



## CHAPTER xlix.

An Act to empower the mayor aldermen and burgesses of the county borough of Smethwick to acquire lands in the borough to make further provision with regard to their gas undertaking to authorise the supply of heat by means of hot water or steam and to make further provision for the health local government and improvement of the borough and for other purposes.

[30th July 1948.]

**W**HEREAS it is expedient to empower the mayor aldermen and burgesses of the county borough of Smethwick (in this Act called "the Corporation") to acquire certain lands in the borough for the purposes of their gas undertaking and the provision of a station for public service vehicles:

And whereas it is expedient to confer upon the Corporation the further powers relating to their gas undertaking contained in this Act:

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

And whereas it is expedient to make further provision in relation to the health local government and improvement of the borough and 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 <sup>23 & 24 Geo. 5.</sup> this Act the requirements of Part XIII of the Local Government Act 1933 have been observed: c. 51.

And whereas plans showing the lands required or which may be taken for the purposes or under the powers of this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands were duly deposited with the town clerk of the borough which plans and book of reference are in this Act respectively referred to as the deposited plans and book of reference:

And whereas a plan showing the line of the work authorised by this Act (such plan also showing the further lands required or which may be used for the purposes or under the powers of this Act) and also a book of reference to such plan containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of such lands were in the month of March nineteen hundred and forty-eight deposited with the town clerk of the borough and with the town clerk of the city of Birmingham which plan and book of reference are in this Act respectively referred to as the additional deposited plan and the additional deposited book of reference:

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

## PART I.

## PRELIMINARY.

Short and collective titles.

39 & 40 Vict.  
c. clxxi.

1 Edw. 7.  
c. ccxlv.

13 & 14 Geo. 5.  
c. xv.

17 & 18 Geo. 5.  
c. lxxv.

19 & 20 Geo. 5.  
c. xcii.

45 & 46 Vict.  
c. lxi.

56 & 57 Vict.  
c. cxvii.

6 Edw. 7.  
c. cv.

1.—(1) This Act may be cited as the Smethwick Corporation Act 1948.

(2) The Smethwick Local Board (Gas) Act 1876 the Smethwick Corporation Act 1901 the Smethwick Corporation (Gas) Act 1923 the Smethwick Corporation Act 1927 the Smethwick Corporation Act 1929 the Smethwick Order 1882 (confirmed by the Local Government Board's Provisional Orders Confirmation (No. 3) Act 1882) the Smethwick Order 1893 (confirmed by the Local Government Board's Provisional Orders Confirmation (No. 9) Act 1893) the County Borough of Smethwick Order 1906 (confirmed by the Local Government Board's Provisional Order Confirmation (No. 6) Act 1906) the Smethwick Corporation Gas Order 1922 the Smethwick Gas (Charges) Order 1927 the Smethwick Gas Order 1935 and this Act may be cited jointly as the Smethwick Corporation Acts and Orders 1876 to 1948.

(3) The Smethwick Gas Acts and Orders 1876 to 1935 and this Act may be cited as the Smethwick Gas Acts and Orders 1876 to 1948.



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

- Part I.—Preliminary.
- Part II.—Lands.
- Part III.—Gas.
- Part IV.—Heating undertaking.
- Part V.—Streets and buildings.
- Part VI.—Sewers and drains.
- Part VII.—Sanitary provisions:
- Part VIII.—Food.
- Part IX.—Parks &c.
- Part X.—Sale of coke wood fuel &c.
- Part XI.—Finance and rating.
- Part XII.—Miscellaneous.
- Part XIII.—General.

PART I.  
—cont.  
Division of Act  
into Parts.

3. The Lands Clauses Acts so far as they are applicable for the purposes of and are not varied by or inconsistent with this Act are hereby incorporated with and form part of this Act with the following exceptions and modifications:—

- (a) sections 92 and 127 to 132 of the Lands Clauses Consolidation Act 1845 are not incorporated with this Act; 8 & 9 Vict. c. 18.
- (b) the bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be sufficient without the addition of the sureties mentioned in that section.

4.—(1) In this Act the several words and expressions which meanings are assigned by sections 90 110 and 343 of the Public Health Act 1936 have the same respective meanings unless there be something in the subject or context repugnant to such construction. 26 Geo. 5. & 1 Edw. 8. c. 49.

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

- “ The borough ” means the county borough of Smethwick;
- “ The Corporation ” means the mayor aldermen and burgesses of the county borough of Smethwick;
- “ The council ” means the council of the borough;
- “ The town clerk ” “ the surveyor ” “ the medical officer ” and “ the sanitary inspector ” mean respectively the town clerk the surveyor the medical officer of health and any sanitary inspector of the borough;

PART I.  
—cont.9 & 10 Geo. 5.  
c. 57.

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

8 & 9 Geo. 6.  
c. 36.

“ Industrial premises ” has the same meaning as in the Distribution of Industry Act 1945;

“ The gas undertaking ” means the gas undertaking of the Corporation;

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

“ The authority ” means the British Electricity Authority;

“ The board ” means the Midlands Electricity Board;

“ The company ” means the South Staffordshire Waterworks Company;

45 & 46 Vict.  
c. 56.

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

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

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

41 & 42 Vict.  
c. 76.

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

15 & 16 Geo. 5.  
c. 71.

“ Parking place ” has the meaning assigned to it by section 68 of the Public Health Act 1925 as amended by section 16 of the Restriction of Ribbon Development Act 1935;

25 & 26 Geo. 5.  
c. 47.

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

1 & 2 Geo. 6.  
c. 56.

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

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

“ Statutory security ” means any security in which trustees are for the time being authorised by law to invest trust moneys and any mortgage bond debenture debenture stock stock or other security created by a local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rent-charges or securities transferable by delivery or any securities of the Corporation; 38 & 39 Vict. c. 83.

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

“ The Minister ” means the Minister of Health;

“ The commission ” means the British Transport Commission and any reference to the commission in relation to any functions of the commission which are for the time being delegated to an executive in pursuance of section 5 of the Transport Act 1947 shall be construed as a reference to that executive; 10 & 11 Geo. 6. c. 49.

“ The Lands Clauses Acts ” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 by Part V of the Town and Country Planning Act 1947 and by this Act; 10 & 11 Geo. 6. c. 51.

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

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

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

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

## PART II.

### LANDS.

5.—(1) Subject to the provisions of this Act the Corporation may enter upon take appropriate and use all or any of the lands in the borough delineated on the deposited plans and described in the deposited book of reference which they may require for the following purposes:— Power to take lands.

(a) as regards the land numbered 1 on the deposited plans for the purposes of the gas undertaking;

(b) as regards the land numbered 2 on the deposited plans for the purposes of a station for public service vehicles.



PART II.  
—cont.20 & 21 Geo. 5.  
c. 43.For protection  
of George Burn  
Limited.As to acqui-  
sition of parts  
only of certain  
properties.Period for  
compulsory  
purchase of  
lands.Correction of  
errors in  
deposited  
plans and  
book of  
reference.

(2) When the land referred to in paragraph (b) of subsection (1) of this section has been acquired for the purposes of a station for public service vehicles it shall be deemed to be a parking place provided by the Corporation in pursuance of the powers conferred by section 68 of the Public Health Act 1925 and to have been appointed under section 90 of the Road Traffic Act 1930 as a station for public service vehicles.

6.—(1) Unless otherwise agreed in writing between the parties the agreement made the twenty-fifth day of June nineteen hundred and forty-eight between George Burn Limited and the Corporation and set out in the First Schedule to this Act (hereinafter in this section referred to as “the scheduled agreement”) is hereby confirmed and made binding on the parties thereto.

(2) Notwithstanding anything in this Act the Corporation shall not acquire the land numbered 1 on the deposited plans except so much of the said land as is referred to in the scheduled agreement and more particularly delineated on the plan therein referred to as “the signed plan” and otherwise than in accordance with the terms and conditions of the scheduled agreement.

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

8. The powers granted by this Act for the compulsory purchase of lands shall cease on the thirty-first day of December nineteen hundred and fifty-one.

9.—(1) If any omission misstatement or wrong description is found to have been made in the deposited plans or the deposited book of reference or in the additional deposited plan or the additional deposited book of reference in respect of any lands or the owners lessees or occupiers thereof the Corporation after giving ten days’ notice to the owners lessees and

occupiers of the lands in question may apply to two justices having jurisdiction in the place in which the lands are situate for the correction thereof.

(2) If on any such application it appears to the justices that the omission misstatement or wrong description arose from mistake the justices shall certify the fact accordingly and shall in their certificate state the particulars of the omission or in what respect any matter is misstated or wrongly described.

(3) If the lands are situate in the borough such certificate or a copy thereof shall be deposited with the town clerk and if the lands are situate in the city of Birmingham such certificate or a copy thereof shall be deposited with the town clerk of that city and thereupon the deposited plans and the deposited book of reference or the additional deposited plan and the additional deposited book of reference as the case may be shall be deemed to be corrected according to the certificate and it shall be lawful for the Corporation to acquire the lands and execute the works in accordance with the certificate.

(4) Any certificate or copy deposited under this section shall be kept by such town clerks respectively with the other documents to which it relates.

**10.** In determining any question of disputed purchase money or compensation under this Act no allowance shall be made on account of any improvement or alteration effected or interest created after the twentieth day of November nineteen hundred and forty-seven which in the opinion of the tribunal to whom the question is submitted was not reasonably necessary and was effected or created with a view to obtaining or increasing compensation. Compensation in case of recent alterations.

**11.** The Corporation and their surveyors officers and workmen and any person duly authorised in writing under the hand of the town clerk may from time to time at all reasonable times in the day upon giving for the first time twenty-four hours' and afterwards from time to time twelve hours' previous notice enter upon and into the lands and buildings authorised by this Act to be taken and used or any of them for the purpose of surveying and valuing the said lands and buildings. Power to enter upon property for survey and valuation.

**12.** At any time after notice to treat has been served for any land which the Corporation are by this Act authorised to purchase compulsorily the Corporation may after giving to the owner and occupier of the land not less than one month's notice enter on and take possession of the land or such part thereof as is specified in the notice without previous consent. Further powers of entry.

PART II.  
—cont.

or compliance with sections 84 to 90 of the Lands Clauses Consolidation Act 1845 but subject to the payment of the like compensation for the land of which possession is taken and interest on the compensation awarded as would have been payable if those provisions had been complied with.

## PART III.

## GAS.

Power to  
construct  
ancillary  
works.

13. The Corporation may on so much of the land numbered 1 on the deposited plans as they may acquire from George Burn Limited make and maintain such sidings works and conveniences as they may consider necessary for the purposes of the gas undertaking and may use the land for the purposes of that undertaking other than for the manufacture or storage of gas or the manufacture or conversion of residual products.

Construction  
of gasworks  
&c.

14.—(1) The Corporation may upon the lands referred to in the Second Schedule to this Act so long as they are possessed of the same erect maintain alter extend improve and renew works for the storage of gas with all necessary machinery and apparatus and do all such acts as may be proper for the storing of gas and for supplying gas within the limits of the Corporation for the supply of gas but the Corporation shall not use the said lands for the purpose of manufacturing gas or of dealing with residual products or by-products of gas manufacture.

(2) The said lands are more particularly delineated and coloured red on a map signed in triplicate by William Henry Mainwaring the chairman of the committee of the House of Commons to whom the Bill for this Act was referred one copy of which map has been deposited in each of the following offices:—

- (a) the office of the Clerk of the Parliaments House of Lords;
- (b) the Committee and Private Bill Office of the House of Commons;
- (c) the office of the town clerk.

(3) In the case of any difference between the said lands as described in the Second Schedule to this Act and as delineated and shown on the said map the said map shall prevail.

(4) A copy of the said map certified by the town clerk to be true shall be received in all courts of justice and elsewhere as prima facie evidence of the contents thereof.



15.—(1) Any right of light or easement over the land referred to in the Second Schedule to this Act shall if the council so resolve and give notice of their resolution to the owner of the right or easement be extinguished as from the expiration of one month from the service of the notice.

(2) The Corporation shall pay compensation to all persons interested in respect of any such right or easement so extinguished and such compensation shall be of such amount as may be agreed between the Corporation and the person claiming the same or as (failing such agreement) shall be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act 1919 and in accordance (so far as applicable) with the provisions of that Act.

16.—(1) Subject to the provisions of this Act the Corporation may lay down maintain remove and renew in the line and situation shown upon the additional deposited plan and upon the lands delineated on that plan and described in the additional deposited book of reference the following work (namely):—

Power to lay  
gas mains and  
use lands.

A gas main or mains commencing in the borough at the existing gasworks of the Corporation and terminating in the city of Birmingham in the lands described in the Second Schedule to this Act.

(2) In constructing the work authorised by this section the Corporation may deviate to any extent not exceeding the limits of deviation shown on the additional deposited plans and where on any street or road no such limits are shown the boundaries of such street or road shall be deemed to be such limits.

(3) The Corporation may for the purposes of the work authorised by this section acquire such easements or rights in the lands delineated on the additional deposited plan and described in the additional deposited book of reference as they may require for such purposes (including the making maintaining repairing inspecting cleansing managing using working and obtaining access to such work) and may give notice to treat in respect of them describing the nature thereof and the restrictions subject to which the owners and occupiers may use the lands and the provisions of the Lands Clauses Acts and of this Act shall apply to and in respect of the acquisition of such easements and rights as fully as if the same were lands within the meaning of those Acts except that no such easement or right shall be deemed to be part of a house building factory park or garden within the meaning of section 7 (As to acquisition of parts only of certain properties) of this Act.

PART III.  
—cont.

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

Application of  
Gasworks  
Clauses Act  
1847 to gas  
mains.  
10 & 11 Vict.  
c. 15.

17. The provisions of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes shall apply with the necessary modifications to the construction laying down and maintenance in any street or road of the work authorised by the last foregoing section.

Improper  
construction  
of gas  
appliances.

18.—(1) If on the premises of any consumer any appliance is fitted in a bathroom for the purpose of heating water for baths by gas there shall be fitted to such appliance a flue pipe of suitable design to ensure the free discharge of the products of combustion to the outside atmosphere and every such bathroom shall in addition be provided with adequate means of ventilation.

(2) Any consumer who fails to comply with the requirements of subsection (1) of this section or any person who when constructing or fitting such an appliance fails to comply with those requirements shall be liable to a penalty not exceeding ten pounds and in the case of a consumer to a daily penalty not exceeding one pound:

Provided that a consumer shall not be liable in respect of any such appliance fitted before the passing of this Act unless the Corporation shall have given him notice that the appliance does not comply with the requirements of this section and he shall have failed within fourteen days to have remedied the defect.

For protection  
of British  
Transport  
Commission.

19. For the protection of the British Transport Commission the following provisions shall unless otherwise agreed in writing between the Corporation and the commission apply and have effect:—

(1) In this section “the work” means so much of the work authorised by this Act as will be situated under or between the abutments and wing walls of the railway bridge of the commission numbered 7 on the additional deposited plan or in the lands of the commission numbered 6 on the said plan and includes the construction repair or renewal of the said work:



- (2) The Corporation shall (except in cases of emergency) before commencing the work furnish to the commission proper and sufficient plans sections drawings and specifications thereof for the reasonable approval of the commission's engineer (in this section referred to as "the engineer") and the Corporation shall not commence the work until such plans sections drawings and specifications shall have been approved in writing by the engineer or in case of difference between the engineer and the Corporation until the same shall have been settled by arbitration. Provided that if within twenty-eight days after such plans sections drawings and specifications have been furnished to the commission the engineer shall not have intimated his disapproval thereof and his requirements in relation thereto he shall be deemed to have approved the same:
- (3) The work shall when commenced be carried out with all reasonable dispatch in accordance with the plans sections drawings and specifications approved or deemed to have been approved or settled as aforesaid and under the supervision (if given) and to the reasonable satisfaction of the engineer and in such manner as to cause no unnecessary injury to the railway and bridge of the commission and so as not to cause any unnecessary interference with the access to and free user of the approach road of the commission on the lands numbered 6 on the additional deposited plan and if any such injury or interference shall be caused by the Corporation contrary to this enactment the Corporation shall pay to the commission all expenses to which they may be reasonably put and compensation for any loss which they may sustain by reason of any such injury or interference:
- (4) The Corporation shall at all times afford reasonable facilities to the engineer for access to the work during construction and shall supply him with all such information as he may reasonably require with regard to the work or the method of construction thereof:
- (5) The Corporation shall repay to the commission all reasonable expenses incurred by the commission in connection with the work—
- (a) in respect of the employment of any persons for inspecting watching and lighting the said approach road and for preventing as far as may be all interference obstruction danger or accident arising from the work;



PART III.  
—cont.

(b) in lighting the said approach road in the vicinity of the work; and

(c) in respect of the approval by the engineer of plans sections drawings and specifications submitted by the Corporation and of the supervision by him of the work:

- (6) The Corporation shall restore and make good to the reasonable satisfaction of the engineer any part of the said approach road so far as the same may be disturbed or interfered with by the carrying out of the work and the Corporation shall from time to time repay to the commission any additional expense which the commission may reasonably incur as certified by the engineer in widening altering or maintaining the said approach road and property of the commission by reason of the existence of the work:
- (7) The Corporation shall be responsible for and make good to the commission all costs charges damage and expenses not otherwise provided for in this section which may be occasioned to the commission or to their railway or the traffic thereon or otherwise by reason of the work or the leakage or failure thereof or by reason of any act or omission of the Corporation or of any persons in their employ or of their contractors or others whilst engaged upon the work and the Corporation shall effectively indemnify and hold harmless the commission from and against all claims or demands arising out of or in connection with the work or any such leakage or failure or act or omission as aforesaid and the fact that any work or thing may have been done in accordance with any plan section drawing or specification approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not excuse the Corporation from any liability under the provisions of this section Provided that the commission shall give to the Corporation reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without prior consultation with the Corporation:
- (8) Any difference arising between the Corporation and the commission under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration.

20. For the protection of the company the following provisions shall unless otherwise agreed in writing between the Corporation and the company apply and have effect:—

PART III.  
—cont.  
For protection  
of South  
Staffordshire  
Waterworks  
Company.

- (1) Where the Corporation in exercise of the powers contained in this Part of this Act require to execute any work near to which any main pipe or apparatus belonging to the company has been lawfully placed the Corporation shall except in a case of emergency give to the company not less than three days' notice before commencing to execute such work and the company shall be entitled by their engineer to superintend the work and the Corporation shall conform with such reasonable requirements as may be made by the company for protecting from injury every such main pipe or apparatus and for securing access thereto and shall also if required so to do by the company repair any damage that may be done thereto:
- (2) Where the Corporation find it necessary to undermine but not to alter the position of any main pipe or apparatus they shall temporarily support it in position during the execution of their works and before completion provide a suitable and proper foundation for the same where so undermined:
- (3) If as a result of the execution of any work by the Corporation in exercise of the powers contained in this Part of this Act any damage is done to any main pipe or apparatus belonging to the company the company may if they so elect repair such damage and the Corporation shall repay to the company the cost reasonably incurred by them in so doing:
- (4) Any difference between the Corporation and the company under this section shall be referred to arbitration.

PART IV.

HEATING UNDERTAKING.

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

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

PART IV.  
—cont.

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

Works for  
provision of  
heat.

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

Provided that—

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

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

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

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



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

(i) required for or in connection with the supply of heat;  
or

(ii) supplied with the approval of the authority to the board;

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

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

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

As to construction of station for providing heat.

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

(3) If within three months after the receipt of such counter-notice or such longer period as may be agreed between the Corporation and the authority the terms and conditions upon which a supply of heat is to be given to the Corporation by the authority for the purposes of the heating undertaking are

PART IV.  
—cont.

not agreed between them the Corporation shall submit to the Minister of Health for determination the question whether a supply of heat shall be afforded to the Corporation by the authority and in that event the terms and conditions upon which such a supply is to be afforded.

(4) If the Minister of Health determines that a supply of heat shall be afforded to the Corporation by the authority the authority shall afford such a supply in accordance with terms and conditions approved by the Minister of Health:

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

Power to buy  
heat in bulk.

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

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

Purchase of  
land for  
heating  
undertaking.

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

9 & 10 Geo. 6.  
c. 49.

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



**26.—(1)** The provisions of Part V (Power to lay mains &c.) and Part VI (Breaking open streets &c.) and section 93 (Protection for works of navigation authorities and for catchment boards and railways) of the Third Schedule to the Water Act 1945 except paragraph (b) of subsection (1) of section 19 of that schedule and the proviso to that subsection are hereby incorporated with this Part of this Act.

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

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

“ the undertakers ” means the Corporation;

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

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

“ the limits of supply ” means the borough.

**27.** For the purposes of this Part of this Act the Corporation shall have the like powers and duties and be subject to the like restrictions as a local authority who supply water under the Act of 1936 have and are subject to under sections 119 278 and 333 of that Act with respect to the laying and maintenance of water mains and for that purpose the mains and pipes for supplying heat by means of hot water or steam shall be deemed to be water mains:

Application of powers &c. of Act of 1936 to Corporation.

Provided that the provisions of section 333 of the Act of 1936 shall extend and apply with respect to the execution of any works under the powers of this section in on or over any lands held or used by the commission for the purposes of their undertaking.

**28.—(1)** Nothing in the last two preceding sections shall authorise the Corporation—

As to mains outside borough.

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

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

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

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

(2) The Corporation shall not under the powers of this Part of this Act break open any highway maintainable at public



PART IV.  
—cont.

expense outside the borough except with the consent of the authority in whom that highway is vested but such consent shall not be unreasonably withheld and any question whether any such consent is or is not unreasonably withheld shall be referred to arbitration.

Consultation  
with under-  
takers as to  
certain works.

## 29.—(1) Before the Corporation—

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

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

(2) Without prejudice to the generality of subsection (1) of this section such information shall include particulars of the proposals (if any) of the Corporation as to the measures to be taken with respect to—

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

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

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

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

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

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

(8) In and for the purposes of this section "the Minister" means the Minister of Fuel and Power.

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

(2) The Corporation may make such charges as may be agreed or in default of agreement as may be reasonable for any fittings provided or supplied or any materials provided or work done under this section at the request of the owner or occupier of the premises so supplied and where the amount does not exceed twenty pounds such charges may be recovered summarily as a civil debt.

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

(a) shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution



PART IV.  
—cont.

under process of any court or any proceedings in bankruptcy against the person in whose possession the same may be; and

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

1 & 2 Geo. 6.  
c. 53.

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

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

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

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

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

Collection and  
recovery of  
heating  
charges.

31.—(1) The Corporation may from time to time prescribe a scale of charges (in this section called "heating charges") for heat supplied to premises under the powers of this Act and where heat is so supplied to any premises the heating charges in accordance with the scale shall be payable by the occupier of those premises except in any case where the owner has agreed to pay the same in which case they shall be payable by the owner.

(2) The heating charges payable by any person may after a demand therefor be recovered from him by the Corporation either as a simple contract debt in any court of competent jurisdiction or if the amount does not exceed twenty pounds



summarily as a civil debt and subject as hereinafter provided where a person fails to pay within seven days after a demand therefor any instalment of a heating charge payable by him in respect of any premises the Corporation may cut off the supply of heat to the premises and recover the expenses reasonably incurred by them in so doing in the same manner as the instalment due:

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

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

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

Provided that admission to any premises not being a factory workshop or workplace shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier:

Provided also that nothing in this section shall authorise any officer of the Corporation without the previous consent in writing of the authority or the board as the case may be to enter any premises occupied or used by the authority or the board in connection with the generation or supply of electricity other than offices or showrooms.

PART IV.,  
—cont.

(2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

- (a) that admission to any premises has been refused or that refusal is apprehended or that the premises are unoccupied or that the occupier is temporarily absent or that the case is one of urgency or that an application for admission would defeat the object of the entry; and
- (b) that there is reasonable ground for entry into the premises for any such purpose as aforesaid;

the justice may by warrant under his hand authorise the Corporation by any authorised officer to enter the premises if need be by force:

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier or that the premises are unoccupied or that the occupier is temporarily absent or that the case is one of urgency or that the giving of such notice would defeat the object of the entry.

(3) An authorised officer entering any premises by virtue of this section or of a warrant issued thereunder may take with him such other persons as may be necessary and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.

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

(5) If any person who in compliance with the provisions of this section or of a warrant issued thereunder is admitted into a factory or workplace discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret he shall unless such disclosure was made in the performance of his duty be liable to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

Interference  
with apparatus  
&c.

33.—(1) If any person either—

- (a) wilfully and without the consent of the Corporation;  
or;
- (b) negligently;

turns on opens closes shuts off or otherwise improperly interferes with any valve cock or other work or apparatus belonging to the Corporation and thereby causes the supply of heat or hot water or steam to be interfered with he shall



be liable to a penalty not exceeding five pounds and (whether proceedings be taken against him in respect of his offence or not) the Corporation may recover from him the amount of any damage sustained by them either as a simple contract debt in any court of competent jurisdiction or if the amount does not exceed twenty pounds summarily as a civil debt.

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

34. For the purposes of section 118 (Revenue and expenses of trading undertakings) and section 119 (Separate accounts in respect of trading undertakings) of the Smethwick Corporation Act 1927 the heating undertaking shall be one of the Corporation undertakings. Financial provisions.

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

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

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

(1) In this section—

the expression "apparatus" means mains pipes electric lines posts poles or other works belonging to the undertakers;

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

PART IV.  
—cont.

- (2) Where the Corporation require to dig or sink any trench for laying down placing or constructing any authorised work near to which any apparatus has been lawfully placed the Corporation shall give to the undertakers to whom such apparatus belongs notice in writing of such requirement together with plans sections and particulars of the authorised work to be laid in such trench and if it should appear to the undertakers that the laying down placing or construction of such authorised work would injure interfere with or endanger any apparatus or interfere with the access thereto or impede the supply of electricity or water by means thereof the undertakers may within fourteen days from the receipt of such notice give to the Corporation notice in writing requiring them to alter the position or depth of such apparatus in such manner as may be reasonably necessary for avoiding any such injury interference danger or impediment and any difference as to the necessity for such alteration or the manner of carrying out the alteration shall be determined by arbitration as hereinafter provided All such alterations shall (save as in this section provided) be carried out by and at the expense of the Corporation with as little detriment and inconvenience to the undertakers as the circumstances will admit and to the reasonable satisfaction of the engineer of the undertakers and under his superintendence unless after receiving not less than three days' notice for that purpose (which notice the Corporation are hereby required to give except in cases of emergency) he refuses or neglects to give such superintendence at the time specified in the notice for the commencement of such work or discontinues the same during the laying down placing or construction of such work:
- (3) The Corporation in laying down placing or constructing any authorised work shall not interfere with the access to any apparatus to any greater extent than is necessary for the purpose of or in connection with the carrying out of that work and shall not remove or displace any apparatus or do anything to endanger any apparatus or impede the passage of electricity or water into or through any apparatus without the consent (which shall not be unreasonably refused) of the undertakers or in any other manner than the undertakers shall reasonably approve nor in the



case of apparatus proposed to be removed or displaced until good and sufficient apparatus and other works reasonably necessary or proper for continuing the supply of electricity or water as the same was supplied by the apparatus proposed to be removed or displaced shall at the expense of the Corporation have been first made and laid down in lieu thereof and be ready for use to the reasonable satisfaction of the engineer of the undertakers:

- (4) If the undertakers shall desire to alter the position or depth of any apparatus under paragraph (2) of this section or to provide any substituted apparatus referred to in paragraph (3) thereof and shall within the period of fourteen days referred to in paragraph (2) of this section give not less than seven days' notice in writing thereof to the Corporation the undertakers may themselves carry out any of the said works and shall commence execute and complete the same with all reasonable dispatch and to the reasonable satisfaction of the Corporation and all reasonable expenses properly incurred by them under this paragraph shall be repaid to them by the Corporation:
- (5) The reasonable expense of all repairs or renewals of—
- (i) any apparatus existing at the time of the laying down placing or construction of the authorised work; or
  - (ii) any apparatus substituted for such existing apparatus or any part thereof and being of reasonably similar size and type;
- which may at any time hereafter be rendered reasonably necessary by reason of—
- (a) the acts or defaults of the Corporation their contractors agents workmen or servants or any person in the employ of them or any of them in the exercise of the powers of this Part of this Act; or
  - (b) any subsidence resulting from the laying down placing construction or removal of any authorised work whether during the laying down placing construction or removal of the authorised work or at any time within two years thereafter;
- shall be borne and paid by the Corporation:
- (6) The Corporation in laying down placing constructing or removing any authorised work shall make good all damage done by them to any apparatus and shall

PART IV.,  
—cont.

make compensation to the undertakers for any loss damage costs or expenses which they may sustain by reason of any interference with such apparatus or the access thereto or with the private service or supply lines of any person supplied by the undertakers with electricity or water:

- (7) Except with the consent of the company it shall not be lawful for any authorised work provided or used by the Corporation for the storage transmission distribution and use of heat supplied by them to any premises to be connected with any apparatus provided or used for the storage transmission distribution and use of water supplied to the same premises by the company in such manner as to permit the flow of water through such connection Any person committing a breach of this provision shall be subject to a penalty not exceeding five pounds:
- (8) All water supplied by the company to the Corporation for the purposes of this Part of this Act shall be taken by measure and paid for accordingly:
- (9) If any difference shall arise between the Corporation and the undertakers or their respective engineers with respect to any matter under this section the matter in difference shall be referred to an arbitrator:
- (10) In settling any difference under this section the arbitrator shall have regard to any duties or obligations which the undertakers may be under in respect of their apparatus and any duties or obligations which the Corporation may be under in respect of the authorised work and may if he thinks fit require the Corporation to execute any temporary or other works so as to avoid as far as may be reasonably possible interference with any purpose for which the apparatus is used.

Corporation  
not to be  
exempted from  
proceedings  
for nuisance.

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

## PART V.

## STREETS AND BUILDINGS.

Means of  
access to  
buildings.

38.—(1) At any time within one month after the deposit of the plans of any new building intended or adapted for use as a dwelling-house (or where such plans have been approved but the erection of the building has not been begun before the passing of this Act at any time before the erection thereof



has been commenced) the Corporation may by notice require the provision either before the building is erected or before it is sold let or occupied (as the Corporation shall specify) of sufficient means of communication between the building and a street which is either a highway repairable by the inhabitants at large or has been laid out and constructed in accordance with the byelaws or other provisions for the time being in force with respect to new streets.

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

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

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

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

Power to vary width of carriageways and footways.

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

(2) The Corporation shall not exercise the powers of this section in respect of any street situate upon a bridge over any railway canal or inland navigation of the commission or upon the approaches thereto without the previous consent in writing of the commission or if such consent be unreasonably withheld the consent of the Minister of Transport.

40.—(1) If in exercise of the powers conferred by section 39 (Power to vary width of carriageways and footways) of this Act (hereinafter referred to as "the specified section") the Corporation require an alteration either temporarily or permanently in any telegraphic line belonging to or used by

For protection of Postmaster-General.

PART V.  
—cont.

the Postmaster-General the enactments numbered (1) to (8) in section 7 of the Telegraph Act 1878 shall apply with respect to such alteration.

(2) If in consequence of the exercise or intended exercise by the Corporation of the powers conferred on them by the specified section the Postmaster-General considers it necessary or expedient that an alteration should be made in any telegraphic line belonging to or used by him and placed in any street affected by the exercise or intended exercise by the Corporation of the said powers the Postmaster-General may himself make such alteration in such telegraphic line as he deems necessary or expedient and the Corporation shall pay to the Postmaster-General all the expenses incurred by him in respect of such alteration and the amount of any loss or damage sustained by him in consequence thereof Provided that—

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

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

Fencing of  
forecourts and  
removal of  
goods.

41.—(1) In any case in which the forecourt of any premises adjoining a street or any steps or projection placed in any such forecourt or any goods placed thereon whether for sale or not is or are a source of danger obstruction or inconvenience to the public the Corporation may require the owner of the premises well and sufficiently to fence such forecourt from the street or may require him to remove the goods placed thereon.

(2) Any person who contravenes a requirement under this section or shall place any goods on the forecourt after being required to remove goods therefrom shall be liable to a penalty not exceeding two pounds and to a daily penalty not exceeding one pound.



(3) If the Corporation require any person to remove goods placed on any forecourt they shall pay to him such compensation for any loss sustained by him in consequence of the action of the Corporation as may be agreed between the Corporation and such person or as failing such agreement shall be determined by arbitration.

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

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

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

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

Provided that—

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

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

PART V.  
—cont.  
Prohibition  
of persons  
vehicles &c.  
on grass  
margins.

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

(2) Nothing contained in this section shall affect—

(a) the duty of the Corporation under section 58 (Provision of footpaths and grass or other margins) of the Road Traffic Act 1930; or

(b) the statutory rights of any statutory undertakers with respect to any area which is situate in or forms part of a street.

Restrictions  
on rights of  
breaking up  
streets.

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

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

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

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



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

62 & 63 Vict.  
c. 19.

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

Demolition of  
buildings.

(a) the shoring up of adjacent buildings; and

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

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

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

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

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

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

PART V.  
—cont.

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

(6) Nothing in this section shall apply in relation to any building belonging to any statutory undertakers and held by them for the purposes of their undertaking:

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

(7) This section shall not apply to any poultry-house greenhouse coal shed or cycle shed or other similar structure.

As to neglected  
sites.

47.—(1) In this section “neglected site” means the site of a demolished partly demolished or ruinous building in the borough which is in such a condition as to be prejudicial to the property in or the inhabitants of the neighbourhood.

(2) A court of summary jurisdiction on complaint by the Corporation may order the owner of any neglected site to execute such work as may be necessary—

(a) in the case of a demolished building to remove from the site any material or rubbish;

(b) in the case of a partly demolished or ruinous building to complete the demolition of the building and remove from the site any material or rubbish;

within a reasonable time to be fixed by the order.

(3) If the order is not obeyed within the time thereby prescribed the Corporation at any time after the expiration of such time may enter upon the neglected site and execute the work.

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

Paving of  
yards and  
passages.

48. Where any court or yard is appurtenant to or any passage gives access to commercial or industrial premises as well as to a house or houses the Corporation may exercise the powers of section 56 (Yards and passages to be paved and drained) of the Act of 1936 in respect of any such commercial or industrial premises as though they were a house.

As to defective  
roofs.

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

(a) any roof in the borough 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 the premises 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 roof 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 roof 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 roof.

(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 roof 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 the court shall have power to remit the whole or any part of such expenses if the court is satisfied that—

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

PART V.  
—cont.

progressed reasonably with the execution of such works and the taking of such steps as were necessary to remedy the defective state of the roof.

(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 roof was due brought before the court in the proceedings and if the original defendant proves that the defective state of the roof 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 roof 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 the roof of any premises as may be specified in the notice notwithstanding the fact that other defects may exist in such premises 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 such premises.

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

For protection  
of statutory  
undertakers.

50. For the protection of the authority the board the lord mayor aldermen and citizens of the city of Birmingham and the company (each of whom is in this section referred to as "the undertakers") the following provisions shall unless otherwise agreed in writing by the Corporation and the undertakers apply and have effect (that is to say):—

- (1) In this section the expression "apparatus" means—
  - (a) as regards the authority and the board the electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to the authority or the board (as the case may be);
  - (b) as regards the lord mayor aldermen and citizens of the city of Birmingham the mains pipes syphons tubes works or other apparatus belonging to them;



(c) as regards the company the mains pipes syphons tubes works or other apparatus belonging to that company:

- (2) (a) The Corporation shall so exercise the powers of section 43 (Power to lay out grass margins &c. in streets) of this Act as not to obstruct or render less convenient the access to any apparatus and shall so maintain every tree planted under the powers conferred by that section that the same does not injuriously affect any such apparatus;

(b) Whenever under the powers of the said section the Corporation add to the footway or carriageway of any street any grass margin in over or under which any apparatus is for the time being situate the undertakers may alter the position of the apparatus to such other position in over or under—

(i) the reduced grass margin (if any) of the street; or

(ii) the carriageway or footway of the street as altered;

as may be reasonable:

- (3) Not less than twenty-eight days before the Corporation in the exercise of the powers of section 39 (Power to vary width of carriageways and footways) or section 43 (Power to lay out grass margins &c. in streets) of this Act add to the carriageway of a street any portion of the footway in over or under which any apparatus is for the time being situate the Corporation shall give notice to the undertakers of their intention so to do accompanied by a plan and section of the intended alteration and the undertakers may if it is reasonably necessary and shall if so required by the Corporation alter the position of the apparatus to such other position in over or under the street as may be reasonable:
- (4) The undertakers shall give to the Corporation not less than twenty-one days' notice of their intention to alter (otherwise than by the requirement of the Corporation) the position of any apparatus under the provisions of subsection (3) of this section and shall at the same time deliver to the Corporation a plan and section of the proposed alteration. If such plan and section are not disapproved by the Corporation within twenty-one days from the receipt thereof the position of the apparatus shown thereon shall be deemed to be reasonable:
- (5) The Corporation shall repay to the undertakers the reasonable expenses incurred by the undertakers of

PART V.  
—cont.

or in connection with the alteration of the position of any apparatus under subsection (2) or subsection (3) of this section and the reasonable costs of and incidental to (i) the cutting off of any apparatus and (ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this subsection:

- (6) (a) Any question or dispute between the Corporation and the undertakers under this section (other than a question or dispute as to the meaning or construction of the section which does not arise in the course of the arbitration) shall be referred to arbitration;

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

For protection  
of gas  
authority.

51. The provisions of the last preceding section shall apply to any authority now or hereafter authorised under any enactment to supply gas in the borough as though—

- (i) a reference to such authority were included in addition to any reference to the authority the board the lord mayor aldermen and citizens of the city of Birmingham and the company;
- (ii) as regards such authority the expression "apparatus" meant any main pipe service pipe or other underground apparatus laid down by such authority in the performance of its statutory functions.

## PART VI.

## SEWERS AND DRAINS.

Apportionment to frontagers of expenses of sewer constructed under public highway.

52.—(1) Where the council resolve to construct a sewer in a street or part of a street repairable by the inhabitants at large which has not been previously sewered and the resolution states that the construction of the sewer will in the opinion of the Corporation increase the value of premises fronting adjoining or abutting on such street or part of a street then subject to the provisions of subsections (4) to (12) of this section the expenses incurred by the Corporation in constructing the sewer so far as they do not exceed the sum



authorised by subsection (4) of this section shall be apportioned by the Corporation on the premises fronting adjoining or abutting on the street or part of a street according to the frontages of the respective premises as existing at the date when the resolution becomes operative.

(2) Such resolution as aforesaid shall not become operative unless and until notice thereof has been published twice in a local newspaper circulating in the borough but shall become operative as from the date of the second of such publications. Copies of the newspapers containing the notice shall be sufficient evidence of the publication thereof.

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

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

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

(6) Any owner on whose premises any sum has been apportioned shall be entitled within fourteen days of the service upon him of such notice as aforesaid to appeal to a court of summary jurisdiction against the amount of the sum so apportioned and may on such appeal dispute the correctness of the surveyor's certificate.

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

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

Provided that where the drains of such new building are at the time of its erection made to connect with a sewer other than the sewer the expenses of the construction of which are

PART VI.  
—cont.

apportioned no sum shall be recoverable in respect of the building unless and until the drains thereof are connected with the last-mentioned sewer.

For the purposes of this subsection—

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

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

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

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

(iv) any extension by reason whereof the area occupied by the site of the building will with any previous extension made since the date when the resolution became operative be increased by an area equal to more than one-eighth or in the case of a building constructed for agricultural purposes one-quarter of that occupied by the site of the building before that date.

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

15 & 16 Geo. 5.  
c. 22.

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

(10) If the construction of a sewer to which a resolution under subsection (1) of this section relates has not been completed within two years from the date when the resolution became operative all liabilities of frontagers consequent thereon shall cease.

(11) If any person from whom an apportioned sum or any part thereof becomes recoverable proves that by reason of the length of frontage of the land occupied with the building in respect of which the sum so recoverable is payable the



amount recoverable is disproportionate to the benefit accruing to the premises the Corporation or on appeal a court of summary jurisdiction may remit such part of that sum as they may think just but in such case if another new building is subsequently erected on the land occupied with the first-mentioned building the sum remitted or such part thereof as is proportional to the frontage of the site of and land occupied with that other building shall become recoverable.

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

53. Section 24 (Power of local authority to recover cost of maintaining certain lengths of public sewers) of the Act of 1936 shall within the borough have effect as if the following were substituted for the proviso to subsection (1) of that section—

Recovery of cost of maintaining sewers.

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

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

Further power to examine and test drains &c. believed to be defective.

## PART VI.

—cont.

Cleansing of  
sinks and  
gullies.

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

## PART VII.

## SANITARY PROVISIONS.

Prevention of  
smoke from  
industrial  
furnaces.

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

(2) If a person before installing in a building a furnace to which this section applies submits to the Corporation plans proposals and particulars of the proposed furnace and furnishes them with such other necessary information in regard thereto as they may require the Corporation shall within a period of six weeks from the date upon which such plans proposals particulars and information are received by them serve a notice upon such person stating whether or not they are satisfied that the furnace is so far as practicable capable of being operated continuously without emitting smoke and if they are so satisfied or if they do not serve a notice upon such person before the expiration of the said period of six weeks no proceedings shall be taken against him under this section in respect of the installation of that furnace in accordance with the plans proposals particulars and information so submitted and furnished.

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

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

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



continuously without emitting smoke the Corporation or a court shall if either of the parties so desire have regard to cost and to local conditions and circumstances.

57.—(1) No dealer shall sell or expose for sale any furniture mattress bed-linen clothing or similar article (in this section called "article") if the same is to his knowledge infested with bugs or other vermin or if by taking reasonable precautions he could have known the same to be so infested.

Prohibition on sale of verminous articles.

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

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

(4) For the purposes of this section "dealer" means any person who trades or deals in any article.

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

Power to require persons to vacate premises during fumigation.

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

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

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

(4) The Rent and Mortgage Interest Restrictions Acts 1920 to 1939 shall not be deemed to cease to apply to a house or

PART VII.  
—cont.

premises by reason only of the fact that such a house or premises have been vacated in compliance with a notice served under this section.

Noise  
nuisance.

**59.**—(1) A noise nuisance shall be liable to be dealt with as a statutory nuisance under the Act of 1936:

Provided that no complaint to a justice under section 99 (Power of individual to make complaint as to statutory nuisance) of the said Act shall be of any effect unless it is signed by not less than three householders or occupiers of premises within hearing of the noise nuisance which is the subject of the complaint.

(2) In any proceedings under the Act of 1936 in respect of a noise nuisance occasioned in the course of any trade business or occupation it shall be a good defence for the person charged to show that he has used the best practicable means of preventing or mitigating the nuisance having regard to the cost and to other relevant circumstances.

(3) For the purpose of this section a noise nuisance shall be deemed to exist where any person makes or continues or causes to be made or continued any excessive or unreasonable or unnecessary noise which is injurious or prejudicial to health.

(4) Nothing contained in this section shall apply to the commission or their servants exercising statutory powers.

(5) Nothing in this section shall affect the power of the Corporation to make byelaws under section 249 (Byelaws for good rule and government and suppression of nuisances) of the Act of 1933.

Registration of  
hairdressers  
and barbers  
and their  
premises.

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

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

(a) the cleanliness of any premises registered under this section and of the instruments towels materials and equipment used therein; and

(b) the cleanliness of persons employed in such premises in regard to both themselves and their clothing.

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



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

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

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

## PART VIII.

## FOOD.

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

Registration of hawkers of food and their premises.

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

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

PART VIII.  
—cont.

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

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

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

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

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

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

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

(c) Any person appealing to a court of summary jurisdiction under section 104 (As to appeals) of this Act against any such refusal or revocation shall do so within fourteen days from the date of the notice of such refusal or revocation.

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



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

(7) The provisions of this section shall not apply to any premises registered under section 14 (Registration of premises used in connection with the manufacture or sale of ice-cream or preserved food &c.) of the Food and Drugs Act 1938 or to any dairy or dairyman registered under Part II (Provisions as to milk dairies and artificial cream) of that Act or under any regulations made thereunder or under an enactment thereby repealed.

(8) The provisions of this section shall not apply to any premises used as a theatre cinematograph theatre music hall or concert hall or to any person in respect of the sale or offer or exposure for sale of any food in any such premises.

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

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

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

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

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

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

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

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

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

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

## PART VIII.

—cont.

Notice of  
slaughter of  
animal unfit  
for food.

63.—(1) As from the commencement of this section where any person being the owner of any bull ox cow heifer calf sheep lamb goat or pig which is emaciated or diseased and unfit for food is about to slaughter the same or about to cause the same to be slaughtered he shall give not less than twelve hours' previous notice to an authorised officer of such intention and shall on the application of an authorised officer within six weeks from the date of such slaughter furnish such information within his knowledge as the authorised officer may reasonably require for the purpose of enabling enquiries to be made to trace the disposition of the carcasses or any part thereof.

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

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

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

(5) In this section the expression "authorised officer" means—

- (a) the medical officer;
- (b) the sanitary inspector; or
- (c) any other 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.

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

Animals  
slaughtered  
outside  
slaughter-  
houses.1 Edw. 8. &  
1 Geo. 6. c. 70.



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

PART VIII.  
—cont.

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

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

Precautions  
against con-  
tamination of  
food.

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

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

- (a) milk;
- (b) meat to which the Public Health (Meat) Regulations 1924 apply; or
- (c) any substance which is contained in containers of such materials and so closed as to exclude all risk of contamination.

PART IX.

PARKS &c.

66. When any portion of any park or place of public resort or recreation is set apart by the Corporation for any purpose under section 76 (Powers as to parks and pleasure gardens) of the Public Health Acts Amendment Act 1907 the Corporation may permit the exclusive use by any club or other body or persons of any such portion so set apart as aforesaid and of any pavilions buildings or refreshment or other rooms or conveniences subject to the payment of such charges and the observance of such conditions as the Corporation may think fit:

Charges for  
and letting of  
parks &c. for  
games.  
7 Edw. 7. c. 53.

Provided that nothing in this section shall empower the Corporation to permit at one and the same time the exclusive use of more than one-half of the area of any park or place

PART IX.  
—cont.

of public resort or recreation for the time being belonging to them or under their control or more than one-quarter of the total area of all such parks and places.

As to use of parts of recreation grounds for parking places.

67.—(1) The provisions of section 68 (Power to provide parking places for vehicles) of the Public Health Act 1925 as amended by section 16 (Extension of powers of local authorities as to parking places) of the Restriction of Ribbon Development Act 1935 shall extend to enable the Corporation from time to time to utilise as lands which may lawfully be appropriated as a parking place or as parking places for vehicles such part or parts of their parks recreation grounds or pleasure grounds not exceeding in the case of any park recreation ground or pleasure ground one acre or one-eighth of the area of such park recreation ground or pleasure ground (whichever may be the less) as the Minister may sanction and the provisions of the said section relating to the utilisation for parking places of land not forming part of a street shall with any necessary alterations apply and have effect for the purposes of this subsection.

(2) The provisions of section 90 (Power of local authorities with respect to use of highways by public service vehicles and with respect to stations for such vehicles) of the Road Traffic Act 1930 except subsections (1) (7) and (9) thereof shall apply to any parking place provided under this section.

68.—(1) The Corporation may procure officers appointed by them for securing the observance of the provisions of this Act and of all other Acts relating to parks and pleasure grounds and of the byelaws and regulations made thereunder to be sworn in as constables for that purpose but any such officer shall not act as a constable unless in uniform or producing (if so required) his warrant card.

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

(3) Section 109 (Power to Corporation to appoint officers) of the Smethwick Corporation Act 1901 is hereby repealed.

## PART X.

## SALE OF COKE WOOD FUEL &amp;C.

69. In this Part of this Act—

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

the expression “ wood fuel ” means any wood supplied or intended for supply for use as fuel or for the

Officers may be sworn in as constables.

11 & 12 Geo. 5.  
c. 31.

Definitions of coke and wood fuel.



conversion thereof into blocks suitable for burning in domestic grates or into sizes suitable for kindling and any wood actually supplied for any such purposes.

PART X.  
—cont.

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

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

71. The Corporation may make byelaws—

Byelaws relating to wood fuel.

- (1) regulating the sale of wood fuel in quantities exceeding fourteen pounds but not exceeding two hundred-weights;
- (2) requiring either generally or in specified classes of cases a weighing instrument of a form approved by the Corporation to be carried with any vehicle in which wood fuel is carried for sale or delivery to a purchaser; and
- (3) prescribing the distance beyond which wood fuel is not to be required to be carried for the purpose of being weighed or re-weighed in pursuance of section 27 of the Weights and Measures Act 1889 as applied by this Act.

72. If any seller of coke or wood fuel or any person in charge of any vehicle from which coke or wood fuel is being sold delivered or offered or exposed for sale wilfully makes any false statement as to the weight of the coke or wood fuel or any part thereof or wilfully increases such weight by damping such coke or wood fuel or wilfully does any other act by which the purchaser may be defrauded such seller or person in charge shall be liable for every such offence on the first occasion to a penalty not exceeding five pounds and on the second or any subsequent occasion to a penalty not exceeding ten pounds.

Penalty on fraudulent sale.

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

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

## PART X.

—cont.

Notice of this  
Part of Act.

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

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

## PART XI.

## FINANCE AND RATING.

Power to  
borrow.

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

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

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

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

Application of  
Act of 1933  
to existing  
sinking funds.

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

Capital fund.

78.—(1) The Corporation may (if they think fit) establish a fund to be called "the capital fund" to which they may pay any sums derived from the sale of any property of the Corporation the balance of the general rate fund in hand at the close of any financial year and such other sums from the general rate fund (including a sum equal to the interest earned



on the capital fund and the income (if any) arising from the application of the fund to the purposes authorised) as the council may by resolution direct not being moneys directed by law to be applied to any other purpose:

Provided that—

- (a) any sum directed by the council to be paid to the capital fund from the general rate fund (in addition to the sum equal to the interest earned on the capital fund and the income (if any) arising from the application of the fund to the purposes authorised) shall not exceed in any financial year the equivalent of twice the product of a rate of one penny in the pound as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925; 15 & 16 Geo. 5.  
c. 90.
- (b) any sums derived from the sale of any corporate land of the Corporation as defined in section 305 of the Act of 1933 shall not be applied otherwise than in the purchase or acquisition of other corporate land except with the Minister's consent; and
- (c) payments into the fund shall not be made whenever the fund amounts to the sum of fifty thousand pounds.

(2) The Corporation may apply the moneys in the capital fund (to an amount not exceeding five thousand pounds in any one transaction) in the exercise of any statutory borrowing power possessed by them (other than a power in connection with an undertaking from which revenue is derived) or in providing money for payments into sinking funds in respect of loans raised under any such borrowing power (but not in making the annual payment required to be made thereto) or in the purchase or acquisition or taking on lease of any lands or buildings which they are authorised to purchase or acquire or take on lease.

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

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

(4) All moneys derived from the sale of any property of the Corporation which are applied from the capital fund under the provisions of this section shall be repaid from the account to

PART XI.  
—cont.

which such moneys were advanced by such annual instalments with or without interest and within such period as may be determined by the Corporation:

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

Renewal and  
repairs fund.

79.—(1) The Corporation may (if they think fit) establish a fund to be called “ the renewal and repairs fund ” for the purpose of defraying the expenditure to be incurred from time to time in repairing maintaining and renewing any buildings works plant tools machinery appliances horses carts vehicles boilers and equipment and apparatus in connection therewith office machinery furniture fittings and appliances or things and may from time to time apply any fund so established or any part thereof in defraying such expenditure but this section shall not apply to any buildings works plant appliances or things for the purposes of any undertaking of the Corporation in respect of which they have provided 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 out of the general rate fund such sums as they think fit into the renewal and repairs fund but the maximum amount standing to the credit of that fund shall not at any time exceed fifty thousand pounds.

(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 or use of the moneys in the renewal and repairs fund in manner provided by this subsection together with any income arising from the application of the fund to the purposes authorised shall be carried to and form part of the general rate fund and an amount equivalent to such income shall be credited to the renewal and repairs fund unless the amount standing to the credit of that fund amounts to fifty thousand pounds.

Payments due  
to deceased  
employees.

80.—(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 gratuity grant or repayment of contributions to any superannuation fund or of contributions otherwise made in respect of superannuation with or without interest a grant of probate of the will of the employee or of letters of administration to his estate is not produced to the Corporation within such time (not being less than one month after his death) as the Corporation may think reasonable then at the expiration of that time the Corporation may pay such sum to the person or persons entitled to the residuary estate of the employee by virtue of the provisions of paragraphs (i) to (vi) of section 46 (1) 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;
- (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 section 46 (1) (vi) of the Administration of Estates Act 1925 are applicable) pay such sum or the balance thereof in their hands to any person other than to the personal representative of the deceased employee unless and until such claim has been satisfied disproved or withdrawn.

9 & 10 Geo. 6.  
c. 67.

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

- (a) a statutory declaration or (when payment is made to the Crown or to the Duchy of Lancaster or to the Duchy of Cornwall) a statement by the person or one of the persons to whom the Corporation may pay and propose to pay such sum or any part thereof to the effect that the total estate of the deceased

PART XI.  
—cont.

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 the exercise of their power under this section.

Power to grant allowances or gratuities in certain cases.

**81.**—(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

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

(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.

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

**82.**—(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 institution or 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 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 exerciseable by the Corporation in relation to that person unless and until the master withdraws the notice.

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

83. If a justice is satisfied on complaint by any rate collector or other authorised officer of the Corporation that any person is quitting or about to quit any premises and has failed to pay on demand any general rate or any charge which may be due from him to the Corporation and intends to evade payment of the same the justice may in addition to issuing a summons for non-payment of the same issue a warrant

Recovery of  
rate &c. from  
persons  
removing.

PART XI.  
—cont.

under his hand authorising the person named therein forthwith to enter the premises and to seize sufficient goods and chattels of the defaulter and to detain them until the complaint is determined upon the return of the summons.

Recovery of  
rates from  
certain owners.

84.—(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 hereditaments to which subsection (1) of section 11 (Rating of and collection of rates by owners) of the Rating and Valuation Act 1925 applies by virtue of a resolution of the council.

## PART XII.

## MISCELLANEOUS.

Provision of  
information  
bureaux.

85. The Corporation may provide and maintain or may subscribe towards the provision and maintenance of an information bureau or information bureaux in the borough for the purpose of supplying information with regard to the borough and neighbourhood and may employ and pay such number of clerks assistants and servants as they may think fit for the purpose and may if they think fit make charges for the use of such bureau or bureaux or for information supplied by means thereof.

Publication of  
bulletins &c.

86. In connection with their powers under the last preceding section and under the Public Libraries Acts 1892 to 1919 the Corporation may publish and sell or dispose of bulletins journals and leaflets and documents of historical or literary interest having a local connection.

Notice of  
processions to  
be given.

87.—(1) Any person intending to organise or form a public or ceremonial procession or a circus procession or procession of wild animals through the streets of the borough (other



than a public or ceremonial procession which is regularly held through such streets) shall give notice thereof and of the route proposed to be taken and of the time at which it will take place to the Corporation and to the chief officer of the police force in the borough by leaving such notice at the office of the town clerk and at the police station thirty-six hours at least (exclusive of Sundays) previous to the time fixed for such procession to pass through the streets.

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

(3) Section 98 (Notice of processions to be given) of the Smethwick Corporation Act 1901 is hereby repealed.

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

89. The Corporation may pay 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. Payment of certain expenses.

90.—(1) The Corporation may maintain in perpetuity or for such period as they may determine a grave or grave space or monument in any burial ground or cemetery provided or maintained by them and may accept a sum of money from any person in consideration of such maintenance. Maintenance of graves in burial grounds.

(2) The Corporation may apply for the purposes of this section any sum of money received by them before the passing of this Act in consideration of such maintenance.

(3) The Corporation may if they think fit invest in statutory securities the whole or any part of any such sum as is referred to in subsection (1) or subsection (2) of this section and apply the interest thereon in maintaining the grave or grave space or monument in such manner as the Corporation shall think fit.

(4) Any such sum and the interest thereon shall be shown separately in the accounts of the Corporation relating to their cemetery or burial ground.

91.—(1) In this section the expression "personal weighing machine" means any weighing machine in the borough. As to personal weighing machines.

PART XII.  
—cont.

which is used or exposed for use for the purpose of ascertaining the weight of a person—

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

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

(2) As from the commencement of this section the owner or the person in charge of any personal weighing machine which is false or unjust shall be liable to a penalty not exceeding two pounds or in the case of a second or any subsequent offence five pounds and the machine shall be liable to be forfeited.

(3) A personal weighing machine shall not be used or exposed for use unless it has been examined and approved by an inspector of weights and measures of the Corporation and has been marked with a distinguishing mark by such inspector and after the expiration of twelve months from the commencement of this section every person who has in his possession or under his control any personal weighing machine which is not so marked shall be liable to a penalty not exceeding two pounds or in the case of a second or subsequent offence five pounds and the machine shall be liable to be forfeited:

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

(4) If any person forges or counterfeits or removes any such distinguishing mark as is referred to in the last preceding subsection or knowingly exposes for use any personal weighing machine without any such mark or with such forged or counterfeit mark thereon he shall be liable to a penalty not exceeding five pounds and the machine shall be liable to be forfeited.

(5) (a) Any inspector of weights and measures of the Corporation may at all reasonable times inspect and examine any personal weighing machine in the borough and may seize and detain any such machine which is liable to be forfeited under the provisions of this section and may for the purposes of such inspection and examination enter any place (whether open or closed) where there is reasonable cause to believe that there is a personal weighing machine which he is authorised to inspect and examine.



(b) Any person who neglects or refuses to produce for such inspection any personal weighing machine in his possession or on his premises or refuses to permit any such inspector of weights and measures to examine the same or obstructs the entry of such inspector or otherwise obstructs or hinders him from acting under this section shall be liable to a penalty not exceeding five pounds or in the case of a second or any subsequent offence ten pounds.

(6) The Corporation may make byelaws—

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

(b) with respect to the tests to be applied for the purpose of ascertaining the accuracy and efficiency of personal weighing machines;

(c) for fixing the fees to be paid to the Corporation for the examination approval and marking of personal weighing machines under this section or for the examination of such personal weighing machines as are found to be incorrect or defective;

(d) for fixing the limits of error to be allowed on examination and approval or on inspection and examination of any personal weighing machine under this section.

(7) A personal weighing machine which is liable to be forfeited under any of the foregoing provisions of this section shall not be forfeited if in the opinion of the court it is reasonably practicable having regard to cost and other relevant circumstances to restore the machine to a condition in which it may lawfully be used or exposed for use under this section.

92. Every person who himself or by any person employed by him and in the course of his employment negligently breaks or throws down or otherwise damages any street sign public lamp or lamp-post or street receptacle for the temporary deposit and collection of dust ashes and rubbish or street sandbin or life-saving apparatus or any other property of the Corporation shall make full compensation to the Corporation for the damage done and such compensation to an amount not exceeding twenty pounds may (without prejudice to any other right or remedy of the Corporation) be recovered summarily as a civil debt.

Compensation  
for injuring  
lamps &c.

## PART XIII.

## GENERAL.

Apportionment of expenses in case of joint owners.

93. Where under the provisions of this Act or any local Act in force in the borough the Corporation shall construct or do any works for the common benefit of 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.

Breach of conditions of consent of Corporation.

94. Where under any enactment the Corporation give their consent to the execution of any work or the doing of any act or thing subject to any terms or conditions which they are authorised to impose any breach of any such terms or conditions shall be deemed as regards liability to a penalty and other consequences equivalent to the execution of the works or the doing of the act or thing without the required consent.

In executing works for owner Corporation liable for negligence only.

95.—(1) Whenever the Corporation or any of their officers under any enactment execute re-execute or alter any work or do any act or thing in default or at the request of the owner occupier or other person required to execute re-execute or alter such work or do such act or thing the Corporation or their officer shall not as between themselves or himself and such owner occupier or other person in the absence of any negligence on their or his part or the part of any contractor or other person employed by them or him be liable to pay any damages penalties costs charges or expenses for or in respect of or consequent upon the executing re-executing or altering of such work or the doing of such act or thing and any such damages penalties costs charges or expenses paid by the Corporation or such officer in the absence of negligence as aforesaid shall be deemed to be part of the expenses payable by such owner occupier or other person and shall accordingly be recoverable by the Corporation or such officer.

(2) Section 59 (In executing works for owner Corporation not liable for damage) of the Smethwick Corporation Act 1901 is hereby repealed.

Undertakings to bind successive owners.

96.—(1) Every undertaking or agreement under seal expressed to be given or made in pursuance of this section and being—

(a) an undertaking given by or to the Corporation to or by the owner of any legal estate in land or property; or

(b) an agreement between the Corporation and any such owner;



on the passing of plans or otherwise in connection with such land or property shall be binding upon such owner and his successors in title and all persons claiming through or under him or them and upon the Corporation and such owner and other persons upon whom such undertaking or agreement is binding shall be entitled to require from the Corporation a copy thereof.

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

(3) Any such undertaking or agreement shall not be binding upon any person in whom any other legal estate in such land or property is vested at the date thereof nor upon his successors in title unless such person joins in such undertaking or agreement.

**97.** As respects byelaws made under this Act the confirming authority for the purposes of section 250 (Procedure &c. for making byelaws) of the Act of 1933 shall be— As to byelaws.

(a) in the case of byelaws made under section 71 (Byelaws relating to wood fuel) the Minister of Fuel and Power;

(b) in the case of byelaws made under section 91 (As to personal weighing machines) of this Act the Board of Trade; and

(c) in all other cases the Minister.

**98.** Section 298 (Restriction on right to prosecute) of the Act of 1936 shall apply to offences created by or under Part V (Streets and buildings) Part VI (Sewers and drains) Part VII (Sanitary provisions) and Part VIII (Food) of this Act as if they were offences created by or under that Act. Restriction on right to prosecute.

**99.** 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. Damages and charges to be settled by court.

**100.** Where under this Act any difference question or dispute is to be referred to an arbitrator or to arbitration (other than differences questions or disputes which are required to be determined by the arbitration of an official arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act 1919 or to which the provisions of section 101 (Compensation how to be determined) of this Act apply) then unless other provision is made the reference shall be to a single arbitrator to be agreed upon between the parties to the difference question or dispute or in default of such agreement Application of Arbitration Acts.

PART XIII.  
—cont.

appointed on the application of either party by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such arbitration.

Compensation  
how to be  
determined.

**101.** When any compensation costs damages or expenses is or are by this Act or by any local Act or Order 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 (Compensation to individuals for damage resulting from exercise of powers under Act) of the Act of 1936.

Inquiries by  
Ministers.

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

Commence-  
ment of certain  
provisions of  
this Act.

**103.—(1)** The provisions of this Act to which this section applies shall come into operation on but not until such date as may be fixed by a resolution of the council of which date public notice shall be given by the Corporation by advertisement in one or more local newspapers circulating in the borough. Every such advertisement shall also state the effect of the provisions to which it relates and the date specified therein as the date on which such provisions shall come into operation shall not be less than one month after the date of publication of the advertisement:

Provided that if the provision is one which requires the registration of any person or premises the application for the registration may be made and determined before the provision comes into operation.

(2) A copy of a newspaper containing such advertisement shall be sufficient evidence of the publication of the advertisement.

(3) This section shall apply to the following sections of this Act (namely):—

- Section 46 (Demolition of buildings);
- Section 56 (Prevention of smoke from industrial furnaces);
- Section 60 (Registration of hairdressers and barbers and their premises);
- Section 61 (Registration of hawkers of food and their premises);



- Section 63 (Notice of slaughter of animal unfit for food); PART XIII.  
—cont.
- Section 64 (Animals slaughtered outside slaughter-houses);
- Section 91 (As to personal weighing machines).

(4) As respects any of the said provisions which requires the registration of persons carrying on any business or of premises used for any purpose it shall be lawful for any person who when such provision comes into operation—

- (a) is carrying on any such business or using any premises for any such purpose; and
- (b) has made application in accordance with the provisions of this Act for such registration as is required by this Act;

to continue to carry on such business and to use such premises for such purpose until such time as he has been informed of the decision with regard to his application and if the decision is adverse during such further time as is provided under subsection (6) of section 104 (As to appeals) of this Act.

**104.**—(1) Any person aggrieved by any requirement refusal or other decision of the Corporation or of any officer thereof under Part V (Streets and buildings) (except section 49 (As to defective roofs)) Part VI (Sewers and drains) Part VII (Sanitary provisions) or Part VIII (Food) of this Act may except where otherwise expressly provided or when some other right of appeal is conferred by this Act appeal to a court of summary jurisdiction. As to appeals.

(2) The procedure upon any such appeal shall be by way of complaint for an order and the Summary Jurisdiction Acts shall apply to the proceedings.

(3) The time within which any such appeal may be brought shall except where otherwise expressly provided be twenty-one days from the date on which the notice of the requirement refusal or decision was published or served upon the person desiring to appeal and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(4) In any case in which such an appeal lies the document notifying the requirement refusal or decision in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought unless these have already been stated in a notice to the person concerned informing him of his right to a hearing before the Corporation with regard to the same matter.

PART XIII.  
—cont.

(5) Where a person aggrieved by any order determination or other decision of a court of summary jurisdiction under this Act is not by any other enactment authorised to appeal to a court of quarter sessions he may except where otherwise expressly provided appeal to such a court.

(6) Where any requirement refusal order determination or other decision against which a right of appeal is conferred by this Act involves the execution of any work or the taking of any action or makes it unlawful for any person to carry on any business which he was lawfully carrying on up to the time of such requirement refusal order determination or other decision or to use any premises for any purpose for which they were lawfully used up to such time—

- (a) no proceedings in respect of any failure to execute the work or take the action shall be taken;
- (b) the Corporation shall not execute such work or take such action; and
- (c) any such person may carry on such business and use such premises for such purpose;

until the time for appealing has expired or when an appeal is lodged until the appeal has been disposed of or withdrawn or fails for non-prosecution thereof.

(7) Where upon an appeal under this Act a court varies or reverses any requirement refusal or other decision of the Corporation effect shall be given to the order of the court and in particular any necessary consent certificate or other document shall be granted or issued and any necessary entry in any register shall be made.

Application of  
provisions of  
Act of 1936.

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

- 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);
- 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 V (Streets and buildings) Part VI (Sewers and drains) Part VII (Sanitary provisions) and Part VIII (Food) of this Act.

(2) Sections 283 284 285 293 296 and 299 of the Act of 1936 shall extend and apply in relation to any local Act for the time being in force in the borough as if such sections were re-enacted in that local Act and in terms made applicable thereto.

106. 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. Saving for town and country planning.

107. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation. Costs of Act.

The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

AN AGREEMENT made the twenty-fifth day of June one thousand nine hundred and forty-eight between GEORGE BURN LIMITED whose registered office is situate at Rabone Lane Smethwick in the county of Stafford (hereinafter called "the Company") of the one part and THE MAYOR ALDERMEN AND BURGESSES OF THE COUNTY BOROUGH OF SMETHWICK (hereinafter called "the Corporation") of the other part.

Whereas the Company are the owners in fee simple in possession free from incumbrances of the piece or parcel of land more particularly delineated on the plan signed by George Austin Burn on behalf of the Company and by Edward Lionel Twycross on behalf of the Corporation (hereinafter referred to as "the signed plan") and thereon edged pink And whereas the Corporation being desirous of acquiring land for coal stacking and other purposes connected with their gas undertaking have approached the Company with a view to the purchase of the said piece or parcel of land hereinbefore described and the Company are prepared to sell such land to the Corporation at the price of one thousand five hundred and twenty-five pounds subject to the terms and conditions hereinafter contained.

Now it is hereby agreed and declared as follows:—

1. The Company will sell and the Corporation will purchase at the sum of one thousand five hundred and twenty-five pounds. All that piece or parcel of land now forming part of a larger piece of land all belonging to the Company at the rear of their works situate in Rabone Lane aforesaid which land now being described contains in the whole an area of one thousand five hundred and twenty-five square yards or thereabouts and is more particularly delineated on the signed plan and thereon edged pink Together with the buildings thereon.

2. Vacant possession of the said land shall be given on completion but the Corporation shall provide at their own expense a temporary cover on the north side of the Company's dust extractor plant house.

3. The Corporation shall erect a sufficient temporary fence along the line "A" "B" and "C" indicated on the signed plan and shall subsequently erect and for ever after maintain a substantial retaining and boundary wall along the line "A" "B" "C" "D" indicated on the signed plan to divide the land sold from the adjoining land of the Company. The Company has the right to construct a bridge over the footpath at the southern end of the said land it being their intention to carry over such bridge a railway siding to bring materials into their works. An alternative method of dealing with the rail traffic has been suggested which the parties propose to negotiate with the British Transport Commission with the



object of avoiding the construction of a bridge. It is impossible to complete these negotiations until after the execution of this agreement but the parties will co-operate with the object of providing railway facilities at the lowest possible cost. If it shall become necessary to carry a bridge over the said land the Company shall have the right to do so in a position to be agreed between the parties and the Corporation shall provide in the said retaining and boundary wall marked "A" "B" "C" "D" on the signed plan the necessary buttress and other support of sufficient strength to carry the bridge and the railway track both to be provided by the Company and will permit the Company to erect on the said land supports for the said bridge provided that the said supports shall be so situated as not to interfere with the Corporation's reasonable enjoyment of the said land. The Corporation shall pay a reasonable proportion of the additional cost which shall be incurred by the Company either in the construction of a bridge over the said land or in the carrying out of an alternative scheme to be agreed between the parties provided that the amount to be paid by the Corporation in respect of such alternative scheme shall not exceed the amount which would have been payable by them in respect of the construction of a bridge. If the parties shall be unable to agree either as to the appropriate scheme to be adopted or as to any contribution to be made by the Corporation then the matter shall be referred to arbitration in manner hereinafter provided.

4. The Company and the Corporation shall enter into a contract incorporating the conditions of the Birmingham Law Society to give effect to the agreement of sale and purchase.

5. In order to obtain access to the said land it is necessary that the existing adjoining footpath should be widened to a width of approximately twelve feet as indicated on the signed plan. The Corporation have approached the British Transport Commission as the owners of the land adjoining the footpath on the southerly side thereof with a view to the acquisition by the Corporation of a sufficient strip of land to enable the said footpath to be widened as aforesaid. In the event of the Corporation being able to acquire the land and to widen the road the same shall be widened and thereafter maintained by the Corporation. In the event of the Corporation not being able to acquire such strip of land as aforesaid the Corporation will provide a mechanical means of coal handling upon the land sold to the Corporation and the Company will permit the Corporation to have from time to time such occasional access as is practicable through their works to Rabone Lane aforesaid for the movement of the said plant to and from the site.

6. If any difference shall arise between the Company and the Corporation as to the carrying out of any of the works provided for in this agreement or as to the proper mode of dealing with the same or as to any matter arising under clause 3 hereof such question shall be referred to a single arbitrator to be appointed (if the parties shall fail to agree) by the President for the time being of the Incorporated Law Society acting on the application of the party first applying in writing and the decision of such arbitrator shall be final and binding.

7. The Company's claim to a "cost of works" payment in respect of war damage to buildings on the land shall (subject to the consent of the War Damage Commission) be reserved to the Company and shall not pass to the Corporation.

8. The Corporation shall pay the sum of four hundred pounds for the Company's solicitors' parliamentary agents' architects' and estate agents' costs fees and disbursements.

In witness whereof the parties hereto have caused their respective common seals to be hereunto affixed the day and year first before written.

The common seal of GEORGE BURN }  
LIMITED was hereunto affixed in the }  
presence of }

LESLIE BURN }  
GEO. A. BURN } Directors.  
GEO. A. BURN Secretary.

Passed under the common seal of THE }  
MAYOR ALDERMEN AND BURGESSES }  
OF THE COUNTY BOROUGH OF }  
SMETHWICK }

E. M. FARLEY  
Deputy Mayor.  
E. L. TWYCROSS  
Town Clerk.

---

### THE SECOND SCHEDULE.

---

Land in Handsworth in the city of Birmingham containing 1.35 acres or thereabouts situate two hundred and sixty-nine feet or thereabouts west of the intersection of the centre lines of Queens Head Road and the approach road therefrom to the Handsworth and Smethwick station goods yard of the British Transport Commission and having frontages on the south side of two hundred and sixty-three feet or thereabouts to the said approach road and on the west north and east sides of one hundred and ninety-four feet two hundred and forty feet and three hundred feet or thereabouts respectively to land of T. J. Graham and Sons Limited.

PRINTED BY SIR NORMAN GIBB SCORGIE, C.V.O., C.B.E.  
Controller of His Majesty's Stationery Office and King's Printer of Acts  
of Parliament

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:  
York House, Kingsway, London, W.C.2 ; 13a Castle Street, Edinburgh, 2 ;  
39-41 King Street, Manchester, 2 ; 1 St. Andrew's Crescent, Cardiff ;  
Tower Lane, Bristol 1 ; 80 Chichester Street, Belfast  
OR THROUGH ANY BOOKSELLER

Price 2s. 6d. net