CHAPTER xxxviii

An Act to vary the terms on which the sewage from certain areas is disposed of by the mayor aldermen and burgesses of the borough of Sutton and Cheam to confer further powers upon them in regard to lands and to make further and better provision for the health local government finance and improvement of the borough of Sutton and Cheam and for other purposes. [1st August 1951.]

WHEREAS the borough of Sutton and Cheam in the county of Surrey (in this Act called " the borough ") is under the local government of the mayor aldermen and burgesses of the borough (in this Act called " the Corporation "):

And whereas by an agreement (hereinafter referred to as " the agreement ") dated the first day of February one thousand nine hundred and twenty-eight and made between the urban district council of Sutton (hereinafter referred to as " the urban council ") the predecessors of the Corporation of the one part and the rural district council of Epsom (hereinafter called " the rural council ") of the other part in contemplation of the confirmation by the Minister of Health of the Sutton (Surrey) Urban District Extension Order 1927 (hereinafter referred to as " the Extension Order ") the rural council became entitled as from the first day of April one thousand nine hundred and twenty-eight to discharge all sewage of the parishes of Banstead Cuddington Ewell and Woodmansterne and all sewage received by the rural council from the parishes of Chipstead Kingswood and Walton on the Hill in the rural district of Reigate into any outfall sewer or portion of an outfall sewer transferred by the said Order to the urban council and communicating immediately before the said date with a sewer or a portion of a sewer of the rural council not so transferred and also into any

outfall sewer of the urban council which on or after the appointed day became available for the reception of sewage from the rural district of Epsom and the urban council were under obligation to receive treat and dispose of all sewage to which the agreement extended at sewage disposal works maintained by them and to execute such enlargements of or additions to their outfall sewers and sewage disposal works as might be necessary to enable them to carry out effectively the obligations imposed on them by the agreement:

And whereas by paragraph 5 of the agreement the rural council were required to pay to the urban council the sum of twelve shillings and sixpence per annum for each house discharging from their district into the sewers of the urban council and by paragraph 6 provision was made for revision of the said sum by either council at the end of seven years such revision being based on cost but the increase of the charges (if any) was not to exceed two shillings and sixpence per house and by paragraph 8 institutions schools etc. were to be treated on the basis of five persons as sleeping on the premises being equivalent to one house:

And whereas paragraph 10 of the agreement provided that it should have effect as an adjustment under section 62 of the Local Government Act 1888 of the property income debts liabilities and expenses of the rural council and the urban council in relation to sewerage and sewage disposal so far as they were affected by the Extension Order and should operate in satisfaction of any claim by the urban council or the rural council to a financial adjustment under any enactment relating to adjustments in respect of any matter relating to sewerage and sewage disposal:

51 & 52 Vict. c. 41.

And whereas by the Extension Order which was confirmed by the Sutton (Surrey) Urban District Confirmation Order 1928 the urban district of Sutton was extended by the addition thereto of the parish of Cheam in the rural district of Epsom and became the urban district of Sutton and Cheam and all sewers and sewage disposal works situate within the parish of Cheam and vested in the rural council whether constructed or in course of construction were transferred to and vested in the urban council and the provisions hereinbefore recited of the agreement were enacted in the Extension Order articles 13 and 14 of which were in the following terms:—

"Article 13.—(1) The rural council shall pay to the urban council the yearly sums in respect of the cost of reception treatment and disposal of the sewage receivable under this Order by the urban council from the rural council provided for in the agreement between the two councils dated the first

day of February one thousand nine hundred and twenty-eight or such yearly sums within the maximum charge allowed by paragraph 6 of that agreement as may be fixed by any subsequent agreement which may be made between the two councils or failing agreement as may be determined by an arbitrator to be appointed by the Minister or in the event of the Minister declining to make an appointment by arbitration in the manner provided by the Arbitration Act 1889 and any enactment amending that Act:

Provided that nothing in paragraph (3) of article 12 of this Order shall be deemed to prevent the inclusion in the yearly sum payable by the rural council under this article of an item in respect of the cost of any such enlargement of or addition to the outfall sewers and sewage disposal works of the urban council as is mentioned in that paragraph.

(2) Any difference which may arise between the two councils as to the interpretation of any agreement made by them under paragraph (1) of this article shall be determined by an arbitrator appointed in the manner provided by that paragraph.

(3) This article shall not affect the liability of the urban council under this Order to receive treat and dispose of sewage received from the rural council pending the settlement of the yearly payment mentioned in paragraph (1) of this article.

Article 14. The foregoing provisions of this Order headed ' Works of sewerage and sewage disposal ' represent an agreement between the urban council and the rural council and shall have effect as an adjustment under section 62 of the Act of 1888 of the property income debts liabilities and expenses of the rural council and the urban council in relation to sewerage and sewage disposal so far as they are affected by this Order and shall operate in satisfaction of any claim by the urban council or the rural council to a financial adjustment under any enactment relating to adjustments in respect of any matter relating to sewerage and sewage disposal ":

And whereas the said provision for revision expired at the end of seven years and the said sum was not revised:

And whereas by the Surrey Review Order 1933 certain changes in local government areas were made as a result of which the obligation of the Sutton and Cheam Urban District Council to receive treat and dispose of the sewage from the said parishes was continued subject to the substitution for the Epsom Rural District Council (*a*) of the Banstead Urban District Council as respects those portions of the said parishes as were

included in the Banstead Urban District and (*b*) of the Epsom Urban District Council with respect to those portions of the said parishes as were included in the Epsom Urban District and (*c*) of the council of any other urban district in which any part of the existing parishes of Banstead Chipstead Cuddington and Woodmansterne was included:

And whereas the urban district of Sutton and Cheam became a borough on the twenty-first day of August one thousand nine hundred and thirty-four:

And whereas the areas now draining into the sewers of the Corporation under the provisions of the Extension Order and the agreement consist of parts of the urban district of Banstead the borough of Epsom and Ewell and the urban district of Carshalton:

And whereas the cost of the reception treatment and disposal of the sewage from the areas aforesaid has increased very considerably since the date of the agreement and is far in excess of the sum of twelve shillings and sixpence per annum per house which the councils of the said areas are liable to pay to the Corporation:

And whereas it is expedient that the councils of the said areas should be required to pay to the Corporation the sums in this Act provided:

And whereas it is expedient that the provisions in this Act in relation to the Extension Order and the agreement should be enacted:

And whereas it is expedient that further and better provision should be made with reference to lands streets sanitation and buildings and for the local government and improvement of the borough and that the powers of the Corporation in relation thereto should be enlarged and extended:

And whereas it is expedient to make further provision with regard to the finances of the borough 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 in relation to the promotion of the Bill for this Act the requirements of the Local Government Act 1933 have been observed:

23 & 24 Geo. 5. c. 51.

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and

with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

PART I
PRELIMINARY

1. This Act may be cited as the Sutton and Cheam Corporation Act 1951. Short title.

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

Part I.—Preliminary.
Part II.—Sewage.
Part III.—Lands.
Part IV.—Streets.
Part V.—Sanitation and buildings.
Part VI.—Nuisances and offensive trades.
Part VII.—Infectious diseases.
Part VIII.—Food.
Part IX.—Parks cemeteries and other municipal property.
Part X.—Public order and public safety.
Part XI.—Financial provisions.
Part XII.—Miscellaneous.
Part XIII.—General.

3. The Lands Clauses Acts except sections 127 to 132 (which relate to the sale of superfluous lands) of the Lands Clauses Consolidation Act 1845 and except the provisions with respect to the purchase and taking of lands otherwise than by agreement (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with and form part of this Act. Incorporation of Lands Clauses Acts. 8 & 9 Vict. c. 18.

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 And in this Act unless the subject or context otherwise requires— Interpretation. 26 Geo. 5. & 1 Edw. 8. c. 49.

" Act of 1892 " means the Private Street Works Act 1892; 55 & 56 Vict.

" Act of 1933 " means the Local Government Act 1933; c. 57.

" Act of 1936 " means the Public Health Act 1936;

" Act of 1950 " means the Public Utilities Street Works Act 1950; 14 Geo. 6. c. 39.

PART I —*cont.*

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

" Borough " means the borough of Sutton and Cheam ;

" Contravention " in relation to any enactment byelaw order rule term condition restriction or notice includes a failure to comply with that enactment byelaw order rule term condition restriction or notice and " contravene " shall be construed accordingly ;

" Corporation " means the mayor aldermen and burgesses of the borough acting by the council ;

" Corporation undertakings " means the undertakings of the Corporation from time to time existing from which revenue is derived ;

" Council " means the council of the borough ;

" County " and " county council " mean respectively the administrative county of Surrey and the county council of the county ;

" Daily penalty " means a penalty for each day on which any offence is continued after conviction ;

" Enactment " includes an enactment in this Act or in any general or local Act and any order byelaw or regulation for the time being in force within the borough ;

" Food " has the meaning assigned to it by section 100 of the Food and Drugs Act 1938 ;

1 & 2 Geo. 6. c. 56.

" General rate fund " and " general rate " mean respectively the general rate fund and the general rate of the borough ;

" Lands Clauses Acts " means the Lands Clauses Acts as modified by any subsequent enactment ;

" Minister " means the Minister of Local Government and Planning ;

15 & 16 Geo. 5. c. 90.

" Rating Act 1925 " means the Rating and Valuation Act 1925 ;

" Revenues of the Corporation " include the general rate fund and all rates exchequer contributions and other revenues whether arising from land or undertakings or from any other source receivable by the mayor aldermen and burgesses of the borough ;

PART I —*cont.*

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

"Statutory securities" means any securities in which trustees are for the time being authorised by law to invest trust money and any mortgages bonds debentures debenture stock stock or other securities created by a local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Corporation; 38 & 39 Vict. c. 83.

"Telegraphic line" has the same meaning as in the Telegraph Act 1878; 41 & 42 Vict. c. 76.

"Town clerk" "treasurer" "medical officer" "surveyor" and "sanitary inspector" mean respectively the town clerk the treasurer the medical officer of health the surveyor and any sanitary inspector of the borough and include any person duly appointed by the Corporation to discharge temporarily the duties of any of those officers.

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

PART II

SEWAGE

Payments by certain authorities for reception treatment and disposal of sewage.

5.—(1) For article 13 of the Sutton (Surrey) Urban District Extension Order 1927 (in this section referred to as "the Extension Order") scheduled to and confirmed by the Sutton (Surrey) Urban District Confirmation Order 1928 there shall with effect from the first day of April one thousand nine hundred and fifty-two be substituted the following provision:—

"Article 13.—(1) The rural council shall pay each year to the urban council in respect of the cost of reception treatment and disposal of the sewage receivable under this Order by the urban council from the rural council a sum equivalent to such proportion of the expenses of the urban council for that year as is hereafter provided.

(2) The "expenses of the urban council" shall be the expenses including loan charges of the urban council in respect of the construction enlargement maintenance and operation of such works as may from time to time be provided by them for the reception pumping (other than such

PART II —*cont.*

pumping as is necessary to raise the sewage from low-lying areas of the urban district into the sewerage system of the urban council) treatment and disposal of all the sewage which the urban council are under obligation to receive pump treat and dispose of including the sewage receivable under this Order together with the expenses including loan charges in respect of the construction maintenance and operation of any sewer or sewers necessary to convey the sewage receivable by the urban council under this Order from the boundary of the urban district to the works at which the sewage is disposed of.

(3) The " proportion " shall be the proportion which the number of premises discharging into an outfall sewer of the urban council pursuant to article 12 of this Order bears to the total number of premises draining to any sewage disposal works of the urban council.

(4) In determining the number of premises under the preceding paragraph a hospital or sanatorium shall be included by reference to the sum of—

(*a*) the average number of occupied beds therein ; and

(*b*) the average number of staff resident therein ;

divided by five.

(5) Any dispute between the urban council and the rural council as to any matter arising under this article shall be determined by an arbitrator to be agreed between the two councils or in default of agreement to be appointed by the Minister ".

(2) The agreement made on the first day of February one thousand nine hundred and twenty-eight between the urban district council of Sutton and the rural district council of Epsom shall with effect from the first day of April one thousand nine hundred and fifty-two have effect as if the provisions contained in the substituted article 13 set out in the preceding subsection were contained therein instead of clauses 5 6 and 8 thereof.

(3) Before the Corporation apply to the appropriate sanctioning authority for consent to the borrowing of money for the purpose of constructing reconstructing enlarging or executing any works in respect of the reception conveyance pumping treatment or disposal of sewage as provided in sub-article (2) of article 13 of the Extension Order as amended by the foregoing provisions of this section they shall give to each of the local authorities entitled to the benefit of the agreement mentioned in subsection (2) of this section notice of their proposals and such information with regard thereto as the said local authorities may within six weeks of the receipt of such notice reasonably require and shall afford to such authorities an opportunity for consultation with the Corporation with regard thereto.

PART II —*cont.*

(4) As soon as practicable after the thirty-first day of March in each year the Corporation shall send to each of the local authorities mentioned in the last preceding subsection a statement showing the respective sums due to the Corporation from the respective local authorities under sub-article (1) of article 13 of the Extension Order as amended by the foregoing provisions of this section and for the purposes of verifying and agreeing any such statement any person duly authorised by any of the said local authorities may inspect the accounts and records of the Corporation relating to the reception conveyance pumping treatment and disposal of sewage and take copies thereof.

(5) For the purposes of section 172 of the Surrey Review Order 1933 the reference in that section to articles 12 to 14 of the Extension Order shall be to those articles as amended by subsection (1) of this section.

(6) In and for the purposes of subsection (1) of this section the expressions "urban council" and "rural council" shall mean the successors of those councils and the expression "urban district" shall mean the borough.

PART III

LANDS

Powers of leasing.

6.—(1) With respect to any land acquired under this Act the Corporation may if they think fit—

(*a*) accept a surrender of any lease of the land granted by them and grant either to the lessee or tenant under the surrendered lease or to any other person a new lease of all or any of the land leased by the surrendered lease;

(*b*) grant reversionary leases of all or any of the said land;

(*c*) enter into and carry into effect any agreement for or with respect to the surrender or grant of any such lease;

(*d*) in any such lease or agreement give to the lessee or tenant or intended lessee or tenant on such terms and conditions as the Corporation think fit an option to purchase the fee simple in reversion or other the reversionary interest of the Corporation in all or any of the land leased or agreed to be leased.

(2) In this section the expression "lease" includes a letting.

Reservation of easements etc. by Corporation.

7. On selling any land the Corporation—

(*a*) may reserve to themselves all or any part of the water rights or other rights or easements belonging thereto

PART III —*cont.*

and may make the sale subject to such reservation accordingly;

(*b*) may make the sale subject to such other reservations special conditions restrictions and provisions with respect to the exercise of noxious trades or the deposit or discharge of manure sewage or other impure matter or otherwise as they think fit.

Proceeds of disposal of surplus land.

8.—(1) Any capital money received by the Corporation on the resale or exchange of or by leasing any land acquired under this Act may (so far as they consider necessary and subject to the approval of the Minister) be applied by them in the purchase of other land.

(2) Any capital money so received and not so applied shall be applied in or towards the extinguishing of any loan raised by the Corporation under any enactment.

(3) Any application of money under the last foregoing subsection shall unless the Minister on the application of the Corporation otherwise directs and subject in that event to such conditions as he may impose be in addition to and not in substitution for such method of extinguishing the loan as may have been adopted by the Corporation under any enactment.

(4) Any capital money received by the Corporation on the resale or exchange of or by leasing any land acquired under any enactment other than this Act shall be applied in the same manner as capital money received under that enactment is applicable or in such other manner as may be approved by the Minister.

Development of land.

9.—(1) The Corporation may (with the consent of the Minister) lay out and develop any land for the time being belonging to them and not required for the purpose for which it was acquired and may on any such land erect and maintain houses shops offices warehouses and any other buildings and construct sewer drain pave channel and kerb streets roads and highways:

Provided that nothing in this section shall apply to land acquired by the Corporation under section 38 or section 40 of the Town and Country Planning Act 1947 or to land appropriated by them for the purposes for which land can be acquired under those sections.

10 & 11 Geo. 6. c. 51.

(2) The Corporation may use or dispose of the building or other materials of any houses or structures on any land acquired or appropriated by them which they deem it necessary or desirable to pull down.

PART III —*cont.*

10.—(1) The Corporation may advance money to the purchaser or lessee of any land acquired from or leased by the Corporation for the purpose of enabling or assisting him to build on such land or to extend or improve any existing building thereon: Loans for erection, etc. of buildings.

Provided that any such advance shall not exceed in the case of a building being a house nine-tenths or in the case of any other building three-quarters of the amount which in the opinion of the Corporation will be the market value of the interest of the borrower in the land after the purpose of the loan has been effected.

(2) Before any advance is made under this section its repayment shall be secured to the satisfaction of the Corporation by a mortgage of the land and building in respect of which the advance is to be made or of the lessee's interest therein and the instrument securing the advance shall—

(*a*) fix the rate of interest to be paid being a rate not less than the rate for the time being in operation under the Small Dwellings Acquisition Acts 1899 to 1923 as amended by section 92 of the Housing Act 1935; 25 & 26 Geo. 5. c. 40.

(*b*) fix the period within which the advance is to be repaid being a period not exceeding thirty years from the date of the advance;

(*c*) require the repayment to be made either by equal instalments of principal or by an annuity of principal and interest combined;

(*d*) fix the intervals at which all payments on account of principal and interest are to be made being intervals not exceeding half a year;

(*e*) authorise the borrower at any of the usual quarter days after one month's notice and on paying all sums due on account of interest to repay the whole of the outstanding principal of the advance or any part thereof being one hundred pounds (or such less sum as may be provided in the said instrument or as the Corporation may be prepared to accept) or a multiple of one hundred pounds (or of such less sum as aforesaid);

(*f*) where the repayment is to be made by an annuity of principal and interest combined provide for determining the amount by which the annuity is to be reduced when a part of the advance is paid off otherwise than by way of an instalment of the annuity;

(*g*) require the borrower either—

(i) to keep the building in respect of which the advance is made insured against fire to the satisfaction of the Corporation and to produce to the

PART III —*cont.*

Corporation when required the receipts for the premiums paid in respect of the insurance; or

(ii) (if the Corporation elect themselves to insure the said building against fire) to repay to the Corporation the amounts of any premiums paid by them from time to time in that behalf;

(*h*) require the borrower to keep the said building in good repair.

(3) Any person acting on behalf of the Corporation and authorised in writing by the town clerk shall have power at all reasonable times to enter any building in respect of which an advance has been made under this section for the purpose of ascertaining whether the conditions of this section and of the instrument aforesaid are being complied with.

(4) The borrower may with the permission of the Corporation (which shall not be unreasonably withheld) at any time transfer his interest in the land and building in respect of which the advance was made but any such transfer shall be made subject to the terms of the instrument securing the advance.

(5) In this section the expression "lessee" includes a person to whom the Corporation have agreed to grant a lease and the expression "lease" shall be construed accordingly.

Extension of power to acquire land by agreement.

11.—(1) The Corporation may by agreement acquire (whether by purchase lease or exchange) and hold any land which in their opinion it is desirable that they should acquire for or in connection with the purposes of any of their undertakings powers or duties or for the benefit improvement or development of the borough notwithstanding that the land may not be immediately required.

(2) Any land acquired under this section may be appropriated by the Corporation subject to and in accordance with the provisions of section 163 of the Act of 1933 as if it were not required for the purposes for which it was acquired.

(3) Pending such appropriation as aforesaid all expenses incurred by the Corporation under this section shall be payable out of the general rate fund.

Power to reinstate owners or occupiers of property.

12.—(1) The Corporation may enter into and carry into effect an agreement or arrangement with the owner or occupier of any land acquired under this Act with respect to his reinstatement elsewhere.

(2) Any such agreement may provide for the exchange of land and for that purpose the Corporation may pay or receive money for equality of exchange.

PART III —*cont.*

Entry on lands for purpose of survey etc.

13.—(1) Whenever it becomes necessary for the Corporation or any of their officers servants contractors or workmen to enter examine or lay open any lands (not being lands on which buildings for manufacturing purposes are erected) for the purpose of making plans surveying measuring taking levels or making trial holes and the owner or occupier of such lands refuses to permit the same to be entered upon examined or laid open for the purposes aforesaid or any of them the Corporation may after written notice to such owner or occupier apply to a court of summary jurisdiction for an order authorising the Corporation to enter examine and lay open the said lands for the purposes aforesaid or any of them.

(2) If sufficient cause is shown for the application the court may make an order accordingly and on such order being made the Corporation or any of their officers servants contractors or workmen may at all reasonable times between the hours of nine in the forenoon and six in the afternoon enter examine or lay open the lands mentioned in such order for such of the said purposes as are therein specified without being subject to any action or molestation for so doing:

Provided that except in the case of emergency no entry shall be made or works commenced under this section unless at least twenty-four hours' notice of the intended entry and of the object thereof be given to the occupier of the lands intended to be entered.

(3) The Corporation shall at their own expense make good and restore to their former condition any lands laid open by them or their officers servants contractors or workmen and shall make good to the reasonable satisfaction of the owner or occupier of the lands entered all damages or loss sustained by him in consequence of such entry examination or laying open and any dispute as to the amount of damage or loss so sustained as aforesaid shall in default of agreement be assessed by a court of summary jurisdiction and the amount so assessed shall be recoverable in such court.

(4) (*a*) The Corporation shall not exercise the powers of this section—

(i) in respect of any lands belonging to any statutory undertakers and used for the purpose of their undertaking except with the consent of the statutory undertakers concerned; and

(ii) in respect of any lands belonging to any local authority except with the consent of the local authority concerned.

PART III —*cont.*

(*b*) Any consent required by this subsection shall not be unreasonably withheld and any question as to whether such consent is unreasonably withheld shall be determined by arbitration.

Undertakings and agreements binding successive owners.

14.—(1) Every undertaking given by or to the Corporation to or by the owner of any legal estate in land and every agreement made between the Corporation and any such owner being an undertaking or agreement—

(*a*) given or made under seal on the passing of plans or otherwise in connection with the land; and

(*b*) expressed to be given or made in pursuance of this section;

shall be binding not only upon the Corporation and any owner joining in the undertaking or agreement but also upon the successors in title of any owner so joining and any person claiming through or under them.

(2) Any such undertaking or agreement shall be treated as a local land charge for the purposes of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926.

15 & 16 Geo. 5. c. 22.
16 & 17 Geo. 5. c. 11.

(3) Any person upon whom any such undertaking or agreement is binding shall be entitled to require from the Corporation a copy thereof.

For protection of Sutton District Water Company.

15. Nothing in section 9 (Development of land) of this Act shall alter prejudice or affect any covenant restriction or condition contained in a conveyance dated the thirty-first day of January one thousand nine hundred and forty-eight of certain lands in the borough by the Corporation to the Sutton District Water Company but all such covenants restrictions and conditions shall be of as full force and effect and as binding on the Corporation as if the said section had not been enacted.

PART IV

STREETS

Interpretation of Part IV.

16.—(1) In this Part of this Act the following expressions have the meanings hereby respectively assigned to them:—

19 & 20 Geo. 5. c. 17.

"classified road" has the same meaning as in the Local Government Act 1929;

"street byelaws" means any byelaws for the time being in force in the borough with respect to the construction and laying out of new streets;

PART IV —*cont.*

"structure" means a wall fence hoarding or similar erection but for the purpose of this definition the expression "wall" does not include a wall forming part of a permanent building.

(2) For the purposes of this Part of this Act the erection of a building shall be deemed to have begun at the time when the clearing of the site or the excavation for the foundations thereof began.

Termination of new streets.

17.—(1) Where a plan and sections of a new street deposited with the Corporation in pursuance of street byelaws are approved by them they may for the purpose of securing adequate means of communication between the new street and any other street (whether existing or intended) by notice prohibit the erection or retention of any structure at either end of the new street on land belonging at the time of the deposit to the owner of the land upon which the new street is proposed to be constructed or laid out:

Provided that no such notice shall affect any structure existing at the time of the deposit until both the new street and that other street have become highways repairable by the inhabitants at large.

(2) Any such notice shall be given to the person by whom or on whose behalf the plan and sections were deposited and the prohibition imposed thereby shall be binding on successive owners of the land to which it relates.

(3) If any person contravenes any notice under this section he shall be liable to a penalty not exceeding twenty pounds and the Corporation may remove the structure and recover the expenses of so doing from that person:

Provided that this subsection shall have effect subject to the provisions of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 with respect to the avoidance of any such notice for want of registration as a local land charge.

Trees grass verges and gardens.

18.—(1) Subject to the provisions of this section the Corporation shall have power—

(*a*) to cause trees or shrubs to be planted in any street in the borough or in tubs placed by them for the purpose in any such street;

(*b*) to cause grass verges or gardens to be laid out in any such street;

PART IV —*cont.*

(*c*) to erect and maintain guards or fences and otherwise do anything expedient for the maintenance or protection of such trees shrubs tubs grass verges or gardens;

(*d*) to cut down any such tree or shrub to remove any such tub and to abolish any such grass verge or garden or enlarge or diminish the area thereof;

(*e*) by notice to prohibit persons from entering upon or causing or permitting horses cattle or vehicles to enter upon any such grass verge which is maintained in an ornamental condition or mown or any such garden:

Provided that nothing contained in paragraph (*e*) of this subsection shall affect the rights of any statutory undertakers with respect to any such verge or garden as is referred to in that paragraph.

(2) Any such notice as is referred to in paragraph (*e*) of the foregoing subsection shall be conspicuously posted on or in proximity to the grass verge or garden to which it relates and if any person contravenes a notice so posted he shall be liable to a penalty not exceeding twenty shillings.

(3) Subject to the provisions of this subsection the powers conferred by this section shall not be exercisable except in a street maintainable by and vested in the Corporation or upon land so vested which forms part of a street:

Provided that when carrying out in any street or any part thereof any works under the Act of 1892 the Corporation may exercise any such power in the street or that part thereof with the consent of the majority in number and rateable value of the owners of land abutting on the street or that part thereof and treat any expenses incurred in so doing as part of the expenses of carrying out the said works.

(4) The powers conferred by this section shall not be exercised so as to hinder the reasonable use of the street by any person entitled to the use thereof or so as to be a nuisance or injurious to the owner or occupier of any land or premises abutting on the street.

(5) If damage is caused to the property of any person by anything done in the exercise of the powers conferred by this section that person shall unless the damage was caused by his negligence be entitled to recover compensation therefor from the Corporation.

15 & 16 Geo. 5. c. 68.

(6) Section 1 of the Roads Improvement Act 1925 shall cease to apply to the Corporation and anything done by the Corporation under that section before the passing of this Act shall be deemed to have been done under this section.

PART IV —*cont.*

(7) Where the Corporation incur expenses under this section in connection with a street which is a county road maintained and repaired by them pursuant to sections 32 and 33 of the Local Government Act 1929 the expenses shall not be treated as part of the costs towards which the county council are required to make an annual payment under those sections except where and so far as the county council consent to their being so treated.

(8) Nothing in this section shall affect the duty of the Corporation to provide footpaths or grass or other margins under section 58 of the Road Traffic Act 1930. 20 & 21 Geo. 5. c. 43.

Variation of width of carriageways and footways.

19.—(1) Subject to the provisions of this section the Corporation may vary the relative widths of the carriageway and footway or footways in any street in the borough being a highway repairable by the inhabitants at large.

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

(3) At least twenty-one days before commencing any work under this section which will materially reduce the width of the carriageway or any footway of a classified road the Corporation shall send notice of the proposed work to the Minister of Transport.

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

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

Adjustment of boundaries of streets.

20.—(1) Subject to the provisions of this section the Corporation may enter into and carry into effect agreements with persons having a legal interest in land adjoining any street in the borough not being a trunk road for the adjustment of the boundary of the street.

(2) For the purposes of this section the Corporation—

(*a*) may exchange land including land forming the site of the street for other land and pay or receive money for equality of exchange; and

(*b*) shall be deemed to be the owners of the land forming the site of the street and shall be entitled to convey any such land in accordance with the agreement.

PART IV —*cont.*

(3) No such agreement shall be entered into until the expiration of one month from the date on which notice giving particulars of the proposed agreement has been published in some local newspaper circulating in the borough.

(4) During the said period of one month any four ratepayers of the borough may appeal to a court of summary jurisdiction against the proposal to enter into the agreement.

(5) Where the street is a county road (whether the Corporation have claimed to exercise the functions of maintenance and repair of the street or not) the county council shall have the same right of appeal as any four ratepayers of the borough have under the last foregoing subsection.

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

(7) In this section the expression " ratepayers " has the same meaning as in the Rating Act 1925.

Direction signs.

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

(2) At least one month before exercising their powers under this section the Corporation shall give to the owner of the building structure or land notice of their decision so to do together with particulars of the size design and position of the sign proposed and any person aggrieved by the decision of the Corporation may appeal to a court of summary jurisdiction.

(3) If any person wilfully and without the consent of the Corporation removes obliterates alters defaces or obscures any such sign otherwise than in the course of demolishing or altering the building or structure or executing work on the land he shall be liable to a penalty not exceeding forty shillings and the Corporation may recover from him the expenses of replacing or making good the sign.

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

PART IV —*cont.*

Attachment of street lamps brackets etc.

22.—(1) Subject to the provisions of this section the Corporation may affix to any building in the borough such lamps brackets pipes electric lines and apparatus (in this section called " attachments ") as may be required for the purposes of street lighting.

(2) The Corporation shall not affix attachments to a building under this section without the consent of the owner of the building:

Provided that where in the opinion of the Corporation any consent required under this subsection is unreasonably withheld they may apply to the appropriate authority who may either allow the attachments subject to such conditions (if any) as to rent or otherwise as the authority thinks fit or disallow the attachments.

(3) Where any attachments have been affixed to a building under this section and the person who gave the consent or who was the owner of the building when the attachments were allowed by the appropriate authority ceases to be the owner thereof the subsequent owner may give to the Corporation notice requiring them to remove the attachments and subject to the provisions of this subsection the Corporation shall comply with the requirement within three months after the service of the notice:

Provided that where in the opinion of the Corporation any such requirement is unreasonable they may apply to the appropriate authority who may either annul the notice subject to such conditions (if any) as to rent or otherwise as the authority thinks fit or confirm the notice subject to such extension (if any) of the said three months as the authority thinks fit.

(4) Where any attachments have been affixed to a building under this section the owner of the building may require the Corporation at their own expense temporarily to remove the attachments where necessary during any reconstruction or repair of the building.

(5) If the owner of any building suffers damage by or in consequence of the affixing to the building of any attachments under the powers of this section he shall be entitled to be paid by the Corporation compensation to be determined in case of dispute in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949.

12 13 & 14 Geo. 6. c. 42.

(6) In this section the following expressions have the meanings hereby assigned to them:—

" appropriate authority " means a court of summary jurisdiction except that in relation to a building mentioned

PART IV —*cont.*

in the first column of the following table it means the Minister specified in relation thereto in the second column of that table:—

Building forming part of an aerodrome licensed pursuant to an order made under the Civil Aviation Act 1949 or any enactment repealed by that Act.	The Minister of Civil Aviation.
Building which— (i) is subject to a building preservation order made under section 29 of the Town and Country Planning Act 1947; or (ii) is included in a list of buildings of special architectural or historic interest compiled or approved by the Minister under section 30 of the last-mentioned Act; or (iii) is alleged by the owner thereof to be a building of special architectural or historic interest; or (iv) is owned by statutory water undertakers.	The Minister.
Building owned by a highway authority or railway canal dock or inland navigation undertakers.	The Minister of Transport.
Building owned by electricity or gas undertakers.	The Minister of Fuel and Power.

12 13 & 14 Geo. 6. c. 67.

" building " includes a structure and a bridge or aqueduct over a street;

" owner " means—

(*a*) in relation to a building occupied under a tenancy for a term of years whereof five years or more remain unexpired and not forming part of such an aerodrome as aforesaid the occupier of the building;

(*b*) in relation to a building forming part of such an aerodrome as aforesaid the person having control of the aerodrome;

(*c*) in relation to any other building the person who is receiving the rack rent or who would receive the rack rent if the building were let at a rack rent;

and the expression " owned " shall be construed accordingly.

PART IV —*cont.*

Erection of structures at street corners.

23.—(1) No person shall place or erect in the borough any structure at or within a distance of ten yards from the corner of any street unless he has given to the Corporation notice of his intention so to do accompanied by plans and particulars of the structure and the Corporation have approved the placing or erection thereof under this section.

(2) Within five weeks from the receipt of such a notice from any person the Corporation may give him notice that they disapprove the placing or erection of the structure or that they approve it only subject to such conditions or to such modifications of the plans and particulars submitted to them as may be specified in the notice:

Provided that a notice shall not be given under this subsection except on the ground that the structure would by obstructing the view of foot-passengers or drivers of vehicles constitute a danger to the traffic on the street upon adjoining or near to which it is proposed to be placed or erected or (as the case may be) would constitute such a danger unless placed or erected subject to the conditions or modifications specified in the notice.

(3) The Corporation may at any time within the said five weeks give notice that they approve the placing or erection of the structure in accordance with the plans and particulars submitted to them and if within the said five weeks the Corporation have not given notice under the last foregoing subsection they shall be deemed for the purposes of this section to have approved the placing or erection of the structure in accordance with those plans and particulars.

(4) Where the Corporation have approved the placing or erection of the structure it shall not be placed or erected—

(*a*) otherwise than in accordance with the plans and particulars submitted as aforesaid; or

(*b*) if notice has been given under subsection (2) of this section of any conditions or modifications otherwise than in accordance with those conditions and with the said plans and particulars as modified by the notice.

(5) Any person giving notice under subsection (1) of this section who is aggrieved by any notice given under subsection (2) thereof may within twenty-one days from the service of the last-mentioned notice appeal to the Minister of Transport who may make such order as he thinks fit and whose decision shall be final.

(6) If any person places or erects any structure in contravention of the foregoing provisions of this section he shall be liable to a penalty not exceeding five pounds.

PART IV —*cont.*

(7) The foregoing provisions of this section shall not apply to a temporary structure required to be placed or erected at or within a distance of ten yards from the corner of a street for the purpose of the construction alteration repair or maintenance of any building or works:

Provided that if any such temporary structure is not removed when the construction alteration repair or maintenance of the building or works is completed the person who placed or erected it shall be liable to a penalty not exceeding five pounds.

(8) Where any person is convicted of an offence under either of the last two foregoing subsections the court by which he is convicted may order him within such time as may be fixed by the order to remove the structure in respect of which he was convicted and if he fails to comply with the order—

(*a*) he shall be liable to a penalty not exceeding twenty shillings for each day on which the failure continues; and

(*b*) the Corporation after giving him notice of their intention so to do may remove the structure and recover from him the expenses incurred by them in so doing:

Provided that he shall not be liable to a penalty for any day after that on which the Corporation have given him notice of their intention to remove the structure.

(9) The provisions of this section shall not apply to any part of a street with respect to which restrictions have been imposed under section 4 of the Roads Improvement Act 1925.

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

Application of building line to walls etc.

24.—(1) No person shall erect or bring forward beyond the building line on land abutting on a street in the borough any structure of a greater height than six feet six inches above the level of the ground at the nearest boundary of the street.

(2) If any person contravenes the provisions of the foregoing subsection he shall be liable to a penalty not exceeding five pounds.

(3) The foregoing provisions of this section shall not apply to a temporary structure required to be erected as mentioned in subsection (1) of this section for the purpose of the construction alteration repair or maintenance of any building or works:

Provided that if any such temporary structure is not removed when the construction alteration repair or maintenance of the building or works is completed the person who erected the structure shall be liable to a penalty not exceeding five pounds.

PART IV —*cont.*

(4) Where any person is convicted of an offence under any of the foregoing provisions of this section the court by which he was convicted may order him within such time as may be fixed by the order to remove the structure or if he so elects to set it back or alter it so that it no longer contravenes the provisions of subsection (1) of this section and if he fails to comply with the order—

(*a*) he shall be liable to a penalty not exceeding twenty shillings for each day on which the failure continues; and

(*b*) the Corporation after giving him notice of their intention so to do may remove the structure and recover from him the expenses incurred by them in so doing:

Provided that he shall not be liable to a penalty for any day after that on which the Corporation have given him notice of their intention to remove the structure.

(5) Where after the expiration of five years from the passing of this Act there is on any site in the borough a structure which existed on that site at the passing of this Act and could not have been erected there after the passing thereof without contravening the provisions of subsection (1) of this section—

(*a*) the Corporation may by notice stating the effect of paragraphs (*b*) and (*c*) of this subsection require the owner or occupier of the site to remove set back or alter the structure within such time (not being less than seven days) as may be specified in the notice so that it will comply with those provisions;

(*b*) if the owner or occupier complies with the said notice the Corporation shall on demand repay to him the reasonable expenses incurred by him in so doing;

(*c*) if the owner or occupier fails to comply with the said notice the Corporation at their own expense may remove the structure but shall if he so requires re-erect it so as not to contravene the said provisions.

(6) In this section the expression "building line" in relation to any land means—

(*a*) any building line prescribed by the Corporation in respect of the land under the provisions of any enactment; or

(*b*) if there be no such line then any line beyond which a house or building may not be erected on the land without infringing a condition enforceable by the Corporation under subsection (2) of section 140 of the Housing Act 1936; or

PART IV —*cont.*

(*c*) if there be neither of such lines then the line beyond which a house or building may not (except with the consent of the Corporation) be erected or brought forward on the land without contravening the provisions of the Public Health (Buildings in Streets) Act 1888.

51 & 52 Vict. c. 52.

(7) The provisions of this section shall not apply to any wall erected on land belonging to any railway undertakers so long as that land is used by those undertakers primarily for the purposes of their railway undertaking.

Crossings over footways.

25.—(1) Where the owner or occupier of any premises in the borough which abut on any street repairable by the inhabitants at large habitually uses or permits to be used any grass verge or kerbed or paved footway in the street as a crossing for any horse or horse-drawn or mechanically propelled vehicle (other than a motor-cycle) in passing to and from those premises the Corporation may by notice to the owner or occupier as the case may be either—

(*a*) require the construction across the grass verge or footway of a carriage-crossing constructed of such materials and in such manner as may be specified in the notice; or

(*b*) in the case of a footway require it to be strengthened or adapted in such manner as may be so specified; or

(*c*) impose such other reasonable conditions on the use of the grass verge or footway as a crossing as aforesaid as may be so specified:

Provided that—

(i) the Corporation shall not exercise the powers of this subsection in relation to the grass verge or footway of a trunk road without the consent of the Minister of Transport or otherwise than in accordance with any conditions attached by him to his consent; and

(ii) this subsection shall not apply to any premises used exclusively for agricultural purposes within the meaning of the Town and Country Planning Act 1947.

(2) Any person aggrieved by a requirement of or a condition imposed by the Corporation under the preceding subsection may appeal to a court of summary jurisdiction.

(3) If the Corporation make any requirement under paragraph (*a*) or paragraph (*b*) of subsection (1) of this section they may execute such works as may be necessary to secure compliance with that requirement and may recover the expenses of so doing from the owner or occupier.

PART IV —*cont.*

(4) If the Corporation impose any condition under paragraph (*c*) of subsection (1) of this section any person who knowingly uses the grass verge or footway as a crossing as aforesaid or permits it to be so used in contravention of that condition shall be liable to a penalty not exceeding five pounds.

(5) Nothing in this section shall impose on the owner or occupier any obligation to maintain any crossing constructed or footway strengthened or adapted in pursuance of a requirement made under this section.

(6) Section 18 of the Public Health Acts Amendment Act 1907 shall cease to be in force in the borough and the following provisions of this subsection shall have effect in lieu thereof as respects streets in the borough which are repairable by the inhabitants at large:— 7 Edw. 7. c. 53.

(*a*) Any person desiring to form a carriage-crossing across a grass verge or footway in any such street or to strengthen or adapt a part of any such footway as a carriage-crossing shall apply in writing to the Corporation giving particulars of the work proposed;

(*b*) The Corporation may approve the work proposed either with or without modifications or propose alternative work or reject the application:

Provided that the Corporation shall not exercise the powers conferred by this paragraph as respects the grass verge or footway of a trunk road without the consent of the Minister of Transport;

(*c*) The Corporation shall give the applicant notice of their decision under the foregoing paragraph and if they approve the work proposed or propose alternative work shall furnish him with an estimate of the cost of the work as approved or proposed by them;

(*d*) The applicant may deposit with the Corporation the amount of the said estimate and require them to execute the work as approved or proposed by them but shall not himself execute any such work;

(*e*) As soon as practicable after such a deposit has been made the Corporation shall execute the work as approved or proposed by them and any difference between the sum deposited and the actual cost of the work shall be paid to or by the Corporation by or to the applicant as the case may require.

(7) The provisions of section 22 (Undertakers' right to payment for works made necessary by and obligation to facilitate road etc. works) and section 23 (Limitations on undertakers' right to payment for works and county contribution towards such a payment) of and the Fourth Schedule to the Act of 1950

PART IV —*cont.*

shall extend and apply to any work carried out by or pursuant to a requirement of the Corporation under the powers of this section and for the purpose of such application the Corporation shall be deemed to be executing the work in any case in which the work is carried out pursuant to a requirement by them under this section.

Retaining walls.

26.—(1) In this section the expression "retaining wall on a street" means a wall which—

(*a*) is situated wholly or partly within twelve feet of a street in the borough; and

(*b*) is of greater height than six feet above the level of the ground at the nearest boundary of the street; and

(*c*) serves or is intended to serve as a support for earth or other material on one side only; and

(*d*) does not form part of a permanent building.

(2) After the passing of this Act no retaining wall on a street shall be erected otherwise than in accordance with plans sections and specifications approved by the Corporation and if any person erects such a wall in contravention of this subsection he shall be liable to a penalty not exceeding five pounds.

(3) If any retaining wall on a street—

(*a*) is in such disrepair as to be liable to endanger persons using the street; or

(*b*) being a wall erected before the passing of this Act or erected in contravention of the last foregoing subsection is so constructed as to be liable as aforesaid;

the Corporation may by notice to the owner or occupier require him to execute such work as may be necessary to prevent the wall being liable as aforesaid and the provisions of section 290 of the Act of 1936 shall apply in relation to such a notice as they apply in relation to the notices mentioned in subsection (1) of that section.

(4) The provisions of this section shall not apply to a retaining wall on a street erected on land belonging to any railway undertakers so long as that land is used by those undertakers primarily for the purpose of their railway undertaking.

Fencing of forecourts.

27.—(1) Where the forecourt of any premises abutting on a street in the borough or any steps or projection or goods (whether for sale or not) placed in any such forecourt is or are a source of danger obstruction or inconvenience to the public the Corporation may by notice require the owner or occupier of the premises to fence the forecourt from the street.

PART IV —*cont.*

(2) The provisions of section 290 of the Act of 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

Forecourts injurious to amenities of street.

28.—(1) If the Corporation by resolution determine that any stall or other erection on any forecourt in the borough is by reason of its character injurious to the amenities of the street on which the forecourt abuts the Corporation may by notice require the owner or occupier of the forecourt either to make such alterations in the stall or erection as may be necessary to prevent it from being injurious to the amenities of the street or if he so elects to remove it.

(2) The provisions of section 290 of the Act of 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

(3) In this section the expression " erection " does not include an advertisement to which regulations made under section 31 of the Town and Country Planning Act 1947 for the time being apply.

Awnings over footways.

29.—(1) No part of any awning over the footway of a street in the borough being a highway repairable by the inhabitants at large shall project over any part of the footway which is less than one foot six inches from the outer edge of the footway.

(2) If any person places or causes or permits to be placed over any such footway an awning which contravenes the foregoing subsection he shall be liable to a penalty not exceeding forty shillings.

(3) If an awning over any such footway is so constructed or maintained as to be prejudicial to the safety or convenience of the public the Corporation may by notice require the owner or occupier of the premises to which the awning is appurtenant to carry out such work as may be necessary to prevent the awning being so prejudicial.

(4) The provisions of section 290 of the Act of 1936 shall apply in relation to notices given under the last foregoing subsection as they apply in relation to the notices mentioned in subsection (1) of that section.

(5) In this section the expression " awning " includes a blind shade or other covering.

PART IV —*cont.*

Urgent repairs of private streets.

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

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

(2) The exercise by the Corporation of their powers under this section shall not prejudice their powers under any statutory provision for the time being in force in the borough relating to private street works or private street improvement expenses or under section 19 of the Public Health Acts Amendment Act 1907.

Stopping up and diversion of highways.

31.—(1) Subject to the provisions of this section a court of summary jurisdiction—

(*a*) if satisfied on the application of the Corporation that a highway within the borough is unnecessary may by order authorise the stopping up thereof; and

(*b*) if so satisfied that such a highway can be diverted so as to make it nearer or more commodious to the public may by order authorise it to be so diverted.

(2) An application or order under this section—

(*a*) may provide for the stopping up or diversion of a highway for the purposes of all traffic or subject to the reservation of a bridle-way or footway;

(*b*) may be made with respect to any length of a highway;

(*c*) may be made with respect to two or more highways or lengths of highways which are connected with each other;

and in relation to any application or order in respect of a length of a highway or two or more highways or lengths of highways any reference in the subsequent provisions of this section to a highway shall be construed as a reference to that length or those highways or lengths of highways as the case may be.

(3) No application or order shall be made under this section with respect to a trunk road or a public path within the meaning of Part IV of the National Parks and Access to the Countryside Act 1949 or without the consent of the county council with

12 13 & 14 Geo. 6. c. 97.

PART IV —*cont.*

respect to a county road in respect of which the functions of maintenance and repair are for the time being vested in and exercisable by the county council:

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

(4) No order shall be made under this section unless the court is satisfied that notice of the intention to apply for the order specifying the time and place at which the application is to be made and the terms of the order applied for (embodying a plan showing the effect of the order)—

(*a*) has at least twenty-eight days before the date on which the application is made been served on the local planning authority and on the owners or reputed owners and the occupiers of all land abutting on the highway and also when the application relates to a classified road on the Minister of Transport ; and

(*b*) has during at least twenty-eight days been exhibited in such manner and in such positions on or near the highway as may be reasonably sufficient for notifying persons using the highway of the application ;

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

(5) No order under this section authorising the diversion of a highway—

(*a*) shall be made unless the written consent of the local planning authority and of every person having a legal interest in the land over which the highway is to be diverted is produced to and deposited with the court ;

(*b*) shall authorise the stopping up of any part of the highway until the new part to be substituted for the part stopped up has been completed to the satisfaction of two justices of the peace and a certificate to that effect signed by them has been transmitted by their clerk to the clerk of the peace.

(6) On the hearing of the application the Corporation the local planning authority and any person who is interested in land abutting on or served by the highway or uses the highway or is otherwise aggrieved shall have a right to be heard.

PART IV —*cont.*

(7) An appeal against a decision of a court of summary jurisdiction under this section may be brought to quarter sessions by any person who was entitled under the last foregoing subsection to be and was or claimed to be heard on the application and for the purposes of the provisions of the Summary Jurisdiction Act 1879 as amended by the Summary Jurisdiction (Appeals) Act 1933 with respect to appeals to quarter sessions—

42 & 43 Vict. c. 49.
23 & 24 Geo. 5. c. 38.

(*a*) a refusal by a court of summary jurisdiction to make an order under this section shall be deemed to be an order;

(*b*) where more than two persons were heard or claimed to be heard in opposition to the application it shall be sufficient if a notice of appeal against a refusal to make an order upon that application is served upon any two of those persons in addition to the clerk to the court but without prejudice to the right of any of those persons to appear as respondents to the appeal;

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

(8) Where by reason of the diversion of a highway under this section any person is relieved from liability to repair the highway he shall be liable to pay to the Corporation such sum as may be agreed between him and the Corporation or in default of agreement as may be determined by arbitration to represent the value to him of the relief and any such sum shall be payable either—

(*a*) as a lump sum; or

(*b*) by annual payments of such amount and continuing for such number of years as may be agreed or determined as aforesaid.

(9) Every order made under this section—

(*a*) shall have annexed thereto a plan signed by the chairman of the court; and

(*b*) shall be transmitted by the clerk of the court to the clerk of the peace together with any written consents produced to the court under subsection (5) of this section;

and the clerk of the peace shall enrol any documents so transmitted to him and any certificates transmitted to him under subsection (5) of this section among the records of quarter sessions.

(10) Every order made under this section shall be binding on all persons whatsoever.

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

PART IV —*cont.*

Pavement lights and ventilators.

32.—(1) The owner or occupier of any premises situated under or abutting on a pavement forming part of a street in the borough may with the consent of the Corporation provide means for the admission of light or air to the premises through the pavement.

(2) In giving their consent under this section the Corporation may attach thereto such terms and conditions as they think fit.

(3) The giving of consent by the Corporation shall not exonerate the owner or occupier of the premises from any liability to statutory undertakers to which he would have been subject if this section had not been enacted.

(4) Anything done before the passing of this Act which would have been lawfully done under this section if done after the passing thereof is hereby ratified.

Maintenance of footpaths etc.

33.—(1) The owner of every house fronting adjoining or abutting on a highway which is not repairable by the inhabitants at large shall maintain the footpath on the frontage of such house and the approach to such house from the highway (exclusive of so much of such footpath or approach as passes through the garden of or through any land within the curtilage of such house) in accordance with the reasonable requirements of the Corporation.

(2) Any person aggrieved by a requirement of the Corporation under this section may appeal to a court of summary jurisdiction.

(3) Any person who contravenes the provisions of this section after the expiration of a period of twenty-eight days (or such longer period as may be allowed by the Corporation) from the receipt of notice from the Corporation shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

Removal of trees etc. from streets.

34. If any tree fence wall or structure or any part thereof shall fall on or across any street the Corporation may remove the same and recover the reasonable cost of so doing from the owner thereof or if such owner was not in beneficial occupation of the land upon which such tree fence wall or structure or any part thereof was situate from the occupier thereof.

Removal of furniture from streets.

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

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

(*b*) are likely to cause an obstruction ;

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

PART IV —*cont.*

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

(*a*) they shall if and as soon as it is reasonably practicable so to do notify the person whom they believe to be the owner thereof; and

(*b*) they shall not exercise any power to sell any such furniture articles goods or materials whether under section 276 of the Act of 1936 or otherwise until after the expiration of fourteen days from the date of such notification or three months from the day on which they removed the furniture articles goods or materials whichever shall first occur.

Mixing of mortar in streets.

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

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

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

Extension of power to contribute to expenses of private street works.

37. The power of the Corporation under section 15 (Contribution by urban authority to expenses) of the Act of 1892 to contribute the whole or a portion of the expenses incurred by them in executing private street works with respect to any street or part of a street shall be extended so as to cover also the contribution of the whole or any portion of the amount which would otherwise be apportioned and charged under that Act in respect of the said expenses against any premises of which only a flank fronts adjoins or abuts on such street or part of a street and the amount which would otherwise so be apportioned and charged against any such premises shall be reduced by the amount of the contribution made by the Corporation under this section in respect of such premises.

Application of Act of 1892 to parts of public streets.

38.—(1) In this section the expression " private street works " has the same meaning as in section 6 of the Act of 1892.

(2) Notwithstanding anything contained in the Act of 1892 where it appears to the Corporation that by reason of additions made otherwise than by the giving up for the purpose by the Corporation of lands owned by them to an existing footpath bridle-path or other right of way repairable by the inhabitants at large (not being or comprising a carriageway) a new street has been formed the Corporation may in respect of such street or any part of such street carry out private street works under

PART IV —*cont.*

the provisions of the Act of 1892 and apportion the expenses thereof on the premises fronting adjoining or abutting on such street or such part thereof as if no part of the said street was so repairable.

(3) Notwithstanding anything contained in the Act of 1892 the Corporation may under the provisions of that Act carry out private street works throughout the width of a street notwithstanding that part of the width consists of a highway repairable by the inhabitants at large but save in a case falling within the provisions of subsection (2) of this section the Corporation shall be entitled to apportion against the premises liable to be charged therewith only such part of the expenses as relates to the portion of the street which is not so repairable.

(4) For the purposes of any apportionment under subsection (3) of this section premises fronting adjoining or abutting on a street shall be deemed to front adjoin or abut on the portion of the street which is not repairable by the inhabitants at large.

PART V

SANITATION AND BUILDINGS

Recovery of cost of maintaining public sewers.

39. Section 24 of the Act of 1936 shall have effect in its application to the borough as if the following were substituted for the proviso to subsection (1) of that section:—

" Provided that unless in the opinion of the medical officer of health or the sanitary inspector immediate action is necessary notice of the work proposed to be undertaken shall not less than seven days before the work is commenced be given to the owners of any premises known by the local authority to be served by the length of sewer in question and the local authority shall consider any representations as to the need for and the reasonableness of the proposed work which may be made to them by any of those owners within seven days of the service of the notice ".

Separate sewers for foul water and surface water. 38 & 39 Vict. c. 55.

40. For the purpose of facilitating the disposal of sewage the powers of the Corporation under section 157 of the Public Health Act 1875 shall extend to the making of byelaws requiring any person constructing a new street in the borough to provide separate sewers for foul water drainage and surface water drainage respectively.

Delegation of power to examine and test drains etc.

41.—(1) In lieu of section 48 of the Act of 1936 the following provisions of this section shall if the council by resolution so determine have effect in the borough for such period as may be specified in the resolution either as respects the whole of the borough or as respects such part or parts thereof as may be so specified.

PART V —*cont.*

(2) Where it appears to the medical officer or the sanitary inspector that there are reasonable grounds for believing—

(*a*) that a sanitary convenience drain private sewer or cesspool is in such a condition as to be prejudicial to health or a nuisance ; or

(*b*) that a drain or private sewer communicating directly or indirectly with a public sewer is so defective as to admit subsoil water ;

he may examine its condition and for that purpose may apply any test other than a test by water under pressure and if he deems it necessary open the ground.

(3) If on examination the convenience drain sewer or cesspool is found to be in proper condition the Corporation shall as soon as possible reinstate any ground which has been opened by the medical officer or the sanitary inspector and make good any damage done by him.

Summary power to remedy stopped-up drains etc.

42.—(1) If it appears to the medical officer or the sanitary inspector that on any premises in the borough a drain private sewer water-closet or soil pipe is stopped up he may by notice require the owner or occupier of the premises to remedy the defect within forty-eight hours from the service of the notice.

(2) If the notice is not complied with the Corporation may themselves carry out the work necessary to remedy the defect and may subject to the next following subsection recover the expenses of so doing from the person on whom the notice was served :

Provided that where the said expenses do not exceed two pounds the Corporation may if they think fit remit the payment thereof.

(3) In any proceedings under this section the court may inquire—

(*a*) whether any requirement contained in a notice served under this section or any work done by the Corporation was reasonable ; and

(*b*) whether the expenses incurred by the Corporation in doing the work or any part thereof ought to be borne wholly or partly by the person on whom the notice was served ;

and the court may make such order concerning the expenses or their apportionment as appears to the court to be just in the circumstances of the case :

Provided that the court shall not order the expenses or any part thereof to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

PART V —*cont.*

Power to repair drains and private sewers.

43.—(1) If any drain or private sewer in the borough—

(*a*) is not sufficiently maintained and kept in good repair to the satisfaction of the Corporation; and

(*b*) can in the opinion of the Corporation be sufficiently repaired at a cost not exceeding fifty pounds;

the Corporation may after giving not less than seven days' notice to the owner or owners cause the drain or sewer to be repaired and subject to the next following subsection recover the expenses of so doing so far as they do not exceed fifty pounds from the owner or owners of the drain or sewer in such proportions (if there is more than one owner) as the surveyor may determine:

Provided that where the said expenses do not exceed two pounds the Corporation may if they think fit remit the payment thereof.

(2) In any proceedings under this section the court may inquire—

(*a*) whether the drain or sewer in question required repair and whether the work done by the Corporation was reasonable; and

(*b*) whether any apportionment made by the surveyor was fair;

and the court may make such an order concerning the expenses or their apportionment as appears to the court to be just:

Provided that the court shall not revise any apportionment unless it is satisfied that all persons affected thereby have had due notice of the proceedings and an opportunity of being heard.

Penalty for improper construction or repair of water-closet etc.

44.—(1) If a water-closet drain or soil pipe in the borough is so constructed or repaired as to be prejudicial to health or a nuisance the person who undertook or executed the construction or repair thereof shall unless he shows that the prejudice to health or nuisance could not have been avoided by the exercise of reasonable care be liable to a penalty not exceeding twenty pounds.

(2) A person charged with an offence under this section (hereafter in this section referred to as "the original defendant") shall upon information duly laid by him and on giving to the prosecutor not less than three clear days' notice of his intention be entitled to have any other person being his agent servant or workman to whose act or default he alleges the offence was due brought before the court at the time appointed for the hearing of the charge and—

(*a*) if after the commission of the offence has been proved the original defendant proves that the offence was due to the act or default of that other person that other person may be convicted of the offence; and

PART V —*cont.*

(*b*) if the original defendant further proves that he used all due diligence to secure that the water-closet drain or soil pipe in question was so constructed or repaired as not to be prejudicial to health or a nuisance he shall be acquitted of the offence.

(3) Where the original defendant seeks to avail himself of the provisions of subsection (2) of this section—

(*a*) the prosecutor as well as the person whom the original defendant charges with the offence shall have the right to cross-examine the original defendant if he gives evidence and any witness called by him in support of his pleas and to call rebutting evidence; and

(*b*) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

Closet accommodation for separate dwellings.

45. For the purposes of section 44 of the Act of 1936 any part of a building in the borough being a part occupied as a dwelling shall be treated as a separate building and where two or more parts of such a building are occupied as dwellings by separate families each such part shall be treated as a separate building:

Provided that where any part of a building has been let for occupation as a separate dwelling without the consent of the owner of the building the person so letting that part of the building shall be deemed to be the owner.

Power to cleanse drains etc.

46. The Corporation may at the request in writing of the owner or occupier of any premises in the borough undertake the cleansing of any drains water-closets sinks or gullies in or connected with the premises and may make such charge if any for so doing as they think fit.

Sanitary conveniences for persons employed on construction work.

47.—(1) The Corporation may by notice require a contractor engaged in or upon any building operations or the construction or reconstruction of any works in the borough within such time as may be specified in the notice—

(*a*) to provide in connection therewith sufficient and satisfactory accommodation in the way of sanitary conveniences for the accommodation of the workpeople employed thereon; and

(*b*) where persons of both sexes are employed in or in connection with the operations or works to provide separate accommodation as aforesaid for persons of each sex;

if it is reasonably practicable so to do:

PART V —*cont.*

Provided that this section shall not apply to building operations or works to which section 107 or section 108 of the Factories Act 1937 applies.

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

(2) The provisions of section 290 of the Act of 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

Abandoned drains to be cut off.

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

(*a*) reconstruct any drain which communicates with any sewer or other drain;

(*b*) lay such drain in a new position; or

(*c*) on the occasion of the execution of any works to or in connection with such drain permanently discontinue the use of such drain;

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

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

Buildings and structures

Ruinous and dilapidated buildings and neglected sites.

49.—(1) Paragraphs (*b*) and (ii) of subsection (1) of section 58 of the Act of 1936 and so much of subsection (2) of that section as relates to those paragraphs shall cease to have effect in the borough and the following provisions of this section shall have effect in lieu thereof.

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

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

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

as may be necessary for remedying the cause of complaint.

(3) Where rubbish or other material resulting from or exposed by the demolition or collapse of a building or part of a building in the borough is lying on the site of the building or that part thereof or on any land occupied with the building and by reason thereof the site or land is in such a condition as to be seriously

PART V —*cont.*

detrimental to the amenities of the neighbourhood the Corporation may by notice require the owner of the site or land within a reasonable time specified in the notice to take such steps for removing the rubbish or material as may be necessary for remedying the cause of complaint.

(4) The provisions of section 290 of the Act of 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

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

(6) In this section the expression "building" includes any structure.

New building overreaching adjoining chimneys.

50.—(1) Where after the passing of this Act—

(*a*) any person erects or raises a building in the borough (in this section referred to as the "taller building") to a greater height than an adjoining building; and

(*b*) any chimneys or flues of the adjoining building are in the party wall or in an external wall of the adjoining building;

the Corporation may by notice—

(i) require that person within such time as may be specified in the notice to build up those chimneys and flues (if it is reasonably practicable so to do) so that the top thereof will be of the same height as the top of the chimneys of the taller building or the top of the taller building whichever is the higher; and

(ii) require the owner or occupier of the adjoining building to allow the first-mentioned person to enter on that building and carry out such work as may be necessary to comply with the notice served on him.

(2) Any person aggrieved by a requirement of the Corporation under this section may appeal to a court of summary jurisdiction.

(3) If any person fails to comply with a notice under this section he shall be liable to a penalty not exceeding twenty pounds and in the case of a notice served under paragraph (i) of subsection (1) of this section the Corporation may themselves execute such work as may be necessary to comply with the notice and recover the expenses of so doing from the person on whom the notice was served.

PART V —*cont.*

Height of new chimneys.

51.—(1) Where plans for the extension or erection of a building used or to be used for manufacturing or other purposes are in accordance with building byelaws deposited with the Corporation and the plans show that it is proposed to construct a chimney for carrying smoke or steam or noisome or deleterious gases or effluvia from the building the Corporation shall reject the plans unless they are satisfied that the height of the chimney as shown on the plans will be sufficient to prevent it being prejudicial to health or a nuisance having regard to—

(*a*) the purpose of the chimney;

(*b*) the position and description of buildings near thereto;

(*c*) the levels of the neighbouring ground; and

(*d*) any other matters requiring consideration in the circumstances.

(2) If the Corporation reject the plans under the authority of this section the notice given in pursuance of subsection (2) of section 64 of the Act of 1936 shall specify that the plans have been so rejected.

(3) This section shall not apply to a chimney of a generating station consent to the construction of which has been given in accordance with the provisions of the Electricity (Supply) Acts 1882 to 1936 by the Minister of Fuel and Power.

Power to order alteration of domestic chimneys.

52.—(1) If a court of summary jurisdiction is satisfied upon a complaint by the Corporation that any smoke gas or vapour from any chimney flue or pipe of a building or structure forming part of or within the curtilage of a house in the borough is prejudicial to the health of any of the inhabitants of the borough or a nuisance the court may make an order requiring the owner of the chimney flue or pipe within such time as may be specified in the order—

(*a*) to cause it to be raised to a height so specified; or

(*b*) to cause such other means for remedying the cause of complaint to be adopted as the court thinks fit:

Provided that the court shall not make an order under this section unless it is satisfied that the work to be done in pursuance of the order will not involve an expenditure exceeding fifty pounds.

(2) If any person fails to comply with an order made under this section he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

Food storage accommodation.

53.—(1) Every house erected in the borough after the passing of this Act shall be provided with sufficient and suitable accommodation for the storage of food and any other house in

PART V —*cont.*

the borough not so provided shall if reasonably practicable be so provided within one month from the service by the Corporation on the owner thereof of a notice requiring it to be so provided.

(2) Any person aggrieved by a requirement imposed by a notice under the preceding subsection may appeal to a court of summary jurisdiction.

(3) If any house required to be provided as aforesaid is occupied when not so provided the owner thereof shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(4) The owner of any house on whom a notice is served under subsection (1) of this section shall have power notwithstanding any lease or other agreement to enter the house and carry out such work as may be necessary to comply with the notice.

(5) For the purposes of this section—

(*a*) the expression " house " includes any part of a building which is occupied or intended to be occupied as a separate dwelling;

(*b*) the conversion of a building into two or more dwellings shall be deemed to be the erection of each of those dwellings; and

(*c*) a house the erection whereof was commenced before the passing of this Act shall not be deemed to have been erected after the passing of this Act:

Provided that where any part of a building has been let for occupation as a separate dwelling-house without the consent of the owner of the building the person so letting that part of the building shall be deemed to be the owner.

Separate approach for separate tenements.

54.—(1) The powers of the Corporation under section 6 of the Housing Act 1936 shall include power to make byelaws for requiring in the case of houses let in lodgings or occupied by members of more than one family a separate approach to each room or tenement separately occupied without passing through any other room or tenement.

(2) No byelaw made under this section shall impose any requirement on the owner of a house let in lodgings or for occupation by more than one family without his consent.

Filthy or verminous premises or articles

Cleansing of filthy or verminous premises.

55. Section 83 of the Act of 1936 shall in its application to the borough have effect as if the following were substituted for subsection (1) thereof:—

" (1) Where the local authority upon consideration of a report from any of their officers or other information in

PART V —*cont.*

their possession are satisfied that any premises other than a factory within the meaning of the Factories Act 1937—

(*a*) are in such a filthy or unwholesome condition as to be prejudicial to health ; or

(*b*) are verminous ;

the authority shall give notice to the owner or occupier of the premises requiring him to take such steps as may be specified in the notice to remedy the condition of the premises by cleansing and disinfecting them and by either—

(i) distempering or whitewashing the interior surface thereof ; or

(ii) in the case of premises used for human habitation or as shops or offices papering or painting the said interior surface ;

and the notice may require among other things the removal of wallpaper or other covering of the walls or in the case of verminous premises the taking of such steps as may be necessary for removing or destroying vermin ".

Power to require vacation of premises during fumigation.

56.—(1) If the Corporation serve notice under subsection (3) of section 83 of the Act of 1936 as amended by the last preceding section on the owner and occupier of any premises requiring that they shall be allowed to employ gas for the purpose of destroying vermin on the premises—

(*a*) the notice to the occupier may also require that the premises shall be vacated until such time as the Corporation are satisfied that it is safe for the occupier to return ; and

(*b*) the Corporation may also serve notice on the occupiers of any other premises having any floor wall or ceiling contiguous with the first-mentioned premises or into which there is reason to apprehend that the gas may penetrate requiring that those other premises shall be vacated as aforesaid.

(2) No person shall be required to vacate any premises under this section for any period unless shelter or other accommodation has been provided for him by the Corporation free of charge for that period and any notice given under this section shall specify the shelter or accommodation so provided.

(3) Any person aggrieved by a requirement of the Corporation under this section may appeal to a court of summary jurisdiction.

(4) If any person fails to comply with a notice under this section he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding ten shillings.

PART V —*cont.*

(5) The Corporation may pay to any person vacating premises in pursuance of a notice under this section such reasonable allowance as they think fit towards his expenses in removing from and returning to the premises.

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

Prohibition of sale of verminous articles.

57.—(1) No dealer shall in the borough—

(*a*) prepare for sale ;

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

(*c*) deposit for sale or preparation for sale ;

any household article if it is to his knowledge verminous or if by taking reasonable precautions he could have known it to be verminous.

(2) If any household article which is verminous is on any premises in the borough—

(*a*) being prepared or offered by a dealer for sale ; or

(*b*) exposed by a dealer for sale or deposited by a dealer for sale or preparation for sale ;

the medical officer or the sanitary inspector may cause the article to be disinfested or destroyed as the case may require and if necessary for that purpose to be removed from the premises and the Corporation may recover from the dealer the expenses incurred by the medical officer or the sanitary inspector in taking any action under this subsection.

(3) If any person contravenes the provisions of subsection (1) of this section he shall be liable to a penalty not exceeding twenty pounds.

(4) For the purposes of paragraph (*a*) of subsection (1) of section 287 of the Act of 1936 as applied by this Act the provisions of this section shall be provisions which it is the duty of the Corporation to enforce.

(5) For the purposes of this section—

(*a*) the expression " dealer " means a person who trades or deals in any household article ;

(*b*) the expression " household article " means an article of furniture bedding or clothing or any similar article ;

(*c*) the expression " preparation for sale " shall not include disinfestation.

PART V —*cont.*

As to defective premises.

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

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

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

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

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

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

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

(i) the alleged defective state did not exist at the time of the service of the notice; or

(ii) the need to abate the defective state was not so urgent as to justify the Corporation themselves executing such works and taking such steps without first complying with the provisions of section 93 and section 94 of the Act of 1936; or

PART V —*cont.*

(iii) the person upon whom a notice under subsection (1) of this section was served having duly served a counter-notice under subsection (2) of this section commenced within a reasonable time and progressed reasonably with the execution of such works and the taking of such steps as were necessary to remedy the defective state of the house.

(*b*) A person against whom proceedings are taken under subsection (3) of this section shall upon information duly laid by him and on giving to the Corporation not less than three clear days' notice of his intention be entitled to have any person to whose act default or sufferance he alleges that the defective state of the house was due brought before the court in the proceedings and if the original defendant proves that the defective state of the house arose or continued by the act default or sufferance of that other person the court shall have power—

(i) to order that such expenses as aforesaid may be recovered from that other person ; or

(ii) to apportion the expenses between persons by whose acts defaults or sufferances the defective state of the house arose or continued in such manner as the court may deem fair and reasonable.

(5) The Corporation may if they think fit exercise the powers of this section in relation to such defects in a house as may be specified in a notice under subsection (1) of this section notwithstanding the fact that other defects may exist in that house and in that case nothing contained in this section or done or executed thereunder shall prejudice or affect the powers of the Corporation under sections 93 to 98 and section 100 of the Act of 1936 in relation to any such other defect in that house.

PART VI

NUISANCES AND OFFENSIVE TRADES

Tipping of spoil and refuse.

59.—(1) The Corporation may make byelaws for regulating the tipping of spoil and refuse and for prohibiting the use of any spoil or refuse tip so as to be a nuisance to the occupiers of premises in the neighbourhood thereof.

(2) Byelaws made by virtue of this section may—

(*a*) contain provisions for imposing on persons offending against the byelaws penalties not exceeding fifty pounds for each offence and in the case of a continuing offence a daily penalty not exceeding ten pounds ;

(*b*) provide that any spoil or refuse tip placed kept or used in breach of the byelaws shall be a statutory nuisance for the purpose of Part III of the Act of 1936.

PART VI —*cont.*

(3) No byelaw under this section shall extend to regulate or control the tipping of spoil or refuse by railway undertakers for the purpose of constructing widening or maintaining any railway.

Lighting ventilation and sanitation of stables.

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

(*a*) for securing the proper lighting and ventilation of any building in the borough erected before the date on which the byelaws come into operation and used for the time being for stabling horses ;

(*b*) for preventing insanitary conditions in or about or arising out of any building in the borough so used whether erected before or after the said date.

(2) For the purposes of any byelaws made under this section a building the erection of which was commenced before the date on which the byelaws came into operation shall be deemed to have been erected before the said date.

Smoke from industrial furnaces.

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

(2) If any person contravenes the provisions of the foregoing subsection he shall be liable to a penalty not exceeding ten pounds and if after conviction of the contravention he uses the furnace he shall be liable to a daily penalty not exceeding five pounds for each day on which he uses it unless and until it is altered so that it is so far as practicable capable of being operated as aforesaid.

(3) If a person before installing in a building a furnace to which this section applies submits to the Corporation a plan and specification of the proposed furnace and furnishes them with such other information in regard thereto as they may reasonably require the Corporation may within six weeks from the receipt of the plan specification and information serve notice upon him stating whether or not they are satisfied that the furnace is so far as practicable capable of being operated as aforesaid and—

(*a*) if the notice states that they are so satisfied ; or

(*b*) if they do not serve any notice under this subsection before the expiration of the said six weeks ;

no proceedings shall be taken against that person under this section in respect of the installation of the furnace in accordance with the plan specification and information so submitted and furnished.

PART VI —*cont.*

(4) Before serving a notice under this section stating that they are not satisfied that a furnace is so far as practicable capable of being operated as aforesaid the Corporation shall consult the Minister of Fuel and Power.

(5) In determining for the purposes of this section whether a furnace is so far as practicable capable of being operated as aforesaid—

(*a*) a court in any proceedings under this section ; and

(*b*) the Corporation on considering a plan specification and other information received under subsection (3) of this section ;

shall have regard to cost and to local conditions and circumstances.

Discharge of steam and waste gas.

62.—(1) No person shall cause or permit to be discharged in the borough so as to be prejudicial to health or a nuisance—

(*a*) any steam or waste gas ejected from any stationary engine or the boilers or condensers thereof ; or

(*b*) any condensing water above a temperature of one hundred and ten degrees fahrenheit so ejected ;

(*c*) any spent or ejected steam arising or produced in the course of any trade or business :

Provided that in any proceedings brought by virtue of this section against any statutory undertakers in respect of any discharge which it is alleged is prejudicial to health or a nuisance it shall be a defence for the statutory undertakers to prove that they have used the best practicable means for preventing or mitigating the effect of such discharge having regard to the cost and to other relevant circumstances.

(2) If any person contravenes the provisions of the foregoing subsection he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

(3) Nothing in this section shall apply to steam gas or water discharged from a railway locomotive.

Silencers for internal combustion engines.

63.—(1) A stationary internal combustion engine shall not be used in the borough unless an effectual silencer is provided and used on the exhaust of the engine.

(2) If any person uses any such engine in contravention of the foregoing subsection or causes or permits any such engine to be so used the Corporation may give him notice that the engine is being or has been so used and if after the elapse of such time from the service of the notice as may be reasonably sufficient for remedying the cause of complaint he uses the

PART VI —*cont.*

engine as aforesaid or causes or permits it to be so used he shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding forty shillings.

(3) An authorised officer of the Corporation shall on producing if so required some duly authenticated document showing his authority have the right—

(*a*) to enter at all reasonable hours any premises on which there is reason to believe that any such engine is being or has been used in contravention of subsection (1) of this section ; and

(*b*) to take off remove test inspect and replace any silencer on the exhaust of any such engine found on the premises ;

and any expenses incurred under this subsection by any such officer may be recovered by the Corporation from the occupier of the premises if there is found on the premises any such engine which is not provided with an effectual silencer on the exhaust thereof :

Provided that this subsection shall not apply to any premises belonging to railway undertakers and used by them for the purpose of their railway undertaking.

Noise nuisance.

64.—(1) Any excessive or unreasonable or unnecessary noise which is prejudicial to health or a nuisance shall be a statutory nuisance for the purposes of Part III of the Act of 1936 :

Provided that—

(*a*) in any proceedings brought by virtue of this section under the said Part III in respect of a noise occasioned in the course of any trade or business it shall be a defence for the defendant to prove that he has used the best practicable means for preventing or mitigating the noise having regard to the cost and to other relevant circumstances ;

(*b*) a justice shall not entertain a complaint under section 99 of the said Act with respect to a noise unless it is made by not less than three occupiers of premises within hearing of the noise.

(2) Nothing in this section shall apply to a noise occasioned by the exercise by railway undertakers of statutory powers conferred in relation to their railway undertaking.

(3) Nothing in this section shall affect the power of the Corporation to make byelaws under section 249 of the Act of 1933.

PART VI —*cont.*

Discontinuance of offensive trade.

65.—(1) If as respects any premises in the borough which are being used for carrying on an offensive trade the council by resolution decide that it is inexpedient—

(*a*) in the interests of public health; or

(*b*) having regard to any change in the character of the neighbourhood of the premises since the establishment of that trade;

that that trade should be carried on in the premises the Corporation may serve notice on the owner and occupier of the premises stating the effect of the resolution and prohibiting the use of the premises for carrying on the trade after the expiration of such period (not being less than twelve months from the service of the notice) as may be specified in the notice.

(2) If any person uses any premises for carrying on an offensive trade in contravention of a notice under this section he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

(3) Any person who suffers loss by reason of a prohibition imposed under this section on the use of any premises for carrying on an offensive trade shall be entitled to be paid by the Corporation compensation to be determined in case of dispute in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949.

(4) In determining the amount of compensation under the last preceding subsection regard shall be had to any limitation imposed by virtue of subsection (3) of section 107 of the Act of 1936 or section 14 of the Town and Country Planning Act 1947 on the period for which the trade may be carried on in the premises.

(5) The powers of this section shall be in addition to and not in derogation of any other powers of the Corporation with reference to offensive trades.

(6) In this section the expression "offensive trade" has the same meaning as in section 107 of the Act of 1936.

Nuisance from pigeons etc.

66.—(1) For the purpose of abating or mitigating any nuisance annoyance or damage caused in the borough by house doves pigeons or starlings having or believed by the Corporation to have no owner or of preventing or minimising any such nuisance annoyance or damage which might in the opinion of the

Corporation be so caused the Corporation may notwithstanding anything in the Larceny Act 1861 or in any other Act— PART VI —*cont.*

(*a*) seize and humanely destroy or cause to be seized and humanely destroyed any such house doves pigeons or starlings in excess of such number as the Corporation consider reasonable ; 24 & 25 Vict. c. 96.

(*b*) sell or otherwise dispose of or cause to be sold or otherwise disposed of the carcases of any such house doves pigeons or starlings ; and

(*c*) take such other steps as they think necessary for such purpose :

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

(*a*) enter upon any premises (other than a public highway) without the consent of the occupier or the person having the exclusive control and management of the premises ; or

(*b*) execute or do any work or thing affecting the structure of any building or the use of any land without the consent of the owner of the building or land.

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

PART VII

INFECTIOUS DISEASES

67. In this Part of this Act the expression "notifiable disease" means— Definition of notifiable disease.

(*a*) any notifiable disease as defined by section 343 of the Act of 1936 ; and

(*b*) any infectious disease to which section 144 of that Act for the time being applies in the borough by virtue of regulations made under section 143 thereof.

68.—(1) If it is shown to the satisfaction of a justice of the peace on sworn information by the medical officer in writing— Entry into premises in case of notifiable disease.

(*a*) that in any premises in the borough there is a person who is or has been suffering from a notifiable disease ; and

(*b*) that admission to the premises or examination of that person has been refused or that refusal is apprehended

PART VII —*cont.*

or that the case is one of urgency or that an application for admission would defeat the object of the entry;

the justice may by warrant under his hand authorise the medical officer to enter the premises if need be by force and examine any person found thereon;

Provided that no such warrant shall authorise the medical officer—

(i) to enter any premises except between the hours of seven in the morning and ten in the evening; or

(ii) to examine a person who is already under the treatment of a registered medical practitioner except with the consent of that practitioner.

(2) On entering any premises by virtue of a warrant issued under this section the medical officer may take with him such other persons as may be necessary.

(3) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

Information to be furnished by occupier in case of notifiable disease.

69.—(1) On the application of the medical officer the occupier of any building in the borough which is used for human habitation and in which there is or has been any person suffering from a notifiable disease shall furnish such information within his knowledge as the medical officer may reasonably require for the purpose of enabling measures to be taken to prevent the spread of the disease.

(2) If any person required to furnish information under this section fails to furnish it or knowingly furnishes false information he shall be liable to a penalty not exceeding forty shillings.

(3) In this section the expression "occupier" includes—

(*a*) a person having the charge management or control of the building or of the part of the building in which the person suffering from a notifiable disease is or has been; and

(*b*) in the case of a building the whole of which is ordinarily let out in separate tenements or in the case of a lodging-house the whole of which is ordinarily let to lodgers the person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person.

PART VII —*cont.*

70. Section 148 of the Act of 1936 in its application to the borough shall have effect as if the following paragraph were substituted for paragraph (*b*) thereof:—

Restriction on attendance at schools places of assembly etc.

" (*b*) having the care of a person—

(i) whom he knows to be suffering from a notifiable disease; or

(ii) whom he cannot permit to attend school without contravening section 150 of this Act;

causes or permits that person to expose other persons to the risk of infection by his presence or conduct in any such place as aforesaid; or ".

Exclusion of children from entertainments.

71.—(1) With a view to preventing the spread of a notifiable disease the Corporation on the advice of the medical officer may by notice published in such manner as they think best for bringing it to the notice of persons concerned prohibit the admission of persons under the prescribed age to places of entertainment or assembly in the borough for a time specified in the notice.

(2) If the person responsible for the management of any place of entertainment or assembly having been served by the Corporation with a copy of a notice published under the preceding subsection admits any person under the prescribed age to that place in contravention of the notice he shall be liable to a penalty not exceeding five pounds:

Provided that in any proceedings under this subsection it shall be a defence to prove that there were reasonable grounds for believing that the person admitted had attained the prescribed age.

(3) In this section the expression " prescribed age " in relation to any notice means such age not exceeding sixteen as may be prescribed by the notice.

(4) Nothing in this section shall apply to any school maintained by the local education authority during the hours in which the school is open for secular instruction.

Compensation for stopping employment to prevent spread of disease.

72. If with a view to preventing the spread of—

(*a*) a notifiable disease; or

(*b*) a milk-borne disease as defined in section 37 of the Food and Drug Acts 1938; or

(*c*) food poisoning;

the medical officer requests in writing any person to discontinue his employment the Corporation may if they think fit compensate him for any loss occasioned by his compliance with the request.

PART VII —*cont.*

Prohibition of tuberculous persons from handling food.

73.—(1) If the medical officer certifies—

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

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

(*c*) that his continuance in that occupation would in the judgment of the medical officer be a danger to the health of other persons;

the medical officer or any other person authorised in that behalf by the Corporation may request him in writing to discontinue his occupation as aforesaid.

(2) If any person requested as aforesaid complies with the request the Corporation may if they think fit compensate him for any loss occasioned by his compliance with the request.

(3) If any person requested as aforesaid fails to comply with the request a court of summary jurisdiction may on the application of the Corporation order him to comply with the request and may by any such order if it thinks fit direct that such compensation (if any) as it thinks equitable shall be paid to him by the Corporation.

(4) If any person fails to comply with any such order he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

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

PART VIII

FOOD

Slaughter of animals otherwise than for human consumption.

74.—(1) As from the appointed day the following provisions shall have effect in the borough with respect to the slaughter of any of the following animals namely horses cattle sheep goats or pigs where the animal owing to emaciation or disease is slaughtered otherwise than for sale for human consumption within the meaning of the Public Health (Meat) Regulations.

(2) The owner of any such animal shall comply with the following provisions:—

(*a*) he shall not less than twelve hours before slaughtering the animal or causing it to be slaughtered give notice to an authorised officer of the intention to slaughter it unless by reason of accidental injury illness or exposure

PART VIII —*cont.*

to infection it is necessary to slaughter it before the expiration of twelve hours from the giving of such notice or before such notice is given ;

(*b*) where it is necessary by reason aforesaid to slaughter the animal before the expiration of the said twelve hours he shall retain the carcase intact until the expiration of twelve hours from the time of slaughter or until its disposal is approved by an authorised officer whichever first occurs ;

(*c*) where it is necessary by reason aforesaid to slaughter the animal before such notice is given he shall give notice of the slaughter to an authorised officer as soon as practicable thereafter and shall retain the carcase intact until the expiration of twelve hours from the time when notice is given under this paragraph or until its disposal is approved by an authorised officer whichever first occurs ;

(*d*) he shall on the application of an authorised officer made within two weeks from the date of the slaughter of the animal furnish such information within his knowledge as that officer may reasonably require for the purpose of enabling him to trace the disposition of the carcase or any part thereof.

(3) If any person—

(*a*) fails to comply with any of the provisions of subsection (2) of this section ; or

(*b*) furnishes in response to an application under paragraph (*d*) of that subsection information which he knows to be false ;

he shall be liable to a penalty not exceeding ten pounds.

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

(5) In this section—

(*a*) the expression " authorised officer " means any officer of the Corporation who is by virtue of the Food and Drugs Act 1938 an authorised officer for the purpose of the examination and seizure of meat under the provisions of that Act relating to unsound food ;

(*b*) the expression " Public Health (Meat) Regulations " means regulations for the time being in force under section 8 of the Food and Drugs Act 1938 or having effect by virtue of subsection (3) of section 101 of that Act as if they had been made under the said section 8.

PART VIII —*cont.*

Inedible fat.

75. If any person takes or causes to be taken any fat unfit for food into any premises in the borough in which any food of which fat is an ingredient is manufactured or prepared for sale he shall be liable to a penalty not exceeding ten pounds or in the case of a second or subsequent offence to a penalty not exceeding fifty pounds:

Provided that in any proceedings under this section it shall be a defence to prove that the fat was not taken into the premises for the purpose of being used and has not been used as an ingredient in the manufacture or preparation of food.

Registration of hawkers of food and their premises.

76.—(1) As from the appointed day the following provisions shall have effect in the borough:—

(*a*) no person shall sell or offer or expose for sale any food from or upon a cart barrow or other vehicle or from or upon a basket pail tray or other receptacle unless he is registered by the Corporation;

(*b*) no premises shall be used as storage accommodation for food intended for sale from or upon a cart barrow or other vehicle or from or upon a basket pail tray or other receptacle unless the premises are registered by the Corporation:

Provided that nothing in this subsection shall apply—

(i) to the sale or offer or exposure for sale of food by a person keeping open shop for the sale of food or by a person employed and in the course of his employment by such a person or to the use by a person so keeping open shop or by a person employed and in the course of his employment by such a person of any premises as storage accommodation for food intended for sale by him or his employer as the case may be;

(ii) to the sale or offer or exposure for sale of food by a dairyman registered under regulations for the time being in force under Part II of the Food and Drugs Act 1938 as amended by any subsequent enactment or by a person employed and in the course of his employment by such a dairyman or to the use by any person as storage accommodation for food of a dairy so registered;

(iii) to the use by any person as storage accommodation for food of premises registered under section 14 of the Food and Drugs Act 1938;

(iv) to the sale or offer or exposure for sale of food by any person on premises owned or occupied by him or his employer or to the use by any person of any premises owned or occupied by him or his employer

PART VIII —*cont.*

as storage accommodation for food intended for sale by him or his employer on those or any other such premises ;

(v) to the sale or offer or exposure for sale of food by any person or to the use of any premises as storage accommodation for food intended for sale if the profits of the sale are devoted to a religious or charitable purpose.

(2) If any person contravenes the provisions of the foregoing subsection he shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

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

(4) If it appears to the Corporation—

(*a*) that the public health is or is likely to be endangered by any act or default of a person who has applied to be or is registered under this section being an act or default in relation to the quality storage or distribution of food ; or

(*b*) that any premises in respect of which an application has been made for registration under this section or which are registered under this section do not satisfy the requirements of subsection (1) of section 13 of the Food and Drugs Act 1938 or are otherwise unsuitable for use as storage accommodation for food intended for sale as aforesaid ;

the Corporation shall serve on that person or on the person applying for the registration of the premises or in the case of premises which are registered the occupier of the premises a notice—

(i) stating the place and time (not being less than seven days after the date of the service of the notice) at which it is proposed that a committee of the council shall take the matter into consideration ; and

(ii) informing him that he may attend before the said committee with any witnesses whom he desires to call at the place and time mentioned to show cause why the Corporation should not for reasons specified in the notice refuse to register him or the premises or revoke his or their registration as the case may be.

(5) If a person on whom a notice is served under the last preceding subsection fails to show cause to the satisfaction of the said committee the Corporation may refuse to register him or

PART VIII —*cont.*

the premises or revoke his or their registration as the case may be and shall forthwith give notice to him of their decision in the matter and shall if so required by him within fourteen days of their decision give to him within forty-eight hours a statement of the grounds on which it was based.

(6) Any person aggrieved by a decision of the Corporation under the last preceding subsection may appeal to a court of summary jurisdiction.

(7) For the purposes of paragraph (*a*) of subsection (1) of section 287 of the Act of 1936 as applied by this Act the provisions of this section shall be provisions which it is the duty of the Corporation to enforce.

(8) In this section the expression "food" has the meaning assigned to it by section 100 of the Food and Drugs Act 1938 except that it does not include any substance contained in containers of such materials and so closed as to exclude all risk of contamination.

Byelaws as to meat for feeding animals.

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

(*a*) for requiring the sterilisation in such manner as may be prescribed by the byelaws of animal feeding meat exposed or offered for sale for consumption by dogs cats or other animals;

(*b*) for prohibiting the sale or offer or exposure for sale of animal feeding meat for consumption by dogs cats or other animals unless such meat has been so sterilised;

(*c*) for empowering an authorised officer to examine any animal feeding meat which is offered or exposed for sale for consumption by dogs cats or other animals and to seize and destroy or cause to be destroyed such animal feeding meat if it has not been so sterilised as aforesaid:

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

(2) In this section—

(*a*) the expression "authorised officer" means any officer of the Corporation who is by virtue of the Food and Drugs Act 1938 an authorised officer for the purpose

of the examination and seizure of meat under the provisions of that Act relating to unsound food; and

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

(*c*) the expression "flesh" includes any part of an animal.

PART IX

PARKS CEMETERIES AND OTHER MUNICIPAL PROPERTY

Power to let parks etc. for games.

78. When any part of a park or pleasure ground provided by or under the management and control of the Corporation is set apart by them under paragraph (*b*) of subsection (1) of section 76 of the Public Health Acts Amendment Act 1907 for the purpose of cricket football or any other game or recreation the Corporation may permit the exclusive use by any club or other body of persons of—

(*a*) any portion of the part set apart as aforesaid; and

(*b*) the whole or any part of any pavilion convenience refreshment room or other building provided under that section;

subject to such charges and conditions as the Corporation think fit:

Provided that nothing in this section shall empower the Corporation to permit at one and the same time the exclusive use of—

(i) more than one-third of the area of any park or pleasure ground; or

(ii) more than one-quarter of the total area of all the parks and pleasure grounds provided by them or under their management and control.

Parking places in parks etc. 25 & 26 Geo. 5. c. 47.

79.—(1) For the purpose of providing a parking place under section 68 of the Public Health Act 1925 as amended by section 16 of the Restriction of Ribbon Development Act 1935 the Corporation may with the consent of the Minister utilise any part of a park pleasure ground or open space provided by them or under their management and control:

Provided that the part of any park pleasure ground or open space utilised under this section shall not exceed one-eighth of the total area thereof or one acre whichever is the less.

6 Edw. 7. c. 25.

(2) In this section the expression "open space" has the same meaning as in the Open Spaces Act 1906.

PART IX —*cont.*

Transmission of entertainments.

80.—(1) The Corporation may provide erect maintain and use such apparatus and conveniences as they may consider necessary for the purpose of transmitting any concert or entertainment or any part thereof from a building or park belonging to the Corporation at which such concert or entertainment is provided or held to any other building or park at which concerts or entertainments may be provided by the Corporation and for that purpose may erect and maintain posts and wires in any street:

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

32 & 33 Vict. c. 73.

12 13 & 14 Geo. 6. c. 54.

(*a*) any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line; or

(*b*) the working of any wire or line used for the purpose of electric signalling communication or the electrical control of railways.

(2) The Corporation shall not exercise the powers of this section without the consent of the undertakers concerned—

(i) in or upon any bridge carrying a street over any railway or the approaches thereto or under a bridge carrying a railway over any street except where a portion of the street over or under any such bridge or approach is a highway repairable by the inhabitants at large; or

(ii) in any street belonging to or repairable by any railway or statutory road transport undertakers:

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

Saving for trusts etc.

81. No power conferred upon the Corporation by the preceding sections of this Part of this Act shall be exercised in such a manner—

(*a*) as to be at variance with any trust subject to which any land or building is held managed or controlled by the Corporation without an order of the High Court or of the Charity Commissioners or of the Minister of Education or (where the trust instrument reserves to the donor or any other person the power to vary the trust) without the consent of the donor or that other person; or

PART IX —*cont.*

(*b*) as to contravene any covenant or condition subject to which a gift or lease of any land or building has been accepted by or granted to the Corporation without the consent of the donor grantor lessor or other person entitled in law to the benefit of the covenant or condition.

Agreements to maintain graves and tombstones.

82.—(1) The Corporation may agree with any person in consideration of the payment of a capital sum by him to maintain for a period fixed by the agreement a grave or tombstone in a cemetery provided by the Corporation and the following provisions shall apply in relation to any such agreement:—

(*a*) the said sum shall subject to the next following paragraph and any other enactment authorising its application in some other manner be invested in statutory securities;

(*b*) if and in so far as the cost of maintaining the grave or tombstone in accordance with the agreement exceeds in any year the interest received on the said sum the cost shall be defrayed out of the capital of the said sum;

(*c*) at the expiration of the period fixed by the agreement for the maintenance of the grave or tombstone the Corporation may apply the capital of the said sum or so much thereof as has not been expended under the last foregoing paragraph in any manner in which capital money may properly be applied by them under any enactment;

(*d*) the amount of the capital of the said sum and the interest thereon shall be shown separately in the accounts of the Corporation relating to the cemetery.

(2) In this section—

the expression "cemetery" includes a burial ground and a crematorium;

the expression "grave" includes a grave space niche or urn;

the expression "tombstone" includes a monument or other memorial of a deceased person.

Extension of power to maintain burial grounds.

83.—(1) The powers of the Corporation in relation to a burial ground provided by them or a closed or disused burial ground maintainable by them shall include power to put and keep in order any grave or tombstone therein subject to the following provisions:—

(*a*) before exercising the powers of this section the Corporation shall give notice of their intention so to do—

(i) by publishing the notice once in each of two successive weeks in a local newspaper circulating in

PART IX —*cont.*

the borough with an interval between each publication of not less than six clear days; and

(ii) by displaying the notice in a conspicuous position in the burial ground;

(*b*) any such notice shall—

(i) contain a description of the works intended to be executed; and

(ii) specify the date on which it is intended that those works will commence which shall not be earlier than the fourteenth day after the last publication of the notice in a newspaper as aforesaid or the twenty-first day after the notice is first displayed in the burial ground as aforesaid; and

(iii) state the effect of paragraph (*c*) of this subsection;

(*c*) if notice of objection to the execution of any such works and of the ground thereof is given to the Corporation before the date so specified and is not withdrawn before the expiration of fourteen days from that date the works to which the objection relates shall not be executed without the consent of the Minister.

(2) In this section—

the expression " burial ground " includes a cemetery;

the expression " grave " includes a grave space;

the expression " tombstone " includes a monument or other memorial of a deceased person.

PART X

PUBLIC ORDER AND PUBLIC SAFETY

Barriers in streets.

84.—(1) For the purpose of securing public order or public safety or preventing congestion of traffic the Corporation subject to the approval of the Commissioner of Police of the Metropolis may in any case of emergency or on any occasion on which it is likely by reason of some special attraction that any street in the borough will be thronged or obstructed cause barriers to be erected in any street in the borough and kept in position for so long as may be necessary for that purpose:

Provided that the Corporation shall not exercise the powers of this subsection—

(*a*) as respects any trunk road without the consent of the Minister of Transport; or

(*b*) in any street belonging to or repairable by any railway or statutory road transport undertakers and forming the

PART X —*cont.*

approach to any station or depot of those undertakers or so as to obstruct or interfere with the access to or exit from any station or depot of any railway or statutory road transport undertakers without the consent of those undertakers;

(*c*) so as to deprive foot-passengers bona fide going to or from any building or land abutting on the street of reasonable access to the building or land.

(2) The consent of any undertakers under proviso (*b*) to the preceding subsection shall not be unreasonably withheld and any question whether or not it is unreasonably withheld shall be determined by the Minister of Transport.

(3) For the purpose of erecting barriers in a street under this section the Corporation may provide slots or sockets in or under the surface of the street.

(4) If any person wilfully removes or damages any barrier erected under this section he shall be liable to a penalty not exceeding five pounds.

Safety of stands.

85.—(1) As from the appointed day no person shall commence to erect in the borough a stand capable of affording seating or standing accommodation for twenty or more persons at any one time unless he has given notice to the Corporation of his intention so to do accompanied by a plan and section of the stand and such further particulars as the Corporation may reasonably require and the Corporation have approved the erection of the stand under this section.

(2) Within five weeks from the receipt of such a notice from any person the Corporation may give him notice that they approve the erection of the stand but only subject to—

(*a*) such modifications of the plan section and particulars submitted to them; and

(*b*) compliance with such requirements as to maintenance and otherwise;

as may be specified in the notice being modifications and requirements which appear to the Corporation to be necessary for securing the stability of the stand and protection against fire and generally for securing the safety of persons to be accommodated thereon.

(3) If a notice given under subsection (1) of this section states the period for which it is proposed that the stand will remain erected the Corporation shall have regard to that statement in considering what modifications and requirements shall be prescribed by a notice under subsection (2) of this section but

PART X —*cont.*

may by the last-mentioned notice require that the stand shall be pulled down and removed within such time from the expiration of that period as may be specified in the notice or such further time as the Corporation may allow.

(4) The Corporation may at any time within the said five weeks give notice that they approve the erection of the stand in accordance with the plan section and particulars submitted to them and if within the said five weeks the Corporation have not given notice under subsection (2) of this section they shall be deemed for the purposes of this section to have so approved the erection of the stand.

(5) Any person aggrieved by a requirement or other decision of the Corporation under this section may appeal to a court of summary jurisdiction.

(6) If any person—

(*a*) commences to erect in contravention of subsection (1) of this section a stand capable of affording seating or standing accommodation for twenty or more persons at any one time ; or

(*b*) erects such a stand otherwise than in accordance with a plan section and particulars submitted to the Corporation under the said subsection (1) or if notice has been given of any modifications under subsection (2) of this section otherwise than in accordance with the said plan section and particulars as modified by the notice ; or

(*c*) being the owner or occupier of such a stand erected otherwise than as aforesaid allows twenty or more persons to be on the stand at any one time ; or

(*d*) being the owner or occupier of such a stand fails to comply with any requirement imposed by a notice under subsection (2) or subsection (3) of this section ;

he shall be liable to a penalty not exceeding fifty pounds and in the case of any such failure to a daily penalty not exceeding forty shillings :

Provided that nothing in this subsection shall apply to a stand the erection whereof was commenced before the appointed day.

(7) For the purposes of paragraph (*a*) of subsection (1) of section 287 of the Act of 1936 as applied by this Act the provisions of this section shall be provisions which it is the duty of the Corporation to enforce.

(8) The provisions of this section shall not apply to any stand erected by the proprietor of a travelling circus roundabout or amusement fair for the purposes of his business as such.

PART X —*cont.*

(9) The provisions of this section shall not apply to any stand erected by the British Transport Commission for the accommodation of passengers or servants of the said commission under the provisions of section 104 of the London Passenger Transport Act 1934 section 65 of the London Passenger Transport Act 1938 and subsection (4) of section 65 of the Transport Act 1947.

24 & 25 Geo. 5. c. xcvi.
1 & 2 Geo. 6. c. xcii.
10 & 11 Geo. 6. c. 49.

(10) Nothing in this section shall apply to any stand or structure provided or erected in connection with any music or dancing entertainment boxing entertainment or wrestling entertainment as defined by the Surrey County Council Acts 1931 and 1936 or any premises in respect of which the licence of the county council is required for the performance of stage plays or cinematograph exhibitions.

21 & 22 Geo. 5. c. ci.
26 Geo. 5. & 1 Edw. 8. c. cxxx.

(11) In this section the expression "stand" includes a structure but does not include a building or extension of a building to which building byelaws are applicable.

PART XI

FINANCIAL PROVISIONS

Power to borrow.

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

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

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

87. 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.

Dividend warrants by post.

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

PART XI —*cont.*

time to time send orders for the payment of interest or dividend warrants by post to the address of such person appearing in the register:

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

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

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

45 & 46 Vict. c. 61.

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

Scheme for equated periods.

89.—(1) The Corporation may at any time and from time to time make a scheme for prescribing one or more uniform periods within which all or any loans contracted by them under statutory borrowing powers shall be discharged and such scheme may extend or vary the periods within which such loans shall be discharged and may apply to any such loans all or any of the provisions of this Act and the Act of 1933 in regard to the borrowing and repayment of money with or without modification and may make provision in regard to all matters incidental to the objects aforesaid.

(2) Any scheme made by the Corporation under this section shall have no force or effect until confirmed by the Minister who may by order confirm the same with or without modifications and when so confirmed the scheme shall notwithstanding any enactment order or sanction to the contrary have full force and effect and such scheme shall be deemed to be within the powers of this Act.

(3) Nothing in any scheme made under this section shall prejudice or affect the security rights and remedies of any mortgagee under any mortgage existing at the time of the confirmation of the scheme or of the holder of any stock or bonds existing at that time except with the consent of such mortgagee or holder.

PART XI —*cont.*

(4) The loans referred to collectively in any scheme under general headings in accordance with a classification approved by the Minister may be consolidated and dealt with in the accounts of the Corporation as if the aggregate amount of the several loans relative to each heading were one loan raised under one statutory borrowing power and if approved by the Minister separate consolidations may be made of all or any of the loans included under such general headings.

(5) Any scheme confirmed under this Act may be altered extended amended or annulled by any other scheme prepared and confirmed in like manner as the original scheme.

Consolidated loans fund.

90.—(1) Notwithstanding anything contained in any enactment the Corporation (if they think fit) may on or after the thirty-first day of March nineteen hundred and fifty-two establish a fund to be called " the consolidated loans fund " to which shall be paid—

(*a*) all moneys borrowed by the Corporation by the issue of any authorised securities together with all moneys borrowed under any enactment without or pending the issue of an authorised security in connection with the exercise of any statutory borrowing power ;

(*b*) all moneys of a capital nature received by the Corporation whether from the sale of capital assets or otherwise except such as are to be applied by the Corporation with due authority to another capital purpose ; and

(*c*) the appropriate sums provided in each financial year out of other funds of the Corporation to comply with the terms and conditions as to repayment attaching to their several borrowing powers or otherwise provided for the repayment of debt :

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

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

(*a*) in the redemption of authorised securities the purchase of bonds or stock for extinction or the repayment of any moneys borrowed by the Corporation ; and

(*b*) in the exercise of any statutory borrowing power by the transfer of the required amount to the appropriate fund and account of the Corporation :

And the moneys of the consolidated loans fund not used or applied in these ways or intended to be so used or applied within a reasonable period shall be invested in statutory securities and

PART XI —*cont.*

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

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

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

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

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

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

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

(7) Any scheme approved by the Minister under this section may from time to time be altered extended amended or revoked by a scheme made and approved in like manner as the original scheme.

PART XI —*cont.*

Capital fund.

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

(*a*) any sums derived from the sale of any property of the Corporation;

(*b*) the surplus of the revenue income over the revenue expenditure of the general rate fund (not required by law to be applied to or carried forward for any other purpose) on the thirty-first day of March in any year or any part of such surplus; and

(*c*) such other sums from the revenue of the general rate fund (in addition to a sum equal to the interest earned on the capital fund and any income arising from the application of the fund to the purposes authorised) as the council may by resolution direct (not being moneys directed by law to be applied to any other purpose):

Provided that—

(i) the aggregate amount paid to the capital fund under paragraphs (*b*) and (*c*) of this subsection (exclusive of the sum equal to the interest earned on the capital fund and any income arising from the application of that fund to the purposes authorised) shall not except with the consent of and to such extent as may be approved by the Minister exceed in any year the equivalent of twice the product of a penny rate as ascertained or estimated for the purpose of section 9 of the Rating Act 1925;

(ii) payments into the capital fund shall not be made whenever that fund amounts to the sum of fifty thousand pounds or such greater sum as may from time to time be approved by the Minister.

(2) The Corporation may apply the moneys in the capital fund in defraying any expenditure to which capital is properly applicable (other than expenditure in connection with an undertaking from which revenue is derived) or in providing money for the repayment of loans (but not in making the annual payment required to be made therefor):

Provided that the amount to be expended under this subsection shall not exceed the sum of ten thousand pounds in any one transaction unless a greater sum shall in any case be allowed by the Minister.

(3) (*a*) Pending the application of the moneys in the capital fund to the purposes authorised by the last preceding subsection

PART XI —*cont.*

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 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 and (subject to the limitation imposed by proviso (ii) to subsection (1) of this section) an amount equivalent to such income shall be credited to the capital fund out of the general rate fund.

(4) All moneys derived from the sale of any land of the Corporation which are applied from the capital fund under the provisions of this section shall and all other moneys which are applied from the capital fund may if the Corporation think fit be repaid from the account to which such moneys were advanced by such annual instalments with or without interest and within such period as may be determined by the Corporation.

(5) Any sum derived from the sale of any corporate land of the Corporation as defined by section 305 of the Act of 1933 and paid to the capital fund shall not except with the consent of the Minister be applied otherwise than in the purchase or acquisition of other corporate land.

Renewal and repairs fund.

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

(2) The Corporation may from time to time pay into the renewal and repairs fund such sums as they think fit from the revenue of the general rate fund (including a sum equal to the interest earned on the renewal and repairs fund and any income arising from the application of that fund to the purposes authorised) but the maximum standing to the credit of the renewal and repairs fund shall not except with the approval of the Minister at any time exceed the sum of fifty thousand pounds.

PART XI —*cont.*

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

(*b*) Any income arising from the investment of the moneys in the renewal and repairs fund in manner provided by this subsection shall be carried to and form part of the general rate fund and (subject to the limitation imposed by subsection (2) of this section) an amount equivalent to such income shall be credited to the renewal and repairs fund.

Insurance fund.

93.—(1) The Corporation may (if they think fit) establish a fund to be called " the insurance fund " with a view to providing a sum of money which shall be available for making good all such losses damages costs and expenses as may from time to time be specified in a resolution of the council (in this section referred to as " the specified risks ").

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

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

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

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

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

(5) The Corporation shall provide the yearly payments aforesaid by contributions from the revenue of the general rate fund and (if they think fit) from the housing revenue account and shall show the same in their accounts under the separate heading or division in respect of the particular undertaking department

PART XI —*cont.*

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

Provided that any payments by contribution from the housing revenue account shall not exceed the proportion of the total yearly payments which in the opinion of the Corporation properly relates to the specified risks arising from the purposes for which that account is kept.

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

(*b*) In addition to the sum required to be paid into the insurance fund by subsection (3) of this section the Corporation shall in every year so long as the insurance fund is less than the prescribed amount carry to the credit of that fund out of the general rate fund an amount equal to the interest and other annual proceeds carried to the general rate fund in pursuance of the last preceding paragraph.

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

(7) (*a*) The insurance fund shall be applied to meet any losses damages costs or expenses sustained by the Corporation in consequence of the whole or any part of all or any of the specified risks in the order of the dates on which such losses damages costs or expenses become ascertained and if at any time and from time to time the insurance fund shall be insufficient to make good any such losses damages costs or expenses the Corporation may with the sanction of the Minister borrow at interest under and subject to the provisions of Part IX of the Act of 1933 such sums of money as will be necessary to make up the deficiency.

(*b*) The amounts of the annual charges in respect of interest on and repayment of principal of any sums borrowed in pursuance of this subsection and the amounts of any such

PART XI —*cont.*

deficiencies as aforesaid not made up by borrowing shall be paid out of the general rate fund and charged in the accounts of the Corporation under the separate headings or divisions in respect of such undertakings departments or services of the Corporation and in such proportions as the Corporation may determine having regard to the risks through which such deficiencies arise.

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

Power to grant allowances or gratuities in certain cases.

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

Provided that this section shall not apply—

(*a*) in the case of a widow to whom a pension is granted in pursuance of section 9 (Allocation of part of superannuation benefits to wife or husband) of the Local Government Superannuation Act 1937; or 1 Edw. 8. & 1 Geo. 6. c. 68.

(*b*) in the case of a widow or dependant entitled in consequence of the death of such employee to compensation under the Workmen's Compensation Acts 1925 to 1943 or to death benefit under the National Insurance (Industrial Injuries) Act 1946. 9 & 10 Geo. 6. c. 62.

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

Payments due to deceased employees.

95.—(1) If on the death of an employee (which expression in this section includes a former employee or pensioner of the Corporation or other person) to whom or to whose personal representative a sum not exceeding one hundred pounds is due from the Corporation on account of salary wages superannuation allowance pension gratuity grant or repayment of contributions to any superannuation fund or of contributions otherwise made in respect of superannuation with or without interest a grant of probate of the will of the employee or of letters of administration to his estate is not produced to the Corporation within such time (not being less than one month after his death) as the Corporation may think reasonable then at the expiration of that time the Corporation may pay such sum to the person or persons entitled to the residuary estate of the employee by virtue of the provisions

PART XI —*cont.*

of paragraphs (i) to (vi) inclusive of subsection (1) of section 46 of the Administration of Estates Act 1925 and section 9 of the Legitimacy Act 1926 to the intent that such sum shall be applied in due course of administration:

15 & 16 Geo. 5. c. 23.
16 & 17 Geo. 5. c. 60.

Provided that—

(*a*) the Corporation may (notwithstanding the receipt of a notice under proviso (*b*) of this subsection) if they think fit pay out of such sum the funeral expenses of the deceased employee or so much thereof as the Corporation consider reasonable having regard to any death grant which has been or is to be paid under section 22 of the National Insurance Act 1946;

9 & 10 Geo. 6. c. 67.

(*b*) if the Corporation receive notice in writing of any claim against the estate of the deceased employee at any time before they shall have paid the whole of such sum in accordance with the provisions of this subsection they shall not (except in any case in which the provisions of paragraph (vi) of subsection (1) of section 46 of the Administration of Estates Act 1925 are applicable) pay such sum or the balance thereof in their hands to any person other than to the personal representative of the deceased employee unless and until such claim has been satisfied disproved or withdrawn.

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

(*a*) a statutory declaration (or when payment is made to the Crown or to the Duchy of Lancaster or to the Duchy of Cornwall a statement) by the person or one of the persons to whom the Corporation may pay or propose to pay such sum or any part thereof to the effect that the total estate of the deceased employee (including such sum but after deduction of debts and funeral expenses) does not exceed four hundred pounds; or

(*b*) the production of a certificate from the Commissioners of Inland Revenue to the effect either that no death duties are payable in respect of such sum or that any duties so payable have been paid.

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

PART XI —*cont.*

Payment of pension etc., of person of unsound mind. 53 Vict. c. 5.

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

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

(3) This section applies to any sum payable by the Corporation to an employee or former employee or pensioner of the Corporation or the widow or a child of a deceased employee or pensioner by way of salary wages pension superannuation or other allowance gratuity or annuity or by way of repayment with or without interest of contributions made to any superannuation or other fund being either a lump sum not exceeding one hundred pounds or an instalment of a periodical payment not exceeding one hundred pounds per annum.

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

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

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

PART XI —*cont.*

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

As to proof of continued existence of pensioners. 2 & 3 Geo. 6. c. 18. 7 & 8 Geo. 6. c. 21. 10 & 11 Geo. 6. c. 7.

97. Notwithstanding anything in the Local Government Superannuation Acts 1937 and 1939 the Corporation shall not be required to make any payment by way of superannuation allowance or pension under those Acts or under the Pensions (Increase) Acts 1944 and 1947 to or for the benefit of any person unless satisfactory proof is given to the Corporation in such manner and at such times as they may from time to time require of the continued existence of such person.

Expenses of public ceremonies etc.

98. The Corporation may pay—

(*a*) reasonable expenses of the Corporation in providing public entertainments on the occasion of or otherwise in connection with public ceremony or rejoicing and in the reception and entertainment of distinguished persons residing in or visiting the borough;

(*b*) reasonable expenses in connection with official and courtesy visits by or on behalf of the Corporation and payments for travelling expenses and for expenses reasonably incurred by or on behalf of any member or officer of the Corporation in connection therewith; and

(*c*) reasonable expenses in connection with the presentation of the freedom of the borough to persons whom the council may resolve to admit as honorary freemen.

Subscriptions to scientific bodies and other expenses.

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

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

PART XI —*cont.*

Recovery of rate etc. from persons removing.

100. If a justice is satisfied on complaint by any officer of the Corporation duly authorised that any person is quitting or about to quit any premises in the borough and has failed to pay on demand any general or special rate which may be due from him 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 person in default to meet the claim of the Corporation and to detain them until the complaint is determined upon the return of the summons.

Recovery of rates from certain owners.

101.—(1) Where the owner of any hereditament has agreed with the occupier thereof that the owner shall pay the general rate charged on such hereditament the owner shall be liable to pay to the Corporation so much of any payment in respect of rent received by him from the occupier as shall represent the proportion of rate 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 (Rating of and collection of rates by owners) of the Rating Act 1925 applies by virtue of a resolution of the council.

As to recovery of rates from tenants and lodgers.

102. For the purposes of section 15 of the Rating Act 1925 the rates due from the person rated for any hereditament within the borough 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.

Service of demand notes.

103. The provisions of section 59 (Service of notices etc.) of the Rating Act 1925 relating to the sending or service of demand notes shall apply to demand notes for any charges made in connection with any undertaking department or service of the Corporation.

PART XII

MISCELLANEOUS

Prohibition on solicitation of school children to sell or exchange articles etc. at schools.

104.—(1) While any person who is a registered pupil at a school maintained by the local education authority is entering or leaving any such school or is entering or leaving any yard or playground appurtenant to any such school or is any such yard or playground no person shall solicit such pupil—

(*a*) to sell to such person any article or thing; or

(*b*) to exchange with such person any article or thing for any other article or thing.

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

Provision of lectures etc.

105. It shall be lawful for the Corporation—

(*a*) to provide suitable lecture rooms and to cause lectures to be given on such subjects as the Corporation think fit and to let such rooms and to make reasonable charges for admission to such lectures; and

(*b*) to provide suitable rooms for art exhibitions and to permit art exhibitions in such rooms and to let such rooms and to make reasonable charges for admission to such exhibitions:

Provided that the sum to be expended by the Corporation in any one year on the provision of lectures shall not exceed the equivalent of one-quarter of the product of a rate of one penny in the pound as ascertained or estimated for the purpose of subsection (2) of section 9 (Provisions as to precepts) of the Rating Act 1925 in addition to any moneys received by the Corporation under the provisions of this section.

Information centres. 11 & 12 Geo. 6. c. 26.

106. The powers of the Corporation under section 134 of the Local Government Act 1948 shall extend to any information concerning the borough and its neighbourhood.

Prizes for garden competitions.

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

Summary recovery of damages for negligence.

108. Any compensation recoverable by the Corporation for damage caused by negligence to any lamp or lamp-post belonging to them or any apparatus or equipment provided by them in any street or public place shall if the amount thereof does not exceed twenty pounds be recoverable summarily as a civil debt.

Provision of weighing machines.

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

PART XII —*cont.*

Power to erect weighbridges.

110.—(1) The Corporation may erect and maintain on any open space or public place on or adjoining any highway in the borough such weighbridges or weighing machines and offices in connection therewith as they may consider necessary or desirable for the use of the public.

(2) The Corporation may make such reasonable charges as they may determine for and in respect of the use of any such weighbridge or weighing machine.

(3) Any person shall on payment of the proper charges in respect thereof be entitled to use any of the weighbridges or weighing machines erected by the Corporation under the provisions of this section.

(4) The Corporation shall not—

(*a*) exercise the powers of this section in such a manner as to obstruct or interfere with the access to or exit from any station or depot of any railway or statutory road transport undertakers without the previous consent in writing of such undertakers; or

(*b*) exercise the powers of this section so as to cause damage to or obstruct the access to any mains cables wires pipes hydrants meters or other works or apparatus belonging to any statutory undertakers or lawfully laid down by them or their predecessors:

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

(5) The Corporation shall not place a weighbridge on any part of a trunk road without the consent of the Minister of Transport.

Powers to use ladders etc. for entry or inspection.

111.—(1) Any power conferred on an officer of the Corporation by any enactment or byelaw to enter upon and inspect any building or works in course of construction shall include a power to use free of expense for the purpose of the entry or inspection any ladders scaffolding and plant in or about the building or works.

(2) If the builder of or contractor for any such building or works or any person employed by him in or about the building or works—

(*a*) refuses to give to such an officer all reasonable assistance in the exercise of the powers conferred by this section; or

(*b*) otherwise obstructs such an officer in the exercise of those powers;

he shall be liable to a penalty not exceeding five pounds.

PART XIII
GENERAL

In executing works for owner Corporation liable for negligence only.

112.—(1) Where under any enactment the Corporation or any of their officers execute any work or do any act or thing in default or at the request of any person required by the Corporation to execute such work or do such act or thing the Corporation shall not as between themselves and such person in the absence of any negligence on the part of the Corporation any such officer or any contractor employed by them or him be liable to pay any damages for or in respect of or consequent upon the executing of the work or the doing of the act or thing and any such damages paid by the Corporation in the absence of negligence as aforesaid shall be deemed to be part of the expenses payable by such person and shall be recoverable accordingly.

(2) In this section the expression "damages" includes penalties costs and charges.

Apportionment of expenses in case of joint owners.

113. Where under the provisions of this Act or any local Act in force in the borough the Corporation shall execute any works of common benefit to two or more buildings belonging to different owners the expenses which under those Acts or any of them are recoverable by the Corporation from the owners shall be paid by the owners of such buildings in such proportions as shall be determined by the Corporation or in case of dispute by a court of summary jurisdiction.

Damages and charges to be settled by court.

114. Where any damages expenses or charges are directed or authorised to be paid or recovered in addition to any penalty for any offence in this Act mentioned the amount of such damages expenses or charges in case of dispute respecting the same may be settled and determined by the court before whom any offender is convicted.

Breach of conditions of consent of Corporation.

115. Where in pursuance of any enactment for the time being in force in the borough the Corporation give their consent to the execution of any work or the doing of any act or thing subject to any terms or conditions which they are authorised to impose any breach of any such terms or conditions shall be deemed as regards liability to a penalty and other consequences equivalent to the execution of the work or the doing of the act or thing without the required consent.

Compensation how to be determined.

116. When any compensation costs damages or expenses is or are by any enactment for the time being in force in the borough directed to be paid and the method for determining the amount thereof is not otherwise provided for such amount shall in case of dispute be ascertained in the manner provided by subsection (2) of section 278 of the Act of 1936.

PART XIII —*cont.*

117. Section 265 of the Public Health Act 1875 shall extend and apply to the purposes of any enactment for the time being in force applying to the Corporation as if the same were re-enacted therein.

Application of section 265 of Public Health Act 1875.

118. Where under this Act any dispute or difference is to be referred to arbitration then unless other provision is made the reference shall be to a single arbitrator to be agreed upon between the parties to the dispute or difference or in default of such agreement to be appointed on the application of either party (after notice in writing to the other of them) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to such arbitration.

Application of Arbitration Act 1950.

14 Geo. 6. c. 27.

119. The Minister and the Minister of Food may hold such inquiries as they respectively may consider necessary in regard to the exercise of any powers conferred upon them or the giving of consents under this Act and section 290 (Power of government departments to direct inquiries) of the Act of 1933 shall apply accordingly.

Inquiries.

120. The sections of the Act of 1936 hereinafter mentioned shall have effect as if they were re-enacted in this Act and in terms made applicable thereto (that is to say):—

Application of provisions of Act of 1936.

Section 271 (Interpretation of " provide ");

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

Section 276 (Power of local authority to sell certain materials);

Section 277 (Power of councils to require information as to ownership of premises);

Section 283 (Notices to be in writing; forms of notices &c.);

Section 284 (Authentication of documents);

Section 285 (Service of notices &c.);

Section 286 (Proof of resolutions &c.);

Section 287 (Power to enter premises);

Section 288 (Penalty for obstructing execution of Act);

Section 289 (Power to require occupier to permit works to be executed by owner);

Section 291 (Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments);

PART XIII —*cont.*

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 IV (Streets) Part V (Sanitation and buildings) Part VI (Nuisances and offensive trades) Part VII (Infectious diseases) and Part VIII (Food) of this Act.

Confirming authority for byelaws.

121. As respects byelaws made under this Act the confirming authority for the purpose of section 250 of the Act of 1933 shall be the Minister except that in the case of byelaws made under section 77 (Byelaws as to meat for feeding animals) of this Act the confirming authority shall be the Minister of Food.

Appointed day.

122.—(1) For the purposes of this Act the expression "the appointed day" means such day as may be fixed by resolution of the council subject to and in accordance with the provisions of this section.

(2) Different days may be fixed under this section for the purpose of different provisions of this Act.

(3) The Corporation shall cause to be published in a local newspaper circulating in the borough notice—

(*a*) of the passing of any such resolution and of the date fixed thereby ; and

(*b*) of the general effect of the provisions of this Act coming into operation as from that date ;

and the date so fixed shall not be earlier than the expiration of one month from the date of publication of the said notice.

(4) A copy of—

(*a*) any such newspaper containing any such notice ; or

(*b*) a photostatic or other reproduction certified by the town clerk to be a true reproduction of a page of any such newspaper bearing the date of its publication and containing any such notice ;

shall be evidence of the publication of the notice and of the date of the publication.

(5) Where any provision of this Act coming into operation on a day fixed by resolution under this section requires the licensing or registration of a person carrying on any business or of premises used for any purpose it shall be lawful for any person who—

(*a*) immediately before that day was carrying on that business or using any premises for that purpose ; and

(*b*) had before that day duly applied for the licence or registration required by that provision ;

to continue to carry on that business and to use those premises for that purpose until he is informed of the decision with regard to his application and if the decision is adverse during such further time as is provided under subsection (2) of section 124 (Appeals) of this Act.

Restriction on right to prosecute.

123. Proceedings in respect of an offence created by or under this Act shall not without the written consent of the Attorney-General be taken by any person other than a party aggrieved or the Corporation.

Appeals.

124.—(1) Section 300 of the Act of 1936 shall apply with respect to appeals to a court of summary jurisdiction under any enactment in this Act as it applies with respect to such appeals under any enactment in that Act and sections 301 and 302 of that Act shall apply accordingly.

(2) Where any requirement refusal or other decision of the Corporation against which a right of appeal is conferred by this Act—

(*a*) involves the execution of any work or the taking of any action ; or

(*b*) makes it unlawful for any person to carry on any business which he was lawfully carrying on up to the time of the requirement refusal or decision or to use any premises for any purpose for which they were lawfully used up to that time ;

PART XIII —*cont.*

then until the time for appealing has expired or when an appeal is lodged until the appeal is disposed of or withdrawn or fails for want of prosecution—

(i) no proceedings shall be taken in respect of any failure to execute the work or take the action nor shall the Corporation themselves execute the work or take the action ; and

(ii) that person may carry on that business and use those premises for that purpose.

For protection of county council.

125.—(1) Unless otherwise agreed in writing between the Corporation and the county council and subject to such conditions as the county council may determine nothing in the undermentioned sections of this Act shall apply to any county road in respect of which the functions of maintenance and repair are for the time being vested in or exercisable by the county council:—

Section 19 (Variation of width of carriageways and footways) ;

Section 20 (Adjustment of boundaries of streets) ;

Section 21 (Direction signs) ;

Section 25 (Crossings over footways) ;

Section 32 (Pavement lights and ventilators) ;

Section 80 (Transmission of entertainments) ;

Section 84 (Barriers in streets) ;

Section 110 (Power to erect weighbridges).

(2) In relation to—

(*a*) any structure referred to in subsection (1) of section 23 (Erection of structures at street corners) of this Act which is at or within a distance of ten yards from the corner of a county road in respect of which the functions of maintenance and repair are for the time being vested in and exercisable by the county council ; or

(*b*) any retaining wall referred to in subsection (1) of section 26 (Retaining walls) of this Act which is on a street which is a county road in respect of which the functions of maintenance and repair are for the time being vested in and exercisable by the county council ;

the Corporation will refer to the county council any plans sections and specifications submitted for the approval of the Corporation under subsection (1) of the said section 23 or subsection (2) of the said section 26 as the case may be and will consider any representations made on behalf of the county council in respect thereto within twenty-one days from the date when such plans sections and specifications were sent to the county council.

PART XIII —*cont.*

For protection of certain statutory undertakers.

126. For the protection of the British Electricity Authority the South Eastern Electricity Board the South Eastern Gas Board and the Sutton District Water Company (each of whom is in this section referred to as " the undertakers ") the following provisions shall unless otherwise agreed in writing between the Corporation and the undertakers apply and have effect:—

(1) In this section—

" apparatus " means mains cables wires pipes syphons valves hydrants meters and other works and apparatus belonging to the undertakers or lawfully laid down by them or their predecessors ; and

" position " includes depth:

(2) If it shall be agreed between the Corporation and the undertakers or (in the case of difference) determined by arbitration that in consequence of the stopping up or diversion under an order made pursuant to section 31 (Stopping up and diversion of highways) of this Act of any highway or any length of a highway in under upon or over which any apparatus is situate it is reasonably necessary that any such apparatus should be removed or diverted or that the position of any such apparatus should be altered or that new apparatus should be laid in the highway as diverted in substitution for apparatus in the existing highway or that works (hereinafter referred to as " protective works ") for the protection of any such apparatus should be executed the undertakers may and (if reasonably so required by the Corporation) shall remove or divert or alter the position of or execute protective works in respect of the apparatus in such manner as may be agreed or determined by arbitration and the Corporation shall repay to the undertakers the amount of the costs and expenses reasonably incurred by the undertakers in or in connection with such removal diversion alteration or laying or the execution of such protective works subject however to the provisions of the two next succeeding subsections:

(3) The undertakers shall not be entitled to any payment by virtue of the last preceding subsection if the existing apparatus of the undertakers had been erected laid or constructed in under upon or over the highway affected within two years immediately preceding the giving by the Corporation of the relevant notice required by subsection (5) of this section and if notice in writing of their intention to exercise the powers necessitating the removal or diversion or alteration of position of the apparatus or the laying of new apparatus or the execu-

PART XIII —*cont.*

tion of protective works with a statement of the manner in which and the extent to which they intended to exercise such powers was given by the Corporation to the undertakers within eight days from the date on which the intention to erect lay or construct the apparatus was signified to the Corporation by the submission of a plan and section if the erection laying or construction of such apparatus was a work to which section 3 of the Act of 1950 applied or by a notice under section 6 of that Act if such erection laying or construction was not such a work:

(4) If in carrying out or executing any such work as is referred to in subsection (2) of this section—

(*a*) (i) the undertakers erect lay or construct new apparatus in substitution for their existing apparatus; and

(ii) the existing apparatus was erected laid or constructed before the commencement of the period of seven years and six months immediately preceding the carrying out or execution of such work; or

(*b*) the costs and expenses reasonably incurred by the undertakers as mentioned in subsection (2) of this section (hereinafter referred to as "the said expenses") are enhanced by—

(i) the substitution for the existing apparatus of apparatus of better type of greater dimensions (other than length) or of greater capacity; or

(ii) the erection laying or construction of apparatus at a depth greater than that of the existing apparatus except where and to the extent to which such greater depth is reasonably necessary in order to avoid interference with other underground apparatus works or structures;

the undertakers shall themselves bear (in the case referred to in paragraph (*a*) of this subsection) such proportion of the said expenses as represents the estimated saving of expense to the undertakers resulting from the consequent deferment of the date at which such existing apparatus would have required to be renewed and (in the case referred to in paragraph (*b*) of this subsection) such proportion of the said expenses as represents the amount by which such expenses exceed the cost which would have been incurred if the type dimensions (other than length) or capacity of the apparatus had been the same as those of the original apparatus or if the apparatus had been laid or constructed at the same depth as the existing apparatus:

PART XIII —*cont.*

(5) The Corporation shall give to the undertakers not less than twenty-nine days' notice in writing of their intention to exercise any of the powers conferred by section 31 (Stopping up and diversion of highways) of this Act with respect to any portion of a highway in under upon or over which any apparatus is situate and such notice shall be accompanied by a plan and (in the case of a diversion of a highway) a section showing the nature and extent of the proposals in so far as they relate to any such portion of a highway as aforesaid:

(6) If within twenty-nine days after the receipt from the Corporation of any notice under the last preceding subsection of their intention to exercise any such powers as are conferred by the said section 31 the undertakers give to the Corporation notice in writing of their intention (otherwise than by the requirement of the Corporation) to remove or divert or alter the position of any apparatus or to lay new apparatus or to execute protective works in respect of any apparatus affected by the exercise of such powers and in the case of a diversion alteration of position the laying of new apparatus or the execution of protective works at the same time deliver to the Corporation a plan section and particulars of any such diversion or alteration of position of apparatus or such laying of new apparatus or particulars of any such protective works (as the case may be) the Corporation shall not exercise the powers referred to in the notice given by them as aforesaid until—

(*a*) it shall have been agreed between the Corporation and the undertakers or settled by arbitration whether such intended removal diversion or alteration of position of apparatus or the laying of new apparatus or the execution of such intended protective works is reasonably necessary; and

(*b*) (i) in the case of any code-regulated works within the meaning of Part I of the Act of 1950 to which section 3 of that Act applies a plan and section of the works have been settled in accordance with the provisions of the said Part I; and

(ii) in any other case a plan section and particulars of any diversion or alteration of position to be carried out or of any new apparatus to be laid or particulars of any protective works to be executed have been agreed between the Corporation and the undertakers or settled by arbitration:

Provided that if the proposals contained in any notice given to the Corporation by the undertakers under this

PART XIII —*cont.*

subsection and any plans sections or particulars delivered to the Corporation with such notice are not disapproved by the Corporation within twenty-nine days after the receipt thereof the said proposals shall be deemed for the purposes of this section to be reasonably necessary and the Corporation shall be deemed to have approved such plans sections or particulars:

(7) Forthwith after the completion of any such removal or diversion or alteration of position of apparatus or of any such protective works the undertakers shall if reasonably required by the Corporation fill in the excavation and make good the surface of the ground to the reasonable satisfaction of the Corporation:

(8) Notwithstanding the giving up under the powers of section 20 (Adjustment of boundaries of streets) of this Act of land forming part of a street or the stopping up or diversion under an order made pursuant to section 31 (Stopping up and diversion of highways) of this Act of any highway or any length of a highway in under upon or over which highway or length of a highway any apparatus is situate the undertakers shall (unless the apparatus is removed or diverted or unless new apparatus has been laid in substitution therefor) continue to have the same powers and rights in respect of such apparatus as if the land in under upon or over which the same is situate had continued to be part of the street or highway:

Provided that nothing in this subsection shall extend or apply the provisions of the Act of 1950 to the exercise of any powers or rights in any case in which those provisions would not have applied if this subsection had not been enacted:

(9) The provisions of section 24 (Application of building line to walls etc.) of this Act shall not apply to any wall erected on land belonging to the South Eastern Gas Board at the date of the passing of this Act so long as that land is used by the board for the purposes of their undertaking:

(10) The Corporation shall not exercise the powers of section 84 (Barriers in streets) of this Act so as to render less convenient the access to any apparatus:

(11) Any difference or dispute which may arise between the Corporation and the undertakers under this section shall be referred to arbitration.

For protection of Postmaster-General.

127.—(1) Where in pursuance of section 20 (Adjustment of boundaries of streets) of this Act the Corporation enter into an agreement with a person having a legal interest in land adjoining

PART XIII —*cont.*

a street for the conveyance to that person of the site of any part of the street and immediately before the date on which the site ceases to be part of the street there was under in upon over along or across such site any telegraphic line belonging to or used by the Postmaster-General the Postmaster-General shall have the same powers in respect of that line as if such site had remained part of the street:

Provided that if any person in whom such site is vested desires that such telegraphic line should be altered paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 shall apply to the alteration and accordingly shall have effect subject to any necessary modifications as if references therein to undertakers included references to the said person desiring the alteration.

(2) As between the Corporation and the Postmaster-General nothing in the foregoing subsection shall affect the operation of Part II of the Act of 1950 or the rights of the Postmaster-General and the Corporation thereunder.

(3) Where any highway or portion of a highway is stopped up in pursuance of an order made under section 31 (Stopping up and diversion of highways) of this Act the following provisions shall unless otherwise agreed in writing between the Corporation and the Postmaster-General have effect in relation to any telegraphic line belonging to or used by the Postmaster-General which is under in upon over along or across such highway or portion of a highway at the time of such stopping up:—

(*a*) The power of the Postmaster-General to remove the line shall be exercisable notwithstanding the stopping up of the highway or portion of the highway so however that the said power shall not be exercisable as respects the whole or any part of the line after the expiration of a period of three months from the date mentioned in subsection (4) of this section unless before the expiration of that period the Postmaster-General has given notice to the Corporation of his intention to remove the line or that part thereof as the case may be;

(*b*) The Postmaster-General may by notice to the Corporation in that behalf abandon the said line or any part thereof and shall be deemed as respects the line or any part thereof to have abandoned it at the expiration of the said period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it;

(*c*) The Postmaster-General shall be entitled to recover from the Corporation the expense of providing in substitution for the line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the line a telegraphic line in such other place as the Postmaster-General may require;

PART XIII —*cont.*

(*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 1949 shall not apply in relation to the line or part in question as respects anything done or omitted after the abandonment thereof.

(4) As soon as the whole or any portion of any highway has been stopped up the Corporation shall send by post to the Postmaster-General a notice informing him of such stopping up and the period of three months mentioned in subsection (3) of this section shall commence to run from the date on which such notice is sent.

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

Saving for town and country planning.

128. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

Costs of Act.

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

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ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Division of Act into Parts.
3. Incorporation of Lands Clauses Acts.
4. Interpretation.

PART II

SEWAGE

5. Payments by certain authorities for reception treatment and disposal of sewage.

PART III

LANDS

6. Powers of leasing.
7. Reservation of easements etc. by Corporation.
8. Proceeds of disposal of surplus land.
9. Development of land.
10. Loans for erection etc. of buildings.
11. Extension of power to acquire land by agreement.
12. Power to reinstate owners or occupiers of property.
13. Entry on lands for purpose of survey etc.
14. Undertakings and agreements binding successive owners.
15. For protection of Sutton District Water Company.

PART IV

STREETS

16. Interpretation of Part IV.
17. Termination of new streets.
18. Trees grass verges and gardens.
19. Variation of width of carriageways and footways.

Section
20. Adjustment of boundaries of streets.
21. Direction signs.
22. Attachment of street lamps brackets etc.
23. Erection of structures at street corners.
24. Application of building line to walls etc.
25. Crossings over footways.
26. Retaining walls.
27. Fencing of forecourts.
28. Forecourts injurious to amenities of street.
29. Awnings over footways.
30. Urgent repairs of private streets.
31. Stopping up and diversion of highways.
32. Pavement lights and ventilators.
33. Maintenance of footpaths etc.
34. Removal of trees etc. from streets.
35. Removal of furniture from streets.
36. Mixing of mortar in streets.
37. Extension of power to contribute to expenses of private street works.
38. Application of Act of 1892 to parts of public streets.

PART V

SANITATION AND BUILDINGS

39. Recovery of cost of maintaining public sewers.
40. Separate sewers for foul water and surface water.
41. Delegation of power to examine and test drains etc.
42. Summary power to remedy stopped-up drains etc.
43. Power to repair drains and private sewers.
44. Penalty for improper construction or repair of water-closet etc.
45. Closet accommodation for separate dwellings.
46. Power to cleanse drains etc.
47. Sanitary conveniences for persons employed on construction work.
48. Abandoned drains to be cut off.

Buildings and structures

49. Ruinous and dilapidated buildings and neglected sites.
50. New building overreaching adjoining chimneys.
51. Height of new chimneys.
52. Power to order alteration of domestic chimneys.
53. Food storage accommodation.
54. Separate approach for separate tenements.

Filthy or verminous premises or articles

55. Cleansing of filthy or verminous premises.
56. Power to require vacation of premises during fumigation.
57. Prohibition of sale of verminous articles.
58. As to defective premises.

PART VI

NUISANCES AND OFFENSIVE TRADES

Section
59. Tipping of spoil and refuse.
60. Lighting ventilation and sanitation of stables.
61. Smoke from industrial furnaces.
62. Discharge of steam and waste gas.
63. Silencers for internal combustion engines.
64. Noise nuisance.
65. Discontinuance of offensive trade.
66. Nuisance from pigeons etc.

PART VII

INFECTIOUS DISEASES

67. Definition of notifiable disease.
68. Entry into premises in case of notifiable disease.
69. Information to be furnished by occupier in case of notifiable disease.
70. Restriction on attendance at schools places of assembly etc.
71. Exclusion of children from entertainments.
72. Compensation for stopping employment to prevent spread of disease.
73. Prohibition of tuberculous persons from handling food.

PART VIII

FOOD

74. Slaughter of animals otherwise than for human consumption.
75. Inedible fat.
76. Registration of hawkers of food and their premises.
77. Byelaws as to meat for feeding animals.

PART IX

PARKS CEMETERIES AND OTHER MUNICIPAL PROPERTY

78. Power to let parks etc. for games.
79. Parking places in parks etc.
80. Transmission of entertainments.
81. Saving for trusts etc.
82. Agreements to maintain graves and tombstones.
83. Extension of power to maintain burial grounds.

PART X

PUBLIC ORDER AND PUBLIC SAFETY

84. Barriers in streets.
85. Safety of stands.

PART XI

FINANCIAL PROVISIONS

Section

86. Power to borrow.
87. As to exercise of borrowing powers.
88. Dividend warrants by post.
89. Scheme for equated periods.
90. Consolidated loans fund.
91. Capital fund.
92. Renewal and repairs fund.
93. Insurance fund.
94. Power to grant allowances or gratuities in certain cases.
95. Payments due to deceased employees.
96. Payment of pension etc. of person of unsound mind.
97. As to proof of continued existence of pensioners.
98. Expenses of public ceremonies etc.
99. Subscriptions to scientific bodies and other expenses.
100. Recovery of rate etc. from persons removing.
101. Recovery of rates from certain owners.
102. As to recovery of rates from tenants and lodgers.
103. Service of demand notes.

PART XII

MISCELLANEOUS

104. Prohibition on solicitation of school children to sell or exchange articles etc. at schools.
105. Provision of lectures etc.
106. Information centres.
107. Prizes for garden competitions.
108. Summary recovery of damages for negligence.
109. Provision of weighing machines.
110. Power to erect weighbridges.
111. Powers to use ladders etc. for entry or inspection.

PART XIII

GENERAL

112. In executing works for owner Corporation liable for negligence only.
113. Apportionment of expenses in case of joint owners.
114. Damages and charges to be settled by court.
115. Breach of conditions of consent of Corporation.
116. Compensation how to be determined.
117. Application of section 265 of Public Health Act 1875.
118. Application of Arbitration Act 1950.
119. Inquiries.
120. Application of provisions of Act of 1936.
121. Confirming authority for byelaws.

Section

122. Appointed day.
123. Restriction on right to prosecute.
124. Appeals.
125. For protection of county council.
126. For protection of certain statutory undertakers.
127. For protection of Postmaster-General.
128. Saving for town and country planning.
129. Costs of Act.