners.

PART VII
—cont.

Saving for
members of
Chartered
Society of
Physiotherapy.

96.—(1) Subject as hereinafter provided the provisions of this Part of this Act prohibiting a person from carrying on an establishment for massage or special treatment without a licence from the Corporation authorising him so to do shall not apply to a registered member of the Chartered Society of Physiotherapy carrying on or proposing to carry on any such establishment with respect to which there has been lodged with the Corporation a certificate in a form to be approved by the Corporation and signed by two registered medical practitioners practising or residing in the borough not being in partnership with each other and not having any financial or other interest in such establishment to the effect that the person carrying on or proposing to carry on such establishment is a suitable person to carry on the same at the premises used or to be used therefor:

Provided that any such certificate shall not be valid—

- (a) with respect to any person or premises other than the person or premises specified therein; or
- (b) for a period extending beyond the expiration of one month after the date of the annual meeting fixed for the purpose of considering applications under this Part of this Act.

(2) Any registered member of the said society carrying on an establishment for massage or special treatment with respect to which a valid certificate is deposited with the Corporation under subsection (1) of this section is in this section referred to as a “registered member.”

(3) During the validity of any such certificate the provisions of this Part of this Act (other than section 88 (Establishments for massage or special treatment to be licensed) section 89 (Applications for licences) and section 90 (Grant of licences)) shall apply to a registered member and to the establishment carried on by him—

- (a) as if he held a licence under this Part of this Act; and
- (b) as if the premises with respect to which the certificate has been given were the premises specified in the licence:

Provided that no person other than the medical officer or a registered medical practitioner shall be entitled for the purposes of this Part of this Act to inspect the premises at which the establishment is carried on or the books cards or forms kept in connection with such establishment.

(4) The provisions of this section shall apply to a registered member and to the establishment carried on by him so long only as he complies with the provisions of the charter granted to the said society and with the byelaws made thereunder.

97. Notwithstanding anything in this Part of this Act the provisions thereof shall not except as provided by the next succeeding section apply to—

- (1) any hospital provided by the Minister ; or
- (2) any nursing home which is for the time being registered under the Act of 1936 or exempted from registration under that Act by a certificate granted by either the Corporation or the Minister and at which the persons administering massage or special treatment have such technical qualifications as may be reasonably necessary ; or
- (3) any premises used for the reception or treatment of persons for any purpose to which the provisions of this Part of this Act apply but not so used for the purpose of gain or reward ; or
- (4) any premises being an establishment for massage or special treatment merely by reason of face or scalp massage being administered in those premises.

PART VII
—cont.

Saving for certain premises.

98. In any case in which the Corporation have reason to believe that any premises (including premises referred to in the last foregoing section) situate in the borough and to which premises the provisions or some of the provisions of this Part of this Act do not apply are advertised as being used for some legitimate business but are in fact being used for immoral purposes the council may subject to the approval of the Secretary of State by resolution determine that all or any of the provisions of this Part of this Act and of any byelaws made thereunder shall extend and apply to such premises and the business carried on therein as if such premises and business were included in the expression " establishment for massage or special treatment " within the meaning of this Part of this Act and as from the passing of any such resolution as aforesaid or as from such date (if any) as may be specified therein all or any of the provisions of this Part of this Act and any such byelaws as aforesaid shall extend and apply accordingly.

Extension of this Part of Act to other premises and businesses.

PART VIII

ENTERTAINMENTS PARKS &C.

99.—(1) The Corporation may provide erect maintain and use such apparatus and conveniences as they may consider necessary for the purpose of transmitting any concert entertainment or public meeting or any part thereof from a building park or recreation ground belonging to the Corporation at which such concert entertainment or public meeting is provided or held to any other building park or recreation ground at which concerts

Transmission of entertainments.

PART VIII
—cont.

or entertainments may be provided by the Corporation and for that purpose may erect and maintain posts and wires in any street:

32 & 33 Vict.
c. 73.12 & 13 Geo. 6.
c. 54.

Provided that nothing in this section shall affect the exclusive privileges conferred upon the Postmaster-General by the Telegraph Act 1869 or exempt the Corporation or any other body or person from any obligation to obtain any licence under the Wireless Telegraphy Acts 1904 to 1926 or the Wireless Telegraphy Act 1949 and any electrical apparatus posts or wires which may be erected under this section shall be so constructed maintained and used as to prevent interference with any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

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

Byelaws as to
pleasure fairs
and public
roller-skating.

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

- (a) for regulating the hours during which pleasure fairs and any place kept or used for public roller-skating may be open to the public;
- (b) for securing safe and adequate means of ingress to and egress from any pleasure fair or any place kept or used for public roller-skating;
- (c) for the prevention and suppression of nuisances and for preserving sanitary conditions cleanliness order and public safety at any pleasure fair or any place kept or used for public roller-skating.

(2) In this section—

the expression “pleasure fair” means any place of entertainment for admission to which or for the use of the contrivances in which a charge is made and where the entertainment comprises any or all of the following whether or not in combination with any other forms of entertainment that is to say any circus exhibition of human beings or performing animals merry-go-round roundabout switchback railway cocoanut shy hoop-la shooting gallery swings dodgems or other mechanical driving or riding devices automatic or other machines intended for entertainment or amusement and anything similar to any of the foregoing:

Provided that the expression "pleasure fair" does not include any place where—

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

(b) the entertainment is not carried on for more than seven consecutive days and is provided by a bona fide association (including the Salvation Army) club hospital or society not carried on for profit.

(3) Before making any byelaws under this section the Corporation shall give to the Amusement Caterers' Association the Association of Amusement Park Proprietors of Great Britain and the Showmen's Guild of Great Britain not less than one month's notice of the intention of the Corporation to make such byelaws and such notice shall be accompanied by a copy of the draft byelaws and the Corporation shall confer with the said associations and guild thereon before they submit them to the Secretary of State for confirmation.

101.—(1) If any person after the commencement of this section uses any premises wholly or mainly for the business of providing any entertainments to which this section applies without being registered in respect of such premises he shall be liable to a penalty not exceeding five pounds and a daily penalty not exceeding two pounds.

Registration of
entertainment
proprietors.

(2) An application for registration under this section shall be made in writing to the Corporation by or on behalf of the person (hereinafter referred to as "the proprietor") carrying on or proposing to carry on the business of providing entertainments to which this section applies and every such application shall state—

- (a) the address or situation of the premises to which the application relates;
- (b) the full name and address of the proprietor and if the proprietor is a company or firm or other body the registered or principal office of such company firm or body;
- (c) the periods (if any) in the twelve months preceding the commencement of this section during which the premises were being used wholly or mainly for the purpose of providing entertainments;
- (d) the extent to which it is proposed to use the premises for the purpose of providing entertainments and the general nature of the entertainments proposed to be provided at the premises;
- (e) the nature of the interest of the proprietor in the premises;

PART VIII
—cont.

and where the proprietor is a prospective purchaser lessee or licensee of the premises shall be accompanied by a statement in writing signed by the person who proposes to sell lease or license the premises to the proprietor to the effect that the application is being made with his knowledge and consent.

(3) Subject as hereinafter provided the Corporation shall as soon as practicable and not later than two months after the receipt of an application under this section register the proprietor in respect of the premises to which the application relates:

Provided that (except where the premises were used wholly or mainly for the purpose of providing entertainments during a continuous period of not less than eight weeks in the twelve months immediately preceding the commencement of this section) the Corporation may refuse to register the proprietor in respect of the premises if—

- (a) the Corporation are of opinion that the premises cannot be made to conform to the requirements of any byelaws made under paragraph (b) or paragraph (c) of subsection (1) of section 100 (Byelaws as to pleasure fairs and public roller-skating) of this Act; or
- (b) there are circumstances connected with the proprietor which in the opinion of the Corporation render it undesirable that he should be registered in respect of the premises.

(4) If—

- (a) since the date of the registration circumstances connected with the proprietor have arisen which render it undesirable in the opinion of the Corporation that the proprietor should continue to be registered in respect of all or any of the premises in respect of which he is registered under this section; or
- (b) since the said date circumstances connected with the management by the proprietor of any premises in respect of which he is registered as aforesaid have arisen which render it undesirable in the opinion of the Corporation that he should continue to be registered in respect of the premises in relation to which such circumstances have arisen as aforesaid; or
- (c) the entertainments provided at any premises in respect of which the proprietor is registered under this section have offended against public decency; or
- (d) any premises in respect of which the proprietor is registered as aforesaid do not conform to the requirements of any byelaws made under paragraph (b) or paragraph (c) of subsection (1) of section 100 (Byelaws as to pleasure fairs and public roller-skating) of this Act;

the Corporation may cancel the registration of the proprietor in respect of such premises:

PART VIII
—cont.

Provided that the Corporation shall not on the grounds mentioned in the foregoing paragraph (d) of this subsection cancel the registration of the proprietor in respect of any premises—

- (i) (in the case of any premises which have been used for the purpose of providing entertainments during a continuous period of not less than eight weeks in the twelve months immediately preceding the commencement of this section) until the expiration of a period of three years from the twenty-seventh day of November nineteen hundred and forty-eight; and
- (ii) (in any case) unless the proprietor has had a reasonable opportunity to make the premises conform to the requirements of any such byelaw as is referred to in that paragraph.

(5) The Corporation shall not refuse to grant an application for registration under this section and shall not cancel any such registration until they have given the proprietor an opportunity of appearing before and of being heard by a committee of the Corporation and if so required by him shall within seven days of their decision give to him a statement of the grounds on which it was based.

(6) The entertainments to which this section applies are entertainments for admission to which or for the use of which a charge is made and which comprise any or all of the following whether or not in combination with any other forms of entertainment that is to say any circus exhibition of human beings or performing animals merry-go-round roundabout switchback railway roller-skating rink cocoanut shy hoop-la shooting gallery swings dodgems or other mechanical driving or riding devices automatic or other machines intended for entertainment or amusement and anything similar to any of the foregoing but this section shall not apply to any entertainments provided at a fair held by statute royal charter royal licence letters patent or ancient custom or at any travelling circus or travelling fair of a temporary character or to any entertainment which is not run for profit and is not carried on for more than seven consecutive days or to any entertainment provided in premises in respect of which a licence under the Theatres Act 1843 or the Cinematograph Act 1909 is for the time being in force.

(7) In this section the expression "premises" includes any part of a building which is structurally divided from the remainder of the building and land on which buildings have not been erected.

102.—(1) As from the commencement of this section a place shall not be kept or used for the purposes of public dancing singing music or any other public entertainment of the like kind

Music and dancing licences.

PART VIII
—cont.

(in this section referred to as “entertainment purposes”) without a licence from the Corporation under this section (in this section referred to as a “licence”).

(2) The Corporation may grant licences for any period not exceeding thirteen months to such persons as they think fit to keep or use places for entertainment purposes on such terms and conditions and subject to such restrictions as they think fit.

(3) The Corporation may (if they think fit) make byelaws prescribing generally the terms conditions and restrictions (including a condition that a constable may enter any place licensed under this section in respect of which he has reason to suspect that an offence under this section is being committed) on and subject to which licences are to be granted and where any such byelaws are in force every licence shall (without prejudice to the power of the Corporation to grant a licence on and subject to any special terms conditions or restrictions) be deemed to be granted subject to the byelaws.

(4) The Corporation may transfer any licence to any person whom they think fit.

(5) On the grant of a licence there shall be paid by the person applying therefor such fee not exceeding one pound or in the case of a licence granted for the sole purpose of a charitable entertainment not exceeding five shillings as the Corporation may determine and on the transfer of a licence such fee not exceeding five shillings as the Corporation may determine.

(6) Save as hereinafter provided no licence or transfer shall be granted unless the applicant has given twenty-one days' written notice to the town clerk of his intention to apply for the licence or transfer and has for twenty-one days kept a copy of the notice posted in a conspicuous position on the exterior of the place to which the application relates and on the consideration of the application by the Corporation any person living in the neighbourhood of the place whom the Corporation deem to be concerned shall be entitled to be heard:

Provided that—

(a) the provisions of this subsection as to notice shall not apply in the case of an application by any person for the grant of a licence in respect of any place by way of renewal (on the same terms and conditions) of a licence held at the date of the application by that person in respect of that place; and

(b) a licence for a period not exceeding fourteen days may be granted notwithstanding that the provisions of this subsection as to notice to the town clerk have not been complied with and in the case of an application for

such a licence the time during which the copy is required to be posted shall be seven instead of twenty-one days.

PART VIII
—cont.

(7) If any place is kept for entertainment purposes without a licence the person so keeping the place and unless he proves to the satisfaction of the court that the place is so kept without his consent or connivance any person occupying or rated as occupier of the place shall be liable to a penalty not exceeding five pounds for every day on which the place is so kept.

(8) If the holder of a licence acts in contravention of or fails to comply with any term condition or restriction on or subject to which the licence was granted he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding five pounds and the licence of any person so convicted may be revoked by the Corporation.

(9) Any constable authorised in that behalf by a warrant granted by a justice of the peace may enter any place in respect of which he has reason to suspect that an offence under this section is being committed.

103.—(1) In this section “boxing entertainment” and “wrestling entertainment” mean any public contest exhibition or display of boxing or (as the case may be) wrestling but do not include boxing or wrestling entertainments which are provided—

Boxing and
wrestling
licences.

(a) by travelling showmen at pleasure fairs ;

(b) in premises licensed under the last foregoing section for music and dancing or under the Theatres Act 1843 provided that such licence continues to be in operation so long as such boxing or wrestling entertainment is in progress ;

(c) by members of the Boy Scouts Association or of any organisation constituted by the Boy Scouts Association in pursuance of their charter ;

(d) by any school ; or

(e) by a bona fide association club hospital or society not carried on for profit.

(2) As from the commencement of this section a boxing or wrestling entertainment shall not be given elsewhere than in premises licensed for the purpose in accordance with the provisions of this section.

(3) The Corporation may grant licences to such persons as they think fit to use the premises specified in the licence for the purpose of a boxing or wrestling entertainment on such terms and conditions and subject to such restrictions as they by the licence prescribe and may renew such licences.

PART VIII
—cont.

(4) A licence granted under this section shall be in force for one year or for such shorter period (to be stated in the licence) as the Corporation on the grant of the licence shall determine unless it shall have been previously revoked:

Provided that the Corporation may if they think fit grant a licence (in this section referred to as an "occasional licence") for the use of any premises for a boxing or wrestling entertainment on such one or more particular occasions only as may be specified in the licence.

(5) The Corporation may (if they think fit) make byelaws prescribing generally the terms conditions and restrictions (including a condition that a constable may enter any place licensed under this section in respect of which he has reason to suspect that an offence under this section is being committed) on and subject to which licences are to be granted and where any such byelaws are in force every licence shall (without prejudice to the power of the Corporation to grant a licence on and subject to any special terms conditions or restrictions) be deemed to be granted subject to the byelaws.

(6) The Corporation may transfer any licence granted under this section to such person as they think fit.

(7) (a) An applicant for grant renewal or transfer of a licence under this section (other than an occasional licence) shall give not less than twenty-one days' notice of his intention to make such application to the Corporation.

(b) An applicant for an occasional licence or for the renewal thereof shall give to the Corporation fourteen days' notice of his intention to make such application.

(8) A person when making application under this section shall pay to the Corporation such fee as the Corporation may fix not exceeding—

	£	s.	d.
(a) in respect of the grant or renewal of a licence (other than an occasional licence) for any period not less than one year ...	2	0	0
(b) in respect of the grant or renewal of a licence for any period less than one year ten shillings for every month or part thereof so however that the aggregate of the fees payable in any one year in respect of the same premises shall not exceed ...	2	10	0
(c) in respect of the grant or renewal of an occasional licence		10	0
(d) in respect of the transfer of a licence ...		5	0

(9) Any premises used for the purpose of a boxing or wrestling entertainment although licensed under this section shall not be open for that purpose except on the days and between the hours stated in the licence.

(10) Any person who—

(a) provides a boxing or wrestling entertainment without a licence under this section; or

(b) being the occupier or rated as occupier of any premises uses those premises or allows them to be used for any such entertainment without a licence under this section; or

(c) being a person to whom a licence has been granted or transferred under this section in respect of any premises uses those premises or allows them to be used in contravention of the terms conditions or restrictions on or subject to which the licence was granted or transferred;

shall be liable—

(i) in respect of an offence under paragraphs (a) or (b) of this section to a penalty not exceeding fifty pounds; and

(ii) in respect of an offence under paragraph (c) of this section to a penalty not exceeding twenty pounds and to a daily penalty not exceeding five pounds and the licence of any person so convicted may be revoked by the Corporation.

104.—(1) The Corporation may in any buildings in which they have provided swimming baths provide and maintain a gymnasium and gymnastic apparatus and they may demand and take such reasonable charges as they may think fit for admission to and for the use of any such gymnasium belonging to them. Provision of gymnastic apparatus.

(2) The Corporation may employ and pay instructors in connection with any gymnasium provided by them under the powers of this section.

(3) The Corporation may make byelaws with respect to the management control and use of such gymnasium as aforesaid and for the enforcement of such byelaws by the servants of the Corporation.

105. The Corporation may—

(1) upon any lands already acquired by the Corporation and used for the purpose of a golf course or acquired or appropriated after the passing of this Act for that purpose form construct alter maintain regulate manage and use golf courses with all proper and convenient houses pavilions works buildings equipment apparatus and conveniences;

Establishment of golf course.

PART VIII
—cont.

- (2) make charges for the use of any of their golf courses or of any part thereof and of any houses pavilions works buildings equipment apparatus or conveniences provided in connection therewith ;
- (3) permit the use by any club or other body or persons of any of their golf courses lands houses pavilions works buildings equipment apparatus or conveniences aforesaid subject to such charges and conditions as the Corporation may think fit ;
- (4) let on lease or otherwise to any club company body or persons any of their golf courses or any part thereof and the lands houses pavilions works buildings equipment apparatus and conveniences as aforesaid for such consideration and upon such terms and conditions as the Corporation may think fit ;
- (5) (a) provide and sell and may enter into any agreement or arrangement with any person for the provision and sale at any such golf course or in any such house pavilion or building as aforesaid of refreshments of all kinds subject to the provisions of all enactments relating thereto and may also upon such terms and conditions and for such periods as they may think fit grant to any person the right so to provide and sell refreshments ;
- (b) by themselves or any person appointed by them in that behalf apply for and hold licences for the sale of intoxicating liquors or of tobacco for the purposes of this paragraph :
- Provided that the Corporation shall not under the powers of this paragraph provide or sell refreshments within the city of Birmingham except with the consent of the Birmingham Corporation ;
- (6) make and enforce byelaws for regulating the use of their golf courses whether within or without the borough and the conduct of persons using the same or resorting thereto ;
- (7) employ officers and servants in connection with and for the purposes of the powers aforesaid.

Officers may
be sworn in
as constables.

106.—(1) The Corporation may procure officers appointed by them for securing the observance of the provisions of all Acts in force within the borough relating to parks and pleasure grounds and of the byelaws and regulations made thereunder to be sworn in as constables for that purpose but any such officer shall not act as a constable unless in uniform or provided with a warrant.

(2) Nothing in this section shall be deemed to render applicable to any such officer the provisions of the Police Pensions Act 1921 or any other enactments relating to pensions gratuities and allowances in respect of police service.

PART VIII
—cont.
11 & 12 Geo. 5.
c. 31.

(3) Section 108 (Power to Corporation to appoint officers) of the West Bromwich Corporation Act 1900 is hereby repealed.

PART IX

SALE OF COKE WOOD FUEL &C.

107. In this Part of this Act—

the expression “coke” includes coke and any solid fuel derived from coal or of which coal or coke is a constituent;

the expression “wood fuel” means any wood of suitable size for burning in domestic grates.

Definitions of
coke and
wood fuel.

108. The provisions of sections 20 to 29 of the Weights and Measures Act 1889 and of any byelaws made by the Corporation thereunder (which provisions and byelaws relate to the sale of coal) shall also apply to the sale of coke within the borough and those provisions (except section 28 and the byelaws thereunder) shall apply to the sale within the borough of wood fuel in quantities exceeding fourteen pounds.

Application of
Weights and
Measures
Act 1889.
52 & 53 Vict.
c. 21.

109. The Corporation may make byelaws—

(1) regulating for the purposes of this Part of this Act and of the Weights and Measures Act 1889 the sale of wood fuel in quantities exceeding fourteen pounds but not exceeding two hundredweights;

(2) requiring either generally or in specified classes of cases a weighing instrument of a form approved by the Corporation to be carried with any vehicle in which wood fuel is carried for sale or delivery to a purchaser; and

(3) prescribing the distance beyond which wood fuel is not to be required to be carried for the purpose of being weighed or re-weighed in pursuance of section 27 (Power to require weighment of coal or vehicle) of the Weights and Measures Act 1889 as applied by this Act.

Byelaws
relating to
wood fuel.

110. If any seller of coke or wood fuel or any person in charge of any vehicle from which coke or wood fuel is being sold delivered or offered or exposed for sale wilfully makes any false statement as to the weight of the coke or wood fuel or any part thereof or wilfully increases such weight by damping such coke or wood fuel or wilfully does any other act by which the purchaser may be defrauded such seller or person in charge shall

Penalty on
fraudulent
sale.

PART IX
—cont.

be liable for every such offence on the first occasion to a penalty not exceeding five pounds and on the second or any subsequent occasion to a penalty not exceeding ten pounds.

Amendment of section 27 of Weights and Measures Act 1889 in its application to borough.

111. Proviso (a) to section 27 of the Weights and Measures Act 1889 in its application to the borough shall be read and have effect as if in that proviso the words "two miles" were substituted for the words "half a mile."

Notice of this Part of Act.

112. The Corporation shall forthwith after the passing of this Act cause public notice to be given of the effect of this Part of this Act by advertisement in two or more newspapers circulating in the borough and otherwise in such manner as the Corporation think sufficient.

No evidence shall be required in any proceedings that the provisions of this section have been complied with.

PART X

FINANCE AND RATING

Power to borrow.

113.—(1) The Corporation shall have power in addition and without prejudice to their powers of borrowing under the Act of 1933 to borrow without the consent of any sanctioning authority the sum requisite for the payment of the costs and expenses of this Act and they shall repay any sum so borrowed within such periods as the Corporation may determine not exceeding five years from the passing of this Act.

(2) The provisions of Part IX of the Act of 1933 so far as they are not inconsistent with 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 under this section for the repayment of any money borrowed under this section shall as respects that money be the fixed period for the purpose of the said Part IX.

As to exercise of borrowing powers.
8 & 9 Geo. 6.
c. 18.

114. It shall not be lawful to exercise the powers of borrowing conferred by this Act otherwise than in compliance with the provisions of the Local Authorities Loans Act 1945.

Application of Act of 1933 to existing sinking funds.

115. Sections 213 (Sinking fund) and 214 (Adjustments of sinking fund) of the Act of 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 any 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.

116.—(1) If in respect of any financial year the moneys received by the Corporation on account of the revenue of any of the Corporation undertakings (including the interest and other annual proceeds received by the Corporation in that year on the investments representing or forming part of any authorised fund provided in connection with the undertaking) shall exceed the moneys expended or applied by the Corporation in respect of that undertaking properly chargeable to revenue 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:—

PART X
—cont.
Application of
general rate
fund for
certain
purposes.

- (a) in the reduction of capital moneys borrowed for the purpose of the undertaking;
- (b) in the renewal construction extension or improvement of any works and conveniences for the purposes of the undertaking;
- (c) towards the provision of a reserve fund in respect of the undertaking by setting aside such an amount as the Corporation may from time to time think reasonable and (unless the amounts so set aside are applied in any other manner authorised by any enactment) investing the same in statutory securities until the fund amounts to the maximum reserve fund for the time being prescribed by the Corporation in respect of that undertaking.

(2) Any reserve fund which has been provided in respect of any of the Corporation undertakings and which is in existence when the provision of a reserve fund in respect of that undertaking under this section is commenced may be carried to and form part of that reserve fund.

(3) Any reserve fund provided under this section may be applied—

- (a) in making good to the general rate fund any deficiency at any time happening in the income of the Corporation from the undertaking in connection with which it is formed; or
- (b) in meeting any extraordinary claim or demand at any time arising against the Corporation in respect of that undertaking; or
- (c) in or towards the payment of the cost of renewing improving or extending any works forming part of the undertaking or otherwise for the benefit thereof;

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.

PART X
—cont.

(4) Section 119 (Application of revenue and payment of deficiencies in relation to trolley vehicle and omnibus undertakings) of the West Bromwich Corporation Act 1927 is hereby repealed.

Amendment of section 146 of West Bromwich Corporation Act 1930.

117. Section 146 (Application of revenue and payment of expenses of undertakings) of the West Bromwich Corporation Act 1930 shall be read and have effect as if the heating undertaking and the aerodrome undertaking were referred to therein.

Consolidated loans fund.

118.—(1) Notwithstanding anything contained in any enactment on and after the thirty-first day of March nineteen hundred and fifty the Corporation may (if they think fit) establish a fund to be called “the consolidated loans fund” to which (except so far as may be provided by the scheme hereinafter mentioned) shall be paid—

- (a) all moneys borrowed by the Corporation by the issue of authorised securities together with any moneys borrowed without security in connection with the exercise of any statutory borrowing power ;
- (b) all moneys of a capital nature received by the Corporation whether from the sale of capital assets or otherwise except such as are applied by the Corporation with due authority to another purpose or paid into the capital fund established in pursuance of this Act ; and
- (c) the appropriate sums provided in each financial year out of other funds or accounts of the Corporation to comply with the terms and conditions as to repayment attaching to their several borrowing powers or otherwise provided for the repayment of debt :

And except as aforesaid there shall also be carried to the credit of the consolidated loans fund the unapplied balances of all moneys so borrowed or received and of all sums provided by the Corporation as aforesaid before the date on which the consolidated loans fund is established.

(2) The moneys of the consolidated loans fund shall be used or applied by the Corporation—

- (a) in the redemption of authorised securities issued by the Corporation the purchase of bonds or stock for extinction or the repayment of any moneys borrowed by the Corporation ; and
- (b) in the exercise of any statutory borrowing power by transfer of the required amount to the appropriate fund or account of the Corporation :

And the moneys of the consolidated loans fund not used or applied in these ways shall as soon as may be expedient be

invested in statutory securities and the sums realised by the sale of such securities shall be repaid on receipt to the consolidated loans fund and the moneys of the consolidated loans fund shall not except with the consent of the Minister be used or applied otherwise than as provided in this section.

PART X
—cont.

(3) There shall also be transferred to the consolidated loans fund such sums as are necessary to meet the interest charges and the financing and other revenue expenses connected with the management of that fund and separate accounts shall be kept of these sums and their application.

(4) The Corporation may pay into the consolidated loans fund any moneys forming part of any reserve depreciation contingency superannuation insurance capital renewal and repairs and other similar fund or account (hereinafter referred to as "the lending fund") and not for the time being required for the purposes for which the lending fund was established and such moneys shall be deemed to be moneys borrowed by the Corporation within the meaning of subsection (1) of this section and shall be used accordingly subject to the following conditions:—

(a) The moneys so used shall be repaid to the lending fund as and when required for meeting the obligations for which the said fund was established; and

(b) there shall be paid out of the consolidated loans fund to the general rate fund an amount equivalent to the interest on any moneys so used and for the time being not repaid at such rate per centum per annum as may be determined by the Corporation to be equal as nearly as may be to the average rate of interest which would be payable by the Corporation on their current borrowings and in the accounts of the general rate fund an amount equal to the interest as aforesaid (subject in the case of any of the said funds to any prescribed limit on the amount thereof) shall be credited to the lending fund.

(5) Save as in this section expressly provided all the obligations of the Corporation to the holders of authorised securities shall continue in force.

(6) (a) The powers conferred by this section shall not be put into operation by the Corporation except in accordance with a scheme to be made by the Corporation and approved by the Minister and such scheme may make provision for any matters incidental to the establishment and administration of the consolidated loans fund.

(b) Any scheme approved under this section may be extended amended or annulled by a scheme made and approved in like manner as the original scheme.

PART X
—cont.

Capital fund.

119.—(1) The Corporation may (if they think fit) establish a fund to be called “ the capital fund ” to which they may pay—

- (a) any sums derived from the sale of any property of the Corporation ;
- (b) the balance of the general rate fund in hand at the close of any financial year ; and
- (c) such other sums from the general rate fund (including a sum equal to the interest earned on the capital fund and any income arising from the application of the fund to the purposes authorised) as the council may by resolution direct :

Provided that any sum directed by the council to be paid to the capital fund from the general rate fund (in addition to a sum equal to the interest earned on the capital fund and the income (if any) arising from the application of the fund to the purposes authorised) shall not except with the consent of and to such extent as may be approved by the Minister exceed in any financial year the equivalent of four times the product of a rate of one penny in the pound as ascertained or estimated for the purpose of subsection (2) of section 9 (Provisions as to precepts) of the Rating and Valuation Act 1925.

15 & 16 Geo. 5.
c. 90.

(2) The maximum amount of unapplied money standing to the credit of the capital fund shall not at any time exceed fifty thousand pounds or such greater sum as may from time to time be approved by the Minister.

(3) The Corporation may apply the moneys in the capital fund for the purposes of defraying expenditure to which capital is properly applicable to an amount not exceeding ten thousand pounds in any one transaction or such greater sum as may be allowed by the Minister in any case other than expenditure in connection with the Corporation undertakings and expenditure to which section 122 (Art fund) of this Act applies or in providing money for repayment of loans (but not in making the annual payment required to be made thereto).

(4) (a) Pending the application of the capital fund to the purposes authorised in the foregoing subsection the moneys in the fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(b) Any income arising from the investment or use of the moneys in the capital fund in the manner provided by the foregoing paragraph of this subsection and any income arising from the application of the fund to the purposes authorised shall be carried to and form part of the general rate fund.

(5) All moneys derived from the sale of any property of the Corporation which are applied from the capital fund under the provisions of this section shall and all other moneys which are

applied from the capital fund under those provisions may if the Corporation think fit be repaid from the account to which such moneys were advanced by such annual instalments with or without interest and within such period as may be determined by the Corporation:

PART X
—cont.

Provided that where the advance is in the exercise of a statutory borrowing power such period shall not exceed, the period prescribed for the repayment of moneys borrowed under that power.

120.—(1) The Corporation may (if they think fit) establish a fund to be called “the renewal and repairs fund” for the purpose of defraying the expenditure to be incurred from time to time in repairing maintaining and renewing any buildings works plant tools machinery appliances horses carts vehicles boilers and equipment and apparatus in connection therewith office machinery furniture fittings and appliances or things and may from time to time apply any fund so established or any part thereof in defraying such expenditure but this section shall not apply to any buildings works plant appliances or things for the purposes of any of the Corporation undertakings in respect of which they are authorised to provide a reserve fund or to any building in respect of which they are required by the Acts relating to housing to keep a housing repairs account. Renewal and repairs fund.

(2) The Corporation may from time to time pay out of the general rate fund such sums as they think fit into the renewal and repairs fund.

(3) The maximum amount standing to the credit of the renewal and repairs fund shall not at any time exceed seventy-five thousand pounds or such higher amount as the Minister may prescribe.

(4) (a) Pending the application of moneys forming part of the renewal and repairs fund to the purposes authorised by this section such moneys shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(b) Any income arising from the investment or use of the moneys in the renewal and repairs fund in manner provided by this subsection together with any income arising from the application of the fund to the purposes authorised shall be carried to and form part of the general rate fund and (subject to the limitation imposed by subsection (3) of this section) an amount equivalent to such income shall be credited to the renewal and repairs fund.

121.—(1) The Corporation may (if they think fit) establish a fund to be called “the insurance fund” with a view to providing a sum of money which shall be available for making good General insurance fund.

PART X
—cont.

all such losses damages costs and expenses as may from time to time be specified in a resolution of the council (in this section referred to as "the specified risks").

(2) The establishment of an insurance fund under this section shall not prevent the Corporation from insuring in one or more insurance offices against the whole or any part of all or any of the specified risks.

(3) In each financial 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 against the specified risks ;
or

(b) if the Corporation insure in some insurance office against the whole or any part of all or any of the specified risks such sum as will together with the premiums paid for the last-mentioned insurance be not less than the aggregate amount aforesaid.

(4) When the insurance fund shall amount to the prescribed amount as hereinafter defined the Corporation may if they think fit discontinue the yearly payments to the fund but if the fund is at any time reduced below the prescribed amount the 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 prescribed amount.

(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 department or service of the Corporation which if the specified risks were insured against in an insurance office would be properly chargeable with the payment of the premium of such insurance.

(6) (a) Except so far as the insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet losses damages costs and expenses in consequence of risks for which the fund is intended to provide all moneys for the time being standing to the credit of the fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities and the interest and other annual proceeds received by the Corporation in respect of such investments shall be carried to the general rate fund.

(b) In addition to the sum required to be paid into the insurance fund by subsection (3) of this section the Corporation shall in every financial year so long as the fund is less than the prescribed amount carry to the credit of that fund out

of the general rate fund an amount equal to the interest and other annual proceeds carried to the general rate fund in pursuance of the last preceding paragraph.

PART X
—cont.

(c) If and so long as the insurance fund amounts to the prescribed amount the interest and other annual proceeds received by the Corporation in respect of or on investments forming part of the insurance fund and carried to the general rate fund may be apportioned in the accounts of the Corporation between the several undertakings departments or services liable to contribute to the insurance fund in such shares or proportions as the Corporation may determine.

(7) (a) 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 Part IX of the Act of 1933 such sums of money as will be necessary to make up the deficiency.

(b) The amounts of the annual charges in respect of interest on and repayment of principal of any sums borrowed in pursuance of this subsection and the amounts of any such deficiencies as aforesaid not made up by borrowing shall be paid out of the general rate fund and charged in the accounts of the Corporation under the separate headings or divisions in respect of such undertakings departments or services of the Corporation and in such proportions as the Corporation may determine having regard to the risks through which such deficiencies arise.

(8) In this section "the prescribed amount" means such sum as may from time to time be prescribed by resolution of the council.

122.—(1) The Corporation may (if they think fit) establish a fund to be called "the art fund" to provide for the purchasing of any pictures sculptures or other objects of artistic scientific or historical interest which in their opinion it is desirable at any time to acquire for exhibition in and as additions to the collection in the Corporation's museums town hall or other building of the Corporation and such fund shall be formed by annually appropriating thereto out of the general rate fund such an amount as the Corporation may from time to time determine not exceeding in any financial year the equivalent of one-third of the product of a rate of one penny in the pound as ascertained or estimated for the purpose of subsection (2) of section 9 (Provisions as to precepts) of the Rating and Valuation Act 1925:

PART X
—cont.

Provided that when the art fund shall amount to twenty-five thousand pounds the Corporation shall discontinue such annual payments but if the fund is at any time reduced below the sum of twenty-five thousand pounds the Corporation may recommence and continue the annual payment until the fund be restored to the sum of twenty-five thousand pounds.

(2) (a) Pending the application of the art fund to the purposes authorised by this section the moneys in the fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(b) Any income arising from the investment or use of the moneys in the art fund in manner provided by this subsection shall be carried to and form part of the general rate fund and (subject to the limitation imposed by the proviso to subsection (1) of this section) an amount equivalent to such income shall be credited to the art fund.

Recovery of
rates from
persons
removing.

123. If a justice is satisfied on complaint by any rate collector or other authorised officer of the Corporation that any person is quitting or about to quit any premises and has failed to pay on demand any general rate which may be due from him to the Corporation and intends to evade payment of the same the justice may in addition to issuing a summons for non-payment of the same issue a warrant under his hand authorising the person named therein forthwith to enter the premises and to seize sufficient goods and chattels of the person in default to meet the claim and to detain them until the complaint is determined upon the return of the summons.

Recovery of
rates from
certain
owners.

124.—(1) Where the owner of any hereditament has agreed with the occupier thereof that the owner shall pay the general rate charged on such hereditament the owner shall be liable to pay to the Corporation so much of any payment in respect of rent received by him from the occupier as shall represent the proportion of rate or charge included in such payment and so much of such payment may on proof of such agreement be recovered by the Corporation from the owner in the same manner and subject to the same conditions under and subject to which rates are recoverable from occupiers of rated hereditaments.

The remedy of the Corporation under this section shall be in addition and without prejudice to their other remedies for the recovery of rates.

(2) This section shall not apply to any hereditament to which subsection (1) of section 11 (Rating of and collection of rates by owners) of the Rating and Valuation Act 1925 applies by virtue of a resolution of the council.

125. The council may at any time by resolution determine with respect to any hereditament for the time being belonging to the Corporation the rent of which is payable or is collected at intervals of less than a quarter of a year to do any of the things which owners may do by agreement with the rating authority under subsection (2) of section 11 (Rating of and collection of rates by owners) of the Rating and Valuation Act 1925 with the like conditions and consequences (other than the condition as to agreement in writing with the rating authority) as are applicable to owners under that section.

PART X
—cont.

As to operation of section 11 of Rating and Valuation Act 1925.

126. If any money is payable to a holder of any authorised security being a minor the receipt of his guardian shall be a sufficient discharge to the Corporation.

Receipts in case of minors.

127.—(1) If on the death of an employee (which expression in this section includes a former employee or pensioner of the Corporation or other person) to whom or to whose personal representative a sum not exceeding one hundred pounds is due from the Corporation on account of salary wages superannuation allowance pension gratuity grant or repayment of contributions to any superannuation fund or of contributions otherwise made in respect of superannuation with or without interest a grant of probate of the will of the employee or of letters of administration to his estate is not produced to the Corporation within such time (not being less than one month after his death) as the Corporation may think reasonable then at the expiration of that time the Corporation may pay such sum to the person or persons entitled to the residuary estate of the employee by virtue of the provisions of paragraphs (i) to (vi) of subsection (1) of section 46 (Succession to real and personal estate on intestacy) of the Administration of Estates Act 1925 and section 9 (Right of illegitimate child and mother of illegitimate child to succeed on intestacy of the other) of the Legitimacy Act 1926 to the intent that such sum shall be applied in due course of administration :

Payments due to deceased employees.

15 & 16 Geo. 5.
c. 23.

16 & 17 Geo. 5.
c. 60.

Provided that—

- (a) the Corporation may (notwithstanding the receipt of a notice under proviso (b) of this subsection) if they think fit pay out of such sum the funeral expenses of the deceased employee or so much thereof as the Corporation consider reasonable having regard to any death grant which has been or is to be paid under section 22 (Death grants) of the National Insurance Act 1946 ;
- (b) if the Corporation receive notice in writing of any claim against the estate of the deceased employee at any time before they shall have paid the whole of such sum in accordance with the provisions of this subsection they

9 & 10 Geo. 6.
c. 67.

PART X
—cont.

shall not (except in any case in which the provisions of section 46 (1) (vi) of the Administration of Estates Act 1925 are applicable) pay such sum or the balance thereof in their hands to any person other than to the personal representative of the deceased employee unless and until such claim has been satisfied disproved or withdrawn.

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

- (a) a statutory declaration or (when payment is made to the Crown or to the duchy of Lancaster or to the duchy of Cornwall) a statement by the person or one of the persons to whom the Corporation may pay and propose to pay such sum or any part thereof to the effect that the total estate of the deceased employee (including such sum but after deduction of debts and funeral expenses) does not exceed four hundred pounds; or
- (b) the production of a certificate from the Commissioners of Inland Revenue to the effect either that no death duties are payable in respect of such sum or that any duties so payable have been paid.

(3) The Corporation shall be discharged from all liability in respect of any payment or application of money effected by them in exercising their powers under this section.

Payment of
pension &c.
of person of
unsound mind.
53 & 54 Vict.
c. 5.

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

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

(3) This section applies to any sum payable by the Corporation to an employee or former employee or pensioner of the Corporation or the widow or a child of a deceased employee

or pensioner by way of salary wages pension superannuation or other allowance gratuity or annuity or by way of repayment with or without interest of contributions made to any superannuation or other fund being either a lump sum not exceeding one hundred pounds or an instalment of a periodical payment not exceeding one hundred pounds per annum.

PART X
—cont.

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

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

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

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

129.—(1) The Corporation may (if they think fit) grant a gratuity by way either of a lump sum or of periodical payments to the widow or dependants of any employee who may die in their service not exceeding in the aggregate an amount equal to twice the amount of the annual emoluments of the employment:

Power to grant allowances or gratuities in certain cases.

Provided that this section shall not apply—

(a) in the case of a widow to whom a pension is granted in pursuance of section 9 (Allocation of part of superannuation benefits to wife or husband) of the Local Government Superannuation Act 1937; or

1 Edw. 8. &
1 Geo. 6. c. 68.

(b) in the case of a widow or dependant entitled in consequence of the death of such employee to compensation under the Workmen's Compensation Act 1925 or to death benefit under the National Insurance (Industrial Injuries) Act 1946.

15 & 16 Geo. 5.
c. 84.
9 & 10 Geo. 6.
c. 62.

PART X
—cont.

(2) Every such allowance or gratuity shall be charged on and paid out of the fund or funds on or out of which the salary wages or emoluments of such employee would have been charged or been paid if he had continued in his employment.

Expenses
of public
ceremonies &c.

130. The Corporation may pay—

- (a) reasonable expenses of the Corporation in providing public entertainments on the occasion of or otherwise in connection with public ceremony or rejoicing and in the reception and entertainment of distinguished persons residing in or visiting the borough;
- (b) reasonable expenses in connection with official and courtesy visits by or on behalf of the Corporation and payments for travelling expenses and for expenses reasonably incurred by or on behalf of any member or officer of the Corporation in connection therewith; and
- (c) reasonable expenses in connection with the presentation of the freedom of the borough to persons whom the council may resolve to admit as honorary freemen.

Subscriptions
to scientific
bodies and
other
expenses.

131. The Corporation may pay reasonable subscriptions (whether annually or otherwise) to the funds of any scientific or other society or body (not carrying on business for profit) which or the members of which are engaged in investigations or the keeping of records of use or value to the Corporation and any reasonable expenses of the attendance of any members or officers of the Corporation at or of persons nominated by the Corporation to attend conferences or meetings of such society or body and the cost of purchasing reports and contributing towards the expenses of the proceedings of any such conferences or meetings:

Provided that the payments to be made by the Corporation under this section shall not in any financial year exceed the equivalent of one-half of the product of a rate of one penny in the pound as ascertained or estimated for the purpose of subsection (2) of section 9 (Provisions as to precepts) of the Rating and Valuation Act 1925.

Closing of
registers.

132.—(1) The Corporation may close any transfer books or the registers of transfers of authorised securities (other than stock) during the whole of the period of thirty days or any shorter consecutive period next before the date on which interest on the authorised securities to which such transfer book or register relates is payable.

(2) The persons who on the date on which the transfer book or register is closed are entered therein as holders of any security of the class to which such transfer book or register relates shall be entitled to the interest next payable thereon.

133.—(1) The Corporation may give notice to any person being registered as a holder of any authorised security (other than stock) that they intend to send interest or dividends to him by post if he does not object and if such person does not within fourteen days from the receipt of such notice give notice to the Corporation of such objection the Corporation may from time to time send orders for the payment of interest or dividend warrants by post to the address of such person appearing in the register:

PART X
—cont.
Dividend
warrants by
post.

Provided that if such person gives notice to the Corporation that he desires such orders or warrants to be sent to another person at a given address the Corporation may from time to time send the same by post to such other person at such address.

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

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

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

45 & 46 Vict.
c. 61.

PART XI

MISCELLANEOUS

134. The Corporation may erect construct provide maintain furnish equip regulate and manage medicated and other baths (including baths the efficient properties of which are due to agencies other than water but excluding baths for therapeutic purposes) and they may demand and take reasonable charges for the use thereof:

Medicated and
other baths.

Provided that nothing in this section shall authorise the Corporation to erect construct or provide baths in the city of Birmingham.

135.—(1) The Corporation may make such charges as they may think fit in respect of any aerodrome or any subsidiary business forming part of the aerodrome undertaking 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:

Aerodrome
undertaking.

PART XI
—cont.

Provided that the charges to be made in respect of the aerodrome shall be subject to the approval of the Minister of Civil Aviation.

(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 Minister of Civil Aviation and subject to the like control by him under the Air Navigation Act 1920 as if this Act had not been passed.

Collection and
delivery of
washing.

136.—(1) The Corporation may collect and may carry to or from any washhouse provided by them clothes and other articles intended to be washed or which have been washed at such washhouse and when exercising the powers of this section shall make charges for the collection and carriage of such clothes and other articles:

Provided that the charges to be made under this section shall be such as will produce a revenue sufficient to meet all expenditure incurred by the Corporation under this section.

23 & 24 Geo. 5.
c. 53.

(2) Nothing in this section shall relieve the Corporation from the necessity of obtaining the appropriate licence under the Road and Rail Traffic Act 1933 in respect of any goods vehicle to which that Act applies.

As to prizes
for garden
competitions.

137. The Corporation may expend on the provision of prizes in connection with any competition they may hold relating to their tenants' gardens such sums as they may from time to time think fit not exceeding in any one year the sum of one hundred pounds.

As to personal
weighing
machines.

138.—(1) In this section unless the subject or context otherwise requires the expression "personal weighing machine" means any weighing machine in the borough which is used or exposed for use or proposed to be used or exposed for use for the purpose of ascertaining the weight of any person and—

(a) for the use of which a charge is made or is proposed to be made; or

(b) which is kept or is proposed to be kept in any premises or place to which the public have access.

(2) The Corporation may make byelaws—

(a) generally with respect to the examination on verification and to the inspection of personal weighing machines and the distinguishing marks to be affixed to personal weighing machines under this section and the circumstances and conditions under which such marks may be affixed or cancelled;

- (b) with respect to the tests to be applied for the purpose of ascertaining the accuracy and efficiency of personal weighing machines ;
- (c) for fixing the limits of error to be allowed on examination and inspection of any personal weighing machine ;
- (d) for fixing the fees to be paid to the Corporation for the examination and marking of personal weighing machines submitted for verification or for the examination thereof if found to be incorrect or defective.

(3) On and after the expiration of a period of three months from the coming into force of any byelaws made under subsection (2) of this section the owner or the person in charge of any personal weighing machine which is used or exposed for use and which is false or unjust beyond the limits allowed by any such byelaws as aforesaid shall be liable to a penalty not exceeding two pounds or in the case of a second or any subsequent offence five pounds and in either case the machine shall be liable to be forfeited.

(4) (a) A personal weighing machine shall not be used or exposed for use unless it has been examined by an inspector of weights and measures of the Corporation and verified by him in accordance with the byelaws made under subsection (2) of this section and has been marked by him with a distinguishing mark.

(b) On and after the expiration of a period of twelve months from the coming into force of any such byelaws as aforesaid the owner or the person in charge of any personal weighing machine which is used or exposed for use and which is not marked with a distinguishing mark in accordance with this subsection shall be liable to a penalty not exceeding two pounds or in the case of a second or any subsequent offence five pounds and in either case the machine shall be liable to be forfeited.

(c) The provisions of this subsection shall not apply to any personal weighing machine owned by a travelling showman and used by him at pleasure fairs if such machine has been so marked by an inspector of weights and measures of any local authority or has been duly stamped under the provisions of the Weights and Measures Acts 1878 to 1936 not more than three months before any day on which such machine is used or exposed for use in the borough and the said mark or stamp has not been cancelled.

(5) If any person forges or counterfeits or removes any such distinguishing mark as is referred to in the last preceding subsection or has in his charge or under his control any personal weighing machine with such forged or counterfeit mark thereon he shall be liable to a penalty not exceeding five pounds and the machine shall be liable to be forfeited.

PART XI
—cont.

(6) A personal weighing machine which is liable to be forfeited under the provisions of this section shall not be forfeited if the court having cognizance of the case are satisfied that it is reasonably practicable having regard to cost or other relevant circumstances for such machine to be restored to a condition in which it may lawfully be used or exposed for use under this section.

(7) (a) Any inspector of weights and measures of the Corporation may at all reasonable times examine and inspect any personal weighing machine which is used or exposed for use and where such personal weighing machine is liable to be forfeited under the provisions of this section may—

- (i) seize and detain such personal weighing machine ; or
- (ii) where any such personal weighing machine by reason of its weight or method of attachment to any property or for any other reason is incapable of removal affix to any such personal weighing machine a notice in a form approved by the Corporation stating that such machine has been seized by the inspector and is not available for use by the public ;

and may for any such purpose enter any premises or place within the borough where there is reasonable cause to believe that there is a personal weighing machine which he is authorised to examine or inspect.

(b) Any person who neglects or refuses to produce for examination and inspection any such personal weighing machine in his charge or on his premises or refuses to permit any such inspector of weights and measures to examine or inspect the same or otherwise obstructs or hinders him from acting under this section or removes any such notice as is referred to in paragraph (a) of this subsection without the authority of the Corporation shall be liable to a penalty not exceeding five pounds or in the case of a second or any subsequent offence ten pounds.

(8) The provisions of subsections (4) (5) (6) and (7) of this section shall come into operation on but not until the date on which any byelaws made under subsection (2) of this section shall come into force and the Corporation shall forthwith after the confirmation of any such byelaws give public notice of the provisions of this section by advertisement in a local newspaper circulating within the borough. No evidence shall be required in any proceedings that the provisions of this subsection as to public notice have been complied with.

Provision of
weighing
machines.

139. The Corporation may provide and maintain weighing machines for weighing persons in any premises belonging to them and may charge for the use thereof.

140.—(1) Any person intending to organise or form a public or ceremonial procession or a circus procession or a procession of wild animals through the streets of the borough (other than a public or ceremonial procession which is regularly held through such streets) shall give written notice thereof and of the route proposed to be taken and of the time at which it will take place to the Corporation by leaving such notice at the office of the town clerk thirty-six hours at least (exclusive of Sundays) previous to the time fixed for such procession to pass through the streets.

PART XI
—cont.

Notice of
processions
to be given.

(2) If any such procession passes through the streets of the borough without such notice having been previously given or otherwise than in accordance with such notice any person organising or conducting such procession shall be liable to a penalty not exceeding five pounds.

141.—(1) The Corporation may with the consent in writing of the owner of any building or wall or any bridge over any street attach thereto—

Attachment of
lamps &c. to
buildings and
bridges.

(a) such lamps brackets electric lines and attachments as may be required for the purposes of street lighting; and

(b) such brackets heating mains electric lines and attachments as may be required for the purposes of the heating undertaking;

all of which lamps brackets heating mains electric lines and attachments are in this section called “attachments.”

(2) Where in the opinion of the Corporation any consent under subsection (1) of this section is unreasonably withheld they may make complaint to a court of summary jurisdiction who may by order either allow the attachments subject to such terms (if any) as to compensation or rent or otherwise as they may think fit or disallow the attachments.

(3) The provisions of subsection (2) of this section shall not apply in relation to—

(a) any building or wall forming part of an aerodrome; or

(b) any building which is designated in a list compiled or approved by the Minister of Town and Country Planning as being a building of special architectural or historic interest or any building or wall which the owner thereof alleges to be a building or wall of such interest; or

(c) any building or wall owned by the authority or the electricity board or the gas board; or

(d) any building wall or bridge owned by any railway canal or inland navigation undertakers;

PART XI
—cont.

but if in the opinion of the Corporation any consent under subsection (1) of this section is unreasonably withheld in relation to any such building or wall or bridge they may appeal in the case of a building or wall or bridge owned by any railway canal or inland navigation undertakers to the Minister of Transport in the case of a building or wall owned by the authority or the electricity board or the gas board to the Minister of Fuel and Power in the case of a building being or alleged to be of special architectural or historic interest to the Minister of Town and Country Planning and in any other case to the Minister and the Minister of Transport the Minister of Fuel and Power the Minister of Town and Country Planning or the Minister as the case may be may by order either allow the attachments subject to such terms (if any) as to compensation or rent or otherwise as he thinks fit or disallow the attachments.

(4) Where any attachments have been affixed to a building or wall or bridge under this section and the person who gave the consent or who was the owner when the order allowing the attachments was made ceases to be the owner of the building or wall or bridge the subsequent owner may give to the Corporation notice in writing requiring them to remove the attachments and subject to the provisions of this subsection the Corporation shall within three months after the service of the notice remove the attachments:

Provided that the provisions of subsection (2) and subsection (3) of this section shall apply in relation to any such notice as they apply in relation to a refusal of a consent to the making of attachments.

(5) Where any attachments have been made under this section to any building or wall or bridge the owner of the building or wall or bridge may require the Corporation at their own expense temporarily to remove the attachments where necessary during any reconstruction or repair of the building or wall or bridge.

(6) In this section—

the expression “owner”—

(a) in relation to a building or wall occupied under a tenancy for a term of years whereof five years or more remain unexpired means the occupier of the building;

(b) in relation to a building occupied under any other tenancy means the person who is receiving the rack rent or who would receive the rack rent if the building were let at a rack rent;

(c) in relation to a building or wall forming part of an aerodrome means (notwithstanding anything in

this subsection) the person having control of the aerodrome ;

PART XI
—cont.

and the expression “ own ” shall be construed accordingly ; and

the expression “ aerodrome ” means an aerodrome licensed pursuant to an order made under the Air Navigation Act 1920.

142. Every person who negligently breaks throws down or otherwise damages any public lamp or lamp-post or street orderly bin or other receptacle for the temporary deposit and collection of dust ashes and rubbish or street sand bin or life-saving apparatus or any other property of the Corporation shall make compensation to the Corporation for the damage done and such compensation to an amount not exceeding twenty pounds may (without prejudice to any other right or remedy of the Corporation) be recovered summarily as a civil debt. Compensation for injuring lamps &c.

143.—(1) All steam or waste gas ejected from any stationary engine or the boiler or condensers thereof and all condensing water above a temperature of one hundred and ten degrees fahrenheit so ejected and all spent and ejected steam arising or produced in any trade business or manufacture shall be so discharged as not to be an annoyance to the public. Ejection of steam and waste gas to annoyance of public.

(2) Any person who shall cause or permit steam or waste gas or condensing water to be discharged contrary to the provisions of this section shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding two pounds.

(3) The provisions of this section shall not apply to any engine used by railway undertakers.

144.—(1) A noise nuisance shall be liable to be dealt with as a statutory nuisance under the Act of 1936: Noise nuisance.

Provided that no complaint to a justice under section 99 (Power of individual to make complaint as to statutory nuisance) of the said Act shall be of any effect unless it is signed by not less than three householders or occupiers of premises within hearing of the noise nuisance which is the subject of the complaint.

(2) In any proceedings under the Act of 1936 in respect of a noise nuisance occasioned in the course of any trade business or occupation it shall be a good defence for the person charged to show that he has used the best practicable means of preventing or mitigating the nuisance having regard to the cost and to other relevant circumstances.

PART XI
—cont.

(3) For the purpose of this section a noise nuisance shall be deemed to exist where any person makes or continues or causes to be made or continued any excessive or unreasonable or unnecessary noise which is injurious or prejudicial to health.

(4) Nothing in this section shall affect the power of the Corporation to make byelaws under section 249 (Byelaws for good rule and government and suppression of nuisances) of the Act of 1933.

(5) Nothing contained in this section shall apply to any railway undertakers exercising statutory powers.

Maintenance
of graves &c.

145.—(1) The Corporation may accept a capital sum for the purpose of maintaining a particular grave or grave space or monument or urn or niche or memorial brass or its equivalent in a cemetery provided or maintained by the Corporation under the Public Health Acts or in a burial ground provided or maintained by the Corporation under the Burial Acts 1852 to 1906 or in a crematorium provided or maintained by them under the 2 Edw. 7. c. 8. Cremation Act 1902.

(2) (a) Any such capital sum shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities and a sum equal to the interest thereon applied in maintaining the grave or grave space or monument or urn or niche or memorial brass or its equivalent in such manner as the Corporation think fit and for such period as may be agreed between the Corporation and the person by whom such capital sum is paid.

(b) Any income arising from the investment of such capital sum in the manner provided by the foregoing paragraph of this subsection and any income arising from the application of the sum to the purposes authorised shall be carried to and form part of the general rate fund.

(c) The Corporation may on the expiration of the period agreed by the Corporation for the maintenance of the grave or grave space monument urn niche or memorial brass or its equivalent as the case may be apply such capital sum in any manner in which capital money received may properly be applied under any enactment.

(3) The amount of such capital sums and the interest thereon shall be shown separately in the accounts of the Corporation relating to the cemetery burial ground or crematorium.

As to
maintenance of
cemeteries &c.

146.—(1) The Corporation may in connection with the maintenance of any cemetery provided or maintained by them under the Public Health Acts or any burial ground provided or maintained by them under the Burial Acts 1852 to 1906 alter repair straighten or maintain any tombstone or monument and put in order or maintain any grave space therein.

(2) Before the Corporation exercise any of the powers of this section they shall publish once at least in each of two successive weeks in one or more newspapers circulating in the borough notice of their intention so to do together with a statement of the works to be carried out and such notice shall also state that any person desiring to object to the carrying out of any such works shall give notice to the Corporation of his objection and the grounds thereof within the date stated in the notice which date shall not be earlier than ten days after the last publication of the notice. If any objection shall be so given to the Corporation and not withdrawn the works to which the objection relates shall not be carried out without the consent of the Secretary of State.

147.—(1) Any agreement entered into between the Corporation and the parent or guardian of a pupil at any secondary school may make provision for the payment by such parent or guardian to the Corporation of any sum not exceeding ten pounds in the event of the pupil ceasing without reasonable cause to attend such school before the date fixed by such agreement for the pupil to cease such attendance and the Corporation shall be entitled without proof of any actual damage incurred by reason of such pupil ceasing to attend such school to recover from such parent or guardian any sum not exceeding the sum specified in the agreement which the court may think fit to award in all the circumstances of the case. School agreements.

(2) For the purposes of this section the expression “secondary school” includes—

- (a) a secondary school as defined by section 114 (Interpretation) of the Education Act 1944; and
- (b) a school in respect of which grants are paid by the Minister of Education under regulations made in pursuance of paragraph (b) of subsection (1) of section 100 (Grants in aid of educational services) of that Act and in which secondary education as defined by section 8 (Duty of education authorities to secure provision of primary and secondary schools) of the said Act is provided.

148.—(1) Every undertaking or agreement under seal expressed to be given or made in pursuance of this section and being— Undertakings to bind successive owners.

- (a) an undertaking given by or to the Corporation to or by the owner of any legal estate in land or property; or
- (b) an agreement between the Corporation and any such owner;

on the passing of plans or otherwise in connection with such land or property shall be binding upon such owner and his successors in title and all persons claiming through or under him or them

PART XI
—cont.

and upon the Corporation and such owner and other persons upon whom such undertaking or agreement is binding shall be entitled to require from the Corporation a copy thereof.

(2) Any such undertaking or agreement shall be treated as a local land charge for the purposes of the Land Charges Act 1925.

(3) Any such undertaking or agreement shall not be binding upon any person in whom any other legal estate in such land or property is vested at the date thereof nor upon his successors in title unless such person joins in such undertaking or agreement.

PART XII

GENERAL

Breach of conditions of consent of Corporation.

149. Where under this Act or under any general or local Act the Corporation give their consent to the execution of any work or the doing of any act or thing subject to any terms or conditions which they are authorised to impose any breach of any such terms or conditions shall be deemed as regards liability to a penalty and other consequences equivalent to the execution of the works or the doing of the act or thing without the required consent.

In executing works for owner Corporation liable for negligence only.

150. Whenever the Corporation or any of their officers under any enactment 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 execute re-execute or alter such work or do such act or thing the Corporation shall not as between themselves and such owner occupier or other person in the absence of any negligence on their part or the part of any of their officers or 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 or such officer 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.

As to entry of premises.

151.—(1) Where under any provision of this Act any authorised officer of the Corporation is empowered to enter any premises then if it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(a) that admission to any premises has been refused or that refusal is apprehended or that the premises are unoccupied or that the occupier is temporarily absent or

that the case is one of urgency or that an application for admission would defeat the object of the entry; and

PART XII
—cont.

(b) that there is reasonable ground for entry into the premises for any such purpose as aforesaid;

the justice may by warrant under his hand authorise the Corporation by any authorised officer to enter the premises if need be by force:

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier or that the premises are unoccupied or that the occupier is temporarily absent or that the case is one of urgency or that the giving of such notice would defeat the object of the entry.

(2) An authorised officer entering any premises by virtue of this Act or of a warrant issued under this section may take with him such other persons as may be necessary and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.

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

(4) If any person who in compliance with the provisions of this Act or of a warrant issued under this section is admitted into a factory or workplace discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret he shall unless such disclosure was made in the performance of his duty be liable to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

152. As respects byelaws made under this Act the confirming authority for the purposes of section 250 (Procedure &c. for making byelaws) of the Act of 1933 shall be— As to byelaws.

(a) in the case of byelaws made under section 86 (Byelaws as to meat for feeding animals) of this Act the Minister of Food;

(b) in the case of byelaws made under the following sections of this Act namely:—

Section 91 (Byelaws as to establishments for massage or special treatment);

Section 100 (Byelaws as to pleasure fairs and public roller-skating);

Section 102 (Music and dancing licences);

PART XII
—cont.

Section 103 (Boxing and wrestling licences) ;

Section 104 (Provision of gymnastic apparatus) ;

Section 105 (Establishment of golf course) ;

the Secretary of State ;

(c) in the case of byelaws made under section 109 (Byelaws relating to wood fuel) and section 138 (As to personal weighing machines) of this Act the Board of Trade ;

(d) in the case of byelaws made under section 135 (Aerodrome undertaking) of this Act the Minister of Civil Aviation ; and

(e) in all other cases the Minister.

Restriction
on right to
prosecute.

153. Section 298 (Restriction on right to prosecute) of the Act of 1936 shall apply to offences created by or under Part III (Streets and buildings) Part IV (Sewers and drains) Part V (Infectious disease and sanitary matters) and Part VI (Food) of this Act or by or under section 140 (Notice of processions to be given) of this Act as if they were offences created by or under that Act.

Damages and
charges to be
settled by
court.

154. Where any damages expenses or charges are directed or authorised to be paid or recovered in addition to any penalty for any offence in this Act mentioned the amount of such damages expenses or charges in case of dispute respecting the same may be settled and determined by the court before whom any offender is convicted.

Application of
Arbitration
Acts.

155. 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 to a single arbitrator to be agreed upon between the parties to the question or dispute or in default of such agreement appointed on the application of either party by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such arbitration.

Compensation
how to be
determined.

156. When any compensation costs damages or expenses is or are by this Act directed to be paid and the method for determining the amount thereof is not otherwise provided for such amount shall in case of dispute be ascertained in the manner provided by subsection (2) of section 278 (Compensation to individuals for damage resulting from exercise of powers under Act) of the Act of 1936.

Inquiries by
Ministers.

157. The Minister the Minister of Transport the Minister of Town and Country Planning and the Minister of Fuel and Power may hold such inquiries as they may consider necessary in regard

to the exercise of any powers conferred upon them or the giving of consents under this Act and section 290 (Power of government departments to direct inquiries) of the Act of 1933 shall apply accordingly.

158.—(1) The provisions of this Act to which this section applies shall come into operation on but not until such date as may be fixed by a resolution of the council of which date public notice shall be given by the Corporation by advertisement in one or more local newspapers circulating in the borough. Every such advertisement shall also state the effect of the provisions to which it relates and the date specified therein as the date on which such provisions shall come into operation shall not be less than one month after the date of publication of the advertisement: Commence-
ment of certain
provisions of
this Act.

Provided that if the provision is one which requires the licensing or registration of any person or premises the application for the licence or registration may be made and determined before the provision comes into operation.

(2) A copy of a newspaper containing such advertisement shall be sufficient evidence of the publication of the advertisement.

(3) This section shall apply to the following sections of this Act namely:—

- Section 50 (Demolition of buildings) ;
- Section 68 (Parents &c. to notify certain diseases) ;
- Section 69 (Restrictions on attendance at schools and places of assembly) ;
- Section 76 (Registration of hairdressers and barbers and their premises) ;
- Section 77 (Prevention of smoke from industrial furnaces) ;
- Section 81 (Registration of hawkers of food and their premises) ;
- Section 84 (Notice of slaughter of animal unfit for food) ;
- Section 85 (Animals slaughtered outside slaughter-houses) ;
- Section 101 (Registration of entertainment proprietors) ;
- Section 102 (Music and dancing licences) ;
- Section 103 (Boxing and wrestling licences) ;
- Section 138 (As to personal weighing machines) ;

and to Part VII (Establishments for massage or special treatment) of this Act.

(4) As respects any of the said provisions which requires the licensing or registration of persons carrying on any business or of

PART XII
—cont.

premises used for any purpose it shall be lawful for any person who when such provision comes into operation—

- (a) was carrying on any such business or using any premises for any such purpose ; and
- (b) has made application in accordance with the provisions of this Act for such licence or registration as is required by this Act ;

to continue to carry on such business and to use such premises for such purpose until such time as he has been informed of the decision with regard to his application and if the decision is adverse during such further time as is provided under subsection (6) of section 159 (As to appeals) of this Act.

As to appeals.

159.—(1) Any person aggrieved by any requirement refusal or other decision of the Corporation or of any officer thereof under Part III (Streets and buildings) Part IV (Sewers and drains) (other than a requirement of section 62 (As to defective drains &c.) of this Act) Part V (Infectious disease and sanitary matters) (except section 75 (As to defective premises) of this Act) Part VI (Food) or Part VII (Establishments for massage or special treatment) of this Act or section 101 (Registration of entertainment proprietors) section 102 (Music and dancing licences) or section 103 (Boxing and wrestling licences) of this Act may except where otherwise expressly provided or when some other right of appeal is conferred by this Act appeal to a court of summary jurisdiction.

(2) The procedure upon any such appeal shall be by way of complaint for an order and the Summary Jurisdiction Acts shall apply to the proceedings.

(3) The time within which any such appeal may be brought shall except where otherwise expressly provided be twenty-one days from the date on which notice of the requirement refusal or decision was published or served upon the person desiring to appeal and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(4) In any case in which such an appeal lies the document notifying the requirement refusal or decision in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought unless these have already been stated in a notice to the person concerned informing him of his right to a hearing before a committee of the council with regard to the same matter.

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

(6) Where any requirement refusal order determination or other decision against which a right of appeal is conferred by this Act involves the execution of any work or the taking of any action or makes it unlawful for any person to carry on any business which he was lawfully carrying on up to the time of such requirement refusal order determination or other decision or to use any premises for any purpose for which they were lawfully used up to such time—

(a) no proceedings in respect of any failure to execute the work or take the action shall be taken ;

(b) the Corporation shall not execute such work or take such action ; and

(c) subject to the proviso to subsection (2) of section 46 (Restriction on erection of stands &c.) of this Act any such person may carry on such business and use such premises for such purpose ;

until the time for appealing has expired or when an appeal is lodged until the appeal has been disposed of or withdrawn or fails for non-prosecution thereof.

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

160.—(1) The sections of the Act of 1936 hereinafter mentioned shall have effect as if they were re-enacted in this Act and in terms made applicable thereto (that is to say):— Application of provisions of Act of 1936.

Section 271 (Interpretation of “ provide ”) ;

Section 275 (Power of local authority to execute certain work on behalf of owners or occupiers) ;

Section 276 (Power of local authority to sell certain materials) ;

Section 277 (Power of councils to require information as to ownership of premises) ;

Section 283 (Notices to be in writing ; forms of notices &c.) ;

Section 284 (Authentication of documents) ;

Section 285 (Service of notices &c.) ;

Section 286 (Proof of resolutions &c.) ;

Section 287 (Power to enter premises) ;

Section 288 (Penalty for obstructing execution of Act) ;

Section 289 (Power to require occupier to permit works to be executed by owner) ;

PART XII
—cont.

- Section 291 (Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments);
- Section 292 (Power to make a charge in respect of establishment expenses);
- Section 293 (Recovery of expenses &c.);
- Section 294 (Limitation of liability of certain owners);
- Section 295 (Power of local authority to grant charging orders);
- Section 296 (Summary proceedings for offences);
- Section 297 (Continuing offences and penalties);
- Section 299 (Inclusion of several sums in one complaint &c.);
- Section 304 (Judges and justices not to be disqualified by liability to rates);
- Section 328 (Powers of Act to be cumulative);
- Section 329 (Saving for certain provisions of the Land Charges Act 1925):

Provided that the said sections 277 287 289 291 292 293 294 295 and 329 shall only apply to the provisions contained in Part III (Streets and buildings) Part IV (Sewers and drains) Part V (Infectious disease and sanitary matters) and Part VI (Food) of this Act.

(2) Sections 283 284 285 296 and 299 of the Act of 1936 shall extend and apply in relation to any local Act for the time being in force in the borough as if such sections were re-enacted in that local Act and in terms made applicable thereto.

For protection
of statutory
undertakers.

161. For the protection of the electricity board the gas board the Birmingham Corporation and the company (each of whom is in this section referred to as "the undertakers") the following provisions shall notwithstanding anything in this Act and unless otherwise agreed in writing between the Corporation and the undertakers apply and have effect:—

(1) In this section—

the expression "apparatus" means—

(a) as regards the electricity board all or any electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to the electricity board;

(b) as regards the Birmingham Corporation the mains pipes siphons tubes works or other apparatus belonging to them as water undertakers;

(c) as regards the gas board and the company any mains pipes siphons tubes works and other apparatus belonging to the gas board and the company (as the case may be):

(2) Not less than twenty-eight days before the Corporation in the exercise of the powers of section 54 (Means of access to buildings) of this Act require the provision of means of communication in or under which any apparatus is for the time being situate the Corporation shall give notice to the undertakers and if in consequence of the construction of the means of communication it shall be reasonably necessary to alter the position of the apparatus thereunder the undertakers may and if so required by the Corporation shall alter the position of the apparatus to such other position as may be reasonable :

(3) (a) The Corporation shall not exercise the powers of section 32 (Planting of trees in private streets) or section 37 (Power to lay out grass margins &c. in streets) of this Act so as to obstruct or render less convenient the access to any apparatus and shall so maintain every tree or shrub planted under the powers conferred by those sections that the same does not injuriously affect any apparatus ;

(b) Whenever under the powers of the said section 37 the Corporation add to the footway or carriageway of any street any grass margin in over or under which any apparatus is for the time being situate the undertakers may alter the position of the apparatus to such other position in over or under—

(i) the reduced grass margin (if any) of the street ;
or

(ii) the carriageway or footway of the street as altered ;

as may be reasonable :

(4) Not less than twenty-eight days before the Corporation in the exercise of the powers of section 26 (Power to vary width of carriageways and footways) or section 37 (Power to lay out grass margins &c. in streets) of this Act add to the carriageway of a street any portion of the footway in over or under which any apparatus is for the time being situate the Corporation shall give to the undertakers notice of their intention so to do accompanied by a plan and section of the intended alteration and the undertakers may if it is reasonably necessary and if so required by the Corporation shall

PART XII
—cont.

alter the position of the apparatus to such other position in over or under the carriageway or the footway as may be reasonable :

- (5) The undertakers within twenty-one days after the receipt of a notice from the Corporation pursuant to subsection (2) or subsection (4) of this section shall give to the Corporation not less than twenty-one days' notice of their intention to alter the position of any apparatus (otherwise than by the requirement of the Corporation) under the provisions of the relevant subsection and shall at the same time deliver to the Corporation a plan and section of the proposed alteration. If such a plan and section be not disapproved by the Corporation within the said twenty-one days or such longer period as may be stated in the notice the proposed position of the apparatus shown thereon shall be deemed to be reasonable :
- (6) Where the Corporation under the powers of section 25 (Temporary stoppage of streets) of this Act stop up temporarily any street in which any apparatus is situate they shall provide reasonable access for the officers servants and workmen of the undertakers for the purpose of enabling them to inspect repair and renew any such apparatus or to lay or place new apparatus :
- (7) (a) Whenever by virtue of section 23 (Stopping up and diversion of highways) of this Act any highway or part of a highway in over or under which any apparatus is for the time being situate is stopped up or diverted the Corporation shall give notice thereof to the undertakers who shall be at liberty—
- (i) to remove the apparatus to and relay or replace the same in over or under the highway (if any) substituted for the highway or part of a highway so stopped up or diverted or in such other position as the undertakers may reasonably determine ; or
 - (ii) if it is reasonably necessary so to do to provide and lay or place other apparatus similar thereto and equally suitable in over or under such substituted highway or in such other position in lieu of such existing apparatus ;
- (b) Notwithstanding the stopping up or diversion under an order made pursuant to section 23 (Stopping up and diversion of highways) of this Act of any highway or any length of a highway in under upon or over which highway or length of a highway any apparatus is situate the undertakers shall (unless the apparatus is

removed or new apparatus has been laid in substitution therefor under the provisions of paragraph (7) of this section) continue to have the same powers and rights in respect of such apparatus as if the land in under upon or over which the same is situate had continued to be part of the street or highway ;

(c) Whenever by reason of the exercise by the Corporation of the powers of the said section any apparatus (other than apparatus for which new apparatus has been substituted at the expense of the Corporation under the provisions of this section) is rendered derelict useless or unnecessary the Corporation shall forthwith pay to the undertakers such a sum as may be agreed between the Corporation and the undertakers or as failing such agreement may be determined by arbitration as hereinafter provided to be the value of such apparatus and such apparatus shall upon such payment become the property of the Corporation :

(8) The Corporation shall repay to the undertakers the reasonable expenses incurred by them of or in connection with—

(a) the alteration of the position of any apparatus under the provisions of subsection (2) or subsection (3) or subsection (4) or subsection (5) of this section ;
or

(b) the removal and relaying or replacing of any apparatus or the provision and laying or placing of any new apparatus under the provisions of subsection (7) of this section ;

and the reasonable cost of and incidental to—

(i) the cutting off of any apparatus from any other apparatus ; and

(ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this subsection :

(9) The Corporation shall not exercise any of the powers of the following sections of this Act :—

Section 40 (As to barriers &c. in streets) ;

Section 41 (Power to place fences near school entrances &c.) ;

Section 99 (Transmission of entertainments) ;

so as to cause damage to or obstruct or render unreasonably inconvenient the access to any apparatus :

(10) (a) Any question or dispute which may arise between the Corporation and the undertakers under this section

PART XII
—cont.

(other than a question or dispute as to the meaning or construction of this section which does not arise in the course of the arbitration) shall be referred to arbitration ;

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

Saving for
town and
country
planning.

162. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

Crown rights.

163. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown.

Costs of Act.

164. 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.

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