

CHAPTER lii.

An Act to provide for the improvement of the central area of the city of Birmingham by the construction of an inner ring road and other works to make further provision with respect to the water electricity and gas undertakings of the lord mayor aldermen and citizens of the city to alter the limits for the supply of water by the councils of the cities of Birmingham and Coventry to make further provision with respect to the health local government and improvement of the city of Birmingham and for other purposes.

[1st August 1946.]

WHEREAS it is expedient to make provision for the improvement of the central area of the city of Birmingham and for that purpose to empower the lord mayor aldermen and citizens of the city to construct the works including an inner ring road authorised by this Act and to enact the provisions of this Act in reference thereto:

And whereas by the Birmingham Corporation Act 1940 the Corporation were empowered to construct waterworks and other works and it is expedient to extend the time for the completion of those works to authorise the acquisition of further land to revise the limits for the supply of water by the Corporation and by the mayor aldermen and citizens of the city of Coventry respectively and to make further provision in reference to the water undertaking of the Corporation: 3 & 4 Geo. 6 c. xix.

And whereas it is expedient to make further provision with reference to the electricity and gas undertakings of the Corporation:

And whereas it is expedient that the powers of the Corporation in relation to the health local government and improvement of the city the borrowing of money and the collection of rates should be enlarged as by this Act provided:

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 estimates have been prepared by the Corporation for the following purposes:—

(*a*) For and in connection with the purchase of lands and buildings for the purposes of Part III (Inner ring road) of this Act and the construction of the works authorised by that Part and other purposes of that Part	£14,956,650
(*b*) For and in connection with the purchase of lands and buildings for the purposes of Part IV (Water) of this Act	£11,000

And whereas the several works included in such estimates respectively are permanent works and it is expedient that the Corporation should be empowered to borrow money for those purposes as provided by this Act:

23 & 24 Geo. 5. c. 51.

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:

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

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and

Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say):—

PART I.

PRELIMINARY.

Short and collective titles.

1.—(1) This Act may be cited as the Birmingham Corporation Act 1946.

(2) The Birmingham Corporation Acts 1876 to 1940 and this Act may be cited jointly as the Birmingham Corporation Acts 1876 to 1946.

Division of Act into Parts.

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

Part I.—Preliminary.
Part II.—Lands.
Part III.—Inner ring road.
Part IV.—Water.
Part V.—Electricity.
Part VI.—Finance and rating.
Part VII.—Miscellaneous.
Part VIII.—General.

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

3. The Lands Clauses Acts except section 92 and sections 127 to 132 of the Lands Clauses Consolidation Act 1845 (so far as such Acts are applicable for the purposes of and are not varied by or inconsistent with this Act) are hereby incorporated with and form part of this Act.

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

4.—(1) In this Act the several words and expressions to which meanings are assigned by sections 90 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.

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

(i) "The city" means the city of Birmingham;

(ii) "The Corporation" means the lord mayor aldermen and citizens of the city of Birmingham;

(iii) "The council" means the council of the city;

(iv) "The town clerk" "the medical officer" and "the sanitary inspector" mean respectively the town clerk the medical officer of health and any sanitary inspector of the city;

(v) "The general rate" and "the general rate fund" mean respectively the general rate and the general rate fund of the city;

(vi) "The water undertaking" means the water undertaking of the Corporation;

PART I. —*cont.*

(vii) " The electricity undertaking " means the electricity undertaking of the Corporation;

(viii) " The electricity limits " means the limits for the time being of the Corporation for the supply of electricity;

(ix) " Electric line " has the same meaning as in the Electric Lighting Act 1882;

45 & 46 Vict. c. 56.

(x) " The tribunal " means the tribunal or other authority to whom any question of disputed purchase money or compensation under this Act is referred in pursuance of the Acquisition of Land (Assessment of Compensation) Act 1919;

9 & 10 Geo. 5. c. 57.

(xi) " Enactment " means any Act of Parliament whether public general local or private any order or scheme made under an Act of Parliament or any provision in an Act of Parliament or in any such order or scheme;

(xii) " Daily penalty " means a penalty for each day on which an offence is continued after conviction therefor;

(xiii) " 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;

(xiv) " 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.

(xv) " The Minister " means the Minister of Health;

(xvi) " The Lands Clauses Acts " means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 by Part II of the Town and Country Planning Act 1944 and by this Act;

7 & 8 Geo. 6. c. 47.

(xvii) " The Act of 1933 " means the Local Government Act 1933;

(xviii) " The Act of 1883 " " the Act of 1935 " " the Act of 1936 " and " the Act of 1940 " mean respectively the Birmingham Corporation (Consolidation) Act 1883 the Birmingham Corporation Act 1935 the Birmingham Corporation Act 1936 and the Birmingham Corporation Act 1940.

46 & 47 Vict. c. lxx.
25 & 26 Geo. 5. c. cxxii.
26 Geo. 5. & 1 Edw. 8. c. cxx.

(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 I. —*cont.*

PART II.

LANDS.

Power to take lands.

5. Subject to the provisions of this Act the Corporation may enter upon take appropriate and use all or any of the lands delineated on the deposited plans and described in the deposited book of reference which they may require—

(*a*) as regards lands in the city for the purposes of the street improvements authorised by this Act and for the improvement and development of frontages or of any lands abutting on or adjacent to any street and for other the purposes of Part III (Inner ring road) of this Act;

(*b*) as regards lands in the parish of Llansantffraid-Cwmdeuddwr in the rural district of Rhayader in the county of Radnor for the purposes of the water undertaking:

Provided that as regards the lands numbered 12 in the parish of Llansantffraid-Cwmdeuddwr the Corporation shall acquire only common or commonable rights in respect thereof.

Period for compulsory purchase of lands.

6. The powers granted by this Act for the compulsory purchase of lands for the purposes mentioned in paragraph (*a*) of section 5 (Power to take lands) of this Act shall cease on the thirty-first day of December nineteen hundred and fifty-one and for the other purposes of this Act shall cease on the thirty-first day of December nineteen hundred and forty-nine.

Correction of errors in deposited plans and book of reference.

7. If there is any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or described in the deposited book of reference the Corporation after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two justices having jurisdiction in the place in which the lands are situate for the correction thereof and if it appear to the justices that the omission misstatement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and if the lands are situate in the city such certificate or a copy thereof shall be deposited with the town clerk and if the lands are situate in the county of Radnor such certificate or a copy thereof shall be

PART II. —*cont.*

deposited with the clerk of the county council of that county and a duplicate thereof shall also be deposited with the clerk of the county district and with the clerk of the parish council of the district and parish in which the lands are situate and such certificates or copies and duplicates respectively shall be kept by such clerks respectively with the other documents to which the same relate and thereupon the deposited plans and book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Corporation to take the lands and execute the works in accordance with the certificate.

Acquisition of parts only of certain properties.

8. No person shall be required to sell a part only of any house building or factory or of any land which forms part of a park or garden belonging to a house if he is willing and able to sell the whole of the house building factory park or garden unless the tribunal determine that in the case of a house building or factory such part as is proposed to be taken can be taken without material detriment to the house building or factory or in the case of a park or garden that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house and if the tribunal so determine compensation shall be awarded in respect of the severance of the part so proposed to be taken in addition to the value of that part and thereupon the person interested shall be required to sell to the Corporation that part of the house building factory park or garden.

Further powers of entry.

9. At any time after notice to treat has been served for any land which the Corporation are by this Act authorised to purchase compulsorily the Corporation may after giving to the owner and occupier of the land not less than six months' notice enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections 84 to 90 of the Lands Clauses Consolidation Act 1845 but subject to the payment of the like compensation for the land of which possession is taken and interest on the compensation awarded as would have been payable if those provisions had been complied with.

Extinction of private rights of way.

10.—(1) Any private right of way over land which the Corporation are authorised by this Act to acquire compulsorily shall if they so resolve and give notice of their resolution to the owner of the right be extinguished as from the acquisition by them of the land or as from the expiration of one month from the service of the notice whichever may be the later.

(2) The Corporation shall pay compensation to all persons interested in respect of any such right so extinguished and such compensation shall in case of dispute be settled in manner provided by the provisions of the Lands Clauses Acts with respect to the taking of lands otherwise than by agreement.

PART II. —*cont.*

Limitation of assessment of compensation at 1939 prices.

11. Part II of the Town and Country Planning Act 1944 shall apply to lands in the city to be acquired under this Act—

(*a*) so far as they may be required for the purposes of a street work the construction of which is substantially commenced not later than the seventeenth day of November nineteen hundred and forty-nine; or

(*b*) so far as they may be required for the improvement and development of frontages of or of land abutting on or adjacent to any such street work;

but shall not apply to other lands in the city acquired by the Corporation under the powers of this Act.

As to exercise of powers of compulsory purchase.

12.—(1) The powers of compulsory purchase as regards lands in the city for the purposes of the street improvements authorised by this Act and for the improvement and development of frontages or of any lands abutting on or adjacent to any street and for other the purposes of Part III (Inner ring road) of this Act shall not be exercised before the expiration of three months from the date of the passing of this Act.

(2) Subject to the provisions of this section if during the said period of three months the owner of any interest in any land required by the Corporation for the purposes aforesaid (in this section called "the owner") serves on the Corporation a notice setting forth the nature and extent of his said interest and informing them that he is prepared to grant the Corporation an option to purchase his said interest on the terms and conditions set out in subsection (3) of this section and produces evidence of his title to the said interest the Corporation shall not exercise their powers of compulsory purchase in respect of that interest but may in lieu thereof require the owner forthwith to grant the said option and thereupon the said option shall be deemed to have been granted and shall be binding upon successive owners of the said interest or any part thereof.

(3) An option within the meaning of this section shall be subject to the following terms and conditions:—

(*a*) The option subject as in this section provided may be exercised by the Corporation during a period of twenty-five years in the case of a freehold interest and in the case of a leasehold interest at any time during the unexpired term of the lease within a period of twenty-five years;

(*b*) The Corporation shall not exercise the option unless the land to which the option relates will be required by them for any of the purposes aforesaid or until a reasonable time before the land is required for any of those purposes;

PART II. —*cont.*

(*c*) The Corporation shall give to the owner his successors or assigns not less than six months' notice of their decision to exercise the option;

(*d*) The Corporation on exercising the option and on the completion of the purchase in pursuance of the option shall pay to the owner an amount equivalent to the amount of compensation which he would have been entitled to receive if his interest had been acquired compulsorily under the Lands Clauses Acts in pursuance of a notice to treat served at the date on which the notice given by the Corporation to the owner of their decision to exercise the option expires and the provisions of the Lands Clauses Acts shall apply to and in respect of the determination of the said amount as if the Corporation were exercising in regard thereto their powers of compulsory purchase.

(4) Where an owner grants or is deemed to grant an option to the Corporation to purchase his interest in land under this section he shall not create any new interest in the land or make any alterations of or improvements to existing buildings or erect any new building on the land without the consent in writing of the Corporation which shall not be unreasonably withheld and if a new interest in the said land is created the owner thereof shall be deemed to have granted to the Corporation an option in respect of that interest in accordance with this section.

(5) The provisions of the Lands Clauses Acts except so far as they are varied by this section and except the provisions limiting the time for the exercise of powers for the compulsory purchase or taking of lands shall notwithstanding anything contained in this section apply to the lands in respect of which an option has been or is deemed to have been granted to the Corporation.

(6) The provisions of section 9 (Further powers of entry) of this Act shall apply to land in respect of which an option has been or is deemed to have been granted to the Corporation with the substitution of the giving of a notice by the Corporation of their decision to exercise the option for the service of a notice to treat but the Corporation shall not exercise the powers of that section in respect of the interest to which the option relates until the expiration of the notice of their decision to exercise the option.

(7) A notice to be given by the Corporation under this section may be served in the manner prescribed by section 285 of the Public Health Act 1936.

PART II. —*cont.*

(8) An option granted or deemed to be granted to the Corporation in pursuance of this section shall be deemed to be a local land charge within the meaning of section 15 (Registration of local land charges) of the Land Charges Act 1925 and shall be registered accordingly and no other registration shall be necessary. 15 & 16 Geo. 5. c. 22.

Provision of accommodation for persons dispossessed.

13.—(1) In the exercise of their powers in respect of the disposal of land acquired under this Act the Corporation shall so far as practicable secure that persons who were living or carrying on business or other activities on land acquired by the Corporation for the purposes of the works authorised by Part III of this Act being land to which Part II of the Town and Country Planning Act 1944 applies shall if they desire to obtain accommodation on land acquired for the purposes mentioned in paragraph (*a*) of section 5 (Power to take lands) of this Act and not required for the purposes of the street improvements authorised by this Act and are willing to comply with any requirements of the Corporation as to its development and use have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from them.

(2) A person shall not be entitled under this section to obtain the freehold of any land or a lease for a term of more than ninety-nine years.

(3) Subsection (4) of section 12 (Power to develop lands) of the Birmingham Corporation (General Powers) Act 1929 shall not apply to the terms upon which land is leased in pursuance of this section. 20 Geo. 5. c. xxxviii.

For protection of certain brewery companies.

14. The following provisions for the protection of Ansells Brewery Limited Atkinsons Brewery Limited W. Butler and Company Limited the Holt Brewery Company Limited Mitchells and Butlers Limited and Peter Walker and Company Limited (in this section severally referred to as " the owners " as hereinafter defined) shall unless otherwise agreed between the Corporation and the owners apply and have effect in addition to any other provisions of this Act for the protection of the owners:—

(1) In this section—

" the licensed premises " means each or any (as the context may require) of the licensed premises specified in the schedule to this Act;

" the owners " means the respective persons specified in the schedule to this Act as the owners or lessees of the licensed premises and includes the successors in title to such owners or lessees:

PART II. —*cont.*

(2) In relation to the licensed premises the option referred to in paragraph (*b*) of subsection (3) of section 12 (As to exercise of powers of compulsory purchase) of this Act shall be effective on the date when the Corporation give to the owners not less than twelve months' notice in writing of the decision of the Corporation to exercise the option:

(3) The assessment of the amount of compensation payable to the owners in respect of the licensed premises and the completion of the purchase shall be deferred until either the owners have obtained a final order from the justices for the removal of the licence granted in respect of the licensed premises or it is decided that the said licence shall lapse and the compensation shall be assessed according to the law in force at the date of such final order or lapse and as if a notice to treat had been served on such date:

10 Edw. 7. & 1 Geo. 5. c. 24.

(4) The Corporation shall not acquire in relation to the licensed premises any licences held by the owners their tenants or nominees under the Licensing (Consolidation) Act 1910:

(5) The Corporation shall not claim any interest to the detriment of the owners in any of the said licences and except on grounds of town planning the Corporation shall not oppose the owners in any reasonable proposals which are made by the appropriate licensing authority and supported by the owners or which are made by the owners to the appropriate licensing authority relative to the distribution or disposal of the said licences.

Exclusion of certain licensed premises.

15.—(1) The licensed premises known as the Green Man in Sand Street the Queen's Head in Steelhouse Lane and the White Swan in Navigation Street shall not be acquired under the powers of this Act otherwise than by agreement.

(2) In the event of any of the premises referred to in subsection (1) of this section being altered or rebuilt or of a building being erected in substitution therefor on or near to the site thereof the work shall be laid out and executed in a manner and according to an architectural design reasonably approved by the Corporation.

For protection of Britannic Assurance Company Limited.

16. The interests of the Britannic Assurance Company Limited in the lands in the city numbered respectively 586 587 588 589 591 and 592 on the deposited plans shall not be acquired under the powers of this Act otherwise than by agreement.

PART II. —*cont.*

As to St. Philip's Churchyard.

17.—(1) Before applying for the purposes of this Act any part of the churchyard attached to the cathedral church of St. Philip Birmingham (in this section referred to as " the cathedral church ") acquired by them under the powers of this Act the Corporation without any faculty for the purpose but subject to the provisions of this section may and shall remove the remains of any deceased person interred therein or in any vault therein.

(2) Before proceeding to remove any such remains the Corporation shall publish a notice for three successive days in two local newspapers circulating in the city to the effect that it is intended to remove any such remains and such notice shall have embodied in it the substance of subsections (3) (4) (5) (6) and (7) of this section.

(3) At any time within two months after the first publication of such notice any person who is an heir executor administrator or relative of any deceased person whose remains are interred in any vault or grave in the said churchyard may give notice in writing to the Corporation of his intention to undertake the removal of such remains and thereupon he shall be at liberty without any faculty for the purpose but subject as hereinafter mentioned to any regulations made by the Lord Bishop of Birmingham (in this section referred to as " the bishop ") to cause such remains to be removed to and re-interred in any consecrated burial ground or cemetery in which burials may legally take place.

(4) If any person giving notice as aforesaid shall fail to satisfy the Corporation that he is such heir executor administrator or relative as he claims to be the question shall be determined on the application of either party in a summary manner by the chapter clerk of the cathedral church who shall have power to make an order specifying who shall remove the remains.

(5) The expenses of such removal or re-interment (not exceeding in respect of remains removed from any one vault or grave the sum of twenty-five pounds) shall be defrayed by the Corporation such sum to be apportioned if necessary equally according to the number of remains in the vault or grave.

(6) If within the said period of two months no such notice as aforesaid shall have been given to the Corporation in respect of the remains in any vault or grave or if after such notice has been given the persons giving the same shall fail to comply with the provisions of this section and with any regulations of the bishop the Corporation may without any faculty for that purpose remove the remains of the deceased

PART II. —*cont.*

person and cause them to be re-interred in such other consecrated burial ground or cemetery in which burials may legally take place as the Corporation think suitable for the purpose subject to the consent of the bishop.

(7) All monuments and tombstones relating to the remains of any deceased person removed under this Act shall at the expense of the Corporation be removed and re-erected at such place within the city as the bishop may direct on the application (if any) of such heir executor administrator or relative as aforesaid or failing any such application on the application of the Corporation and the Corporation shall cause to be made a record of such monuments and tombstones and of their situation when re-erected showing the particulars respecting each monument and tombstone as a separate entry and such record shall be deposited at the General Register Office Somerset House London with the miscellaneous records in the custody of the Registrar-General.

(8) The removal of the remains of any deceased person under this section shall be carried out under the supervision and to the satisfaction of the medical officer.

(9) The Corporation may use the part of the said churchyard acquired by them for the purposes of the works comprised in Street Work No. 31 authorised by this Act but notwithstanding the powers contained in section 31 (Power to develop lands) of this Act the Corporation shall not erect any building on the said part of the said churchyard above the surface of the ground other than a shelter or shelters for the accommodation of omnibus passengers and entrances to and exits from a subway and an underground lavatory and sanitary conveniences and shall not display any advertisement on any such building except notices of suitable design relating to the use thereof by the public.

(10) Any such shelter shall not be erected on the said part of the said churchyard at a greater distance from the junction of Colmore Row and St. Philip's Place than two hundred feet and the design thereof shall be subject to the reasonable approval of the chapter of the cathedral church (in this section referred to as " the chapter ").

(11) The Corporation shall rebuild the wall of the said churchyard and the entrances thereto of such stone and other material and according to such design as may be reasonably approved by the chapter.

(12) The Corporation shall repay to the chapter or as they may direct the amount of any cost reasonably incurred by them in placing double windows on the north side of the cathedral church or any addition thereto.

PART II. —*cont.*

(13) Any compensation or purchase moneys to be paid by the Corporation in respect of the acquisition of part of the said churchyard shall be paid to the Ecclesiastical Commissioners and shall be applied by them in the following manner (that is to say):—

The money from time to time remaining in the Ecclesiastical Commissioners' hands shall be invested by them in approved securities and the income arising from such investments or any part thereof and the investments or any part thereof may be applied by them after consultation with the bishop and the provost chapter and council of the cathedral church for either the endowment of one or more residentiary canonries in the cathedral church or such other purposes for the benefit of the cathedral church including the repair or improvement of the fabric thereof and the maintenance of the services of the cathedral church as may from time to time be determined.

(14) Any difference (other than a difference to which the provisions of the Lands Clauses Acts apply) which may arise between the Corporation and the chapter under subsections (9) to (13) inclusive of this section shall be referred to and determined by an arbitrator to be appointed failing agreement by the President of the Royal Institute of British Architects.

Compensation for withholding permission to develop.

18. Where before the twenty-seventh day of November nineteen hundred and forty-five the owner of any land which the Corporation are empowered to acquire under paragraph (*a*) of section 5 (Power to take lands) of this Act has made application to the Corporation in manner provided by the Town and Country Planning (General Interim Development) Order 1933 or the Town and Country Planning (General Interim Development) Order 1945 for permission to develop such land and such permission has been refused and on appeal made to him the Minister of Town and Country Planning has refused to grant an application for such permission the Corporation shall pay to such owner a sum by way of compensation for such refusal in any case where and to the extent that compensation in respect of additional injurious affection would have been payable under subsection (2) of section 18 of the Town and Country Planning Act 1932 if that section had been applicable. 22 & 23 Geo. 5. c. 48.

For protection of Christadelphian Hall and Buildings Society Birmingham.

19. Notwithstanding anything contained in this Act the Corporation shall not enter upon take or use the lands in the city numbered 712 on the deposited plans or any part of those lands otherwise than by agreement.

PART II. —*cont.*

For protection of Postmaster-General.

20. The Corporation shall not except with the consent in writing of the Postmaster-General acquire any interest of the Postmaster-General in the lands delineated upon the deposited plans and numbered 385 431 694 and 698 in the city.

For protection of estate of William Barwick Cregoe-Colmore.

21.—(1) Notwithstanding anything in this Act contained the Corporation shall not acquire the property known as Cregoe Chambers and numbered 10 on the plan marked "A" and annexed to the agreement made the twenty-first day of May nineteen hundred and thirty-six between the Corporation of the one part and the Public Trustee and John Dixon Mayhew of the other part (in this section referred to as "the principal agreement") except in accordance with the provisions of the principal agreement as amended and extended by a supplemental agreement made the twenty-eighth day of January nineteen hundred and forty-one between the same parties (in this section referred to as "the supplemental agreement").

(2) Nothing in this Act shall prejudice or affect the principal agreement as amended and extended by the supplemental agreement.

For further protection of estate of William Barwick Cregoe-Colmore.

22. Notwithstanding anything in this Act contained the following provisions for the further protection of the Public Trustee trustee of the will of William Barwick Cregoe-Colmore and his successor in title (hereafter in this section referred to as "the trustee") shall unless otherwise agreed in writing between the Corporation and the trustee apply and have effect:—

(1) In this section—

"the signed plan" means the plan which has been signed in duplicate by Herbert John Manzoni on behalf of the Corporation and John Knowles on behalf of the trustee one copy of which has been retained by the Corporation and the other by the trustee;

"the new street" means Street Work No. 3 by this Act authorised;

"the green land" means the land coloured green on the signed plan;

"the blue land" means the land coloured blue on the signed plan and includes so much of the contiguous green land (if any) as shall not be required for the new street and is comprised in the existing leases;

"the pink land" means the land coloured pink on the signed plan;

PART II. —*cont.*

" an existing lease " means a lease granted by the trustee or his predecessors in title before the passing of this Act in respect of any portion of the green land and of the blue land;

" a new lease " means a lease to be granted by the trustee in pursuance of subsection (5) of this section;

" freehold ground rent " includes in addition to the rent reserved by a lease any premium or other sum paid on or in respect of the granting of the lease and the freehold reversion immediately expectant on the expiration or other determination of the lease;

the " Colmore estate " means the real estate of the trustee in the city:

(2) (*a*) The Corporation shall not acquire the freehold interest in any part of the blue land but if the Corporation acquire the green land they shall also acquire the interest in any existing lease;

(*b*) If as a result of acquiring an existing lease the Corporation become the lessees of the trustee they shall pay in full to the trustee the ground rent payable under the existing lease until the date or dates on which the rents reserved under the new lease or new leases of the same property begin to accrue but shall not be bound by any covenants in the existing lease relating to the maintenance of any building erected on the land comprised in the existing lease and they may demolish any such building:

(3) In consideration of the provisions of this section the trustee shall not claim any payment in respect of any green land which may be acquired by the Corporation other than as provided for in subsection (6) of this section:

(4) When the Corporation have acquired an existing lease and have demolished any building erected on, so much of the green land as is comprised in that lease they shall demolish any building erected on so much of the blue land as is comprised in that lease and shall give vacant possession of such blue land to the trustee so that such blue land shall become available for development by the trustee:

(5) The trustee shall in the development of the blue land made available for development by the trustee under subsection (4) of this section consult with the Corporation and comply with their reasonable

PART II. —*cont.*

requirements as regards the dates of expiry of the new leases the expenditure on and the nature and construction of the buildings or improvements and the proposed user thereof in relation to the general development of the city and the Colmore estate and shall carry out such development by way of the grant of new leases with or without any part of the pink land at such ground rents as may be agreed with the Corporation or failing agreement determined by arbitration:

(6) (*a*) The ground rent payable under any existing lease shall cease on the date on which the ground rent payable under any new lease comprising the portion of the blue land comprised in the existing lease begins to accrue;

(*b*) On that date a valuation shall be agreed or in default of agreement settled by arbitration of—

(i) the capital value of the freehold ground rent secured under a new lease valued as at the date on which the new lease was granted; and

(ii) the capital value of the freehold ground rent secured under the existing lease in respect of so much of the blue land and of the green land as was comprised in the existing lease;

(*c*) The said valuation shall be assessed in each case on a common basis being that which but for the provisions of this section would have applied to the assessment of the compensation payable to the trustee in respect of the green land;

(*d*) If the amount calculated under sub-paragraph (*b*) (i) of this subsection exceeds the amount calculated under sub-paragraph (*b*) (ii) thereof the trustee shall forthwith pay to the Corporation a sum equal to the difference and if the amount calculated under the said sub-paragraph (*b*) (ii) exceeds the amount calculated under the said sub-paragraph (*b*) (i) the Corporation shall forthwith pay to the trustee a sum equal to the difference:

(7) Any dispute or difference which may arise between the Corporation and the trustee with reference to the provisions of this section shall be referred to and settled by a single arbitrator to be agreed between the parties or failing agreement to be appointed on the application of either party (after notice in writing to the other) by the President of the Royal Institution of Chartered Surveyors.

PART III.

INNER RING ROAD.

Power to make street improvements.

23.—(1) Subject to the provisions of this Act the Corporation may in the lines and according to the levels shown upon the deposited plans and sections relating thereto make and maintain the street improvements and other works hereinafter mentioned with all necessary works and conveniences in connection therewith.

The works hereinbefore referred to will be situate in the city and are—

Street Work No. 1 A new street (including improvements of Cambridge Street and Easy Row) extending from Summer Row to Paradise Street;

Street Work No. 2 A new street extending from Cambridge Street to the junction of Great Charles Street with Congreve Street;

Street Work No. 3 An improvement of Great Charles Street including (*a*) its raising on its north-western side between Newhall Street and Livery Street and a bridge over Ludgate Hill (*b*) its lowering on its south-eastern side between New Market Street and Livery Street and (*c*) an alteration of its levels for its whole width between the last-named street and Snow Hill;

Street Work No. 4 A new street (in part to be raised above the existing street level and including the covering over of the Birmingham and Fazeley Canal a bridge over Street Work No. 28 and improvements or diversions of Snow Hill Slaney Street Weaman Street Dr. Johnson Passage Upper Priory Old Square Lower Priory and Dalton Place) extending from Constitution Hill to Moor Street;

Street Work No. 5 An improvement and diversion of Shadwell Street at its south-western end;

Street Work No. 6 A new street (including an improvement and partial diversion of Bath Street and improvements of Lench Street and Brick Kiln Street) extending from its junction with Street Work No. 4 to Corporation Street;

Street Work No. 7 A variation of Lancaster Street including (*a*) its improvement on both sides between Lawson Street and Brick Kiln Street and (*b*) its narrowing between Brick Kiln Street and Corporation Street;

PART III. —*cont.*

Street Work No. 8 A new street extending from near Lench Street to the junction of Lancaster Place with Stafford Street;

Street Work No. 9 An improvement of Loveday Street and Lancaster Place between Lench Street and Stafford Street;

Street Work No. 10 A new street (including an improvement of Congreve Street at its north-western end) extending from the junction of Congreve Street with Great Charles Street to Paradise Street;

Street Work No. 11 A new street extending from the junction of Great Charles Street with Easy Row to Street Work No. 10;

Street Work No. 12 A new street extending from Easy Row opposite to the Hall of Memory to Street Work No. 10;

Street Work No. 13 An improvement of Congreve Street at its south-eastern end;

Street Work No. 14 An improvement of Broad Street at its eastern end;

Street Work No. 15 A raising of Suffolk Street on its south-western side between Paradise Street and Severn Street;

Street Work No. 15A An improvement of Suffolk Street on its north-eastern side and a partial diversion thereof in a south-westerly direction;

Street Work No. 16 A new street extending from Suffolk Street to Smallbrook Street;

Street Work No. 17 An improvement of Horse Fair at its north-westerly end;

Street Work No. 18 A new street (in parts to be raised above the existing street level and including bridges over Street Works Nos. 22 and 26 the covering in and bridging over of the London Midland and Scottish Railway near Swan Passage and improvements or diversions of Holloway Head Smallbrook Street Worcester Street Swan Passage Phillips Street Bell Street Thomson Passage Moor Street Ashley Passage and Stafford Street) extending from Ellis Street to Lancaster Place;

Street Work No. 19 A new street (in part to be raised above the existing street level and including a bridge over Street Work No. 21 and improvements of Jennens Row and Buck Street the diversion of Nova Scotia Street and improvements of Coleshill Street

PART III. —*cont.*

Prospect Row and A.B. Row) extending from Masshouse Lane to the junction of A.B. Row with Howe Street;

Street Work No. 20 A new street to be situate between Doe Street and Market Street extending from Street Work No. 19 to Coleshill Street;

Street Work No. 21 A diversion and improvement of Leek Street (including the lowering of part thereof to carry it under Street Work No. 19) from Bartholomew Row to Coleshill Street;

Street Work No. 22 A diversion of Dudley Street from Station Street to Pershore Street;

Street Work No. 23 An improvement and partial diversion of Bull Ring;

Street Work No. 24 An improvement of Park Street at its south-western end;

Street Work No. 25 An improvement of High Street City from Street Work No. 18 to New Street;

Street Work No. 26 An improvement of parts of Albert Street;

Street Work No. 27 An improvement of Bull Street at its junction with Dr. Johnson Passage;

Street Work No. 28 A diversion and lowering of Dale End extending from Lower Priory to Newton Street;

Street Work No. 29 An improvement of Paradise Street on its north-western side from Easy Row to Victoria Square;

Street Work No. 30 An improvement of Victoria Square;

Street Work No. 31 An improvement of Colmore Row on its south-eastern side.

(2) The Corporation shall erect a good and sufficient fence not less than four feet in height on each side of every bridge or viaduct comprised in Street Works Nos. 3 4 15 18 and 19 authorised by this Act.

Limits of deviation.

24. In constructing the works authorised by this Part of this Act the Corporation may deviate laterally from the lines thereof as shown on the deposited plans to any extent not exceeding the limits of deviation shown on those plans and they may deviate vertically from the levels of the said works as shown on the deposited sections to any extent not exceeding ten feet upwards and to any extent downwards.

PART III —*cont.*

Power to make subsidiary works.

25.—(1) Subject to the provisions of this Act and within the limits of deviation shown on the deposited plans the Corporation in connection with the works authorised by this Part of this Act may—

(*a*) make junctions and communications with any existing streets which may be intersected or interfered with by or be contiguous to the said works or any of them;

(*b*) make diversions widenings or alterations of lines or levels of any existing streets for the purpose of connecting the same with the said works or any of them or of crossing under or over the same or otherwise;

(*c*) construct and provide carriageways footways vaults cellars arches sewers drains subways and other works and conveniences;

(*d*) stop up and appropriate the site and soil of so much of any streets as shall be rendered unnecessary by the exercise of the powers of this Part of this Act;

(*e*) execute any works for the protection of any adjoining land or buildings;

(*f*) remove alter divert or stop up any drain sewer channel or watercourse the Corporation providing a proper substitute before interrupting the flow of sewage in any drain or sewer or water in any channel or watercourse; and

(*g*) alter the mains pipes wires and other works for the purpose of conveying water gas or electricity to any premises.

(2) Any paving metalling or materials in on or under any street altered or diverted by the Corporation under the powers of this Part of this Act and any sewers drains mains pipes wires and works (hereinafter called " apparatus ") rendered unnecessary by the substitution of other apparatus therefor shall vest in the Corporation and the substituted apparatus shall be under the same jurisdiction care management and direction as the existing apparatus for which it may be so substituted.

(3) In the exercise of the powers conferred by this section the Corporation shall cause as little detriment and inconvenience as circumstances admit to any person and shall make reasonable compensation for any damage caused to any person by the exercise of such powers.

(4) Within the limits of deviation shown on the deposited plans the Corporation may raise sink or otherwise alter the position of any of the steps areas cellars windows and pipes or spouts belonging to any house or building and may remove all other obstructions so that the same be done with as little

PART III. —*cont.*

delay and inconvenience to the inhabitants as the circumstances of the case will admit and shall make reasonable compensation for any damage caused by the exercise of the powers of this subsection.

(5) Any question of disputed compensation payable under the foregoing provisions of this section shall be determined by arbitration in accordance with the provisions of the Lands Clauses Acts.

Stopping up of highways.

26.—(1) (*a*) The Corporation may stop up the whole or such portion or portions as they think fit of so much of the highways referred to in this subsection as is shown on the deposited plans as intended to be stopped up and thereupon all rights of way over or along the same shall be extinguished and the Corporation may appropriate and use the sites of the highways stopped up.

(*b*) The highways hereinbefore referred to are Bailey Street Bartholomew Row Bath Passage Bath Street Bell Street Bennetts Hill Cambridge Street Chapel Street Corporation Street Dale End Dalton Place Dalton Street Dudley Street Easy Row Edmund Street Freeman Street Great Charles Street Henns Walk High Street Holloway Head Horse Fair James Watt Street John Bright Street Ladywell Passage Lancaster Street Lease Lane Leek Street Lower Priory Ludgate Hill Passage Masshouse Lane Moor Street Old Meeting Street Old Square Paternoster Row Phillips Street Poultry St. Jude's Passage Seymour Street Shadwell Street Silver Street Smallbrook Street Snow Hill Spiceal Street Station Street Suffolk Place Suffolk Street Swan Passage Upper Priory Victoria Square Waterloo Passage Weaman Street Wellington Passage Whittall Street and Wrottesley Street.

(2) Provided that the Corporation shall not under the powers conferred by the foregoing provisions of this section stop up any part of a highway unless the Corporation obtain the consent of the owners lessees and occupiers (if other than the Corporation) of the lands on both sides thereof.

(3) The Corporation may close to vehicular traffic to such extent as the Corporation may determine the following highways shown on the deposited plans as intended to be closed to vehicular traffic or to through vehicular traffic namely Allport Street Fox Street Loveday Street Newhall Street Ryder Street St. Mary's Row Slaney Street Steelhouse Lane Vauxhall Street and Worcester Street:

Provided that the powers of this subsection shall not be exercised so as to prevent the access by vehicular traffic to premises in the highways therein mentioned.

PART III. —*cont.*

(4) (*a*) Upon the completion of any of the works authorised by this Part of this Act where the same is constructed by way of viaduct wholly or partly over any portion of the highways referred to in this subsection the site of such portion of highway shall vest in the Corporation and all rights of way over or along the same shall be extinguished and the Corporation may appropriate and use the site thereof.

(*b*) The highways to parts of which the provisions of this subsection relate are Buck Street Chapel Street Dale End Dalton Place Dalton Street Dudley Street Freeman Street Great Charles Street Henns Walk Jennens Row Ladywell Passage Leek Street Masshouse Lane Moor Street New Meeting Street Seymour Street Smallbrook Street Suffolk Street Worcester Street and Wrottesley Street.

(5) The Corporation shall pay compensation to all persons interested in respect of any private rights of way extinguished by virtue of this section and such compensation shall in case of dispute be settled in manner provided by the provisions of the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

For further protection of Postmaster-General.

27.—(1) Where in exercise of the powers conferred by section 26 (Stopping up of highways) of this Act any highway specified in that section or any portion of such a highway is stopped up or the public right of way over or along the same is extinguished 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 or extinguishment:—

(*a*) The Postmaster-General shall have power to remove the line so however that the said power shall not be exerciseable 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;

PART III. —*cont.*

(*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 (including where the whole width of the highway is not stopped up the part which will remain or become a highway or part of a highway and where a highway is diverted the new portion of such highway) 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 of the said highways has been stopped up or the public right of way over or along the same extinguished the Corporation shall send by post to the Postmaster-General a notice informing him of such stopping up or extinguishment 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 relation to the works authorised by section 23 (Power to make street improvements) and section 25 (Power to make subsidiary works) 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. 41 & 42 Vict. c. 76.

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

PART III. —*cont.*

taining 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) Expressions in this section have the same meaning as in the Telegraph Act 1878.

For protection of Great Western Railway Company.

28. For the protection of the Great Western Railway Company (in this section referred to as "the company") the following provisions shall unless otherwise agreed in writing between the company and the Corporation apply and have effect:—

(1) (*a*) Before the Corporation begin the construction of so much of the street works numbered 3 4 18 and 31 or any other works constructed under the powers of this Act as cross over under or in any way affect the railway tunnels bridges or works of the company (in this section respectively called "the said street works" and "the railway works") they shall give notice in writing to the company of their intention to begin the said street works which shall be constructed in accordance with plans sections and particulars reasonably approved by the chief engineer of the company (hereinafter referred to as "the engineer") before the said street works are commenced:

Provided that if within twenty-eight days from the submission of such plans sections and particulars the engineer does not signify to the Corporation his disapproval thereof and his requirements in relation thereto he shall be deemed to have approved thereof;

(*b*) If the engineer is of the opinion that the said street works would necessitate any alteration strengthening or underpinning of the railway works he shall within twenty-eight days after receipt of the said notice give to the Corporation notice in writing specifying any such alteration strengthening or underpinning as in his opinion shall be necessary

PART III. —*cont.*

(hereinafter called " the protective works ") and requiring the Corporation to construct the same;

(*c*) If the engineer gives the Corporation notice as aforesaid the Corporation shall not begin to construct or carry out the said street works until the construction of the protective works have been completed to the reasonable satisfaction of the engineer;

(*d*) The protective works shall be constructed by and at the expense of the Corporation under the superintendence (if the same be given) and to the reasonable satisfaction of the engineer and at such time or times and in such manner as he shall approve The work shall be carried out in accordance with plans sections and particulars to be submitted to and reasonably approved by the engineer provided that if the company so elect they may themselves at the reasonable cost in all respects of the Corporation carry out and thereafter maintain the protective works:

(2) Subject to subsection (1) (*d*) of this section the protective works and the said street works (hereinafter collectively called " the works ") shall be constructed and maintained by the Corporation so as to cause as little injury as may be to the railway works and as little interruption as may be to the passage or conduct of traffic thereover or at any station thereon which may be affected by the works;

All such injury in any way due to the acts and operations aforesaid or which may arise from the failure of the Corporation to maintain the works or by reason of the failure of the works shall forthwith be made good by the Corporation at their own expense and to the reasonable satisfaction of the engineer and the Corporation shall be responsible for and save harmless and indemnify the company from all claims in respect of any such injury or interruption as aforesaid and shall make compensation to the company for and in respect thereof:

(3) In the event of the Corporation failing to make good such injury as aforesaid or failing to maintain the works in substantial repair and good order to the reasonable satisfaction in all respects of the engineer or if the company so elect the company may after giving to the Corporation not less than fourteen days' notice except in case of emergency when they shall give the longest notice practicable make good the same and make and do in and upon as well the land of the Corporation as their own lands all such

PART III. —*cont.*

repairs and things as may be reasonably requisite and recover the reasonable expense thereof including compensation payable as aforesaid and compensation payable to any workmen who may be injured or killed whilst employed by the company in and about such works or to the legal representatives or dependants of such workmen:

(4) The Corporation shall bear and on demand pay to the company the reasonable expenses incurred by them in any way arising out of or in connection with the works including the reasonable expenses (together with compensation payable as aforesaid) of the employment by them during the construction and maintenance of any of the works of such inspectors signalmen or watchmen to be appointed by the company as may be reasonably necessary for watching and protecting their railway and the conduct of the traffic thereon with reference to and during the execution and maintenance of the works and for preventing as far as may be all interference obstruction danger and accident from any of the operations or from the acts or defaults of the Corporation or their contractors or any person or persons in the employ of the Corporation or their contractors:

(5) If it should be necessary by reason of the construction or existence of any of the works to alter any of the telegraph telephone or signal posts or wires or other apparatus belonging to or on the railway of the company the company may effect such alterations and the Corporation shall repay to them the reasonable expenses incurred by them in and connected with such alterations:

(6) The Corporation shall also pay to the company any reasonable additional expenses which the company may incur in reconstructing altering or maintaining in pursuance of any powers existing at the passing of this Act their railway and other works due to or in consequence of the execution of the works:

(7) Before stopping up any portion of Snow Hill the Corporation shall provide access to Street Work No. 4 from the company's Snow Hill station or any extension thereof which the company may construct equivalent to that now existing to Snow Hill from such station:

(8) Notwithstanding anything in this Act contained or shown upon the deposited plans the Corporation shall not enter upon take or use any lands belonging or leased to the company other than those shown

coloured red on the plan signed by Herbert John Manzoni on behalf of the Corporation and by Allan Stephen Quartermaine on behalf of the company or acquire any easement or right therein:

(9) Any difference arising between the Corporation and the company respecting any of the matters referred to in this section shall be referred to and determined by an arbitrator.

For protection of London Midland and Scottish Railway Company.

29. The following provisions for the protection of the London Midland and Scottish Railway Company (in this section referred to as " the company ") shall unless otherwise agreed in writing between the company and the Corporation apply and have effect in relation to the exercise of the powers of this Act:—

(1) The Corporation shall not purchase or acquire by compulsion any of the lands or property of the company numbered 980 984 to 989 inclusive 1008 1009 1016 and 1036 on the deposited plans being lands upon or under which railways and works of the company are situate or lands used for the purposes of the company's undertaking but subject to the provisions herein contained the Corporation may purchase and acquire and the company shall sell and grant accordingly such easements or rights of using so much of the said lands or property of the company as may be reasonably necessary for the construction and maintenance of the street works authorised by this Part of this Act including the right to remove or demolish any buildings and the payment to be made by the Corporation to the company for any such easement or right shall be determined in accordance with the Lands Clauses Acts:

(2) Before commencing the construction of so much of any of the said works authorised by this Part of this Act or of any works in connection therewith as will be situate over or within fifty feet of any railway railway station tunnel embankment retaining wall or other work of the company (which works of the Corporation are in this section referred to as " the works ") the Corporation shall submit to the principal engineer for the time being of the company (in this section referred to as " the principal engineer. ") for his reasonable approval plans sections and specifications of the works proposed to be carried out and on such plans shall show the stages by which it is intended to carry out the works:

PART III. —*cont.*

Provided that if within one month from the submission of such plans sections and specifications the principal engineer does not signify to the Corporation his disapproval thereof and his requirements in relation thereto he shall be deemed to have approved thereof:

(3) The works shall be constructed only according to such plans sections and specifications as shall be approved or deemed as aforesaid to be approved by the principal engineer or determined by arbitration and shall be constructed under the superintendence (if given) and to the reasonable satisfaction of the principal engineer:

(4) The covering in and bridging over of the railway of the company comprised in Street Work No. 18 (other than the construction and maintenance of the carriageway and footway) and all works connected therewith may and shall be carried out constructed and maintained by the company in accordance with plans sections and specifications approved or deemed to be approved or determined by arbitration as aforesaid and to the reasonable satisfaction of the Corporation and the company may from time to time construct provide operate and maintain such additional works and equipment for the ventilation lighting and signalling of the railway as may be reasonably necessary in consequence of Street Work No. 18 and the works connected therewith:

(5) If within one month from the submission in accordance with subsection (2) of this section of plans sections and specifications of any of the works (other than the works referred to in subsection (4) of this section) the company give to the Corporation notice in writing that they themselves desire to construct carry out or maintain such work or any part thereof other than the construction and maintenance of the carriageway and footway the company may and shall themselves construct carry out or maintain such work or part thereof accordingly to the reasonable satisfaction of the Corporation:

(6) Any temporary or permanent works which may in the opinion of the principal engineer be necessary to ensure the stability of the railway works of the company or to protect the same from injury may and shall be carried out by the company before the construction of the works and subsequently maintained by them and if in consequence of and during the construction of the works it shall become necessary in the opinion

of the principal engineer to add to or alter the permanent way or any signalling telephone telegraph lighting or other apparatus of the company the company may carry out any such addition or alteration:

(7) The Corporation shall from time to time repay to the company all expenses reasonably incurred by them in pursuance of subsections (4) (5) and (6) of this section including the cost of the preparation of any drawings and specifications together with any expenses incurred by the company in the employment of such inspectors signalmen and watchmen as may be reasonably necessary for inspecting the works and for watching the railway and works of the company during the construction thereof or with reference to any works or operations carried out by the company in pursuance of the said subsections including compensation payable to any such inspectors signalmen or watchmen who may be killed or injured whilst employed as aforesaid or to their personal representatives or dependants:

(8) No building or structure shall be erected under the powers of this Act upon the surface area over any of the company's tunnels or within thirty feet of any such surface area or of any retaining wall of the company except in accordance with plans and particulars submitted to and reasonably approved by the principal engineer:

Provided that if within one month from the submission of such plans and particulars the principal engineer does not signify to the Corporation his disapproval thereof and his requirements in relation thereto he shall be deemed to have approved thereof:

(9) The Corporation shall give to the company fourteen days' notice in writing of their intention to commence the construction of any of the works:

(10) If it shall be reasonably necessary at any time within two years after the completion of the works or any part thereof and in consequence of the construction thereof that any further or other works or appliances be constructed or measures of precaution taken either by way of addition to the existing works of the company or in connection with the works or in relation to the method of construction of the works so as to prevent the subsidence of or injury to any of the railways works or property of the company the Corporation shall on being thereunto reasonably required in writing under the hand of the principal engineer

PART III. —*cont.*

make and execute at their own expense and according to plans sections and specifications to be prepared by him and reasonably approved by the engineer to the Corporation such works or take such measures of precaution including the temporary cessation of the construction of the work as the principal engineer shall reasonably require The construction of each of the works when commenced shall proceed without cessation except as aforesaid and with all reasonable dispatch:

(11) The Corporation shall not in executing the works in any manner obstruct hinder or interfere with the free uninterrupted and safe user of the railway and property of the company or any traffic thereon and if the free and uninterrupted user of the railway of the company or any traffic thereon shall be obstructed hindered or interfered with by the Corporation contrary to this enactment the Corporation shall notwithstanding any approval as aforesaid pay to the company all reasonable costs and expenses to which the company may be put and compensation for the loss sustained by the company by reason of any such interruption or interference:

(12) The plans sections and specifications referred to in subsections (2) and (3) of this section shall include plans sections and specifications of Street Work No. 15 in so far as the said work will affect the existing entrance from Suffolk Street to the bonded store of the company's central goods station and the Corporation shall provide in constructing the said work and thereafter maintain to the reasonable satisfaction of the principal engineer an opening under the viaduct comprised in the said work not less than twelve feet in height and eighteen feet in width with a roadway giving access to the said bonded store of the company from the highway The said viaduct shall be designed and constructed so as not to interfere with the maintenance of or to damage the retaining wall or entrance gates of the central goods station of the company and the parapet wall adjoining the said goods station shall be not less than six feet above the new road level In carrying out Street Work No. 15 the Corporation shall not interfere with the free user of the entrances to the central goods station of the company in Holliday Street and Severn Street and the Corporation shall repay to the company any expense incurred by them in effecting any alteration of the said entrances reasonably necessary in consequence of the said street work:

PART III. —*cont.*

(13) Street Work No. 18 shall be designed and carried out so as to facilitate as far as may be the flow of traffic to and from the New Street station of the company account being taken of any proposal of the company to provide any new or altered means of access to the said station from Worcester Street and in furtherance of such purpose the Corporation shall before commencing the said work submit to the company a plan showing the intended lines of the work and consult with the company as to what modifications (if any) of their proposals (including any deviation from the lines shown on the deposited plans within the limits of deviation indicated thereon) are reasonably necessary for the purposes of this subsection In carrying out the said street work the Corporation shall comply with any reasonable requirement of the company for the purposes referred to in this subsection and any question as to whether any such requirement of the company is reasonable shall unless otherwise agreed be referred to and determined by the Minister of Transport:

(14) Notwithstanding anything contained in this Act or the approval of plans sections and specifications or superintendence by or completion of the works to the satisfaction of the principal engineer and notwithstanding the compliance by the Corporation with the provisions of this section—

(*a*) the Corporation shall be responsible for and make good to the company all costs losses damages and expenses not otherwise provided for which may be occasioned to the company by reason of the construction or alteration of the works or the failure of any part thereof repairable by the Corporation or of any act or omission of the Corporation or of any of the persons in their employment or of their contractors;

(*b*) the Corporation shall indemnify the company from and against all claims for damage or compensation in respect of any damage injury or loss which may be suffered by the employees of the company or by any passenger owner of merchandise or owner of property adjoining the works or any other person or persons by reason of the existence construction or failure of the works or any such operation as aforesaid except so far as any such damage injury or loss shall have been occasioned by or through the acts or defaults of the company or those for whom they are responsible:

PART III. —*cont.*

(15) Any additional expense which the company may from time to time reasonably and properly incur in maintaining altering reconstructing or widening their railway or works in the exercise of powers existing at the date of the passing of this Act by reason of the existence or construction of the works shall be repaid by the Corporation to the company:

(16) If any difference shall arise between the company and the Corporation under this section (other than a difference as to meaning or interpretation thereof or a difference referred to the Minister of Transport) such difference shall be referred to and determined by an arbitrator.

Stopping up canal arm.

30.—(1) When the Corporation have acquired the properties numbered 107 and 108 on the deposited plans the Corporation may stop up the canal arm leading to Snow Hill Wharf from the main Birmingham and Fazeley canal of the Company of Proprietors of the Birmingham Canal Navigations (in this section referred to as "the canal arm") shown upon the deposited plans as intended to be stopped up and thereupon all public rights of way and navigation and other rights or easements (whether public or private) in over or relating to the canal arm shall be extinguished and the canal arm shall be abandoned as a canal or navigation.

(2) Upon such stopping up the said canal company shall be released and discharged from all obligations and liabilities in respect of the canal arm or in respect of the maintenance and working of the same or in respect of the water supplied thereto.

(3) The Corporation and the said canal company may enter into and carry into effect agreements with respect to the maintenance and working of the canal arm until the same shall be stopped up.

Power to develop lands.

31. The Corporation may exercise in reference to the lands in the city acquired by them under the powers of this Act the powers which were conferred upon them by section 12 (Power to develop lands) of the Birmingham Corporation (General Powers) Act 1929 in reference to the land acquired by them under the powers of Part II of that Act and not required for the purposes of the new street and street improvements authorised by that Act.

PART IV.

WATER.

Extension of time for completion of waterworks authorised in 1940.

32. The time for completing the works authorised by the Act of 1940 is extended until the twelfth day of June nineteen hundred and fifty-five.

PART IV. —*cont.* Accommodation for workmen employed on works.

33. The Corporation may use the lands acquired by them in pursuance of paragraph (*b*) of section 5 (Power to take lands) of this Act for any of the purposes of the water undertaking including the purposes of section 24 of the Act of 1940 (which relates to the provision of accommodation for the workmen employed in the construction of the works authorised by that Act and of hospital accommodation for the treatment of cases of sickness or accident).

Provision of hotel accommodation.

34.—(1) The Corporation may—

(*a*) extend enlarge or improve the Elan Valley Hotel in the parish of Llansantffraid-Cwmdeuddwr in the rural district of Rhayader in the county of Radnor when acquired by them so as to increase the accommodation conveniences and amenities available at such hotel;

(*b*) demolish the said hotel and either—

(i) re-erect upon or near to the site thereof and provide equip and fit up new and improved buildings and premises suitable for use for the purposes of the business of an innkeeper licensed to sell intoxicating liquors; or

(ii) erect upon any lands in Wales for the time being belonging to the Corporation and occupied by them for the purposes of the water undertaking and provide equip and fit up a building or buildings and premises suitable for use for such purposes as aforesaid;

(*c*) grant for such period and upon and subject to such terms and conditions as they may determine a lease or leases of the said hotel or of the site thereof or of any other lands referred to in this section and may include in any such lease covenants by the lessee to execute erect and do such works buildings premises and things as the Corporation may deem necessary or expedient for effecting the purposes hereinbefore mentioned; and

(*d*) sell or otherwise dispose of the said hotel or the site thereof or any building or premises erected or re-erected as aforesaid.

(2) Nothing in this section shall—

(*a*) authorise the Corporation to carry on at the said hotel or at any building or premises erected or re-erected as aforesaid the business of an innkeeper;

(*b*) alter or affect the operation of any of the provisions of the Licensing Acts 1910 to 1934 or any enactment for the time being in force amending or extending any of those provisions or be deemed to authorise for

PART IV. —*cont.*

the purposes of subsection (3) of section 71 of the Licensing (Consolidation) Act 1910 the making of any alteration in the said hotel without the consent mentioned in subsection (1) of the said section 71; or

(*c*) authorise the execution or doing of any act or thing in contravention of the provisions of the Restriction of Ribbon Development Act 1935.

25 & 26 Geo. 5. c. 47.

Repeal of section 25 of Birmingham Waterworks Act 1870. 33 & 34 Vict. c. cxxviii.

35. Section 25 (As to repair of culvert at Plant's Brook) of the Birmingham Waterworks Act 1870 is hereby repealed.

Revision of limits of supply between Birmingham and Coventry.

36.—(1) On and after the first day of January nineteen hundred and forty-seven the area coloured purple on the map hereinafter mentioned shall be excluded from the limits of the Corporation for the supply of water and the areas coloured red on the said map shall be included within those limits and the enactments relative to the supply of water by the Corporation shall have effect accordingly.

(2) On and after the said first day of January the areas coloured red on the said map shall be excluded from the limits of the mayor aldermen and citizens of the city of Coventry for the supply of water and the area coloured purple on the said map shall be included within those limits and the enactments relative to the supply of water by the said mayor aldermen and citizens shall have effect accordingly.

(3) The Corporation and the mayor aldermen and citizens of the city of Coventry may enter into and carry into effect agreements for the transfer of or otherwise in relation to any mains or works belonging to them respectively and situate in or in the neighbourhood of the areas referred to in this section and any mains or works so transferred shall form part of the water undertaking of the authority to whom they are transferred.

(4) (*a*) Four copies of the map hereinbefore referred to have been signed by Joseph Gibbins the chairman of the committee of the House of Commons to whom the Bill for this Act was referred and one copy thereof has been deposited in each of the following offices:—

(i) the Parliament Office of the House of Lords;

(ii) the Committee and Private Bill Office of the House of Commons;

(iii) the office of the town clerk; and

(iv) the office of the town clerk of Coventry;

(*b*) Copies of or extracts from the said map deposited with the town clerk or with the town clerk of Coventry certified by

him to be true shall be received in all courts of justice and elsewhere as prima facie evidence of the contents of such map. PART IV. —*cont.*

Supply of water from river Blythe. 18 Vict. c. xxxiv.

37. The Corporation may use water taken or diverted from the river Blythe under the powers of and by means of the works referred to in the Birmingham Waterworks Act 1855 and the Birmingham Waterworks Act 1870 for the purpose of supplying water within their limits for the supply of water or in pursuance of an agreement made or to be made under article III (Authorising Corporation to supply water in bulk) of the Birmingham (Water and Gas) Order 1914 which was confirmed by the Local Government Board's Provisional Order Confirmation (No. 14) Act 1914. 4 & 5 Geo. 5. c. cxxxiv.

PART V.

ELECTRICITY.

Power to lay connecting mains.

38.—(1) For the purpose of—

(*a*) conveying electricity from any part of the electricity limits to any other part thereof;

(*b*) conveying electricity from any generating station or sub-station outside the electricity limits to a point within those limits;

(*c*) giving or taking a supply of electricity to or from any person to or from whom the Corporation are or may be authorised to give or take a supply; or

(*d*) placing and maintaining electric lines and works for any such purposes;

the Corporation—

(i) with respect to streets in the electricity limits shall have the powers and be subject to the provisions of the enactments relating to their powers in those limits; and

(ii) with respect to streets not within the electricity limits shall have the powers and be subject to the provisions of the Electricity (Supply) Acts 1882 to 1936 and the Electric Lighting (Clauses) Act 1899 and any Act amending or extending those Acts or any of them and those provisions so far as applicable but subject to the provisions of this section shall for the purposes of this section be incorporated with this Act and the Corporation shall be deemed to be the undertakers. 62 & 63 Vict. c. 19.

(2) Any electric line erected or laid down under the powers of this section elsewhere than in the electricity limits shall be

PART V. —*cont.*

erected or laid down in such line or route and in such a position as may be agreed between the Corporation and—

(*a*) the local authority for the area in which such electric line is proposed to be erected or laid down; or

19 & 20 Geo. 5. c. 17.

(*b*) as respects any county road or county bridge within the meaning of the Local Government Act 1929 vested in a county council the county council;

or as failing agreement shall be settled by an arbitrator to be appointed (unless otherwise agreed) by the Electricity Commissioners.

(3) Nothing in this section shall take away or prejudicially affect the rights of the Postmaster-General under section 14 of the schedule to the Electric Lighting (Clauses) Act 1899.

Power to break up private streets.

39.—(1) If the owner or occupier of any premises erected or in process of erection within the electricity limits on land abutting on any street which is laid out as such but not dedicated to the public use or which if so dedicated is not repairable by a local authority applies to the Corporation for a supply of electricity to those premises then—

(*a*) so much of any enactment applying to the Corporation as requires the consent of the person by whom the street is repairable to the breaking up by the Corporation of the street shall not have effect in relation to the street;

10 & 11 Vict. c. 15.

(*b*) the Gasworks Clauses Act 1847 in its application to the Corporation shall have effect in relation to the land comprised in the street as if section 7 thereof had been excepted from incorporation with the enactments applying to the Corporation; and

(*c*) except in the case of the streets referred to in subsection (2) of this section the authority who would be responsible for the maintenance and repair of the street if it were repairable by the inhabitants at large shall have the like rights under section 15 (relating to streets not repairable by local authorities) of the schedule to the Electric Lighting (Clauses) Act 1899 as are thereby conferred on the persons by whom the street is repairable.

(2) Nothing in this section shall authorise the breaking up by the Corporation of any street which is repairable by a railway or canal company unless the consent in writing of such company is obtained but such consent shall not be unreasonably withheld and upon an application made to the Minister of Fuel and Power by the Corporation the said Minister may if he thinks fit determine whether such consent has been unreasonably withheld.

PART V. —*cont.*

Protection of seals &c. belonging to Corporation. 34 & 35 Vict. c. 41.

40. The provisions of section 38 (Penalty for injuring meters) of the Gasworks Clauses Act 1871 incorporated with the Electric Lighting Act 1882 shall apply to any person who wilfully fraudulently or by culpable negligence injures or detaches or suffers to be injured or detached any of the sealing or locking devices attached to any sealed or locked receptacle meter or apparatus inserted by the Corporation in any electric line within a consumer's premises or opens or suffers to be opened any such sealed or locked receptacle meter or apparatus.

As to use of transformers.

41. Where a separate transformer is provided at the expense of the Corporation for the purpose of affording a supply of electricity to any consumer the Corporation may (subject to the provisions of the agreement under which the transformer was provided) use such transformer for the purpose of affording a supply of electricity to other consumers so long as such use does not prejudice or interfere with the supply for which such transformer was originally provided so however that the powers conferred by this section shall not enable the Corporation to extend the transformer so provided beyond the limits of the original site thereof.

Use for one purpose of electricity supplied for another purpose.

42.—(1) In this section—

"specifically supplied" means supplied by the Corporation through a meter fixed for the purpose of ascertaining the cost of the supply to a consumer of electricity to be supplied to him for a particular purpose only;

"higher rated purpose" means any purpose for the supply of electricity for which the Corporation are for the time being charging at a rate or upon terms higher than the rate or terms at or upon which the Corporation are for the time being charging for the supply of electricity for any purpose for which electricity is being specifically supplied to a consumer;

"last quarterly reading" means the quarterly reading of a consumer's meter or meters that shall take place next before the date when the Corporation shall sue for any penalty under this section.

(2) Any consumer who without the consent in writing of the Corporation shall use or suffer to be used (whether after transformation or conversion or not) for a higher rated purpose any electricity specifically supplied to him shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings and shall in addition be liable to pay to the Corporation compensation calculated in accordance with this section.

PART V. —*cont.*

(3) For the purpose of calculating the compensation to be paid to the Corporation under this section there shall be ascertained—

(*a*) the sum which the consumer would have been liable to pay to the Corporation for electricity supplied to him during the year expiring on the date of the last quarterly reading if all such electricity had been supplied to him for the higher rated purpose for which any electricity specifically supplied to him shall have been used in contravention of the provisions of this section; and

(*b*) the sum which the consumer would have been liable to pay to the Corporation for all electricity supplied to him during the like period if the electricity specifically supplied to him during that period had been used for the purpose for which it was specifically supplied;

and the amount of the compensation to be paid to the Corporation under this section shall be the difference between the two sums ascertained as aforesaid and shall be recoverable in the same manner as payments due to the Corporation for the supply of electricity.

(4) If in any proceedings for the recovery of compensation under this section the defendant shall prove that he has used electricity or suffered electricity to be used in contravention of the provisions of this section for a less period than a year the court may reduce proportionately the amount of the compensation calculated in accordance with the provisions of subsection (3) of this section.

(5) The provisions of section 18 (Power to refuse to supply electrical energy in certain cases) of the Electric Lighting Act 1909 shall apply to any person whom the Corporation have reasonable grounds for believing to be using or suffering to be used for a higher rated purpose electricity specifically supplied to him.

9 Edw. 7. c. 34.

Charges for special readings of electricity meters.

43. The Corporation may levy and recover such charges as they think fit for taking at the request and for the convenience of any consumer at a time other than that of the periodical meter readings the reading of any electricity meter fixed in any premises:

Provided that such charges shall not exceed the sum of two shillings and sixpence for each reading.

Entry upon premises.

44.—(1) The powers conferred on the Corporation by section 24 of the Electric Lighting Act 1882 of entering premises shall be extended as follows:—

(*a*) The premises which may be entered shall include all premises in the electricity limits in which electric

PART V. —*cont.*

fittings are being or have been installed and which are supplied or are intended to be supplied by the Corporation;

(*b*) The purposes for which premises may be entered shall include the following purposes (that is to say):—

(i) the inspection of all meters and electric fittings on the premises whether belonging to the Corporation or not;

(ii) the ascertainment of whether or not there is or has been any contravention of any of the enactments applying to the Corporation or of any regulation or byelaw made thereunder; and

(iii) where the Corporation are authorised under the provisions of any such enactment regulation or byelaw to cut off the supply of electricity to the premises the cutting off of such supply.

(2) The Corporation shall not have any power of entry into any such premises under this section except through an officer duly authorised by them who shall if so required produce his authority.

(3) Where any premises which the Corporation are entitled to enter in pursuance of the said section 24 are unoccupied they may in case of emergency without notice and in any other case after giving not less than forty-eight hours' notice to the owner thereof or if he is unknown to them and cannot be ascertained by them after diligent enquiry by affixing such notice upon a conspicuous part of the premises forcibly enter the same doing no unnecessary damage and in addition to their obligations under the said section 24 with respect to the repair of damage the Corporation shall on quitting the premises be under an obligation to leave the same not less secure than they were on entry.

(4) Any person who shall refuse or unreasonably neglect to admit any officer producing on demand written authority from the Corporation to any premises which they are entitled to enter in pursuance of the said section 24 or who shall hinder any such officer from entering any such premises or from exercising the powers conferred by the said section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(5) If any person who in compliance with the provisions of this section is admitted into a factory workshop or workplace discloses to any person any information obtained by him in the factory workshop 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.

PART V. —*cont.*

16 & 17 Vict. c. 51.

(6) In this section the expression "electric fittings" has the same meaning as in section 48 of the Electricity (Supply) Act 1926.

(7) The provisions of this section shall not apply to or in respect of any premises (not being a dwelling-house) belonging to a railway or canal company and used for the purposes of their undertaking.

Service of electricity demand notes. 15 & 16 Geo. 5. c. 90.

45. The provisions of section 59 (Service of notices etc.) of the Rating and Valuation Act 1925 shall apply to notices demand notes orders and other documents in respect of charges leviable by or due to the Corporation in connection with the electricity undertaking.

Use of reserve fund.

46. The Corporation (if they think fit) may apply the reserve fund provided by them under section 7 of the schedule to the Electric Lighting (Clauses) Act 1899 or any part of that fund or any money set aside for the purposes thereof in or towards the payment of the cost of acquiring land for or of renewing improving or extending any works forming part of the electricity undertaking or otherwise for the benefit of that undertaking but the powers of this section so far as they relate to expenditure chargeable to capital account shall be exercisable only with the consent of the Electricity Commissioners.

PART VI.

FINANCE AND RATING.

Power to borrow.

47.—(1) The Corporation shall have power in addition and without prejudice to their powers of borrowing under the Act of 1933 from time to time to borrow without the consent of any sanctioning authority for and in connection with the purposes mentioned in the first column of the following table the respective sums mentioned in the second column thereof and they shall pay off all moneys so borrowed within such periods as the Corporation may determine not exceeding those respectively mentioned in the third column of the said table:—

1	2	3
Purpose.	Amount.	Period for repayment calculated (except where otherwise stated) from the date or dates of borrowing.
(*a*) The purchase of lands and buildings for the purposes of Part III (Inner ring road) of this Act and the construction of the works authorised by that Part and other purposes of that Part.	£14,956,650	Sixty years.
(*b*) The purchase of lands and buildings for the purposes of Part IV (Water) of this Act.	£11,000	Forty years.
(*c*) The payment of the costs charges and expenses of this Act.	The sum requisite	Five years from the passing of this Act.

PART VI —*cont.*

(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 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.

Saving for powers of Treasury.

48. So long as the making of an issue of capital in the United Kingdom without the consent of the Treasury is prohibited by regulations made under the Emergency Powers (Defence) Act 1939 or under that Act as extended by any subsequent enactment including the Supplies and Services (Transitional Powers) Act 1945 or so long as the borrowing of money in Great Britain without the consent of the Treasury is prohibited by an order made under the Borrowing (Control and Guarantees) Act 1946 it shall not be lawful to exercise the powers of borrowing conferred by this Act (other than the power of borrowing to pay the costs charges and expenses of this Act as hereinafter defined) without such consent.

2 & 3 Geo. 6. c. 62.

9 & 10 Geo. 6. c. 10,

9 & 10 Geo. 6. c. 58.

As to exercise of borrowing powers.

49. 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.

8 & 9 Geo. 6. c. 18.

Capital fund.

50.—(1) The Corporation may establish a fund to be called "the capital fund" to which they may pay any sums derived from the sale of any property of the Corporation the balance of the general rate fund in hand on the thirty-first day of March in any year and such other sums from the general rate fund (including 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) as the Corporation may by resolution direct not being moneys directed by law to be applied to any other purpose:

Provided that any sum directed by the Corporation to be paid to the capital fund from the general rate fund (in addition to the 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 exceed in any year the equivalent of a rate of sixpence in the pound calculated according to the rules made pursuant to sections 9 and 58 of the Rating and Valuation Act 1925.

(2) The Corporation may apply the money in the capital fund in the exercise of any statutory borrowing power possessed by them or in providing money for payments into sinking funds in respect of loans raised under any such borrowing power (but not in making the annual payment required to be made thereto) or in the purchase or acquisition or taking on lease of any lands or buildings which they

PART VI. —*cont.*

are authorised to purchase or acquire or take on lease under section 4 (Further powers for acquisition of land) of the Birmingham Corporation Act 1919.

9 & 10 Geo. 5. c. lxv.

(3) (*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.

(4) 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 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:

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.

Recovery of rate &c. from persons removing.

51. 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 or any water gas or electricity rate or charge which may be due from him to the Corporation and intends to evade payment of the same by departing from the said premises the justice may in addition to issuing a summons for non-payment of the same issue a warrant under his hand authorising the person named therein forthwith to enter the premises and to seize sufficient goods and chattels of the defaulter to meet the claim and to detain them until the complaint is determined upon the return of the summons.

Recovery of rates from tenants and lodgers.

52. For the purposes of section 15 of the Rating and Valuation Act 1925 the rates due from a person rated for any hereditament within the city shall be deemed to be in arrear if such rates are not paid within two months after lawful demand in writing has been made for the same.

Recovery of rates from certain owners.

53.—(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

PART VI. —*cont.*

the proportion of rate 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) For the purposes of this section the expression " owner " in relation to a hereditament means the person who is entitled to receive the rent payable in respect thereof.

(3) This section shall not apply to any hereditament to which subsection (1) of section 11 of the Rating and Valuation Act 1925 applies by virtue of a resolution of the Corporation.

Valuation of occupied part of a hereditament.

54.—(1) If part only of a hereditament which has been included in the valuation list as a single hereditament is occupied and the Corporation are satisfied that the remainder thereof will remain vacant for a short time only the Corporation notwithstanding the provisions of sections 20 and 37 of the Rating and Valuation Act 1925 (which relate to the effect of the valuation list and to an amendment of a current valuation list in pursuance of a proposal) may apply to the assessment committee to apportion the rateable value between the occupied and unoccupied parts and the values so apportioned shall be inserted in the rate book and the Corporation may assess collect and recover the rates on the occupied part in the same manner as if the valuation list had been amended.

(2) Before making an application under this section to the assessment committee the Corporation shall give notice thereof to the occupier of the part of the hereditament which is occupied stating the sum which in the opinion of the Corporation should be inserted in the rate book as the value of that part and the assessment committee before deciding upon the application shall give to the occupier an opportunity of being heard thereon.

(3) Any alteration made in the rate book in pursuance of this section shall have effect either—

(*a*) as from the date upon which the hereditament became only partly occupied; or

(*b*) as from the commencement of the rate period in which the application under this section is made;

whichever is the later and for the purposes of this subsection the expression " rate period " means a period in respect of which a rate is made.

(4) If a person to whom notice is given under subsection (2) of this section and who was heard by the assessment committee is or the Corporation are aggrieved by the decision of

PART VI. —*cont.*

that committee that person or the Corporation (as the case may be) may within fourteen days after the date of the decision appeal against the decision in the same manner as if the decision were a decision of the committee on an objection to a draft list and the provisions of Part II of the said Act of 1925 with respect to appeals against such a decision shall apply accordingly.

PART VII.

MISCELLANEOUS.

Dwelling-houses for employees.

55.—(1) The Corporation may purchase or take on lease dwelling-houses and other buildings for persons employed by them and may erect fit up maintain and let any such buildings upon any lands for the time being belonging to them and (subject to the terms of the lease) upon any lands for the time being leased to the Corporation.

(2) Nothing contained in this section shall empower the Corporation to create or permit a nuisance.

(3) Section 14 of the Act of 1940 is hereby repealed.

Provision of research laboratories.

56.—(1) The Corporation may provide research laboratories and take such action as they may deem expedient for ascertaining the extent to which and the most efficient manner in which gas may be used for any purpose and may also make such tests and investigations as they may deem expedient of or with reference to materials and goods (whether finished or in process of manufacture) whether or not gas is used in connection with such materials or goods.

(2) The Corporation may provide showrooms and give demonstrations in reference to any of the matters referred to in subsection (1) of this section.

(3) The expenses incurred by the Corporation in pursuance of this section shall for the purposes of paragraph "First" of section 163 (Account and application by Corporation of gas revenue) of the Act of 1883 be deemed to be part of the working and establishment expenses of the gas undertaking of the Corporation.

Depths of graves.

57.—(1) A person shall not cause the body of any person to be buried in a grave in the city not being a vault in such a manner that any part of the coffin containing the body shall be at a depth less than three feet below the level of the surface of the ground adjoining the grave.

(2) Any person having the preparation or the immediate charge of the preparation of a grave to receive a coffin who permits the coffin to be buried in such a manner as to contravene the provisions of this section and any person having the

control of a burial ground who knowingly permits any coffin to be buried in a grave therein in a manner contrary to the provisions of this section shall be liable to a penalty not exceeding five pounds. PART VII. —*cont.*

(3) In this section—

"grave" means a burial place formed in the ground by excavation and without any internal wall of brickwork or stonework or any other artificial lining; and

"vault" includes underground burial places of every description except graves.

(4) Section 29 (Regulations as to burial of corpses) of the Act of 1883 is hereby repealed.

Byelaws as to tipping refuse.

58.—(1) The Corporation may make byelaws for limiting or prescribing the places where the tipping of dust spoil or refuse may or may not take place for regulating such tipping 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.

(2) The byelaws made under this section may contain provisions for imposing on persons offending against 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 Public Health Act 1936 authorised to proceed with respect to a statutory nuisance of the existence of which they are satisfied and sections 93 to 98 inclusive and section 100 of that Act shall apply accordingly.

(4) Provided that a person offending against 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 of the Public Health Act 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 of the Public Health Act 1936 (as so applied) for failing to comply with an order or contravening an order.

(5) No byelaw under this section shall extend to regulate or control the tipping of spoil and refuse by a railway or canal company for the purpose of constructing widening or maintaining any railway canal dock or wharf works.

PART VII. —*cont.*

As to defective drains &c.

59.—(1) In any case where it appears to the medical officer or the sanitary inspector that any drain water-closet or soil pipe within the city is stopped up the medical officer or the sanitary inspector shall give notice to the owner or occupier of the premises to remedy the defect and if such notice is not complied with within twenty-four 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 requirement 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.

(3) The provisions of this section shall not apply to any building (not being a dwelling-house or office) railway or work constructed by or belonging to or which may hereafter be constructed by or belong to any railway company in the exercise of their statutory powers or to any lands held or acquired by any such company with the authority of Parliament so long as any such building work or land is used or held by such company primarily for purposes of their undertaking.

Prepayment meters.

60. Any person who frequently or habitually places in the coin-box of a prepayment meter used in connection with the consumption of gas or electricity supplied by the Corporation a coin not being an appropriate current coin of the realm or any article not being such a current coin shall for the purposes of section 38 of the Gasworks Clauses Act 1871 or of that section as incorporated with the Electric Lighting Act 1882 be deemed to have fraudulently abstracted or used gas or electricity of the Corporation:

Provided that no proceedings shall be taken under the said section 38 of the Gasworks Clauses Act 1871 as extended by this section if within seven days after demand payment is made of the amount due to the Corporation.

Appointment of persons to assist justices.

61.—(1) The justices for the city may with the consent of the Corporation appoint such persons as they deem necessary being persons with technical qualifications and their assistants to give them technical advice and assistance in the discharge of their duties as a licensing authority and may with the like consent determine the remuneration of such persons.

PART VII. —*cont.*

(2) Any expenses incurred by the said justices in pursuance of this section shall be paid by the Corporation.

(3) For the purposes of the Local Government Superannuation Act 1937 persons appointed in pursuance of this section shall be deemed to be in the employment of the Corporation. 1 Edw. 8. & 1 Geo. 6. c. 68.

(4) The provisions of this section shall not apply to a justices' clerk or to an assistant or employee of a justices' clerk.

PART VIII.

GENERAL.

Temporary stoppage of streets.

62. The Corporation may during the execution and for the purposes of any works authorised by this Act from time to time stop up any street and prevent all persons other than those bona fide going to or returning from any premises in the street from passing along and using the same for any reasonable time but convenient access to the premises in such street shall be provided by the Corporation:

Provided that the powers of this section shall not be exercised so as to prevent reasonable access for persons on foot and vehicular traffic bona fide going to or from any railway station depot or other premises of any railway company or any wharf or depot of the Grand Union Canal Company.

Confirmation of byelaws.

63. As respects byelaws made under this Act the confirming authority for the purposes of section 250 of the Act of 1933 shall be the Minister.

Restriction on right to prosecute.

64. Section 298 of the Public Health Act 1936 shall apply to offences created by or under Part VII (Miscellaneous) of this Act as if they were offences created by or under that Act.

Application of Arbitration Acts.

65. Where under this Act any question dispute or difference is to be referred to an arbitrator or to arbitration (other than questions to which the Lands Clauses Acts apply) the reference shall be subject to the provisions of the Arbitration Acts 1889 to 1934 and unless other provision is made or it is otherwise agreed the arbitrator shall be appointed by the President of the Institution of Civil Engineers on the application of any of the parties to the question dispute or difference after notice to the other or others of them.

Application of provisions of Public Health Act 1936.

66. The sections of the Public Health Act 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):—

Section 271 (Interpretation of "provide");

Section 275 (Power of local authority to execute certain work on behalf of owners or occupiers);

PART VIII. —*cont.*

Section 277 (Power of councils to require information as to ownership of premises);
Section 284 (Authentication of documents);
Section 286 (Proof of resolutions &c.);
Section 287 (Power to enter premises);
Section 288 (Penalty for obstructing execution of Act);
Section 289 (Power to require occupier to permit works to be executed by owner);
Section 291 (Certain expenses recoverable from owners to be a charge on the premises; power to order payment by instalments);
Section 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 277 287 288 289 291 292 294 295 and 329 shall only apply to the provisions contained in Part VII (Miscellaneous) of this Act.

Application of existing enactments.

67.—(1) The following provisions so far as the same are applicable in that behalf shall with any necessary modifications extend and apply to the exercise of the powers of this Act in the same manner as if those provisions were re-enacted in this Act (namely):—

The Act of 1883—
Section 8 (Power to appoint committees);
Section 9 (Proceedings of committees); and
Section 289 (Protection of members and officers of Corporation).

5 Edw. 7. c. lviii. Birmingham Corporation Act 1905—
Section 30 (Power to persons under disability to grant easements &c.); and
Section 32 (Underpinning of houses near works).

PART VIII. —*cont.*

Birmingham Corporation Act 1914— 4 & 5 Geo. 5. c. cvi.

Section 61 (Compensation in case of recently acquired interests);

Section 67 (Recovery of penalties &c.); and

Section 68 (Damages and charges to be settled by justices).

Birmingham Corporation (General Powers) Act 1929—

Section 7 (Benefits to be set off against compensation);

Section 8 (Power to enter upon property for survey and valuation);

Section 9 (Power to reinstate owners of property); and

Section 86 (Saving for indictments &c.);

The Act of 1940—

Section 10 (Compensation may be in land &c.);

Section 11 (Purchase of lands for exchange).

(2) Provided that in the application of—

(*a*) subsection (3) of section 32 of the said Act of 1905 "the President of the Institution of Civil Engineers" shall be substituted for "the Board of Trade";

(*b*) section 61 of the said Act of 1914 the twenty-seventh day of November nineteen hundred and forty-five shall be substituted for the eighteenth day of November nineteen hundred and thirteen.

Saving for Town and Country Planning Acts, &c. 22 & 23 Geo. 5. c. 48. 6 & 7 Geo. 6. c. 29.

68. The provisions of the Town and Country Planning Acts 1932 and 1943 and the Town and Country Planning Act 1944 and of any order scheme or regulation made under those Acts or under any enactment repealed by those Acts so far as those provisions are from time to time in force in respect of the land on which any development within the meaning of those Acts is carried out under this Act shall apply to that development.

Crown rights.

69. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown.

Costs of Act.

70. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto as taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of the general rate fund or out of moneys to be borrowed under this Act for that purpose.

The SCHEDULE referred to in the foregoing Act.

Licensed premises	Address.	Owners or lessees.
Cross Keys ...	Hurst Street ...	Ansells Brewery Limited
Board Vaults ...	Worcester Street ...	,, ,,
Red Lion ...	Bull Ring	,, ,,
Lion & Lamb ...	Bull Ring	,, ,,
White Horse ...	Moor Street ...	,, ,,
Globe Tavern ...	Jennens Row ...	,, ,,
Beehive	Bull Street	Atkinsons Brewery Limited
Black Lion .:.	Smallbrook Street...	,, ,,
Board Inn ...	High Street ...	,, ,,
Corner Inn ...	Moor Street ...	,, ,,
Bull's Head ...	Upper Priory ...	W. Butler and Company Limited
Salutation ...	Snow Hill	The Holt Brewery Company Limited
Manchester Hotel	Snow Hill	,, ,,
Coach & Horses	Snow Hill	,, ,,
Castle	Steelhouse Lane ...	,, ,,
Old Stone Cross	Dale End	,, ,,
Hope & Anchor	Edmund Street ...	,, ,,
Bell	James Watt Street	Mitchells and Bulters Limited
Bell	Phillips Street ...	,, ,,
Brunswick ...	Lancaster Street ...	,, ,,
Bull's Head ...	Horse Fair	,, ,,
Chapel Tavern ...	Great Charles Street	,, ,,
Crown	Snow Hill	,, ,,
George & Dragon	Steelhouse Lane ...	,, ,,
Gem Vaults ...	Steelhouse Lane ...	,, ,,
King's Arms ...	Suffolk Street ...	,, ,,
Red Lion ...	Smallbrook Street...	,, ,,
Stevens Vaults ...	New Street... ...	,, ,,
Tamworth Arms	Moor Street ...	,, ,,
Three Tuns ...	Smallbrook Street...	,, ,,
Wheatsheaf ...	Suffolk Street ...	,, ,,
White Hart ...	Paradise Street ...	,, ,,
White Horse ...	Congreve Street ...	,, ,,
Woodman ...	Easy Row	,, ,,
Castle	Prospect Row ...	,, ,,
Grand Turk ...	Bell Street	Peter Walker and Company Limited

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