



CHAPTER liii.

An Act to confer further powers upon the London County Council and other authorities and for other purposes. [30th July 1948.]

WHEREAS it is expedient that the London County Council (hereinafter referred to as "the Council") should be empowered to execute the works described in Part III of this Act and to acquire for that purpose and the other purposes mentioned in Part II of this Act the lands described or referred to in the said Part II:

And whereas pursuant to a resolution of the Standing Orders Committee of the House of Commons relating to a Bill promoted by the Council in the last preceding session of Parliament which resolution was agreed to by that House on the thirtieth day of April one thousand nine hundred and forty-seven the Council are under the obligation to promote in the present session a Bill to amend sections 151 and 152 of the London Government Act 1939 and it is expedient that the provisions with reference to such amendment which are contained in this Act should be enacted: 2 & 3 Geo. 6.
c. 40.

And whereas it is expedient that further provision should be made with respect to the alteration revision or constitution of petty sessional divisions in the administrative county of London (exclusive of the city of London) and with respect to the appointment remuneration and superannuation of justices' clerks and their assistants for the said divisions and to the remuneration of the clerks to the chairman and deputy-chairman of the court of quarter sessions for the county of London:

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

And whereas the objects aforesaid cannot be attained without the authority of Parliament:

And whereas an estimate has been prepared of the cost of and incidental to the execution of the works to be executed by the Council under the powers of this Act and the acquisition of lands therefor or in connection therewith and such estimate (being calculated to cover the original cost of purchasing lands and executing the said works without any allowance in respect of returns from the re-sale or letting of lands) amounts to one million seven hundred and twelve thousand and five hundred pounds:

And whereas plans and sections showing the lines and levels of the works to be executed by the Council under the powers of this Act such plans also showing the lands which may be acquired compulsorily for or in connection with the said works and a plan showing the lands which may be acquired compulsorily for other purposes under the powers of this Act together with a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands have been deposited with the clerk of the Council and are in this Act referred to respectively as the deposited plans sections and book of reference:

And whereas in relation to the promotion of the Bill for this Act the Council (as respects the appropriate provisions of the said Bill) have complied with the requirements of section 151 of the London Government Act 1939:

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 title.

1. This Act may be cited as the London County Council (General Powers) Act 1948.

Act divided into Parts.

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

Part I.—Preliminary.

Part II.—Lands.

Part III.—Improvements.

Part IV.—Dangerous forecourts and structures.

Part V.—Miscellaneous.

Part VI.—General.

3.—(1) In this Act except as otherwise expressly provided or unless the subject or context otherwise requires—

“ the county ” means the administrative county of London;

“ the Council ” means the London County Council;

“ borough ” means a metropolitan borough and “ the borough ” means the metropolitan borough in relation to which the expression is used;

“ borough council ” means the council of a borough and “ the borough council ” means the council of the borough in relation to which the expression is used;

“ the Holborn council ” “ the Kensington council ” and “ the Westminster council ” mean respectively the councils of the borough of Holborn of the royal borough of Kensington and of the borough and city of Westminster;

“ the Minister ” means the Minister of Transport;

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

“ the Lands Clauses Acts ” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 by Part V of the Town and Country Planning Act 1947 and by this Act;

9 & 10 Geo. 5.
c. 57.
10 & 11 Geo. 6.
c. 51.

“ the Act of 1845 ” means the Lands Clauses Consolidation Act 1845;

8 & 9 Vict.
c. 18.

“ land ” or “ lands ” includes any interest in land and any easement or right in to or over land;

“ the tribunal ” means the arbitrator 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;

“ street ” has the meaning assigned to that term in the Metropolis Management Acts 1855 to 1893;

“ enactment ” means any enactment whether public general or local and includes any order or other instrument having effect by virtue of an enactment;

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

41 & 42 Vict.
c. 76.

PART I.
—cont.10 & 11 Geo. 6.
c. 49.

“ 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;

“ the Act of 1939 ” (except in Part IV (Dangerous forecourts and structures) of this Act) means the London Government Act 1939.

(2) Except as otherwise expressly provided in this Act or unless the context otherwise requires terms to which meanings are assigned by any enactment incorporated with or applied by this Act or which have in any such enactment special meanings have in and for the purposes of this Act the same respective meanings.

(3) Where in this Act any distance or length is stated in the description of any works the reference to that distance or length shall be construed as if the words “ or thereabouts ” were inserted after such distance or length.

(4) 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.

Incorporation
of Lands
Clauses Acts.

4.—(1) 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 modification:—

(a) Section 92 and sections 127 to 133 inclusive of the Act of 1845 are not incorporated with this Act;

(b) The bond required by section 85 of the Act of 1845 shall be under the seal of the Council and shall be sufficient without the addition of the sureties mentioned in that section.

(2) The expressions “ the promoters of the undertaking ” and “ the company ” in the Lands Clauses Acts shall be construed to mean the Council.

PART II.

LANDS.

Power to take
lands.

5.—(1) Subject to the provisions of this Act the Council may enter upon take and use any of the lands situate respectively in the city of Westminster in the borough of Kensington

and in the borough of Holborn and delineated on the deposited plans and described in the deposited book of reference which may be required for the purposes of or in connection with the improvements and for providing space for the erection of houses and buildings adjoining or near to the improvements and for the purposes of recoupment reinstatement or exchange and for enabling the Council to control the development of such lands and for other purposes of Part III of this Act or for any of the aforesaid purposes.

(2) The powers of the Council for the purchase of lands by agreement shall be deemed to extend to and to authorise the purchase by the Council by agreement of any other lands in the county which they may think it desirable to purchase in order to provide substituted sites or facilities for any persons whose lands may be required by the Council for the purposes of or in connection with the improvements.

6. Notwithstanding anything contained in this Act or shown on the deposited plans the Council shall not under the powers of this Act acquire otherwise than by agreement any greater part of the lands in the borough of Holborn numbered 36 37 38 39 and 40 on the deposited plans than is (in relation to those lands) marked "Extent of widening" on the deposited plans.

For protection of St. Bartholomew's Hospital and Lincoln House Holborn Limited.

7. Subject to the provisions of this Act the Council may enter upon take and use for purposes arising out of and in connection with the extension of Cromwell Road authorised by the London and Middlesex (Improvements &c.) Act 1936 the lands and premises known respectively as No. 28 and No. 30 Rivercourt Road in the borough of Hammersmith which are delineated on the deposited plans and described in the deposited book of reference.

Power to acquire lands in Hammersmith. 26 Geo. 5. & 1 Edw. 8. c. cviii.

8. Subject to the provisions of this Act the Council may enter upon take use and appropriate so much of the subsoil and under-surface of any public street within the limits of deviation shown on the deposited plans as shall be necessary for the purposes of the improvements without being required to purchase the same or any easement therein or thereunder.

Power to use subsoil of streets.

9. 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

As to taking of parts of certain properties.

PART II.
—cont.

the tribunal so determine compensation shall be awarded in respect of the severance of the part so proposed to be taken in addition to the value of that part and thereupon the person interested shall be required to sell to the Council that part of the house building factory park or garden.

Extinguish-
ment of
private rights
of way.

10. All private rights of way over any lands which the Council are authorised by this Act to acquire compulsorily shall as from the date of the acquisition of such lands by the Council be extinguished except to the extent to which the Council shall by resolution otherwise determine:

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

Power to
certain persons
to grant
easements
&c. by
agreement.

11. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may (if they think fit) subject to the provisions of those Acts and of this Act grant to the Council any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for any purpose for which lands are authorised by this Act to be acquired compulsorily in or over or affecting any such lands and for the purposes of this Act the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such easements rights and privileges as aforesaid and to any grant of the same respectively.

Correction of
errors in
deposited
plans and
book of
reference.

12.—(1) If there be any omission misstatement or wrong description of any lands referred to in this Part of this Act or of the owners lessees or occupiers of any such lands shown on the deposited plans or specified in the deposited book of reference the Council after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to a metropolitan police magistrate for the correction thereof.

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

(3) Such certificate or a copy thereof shall be deposited with the clerk of the Council and a duplicate thereof shall be deposited with the town clerk of the borough in which the lands are situate and thereupon the deposited plans and book of reference shall be deemed to be corrected according to the

certificate and it shall be lawful for the Council to take the lands and execute the improvements in accordance with the certificate.

(4) Such certificate or copy and duplicate respectively shall be kept by such clerks with the other documents to which the same relate.

13. In settling any question of disputed purchase money or compensation payable by the Council under this Part of this Act the tribunal shall not award any sum of money for or in respect of any improvement alteration or building made or erected or for or in respect of any interest in the lands created after the twenty-sixth day of July one thousand nine hundred and forty-seven if in the opinion of the tribunal the improvement alteration or building or the creation of the interest in respect of which the claim is made was not reasonably necessary and was made or created with a view to obtaining or increasing compensation under this Act.

Compensation
in case of
recently
altered
buildings &c.

14. In determining the amount of compensation or purchase money payable to any person in respect of his interest in land acquired under this Act in a case where—

Set-off of
betterment
against
compensation.

(a) he has an interest in any other land not so acquired but adjoining the land so acquired or being contiguous with any such adjoining land; and

(b) the value of his interest in any such adjoining or contiguous land is enhanced by reason of the execution of the improvements or by reason of any such adjoining land becoming land fronting on any street;

the amount of the enhancement in value shall be set off against the compensation or purchase money:

Provided that any such enhancement in value of an interest in land shall be estimated on the assumption that planning permission in respect of that land would be granted under the Town and Country Planning Act 1947 for the operations or uses specified in the Third Schedule to that Act but for no other development.

15.—(1) The Council may for the purposes of or in connection with the improvements appropriate and use or deal with or dispose of in accordance with the provisions of this Act any lands in the county belonging to them and not required by them for any other purpose and the provisions of this Act relating to lands acquired by the Council thereunder shall apply to any lands appropriated by the Council under the powers of this section as if such lands had been so acquired.

Power to
appropriate
lands for
purposes of
improvements

(2) The Council shall make any necessary adjustments in their accounts required in consequence of any such appropriation as aforesaid.

PART II.
—cont.
Further
powers of
entry.

16. At any time after notice to treat has been served for any land which the Council are by this Act authorised to purchase compulsorily the Council may after giving to the owner and occupier of the land not less than fourteen days' notice enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with the provisions of sections 84 to 90 of the Act of 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.

Sale or leasing
&c. of lands.

17.—(1) Notwithstanding anything in this or any other Act or otherwise to the contrary the Council may—

- (a) retain and hold and use for such time and for such purpose as they may think fit (making any necessary adjustments in their accounts in consequence of such user); or
- (b) demise lease or let for any term or (subject or not as the case may be to any such demise lease or letting) sell and convey or exchange for other lands in the county either with or without paying or receiving any money for equality of exchange; or
- (c) grant any easements rights or privileges in under or over;

any land acquired by or vested in them under this Act or taken in exchange under the powers of this section and do any act or thing requisite or proper for any of the purposes aforesaid.

(2) Any such sale conveyance demise lease letting or exchange may be made at such price or rent (including a peppercorn rent) or for such consideration and may be subject to such restrictions conditions and stipulations (whether as to the title to be produced to such land or as to the nature of the buildings at any time erected or to be erected thereon or as to the use or enjoyment thereof or otherwise) and may be effectuated in one or more parcels or lots and either by public auction or private contract as the Council think reasonable and as regards any restrictions conditions and stipulations which may be contained in any deed or instrument entered into or made under this enactment the same may at all times thereafter be enforced by the Council for the benefit of the Council or of any person entitled to other property adjoining or held under title derived from the Council.

Power to make
agreements
with owners of
property &c.

18. The Council may subject to the provisions of this Act enter into and carry into effect agreements with any person being the owner of or interested in any lands or property abutting on any portion of any lands which may be acquired

by or are vested in the Council under the provisions of this Act with respect to the sale by the Council to such person of any such last-mentioned lands for such consideration as may be agreed upon between the Council and such person or with respect to the reinstatement of such person and the Council may accept as satisfaction of the whole or any part of such consideration the grant by such person of any other lands or property required by the Council for the purposes of this Act.

PART II.
—cont.

19.—(1) If in connection with the execution of the improvements the remains of any deceased persons are found in or under any portion of the property delineated on the deposited plans and thereon numbered 28 in the city of Westminster the Council shall not commence or (if commenced) shall not proceed with such execution in relation to that portion until after they have removed or caused to be removed such remains:

Removal of
human
remains.

Provided that a Secretary of State on the application of the Council and on being satisfied that such removal is not necessary or desirable may dispense with all or any of the requirements of this section on such conditions (if any) as he thinks fit.

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

(3) At any time within two months after the first publication of such notice any person who is an heir executor administrator or relative of any deceased person whose remains are interred in the portion of property referred to in subsection (1) of this section may give notice in writing to the Council of his intention to undertake the removal of such remains and thereupon he shall be at liberty without any faculty for the purpose but subject as hereinafter mentioned to any regulations made by the bishop of the diocese of London to cause such remains to be removed to and re-interred in any consecrated burial ground or cemetery in which burials may legally take place.

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

PART II.
—cont.

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

(6) If within the aforesaid period of two months no such notice as aforesaid shall have been given to the Council in respect of the remains in any grave or if after such notice has been given the persons giving the same shall fail to comply with the provisions of this section and with any regulation of the bishop the Council may without any faculty for that purpose remove the remains of the deceased person and cause them to be interred in such other consecrated burial ground or cemetery in which burials may legally take place as the Council think suitable for the purpose subject to the consent of the bishop.

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

Limitation of
time for
purchase of
lands.

20. The powers of the Council for the compulsory purchase of lands under this Act shall cease as respects lands in the borough of Hammersmith on the first day of October one thousand nine hundred and fifty-one and as respects all other lands on the first day of October one thousand nine hundred and fifty-three.

Ecclesiastical
property.

21.—(1) In so far as any land shown on the deposited plans or described in the deposited book of reference is ecclesiastical property any sums agreed upon or awarded for the purchase of such land or to be paid by way of compensation for damage sustained by reason of severance or injury affecting such land shall not be paid as directed by the Lands Clauses Acts but shall be paid to the Church Commissioners to be applied for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or measure authorising such a sale or disposing of the proceeds of such a sale.

(2) In this section the expression "ecclesiastical property" means land belonging to any ecclesiastical benefice or being or forming part of a church subject to the jurisdiction of the bishop of any diocese or the site of such a church or being or forming part of a burial ground subject to such jurisdiction.

PART III.

IMPROVEMENTS.

22.—(1) Subject to the provisions of this Act the Council may in the lines or situations and within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections execute the works described in subsection (2) of this section. Power to execute works.

(2) The works referred to in subsection (1) of this section are—

In the city of Westminster and the borough of Kensington—

Work No. 1 A widening of Brompton Road on the north-western side thereof between Tullett Place and a point one hundred and fifty-seven yards north-east thereof:

In the borough of Holborn—

Work No. 2 An alteration of High Holborn between points respectively nine yards eastward of the junction therewith of Holborn Place and seventeen yards westward of the junction therewith of Chancery Lane by the widening thereof—

(a) on the northern side between Red Lion Street and a point fifty-nine yards eastward of the eastern side of that street;

(b) on the southern side—

(i) between the western end of Work No. 2 and a point twenty-eight yards eastward thereof; and

(ii) between the eastern end of Work No. 2 and a point one hundred and sixty-nine yards westward thereof.

23. Subject to the provisions of this Act and within the limits of deviation shown on the deposited plans the Council in connection with and for the purposes of this Act and as part of the improvements (in addition to the works described or referred to in any other provision of this Act) may execute or do any of the following works or things (that is to say):— Power to make subsidiary works &c.

(a) make junctions and communications with any existing streets intersected or interfered with by or contiguous to any of the improvements and divert widen or alter the line or alter the level of any existing street for the purposes of the improvements;

(b) stop up any part of a street which they may consider unnecessary to retain or to throw into the improvements and alter and divert any street or part of a street;

PART III.
—cont.

- (c) raise sink or otherwise alter the position of any of the steps areas cellars cellar-flaps pavement-lights gratings boundary walls railings fencings windows sewers drains watercourses pipes or spouts belonging to any house or building and remove all other obstructions so as to cause in so doing as little delay and inconvenience to the inhabitants as the circumstances of the case will admit and the Council shall make compensation to any person who suffers damage by any such alterations such compensation to be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement;
- (d) execute any works for the protection of any adjoining land or buildings;
- (e) execute any works and do any things necessary for the strengthening and supporting of any walls of adjoining buildings.

Deviation
from line
and levels.

24. In executing the improvements the Council may deviate laterally from the lines or situations thereof to any extent within the limits of deviation shown on the deposited plans relating thereto respectively and vertically from the levels thereof defined on the deposited sections to any extent not exceeding five feet upwards and five feet downwards.

Underpinning
of houses near
improvements.

25. The Council at their own costs and charges may subject as hereinafter provided underpin or otherwise strengthen any house or building within one hundred feet of the improvements and the following provisions shall have effect (that is to say):—

- (1) At least ten days' notice shall except in case of emergency be given to the owners lessees and occupiers of the house or building intended to be so underpinned or otherwise strengthened:
- (2) Each such notice shall be served in manner prescribed by section 19 of the Act of 1845:
- (3) If any owner lessee or occupier of any such house or building shall within seven days after the giving of such notice give a counter-notice in writing that he disputes the necessity of such underpinning or strengthening the question of the necessity shall be settled by arbitration:
- (4) The Council shall be liable to compensate the owners lessees and occupiers of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers granted by this section provided that the claim for compensation

in respect of such loss or damage be made within three months from the occurrence thereof:

- (5) (a) In any case in which any house or building shall have been underpinned or strengthened under the powers of this section the Council may from time to time after the completion of such underpinning or strengthening and during the execution of the improvement in connection with which such underpinning or strengthening was done or within twelve months after the opening for traffic of that improvement enter upon and survey such house or building and do such further underpinning or strengthening thereof as they may deem necessary or expedient or as in the case of dispute between the Council on the one hand and the owner lessee or occupier of the house or building on the other hand shall be settled by arbitration;

(b) If in any such case as is referred to in the foregoing subparagraph (a) the underpinning or strengthening done by the Council shall at any time within twelve months from the opening for traffic of the improvement in connection with which such underpinning or strengthening was done prove inadequate for the support or protection of the house or building against further injury arising from the execution or use of such improvement the Council shall make compensation to the owner lessee and occupier of the house or building for such injury provided that the claim for compensation in respect thereof be made within one month from the discovery thereof:

- (6) Nothing in this section contained nor any dealing with any property in pursuance of this section shall relieve the Council from the liability to compensate under section 68 of the Act of 1845 or under any other Act:
- (7) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Lands Clauses Acts.

26. The Council may for the purposes of and in connection with the improvements stop up the whole or such portion or portions as they may from time to time think fit of the streets in the borough of Holborn respectively known as Featherstone Buildings and Tichborne Court but the Council shall not stop up any street or portion thereof unless they are owners in possession of all houses and lands (other than lands forming part of any street) on both sides of the street or portion to be stopped up except so far as the owners lessees and occupiers of such houses and lands may otherwise agree. Power to stop up streets.

PART III.

—cont.

Vesting of site
of streets
stopped up.

27.—(1) On the stopping up (otherwise than temporarily) of any street or part of a street under the powers of this Act all rights of way over the same and other rights in respect thereof shall be extinguished and the site and soil thereof shall vest in the Council so far as such site and soil shall not be already vested in them.

(2) The Council shall make compensation to all parties interested in respect of any private rights of way extinguished under or by virtue of this section and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Carriageway
footway and
other works.

28.—(1) Subject to the provisions of this Act the Council may cause such parts of the improvements to be laid out for carriageway and such parts thereof for footway as they may think proper and may upon the lands acquired by or vested in them under the powers of this Act and within the limits of deviation shown on the deposited plans construct erect and provide all such works and conveniences including subways (whether for persons on foot or for the accommodation of mains pipes or wires) as they may think proper for the purposes of or in connection with the improvements.

56 & 57 Vict.
c. ccii.

(2) The provisions of the London County Council (Subways) Act 1893 and all byelaws for the time being in force thereunder shall extend and apply to any subway for the accommodation of mains pipes or wires constructed by the Council under the powers of this Act as well during as after the construction thereof as if any such subway had been included in the expression "subway" in the said Act of 1893:

Provided that the said Act of 1893 and byelaws in force thereunder shall not in their application for the purposes of this Act extend or apply to the Gas Light and Coke Company or to the mains and pipes of that company.

(3) For the purposes of the application of the said Act of 1893 to any such subway as is referred to in the last preceding subsection the Metropolitan Water Board and the London Hydraulic Power Company shall be deemed to be water companies.

Sewers &c. to
be removed
arched over
or filled up.

29. Subject to the provisions of this Act the Council may cause to be removed arched over or filled up all such sewers drains or watercourses or parts thereof as shall be in or near the streets to be interfered with for the purposes of the improvements and as shall become unnecessary by reason of the purchase of the property entitled to the use thereof.

30. There shall be by virtue of this Act vested in the Council—

PART III.
—cont.
Vesting and disposal of materials.

- (a) all building or other materials of houses buildings and structures acquired by them under the powers of this Act and all materials and apparatus in under upon or over any lands so acquired;
- (b) all lamp-posts paving metalling and other materials in over or under any street or part of a street stopped up altered or diverted; and
- (c) all materials obtained in the alteration of or interference with any street sewer or drain in connection with the improvements;

and the Council may appropriate and use or sell or dispose of the same or any of them.

31.—(1) When any of the improvements is completed a certificate thereof shall be issued under the seal of the Council and a duly authenticated copy of such certificate shall in all proceedings and for all purposes be admissible and received as evidence that such certificate has been duly made and that the improvement to which such certificate relates has been completed and from the date of such certificate so much of the improvement to which such certificate relates as has been laid out as carriageway or footway shall subject to the provisions of this Act form part of the street and may subject as aforesaid be used by the public accordingly.

Improvements to form public streets and as to repair thereof.

(2) Subject to the provisions of this Act so much of the land acquired by or vested in the Council for or in connection with the improvements as is laid out as carriageway or footway shall after the issue of the certificate relating thereto (subject to the enjoyment by the borough council of all such rights in such land as are usually enjoyed in respect of a street by the highway authority) be and remain vested in the Council and the maintenance repair paving draining cleansing and lighting of so much of such improvements as has been laid out as aforesaid (including unless otherwise agreed any subways for persons on foot constructed in connection therewith) shall be under the care management control and jurisdiction of the borough council.

(3) If within the period of five years after the issue by the Council pursuant to the provisions of this Act of a certificate of the completion of any of the improvements any subsidence of such improvement shall occur the Council may in their discretion contribute towards the costs and expenses incurred by the borough council in making good the improvement but nothing in this subsection shall affect any claim which may lawfully be made in respect of such subsidence.

PART III.
—cont.
Power to stop
up ways
temporarily.

32.—(1) Subject to the provisions of this Act the Council may for the purposes of and during the execution of the improvements stop up interfere with alter or divert temporarily all or any part of the carriageway or footway of any street or part of a street or of any subway within the limits of deviation shown on the deposited plans and may execute and do all necessary works and things for or in connection with such stopping up interference alteration or diversion and for keeping such carriageway or footway open for traffic and may after consultation with the Commissioner of Police for the metropolis remove or alter any drinking-troughs lamp-posts street refuges lavatories posts and other erections upon the said lands.

(2) The Council shall provide reasonable access for all persons bona fide going to or returning from any premises in any street of which the carriageway or footway is stopped up interfered with altered or diverted under the powers of this section.

Removal &c.
of apparatus.

33.—(1) In and for the purposes of this section—

“ apparatus ” includes sewers drains culverts water-courses and mains pipes valves tubes cables wires or apparatus laid down or used for or in connection with the carrying conveying or supplying of a supply of water or water for hydraulic power gas or electricity or for telegraphic or other purposes standards and brackets carrying street lamps and street refuges lavatories posts Post Office letter boxes and telephone call boxes and other structures and works;

“ undertakers ” means the company body or person (other than the Council) to whom any apparatus in relation to which the expression is used belongs;

“ the permitted works ” means all such works and things as the Council are by this section authorised to execute or do.

(2) The Council for any purpose in connection with the exercise of the powers of this Act may and (if and when reasonably required by the undertakers) shall remove divert alter the position or line or level of or carry out any other alterations to any apparatus in under over or upon the lands acquired by or vested in them under the provisions of this Act and also in any street or part of a street within the limits of deviation shown on the deposited plans and any other apparatus connected with any apparatus so removed diverted or altered and may remove any other obstruction in under or near such lands street or part of a street and shall make such appropriate substituted works either permanent

or temporary as may be reasonably necessary and shall cause as little detriment and inconvenience as circumstances admit and shall make reasonable compensation for any damage caused by the execution of the permitted works:

Provided that before the Council execute any of the permitted works relating to any apparatus they shall (except in cases of emergency) give to the undertakers notice of their intention to do so such notice to be given twenty-one days at least before the commencement of the execution of the permitted works and such works shall be done under the superintendence (at the expense of the Council) of the undertakers unless the undertakers refuse or neglect to give such superintendence at the time specified in the notice for the commencement of such works or discontinue the same during the execution of such works and the Council shall execute such works to the reasonable satisfaction of the undertakers.

(3) If within fourteen days after notice under subsection (2) of this section has been served upon any undertakers those undertakers so elect they shall themselves execute such works to their apparatus as may be necessary for the purposes of this section and the reasonable cost of executing such works shall be repaid to them by the Council:

Provided that such works shall be carried out in accordance with the reasonable directions and to the reasonable satisfaction of the Council.

(4) All sewers drains and watercourses substituted under the provisions of this section for any existing sewers drains or watercourses shall be under the same management control and jurisdiction as the existing sewers drains or watercourses for which they may respectively be so substituted.

(5) If any difference arises between the Council and any undertakers touching the amount of any compensation or cost to be paid by the Council under the foregoing provisions of this section or touching any work matter or thing to be done or executed by the Council or by such undertakers under such provisions with reference to any apparatus or touching the mode of doing or executing the same such difference shall be settled by arbitration.

34. If the improvements are not completed on or before the first day of October one thousand nine hundred and fifty-five then as from that date the powers of the Council under this Act for the execution of the improvements shall cease except so far as the same are respectively then completed.

Period for
completion of
improvements.

PART III.
—cont.
For protection
of Postmaster-
General.

35.—(1) The Council shall not under the powers of this Act remove divert alter the position of or otherwise interfere with any telegraphic line belonging to or used by the Postmaster-General except in accordance with and subject to the provisions of paragraphs (1) to (8) of section 7 of the Telegraph Act 1878.

(2) If in consequence of the exercise or intended exercise by the Council of (a) any of the powers conferred on them by section 22 (Power to execute works) or (b) any of the powers (other than the power to stop up any street or part of a street) conferred on them by section 23 (Power to make subsidiary works &c.) of this Act 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 Council of any of the said powers the Postmaster-General may himself make such alteration in such telegraphic line as he deems necessary or expedient and the Council 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 Council containing particulars of the telegraphic line to be altered and of the nature of the alteration he intends to make;
- (b) the Council 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 Council is to be carried out.

(3) Notwithstanding the stopping up (otherwise than temporarily) of any street or part of a street under the powers of this Act the Postmaster-General may if he so desires (without derogation from any other right vested in him) remove therefrom any telegraphic line which is in under upon along over or across the same and any Post Office letter box or telephone call box and the Council shall pay to the Postmaster-General the expenses incurred by him of and incidental to the removal of such telegraphic line or of any telegraphic

line connected therewith which in consequence will be rendered useless and of such letter box or call box and the substitution of a telegraphic line or letter box or call box (as the case may be) in such other place as the Postmaster-General may require.

(4) In this section the expressions "alter" and "alteration" have the same meanings as in the Telegraph Act 1878.

36.—(1) Before commencing the construction of the improvements so as to involve the temporary closing to vehicular traffic of any street or part of a street either absolutely or to the extent of one-third or more of the width of the carriage-way the Council shall give to the Commissioner of Police of the metropolis (in this section referred to as "the commissioner") not less than two months' notice in writing of their intention so to do and such notice shall specify the part of the improvements to which the notice relates (in this section referred to as "the works") and the streets or parts of streets which will be so closed in the course of the execution of the works.

(2) The Council shall make such arrangements with the commissioner as shall be reasonably necessary so as to cause as little interference with vehicular traffic as may be reasonably practicable during the execution of the works and the commissioner shall furnish to the Council a list of such of the streets or parts of streets aforesaid in respect of which he requires the Council to give a further notice.

(3) Not less than seven nor more than fourteen days before so closing any street or part of a street mentioned in the said list the Council shall give to the commissioner a further notice specifying the intended date of such closing.

37. For the protection of the electricity undertakers (as hereinafter defined) the following provisions shall unless otherwise agreed in writing between the electricity undertakers and the Council apply and have effect:—

(1) In this section—

the expression "the electricity undertakers" means any electricity board established by and as defined in the Electricity Act 1947 being the owners of any apparatus in relation to which that expression is used; 10 & 11 Geo. 6.
c. 54.

the expression "apparatus" means electric lines (as defined in section 32 of the Electric Lighting Act 1882) ducts transformers or works of the electricity undertakers; 45 & 46 Vict.
c. 56.

PART III.
—cont.

- (2) Nothing in section 30 (Vesting and disposal of materials) of this Act shall apply to any apparatus other than derelict or unnecessary apparatus:
- (3) Notwithstanding the stopping up temporarily of any street or part of a street under section 32 (Power to stop up ways temporarily) of this Act the electricity undertakers their engineers and workmen and others in their employ shall at all times have such rights of access to all or any apparatus situate in or under any such street or part of a street as they had immediately before such stopping up and shall be at liberty to execute and do all such works and things in upon or under such street or part of a street as may be necessary for inspecting repairing maintaining renewing or removing such apparatus or with the consent of the Council (to be given or withheld at their discretion) for laying new apparatus:
- (4) In addition to any rights exercisable by them under the provisions of section 33 (Removal &c. of apparatus) of this Act the electricity undertakers shall be entitled to execute such works as may be rendered by the execution of the improvements reasonably necessary for supporting or protecting any apparatus within the limits of deviation shown on the deposited plans being situate in adjacent to under across or along the line of the carriageway of the improvements and affected by any works or operations of the Council or for maintaining the continuity of the supply of electricity by means of such apparatus and the Council shall repay to the electricity undertakers the reasonable cost incurred by them under the provisions of this paragraph:
- (5) If by reason or in consequence of the execution of the improvements any damage to any apparatus or any interruption in the supply of electricity by the electricity undertakers shall be caused the Council shall—
 - (a) make reasonable compensation to the electricity undertakers for any loss sustained by them; and
 - (b) indemnify the electricity undertakers against all claims demands proceedings costs damages and expenses which may be made or taken against or recovered from or incurred by the electricity undertakers;by reason or in consequence of any such damage or interruption except such as may be attributable to

the negligence of the electricity undertakers, their contractors, agents, workmen or servants:

- (6) The Council shall bear and pay to the electricity undertakers the reasonable expense of all repairs and renewals of—

(a) any apparatus or any works in connection therewith where such repairs or renewals are rendered reasonably necessary by or in consequence of the acts or defaults of the Council, their contractors, agents, workmen or servants or any person in the employ of them or any of them in the execution of the improvements; or

(b) any apparatus affected by the execution of any improvement and existing on the date when that improvement is commenced or any apparatus substituted therefor under the powers of this Act or any works in connection therewith where such repairs or renewals are reasonably necessary by reason or in consequence of any subsidence resulting from such execution within a period of twelve months after the date of completion thereof (except such as are attributable to the negligence of the electricity undertakers, their contractors, agents, workmen or servants):

- (7) In carrying out the improvements the Council shall not—

(a) remove, divert or alter any apparatus; or

(b) without the consent in writing of the electricity undertakers (which consent shall not be unreasonably withheld) do anything to interrupt the continuous supply of electricity by means of such apparatus;

until such good and sufficient apparatus and other works (if any) as shall be necessary or proper for maintaining the continuity of such supply shall at the expense of the Council and to the reasonable satisfaction of the electricity undertakers have been first made and laid down and be ready for use:

- (8) Any apparatus laid by the Council or the electricity undertakers under the powers of this Act in substitution for or in consequence of any alteration of any existing apparatus or any apparatus which is diverted or the position, line or level whereof is altered under those powers shall be laid in a street in such position and in such manner so far as reasonably practicable as to enable electricity to be afforded therefrom to any premises in the street not less conveniently than from the existing apparatus:

PART III.
—cont.

- (9) Any new or altered apparatus provided or laid by the Council or by the electricity undertakers under the powers of this Act for the use of the electricity undertakers shall as from the completion of the provision or laying thereof to the reasonable satisfaction of the electricity undertakers become and be the property of the electricity undertakers and maintainable by them :
- (10) Where by reason or in consequence of the exercise of any of the powers of this Act any apparatus is rendered derelict or unnecessary the Council shall pay to the electricity undertakers the value of such apparatus so rendered derelict or unnecessary unless substituted apparatus be provided :
- (11) The Council shall bear and pay to the electricity undertakers the amount of any expenses reasonably incurred by the electricity undertakers in or in connection with—
- (a) the cutting off of any apparatus from any other apparatus and the connecting of any substituted apparatus with any existing apparatus rendered necessary by reason or in consequence of the execution of the improvements; or
- (b) the removal or any alteration of any apparatus rendered necessary by reason or in consequence of such execution;
- and shall indemnify the electricity undertakers against all claims and demands by the owners or occupiers of premises supplied by means thereof except such as are attributable to the negligence of the electricity undertakers their contractors agents workmen or servants :
- (12) The electricity undertakers may if they deem fit employ watchmen or inspectors to watch and inspect any part of the improvements whereby any apparatus will or may be interfered with or affected during the execution thereof and the reasonable expenses thereof shall be borne by the Council and paid by them to the electricity undertakers :
- (13) Any difference which shall arise under this section between the electricity undertakers and the Council shall be settled by arbitration.

For protection
of Metro-
politan Water
Board.

38. For the protection of the Metropolitan Water Board (in this section referred to as "the board") the following provisions shall unless otherwise agreed in writing between

the board and the Council apply and have effect (that is to say) :—

PART III.
—cont.

- (1) In this section " apparatus " means mains pipes valves hydrants plugs syphons and other works of the board :
- (2) Notwithstanding anything contained in section 30 (Vesting and disposal of materials) of this Act no apparatus shall vest in the Council unless such apparatus be rendered derelict or unnecessary :
- (3) Notwithstanding the stopping up temporarily of any street or part of a street or of any subway under the powers of section 32 (Power to stop up ways temporarily) of this Act the board their engineers and workmen and others in their employ shall at all times have such rights of access to all or any apparatus situate in or under any such street or part of a street or subway as they had immediately before such stopping up and shall be at liberty to execute and do all such works and things in upon or under such street or part of a street or subway as may be necessary for inspecting repairing maintaining renewing or removing such apparatus :
- (4) In addition to any rights exerciseable by them under the provisions of section 33 (Removal &c. of apparatus) of this Act the board shall be entitled to execute such works as the engineer of the board may reasonably deem necessary for supporting or protecting any apparatus being situate in under across or along the line of the carriageway of the improvements and affected by any of the works or operations of the Council or for maintaining the continuity of the supply of water by means of such apparatus and the Council shall repay to the board the reasonable cost incurred by them under the provisions of this paragraph :
- (5) If in the exercise of any of the powers of this Act the Council lower or raise the level of any street so as to leave over any apparatus a less depth of cover (in the case of mains having an internal diameter exceeding twenty-four inches) than four feet or less than the existing covering where the same is less than four feet and (in the case of mains having an internal diameter exceeding twelve inches and not exceeding twenty-four inches) than three feet six inches or less than the existing covering where the same is less than three feet six inches and (in the case of any other mains or apparatus) than three feet or less than the existing covering where the same is less than three

PART III.

—cont.

feet or a greater depth of cover than five feet where the covering now existing does not exceed five feet or more than the existing covering where the same exceeds five feet the board may lower such apparatus to a depth not exceeding such minimum covering or the existing covering whichever is the less or raise such apparatus to a depth not less than five feet or the existing depth whichever is the greater (as the case may be) and the Council shall repay to the board the expense reasonably incurred by them in so doing:

(6) Where by reason or in consequence of the exercise of any of the powers of this Act any apparatus is rendered derelict or unnecessary the Council shall pay to the board the value of such apparatus so rendered derelict or unnecessary unless substituted apparatus be provided. Such value shall in case of difference between the board and the Council be determined by arbitration:

(7) If by reason or in consequence of the execution or making by the Council under the powers of this Act of any work or structure (other than a temporary work or structure) under any street or part of a street in which the board have a service main from which supplies of water are afforded to premises situate on both sides of such street it shall be reasonably necessary for the board to lay an additional service main in that street or part the Council shall pay to the board the reasonable cost incurred by them in providing and laying that additional service main and the service pipes necessary for connecting that main with the premises to be supplied by means thereof:

(8) If by reason or in consequence of the execution of the improvements any damage to any apparatus or any interruption in the supply of water by the board shall be caused the Council shall bear and pay the cost reasonably incurred by the board in making good such damage and shall—

(a) make reasonable compensation to the board for any loss sustained by them; and

(b) indemnify the board against all claims demands proceedings costs damages and expenses which may be made or taken against or recovered from or incurred by the board;

by reason or in consequence of any such damage or interruption:

(9) The Council shall not except with the consent of the board (which consent shall not be unreasonably withheld) execute or do any work which may involve any interference with the continuous supply of water by the board from any pipe other than a service main or service pipe during the months of May June July August and September in any year:

(10) The reasonable expense of all repairs and renewals of any apparatus or any works in connection therewith which may be rendered reasonably necessary by or in consequence of—

(a) the acts or defaults of the Council their contractors agents workmen or servants or any person in the employ of them or any of them; or

(b) any subsidence resulting from the works of the Council whether during the construction of such works or within a period of twelve months after the date or the respective dates of the completion thereof;

shall be borne and paid by the Council:

(11) The Council shall bear and pay to the board the amount of any expenses reasonably incurred by the board in or in connection with—

(a) the cutting off of any apparatus from any other apparatus and the connecting of any new or substituted apparatus with any existing apparatus rendered necessary by reason or in consequence of the execution of the improvements; or

(b) the removal or any alteration of any communication or supply pipes rendered necessary by reason or in consequence of such execution;

and shall indemnify the board against all claims and demands by the owner of any such communication or supply pipe or by the owners or occupiers of premises supplied by means thereof except such claims and demands as are attributable to the negligence of the board their contractors agents workmen or servants:

(12) The board may if they deem fit employ watchmen or inspectors to watch and inspect any improvement whereby any apparatus will or may be interfered with or affected during the execution thereof and the reasonable expenses thereof shall be borne by the Council and be paid by them to the board:

PART III.
—cont.

(13) If any question or difference shall arise between the Council and the board under this section (other than a difference as to the meaning or construction of this section) such question or difference shall be settled by arbitration:

(14) The provisions of this section shall be in addition to and not in derogation of any other provisions of this Act or of any enactment incorporated therewith to the benefit of which the board would have been entitled if this section had not been enacted.

For protection
of Gas Light
& Coke
Company.

39. For the protection of the Gas Light and Coke Company (in this section referred to as "the company") the following provisions shall unless otherwise agreed in writing between the company and the Council apply and have effect (that is to say):—

(1) In this section "apparatus" means mains pipes valves stopcocks or other works of the company:

(2) If under the powers of this Act any street or any part of a street in upon or under which any apparatus is for the time being situate is stopped up (otherwise than temporarily) the company shall be entitled to recover from the Council the like compensation as would be payable under Part I of the Fourth Schedule to the Town and Country Planning Act 1944 (in the amended form of that schedule as set forth in the Eleventh Schedule to the Town and Country Planning Act 1947) if such stopping up as aforesaid were included in the definition of the expression "proceeding giving rise to compensation" contained in subparagraph (4) of paragraph 2 of the said Part I:

(3) Notwithstanding anything contained in section 30 (Vesting and disposal of materials) of this Act no apparatus shall vest in the Council unless such apparatus be rendered derelict or unnecessary:

(4) Notwithstanding the stopping up temporarily of any street or part of a street or of any subway under the powers of section 32 (Power to stop up ways temporarily) of this Act the company their engineer and workmen and others in their employ shall at all times have such rights of access to all or any apparatus situate in or under any such street or part of a street or subway as they had immediately before such stopping up and shall be at liberty to execute and do all such works and things in upon or under

7 & 8 Geo. 6.
c. 47.

such street or part of a street or subway as may be necessary for inspecting repairing maintaining renewing or removing such apparatus:

- (5) In addition to any rights exercisable by them under the provisions of section 33 (Removal &c. of apparatus) of this Act the company shall be entitled to execute such works as the company may reasonably deem necessary for supporting or protecting any apparatus being situate in under across or along the line of the carriageway of the improvements and affected by any of the works or operations of the Council or for maintaining the continuity of the supply of gas by means of such apparatus and the Council shall repay to the company the reasonable cost incurred by them under the provisions of this paragraph:
- (6) If in the exercise of any of the powers of this Act the Council lower or raise the level of any street so as to leave over any apparatus situate thereunder a less depth of cover than two feet where the covering now existing is not less than two feet or less than the existing covering where the same is less than two feet or a greater depth of cover than four feet where the covering now existing does not exceed four feet or more than the existing covering where the same exceeds four feet the company may lower such apparatus to a depth not exceeding two feet or the existing cover whichever is the less or raise such apparatus to a depth not less than four feet or the existing depth whichever is the greater (as the case may be) below the surface of the street and the Council shall repay to the company the expense reasonably incurred by them in so doing:
- (7) If by reason or in consequence of the execution of the improvements any damage to any apparatus or any interruption in the supply of gas by the company shall be caused the Council shall bear and pay the cost reasonably incurred by the company in making good such damage and shall—
- (a) make reasonable compensation to the company for any loss sustained by them; and
- (b) indemnify the company against all claims demands proceedings costs damages and expenses which may be made or taken against or recovered from or incurred by the company;
- by reason or in consequence of any such damage or interruption:

PART III.
—cont.

- (8) The reasonable expense of all repairs and renewals of any apparatus or any works in connection therewith which may be rendered reasonably necessary by or in consequence of—

(a) the acts or defaults of the Council their contractors agents workmen or servants or any person in the employ of them or any of them; or

(b) any subsidence resulting from the works of the Council whether during the construction of such works or within a period of twelve months after the date or the respective dates of the completion thereof;

shall be borne and paid by the Council:

- (9) The Council shall bear and pay to the company the amount of any expenses reasonably incurred by the company in or in connection with—

(a) the cutting off of any apparatus from any other apparatus and the connecting of any new or substituted apparatus with any existing apparatus rendered necessary by reason or in consequence of the execution of the improvements; or

(b) the removal or any alteration of any communication pipes rendered necessary by reason or in consequence of such execution;

and shall indemnify the company against all claims and demands by the owner of any such communication pipe or by the owners or occupiers of premises supplied by means thereof except such claims and demands as are attributable to the negligence of the company their contractors agents workmen or servants.

In this paragraph the expression "existing apparatus" means apparatus existing at the date of the commencement of the execution of the improvement to which such connecting is related:

- (10) The company may if they deem fit employ watchmen or inspectors to watch and inspect any improvement whereby any apparatus will or may be interfered with or affected during the execution thereof and the reasonable expense of such watching and inspection shall be borne by the Council and be paid by them to the company:
- (11) If any question or difference (other than a difference as to the meaning or construction of this section) shall arise between the Council and the company under this section such question or difference shall be settled by arbitration:

(12) The provisions of this section shall be in addition to and not in derogation of any other provisions of this Act or of any enactment incorporated therewith to the benefit of which the company would have been entitled if this section had not been enacted.

40. For the protection of the London Hydraulic Power Company (in this section referred to as "the company") the following provisions shall unless otherwise agreed in writing between the company and the Council apply and have effect:—

For protection
of London
Hydraulic
Power
Company.

- (1) In this section the expression "apparatus" means mains pipes valves hydrants plugs syphons and other works and apparatus of the company:
- (2) Notwithstanding the stopping up temporarily of any street or part of a street or of any subway under the powers of section 32 (Power to stop up ways temporarily) of this Act the company their engineers and workmen and others in their employ shall at all times have such rights of access to all or any apparatus situate in or under any such street or part of a street or subway as they had immediately before such stopping up and shall be at liberty to execute and do all such works and things in upon or under such street or part of a street or subway as may be necessary for inspecting repairing maintaining renewing or removing such apparatus:
- (3) If in the exercise of any of the powers of this Act the Council lower or raise the level of any street so as to leave over any apparatus situate thereunder a less depth of cover than two feet where the covering now existing is not less than two feet or less than the existing covering where the same is less than two feet or a greater depth of cover than four feet where the covering now existing does not exceed four feet or more than the existing covering where the same exceeds four feet the company may lower such apparatus to a depth not exceeding two feet or the existing cover whichever is the less or raise such apparatus to a depth not less than four feet or the existing depth whichever is the greater (as the case may be) below the surface of the street and the Council shall repay to the company the expense reasonably incurred by them in so doing:
- (4) In addition to any rights exerciseable by them under the provisions of section 33 (Removal &c. of apparatus) of this Act the company shall be entitled to execute such works as may be rendered reasonably

PART III.
—cont.

necessary by reason of the execution of the improvements for supporting or protecting any apparatus being situate in under across or along the line of the carriageway of the improvements and affected by any of the works or operations of the Council or maintaining the continuity of the supply of water for hydraulic power by means of such apparatus and the Council shall repay to the company the reasonable cost incurred by them under the provisions of this subsection;

- (5) If by reason or in consequence of the execution of the improvements any damage to any apparatus or any interruption in the supply of water for hydraulic power by the company shall be caused the Council shall bear and pay the cost reasonably incurred by the company in making good such damage and shall—

(a) make reasonable compensation to the company for any loss sustained by them; and

(b) indemnify the company against all claims demands proceedings costs damages and expenses which may be made or taken against or recovered from or incurred by the company;

by reason or in consequence of any such damage or interruption except such as are attributable to the negligence of the company their contractors agents workmen or servants:

- (6) The reasonable expense of all repairs and renewals of—

(a) any apparatus or any works in connection therewith where such repairs or renewals are rendered reasonably necessary by or in consequence of the acts or defaults of the Council their contractors agents workmen or servants or any person in the employ of them or any of them in connection with the execution of the improvements; or

(b) any apparatus existing at the date of the commencement of the improvements or any apparatus substituted therefor under the powers of this Act or any works in connection therewith where such repairs or renewals are rendered reasonably necessary by or in consequence of any subsidence resulting from the execution of the improvements whether during the construction of such improvements or within a period of twelve months after the date or the respective dates of the

completion thereof (except such as are attributable to the negligence of the company their contractors agents workmen or servants);

shall be borne and paid by the Council:

(7) The Council shall bear and pay to the company the amount of any expenses reasonably incurred by the company in or in connection with—

(a) the cutting off of any apparatus from any other apparatus and the connecting of any substituted apparatus with any existing apparatus rendered necessary by reason or in consequence of the execution of the improvements; or

(b) the removal or any alteration of any communication or supply pipes rendered necessary by reason or in consequence of such execution;

and shall indemnify the company against all claims and demands by the owner of any such communication or supply pipe or by the owners or occupiers of premises supplied by means thereof except such claims and demands as are attributable to the negligence of the company their contractors agents workmen or servants:

(8) The company may if they deem fit employ watchmen and inspectors to watch and inspect any improvement whereby any apparatus will or may be interfered with or affected during the execution thereof and the reasonable expenses thereof shall be borne by the Council and be paid by them to the company:

(9) If any question or difference shall arise between the Council and the company under this section (other than a difference as to the meaning or construction of this section) such question or difference shall be settled by arbitration:

(10) The provisions of this section shall be in addition to and not in derogation of any other provisions of this Act or of any enactment incorporated therewith to the benefit of which the company would have been entitled if this section had not been enacted.

41.—The following provisions shall have effect in relation to Work No. 2 described in subsection (2) of section 22 (Power to execute works) of this Act (that is to say):—

For further protection of Postmaster-General.

(1) In this section (a) the expression "the street work" means the said Work No. 2 (b) "the vault" means the exchange cable vault (the whole or part of which will be beneath the carriageway of High Holborn as altered by the street work) forming part of the Holborn Telephone Exchange Nos. 268 to 270 High

PART III.
—cont.

Holborn and (c) the expression "the surveyor" means the surveyor or other officer of His Majesty's Ministry of Works appointed by that Ministry for the purposes of this section:

- (2) Notwithstanding anything contained in this Act the Council shall not except with the consent in writing of the Postmaster-General enter upon take use or appropriate any portion of the vault:
- (3) If during the execution of the street work the vault or the telegraphic lines therein shall in consequence thereof be injured or damaged the Postmaster-General may forthwith make good such injury or damage and execute such protective works as the surveyor shall reasonably consider necessary and the reasonable expense incurred by the Postmaster-General in so doing shall be repaid by the Council to the Postmaster-General on demand:
- (4) Any question or difference which may arise between the Council or the engineer of the Council on the one hand and the Postmaster-General or the surveyor on the other hand under the provisions of this section shall be settled by arbitration.

PART IV.

DANGEROUS FORECOURTS AND STRUCTURES.

42. In this Part of this Act—

"the Act of 1939" means the London Building Acts (Amendment) Act 1939;

"district surveyor" means a person executing the office of district surveyor for the purposes of the Act of 1939;

"structure" has the same meaning as in Part VII (Dangerous and neglected structures) of the Act of 1939;

"borough surveyor" includes any officer of a borough council authorised by them to exercise the powers conferred on a borough surveyor by subsection (1) of section 44 (Fencing of dangerous lands in or near streets) of this Act;

"owner" has the meaning assigned to that expression in section 304 of the Public Health (London) Act 1936.

43.—(1) Where the forecourt of any premises abutting upon a street in a borough is unfenced and is habitually used or is open to use by the public as part of the footway of such street the owner of such forecourt shall (if so required

Definition of expressions in Part IV of this Act.
2 & 3 Geo. 6.
c. xcvi.

26 Geo. 5. &
1 Edw. 8. c. 50.

Maintenance of forecourts to which public have access.

by a notice under the next following subsection) maintain and keep such forecourt in proper repair and so as not to be a danger to persons using or walking over the same.

PART IV.
—cont.

(2) The borough council may serve upon the owner of any such forecourt as aforesaid notice in writing requiring him to make good any want of repair to the forecourt or to remove any source of such danger as aforesaid and if within twenty-eight days—

(a) (where the owner has not appealed against the requirements under subsection (3) of this section or has brought such an appeal which is subsequently withdrawn) from the service of the notice; or

(b) (where the owner has so appealed and the requirements have been confirmed with or without variation) from the date of such confirmation;

such owner shall not have complied with the requirements of the notice as served or (as the case may be) with the requirements as so confirmed the borough council may themselves execute all such works as may be necessary to comply with the requirements.

(3) An owner aggrieved by the requirements of a notice under the last foregoing subsection may appeal to a petty sessional court within fourteen days after the service of such notice and on any such appeal the court may after considering any representations made by the borough council confirm with or without variation or annul the requirements and may award costs:

Provided that notice in writing of the appeal shall be sent by the appellant to the borough council not less than seven days before the hearing thereof.

(4) Notice of the right of the owner to appeal as aforesaid shall be endorsed on every notice served by a borough council under subsection (2) of this section.

(5) For the purpose of complying with the requirements of any notice served under subsection (2) of this section it shall be lawful for the owner of any premises (not being the occupier thereof) notwithstanding anything to the contrary contained in any lease underlease or agreement of or relating to such premises to enter on such premises or any part thereof and carry out all such works or do all such things as may be necessary to comply with any such requirement.

(6) Section 46 (As to forecourts to which public has access) of the Hackney Borough Council Act 1926 is hereby repealed. Provided that any requisition or order made notice given proceedings taken expenses incurred or other thing done thereunder shall have effect as if made given taken incurred or done under the corresponding provisions of this Part of this Act.

16 & 17 Geo. 5.
c. xiv.

PART IV.
—cont.
Fencing of
dangerous
lands in or
near streets.

44.—(1) Where it comes to the knowledge of a borough council or of the borough surveyor of a borough that by reason of the state of any land adjoining or near to a street in the borough there is immediate danger to persons using the street or using any such forecourt abutting on the street as is mentioned in section 43 (Maintenance of forecourts to which public have access) of this Act the borough council or (as the case may be) the borough surveyor may erect (either on the street or elsewhere) such hoard or fence as may be reasonably required for the protection of such persons from such danger:

Provided that the borough surveyor shall as soon as practicable report to the borough council any action taken by him in pursuance of this subsection.

(2) Any hoard or fence erected by the borough surveyor in pursuance of the foregoing subsection shall be deemed for the purposes of this section to have been erected by the borough council.

(3) Where any action has been taken under subsection (1) of this section the borough council shall so soon as may be practicable serve upon the owner of the land by reason of the state of which the danger arose a notice in writing specifying the nature of the danger and the works executed and stating that the reasonable expenses incurred by the borough council in the execution maintenance and lighting of such hoard or fence will be repayable by him to the borough council.

(4) Subject to the provisions of subsection (6) of this section the borough council may cause to be maintained for so long as may be necessary for the protection of such persons as aforesaid any hoard or fence erected under this section and may cause the hoard or fence to be lighted when necessary.

(5) Any danger arising by reason of the state of any structure or thing on in or over land shall be deemed for the purposes of this section to be a danger arising by reason of the state of that land and for the purposes of this provision any structure or thing or part of a structure or thing projecting over a street shall be deemed to be a structure or thing or part of a structure or thing on in or over land adjoining that street.

(6) Where pursuant to the powers of this section a hoard or fence is erected for the protection of persons from danger arising by reason of the state of any structure the following provisions shall have effect (that is to say):—

(a) the borough council or the borough surveyor shall on erecting the hoard or fence or as soon thereafter

as may be practicable notify the district surveyor of the erection and furnish him with such particulars of the structure and of the nature of the danger as he may reasonably require;

(b) the borough council shall forthwith remove the hoard or fence if required by the Council or the district surveyor to do so for the purpose of permitting the exercise in relation to the structure by the Council or any other person of any of the powers conferred by Part VII (Dangerous and neglected structures) of the Act of 1939;

(c) if a certificate furnished to the Council with respect to the structure pursuant to section 62 (Certification of dangerous structures) of the Act of 1939 is to the effect that the structure is in a dangerous state the Council may if they think fit (in lieu of erecting a proper hoard or fence for the protection of passengers as provided by subsection (2) of that section) make arrangements with the borough council for the maintenance for so long as may be necessary of the hoard or fence erected under this section and for the repayment to the borough council by the Council of all or any of the expenses incurred by the borough council in the erection maintenance and lighting of that hoard or fence;

(d) the Council shall repay to the borough council the amount of any expenses repayable pursuant to any such arrangements as aforesaid and any expenses so repayable shall be deemed for the purposes of Part VII (Dangerous and neglected structures) of the Act of 1939 to be expenses incurred by the Council in respect of the dangerous structure.

(7) (a) Any person who without reasonable excuse—

(i) removes any hoard or fence erected under the provisions of this section; or

(ii) interferes with any such hoard or fence in a manner likely to impair the protection of persons from danger for which the hoard or fence was intended or to create any new danger;

shall be liable on summary conviction to a fine not exceeding five pounds.

(b) For the purposes of the foregoing paragraph the expression "hoard or fence" includes any light or lighting apparatus provided or used in connection with a hoard or fence.

PART IV.
—cont.

(c) Nothing in this subsection shall apply to anything done with the authority of the borough council.

(8) Nothing in this section shall be deemed to derogate from the powers conferred on a borough council by section 43 (Maintenance of forecourts to which public have access) of this Act.

Recovery of
expenses and
costs.

45.—(1) The reasonable expenses incurred by a borough council in the execution of any works under the provisions of subsection (2) of section 43 (Maintenance of forecourts to which public have access) of this Act shall be repaid to the borough council by the owner of the forecourt upon whom the notice under that subsection was served.

(2) The reasonable expenses incurred by a borough council in the erection maintenance and lighting of a hoard or fence erected by them or by the borough surveyor of the borough under section 44 (Fencing of dangerous lands in or near streets) of this Act shall be repaid to the borough council by the owner of the land by reason of the state of which the danger arose:

Provided that the borough council shall not be entitled to recover from the owner any expenses which are repayable to them by the Council under paragraph (d) of subsection (6) of the said section.

(3) A borough council may remit in whole or in part as they may think fit the amount of any expenses repayable to them by virtue of the foregoing provisions of this section.

(4) All expenses repayable to a borough council under the foregoing provisions of this section and all costs awarded by the court under subsection (3) of the said section 43 may be recovered either as a simple contract debt in any court of competent jurisdiction or if the amount of such expenses and costs does not exceed the sum of twenty pounds summarily as a civil debt.

(5) The provisions of section 289 of the Public Health (London) Act 1936 shall apply and have effect with respect to any costs or expenses which are recoverable by a borough council under this section as if those provisions were expressly re-enacted in and in terms made applicable to this section.

(6) Nothing in this section shall prejudice the right of any owner who has repaid or borne any such costs or expenses as aforesaid to recover the amount thereof from any other person under the terms of any lease or agreement.

46. Nothing in this Part of this Act shall prejudice or affect—

PART IV.
—cont.

Savings.

(a) the powers of a borough council under section 33 (Enclosure of unenclosed land adjoining streets) of the London County Council (General Powers) Act 1925; or

15 & 16 Geo. 5.
c. cxix.

(b) (save as otherwise expressly provided) any provision of the Act of 1939.

PART V.

MISCELLANEOUS.

47.—(1) This section shall apply in relation to any provision which is or is proposed to be included at the request of a borough council in a Bill in Parliament promoted or to be promoted by the Council [where it is or will be a condition of the inclusion of the provision in the Bill that the borough council shall make a contribution towards the expenses incurred or to be incurred by the Council in connection with the promotion of the Bill].

Amendment of
Part IX of
Act of 1939.

Any such provision as aforesaid is hereinafter in this section referred to as "a proposed enactment."

(2) The inclusion or retention in a Bill of a proposed enactment shall be conditional upon—

(a) the borough council giving the like notices and passing publishing and confirming the like resolution;

(b) the like approval of the Minister of Health of the resolution being obtained; and

(c) the like approval of the local government electors of the borough of the promotion of the proposed enactment being given and expressed in the like manner;

as would be required by subsections (2) to (4) of section 151 and section 152 of the Act of 1939 and by the Sixth Schedule to that Act if the proposed enactment were a Bill promoted or to be promoted by the borough council.

(3) For the purposes of the last preceding subsection the provisions of the Act of 1939 therein referred to (so far as they relate to the promotion of a Bill) shall have effect subject as hereinafter provided (that is to say):—

(a) The deposit in Parliament by the Council of a Bill containing a proposed enactment shall be deemed to be the deposit of a Bill by the borough council and the notice and advertisement required by paragraph 1 of the said schedule in relation to a Bill shall in

PART V.
—cont.

relation to a proposed enactment be given and made by the borough council;]

- (b) Any reference in the said provisions to a Bill (other than a reference to the deposit of a Bill) shall be construed as a reference to a proposed enactment; and
- (c) Where the borough council are required by any of the said provisions as modified by this section to take all necessary steps to withdraw a proposed enactment or any part of a proposed enactment the borough council shall forthwith notify the Council to that effect and the Council shall thereupon take all necessary steps to withdraw the proposed enactment or the part thereof as the case may be.

(4) A borough council may in compliance with any such condition as is referred to in subsection (1) of this section make such contribution towards the expenses incurred by the Council in connection with the promotion of a Bill as may be agreed between them and the Council.

(5) Nothing in this section shall be deemed to require the Council to comply with the provisions of the said section 151 in relation to a proposed enactment or in any other case in which compliance with those provisions would not have been required if this section had not been enacted.

Petty sessional
divisions and
justices' clerks.

48.—(1) In this section—

“ the county ” means the administrative county of London exclusive of the city of London;

“ the quarter sessions ” means the court of quarter sessions for the county;

“ division ” means a petty sessional division of the county;

“ justices' clerk ” means a clerk to the justices acting in and for a division; and

“ the committee ” means the committee to be established by an order under this section.

(2) The Council may prepare and submit to the Secretary of State a draft order to provide for the establishment of a committee constituted from amongst the justices for the county for the purpose of exercising and performing such functions as may be transferred to or conferred or imposed upon the committee by the order in accordance with the provisions of this section.

(3) Upon submission to him of such draft order as aforesaid the Secretary of State shall inform the chairman and

any deputy-chairman of the quarter sessions and the justices' clerk for each division of the provisions thereof and after taking into consideration any representations thereon made to him by the said chairman or deputy-chairman or by the justices acting in and for any division within such time as may be specified in the notification given by him may make the order in the terms of the draft or with such modifications as he may think fit and may fix the date upon which the order shall come into operation and on and after the date so fixed the order shall have full force and effect notwithstanding the provisions of any other enactment.

(4) Any such order as aforesaid shall provide that the committee shall be so constituted as to comprise the chairman and any deputy-chairman of the quarter sessions and one member for each division appointed by the justices acting in and for that division.

(5) Subject to the provisions of the next three following subsections an order under this section may—

(a) provide for the transfer to the committee of—

(i) all or any functions of the quarter sessions with respect to the alteration revision or constitution of divisions; and

(ii) all or any functions of the justices acting in and for divisions with respect to the appointment and termination of the appointment of justices' clerks;

(b) confer or impose further functions upon the committee in relation to—

(i) the matters with respect to which functions may be transferred to them as aforesaid;

(ii) the appointment and termination of the appointment of persons to assist justices' clerks in the performance of their duties; and

(iii) the remuneration of justices' clerks and such persons as aforesaid;

(c) regulate the procedure for the exercise or performance by the committee of the functions transferred to or conferred or imposed upon them as aforesaid;

(d) provide for the transfer to the service of the committee of all or any justices' clerks and all or any persons employed by any such clerk for the purposes of his duties as such clerk;

(e) extend or apply with such modifications as may be necessary or desirable the provisions of any enactment relating to the payment or grant by the Council to any persons of superannuation allowances and

PART V.
—cont.

other benefits so as to provide for the payment or grant by the Council to or in respect of justices' clerks and other persons transferred to the service of or appointed by the committee as aforesaid of similar allowances and benefits;

- (f) provide for the compulsory retirement of justices' clerks and other persons as aforesaid at such ages as may be prescribed in relation to them respectively by the order; and
- (g) contain such incidental consequential or supplemental provisions as may appear to be necessary or proper for the purposes of the order.

(6) An order under this section in so far as it relates to the alteration revision or constitution of divisions shall provide that—

- (a) no proposal for any such alteration or revision or for the constitution of a new division shall take effect except in accordance with a scheme prepared for the purpose by the committee and confirmed by the Secretary of State;
- (b) the Secretary of State may at any time direct the committee to prepare and submit to him any such scheme as aforesaid and the committee shall comply with any such direction;
- (c) before any such scheme as aforesaid is submitted to the Secretary of State the committee shall send a copy of their proposals to the Council and shall take into consideration any representations thereon made to them by the Council within twenty-eight days from the receipt thereof;
- (d) before confirming any scheme submitted to him by the committee the Secretary of State shall take into consideration any representations thereon made to him by the Council or any other person;
- (e) the Secretary of State may confirm any such scheme with or without modifications as he may think fit;
- (f) compensation shall be made to any person who suffers direct pecuniary loss by reason of the determination of his employment or by the diminution of his emoluments by reason or in consequence of any order made or action taken under this section.

(7) An order under this section in so far as it relates to the remuneration of justices' clerks or of persons transferred to the service of or appointed by the committee to assist such clerks in the performance of their duties shall provide that the remuneration of every such clerk or person shall be such as

may be determined from time to time by agreement between the committee and the Standing Joint Committee for the county or in default of such agreement by the Secretary of State save that in the case of any proposal for the reduction of the remuneration of a justices' clerk such clerk may appeal to the Secretary of State who shall thereupon determine the remuneration.

(8) An order under this section in so far as it relates to the appointment or termination of the appointment of justices' clerks by the committee shall provide that—

(a) before appointing any person to the office of justices' clerk the committee shall confer with the justices of the division concerned and take into consideration any nomination made by them and no appointment shall be valid unless and until it has been confirmed by the Secretary of State;

(b) the appointment of a justices' clerk (not being a justices' clerk who has attained an age prescribed by an order under this section for his compulsory retirement) shall not be terminated by the committee without the consent of the justices of the division concerned or (where those justices withhold their consent) of the Secretary of State;

(c) the Secretary of State before confirming any appointment shall take into consideration any representations which may be made to him by the justices of the division concerned and before consenting to the termination of the appointment of any justices' clerk shall take into consideration any representations which may be made to him by such justices or by such clerk.

(9) An order under this section may be amended or revoked by an order made in like manner as the original order.

49. Sections 3 and 4 of the Quarter Sessions (London) Act 1896 (which sections relate to the appointment of the clerk to the chairman and the clerk to the deputy-chairman respectively of the court of quarter sessions for the county of London) as modified by section 47 (Amendment of sections 3 and 4 of 59 & 60 Vict. c. 55) of the London County Council (General Powers) Act 1931 shall respectively be further modified and have effect as if—

Salaries of clerks to chairman and deputy-chairman of quarter sessions.
21 & 22 Geo. 5. c. lix.

(a) the words " five hundred and twenty pounds " were substituted in the said section 3 for the words " two hundred and fifty pounds "; and

(b) the words " three hundred and forty-five pounds " were substituted in the said section 4 for the words " one hundred and fifty pounds ".

PART V.

—cont.

Puerperal
fever to cease
to be
notifiable.

50. Notwithstanding anything contained in the definitions of the expressions “notifiable infectious disease” and “dangerous infectious disease” in section 304 of the Public Health (London) Act 1936 puerperal fever shall as from the passing of this Act cease to be a notifiable infectious disease or a dangerous infectious disease for the purposes of the said Act of 1936 but without prejudice to the power of a sanitary authority or of the Council under section 305 of that Act to make in relation to puerperal fever any such order as is referred to in that section.

Expenses in
connection
with cere-
monies &c.

51. Section 191 of the Act of 1939 (which section authorises the making of payments by the Council for or in connection with the arrangement and conduct of ceremonies and other matters) shall have effect as if in subsection (2) thereof the words “six thousand pounds” were substituted for the words “two thousand five hundred pounds”.

Power to enter
upon property
for survey &c.

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

Agreements.

53.—(1) The Council on the one hand and the borough council or any company body or person having the control or management of water gas or other pipes or electric or other wires or apparatus on the other hand may with the approval of the Minister enter into and carry into effect agreements with reference to any of the provisions of Part II or Part III of this Act relating to or affecting only the parties to such agreements respectively.

(2) The Council on the one hand and the commission on the other hand may with the approval of the Minister enter into and carry into effect agreements with reference to any of the provisions of Part II or Part III of this Act relating to or affecting only the parties to such agreements respectively.

(3) Notwithstanding anything contained in this Act any agreement entered into between the Council and the commission under the last preceding subsection may with the

approval of the Minister provide for the variation of any of the provisions of Part II or Part III of this Act (so far as they relate only to the powers rights obligations or interests of the Minister or of the parties to any such agreement) or of the provisions of any previous agreement between the same parties.

PART V.
—cont.

(4) The Minister and the Council may enter into and carry into effect agreements with reference to any matters arising out of the carrying of Part II or Part III of this Act into execution and may by any such agreement vary any of the provisions of the said Parts of this Act but not so as to affect prejudicially the rights or interests of any person other than the Minister and the Council.

(5) For the purposes of this Act the provisions and purposes of any agreement entered into under this section shall be deemed to be provisions and purposes of Part II or Part III of this Act.

54.—Notwithstanding anything in this Act or shown upon the deposited plans and sections the following provisions shall unless otherwise agreed in writing between the commission and the Council apply and have effect (that is to say):—

For protection
of British
Transport
Commission.

(1) In this section—

“ railway ” means a railway of the commission and includes any work connected with a railway;

“ the engineer ” means an engineer appointed by the commission;

“ Work No. 1 ” means Work No. 1 by this Act authorised:

(2) Nothing in section 5 (Power to take lands) or section 8 (Power to use subsoil of streets) of this Act shall empower the Council to acquire compulsorily any part of a railway or any estate or interest of the commission in the subsoil or under-surface of any street:

(3) Nothing in section 27 (Vesting of site of streets stopped up) of this Act shall extend to take away prejudice or affect any estate or interest of the commission in the subsoil or under-surface of any part of a street vested in the Council under that section and notwithstanding such vesting in the Council the commission shall continue to have all such rights as they had under powers existing at the passing of this Act of entering on using and appropriating the subsoil or under-surface of any such street:

PART V.
—cont.

- (4) The Council shall not under the powers of this Act either temporarily or permanently—
- (a) stop up any street; or
 - (b) stop up alter or divert any subway; which affords access to the Knightsbridge station of the commission unless the Council shall have provided or left open such alternative access as the engineer may reasonably approve:
- (5) The Council shall not construct or permit to be constructed upon or in any land acquired by or vested in them under the powers of this Act or in the subsoil or under-surface of any public street within the limits of deviation shown on the deposited plans any building subway or work which will be situate over under or within fifty feet of any railway—
- (a) in such manner as may in the reasonable opinion of the engineer endanger the railway; or
 - (b) in the case of the railway under Brompton Road otherwise than in accordance with the provisions of this section with reference to the execution of Work No. 1 (which shall be deemed to include any such building subway or work as aforesaid):
- (6) The Council shall not execute Work No. 1 over or within fifty feet of the railway otherwise than in accordance with plans sections and specifications submitted to the engineer and agreed between the engineer and the Council or in case of difference between the engineer and the Council settled by arbitration and the Council shall not commence the intended works until the plans sections and specifications relating thereto have been so submitted and agreed or settled. Provided that if the engineer shall not within twenty-eight days after the submission to him of any plans sections or specifications signify his disagreement therewith and the grounds of such disagreement he shall be deemed to have agreed thereto. Provided further that nothing in this subsection shall be construed as requiring the Council to execute Work No. 1 otherwise than to the approval of the Minister and in the event of conflict between the plans sections and specifications as so agreed or settled and any requirement of the Minister the decision of the Minister shall prevail:
- (7) Work No. 1 so far as it is over or within fifty feet of the railway shall so far as may be necessary for ensuring that the railway is not endangered be

executed by the Council under the supervision (if the same be given) and to the reasonable satisfaction of the engineer and when commenced shall be completed with all reasonable dispatch:

- (8) The Council shall before commencing the execution of Work No. 1 over or within fifty feet of the railway give fourteen days' previous notice in writing to the engineer of the intended works and shall bear and pay to the commission the cost reasonably incurred by them in respect of the employment by them of a sufficient number of inspectors and other persons to be appointed by them for inspecting or watching the railway with reference to and during the execution of the said works and for preventing as far as may be all interference obstruction danger or accident which may arise from any of the operations of the Council or from the acts or defaults of their contractors or of any person or persons in their employ with reference thereto:
- (9) The Council shall be responsible for and make good to the commission all reasonable costs and expenses and all damages and losses which may be occasioned to the commission by reason of the execution of Work No. 1 (except where such costs losses damages and expenses arise from the neglect or default of the commission their servants or agents) or of any act or omission of the Council or of their contractors and the Council will effectually indemnify and hold harmless the commission from all claims and demands upon or against them by reason of such execution act or omission Provided that—
- (i) the commission shall give to the Council reasonable notice of any such claim or demand and that no settlement or compromise thereof shall be made except with the consent of the Council who shall (if they so elect) have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand; and
- (ii) the fact that any work or thing has been executed or done in accordance with the foregoing provisions of this section shall not excuse the Council from any liability under this subsection:
- (10) For the purposes of subsection (8) of this section any costs or expenses reasonably incurred by the commission shall be deemed to include the reasonable cost of insurance against the payment of compensation to any workmen who may be injured or

PART V.
—cont.

killed whilst employed by the commission in and about the works or operations respectively mentioned in the said subsections or to the legal representatives or dependants of such workmen or (if the commission do not insure) a reasonable sum to cover such risks:

- (II) Any difference which may arise between the Council and the commission or the engineer under or with reference to the provisions of this section (other than a difference as to the construction of this section) shall be settled by arbitration.

Contributions
by borough
councils.

55.—(I) The Holborn council the Kensington council and the Westminster council may respectively contribute towards the costs and expenses of the Council in connection with the improvements and the acquisition of lands for or in connection with the improvements such sum as the borough council may by resolution determine.

8 & 9 Geo. 6.
c. 18.9 & 10 Geo. 6.
c. 58.

(2) Subject to the provisions of the Local Authorities Loans Act 1945 and of any orders for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946 the borough council may for the purpose of paying to the Council any such sum as is referred to in the preceding subsection borrow the requisite money in accordance with the provisions of Part VII of the Act of 1939.

Separate
accounts of
receipts and
payments.

56. Notwithstanding anything contained in this or any other Act all receipts and payments by the Council relating to the provisions and purposes of Part II or Part III of this Act shall be carried or charged to separate accounts to be kept by the Council in relation to this Act.

PART VI.

GENERAL.

Arbitration.

57. Any question or difference which pursuant to this Act is to be settled by arbitration (other than a question or difference to which the provisions of the Lands Clauses Acts apply and except as otherwise provided by this Act) shall be referred to and determined by an arbitrator to be agreed upon between the parties in difference or failing such agreement to be appointed on the application of either party (after notice in writing to the other of them) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference and determination.

58. A judge of any court or a justice shall not be disqualified from acting in the execution of this Act by reason of his being liable to any rate.

Judges not disqualified.

59. The Minister may hold or cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers conferred upon him or the giving of consents or approvals under this Act and the provisions of subsections (2) to (5) of section 189 of the Act of 1939 shall apply to any such inquiry as they apply to local inquiries held under that section but as if for references to a department there were substituted therein references to the Minister.

Inquiries by Minister.

60. 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.

61. Nothing contained in this Act shall extend or operate to authorise the Council to take use enter upon or in any manner interfere with any land soil water or any manorial rights or any other rights of whatsoever description belonging to His Majesty in right of His Duchy of Lancaster without the consent in writing of the chancellor for the time being of the said duchy first had and obtained (which consent the said chancellor is hereby authorised to give) or take away prejudice or diminish any estate right privilege power or authority vested in or enjoyed or exerciseable by His Majesty His Heirs or Successors in right of His said duchy.

Saving rights of Duchy of Lancaster.

62. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing in this Act shall authorise the Council to take use or in any manner interfere with any land or hereditaments or any rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Crown Lands without the consent in writing of those commissioners on behalf of His Majesty first had and obtained for that purpose.

Crown rights.

63. All costs and expenses of the Council in the execution of this Act shall be defrayed as payments for general or special county purposes within the meaning of the Act of 1939 as they may decide.

Costs of Act.

Ch. liii.

*London County Council
(General Powers) Act, 1948.*

11 & 12 GEO. 6.

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