

[26 GEO. 5. &
1 EDW. 8.]

Rochester Corporation
Act, 1936.

[Ch. lxxv.]



CHAPTER lxxv.

An Act to empower the mayor aldermen and citizens of the city of Rochester to acquire a portion of the undertaking of the Higham and Hundred of Hoo Water Company to authorise the Corporation to construct waterworks and to confer further powers on the Corporation with regard to the supply of water to make further and better provisions for the health improvement and local government and finance of the city and for other purposes. [16th July 1936.]

A.D. 1936.

WHEREAS the city of Rochester (hereinafter called "the city") is a municipal borough under the local government of the mayor aldermen and citizens of the city (hereinafter called "the Corporation"):

And whereas the Corporation as successors of the Strood Water Company whose undertaking they acquired in the year one thousand eight hundred and eighty are the owners of waterworks and are supplying water in part of the city:

And whereas the Higham and Hundred of Hoo Water Company (hereinafter called "the company") under and by virtue of the Higham and Hundred of Hoo Water Act 1890 and subsequent enactments have constructed waterworks and are supplying water in an area which comprises a further part of the city and in certain adjoining districts:

53 & 54 Vict.
c. cvii.

[Price 5s. 0d. Net]

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— And whereas it is expedient that the portion of the undertaking of the company described in this Act should be transferred to and vested in the Corporation :

And whereas it is expedient that the Corporation should be authorised to construct the waterwork described in this Act and that the powers contained in this Act in relation to the supply of water should be conferred on the Corporation :

And whereas it is expedient to make further and better provision with regard to the health local government and improvement of the city and that the powers of the Corporation with regard thereto should be enlarged as by this Act provided :

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

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

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

For the construction of the waterwork authorised by this Act	- - -	£7,500
For the provision of water mains and other waterworks purposes	- - -	£5,000

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

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

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

23 & 24
Geo. 5. c. 51.

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say):— A.D. 1936.

PART I.

PRELIMINARY.

1. This Act may be cited as the Rochester Corporation Act 1936. Short title.

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

Part I.—Preliminary.

Part II.—Lands.

Part III.—Purchase of portion of undertaking of Higham and Hundred of Hoo Water Company.

Part IV.—Waterworks.

Part V.—Supply of water.

Part VI.—Streets buildings sewers and drains.

Part VII.—Infectious disease and sanitary matters.

Part VIII.—Financial provisions.

Part IX.—Miscellaneous provisions.

3.—(1) The following Acts and parts of Acts (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act (namely):— Incorporation of Acts.

(a) The Lands Clauses Acts with the following exceptions and modification:—

(i) Sections 127 to 131 of the Lands Clauses Consolidation Act 1845 (relating to the sale of superfluous lands) are not incorporated with this Act; 8 & 9 Vict. c. 18.

(ii) The bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be sufficient without the addition of the sureties mentioned in that section;

A.D. 1936.

10 & 11 Vict.

c. 17.

26 & 27 Vict.

c. 93.

(b) The Waterworks Clauses Acts 1847 and 1863 except—

(i) The words “with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner” in section 44 of the Waterworks Clauses Act 1847;

(ii) Sections 75 and 82 of the Waterworks Clauses Act 1847 with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and section 83 relating to accounts;

8 & 9 Vict.

c. 20.

(c) The provisions of the Railways Clauses Consolidation Act, 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and in such provisions for the purposes of this Act “the railway” means the waterwork authorised by this Act and “the centre of the railway” means the centre of such waterwork.

(2) In the construction of the provisions of the Lands Clauses Acts the Waterworks Clauses Acts 1847 and 1863 and the Railways Clauses Consolidation Act 1845 the expressions “the promoters of the undertaking” “the undertakers” and “the company” mean respectively the Corporation.

Interpretation.

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

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

“The city” means the city of Rochester;

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

“The council” means the council of the city;

“The county council” means the county council of the administrative county of Kent;

“The town clerk” “the surveyor” “the treasurer” “the medical officer” and “the sanitary inspector” mean respectively the town clerk the surveyor the treasurer the medical officer of health and any sanitary inspector of the city; A.D. 1936.

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

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

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

“The company” means the Higham and Hundred of Hoo Water Company;

“The agreed portion of the undertaking of the company” means and includes all the mains and other property of the company of whatever nature within the added area at the appointed day (except the existing trunk main of the company from the parish of Higham to the parish of Hoo Saint Werburgh) and all the rights powers and privileges vested in or belonging to or had or enjoyed by the company in respect of the added area at the appointed day (except in regard to the said trunk main and to any renewal or replacement thereof);

“The appointed day” means the twenty-fourth day of March or the twenty-eighth day of September which shall first happen after the expiration of two months after the amount of the purchase money to be paid by the Corporation to the company has been determined either by agreement between the Corporation and the company or by arbitration in pursuance of this Act or such other day as may be agreed between the Corporation and the company;

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“ The added area ” means such parts of the limits of supply of the company as at the date of the passing of this Act are situate within the city;

“ The waterwork authorised by this Act ” means so much of the aqueduct conduit or line or lines of pipes (Waterwork No. 4) delineated upon the deposited plans as lies between the Broom Hill reservoir of the Corporation and the point of termination of the aqueduct or line or lines of pipes (Work No. 9) authorised by the North West Kent Joint Water Act 1936;

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

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

“ The existing water limits ” means the limits within which the Corporation are authorised to supply water under the Rochester City Improvement Act 1880;

43 & 44 Vict. c. cxix.

“ The water limits ” means the limits of the Corporation for the supply of water as extended by the section of this Act of which the marginal note is “ Extension of limits of supply ”;

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

“ Infectious disease ” means (except where otherwise stated) any infectious disease to which the Infectious Disease (Notification) Act 1889 is for the time being applicable within the city;

52 & 53 Vict. c. 72.

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

“ Child ” means a person under the age of sixteen years;

“ Food ” has the meaning assigned to it by section 34 (Definitions) of the Food and Drugs (Adulteration) Act 1928;

18 & 19 Geo. 5. c. 31.

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

“ Statutory borrowing power ” means any power whether or not coupled with a duty of borrowing

or continuing on loan or re-borrowing money or of redeeming or paying off or creating or continuing payment of or in respect of any annuity rentcharge rent or other security representing or granted in lieu of consideration money for the time being existing under any Act of Parliament public or local passed or to be passed or under any Provisional Order confirmed by Act of Parliament passed or to be passed or under any order or sanction of any Government department made or given or to be made or given by authority of any Act of Parliament passed or to be passed but shall not include the power to borrow by way of temporary loan or overdraft which is conferred by paragraph (a) of subsection (1) of section 215 of the Local Government Act 1933;

A.D. 1936.

23 & 24
Geo. 5. c. 51.

“Statutory security” means any security in which trustees are for the time being by or under any Act of Parliament authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament of any county council or municipal corporation or other local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any security of the Corporation;

38 & 39 Vict.
c. 83.

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

“The Minister” means the Minister of Health;

“The Public Health Acts” means the Public Health Act 1875 and the Acts amending and extending the same;

38 & 39 Vict.
c. 55.

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

41 & 42 Vict.
c. 76.

“The Act of 1880” means the Rochester City Improvement Act 1880.

43 & 44 Vict.
c. cxix.

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PART II.

LANDS.

Power to
take lands.

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

Corporation
may acquire
easements
only in
certain
cases.

6.—(1) The Corporation may in lieu of acquiring any lands for the purposes of the waterwork authorised by this Act where the same is intended to be constructed underground acquire such easements or rights only in such lands as they may require for such purposes (including the making enlarging maintaining repairing renewing inspecting cleansing managing using working and obtaining access to such works) and may give notice to treat in respect of such easements or rights describing the nature thereof and the restrictions subject to which the owners and occupiers may use the lands and the provisions of the Lands Clauses Acts and this Act shall apply to and in respect of the acquisition of such easements and rights as fully as if the same were lands within the meaning of such Acts.

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

(3) Provided always that nothing in this section contained shall authorise the Corporation to acquire by compulsion any such easement or right in any case in which the owner in his particulars of claim shall require the Corporation to acquire the lands in respect of which they shall have given notice to treat for an easement or right or to impose any such restriction only.

(4) Every notice to treat for the acquisition of an easement or right or the imposition of any restriction

shall either contain or be endorsed with notice of this section. A.D. 1936.

7. The powers granted by this Act for the compulsory purchase of lands shall cease on the first day of October one thousand nine hundred and thirty-nine. Period for compulsory purchase of lands.

8.—(1) The Corporation in addition to any other lands acquired or held by them in pursuance of this Act may by agreement purchase take on lease acquire and hold for the purposes of the water undertaking any lands not exceeding forty acres in extent and (with the consent of the Minister) such further lands as they may from time to time require for those purposes or any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) over or in respect of lands which the Corporation deem necessary for those purposes. Power to purchase additional lands by agreement.

(2) Provided that the Corporation shall not create or permit the creation or continuance of any nuisance on any such lands nor (without the approval of the Minister) erect any buildings thereon except offices and dwellings for persons in their employment and such buildings and works as may be incident to or connected with the water undertaking but the restrictions of this section shall not apply in respect of lands leased or sold by the Corporation. Restrictions on creation of nuisances and buildings.

9. 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 Corporation 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 the purposes of this Act in over or affecting any such lands and 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 grants and to such easements rights and privileges as aforesaid respectively. Persons under disability may grant easements &c.

10. Where under the powers of this Act the Corporation shall acquire any easement or right in under or through any lands for the construction of any work by this Act authorised the Corporation may subject to the provisions of this Act at any time thereafter if Power to purchase lands already subject to easements.

A.D. 1936. — they see fit purchase by agreement from the owner thereof the lands lying over under and alongside such work Provided that nothing in this section shall authorise the Corporation to purchase any lands forming the site or laid out for the formation of a highway.

Power to Corporation to enter upon property for survey and valuation.

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

Extinction of private rights of way.

12.—(1) All private rights of way over any lands which the Corporation are authorised by this Act to acquire compulsorily shall be extinguished as from the date of the acquisition of such lands by the Corporation if the Corporation shall by resolution so determine and give notice in writing of such their resolution to the owner of any right of way referred to therein.

(2) The Corporation shall make full compensation to all persons interested in respect of any rights extinguished under the provisions of this section and such compensation shall be settled in manner provided by this Act with reference to the taking of lands otherwise than by agreement.

Compensation in case of recently acquired interest.

13. In settling any question of disputed purchase money or compensation for lands acquired by the Corporation under the powers of this Act the tribunal shall not award any sum of money for or in respect of any improvement or alteration made or any building erected after the first day of November one thousand nine hundred and thirty-five if in the opinion of the tribunal the improvement alteration or building in respect of which the claim is made was made or erected with a view to obtaining or increasing compensation nor in the case of any estate or interest in the lands created after the said date which in the opinion of the tribunal was created with a view to obtaining or increasing

compensation shall any sum of money be awarded so as to increase the total amount of compensation which would otherwise have been required to be paid in respect of the acquisition by the Corporation of such lands :

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Provided that this section shall be applicable only in cases where the notice to treat under the Lands Clauses Consolidation Act 1845 either contained or was endorsed with a notice of the effect of this section.

14. At any time after notice to treat has been served for any land which the Corporation are by this Act authorised to purchase compulsorily the Corporation may after giving to the owner and occupier of the land not less than 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 sections 84 to 90 of the Lands Clauses Consolidation Act 1845 but subject to the payment of the like compensation for the land of which possession is taken and interest on the compensation awarded as would have been payable if those provisions had been complied with.

Further
power of
entry.

15.—(1) Notwithstanding anything in any other Act or otherwise to the contrary the Corporation may retain hold and use for such time as they may think fit or may sell lease exchange or otherwise dispose of in such manner and for such consideration and on such terms and conditions as they may think fit and either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands or any interest in any lands acquired by them under this Act or under any general or local enactment from time to time in force in the city (other than the Housing Acts 1925 to 1935) and may sell exchange or dispose of any rents reserved on the sale lease exchange or disposal of such lands or interests in lands and may do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposal and on any exchange may give or take any money for equality of exchange.

Retention
and
disposal of
lands.

(2) The Corporation shall not (unless the Minister otherwise directs) sell lease exchange or otherwise dispose of any lands under the powers of this section except at the best price or on the best terms which can reasonably be obtained but a purchaser or lessee shall not

A.D. 1936. — be concerned to inquire whether the direction of the Minister is necessary or has been obtained.

(3) Nothing in this section shall be taken to dispense with the necessity for obtaining the consent of any Government department to any sale lease appropriation exchange or other disposal of any lands of the Corporation in any case in which such consent would be required if this section had not been enacted.

(4) Nothing in this section shall release the Corporation or any person purchasing or acquiring any lands from them under this section from any rents covenants restrictions reservations terms or conditions made payable by or contained in any conveyance lease or other deed or instrument by which any such lands were or may hereafter be conveyed or leased to or otherwise acquired by the Corporation or any person from or through whom the Corporation may have derived or may hereafter derive title to the same but all such rents covenants restrictions reservations terms and conditions shall remain and be of as full force and effect and may be recovered exercised enjoyed and enforced in like manner and to the same extent as if this section had not been enacted.

Power to
develop
lands &c.

16.—(1) The Corporation may with the consent of the Minister lay out and develop any lands at any time belonging to the Corporation and not required for the purposes for which they were acquired and may erect and maintain houses shops offices warehouses and any other buildings and lay out and construct sewer drain pave flag channel and kerb streets roads and ways on any such lands.

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

Proceeds of
sale of
lands.

17.—(1) The Corporation may so far as they consider necessary apply subject to the approval of the Minister any capital moneys received by them on the resale or exchange of or by leasing any lands acquired under the powers of this Act in the purchase of other lands but as to capital moneys so received and not so applied

the Corporation shall (subject to the provisions of the section of this Act of which the marginal note is "Capital fund") apply the same either—

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- (a) in or towards the extinguishment of any loan raised by them under the powers aforesaid such application being in addition to and not in substitution for any other mode of extinguishment of such loan except to such extent and upon such terms as may be approved by the Minister; or
- (b) in such other manner as may be approved by the Minister.

(2) Any capital moneys received by the Corporation on the re-sale or exchange of or by leasing any lands acquired under any public general Act from time to time in force in the city or under any local enactment (other than this Act) shall be applied in the same manner as capital moneys received under such public general Act or local enactment are applicable or in such other manner as may be approved by the Minister.

18.—(1) For the purpose of protecting against pollution nuisance encroachment or injury any of the waters which the Corporation are empowered to take the Corporation may by agreement purchase take on lease or otherwise acquire any lands easements or rights and may hold such lands and any other lands which the Corporation may have acquired for the purposes of the water undertaking so long as they shall deem it necessary or expedient for those purposes :

Power to hold lands and exercise powers for protection of waters.

Provided that the Corporation shall not create or permit the creation or continuance of any nuisance on any lands acquired under this section nor (without the approval of the Minister) erect any buildings thereon except offices and dwellings for persons in their employment and such buildings and works as may be incident to or connected with the water undertaking but the restrictions of this section as to the erection of buildings shall not apply in respect of lands leased or sold by the Corporation.

(2) (a) The Corporation may in and upon the lands referred to in subsection (1) of this section construct and lay down drains sewers watercourses and other works and conveniences necessary or proper for the purpose of

A.D. 1936. — intercepting or taking all foul waters arising or flowing upon such lands or necessary or proper for preventing the water which the Corporation are empowered to take from being polluted and the Corporation may for the purposes aforesaid with the consent of the road authority which consent shall not be unreasonably withheld carry any such drain sewer or watercourse under across or along any street or road subject and according to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes.

52 & 53 Vict. c. 49. (b) Any question as to whether any such consent as aforesaid is unreasonably withheld shall be determined by a single arbitrator to be appointed by agreement between the Corporation and the road authority or failing agreement by the President of the Institution of Civil Engineers and subject as aforesaid the Arbitration Act 1889 and any statutory modification thereof shall apply to any such determination.

(3) The Corporation may make and carry into effect agreements with the owners lessees or occupiers of any lands with reference to the execution by the Corporation or by such owners lessees or occupiers of such works as may be necessary for the purpose of draining such lands or any of them or for more effectually collecting conveying and preserving the purity of the waters which the Corporation are for the time being authorised to take.

(4) The Corporation shall not without the previous consent of the Southern Railway Company exercise the powers conferred on them by this section in respect of any street or road repairable by or at the expense of that company but such consent shall not be unreasonably withheld and any question as to whether or not such consent is unreasonably withheld shall be determined by arbitration.

Reservation
of water
rights &c.
on sale.

19. The Corporation on selling any lands acquired by them in connection with the water undertaking and not required for the purposes of that undertaking may reserve to themselves all or any part of the water rights or other easements belonging thereto and may make the sale subject to such reservations accordingly and may also make any such sale subject to such other reservations

special conditions restrictions and provisions with respect to the use of water exercise of noxious trades or discharge or deposit of manure sewage or other impure matter and otherwise as they may think fit. A.D. 1936.

PART III.

PURCHASE OF PORTION OF UNDERTAKING OF HIGHAM AND HUNDRED OF HOO WATER COMPANY.

20.—(1) The company shall sell to the Corporation and the Corporation shall purchase the agreed portion of the undertaking of the company for such price or consideration and on and subject to such terms and conditions as may be agreed upon between the company and the Corporation or as failing such agreement shall be determined by arbitration in accordance with the provisions of this Act. Acquisition of agreed portion of company's undertaking.

(2) On the appointed day or on such later date as the price or consideration referred to in subsection (1) of this section is paid the agreed portion of the undertaking of the company shall by virtue of this Act be transferred to and shall thenceforth be vested in the Corporation and such transfer and vesting are in this Act referred to as "the transfer."

(3) The production of a King's printer's copy of this Act duly stamped together with a receipt for the purchase money paid to the company purporting to be signed by three directors of the company or by the cashier of the Bank of England shall (unless it be proved that the purchase money has not been paid) be conclusive evidence in all courts and proceedings of the transfer.

21. As from the appointed day the Higham and Hundred of Hoo Water Acts and Orders 1890 to 1925 shall cease to have effect within or in relation to the added area: Cesser of application of Acts of company.

Provided that the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes shall continue in force and apply to the company with respect to the existing trunk main of the company from the parish of Higham to the parish of Hoo Saint Werburgh and any renewal or replacement thereof.

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Receipt for
purchase
money.

22.—(1) The receipt in writing of three directors of the company for any money paid to them by the Corporation shall effectually discharge the Corporation from the sum which in such receipt shall be acknowledged to have been received and from being bound to see to the application thereof and from being answerable or accountable for the loss misapplication or non-application thereof.

(2) Provided that if from any cause the Corporation are unable to obtain such receipt from the company they may pay the money due to the company into or with the Bank of England in the name of the Paymaster-General for and on behalf of the Supreme Court to an account to be opened in the matter of this Act and a receipt shall be given to the Corporation by the cashier of the said bank for the money which shall have the same effect as the receipt of three directors of the company.

Company
to be
entitled to
receipts
and to pay
outgoings
in respect
of part of
added area
until
appointed
day.

23.—(1) The company shall be entitled to all rates rents profits and sums of money accrued due in respect of such parts of the added area as at the date of the passing of this Act are being supplied with water by them up to the appointed day (other than such as represent water or meter rents and rates payable in advance in respect of any period after the appointed day) and shall discharge all liabilities and outgoings in respect of such parts of the added area up to that day (including liabilities in respect of causes of action then existing) and shall be entitled also to the proportion of all rates rents profits and sums of money on the appointed day accruing to the company in respect of such parts of the added area but not at that date actually due or payable which shall be attributable to the period prior to the appointed day and such rates rents and profits and sums of money shall be apportioned between the company and the Corporation accordingly and shall when due be recoverable by the Corporation who shall pay to the company the proportion of all such rates rents profits and sums of money so recovered which shall be attributable to the period prior to the appointed day.

(2) As from the appointed day all liabilities and outgoings incurred after that day in respect of the agreed portion of the undertaking of the company shall

be borne and paid by the Corporation who shall be entitled as from that day to all rates rents profits and sums of money in respect of the agreed portion of the said undertaking.

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24. Until the appointed day the company shall in respect of such parts of the added area as at the date of the passing of this Act are being supplied with water by them maintain and carry on such supply as heretofore in the ordinary course of business but the company shall not without the previous consent of the Corporation in writing under the hand of the town clerk enter into any new contract agreement liability or other obligation in respect of the agreed portion of their undertaking which shall extend beyond the appointed day.

Exercise of
company's
powers in
respect of
part of
added area
until
appointed
day.

25. All charges debts and liabilities (other than the debentures of the company) upon or affecting the agreed portion of the undertaking of the company or any part thereof or due from or payable by the company in respect of the agreed portion of their undertaking or any part thereof which at the appointed day shall remain undischarged unpaid or unsatisfied shall be discharged paid or satisfied by the company and if at the appointed day any action arbitration or proceeding or any cause of action arbitration or proceeding is pending or existing against or in favour of the company in respect of the agreed portion of their undertaking or any part thereof the same shall not abate or be discontinued or in anywise prejudicially affected by reason of the transfer or of anything in this Act but the same may be continued prosecuted and enforced by against or in favour of the Corporation as and when it might have been continued prosecuted and enforced by against or in favour of the company if this Act had not been passed.

Liabilities
to be
defrayed by
company.

26. Subject to the provisions of this Act all agreements conveyances contracts deeds and other instruments entered into or made with or by the company in respect of the agreed portion of their undertaking or any part thereof and in force at the appointed day shall be as binding and of as full force and effect in every respect against or in favour of the Corporation and may be enforced as fully and effectually as if instead of the company the Corporation had been a party thereto.

Contracts
with
company
in respect
of agreed
portion of
their under-
taking to be
binding on
Corporation.

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Books &c.
to remain
evidence.

27. All books and documents which if the transfer had not been made would have been evidence in respect of any matter for or against the company in respect of the agreed portion of their undertaking or any part thereof shall be admitted in evidence in respect of the same or the like matter for or against the Corporation.

PART IV.

WATERWORKS.

Power to
make
waterwork.

28.—(1) Subject to the provisions of this Act the Corporation may make and maintain and from time to time alter renew and reconstruct in the lines and situations and upon the lands delineated on the deposited plans and described in the deposited book of reference and according to the levels shown on the deposited sections the waterwork authorised by this Act.

(2) In addition to the waterwork authorised by this Act the Corporation may upon lands acquired by them for the purposes of or in connection with the water undertaking under the provisions of this Act or over which they have or may obtain easements for those purposes make and maintain and from time to time alter renew and reconstruct all such buildings machinery works apparatus and conveniences of whatever character as they may consider necessary or convenient in connection with or subsidiary to the waterwork authorised by this Act or for obtaining access to or for inspecting maintaining repairing cleansing managing working or using the same :

Provided that nothing in this subsection shall exonerate the Corporation from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them.

Limits of
deviation.

29. In the construction of the waterwork authorised by this Act the Corporation may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and where in any street or road no such limits are shown the boundaries of such street or road (including for this purpose any roadside waste forming part of or adjoining the road) shall be deemed to be such limits and they may also deviate vertically

from the levels shown on the deposited sections to any extent not exceeding six feet upwards and to any extent downwards :

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Provided that except for the purpose of crossing over a street no part of the pipes shall be raised above the surface of the ground unless and except so far as is shown on the deposited sections.

30. If the waterwork authorised by this Act is not completed by the first day of October one thousand nine hundred and forty-six then the powers granted by this Act for constructing the same or otherwise in relation thereto shall cease except as to such of them or so much thereof respectively as shall then be completed but the Corporation may in the case of the said work lay down additional lines of pipes as and when occasion may require.

Period for completion of water-work.

31. Subject to the provisions of this Act the water-work authorised by this Act shall for all purposes be deemed to be part of the water undertaking.

Work to form part of water undertaking.

32.—(1) The Corporation during the execution of the works by this Act authorised may temporarily stop up and interfere with any street for the purpose of executing such works and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or returning from any house in the street from passing along and using the same.

Temporary stoppage of streets.

(2) The Corporation shall provide reasonable access for foot passengers bona fide going to or returning from any such house and for foot passengers and vehicular traffic bona fide going to or from any railway station or depot of a railway company.

(3) The Corporation shall not temporarily stop up or interfere with any county road except with the consent of the county council and subject to such terms and conditions as the county council may reasonably impose but such consent shall not be unreasonably withheld and any question as to whether in any case such terms and conditions are unreasonable or as to whether such consent is unreasonably withheld shall be determined by the arbitration of a single arbitrator to be appointed on the application of either party after notice in writing to the

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other of them by the Minister of Transport and subject as aforesaid the provisions of the Arbitration Acts 1889 and 1934 or any statutory modification or re-enactment thereof for the time being in force shall apply to any such arbitration.

Limiting powers of Corporation to abstract water.

33. The Corporation shall not construct any works for taking or intercepting water from any lands acquired by them unless the works are authorised by and the lands upon which the same are to be constructed are specified in this or some other Act of Parliament.

Power to agree as to drainage of lands &c.

34. The Corporation may make and carry into effect agreements with the owners lessees or occupiers of any lands within the drainage areas of any of the waterworks for the time being belonging to them with reference to the execution by the Corporation or such owners lessees or occupiers of such works as may be necessary for the purpose of draining such lands or any of them or for more effectually collecting conveying and preserving the purity of the waters by this Act authorised to be diverted collected and appropriated by the Corporation flowing to upon or from such lands directly or derivatively into such works.

Power to hold lands for protection of waterworks.

35. The Corporation may hold any lands acquired by them under the powers of this Act which they may deem necessary for the purpose of protecting their waterworks against pollution fouling and contamination and so long as such necessity shall continue such lands shall not be deemed to be superfluous lands within the meaning of this Act or the Lands Clauses Acts respectively but the Corporation shall not create or permit a nuisance on any such lands and shall not erect any buildings thereon other than offices and dwellings for persons in their employ and such buildings and works as may be incident to or connected with their water undertaking.

Application of Waterworks Clauses Act 1847.

36. The provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes shall apply to the construction laying down and maintenance in any streets of the waterwork authorised by this Act and of any discharge pipes which the Corporation may and which they are

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by this Act authorised to construct or lay down for the purposes of the water undertaking: A.D. 1936.

Provided that the Corporation shall not lay down any such discharge pipes in through across or under any road bridge or approach of any railway company or a road or bridge vested in the county council except with the consent in writing of such company or the county council as the case may require which consent shall not be unreasonably withheld.

37.—(1) For the purpose of executing constructing enlarging extending altering repairing cleansing emptying or examining any reservoir tank aqueduct line of pipes or other work for the time being belonging to the Corporation the Corporation may cause the water in any such work to be discharged into any available stream watercourse or ditch Provided that any water so discharged shall be as free as may be reasonably practicable from mud or soil or offensive matter and other matter injurious to fish or spawn or spawning beds or food of fish.

Discharge
of water
into
streams.

(2) In the exercise of the powers conferred by this section the Corporation shall do as little damage as may be and shall pay compensation to all persons for all damage sustained by them by reason or in consequence of the exercise of such powers the amount of compensation to be settled in case of difference by arbitration in accordance with the provisions of the section of this Act whereof the marginal note is "Arbitration."

(3) The Corporation shall not exercise the powers of this section in respect of any stream watercourse or ditch adjacent to any highway or bridge vested in the county council or into which the surface water from any highway or bridge is drained without the previous consent in writing of the surveyor of the county council and such consent may be given subject to such reasonable terms and conditions as the county council may think fit to impose Provided that any question as to the reasonableness or otherwise of any such terms and conditions shall be referred to and settled by arbitration.

(4) In the exercise of the powers conferred by this section the undertakers shall comply with the reasonable

A.D. 1936. — requirements of any drainage authority having jurisdiction over any river stream ditch or watercourse through which the water so to be discharged will flow in its course to the sea.

(5) The powers of this section shall not be exercised so as to damage or injuriously affect the railways or works of a railway company.

PART V.

SUPPLY OF WATER.

Extension
of limits of
supply.

38. On and after the appointed day the limits within which the Corporation may supply water shall extend to and include in addition to the existing water limits the added area and as from that date the added area shall cease to form part of the limits of supply of the company.

Limits of
pressure.

39. The water supplied by the Corporation need not at any time be delivered at a pressure greater than that to be afforded by gravitation from the reservoir from which the supply is taken.

Amendment
of section 35
of Water-
works
Clauses
Act 1847.

40. The provisions of section 35 of the Waterworks Clauses Act 1847 shall in their application to the Corporation be read and construed as if the one-tenth part of the expense of providing and laying down pipes mentioned in that section were one-eighth part of such expense.

Rates
payable by
owners of
small
houses.

41.—(1) Where the gross value of any hereditament (excluding agricultural land) does not exceed such sum not exceeding twenty-one pounds as may be determined by the Corporation by resolution or if the Corporation so determine in any case where any hereditament is let for a rent which becomes payable at any period less than quarterly the owner instead of the occupier shall be primarily liable for the payment of the water rate for any such hereditament as aforesaid.

(2) For the purpose of this section the person receiving the rents of any such house or tenement from the occupier thereof on his own account or as agent or receiver for any person interested therein shall be deemed the owner of such house or tenement and it shall be

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lawful for the Corporation to take proceedings for the recovery of water rate against any one or all of such persons either at the same or different times but such water rate may be recovered by the Corporation from the occupier and may (if the occupier be not himself liable therefor under any lease or agreement) be deducted by him from the rent from time to time due from him to the owner provided that no greater sum shall be recovered at any one time from any such occupier than the amount of rent owing by him or which shall accrue due from him subsequent to the service upon him of a notice to pay the water rate.

(3) Where an owner is liable to pay water rate under the provisions of this section and is willing by agreement in writing to undertake to pay such water rate whether the dwelling-house or tenement is occupied or not the Corporation may make him any allowance of such an amount as may be determined by the Corporation by resolution from time to time not exceeding fifteen per centum of that portion of the water rate which is calculated by reference to gross value provided that such an allowance shall not be made unless the amount due is paid before the expiration of one-half of the period in respect of which the water rate is payable or before such other date as the Corporation may prescribe.

(4) Where an owner has given an undertaking under the provisions of the last preceding subsection of this section six months' notice to terminate the same may be given and such notice shall be given before the commencement of the period of charge on the expiration of which it is to take effect.

42.—(1) The Corporation may supply water for other than domestic purposes on such terms and conditions as the Corporation think fit and may supply water by meter either for domestic or other purposes and the moneys payable for the supply of water under this section shall be recoverable in the same manner as water rates. Supply by meter.

(2) Provided always that no persons shall be entitled to a supply of water for other than domestic purposes if such supply would interfere with the sufficiency of the supply of water for domestic purposes.

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Supply to
houses
partly
used for
trade &c.

43.—(1) The Corporation shall not be bound to supply with water otherwise than by meter—

- (a) any building used by an occupier as a dwelling-house whereof any part is used by the same occupier for any trade business or manufacturing purpose for which water is required;
- (b) any hospital (whether public or private) or sanatorium;
- (c) any club hotel assembly hall restaurant public-house inn or common lodging-house;
- (d) any boarding house or public institution capable of accommodating at least twelve persons including the persons usually resident therein; or
- (e) any school.

(2) Where a supply of water to a farmhouse is used for farming purposes the Corporation may require that the supply for farming purposes shall be taken by meter but nothing in this subsection shall authorise the Corporation to refuse a supply of water for domestic purposes to a farmhouse at the rates authorised by or in pursuance of this Act.

(3) If the owner or occupier of any farm premises within the water limits desires a supply of water for farming purposes and lays the necessary communication pipe from such premises to a main of the Corporation the Corporation shall if and so long as the arrangements for taking and using such supply are approved by the Corporation supply to such owner or occupier by meter such quantity of water as the owner or occupier may from time to time reasonably require for such farming purposes Provided that the Corporation shall not be required to supply water under this section at a pressure greater than that to be afforded by gravitation from the reservoir from which such water is supplied nor if and so long as such supply would interfere with the supply of water for domestic purposes within the water limits.

(4) The minimum quarterly charge (exclusive of meter rent) for a supply of water by measure to any

of the premises in this section mentioned shall be one-fourth of the annual amount which would be payable according to the scale for the time being in force for a supply of water for domestic purposes to a dwelling-house of the same value.

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44.—(1) Where a person who takes a supply of water for domestic purposes desires to use the water for horses or washing carriages or motor cars or for other purposes in stables garages or other premises where horses carriages or motor cars are kept the Corporation may if a hose-pipe or other similar apparatus is used charge (except where the water so used is taken by meter) such sum not exceeding twenty-five shillings per annum as they may prescribe and (where more motor cars than one are kept) a further sum not exceeding ten shillings per annum for each motor car beyond the first.

Charges for supply by hose-pipes.

(2) Any sums chargeable under this section shall be in addition to the rates authorised for the supply of water for domestic purposes and shall be recoverable in all respects with and in the same manner as the said rates.

(3) Where water supplied by the Corporation to a person who takes a supply both for domestic purposes and by meter for trade or other purposes is used by him by means of a hose-pipe or other similar apparatus for horses or washing carriages or motor cars or for other purposes in stables garages or premises where horses carriages or motor cars are kept the Corporation may if they think fit require that all water so used by means of such hose-pipe or other apparatus shall be taken by meter and paid for at the rates for the time being in force for the supply of water by meter.

45.—(1) Where a person who takes a supply of water for domestic purposes from the Corporation otherwise than by meter desires to use any of the water so supplied for—

Charges for supplies for refrigerating apparatus &c.

(a) a water-cooled refrigerating apparatus; or

(b) any apparatus depending while in use upon a supply of continuously running water; or

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- (c) any apparatus used for softening water which requires water for cleaning regenerating motive power or similar purposes;

the Corporation may if they think fit require that all water so used shall—

- (i) be taken by meter and paid for accordingly and in that event the minimum quarterly charge for the water shall be ten shillings; or
(ii) be paid for at such rates as may be agreed between such person and the Corporation.

(2) No charge shall be made under this section in respect of an apparatus used within the premises for which the supply of water is taken for softening water if one such apparatus only is used and the water softened thereby can be drawn off into a receptacle at one point only and is used solely for purposes for which the domestic rate is paid.

Special
terms for
supplies to
caravans
&c.

46.—(1) Notwithstanding anything in any Act relating to the Corporation a person shall not be entitled to demand or continue to receive from the Corporation a supply of water to any caravan shack hut tent or other like structure unless he has agreed with the Corporation to take a supply of water by meter and to pay to the Corporation such minimum annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing the supply or supplies required by him and will cover other standing charges incurred by them in order to meet the possible maximum demand for his caravan shack hut tent or structure and will yield a reasonable return on the cost of the water consumed or used by him and unless he has secured to the reasonable satisfaction of the Corporation by way of deposit or otherwise payment of such a sum as may be reasonable having regard to the possible maximum demand of such person for his caravan shack hut tent or structure.

(2) The sum so to be paid and the security so to be given shall be determined in default of agreement by a court of summary jurisdiction who may also order by which of the parties the costs of the proceedings before them shall be paid and the decision of the court shall be final and binding on all parties.

47. The price to be charged by the Corporation for a supply of water by meter shall not exceed three shillings per thousand gallons Provided that except as by this Act otherwise expressly provided the Corporation shall be entitled to charge a minimum sum of ten shillings in any quarter of the year for water supplied by meter.

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Price of
water
supplied by
meter.

48. Where two or more houses or buildings or parts of one or more houses or buildings connected with any internal means of communication or by any bridge subway yard or passage not being a public highway are in the occupation of one and the same company body firm or person they shall be deemed for the purposes of determining the amount of the water rate chargeable by the Corporation in respect of any supply of water for domestic purposes furnished by the Corporation to such houses or buildings or parts thereof (being in such single occupation as aforesaid) to be one tenement having a gross estimated rental equal to the aggregate gross estimated rental of the separate houses or buildings or parts of houses or buildings so occupied.

As to gross
estimated
rental of
two or
more
houses
in one
occupation.

49. From and after the appointed day the charges made by the Corporation for the supply of water for domestic purposes in the added area shall be at the same rate as is charged by the Corporation in the other parts of the city supplied by the Corporation.

Rates for
domestic
supply in
the city.

50.—(1) The Minister may if he thinks fit from time to time on the application of the Corporation or of twenty consumers of water supplied by the Corporation by order vary either by way of increase or decrease the rates and charges for the supply of water which the Corporation are by this Act authorised to charge Provided that the rates and charges prescribed in any such order shall be of such amounts as in the opinion of the Minister will provide a reasonable sum as a contribution towards a reserve fund in respect of the water undertaking so long as such fund does not amount to the maximum prescribed in relation to that fund in pursuance of the section of this Act of which the marginal note is "Application of revenue of undertakings."

Revision of
water rates.

(2) Any order made by the Minister in pursuance of the foregoing provisions of this section may provide

A.D. 1936. — for the alteration of the basis of the rates and charges for the supply of water which the Corporation are for the time being authorised to charge and may fix the date upon which any such variation as is referred to in subsection (1) of this section or any such alteration as is referred to in this subsection shall come into force.

(3) In the absence of exceptional reasons the Minister shall not vary the rates and charges which the Corporation are for the time being authorised to charge at less intervals than five years.

Water rate
&c. may be
collected
with
general rate.

51.—(1) Any water rate or charge payable to the Corporation may be collected together with the general rate.

(2) The Corporation may demand water rates and charges by half-yearly instalments in advance on the first day of April and the first day of October in every year but so that the same shall not be recoverable until the expiration of two months from the said first day of April and first day of October respectively.

(3) If the Corporation exercise the powers of subsection (2) of this section—

(a) every person liable to the payment of such rate or charge who shall cease to occupy the premises in respect of which the rate or charge is paid during any part of the period for which the rate or charge is payable shall not be liable for any part of such rate or charge after the day on which he ceases to occupy the said premises and if any such person shall have paid any rate or charge for any period for which he is not liable he shall be entitled to repayment thereof by the Corporation. The water rate or charge or any part thereof respectively payable by any such person in respect of any such premises and unpaid when he ceases to occupy the same shall become payable and be recoverable immediately upon his ceasing to occupy such premises;

(b) every person who shall commence to occupy any premises in respect of which a rate or charge for the supply of water for domestic

purposes is payable after the commencement of the period for which the rate or charge is payable shall pay so much of such rate or charge as is proportionate to the period for which he occupies the premises. A.D. 1936.

(4) (a) The Corporation may from time to time if they think fit make an allowance by way of discount not exceeding five per centum on the amount due in respect of any water rate or charge or any instalment thereof from every person who pays the same within such time after demand of the rate or charge or any instalment thereof as the case may be as the Corporation may prescribe.

(b) Provided that—

(i) the said allowance shall not be made where the person paying the water rate or charge or any instalment thereof is the owner who is entitled to any allowance for which provision is made by the section of this Act of which the marginal note is "Rates payable by owners of small houses"; and

(ii) the same rate of discount shall be allowed in similar circumstances to every person from whom such water rate or charge or any instalment thereof shall be demanded.

(c) If and so long as the Corporation allow such discount notice of the effect of this enactment shall be endorsed on every demand note for water rates and charges.

52. Subject to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes the Corporation may for the purpose of measuring the quantity of water supplied or of preventing and detecting waste affix and maintain meters and similar apparatus on the service pipes and mains of the Corporation and stop-cocks in the pipes supplying houses with water and may insert in the roads or footways the necessary covers or boxes for giving access and protection thereto and may for that purpose break up and interfere

Meters in streets to measure water or detect waste.

A.D. 1936. temporarily with public and private streets sewers gas
— air or water pipes electric lines wires and apparatus:

Provided that the Corporation shall not—

- (a) interfere with any telegraphic line belonging to or used by the Postmaster-General except in accordance with and subject to the provisions of the Telegraph Act 1878;
- (b) under the powers of this section interfere with any main pipe or apparatus of the Rochester Chatham and Gillingham Gas Company;
- (c) without the previous consent of the Southern Railway Company exercise the powers of this section in respect of any street pipe line wire or apparatus belonging to that company but such consent shall not be unreasonably withheld and any question as to whether or not such consent is unreasonably withheld shall be determined by arbitration;
- (d) in the exercise of the powers of this section interfere with any road vested in the county council without the consent of the county council and the county council may attach reasonable terms and conditions to any such consent but such consent shall not be unreasonably withheld and any question as to whether any such consent is unreasonably withheld or as to whether any such terms or conditions are unreasonable shall be referred to arbitration.

Byelaws for preventing waste &c. of water.

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

- (a) for the purpose of preventing the waste undue consumption misuse or contamination of water and may by such byelaws prescribe the size nature material workmanship and strength and the mode of arrangement connection disconnection alteration and repair of pipes meters cocks ferrules valves soil-pans waterclosets baths cisterns and other apparatus (in this section referred to as "water fittings") to be used and

forbid any arrangements and the use of any water fittings which may allow or tend to waste undue consumption misuse erroneous measurement or contamination; and

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(b) as to the testing and stamping of valves and other apparatus and prescribing the charge to be made for such testing and stamping.

(2) Such byelaws shall apply only in the case of premises to which the Corporation afford or are prepared on demand to afford a constant supply of water.

(3) Nothing in this section or in any byelaw made thereunder shall apply to any water fittings used on any premises (not being or being used as a hotel or dwelling-house) belonging to and forming part of the railway of a railway company.

(4) In case of failure of any person to observe such byelaws as are for the time being in force the Corporation may if they think fit after twenty-four hours' notice in writing enter and by and under the direction of their duly authorised officer repair replace or alter any water fittings belonging to or used by such person and not being in accordance with the requirements of such byelaws and the expense of every such repair replacement or alteration shall be recoverable by the Corporation as the water rates in respect of the premises are recoverable.

(5) Any person who shall forge or counterfeit any stamp or mark used by the Corporation or by the authority of the Corporation for any of the purposes of this section or who shall use or supply anything marked with any such stamp or mark knowing the same to be forged or counterfeited shall for every such offence be liable to a penalty not exceeding twenty pounds.

54. The Corporation may require that any dwelling-house the erection of which is commenced after the passing of this Act and situate on land at a higher level than fifty feet below any part of the service reservoir from which a supply of water is furnished or to be furnished by them to such dwelling-house shall be provided with a cistern or cisterns capable

Cisterns to be provided for high level supplies.

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of containing a total quantity of water sufficient to provide an adequate supply to such dwelling-house for a period of twenty-four hours and the Corporation shall not be required to supply any such dwelling-house until the same is provided with a cistern or cisterns in conformity with the requirements of this section.

Cleansing
of cisterns.

55. The Corporation may make byelaws for securing the cleanliness and freedom from pollution of tanks cisterns and other receptacles in the water limits for storing water used or likely to be used by man for drinking or domestic purposes or for manufacturing food or drink for the use of man.

Stop-cocks
&c. to be
fitted in
communi-
cation
pipes.

56.—(1) In the case of all premises connected after the passing of this Act with the mains of the Corporation the Corporation may in cases where the communication pipes are laid by the person requiring a supply of water to any premises or by the Corporation at the request of such person require such person at the time when the pipes are laid to insert or to have inserted and thereafter to maintain a stop-cock (which expression where used in this section shall include the necessary covers or boxes for giving access and protection thereto) in the communication or service pipe from the said premises in some position to be reasonably approved by the road authority in the footway of the street in which such pipe is laid or if there be no footway in a position as near as reasonably practicable to the premises supplied and if such person fails to comply with such requirement the Corporation may insert and maintain a stop-cock in such communication or service pipe and recover the reasonable expenses incurred by them in so doing from such person as a civil debt.

(2) For the purpose of complying with any obligation under this section to insert or to maintain a stop-cock and for the purpose of maintaining any existing stop-cock in a communication or service pipe from any premises within the water limits the person liable shall have the like power to open the ground as is conferred upon him by and subject to the conditions of sections 48 to 52 of the Waterworks Clauses Act 1847 in relation to the laying of communication pipes.

(3) The Corporation may by agreement with any person liable to insert or to maintain any stop-cock and

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for that purpose authorised to open or break up any street within the water limits execute such works on behalf of such person and any expenses incurred by the Corporation in so doing shall be repaid by the person with whom the agreement is made and shall be recoverable summarily as a civil debt.

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57.—(1) In addition to the powers conferred by section 57 of the Waterworks Clauses Act 1847 the waterworks engineer of the Corporation or any person duly authorised by him in writing may at all reasonable times between the hours of seven and nine in the morning and also between the hour of four in the afternoon and one hour after sunset enter into any house or premises supplied with water by the Corporation in order to examine if there be any waste or misuse of such water and if any person hinder any such engineer or authorised person from entering either under the said section 57 or under this section or making such examination as aforesaid he shall for every such offence be liable to a penalty not exceeding five pounds Provided that no person shall for the same offence have the water supplied to him turned off in pursuance of the said section 57 and also be liable to a penalty under this section.

Extension
of power to
inspect
premises.

(2) The provisions of this section shall not apply to any premises (not being a dwelling-house office or showroom) belonging to the Rochester Chatham and Gillingham Gas Company and used by them for the purposes of their undertaking.

58. When several houses or other premises or parts of houses or other premises in the occupation of several persons are supplied with water by one common pipe belonging to the several owners or occupiers of such houses or other premises or parts of houses or other premises the said several owners or occupiers shall be liable to contribute the amount of any expenses from time to time incurred by the Corporation in the maintenance and repair of such pipe and their respective proportions of contributions shall be settled by the waterworks engineer of the Corporation or other officer duly authorised in that behalf by the Corporation.

Main-
tenance of
common
pipe.

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Separate
communi-
cation
pipes may
be required.

59.—(1) The Corporation shall not be bound to supply with water more than one house or part of a house occupied as a separate tenement by means of the same communication pipe and they may if they think fit require that a separate pipe be laid from the main pipe into each house or part of a house occupied as a separate tenement supplied by them with water.

(2) If the owner of any house or part of a house occupied as a separate tenement which is supplied with water by the Corporation when so required in pursuance of the preceding subsection fails within a period of one month after the receipt of such requirement to provide a separate pipe from the main into such house or part of a house the Corporation may themselves do the work necessary in that behalf and may recover from such owner the cost incurred by them in so doing.

As to
communi-
cation pipes.

60.—(1) For the purpose of complying with any obligation under the Waterworks Clauses Act 1847 to maintain or repair any pipe or apparatus used for the supply of water from the waterworks of the Corporation the person liable to maintain or repair the same shall have the like power to open the ground as is conferred upon him by sections 48 to 52 of the Waterworks Clauses Act 1847 in relation to the laying of communication pipes subject nevertheless to the conditions imposed by those sections.

(2) The Corporation by agreement with any owner or occupier entitled or required to lay maintain repair or remove any communication pipe or apparatus and for that purpose to open or break up any street in the water limits may subject to the like conditions execute such works on behalf of such owner or occupier and subject to the terms of the agreement any reasonable expenses incurred by the Corporation shall be repaid by the owner or occupier with whom the agreement is made.

Power to
Corporation
to repair
communi-
cation
pipes.

61. If in the opinion of the Corporation any waste of water or injury or risk of injury to person or property is caused or likely to be caused by reason of any injury to or defect in any communication pipe which the Corporation are not under obligation to maintain it shall be lawful for the Corporation to execute such repairs to the communication pipe as they may think necessary or expedient in the circumstances without

being requested so to do and if any injury to or defect in the communication pipe shall have been found the expense incurred by the Corporation for the purposes of ascertaining the injury or defect and executing the repairs (including the expense of breaking up filling in reinstating and making good any road pavement or soil for those purposes) shall be recoverable by the Corporation in like manner as the water rates in respect of the premises are recoverable. Provided that (except in case of emergency) the Corporation shall not under the powers of this section enter into any house or private premises unless they shall have given to the occupier of such house or premises (and if the water rates in respect of the house or premises are payable by the owner thereof to such owner) not less than twenty-four hours' previous notice of their intention so to enter. A.D. 1936.

62. Notwithstanding anything in any Act relating to the Corporation the Corporation shall have the exclusive right of executing any works on any of the water mains of the Corporation for connecting any communication or service pipe therewith and the Corporation shall on the request of any owner or occupier of any premises who is entitled to be supplied with water by the Corporation execute on any such main any work which shall be necessary to connect the communication or service pipe of such owner or occupier therewith and any expenses incurred by the Corporation in so doing shall be repaid by the owner or occupier so requesting. Corporation to connect communication pipes with mains.

63. The Corporation may sell meters and any fittings connected therewith upon and subject to such terms (pecuniary or otherwise) and conditions as they think fit. Power to sell meters.

64.—(1) Every person who wilfully fraudulently or by culpable negligence injures or suffers to be injured any pipe meter or other instrument for measuring water or any fitting belonging to the Corporation or who fraudulently alters the index to any meter or other instrument for measuring water or prevents any meter or other instrument for measuring water from duly registering the quantity of water supplied or fraudulently abstracts consumes or uses water of the Corporation shall (without prejudice to any other right or remedy Injuring meters &c.

A.D. 1936. — for the protection of the Corporation) be liable to a penalty not exceeding five pounds and the Corporation may in addition thereto recover the amount of any damage by them sustained.

(2) In any case in which any person has wilfully fraudulently or by culpable negligence injured or suffered to be injured any pipe meter instrument or fitting belonging to the Corporation or has fraudulently altered the index to any meter or other instrument for measuring water or prevented the same from duly registering the quantity of water supplied or has fraudulently abstracted consumed or used water of the Corporation the Corporation may enter upon the premises occupied by the offender and repair such injury and do all such works matters and things as may be necessary for insuring the proper registering by such meter or instrument of the quantity of water supplied by means thereof and the expense of such repair and of all such works matters and things shall be repaid to the Corporation by the person so offending and may be recovered by them as water rates are recoverable.

(3) The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or using water of the Corporation when such pipe meter instrument or fitting is under the custody or control of the consumer shall be prima facie evidence that such injury alteration prevention abstraction consumption or use (as the case may be) has been fraudulently knowingly and wilfully caused by the consumer using such pipe meter instrument or fitting.

As to
register of
meters.

65.—(1) Where water is supplied by measure the register of the meter or other instrument for measuring water shall be prima facie evidence of the quantity of water consumed and in respect of which any water rate is charged and sought to be recovered by the Corporation.

(2) Provided that if the Corporation and the person to whom the water is supplied differ as to the quantity consumed such difference shall be determined upon the application of either party by a court of summary jurisdiction who may also order by which of the parties any costs of the proceedings before them shall be paid

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and the decision of such court shall be final and binding on all parties. A.D. 1936.

(3) If any meter used by a consumer of water be proved to register erroneously such erroneous registration shall be deemed to have first arisen at the beginning of the then current quarter of the year unless it be proved to have first arisen during the then current quarter. Any charge for water erroneously registered as supplied to a consumer for which he has paid and any additional sum due from any consumer for water supplied to him but not registered shall be paid by or to the Corporation to or by the consumer as the case may be and in the case of an additional sum due from a consumer shall be recoverable in the like manner as rates for water are recoverable by the Corporation.

66. Before any person connects or disconnects any meter by means of which any of the water of the Corporation is intended to be or has been registered he shall give not less than twenty-four hours' notice in writing to the Corporation of his intention to do so and all alterations or repairs and the connecting and disconnecting of meters shall be done at his cost and under due superintendence of any officer of or person authorised by the Corporation and every person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings. Notice to Corporation of connecting or disconnecting meters.

67. A notice to the Corporation from a consumer for the discontinuance of a supply of water shall not be of any effect unless it be in writing signed by or on behalf of the consumer and be left at or sent by post to the office of the Corporation. Notice of discontinuance.

68.—(1) The Corporation may if requested by any person supplied or about to be supplied by them with water furnish to him and repair or alter (but shall not manufacture) any such pipes valves cocks cisterns baths meters soil-pans waterclosets and other fittings as are required or permitted by their regulations and may provide all materials and execute all work necessary or proper in that behalf and the reasonable charges of the Corporation in providing such materials and executing such work shall be paid by the person requiring the same. Power to supply water fittings.

A.D. 1936.

(2) Any fittings let for hire under the provisions of this section shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under any process of any court or any proceedings in bankruptcy against the persons in whose possession the same may be. Provided that such fittings have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Corporation as the actual owners thereof.

(3) Subject to the proviso to subsection (2) of this section all fittings let by the Corporation on hire as aforesaid shall notwithstanding that they be fixed or fastened to any part of any premises in which they may be situate or to the soil under any premises at all times continue to be the property of and removable by the Corporation. Provided that nothing in this subsection shall affect the amount of the assessment for rating of any premises upon which any such fittings are or shall be fixed.

(4) Provided as follows:—

- (a) The Corporation shall so adjust the charges to be made by them for any such fittings or for the fixing repairing or removal thereof as to meet any expenditure by them under the powers of this section in connection therewith (including interest upon any moneys borrowed for those purposes and all sums applied to sinking fund for repayment of money so borrowed);
- (b) When a demand note delivered by the Corporation to a consumer includes a sum charged by the Corporation in respect of providing such fittings or the fixing repairing or removal thereof such sum shall be clearly stated in such demand note;
- (c) The total sums expended and received by the Corporation in connection with the purposes in this section mentioned in each year (including interest and sinking fund) shall be separately shown in the published accounts of the water undertaking for such year.

[26 GEO. 5. &
1 EDW. 8.]

Rochester Corporation
Act, 1936.

[Ch. lxxv.]

69. If the Corporation commence proceedings for the summary recovery of a sum due for the supply of water any other sum due or payable to the Corporation in respect of the sale or hire of any fittings supplied by them for or in connection with the supply of water or the provision of materials and work in connection therewith or the fixing setting up repairing altering maintaining or removal thereof may be included in the same summons and may be recovered summarily provided the amount due or payable in respect thereof does not exceed twenty pounds.

A.D. 1936.

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As to
recovery
summarily
of sums
due for
fittings.

70. Any person being the owner or occupier of any house or building or part of a house or building or premises to or in respect of which he is not for the time being entitled to a supply or the continuance of a supply of water by the Corporation who shall without the authority of the Corporation turn on any valve cock or other work or apparatus attached to any service main or pipe connected with any main of the Corporation and provided or available for the purpose of affording such supply shall be deemed to commit an offence under section 60 (Penalty for destroying valves drawing off water &c.) of the Waterworks Clauses Act 1847.

Penalty for
interfering
with
valves &c.

71. Every person who shall wilfully (without the consent of the Corporation) or negligently close or shut off any valve cock or other work or apparatus belonging to the Corporation whereby the supply of water shall be interfered with shall (without prejudice to any other right or remedy of the Corporation) be liable on conviction to a penalty not exceeding five pounds and the Corporation may in addition thereto recover the amount of any damage by them sustained Provided that this section shall not apply to a consumer closing the valve fixed on his communication pipe.

Penalty for
closing
valves and
apparatus.

72. The Corporation by their agents or workmen after forty-eight hours' notice in writing under the hand of the waterworks engineer or some other officer of the Corporation to the occupier or if there be no occupier then to the owner or lessee of any house building or land in which any pipe meter or fitting belonging to the Corporation is laid or fixed and through or in which the supply of water is from any cause other than the

Power to
remove
meters and
fittings.

A.D. 1936.

default of the Corporation discontinued for the space of forty-eight hours may enter such house building or land between the hours of nine in the morning and four in the afternoon or at any other time with the authority in writing of a justice for the purpose of removing and may remove every such pipe meter and fitting repairing all damage caused by such entry or removal.

Contracts
for
supplying
water
in bulk.

73. The Corporation may enter into and carry into effect agreements with any local authority body company or person for the supply of water beyond the water limits to any such authority body company or person respectively in bulk for any purpose and for such remuneration and on such terms and conditions and for such period as may be agreed upon :

Provided that such supply shall not be given except with the consent of any authority body company or person supplying water under parliamentary authority within the area to be supplied and of the local authority of the district comprising that area nor if and so long as such supply would interfere with the supply of water within the water limits Provided further that the Corporation shall not break up or lay pipes and works in or over streets roads or bridges vested in the county council beyond the water limits except with the consent of the county council and the county council may attach reasonable terms and conditions to any such consent but such consent shall not be unreasonably withheld and any question as to whether any such consent is unreasonably withheld or as to whether any such terms or conditions are unreasonable shall be referred to arbitration.

PART VI.

STREETS BUILDINGS SEWERS AND DRAINS.

Develop-
ment
scheme
may be
required in
connection
with new
streets.

74.—(1) Whenever application shall be made to the Corporation to approve the laying out of or notice shall be given to the Corporation of intention to lay out a new street in the city the Corporation may require the applicant or the person giving such notice to furnish them with plans and particulars of the proposed development of any neighbouring land belonging to him the development of which is in their opinion likely

substantially to affect or be affected by the determination of the site of the proposed street and in such case the date of the making of application or of the giving of notice as aforesaid shall for the purposes of any enactments or provisions in force for the time being with respect to the laying out of new streets be deemed to be the date on which plans and particulars required as aforesaid shall be so furnished. A.D. 1936.

(2) In this section the expression "lay out a new street" includes the formation of a new street or the widening of an existing street or the widening or adaptation of a road footpath or way so as to form a new street.

(3) If after the submission of the plans and particulars referred to in subsection (1) of this section the Corporation shall approve the laying out of such new street either unconditionally or subject to any modification of such plans and particulars neither the owner of the estate or lands nor his successors in title shall carry out the development of such estate or lands in such a manner as to conflict with such plans and particulars as approved and if any such owner shall offend against the provisions of this section he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

(4) The said owner or any person claiming through or under him may at any time submit to the Corporation for their approval any alteration in the said plans and particulars or any substituted plans and particulars showing such general scheme as aforesaid and the Corporation may if they think fit approve such alteration or substituted plans and particulars.

(5) Any person aggrieved by any requirement of or by the Corporation under this section or by any modification required in the said plans and particulars by the Corporation or by any refusal on the part of the Corporation to approve any such alteration as aforesaid therein may within fourteen days from the date of such requirement or of the intimation to him by the Corporation of such refusal appeal to a court of summary jurisdiction provided he give twenty-four hours' written notice of the appeal and of the grounds thereof to the clerk and the court shall have power to make such

A.D. 1936. — order and on such terms and conditions as the court may think fit and to award costs.

(6) Nothing in this section shall be deemed to authorise any contravention of any byelaw or statutory provision in force in the city.

Adjust-
ment of
boundaries
of streets.

75.—(1) The Corporation may enter into and carry into effect agreements with any owner of lands adjoining any street for the adjustment of the boundary of any such street and for such purpose may give up to such owner land including land forming part of the street in exchange for other land. For the purposes of this section the Corporation shall be deemed to be the owners of the land forming the site of the street and shall be entitled to convey the same in accordance with an agreement entered into in pursuance of this section.

(2) Provided that no such agreement shall be entered into until the expiration of one month from the date on which notice of the proposals has been given by advertisement in some local newspaper circulating in the city and if during such period of one month any four inhabitant householders of the city by themselves or their agent give notice to the Corporation of their intention to appeal under the provisions of this section the Corporation shall not proceed with their proposals (unless the notice of appeal is withdrawn) pending a decision on or a withdrawal of the appeal. The advertisement in the newspaper shall include notice of this proviso.

(3) Any four inhabitant householders of the city may appeal to a court of summary jurisdiction against any proposals of the Corporation for an adjustment of the boundaries of a street under this section within the period mentioned in subsection (2) of this section.

(4) On any such appeal the court shall have power to make such order and on such terms and conditions as the court may think fit and to award costs.

(5) Notwithstanding any agreement entered into under this section the Postmaster-General shall continue to have the same powers and rights in respect of any telegraphic line belonging to or used by him which remains in under upon over along or across the site of any such street as if the same had continued to be

part of the street and if by reason or in consequence of any such agreement it becomes necessary to alter any such telegraphic line the enactments contained in section 7 of the Telegraph Act 1878 shall apply to any such alteration as though the Corporation or the owner of the adjoining land (as the case may be) were "undertakers" within the meaning of the said Act.

A.D. 1936.

(6) Notwithstanding any agreement entered into under this section the Central Electricity Board shall continue to have the same powers and rights in respect of any electric lines and other apparatus belonging to or used by them which remain in under upon over along or across the site of any such street as if the same had continued to be part of the street and if by reason or in consequence of any such agreement the Central Electricity Board deem it necessary to alter the position of any such electric lines or other apparatus they shall be at liberty so to do and the expenses incurred by them in so doing shall be paid to them by the Corporation.

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

76.—(1) For the purpose of securing the proper laying out or development of any estate or lands in respect of or in connection with which plans for any new street (including in that expression the widening of an existing street or the widening or adaptation of a road footpath or way so as to form a new street) are submitted to the Corporation for approval the Corporation may require that provision shall be made for adjusting and altering the boundaries of any such estate or lands or any lands adjacent or near thereto and for effecting such exchanges of land and the removal imposition or other regulation of covenants restrictions and conditions attaching to such lands as may be necessary or convenient for such purposes and the provision so to be made and the terms and conditions upon which such provision is to be made shall failing agreement between the Corporation and the respective persons interested in such estate or lands be determined on the application of the Corporation or any such

Adjust-
ment of
boundaries
of estates.

A.D. 1936. person by an arbitrator to be appointed by the Minister and the Corporation may for securing the execution of any such purposes agree to pay and may and shall pay to any such person or persons such sums as may be agreed upon or in default of agreement be determined by arbitration as aforesaid :

Provided that the payment of money by any such person shall not be made a term or condition of any award made under this section otherwise than with his consent.

(2) Any award made under the provisions of this section shall operate to effect any adjustment or alteration of boundaries or exchange of lands or the removal imposition or other regulation of covenants restrictions and conditions attaching to such lands which may be provided for by such award or be necessary for giving effect thereto and shall be duly stamped accordingly and the costs charges and expenses of any such arbitration shall unless and except in so far as the award shall otherwise provide be borne and paid by the Corporation.

(3) Any lands or moneys received by any person in or in respect of any adjustment or alteration of boundaries or exchange of lands under the provisions of this section shall be held by such person subject to the same trusts (if any) and any lands so received shall also be held subject to the same covenants restrictions and conditions (if any) so far as the same are applicable as the lands exchanged therefor Where any such covenants restrictions or conditions shall in any case be agreed to be inapplicable or be determined by the arbitrator to be inapplicable the same shall be indicated in any agreement or award made under the provisions of this section.

(4) For the purpose of the adjustment or alteration of the boundaries of any such estate or lands as aforesaid the Corporation may themselves purchase any land and may sell or lease the land so purchased in whole or in part at such time or times at such price or prices and on such conditions as they may think fit or may appropriate the same for any public purpose approved by the Minister and until such sale or appropriation may occupy manage or let the same or any part thereof in such manner as the Corporation may think reasonable.

[26 GEO. 5. &
1 EDW. 8.]

Rochester Corporation
Act, 1936.

[Ch. lxxv.]

77.—(1) The Corporation may at any time after prescribing the improvement line of any street in pursuance of the power conferred upon them by section 33 of the Public Health Act 1925 on giving six months' previous notice in writing to the owner require that any building or erection which or any part of which was beyond or in front of any such improvement line at the date when the same was so prescribed shall be pulled down set back or altered so that the same shall not project beyond or in front of such improvement line.

A.D. 1936.
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Further powers as to future line of streets.
15 & 16
Geo.5. c.71.

(2) The owner may and if so required by the Corporation shall notwithstanding any contract lease or agreement or any provision therein contained enter upon any land building or erection affected by any requirement of the Corporation under this section and carry out such requirement.

(3) In the event of any building or erection being pulled down set back or altered in accordance with any requirement of the Corporation under this section the Corporation shall make compensation to the owner lessee and tenant of any such building or erection and to any or either of them for any loss or damage sustained by such owner lessee or tenant in consequence of such building or erection being pulled down set back or altered as aforesaid.

(4) The amount of any compensation payable under this section and any other question under this section the determination whereof is not otherwise provided for by this Act shall in default of agreement be determined in accordance with the provisions of the Lands Clauses Acts but in estimating the amount of any such compensation the benefit arising from the widening or improvement of the street and accruing to the property in respect of which such compensation shall be payable shall be fairly estimated and set off against such compensation.

(5) Any person who shall fail to comply with a requirement of the Corporation under this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(6) The provisions of this section shall not apply to any buildings erections or premises (other than dwelling-houses) in the occupation of the county council and

A.D. 1936. — except with the consent in writing of the county council no expense shall fall to be borne by the county council in consequence of the exercise by the Corporation of their powers under this section.

Frontage
line in new
streets.

78.—(1) Every person who intends to form a new street shall in addition to the information required to be supplied to the Corporation by virtue of any enactment or byelaw with respect to streets and buildings from time to time in force within the city distinctly define and mark on a plan drawn to such scale as the Corporation may require and to be prepared and submitted by such person to the Corporation for their approval the proposed line of frontage of any house or building to be erected in or fronting such street (in this section called "the building line") and the Corporation shall be deemed to have approved any building line unless within six weeks after the date of submission thereof they shall have signified to the person submitting the same their disapproval thereof.

(2) The Corporation may also prescribe the building line to be observed in those parts of any street (not being a highway maintainable by them or by any highway authority) already formed upon which buildings have not already been erected.

(3) It shall not be lawful to erect or bring forward in any such street any house or building or any part thereof or any addition to any house or building if the building line for such street has been disapproved by the Corporation or before the expiration of the six weeks aforesaid without their approval nor without the approval of the Corporation beyond or in front of the building line approved or prescribed by the Corporation and any person offending against this enactment shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

51 & 52 Vict.
c. 52.

(4) The provisions of section 3 of the Public Health (Buildings in Streets) Act 1888 shall not apply to any house or building erected or proposed to be erected on lands in respect of which a building line as aforesaid shall have been approved or prescribed by the Corporation.

A.D. 1936.

(5) In the event of the Corporation requiring as a condition of their approval of any such plan the setting back of the building line shown on the plan to a greater distance from the centre of a new street than one-half of the width of the street and ten feet in addition or in the case of a street already formed to a greater distance from the centre of the street than the line at which buildings could be erected having regard to the provisions of the byelaws with respect to streets and buildings in force within the city or of the Public Health (Buildings in Streets) Act 1888 the Corporation shall make compensation to the owner of any land lying between the said distance from the centre of the street and the building line as set back for any damage sustained by him by reason of his being unable to build upon such land.

(6) For the purposes of this section the surveyor shall by certificate under his hand at or before the time of the approval of the building line by the Corporation determine the centre of any street or intended street.

(7) The amount of any compensation payable under this section shall in default of agreement be determined by arbitration in accordance with the provisions of the Lands Clauses Acts.

(8) Any person aggrieved by any requirement of or by the Corporation under this section may within fourteen days from the date of such requirement appeal to a court of summary jurisdiction provided he give twenty-four hours' written notice of the appeal and of the grounds thereof to the clerk and such court shall have power to make such order and on such terms and conditions as the court may think fit and to award costs.

79.—(1) The Corporation may from time to time if it shall appear to them that any public highway in the city may be diverted and turned either entirely or partially so as to make the same nearer or more commodious and the owner of the lands through which such new highway so proposed to be made shall consent thereto in writing under his hand by order divert and turn such public highway either entirely

Power to
stop up
highways
where
necessary.

A.D. 1936, — or partially substituting therefor such new highway proposed to be made or if it shall appear to the Corporation that any public highway in the city is unnecessary they may by order stop up entirely or partially such highway and on any public highway being so diverted turned or stopped up all public and other rights of way and other rights in over or upon the same shall be absolutely extinguished Provided that—

(a) fourteen days before making any order under this subsection the Corporation shall give notice to the Minister of Transport of their intention to make such order and of the proposals to be contained therein;

(b) any such order shall only be made by the Corporation on such terms as to the vesting of the soil and other matters as may be agreed on between the Corporation and the owners lessees and occupiers of buildings and lands abutting on the highway so proposed to be diverted turned or stopped up.

(2) For twenty-eight consecutive days after the making of any such order the Corporation shall post and keep posted a copy of such order in conspicuous places in the highway or highways or the part or parts of the highway or highways thereby ordered to be diverted turned or stopped up and shall also during the first ten days of that period publish such order twice at least in some newspaper or newspapers published in the city.

(3) On the completion of such posting and publication the order so advertised shall become absolute unless any person thinking himself aggrieved thereby shall previously have given to the town clerk notice in writing of his intention to appeal against such order to the next quarter sessions for the county of Kent which shall be held after the expiration of one month from the first posting of the order and thereupon such quarter sessions shall hear the appeal and confirm or annul the order and may determine by which of the parties the costs of the appeal are to be paid.

[26 GEO. 5. & *Rochester Corporation* [Ch. lxxv.]
1 EDW. 8.] Act, 1936.

(4) Notice of the right to appeal shall be endorsed on the copy of every order of the Corporation posted and published under this section. A.D. 1936.

(5) In any case in which the Corporation fail to agree with all the owners lessees and occupiers of the buildings and lands abutting on a highway which the Corporation propose to divert turn or stop up under the provisions of this section the procedure prescribed by the Highways Act 1835 shall be observed as if this section had not been enacted. 5 & 6 Will. 4. c. 50.

80. The powers conferred upon the Corporation by section 17 of the Public Health Acts Amendment Act 1907 to vary the intended position of a new street so far as is necessary for the purpose of securing more direct easier or more convenient means of communication with any other street or intended street shall be extended so as to enable them (subject to the provisions contained in that section) to require that the corners formed at the junction of a new street with another street (whether new or existing) shall be rounded off so as to be coincident with the arc of a circle tangential to the adjacent boundaries of the two streets and having such radius not being less than twenty feet as may be determined by the Corporation. Rounding off of corners at street junctions. 7 Edw. 7. c. 53.

81.—(1) Any person who lays out a new street or part of a new street in the city shall if required by the Corporation so to do construct the carriageway and footway of such new street or part of a new street with a sufficient and solid foundation of suitable material to the approval of the Corporation Provided that the execution of any works under the provisions of this section shall not relieve any person of any liability under section 150 of the Public Health Act 1875 or under the Private Street Works Act 1892. As to new streets. 55 & 56 Vict. c. 57.

(2) Any person offending against this enactment shall be liable to a penalty not exceeding twenty pounds.

(3) The provisions of this section shall not apply to any new street laid out by a railway company for the purpose of providing access to any station or depot of such company.

A.D. 1936.
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As to
termination
of new
streets.

82.—(1) The Corporation may on the deposit of a plan and sections of a new street in pursuance of any byelaw in force in the city by order prohibit the erection or retention on land belonging to the owner of the land upon which such new street is proposed to be constructed or laid out of any wall or fence at either end of such new street in order to secure means of communication between such new street or any other street or intended street or for the purpose of securing an adequate opening at either end of the new street :

Provided that the Corporation shall not prohibit the erection or retention of any such wall or fence until the streets on both sides of such wall or fence shall become highways repairable by the inhabitants at large.

(2) If any person acts in contravention of any order made by the Corporation under the provisions of this section he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

Byelaws
as to
alteration
of streets.

83. The Corporation may make byelaws to prevent streets which have been laid out or constructed in accordance with byelaws made under the Public Health Acts from being altered in such a way that if at first so laid out or constructed they would have contravened the byelaws.

Crossings
for horses
or vehicles
over
footways.

84.—(1) Where the owner or occupier of any premises fronting or abutting on any street repairable by the inhabitants at large habitually uses or permits to be used any kerbed footway or paved footway in such street as a crossing for any horse or horse-drawn or mechanically-propelled vehicle other than a motor cycle in passing to and from such premises the Corporation may either—

- (a) require the construction across such footway of a carriage-crossing for the purpose aforesaid constructed of such materials and in such manner as they may prescribe; or
- (b) allow the use of the footway for the purpose aforesaid subject to the condition that the footway is strengthened or adapted in such manner as the Corporation may prescribe or subject to such other reasonable conditions (if any) as they may impose.

(2) If the Corporation require the construction of any carriage-crossing across the footway or allow the use of the footway subject to a condition that it is strengthened or adapted they may execute such works as may be necessary to secure compliance with such requirement or condition and may recover the expenses of so doing from the owner or occupier in a summary manner as a civil debt. A.D. 1936.

(3) If the Corporation allow the use of the footway as a crossing for any horse or horse-drawn or mechanically-propelled vehicle other than a motor cycle subject to any condition other than the strengthening or adaptation of the footway any person who uses or permits to be used the footway as a crossing as aforesaid in contravention of the said condition shall be liable to a penalty not exceeding five pounds.

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

85.—(1) It shall not be lawful for the owner or occupier of any property to construct in any pavement forming part of any street any work for the admission of light through such pavement to any room or premises situate under or adjoining the pavement (in this section referred to as "pavement lights") without the consent of the Corporation. As to pavement lights.

(2) The Corporation may require that in consideration of their giving their consent to the construction of any pavement lights the owner or occupier shall give such undertaking in regard to the construction maintenance repair and removal of the pavement lights and in regard to accidents loss or damage to persons or property by or by reason thereof as they may require.

86. The Corporation may in any street not repairable by the inhabitants at large from time to time place repair renew and maintain fences rails and posts on the sides of any footways or carriageways adjacent to the entrances to or exits from any schools within the city for the purpose of preventing danger from traffic along such carriageways to children going to or coming. Power to place fences near school entrances.

A.D. 1936. — from such schools and may remove the same when the Corporation shall think fit.

Power to vary width of carriage-ways and footways.

87. The Corporation may if they think fit subject in the case of a classified road to the consent of the county council in any case vary the relative widths of the carriageway and footway or footways in any street repairable by the inhabitants at large Provided that twenty-one days before commencing any work under this section which will materially reduce the width of any carriageway or footway the Corporation shall send notice of the proposed work to the Minister of Transport.

Direction signs.

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

(2) Before putting up or painting a sign on a house building or place the Corporation shall give notice thereof to the owner of such house building or place and such owner if aggrieved by such notice may appeal to a court of summary jurisdiction within one month after the service of such notice provided he give twenty-four hours' written notice of such appeal and of the grounds thereof to the clerk and the court shall have power to make such order and on such terms and conditions as the court may think fit and to award costs.

Notice of the right to appeal shall be endorsed on every notice given by the Corporation under this section.

(3) Any person who shall wilfully and without the consent of the Corporation obliterate deface obscure remove or alter any such sign shall be liable to a penalty not exceeding forty shillings and the Corporation may recover the expenses of replacement and making good from such person.

(4) In the exercise of the powers conferred by this section the Corporation shall be subject to any regulations or orders made by the Minister of Transport or any general or special directions given by such Minister with respect to traffic signs and signals in pursuance of the Road Traffic Acts 1930 to 1934.

89. Any person who shall cover over or wilfully or negligently obstruct or interfere with the convenient access to any fire alarm fire-plug or hydrant within the city or who shall remove or efface any plate or mark indicating the position of such alarm plug or hydrant shall be liable to a penalty not exceeding five pounds.

A.D. 1936.

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Fire-plugs.

90. Where in the opinion of the Corporation repairs the cost of which will not exceed five pounds are required in the case of any street not being a highway repairable by the inhabitants at large to obviate or remove danger to any passenger or vehicle in the street the Corporation may execute such repairs as they deem necessary and may themselves pay such cost and the execution of such repairs and the payment of such cost shall not prejudice or affect any statutory provisions for the time being in force relating to private street works and private improvement expenses or similar matters or of section 19 (As to urgent repairs of private streets) of the Public Health Acts Amendment Act 1907.

As to
urgent
repairs of
private
streets.

91. The Corporation when carrying out any private street works may with the consent in writing of the greater part in rateable value of the owners of the houses or land in such street cause trees or shrubs to be planted and grass margins to be laid out in such street and erect guards or fences and otherwise do anything expedient for the protection of such trees shrubs and grass margins and any expense incurred by the Corporation under this section shall be deemed part of the expenses of carrying out the private street works in any such street. Provided that no such tree shrub grass margin guard or fence shall be placed or laid out in such a situation as to hinder the reasonable use of the highway by any person entitled to the use thereof or so as to be a nuisance or injurious to the owner or occupier of any land or premises adjacent to the said street :

Planting
of trees in
private
streets.

Provided also that for the purposes of section 7 of the Telegraph Act 1878 any work done in exercise of the powers conferred by this section shall be deemed to be work done in the execution of an undertaking authorised by an Act of Parliament and the Corporation shall be deemed to be the undertakers.

A.D. 1936.
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As to
hoardings
and similar
structures.

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

- (i) beyond any building line prescribed by the Corporation in respect of the land under the provisions of any Act; or
- (ii) if there be no such line beyond any line which is enforceable by the Corporation for buildings under subsection (2) of section 100 of the Housing Act 1925; or
- (iii) if there be neither of such lines beyond the line to which any house or building erected or brought forward on the land would have to conform under the provisions of the Public Health (Buildings in Streets) Act 1888.

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

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

(b) Any person who neglects or refuses to comply with a notice from the Corporation given in pursuance of this subsection shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings and the Corporation may at their own expense take down or remove any structure erected or maintained in contravention of those provisions.

(3) The provisions of this section shall not be enforceable with regard to any structure existing at the commencement of this Act for a period of five years from such date and shall not apply to any wooden structure fence or hoarding of a moveable or temporary character erected by a builder for his use during the construction alteration or repair of any building unless the same is not taken down or removed immediately after such construction alteration or repair is complete.

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(4) The provisions of this section shall not apply to a wall (not being a wall of a dwelling-house) constructed by or belonging to or which may hereafter be constructed by or belong to any railway company in the exercise of their statutory powers so long as such wall is used or held by the company primarily for railway purposes.

93.—(1) For the purpose of preserving the amenities of the city it is hereby enacted that it shall not be lawful after the passing of this Act to erect in or within fifteen feet of any street in the city any hoarding or similar structure to be used either partly or wholly for advertising purposes to a greater height than twelve feet above the level of such street without the consent of the Corporation and such consent may be given subject to such conditions as to the submission of a plan and elevation and as to the dimensions and maintenance of such hoarding or similar structure as the Corporation may determine.

Restrictions
on adver-
tisement
hoardings.

(2) Any person acting in contravention of this section or of the terms and conditions (if any) of such consent shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(3) Any person aggrieved by the refusal of the Corporation to grant such consent or by the conditions attached to such consent may appeal to a court of summary jurisdiction after the expiration of two clear days after such refusal provided he give twenty-four hours' written notice of such appeal and of the grounds thereof to the clerk and the court shall have power to make such order and on such terms and conditions as the court may think fit and to award costs.

A.D. 1936.

(4) The consent of the Corporation under this section shall not be required for a hoarding or similar structure erected within any railway station or upon any property of a railway company for the purposes of such railway company except in so far as such hoarding or similar structure fronts upon a public street.

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

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

(2) If the placing or erection of such hoarding wall or fence would constitute a danger to the traffic in the streets upon adjoining or near to which the same is proposed to be placed or erected by obstructing the view of any foot passenger or the driver of any vehicle in a street of vehicular or pedestrian traffic the Corporation may within one month of the receipt of the said notice prohibit such placing or erection or may allow the same subject to such conditions or modifications of the said plans and particulars as they may think fit. If within one month of the receipt of the said notice the Corporation shall not have prohibited such placing or erection or allowed the same subject to a condition or to a modification of such plans or particulars they shall be deemed to have allowed such placing or erection.

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

(4) Any person aggrieved by any requirement or prohibition or by the withholding of any approval of or by the Corporation under this section may within fourteen days from the date of such requirement prohibition or refusal of approval appeal to a court of summary jurisdiction provided he give twenty-four hours' written notice of the appeal and of the grounds

thereof to the town clerk and such court shall have power to make such order and on such terms and conditions as the court may think fit and to award costs. A.D. 1936.

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

95. The Corporation may by notice in writing require the owner of or other person using any hoarding wall fence or similar structure for advertising purposes to maintain the same and any advertising matter thereon in good order and condition and if any such owner or person shall neglect or refuse to comply with any such notice the Corporation may carry out such alterations or repairs as may be reasonably necessary and recover from such owner or person any expense incurred by them in so doing. Repair of hoardings.

96. Section 11 (Byelaws as to petroleum filling stations) of the Petroleum (Consolidation) Act 1928 in its application to the city shall be extended so as to empower the Corporation to make byelaws in accordance therewith for the purpose of preserving for the enjoyment of the public or residents the amenities of any street. Regulation of petroleum filling stations. 18 & 19 Geo. 5. c. 32.

97.—(1) It shall be lawful for the Corporation at all times of ceremonies public processions rejoicings fairs exhibitions carnivals races sports illuminations or on emergencies to cause barricades to be erected across any of the streets in the city and to continue the barricades for such time as may be deemed reasonably necessary Any person who wilfully removes any such barricade or any part thereof shall be liable to a penalty not exceeding forty shillings. As to barriers in streets.

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

A.D. 1936.

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Erection of
retaining
walls.

98.—(1) Before any person shall erect on any land within the city a retaining wall of greater height than six feet abutting on or adjacent to or within twelve feet of any street he shall submit to the Corporation plans sections and specifications thereof and no such wall shall be erected except in accordance with such plans sections and specifications as may be approved by the Corporation.

(2) Any person who shall erect a retaining wall contrary to the provisions of this section or any owner who after erection shall fail to put such wall in proper repair within a reasonable time after notice in writing from the Corporation requiring him so to do shall (without prejudice to any other right or remedy of the Corporation) be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

As to
dangerous
buildings.

99.—(1) In the case of any building within the city which may appear to the Corporation on the report of any duly qualified officer to be dangerous to the inmates or persons working therein the Corporation may order a complete external and internal inspection and examination of any such building to be made by a competent person and for that purpose such person may on giving not less than twenty-four hours' notice to the occupier of the building and on producing written authority from the town clerk at any hour of the day between nine o'clock in the morning and six o'clock in the afternoon with such other persons as he may deem necessary enter upon such building and examine and inspect the same.

(2) If upon such examination and inspection it shall appear necessary that any works should be executed or alterations made for the purpose of putting such premises into a safe and proper condition for the purposes for which the same are used the Corporation in respect of such building and the works to be carried out therein shall have and may exercise all or any of the powers vested in the Corporation with respect to dangerous structures.

Byelaws
as to
alterations
of buildings.

100. The power given by subsection (4) of section 23 (Extension of 38 & 39 Vict. c. 55. s. 157) of the Public Health Acts Amendment Act 1890 to make

byelaws with respect to the alteration of buildings shall be extended so as to authorise byelaws with respect to the alteration of buildings whether or not erected in accordance with byelaws and with respect to the submission of such plans and sections as can be required in relation to the erection of a new building. A.D. 1936.

101.—(1) Section 157 of the Public Health Act 1875 in its application to the city shall be extended so as to empower the Corporation to make byelaws with respect to— Extension of section 157 of Public Health Act 1875.

- (i) the number of dwelling-houses which may be erected in one block or in one continuous row;
- (ii) the provision of an open space for separating blocks or rows of dwelling-houses and the width of such space;
- (iii) the situation construction and height of walls or fences upon or across such open space;
- (iv) the materials with which new buildings shall be constructed and the manner in which and the materials with which grates stoves and fireplaces shall be set in new buildings or be newly set or re-set in existing buildings and the thickness and construction of walls of all ovens and furnaces wholly or partially built after the passing of this Act;
- (v) the uniting of buildings and the making and stopping up of openings in party walls of buildings and the provision of fire-resisting doors in connection therewith and as to the occupation of buildings when united;
- (vi) the testing of drains of new buildings;
- (vii) the securing that waterclosets shall be so constructed and supplied with water that they can be adequately flushed by mechanical means and the provision to be made for securing the protection of the same from frost and preventing the improper use of such closets and of the blocking of the pipes therefrom;
- (viii) the provision of fixed baths in such classes of new dwelling-houses as may be prescribed in the byelaws;

A.D. 1936.

- (ix) the ensuring that any hole made through the wall of a building below the level of the ground shall be so stopped as to prevent the free passage of gas into the building;
- (x) the securing that any geyser or similar gas-heated water apparatus of the rapid water-heating type or any gas apparatus for heating a building or any part of one is properly fixed and adequately ventilated.

(2) Any byelaws made under paragraphs (ix) and (x) of subsection (1) of this section or under the said section 157 with respect to the ventilation of a room in which any apparatus of the kind specified in paragraph (x) of that subsection is fixed may be made so as to affect buildings erected before the times mentioned in the said section 157.

(3) Any byelaws made under paragraph (iv) of subsection (1) of this section shall not apply to any building (not being a dwelling-house office or showroom) oven or furnace to be built or constructed by the Rochester Chatham and Gillingham Gas Company for the purposes of their undertaking and before making any byelaws under paragraph (x) of that subsection the Corporation shall submit a copy of such byelaws to the said company who shall be entitled to object to the confirmation thereof.

Further
amendment
of section
157 of
Public
Health
Act 1875.

102.—(1) Section 157 of the Public Health Act 1875 in its application to the city shall be altered and construed as if the following subparagraphs were added immediately after the subparagraph numbered (4) in the said section :—

“ (5) For requiring work to be done in connection with the alteration whether in use or structure of a building or part thereof for securing stability and the prevention of fire and for purposes of health;

“ (6) For securing the adequate lighting of buildings.”

(2) The said section 157 shall also in its application to the city be read and have effect as if it empowered the Corporation to require by byelaws the deposit of

plans and sections by persons intending to construct any drain in connection with a building. A.D. 1936.

103.—(1) Section 157 (Power to make byelaws respecting new buildings &c.) of the Public Health Act 1875 is hereby extended so as to enable the Corporation to make byelaws providing in such manner as they may think necessary that a person intending to erect a new building shall furnish the Corporation with drawings or other sufficient indication of the design or external appearance of the building including such indication of the materials to be used in its construction as may be necessary for the purpose. Further power to make byelaws as to new buildings.

(2) Where specifications are required to be submitted to the Corporation by a byelaw made under the said section 157 as extended by this section the Corporation shall within one month after the submission to them of the specifications by notice in writing—

(a) approve the specifications; or

(b) if they shall consider that having regard to the character of the locality and of the neighbouring buildings the building to which the specifications relate would seriously disfigure the neighbourhood on account of its height design or external appearance disapprove the specifications and in that event the notice shall be accompanied by a statement of the grounds of the disapproval.

(3) Where by reason of any improvement made by the Corporation any land shall become land which adjoins or abuts on any street no owner lessee or occupier shall construct on any such land—

(a) any door or entrance in an existing building communicating with that street; or

(b) any wall or fence by the side of that street; except in such position and in accordance with such elevations as may be approved by the Corporation.

(4) Any person deeming himself aggrieved by any disapproval by the Corporation under subsections (2) and (3) of this section may appeal against their decision to a court of summary jurisdiction and the court shall have power to make such order as the court may think fit and to award costs. The grounds on which a person may appeal against the Corporation's decision under

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subsection (2) shall include the ground that compliance with the Corporation's decision would involve an increase in the cost of the building which would be unreasonable having regard to the character of the locality and of the neighbouring buildings.

(5) Where the specifications of a building have been disapproved under this section it shall not be lawful to erect the building until the specifications thereof have been approved by the Corporation and any person who offends against the provisions of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(6) The provisions of this section shall to the extent that the subject-matters thereof are dealt with by provisions in a planning scheme coming into operation after the commencement of this Act cease to have effect upon the coming into operation of such provisions.

Prohibition
on use of
unsuitable
land for
erection of
dwelling-
houses.

104.—(1) The Corporation may by order prohibit or restrict the erection of buildings intended or adapted for use as dwelling-houses on any land within the city which—

(a) is liable to flooding; or

(b) is unsuitable for buildings of that class by reason of the nature of the subsoil.

(2) Before any order made under this section shall come into force the Corporation shall submit the same to the Minister for his approval and shall give notice of the proposals of the order by advertisement in a local newspaper circulating in the city and in the London Gazette and in such other manner (if any) as the Minister may direct. The said notice shall name a place where copies of the order can be obtained free of charge and shall state a date (not being less than twenty-one days from the date of the notice) by which and the manner in which any person aggrieved by the order may make representations thereon to the Minister and that any such person shall at the same time send a copy of his representations to the town clerk.

(3) The Minister shall consider any order submitted to him by the Corporation and any representations thereon which may be duly made and may approve

the order submitted to him with or without modifications or may disapprove the same. A.D. 1936.

(4) Before approving any such order the Minister may and if any representation is duly made and is not withdrawn shall (unless the representation appears to him to be frivolous) direct a local inquiry to be held under the provisions of this Act.

(5) The Corporation shall give at least fourteen days' notice of the intention to hold such local inquiry with particulars of any proposed order by advertisement in a local newspaper circulating in the city and shall also give similar notice in writing to each person who has duly made any representation and has not withdrawn the same.

(6) Such order shall take effect as approved by the Minister and shall come into force on a date to be fixed by him.

(7) The Corporation shall cause notice to be given of any order made under this section by advertisement in a newspaper circulating in the city and otherwise in such manner as may be prescribed by the Minister.

(8) Any person who shall fail to comply with an order of the Corporation which has been approved with or without modification by the Minister shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(9) (a) If in consequence of the execution of works of drainage or from any other cause any land to which an order made under this section relates shall after the making of that order cease to be liable to flooding the Corporation may and if reasonably so required in writing by the owner of the land shall revoke the order and as from the date of such revocation the order shall not have any force or effect.

(b) If any difference shall arise between the Corporation and the owner of any land as to whether such land has or has not ceased to be liable to flooding such difference shall on the application of either party be determined by the Minister and the determination of the Minister shall be binding on the Corporation and such owner.

A.D. 1936.

Prevention of
obstructive
buildings.

105.—(1) If the surveyor or the medical officer be of opinion that any building proposed to be erected would if erected—

(a) stop ventilation or otherwise make or conduce to make other buildings in its proximity to be in a condition unfit for human habitation or dangerous or injurious to health; or

(b) prevent proper measures from being carried into effect for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings;

he may make a representation to the Corporation to that effect stating that in his opinion it is inexpedient that the proposed building should be erected.

(2) The Corporation on receiving any such representation shall cause a report to be made to them respecting the proposed building and on receiving such report shall take into consideration the representation and report and if they decide to proceed shall cause a copy of both the representation and report to be given to the person proposing to erect the building with notice of the time and place appointed by the Corporation for the consideration thereof and such person shall be at liberty to attend and state his reasons why the building should be allowed to be erected and after hearing him the Corporation shall either allow the erection of the building or make an order directing that the proposed building shall not be erected.

(3) Any such order prohibiting the erection of an obstructive building shall be subject to appeal in like manner as a demolition order made by a local authority under Part II of the Housing Act 1930.

20 & 21
Geo. 5. c. 39.

Means of
access to
buildings.

106.—(1) Upon the deposit of the plans of any new building intended or adapted for use as a dwelling-house (or where such plans have been approved before the passing of this Act but the erection of the building has not been begun at any time before such passing) the Corporation may by notice in writing require the provision before the building is erected sold let or occupied (as the Corporation shall specify) of sufficient means of communication between the building and a street which is either a highway repairable by the

[26 GEO. 5. &
1 EDW. 8.]

Rochester Corporation
Act, 1936.

[Ch. lxxv.]

inhabitants at large or has been laid out and constructed in accordance with the byelaws for the time being in force with respect to new streets. A.D. 1936.

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

(3) The Corporation may if they think fit contribute towards the cost of the provision of means of communication or of the work required under this section.

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

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

(6) Any person aggrieved by any requirement of the Corporation under this section may appeal to a court of summary jurisdiction provided he gives twenty-four hours' written notice of the appeal and of the grounds thereof to the town clerk and the court shall have power to make such order and on such terms and conditions as the court may think fit and to award costs.

(7) Notice of the right of appeal shall be endorsed on every notice communicating a requirement of the Corporation under this section.

107. Section 23 (Extension of 38 & 39 Vict. c. 55. s. 157) of the Public Health Acts Amendment Act 1890 in its application to the city shall have effect as if

As to
restriction
of air space

A.D. 1936. — the words "space about buildings" had been inserted therein before the words "drainage of buildings" in subsection (2) of that section. Provided that no byelaw with respect to the space about buildings shall be made as to affect buildings erected before the times mentioned in section 157 (Power to make byelaws respecting new buildings &c.) of the Public Health Act 1875 unless such buildings or the curtilage thereof shall be altered after the making of such byelaw.

Means of
escape from
buildings
in case of
fire.

108.—(1) Every building erected within the city after the passing of this Act exceeding two storeys in height and in which the upper surface of the floor of any upper storey is above twenty feet from the street level and which is used or intended to be used as flats or as a tavern hotel hospital convalescent home boarding-house common lodging-house or boarding-school or as a shop or restaurant in which sleeping accommodation is or is intended to be provided for the use of persons employed in or about such shop or restaurant shall be provided with such portable fire-fighting and portable first-aid appliances as the Corporation may require and shall also be provided on each of the storeys the upper surface of the floor whereof is above twenty feet from the street level with such means of escape in case of fire for the persons dwelling sleeping or employed in each such upper storey or resorting thereto as may be reasonably required by the Corporation under the circumstances of the case and the owner shall not permit such building to be occupied until the Corporation shall have issued a certificate that the provisions of this section have been complied with in relation thereto.

(2) (a) From and after the first day of June one thousand nine hundred and thirty-seven the Corporation in the case of every existing building exceeding two storeys in height and used or intended to be used as flats or as a tavern hotel hospital convalescent home boarding-house common lodging-house or boarding-school or as a shop or restaurant in which sleeping accommodation is or is intended to be provided for the use of persons employed in or about such shop or restaurant if in the opinion of the Corporation such building is not provided with proper and sufficient fire-fighting and first-aid appliances and proper and

sufficient means of escape in case of fire from each upper storey the upper surface of the floor whereof is above twenty feet from the street level for the persons dwelling sleeping or employed in each such upper storey may at any time serve on the owner of such building a notice requiring him within a reasonable time to be specified in such notice to provide such portable appliances and means of escape as in the circumstances of the case can reasonably be required and the owner shall thereupon take the necessary steps to provide the means of escape so required. A.D. 1936.

(b) Any person aggrieved by any requirement of the Corporation under this subsection may appeal to a court of summary jurisdiction within seven days after the service of such notice provided he give twenty-four hours' written notice of such appeal and of the grounds thereof to the town clerk and the court shall have power to make such order as the court may think fit and to award costs.

(c) Notice of the right to appeal shall be endorsed on every requirement of the Corporation under this subsection.

(3) If the owner of the building alleges that any occupier shall bear or contribute to the expenses of complying with any requirement of the Corporation under this section he may apply to the county court of Kent holden in Rochester and thereupon the said county court after giving the occupier an opportunity of being heard may make such order as appears to the court just and equitable in all the circumstances of the case.

(4) The owner of the building shall notwithstanding any agreement with the occupier have power to take such steps as are necessary for complying with any requirement of the Corporation under this section.

(5) The appliances and means of escape in case of fire provided in connection with any such building as aforesaid shall not be altered without the consent in writing of the Corporation and shall at all times be maintained and kept by the occupier of the building in good and efficient condition and (in the case of such means of escape) free from obstruction.

A.D. 1936.

1 Edw. 7.
c. 22.

(6) This section shall not apply to premises to which section 14 (Provision of means of escape in case of fire) and section 15 (Byelaws for means of escape from fire) of the Factory and Workshop Act 1901 or any enactment amending those sections apply.

(7) Any person who shall offend against the provisions of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

Height of
chimneys.

109.—(1) Every chimney erected after the passing of this Act for carrying smoke or steam or for the conveying away of any noisome or deleterious gases or effluvia from any building used for manufacturing or other purposes shall within such time as may be specified in that behalf in a notice in writing given by the Corporation to the owner of such chimney be raised by such owner to such height measured from the level of the centre of the street nearest thereto as the Corporation shall by such notice reasonably require having regard to the use of such chimney the position of dwelling-houses or other buildings near thereto the description of such buildings the levels of the neighbouring ground and any other condition requisite for consideration in determining such height and the Corporation may if they think fit contribute towards the cost of raising the chimney to comply with any such requirements :

10 & 11
Geo. 5. c. 80.

Provided that before exercising the powers conferred by this section in relation to any chimney situated within one mile of an aerodrome licensed pursuant to an order made under the Air Navigation Act 1920 or any Act amending replacing or consolidating that Act the Corporation shall obtain the consent of the Secretary of State for Air.

(2) Any person who shall fail to comply with any requirement of the Corporation under this section within the time specified in that behalf in the notice of such requirement shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

(3) The provisions of this section shall not apply to any chimney belonging to or proposed to be erected

by the Rochester Chatham and Gillingham Gas Company A.D. 1936.
for the purposes of their undertaking on lands authorised
to be used for the manufacture of gas. —

110.—(1) The provisions of section 36 of the Public Health Acts Amendment Act 1890 shall extend and apply to—

Means of ingress to and egress from shops departmental stores and clubs.

(a) shops departmental stores and warehouses to which the public are admitted and where more than twenty persons are employed; and

(b) any club registered under the provisions of section 91 (Obligation to register clubs) of the Licensing (Consolidation) Act 1910 in the city whether existing before or after the passing of this Act.

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

(2) The provisions of the said section 36 shall be read and construed so as to provide that in such premises as aforesaid portable fire-fighting and first-aid appliances must be installed to the satisfaction of the Corporation :

Provided that in the application of the provisions of the said section 36 to any club the said section shall be read and have effect as if the words "for the use of the public" were omitted from subsection (1) thereof.

(3) This section shall not apply to any premises to which sections 14 and 15 of the Factory and Workshop Act 1901 or any enactment amending those sections apply.

(4) Any person aggrieved by a requirement of the Corporation under the said section 36 in its application in pursuance of the provisions of this section to any such premises as are referred to in paragraph (a) or paragraph (b) of subsection (1) of this section may within fourteen days after the date on which the Corporation give notice of their requirement to such person appeal to a court of summary jurisdiction and such court may make such order in the premises and on such terms and conditions as to the court may seem fit and may award costs Provided that such person shall give twenty-four hours' written notice of such appeal and of the grounds thereof to the town clerk.

(5) Notice of the right to appeal shall be endorsed on every notice of the Corporation under this section.

A.D. 1936.

(6) For the purposes of this section section 7 of the Public Health Acts Amendment Act 1890 shall not apply.

Provision
as to
forecourts.

111.—(1) If the Corporation shall by resolution determine that any stall structure or other erection on any forecourt is by reason of its character injurious to the amenities of the street in which such forecourt is situate they may by notice in writing require the owner of or person responsible for such stall structure or other erection within such period (not being less than seven days) as may be specified in the notice to make such alterations to such stall structure or other erection as may be necessary to prevent the same from being injurious to the amenities of such street.

(2) Any person neglecting or refusing to comply with the requirements of any such notice shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

(3) Any person aggrieved by any requirement of any notice of the Corporation under the provisions of this section may appeal to a court of summary jurisdiction within seven days after the service upon him of such notice by the Corporation provided he give twenty-four hours' notice of such appeal and of the grounds thereof to the town clerk and the court shall have power to make such order and on such terms and conditions as the court may think fit and to award costs.

(4) Notice of the right to appeal shall be endorsed upon every such notice served by the Corporation.

Food
storage
accom-
modation.

112.—(1) Every dwelling-house erected after the passing of this Act shall be provided with sufficient and properly ventilated pantry or other food storage accommodation and any owner who shall occupy or allow to be occupied any such dwelling-house not so provided shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(2) (a) Every existing dwelling-house and every dwelling-house the erection of which was commenced before the passing of this Act shall where reasonably practicable be provided with sufficient and properly ventilated pantry or other food storage accommodation

and any owner who shall occupy or allow to be occupied any such dwelling-house which can reasonably be so provided but which is not so provided after one month's notice from the Corporation requiring the same to be done shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings. A.D. 1936.
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(b) Any person aggrieved by any requirement of the Corporation under this subsection may appeal to a court of summary jurisdiction within seven days after the service of such notice provided he give twenty-four hours' written notice of such appeal and of the grounds thereof to the town clerk and the court shall have power to make such order and on such terms and conditions as the court may think fit and to award costs.

(c) Notice of the right to appeal shall be endorsed on every requirement of the Corporation under this subsection.

113.—(1) Where an unoccupied building is ruinous or so far dilapidated as thereby to have become and to be unfit for use or occupation or is from neglect or otherwise in a structural condition prejudicial to the property in or the inhabitants of the neighbourhood a court of summary jurisdiction on complaint by the Corporation may order the owner at his option to take down or repair or rebuild such building (in this section referred to as "neglected structure") or any part thereof or otherwise put the same or any part thereof into a state of repair and good condition to the satisfaction of the Corporation within a reasonable time to be fixed by the order and may also make an order for the costs incurred up to the time of the hearing. Dilapidated and neglected buildings.

(2) If the order is not obeyed the Corporation may with all convenient speed enter upon the neglected structure and execute the order.

(3) Where the Corporation in the execution of any such order under the provisions of subsection (2) of this section take down a neglected structure or any part thereof the Corporation may remove the materials to a convenient place and (unless the expenses of the Corporation under this section in relation to such structure are paid to them within fourteen days after

A.D. 1936. such removal) sell the same if and as they in their discretion think fit.

(4) All expenses incurred by the Corporation under this section in relation to a neglected structure may be deducted by the Corporation out of the proceeds of the sale and the surplus (if any) shall be paid by the Corporation on demand to the owner of the structure and if such neglected structure or some part thereof is not taken down and such materials are not sold by the Corporation or if the proceeds of the sale are insufficient to defray the said expenses the Corporation may recover such expenses or such insufficiency from the owner of the structure together with all costs in respect thereof in a summary manner but without prejudice to his right to recover the same from any lessee or other person liable to the expenses of repairs.

(5) For the purposes of this section the expression "building" shall include any party or other wall and any fence within the curtilage of the building.

Powers on inspection.

114. In exercising any powers of entry upon and inspection of any building or works in course of construction the surveyor and his assistants shall have from the builder or contractor for such building or works free of expense all reasonable use and assistance of ladders scaffolding and plant in and about such building or works Any person who shall refuse such use and assistance as aforesaid or shall obstruct the surveyor or his assistants in the use of such ladders scaffolding and plant as aforesaid shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

Area of habitable rooms.

115. Section 23 (Extension of 38 & 39 Vict. c. 55. s. 157) of the Public Health Acts Amendment Act 1890 in its application to the city shall have effect as if the words "and floor area" had been inserted therein after the word "height" in subsection (1) of that section.

Further provisions as to working class houses.

116.—(1) For the purposes of Part II of the Housing Act 1930 any dwelling-house which is occupied or is of a type suitable for occupation by persons of the working classes the person having control of which fails to keep such dwelling-house sufficiently repaired and

painted and the interior surface of the walls thereof sufficiently papered or distempered with washable distemper of a suitable quality so as to prevent the dilapidation thereof and so as to secure reasonable amenities for the occupier or occupiers shall be deemed to be a house not in all respects fit for human habitation and the powers of the Corporation under the said Part II shall apply in respect of such dwelling-house accordingly. A.D. 1936.

(2) On an appeal to the county court by the person having control of a dwelling-house upon whom the Corporation have served notice under section 17 of the Housing Act 1930 in consequence of his failure to comply with the provisions of this section the county court judge shall take into consideration—

- (a) if the person upon whom the notice is served is a lessee or agent for a lessee the length of the unexpired period of the lease;
- (b) the period for which the dwelling-house is likely to continue occupied;
- (c) the expenditure incurred by the person having control of the house or the owner during the preceding three years upon the dwelling-house.

117.—(1) The Corporation may prohibit the construction in or in connection with any dwelling-house within the city of any cellar or room the floor level of which shall be lower than the ordinary level of the subsoil water on under or adjacent to the land on which such dwelling-house shall be erected. Cellars not to be constructed below subsoil water level.

(2) Any person offending against any prohibition of the Corporation under the provisions of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

118.—(1) The Corporation may with the consent in writing of the owner of any building or bridge attach to that structure such brackets wires lamps and apparatus as may be required for the lighting of streets. Attachment of lighting brackets and wires to buildings.

(2) Where in the opinion of the Corporation any consent under subsection (1) of this section is unreasonably refused they may appeal to a court of summary jurisdiction who shall have power having regard to the

A.D. 1936. — character of the building and to the other circumstances of the case to allow the attachment subject to such terms as to compensation or rent and otherwise as they may think reasonable in the circumstances or to disallow the same and to determine by which of the parties the costs of the appeal are to be paid.

(3) The provisions of subsection (2) of this section shall not apply in relation to any building forming part of an aerodrome licensed pursuant to an order made under the Air Navigation Act 1920 or any Act amending replacing or consolidating the same or to any building or bridge belonging to the Chatham and District Water Company or the Higham and Hundred of Hoo Water Company but if in the opinion of the Corporation any consent under subsection (1) of this section is unreasonably withheld in relation to any such building or bridge they may appeal in the case of any building or bridge belonging to the Chatham and District Water Company or the Higham and Hundred of Hoo Water Company to the Minister and in any other case to the Minister of Transport and the said Minister may by order either allow the attachments subject to such terms (if any) as to compensation or rent or otherwise as he thinks fit or disallow the attachments :

Provided that the Minister of Transport shall before exercising his powers under this section in relation to any building forming part of such an aerodrome as aforesaid consult with the Secretary of State for Air.

(4) Where any attachments have been affixed to a building or bridge under this section and the person who gave the consent or who was the owner when the order allowing the attachments was made ceases to be the owner of the building or bridge the subsequent owner may give to the Corporation notice in writing requiring them to remove the attachments and subject to the provisions of this subsection the Corporation shall within three months after the service of the notice remove the attachments :

Provided that the provisions of subsection (2) and subsection (3) of this section shall apply in relation to any such notice as they apply in relation to a refusal of a consent to the making of attachments.

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

(6) In this section the expression "owner"—

(a) in relation to a building occupied under a tenancy for a term of years whereof five years or more remains unexpired means the occupier of the building;

(b) in relation to a building occupied under any other tenancy means the person who is receiving the rack rent or who would receive the rack rent if the building were let at a rack rent;

(c) in relation to a building forming part of an aerodrome licensed pursuant to an Order made under the Air Navigation Act 1920 or any Act amending replacing or consolidating the same means (notwithstanding anything in this subsection) the person having control of the aerodrome;

and the expression "own" shall be construed accordingly; and the expression "rack rent" means in relation to a building a rent which is not less than two-thirds of the full net annual value of the building.

(7) Notwithstanding anything contained in this section no brackets pipes or attachments shall be attached to any bridge or building belonging to or forming part of the undertaking of a railway company or to any bridge or building of the county council without the previous consent in writing of that company or of the county council as the case may require.

119. The power of the Corporation to make byelaws with respect to secondary means of access under section 23 of the Public Health Acts Amendment Act 1890 shall extend to enable them to require every person who shall erect a dwelling-house to provide secondary means of access thereto where necessary for the purposes of the removal of house refuse and other matters and for securing that secondary means of access provided in

Byelaws
as to
provision
and
maintenance
of secondary
means of
access.

A.D. 1936. — pursuance of byelaws made under the said section 23 or under this section shall be maintained unobstructed.

As to evasion by owners of private street works expenses.

120. If—

- (i) any owner of land fronting adjoining or abutting on a street as defined by the Private Street Works Act 1892 and situate in the city conveys sells leases or otherwise disposes of the part or any portion of the part of that land which fronts adjoins or abuts on that street; and
- (ii) any expenses of private street works carried out by the Corporation under the Private Street Works Act 1892 in or in relation to that street are apportioned on such part or portion of that land; and
- (iii) the Corporation are unable to recover such expenses in whole or in part from the person to whom such part or portion of that land was conveyed sold leased or disposed of by the sale of such part or portion of that land; and
- (iv) a court of summary jurisdiction is satisfied that such conveyance sale lease or disposal was intended for the purpose of evading the payment of any expenses under the Private Street Works Act 1892;

then such expenses or so much thereof as has not been recovered by the Corporation may to such extent as the court may determine be recovered from that owner in the same manner as expenses of the execution of private street works may be recovered under the Private Street Works Act 1892 as though he had not made such conveyance sale lease or disposal and as though the said amount of the said expenses had been apportioned on the land of that owner which before such conveyance sale lease or disposal was made fronted adjoined or abutted on such street.

Closet accommodation in houses occupied by more than one family.

121. Section 36 (Power of local authority to enforce provision of privy accommodation for houses) of the Public Health Act 1875 shall with the necessary modifications apply to a part of a house within the city occupied by a separate family as it applies to the whole of a house.

122.—(1) If it appears to the Corporation that two or more houses may be drained more economically or advantageously in combination than separately and a sewer of sufficient size already exists or is about to be constructed within one hundred feet of any part of the premises the Corporation may when the drains of such houses are first laid order that such houses be drained by a combined drain to be constructed either by the Corporation if they so decide or by the owners in such manner as the Corporation shall direct and the costs and expenses of such combined drain and the repair and maintenance thereof shall be apportioned between the owners of such houses in such manner as the Corporation shall determine and if such drain is constructed by the Corporation such costs and expenses may be recovered by the Corporation from such owners subject to a right of appeal under subsection (4) of this section.

A.D. 1936.

—
Combined
drains.

(2) Any combined drain constructed in pursuance of this section shall for the purposes of the Public Health Acts be deemed to be a drain and not a sewer.

(3) Provided that the Corporation shall not except by agreement with the owners exercise the powers conferred by this section in respect of any house for the drainage of which plans shall have been previously approved by them.

(4) Any person deeming himself aggrieved by the amount of any costs and expenses proposed to be recovered by the Corporation under this section or the amount to be borne and paid by him may appeal to a court of summary jurisdiction provided that such appeal be made within two months from the date of the service of notice by the Corporation intimating the amount payable or their apportionment thereof. On any such appeal the court may and is hereby empowered to make such order in the premises and on such terms and conditions as to the court may seem just. The costs of any such appeal shall be paid in such manner and by such parties to the appeal as the court may direct.

123.—(1) Where two or more houses or premises are connected with a single private drain which conveys their drainage into a public sewer or into a cesspool or other receptacle for drainage the Corporation shall have all the powers conferred by section 41 of the Public

Houses
connected
with single
private
drain.

A.D. 1936. — Health Act 1875 and the Corporation may recover any expenses incurred by them in executing any works under the powers conferred on them by that section from the owners of the houses in such proportions as shall be settled by the surveyor or (in case of dispute) by arbitration under the Public Health Act 1875 or by a court of summary jurisdiction and such expenses shall be recoverable summarily as a civil debt or the Corporation may declare them to be private improvement expenses and may recover them accordingly.

(2) Section 19 of the Public Health Acts Amendment Act 1890 shall cease to be in force within the city.

(3) For the purposes of this section the expression "drain" includes a drain used for the drainage of more than one building whether owned or occupied by the same person or not.

Benefit of
sewers to
be set off
against
compensa-
tion.

124. In estimating the amount of compensation to be paid by the Corporation to any person in respect of the carrying of any sewer into through or under any lands within the city the enhancement in value of any lands of such person over or on either side of such sewer and of any other lands of such person through which the sewer is not carried arising out of the construction of the sewer shall be fairly estimated and shall be set off against the said compensation.

As to
defective
drains &c.

125.—(1) In any case where it appears to the medical officer or sanitary inspector that any drain watercloset or soil-pipe within the city is stopped up or otherwise defective the medical officer or sanitary inspector shall give notice to the owner or occupier of the premises to remedy such defect and if such notice is not complied with within twenty-four hours from the service thereof the Corporation may carry out the works necessary to remedy such defect and may subject as hereinafter provided recover the expenses incurred in that behalf from such owner or occupier in a summary manner as a civil debt.

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

work or any part thereof ought to be borne wholly or in part by the person to whom notice was given and the court may make such order concerning such expenses or their apportionment as appears to the court to be just and equitable in the circumstances of the case. A.D. 1936.

126. If any person cause any drain watercloset pailcloset earthcloset privy or ashpit to be a nuisance or injurious or dangerous to health by wilfully destroying or damaging the same or any water supply apparatus pipe or work connected therewith or by otherwise wilfully stopping up or wilfully interfering with or improperly using the same or any such water supply apparatus pipe or work he shall be liable to a penalty not exceeding five pounds : Wilful damage to drains water-closets &c.

Provided that nothing in this section shall prejudice any right which the owner or occupier of any premises or other person aggrieved by any such act may have to recover compensation in respect of any damage suffered by him by reason of such act.

127.—(1) For the purpose of facilitating the disposal of surface water and sewage the powers of the Corporation under section 157 of the Public Health Act 1875 shall extend to the making of byelaws requiring any person constructing a new street to provide separate sewers for the reception of surface water and of sewage respectively. Separate sewers for sewage and surface water.

(2) The Corporation may also from time to time by resolution declare that any sewer or sewers for the time being belonging to them shall be appropriated and used for surface water only or for sewage only.

(3) Where in any street provision has been made for separate sewers for surface water and for sewage as aforesaid no sewage shall be allowed to pass into the surface water sewer and so far as practicable no surface or storm water shall be allowed to pass into the sewage sewers.

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

(5) In the case of any house or premises existing at the time of the provision or appropriation of separate

A.D. 1936.

sewers as aforesaid the drains whereof would but for the passing of this Act have been sufficient effectually to drain such house or premises the Corporation shall at their own expense make all necessary alterations to the drains and pipes of such house or premises in order to keep separate the sewage and surface water drainage thereof and no penalty shall be incurred under this section in the case of such house or premises until the completion of such alterations as aforesaid.

Extension of section 39 of Public Health Act 1925. 15 & 16 Geo. 5. c. 71.

128. Section 39 of the Public Health Act 1925 in its application to the city shall extend and apply to the repair of any such drain as is referred to in that section in like manner as it applies to the reconstruction or the alteration of the course of such drains.

Sanitary conveniences for workmen engaged on buildings.

129.—(1) The contractor or builder engaged in or upon the erection of a new building or the construction or reconstruction of any works shall where practicable provide to the reasonable satisfaction of the Corporation and until the completion of any such erection construction or reconstruction such water or other closets and urinals in or in connection with such building or works as may be sufficient for the accommodation of the workmen employed.

(2) Any person who shall offend against this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

As to plans deposited with Corporation.

130. All drawings plans elevations sections specifications and written particulars descriptions or details required to be deposited with the Corporation or any officer of the Corporation by any enactment for the time being in force or any byelaws thereunder shall be deposited in duplicate and the Corporation may retain one of the copies so deposited.

As to powers of requiring sanitary conveniences for manufactories &c.

131. The Corporation may exercise the powers of an urban authority under section 22 of the Public Health Acts Amendment Act 1890 (which relates to the provision of sanitary conveniences in workshops and manufactories) on the report of the medical officer or the sanitary inspector as well as on the report of the surveyor.

132. The Corporation may make byelaws for preventing— A.D. 1936.

- (a) grease and fat from any club hotel public-house inn slaughterhouse butcher's shop fried fish shop or similar premises; or
(b) any oil or grease from any stable garage motor works or similar premises;

Certain matters from hotels shops garages &c. not to be discharged into sewers.

from being discharged or thrown or suffered to be discharged or thrown or to pass into any sewer or into any drain connecting with such sewer.

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

Window blinds &c.

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

(3) Every person who shall offend against the provisions of this section shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

134. Nothing contained in the sections of this Part of this Act the marginal notes of which are—

Saving for railway companies.

- “ Further powers as to future line of streets ”;
“ Frontage line in new streets ”;
“ Crossings for horses or vehicles over footways ”;
“ As to urgent repairs of private streets ”;
“ Erection of retaining walls ”;
“ As to dangerous buildings ”;
“ Prevention of obstructive buildings ”;
“ Provision as to forecourts ”;
“ Dilapidated and neglected buildings ”;
“ As to defective drains &c.”;

shall extend or apply to any building (not being a dwelling-house) railway or work constructed by or belonging to or which may hereafter be constructed

A.D. 1936. — by or belong to any railway company in the exercise of their statutory powers or to any lands held or acquired or which may hereafter be held or acquired by any such company with the authority of Parliament so long as any such building railway work or land is used or held by the said railway company primarily for railway purposes.

Saving for county council.

135. The powers of the Corporation under the sections of this Act of which the marginal notes are—

- “ Adjustment of boundaries of streets ”;
- “ Further powers as to future line of streets ”;
- “ Crossings for horses or vehicles over footways ”;
- “ As to pavement lights ”;
- “ Power to place fences near school entrances ”;
- “ As to hoardings and similar structures ”;
- “ As to erection of hoardings &c. at street corners ”;

shall not be exercised by the Corporation in respect of any street from time to time vested in and maintained by the county council except with the consent in writing of the county council.

Saving for Rochester Chatham and Gillingham Gas Company.

136. The provisions of the sections of this Act of which the marginal notes are respectively “ Further powers as to future line of streets ” “ Prevention of obstructive buildings ” and “ Attachment of lighting brackets and wires to buildings ” and the provisions of any byelaws made under either of the sections of this Act of which the marginal notes are respectively “ Bye-laws as to alterations of buildings ” and “ Further power to make byelaws as to new buildings ” shall not apply to any building or erection (other than a dwelling-house showroom or office) belonging to or intended to be erected by the Rochester Chatham and Gillingham Gas Company and used or intended to be used for the purposes of their undertaking or to any alteration of any such building.

PART VII.

INFECTIOUS DISEASE AND SANITARY MATTERS.

Definition for purposes of this Part of Act. **137.** For the purposes of the sections of this Act of which the marginal notes are “ Parents to notify infectious disease ” “ Power to close Sunday schools and

exclude children from entertainments” and “Restriction on attendance of children at Sunday schools and places of assembly when infectious disease prevails” respectively the expression “infectious disease” includes measles german measles whooping cough chicken pox scabies ringworm and influenza in addition to the infectious diseases referred to in the section of this Act of which the marginal note is “Interpretation.”

A.D. 1936.

138.—(1) Any person being a parent or having the care or charge of a child attending at a school in the city who is aware of or has reason to suspect the occurrence of any infectious disease in any person residing with such parent or other person and who fails forthwith to notify such occurrence to the head teacher principal or superintendent of the school shall be liable to a penalty not exceeding twenty shillings.

Parents to notify infectious disease.

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

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

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

Power to close Sunday schools and exclude children from entertainments.

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

A.D. 1936.

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Restriction
on
attendance
of children
at Sunday
schools and
places of
assembly
when
infectious
disease
prevails.

140.—(1) No person of or exceeding the age of sixteen years who has the custody charge or care of a child who is or has been attending any school or any part thereof within the city which for the time being is closed by order of the Corporation or of the Kent County Council or of the education committee thereof with the view of preventing the spread of infectious disease or of a child who is suffering from an infectious disease or who with the view of preventing the spread of infectious disease has been prohibited from attending school by the medical officer or school medical officer shall permit such child to attend any Sunday school or place of public entertainment or assembly in the city without having procured from the medical officer or school medical officer a certificate (which if granted shall be granted free of charge upon application) that in his opinion such child may attend such Sunday school or place of public entertainment or assembly without undue risk of communicating disease to others.

(2) Any person who shall offend against the provisions of this section shall be liable to a penalty not exceeding forty shillings.

For
preventing
spread of
infectious
disease.

141. If any person not less than sixteen years of age while suffering from any infectious disease wilfully exposes himself without proper precautions against spreading the disease in any place of public entertainment shop inn or any public conveyance in the city or being in charge of any person so suffering wilfully exposes such sufferer as aforesaid he shall be liable to a penalty not exceeding five pounds.

Information
to be
furnished
in case of
infectious
disease.

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

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

(3) For the purposes of this section the expression "occupier" shall have the same meaning as in the Infectious Disease (Notification) Act 1889 and the expression "infectious disease" shall include pulmonary tuberculosis in addition to the diseases referred to in the section of this Act of which the marginal note is "Interpretation."

A.D. 1936.

143.—(1) If the medical officer shall at any time receive notice of a case of infectious disease he may apply to the person who is required by section 3 of the Infectious Disease (Notification) Act 1889 to send a notice of the case of infectious disease for the name and address of any laundrymen to whom any clothes or other things may from time to time during the continuance of the infectious disease be sent for washing or mangling from the house in which the case of infectious disease exists and such person shall forthwith furnish such information accordingly.

Names of
laundrymen
to be
furnished.

(2) Any person who offends against the provisions of this section shall be liable to a penalty not exceeding forty shillings.

144.—(1) (a) Where the medical officer certifies that the cleansing and disinfecting of any building (including in that term any tent van shed or similar structure used for human habitation) within the city would tend to prevent or check tuberculosis the town clerk shall give notice in writing to the owner or occupier of such building that the same or any part thereof will be cleansed and disinfected by and at the cost of the Corporation unless the owner or occupier of such building informs the Corporation within twenty-four hours from the receipt of the notice that he will cleanse and disinfect the building or the part thereof to the satisfaction of the medical officer within a time to be fixed in the notice.

Disinfection
in case of
tuberculosis.

(b) If within twenty-four hours from the receipt of such notice the owner or occupier of such building has not informed the Corporation as aforesaid or if having so informed the Corporation as aforesaid he fails to have the building or the part thereof cleansed and disinfected as aforesaid within the time fixed by the notice the building or the part thereof shall be cleansed and disinfected by the officers and at the cost of the

A.D. 1936. Corporation under the superintendence of the medical officer Provided that any such building or part thereof may without any such notice being given as aforesaid but with the consent of the owner or occupier be cleansed and disinfected by the officers and at the cost of the Corporation under the superintendence of the medical officer.

(c) For the purpose of carrying into effect the provisions of this subsection the Corporation may by any officer who shall be authorised in that behalf in writing under the hand of the medical officer and who shall produce his authority enter on any premises between the hours of ten o'clock in the forenoon and six o'clock in the afternoon.

(d) Every person who shall wilfully obstruct any duly authorised officer of the Corporation in carrying out the provisions of this subsection shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

(2) (a) The medical officer if generally empowered by the Corporation in that behalf may by notice in writing require the owner or person in possession of any household or other articles books things bedding or clothing which have been exposed to the infection of tuberculosis of the lung or other forms of tuberculosis with discharges to cause such articles books things bedding or clothing to be delivered to an officer of the Corporation for removal for the purpose of disinfection and any person who fails to comply with such requirement shall be liable to a penalty not exceeding five pounds.

(b) Such articles books things bedding and clothing shall be disinfected by the Corporation and returned to the person from whom they were taken free of charge.

(3) If any person sustains any damage by reason of the negligent exercise by the Corporation of any of the powers of subsections (1) and (2) of this section in relation to any matter as to which he is not himself in default compensation shall be made to such person by the Corporation and the amount of compensation shall be recoverable in and in the case of dispute may be settled by a court of summary jurisdiction.

145. If a person who is suffering from an infectious disease or is living in a house in which there is a case of infectious disease knowingly engages in the cooking preparation or handling of food intended for consumption by persons other than himself or members of his household in such a manner as to be likely to spread the infectious disease he shall be liable to a penalty not exceeding forty shillings.

A.D. 1936.

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Prohibition
on infected
person
carrying on
business.

146.—(1) (a) Any person being a manufacturer or vendor of or dealer in ice-cream or a manufacturer of preserved meat within the city and (b) any premises within the city used or proposed to be used for the manufacture for sale or sale of ice-cream or for the preparation manufacture or storage of preserved meat intended for sale shall be registered with the Corporation in the case of any such person by himself and in the case of any such premises by the occupier or intending occupier thereof.

Registration
of ice-cream
and
preserved
meat
manufac-
turers and
premises.

(2) (a) No person shall carry on the business of a manufacturer or vendor of or dealer in ice-cream or of a manufacturer of preserved meat within the city unless he is so registered as aforesaid.

(b) No premises within the city shall be used for the manufacture for sale or sale of ice-cream or for the preparation manufacture or storage of preserved meat intended for sale unless such premises are so registered as aforesaid.

(3) Any person who offends against the provisions of this section shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

(4) (a) The Corporation may refuse to register any such person or premises as is or are referred to in subsection (1) of this section or (after giving one month's notice in writing to the person registered or in whose name any such premises are registered) revoke the registration of any such person or premises on the ground (as regards any person) that the public health is or is likely to be endangered by any act or default of such person in relation to the quality storage or distribution of the ice-cream or preserved meat and (as regards any premises) that such premises are not suitable to be used for the purposes aforesaid:

A.D. 1936.

— Provided that before refusing or revoking such registration the Corporation shall serve upon the applicant for registration or upon the person registered or in whose name such premises are registered a notice to appear before them not less than seven days after the date of the notice to show cause why the Corporation should not for reasons to be specified in the notice refuse to register or revoke the registration of the person or premises.

(b) If the Corporation refuse to register or revoke the registration of any such person or premises they shall deliver to the person applying for such registration or to the person registered or in whose name the premises are registered a statement in writing of the ground or grounds upon which such refusal or revocation is based. Notice of the right to appeal next hereinafter mentioned shall be endorsed on every such notice.

(c) Any person aggrieved by any such refusal or revocation may appeal to a court of summary jurisdiction provided that such appeal be made within fourteen days from the date of the refusal to register or of the notice of revocation.

(d) Any person so appealing shall give written notice of such appeal and of the grounds thereof to the town clerk before lodging his appeal and the costs of any such appeal shall be paid in such manner and by such parties to the appeal as the court may direct.

(e) On any such appeal the court may by order confirm the refusal or revocation or direct the Corporation to register the person or premises or to retain him or them upon the register and the Corporation shall comply with any such direction.

(5) In this section the expression "ice-cream" includes any other similar commodity the expression "preserved meat" includes sausages and any potted pressed pickled or preserved meat fish or other food and in the case of meat or fish the word "preserved" includes preparation by any process of cooking.

(6) This section shall not apply to—

- (i) premises in which the boiling of hams and bacon or of either of such articles is the only process of preparation of food carried on; or
- (ii) any premises used as a club hotel restaurant or railway refreshment rooms.

(7) This section shall not apply to or affect any premises used as a theatre music hall cinema or other similar place of entertainment if and so long as such premises are not used for any of the purposes referred to in paragraph (b) of subsection (1) of this section other than the sale of ice-cream. A.D. 1936.

147.—(1) Any person being a manufacturer or vendor of or merchant or dealer in ice-cream or other similar commodity who within the city omits on the outbreak of any infectious disease amongst the persons employed in his business or residing in any premises which are used by him for the manufacture of ice-cream or other similar commodity to give notice thereof to the medical officer shall be liable to a penalty not exceeding forty shillings. For regulating manufacture and sale of ice-cream &c.

(2) In the event of any person so employed or resident suffering from any infectious disease the medical officer or the sanitary inspector or any other officer who is duly authorised by the Corporation in that behalf may seize and destroy all ice-cream or similar commodity or materials for the manufacture of the same in any of the said premises and the Corporation shall compensate the owner of the ice-cream or similar commodity or materials so destroyed Provided that no compensation shall be payable in respect of any ice-cream or similar commodity or materials for the manufacture of the same manufactured or brought upon the said premises after such seizure and while any such person is suffering from infectious disease.

(3) The medical officer and the sanitary inspector and any other officer duly authorised by the Corporation in that behalf shall at all reasonable times have the same power of inspection of the materials or commodities or articles of food in the premises of any manufacturer or vendor of or merchant or dealer in ice-cream or other similar commodity and of any cart barrow or other vehicle or stand pail container or receptacle in from or on which the same are offered for sale as an officer of the Corporation would have under section 72 (Precautions against contamination of food intended for sale) of the Public Health Act 1925 in the cases therein mentioned and any person refusing inspection of the materials or commodities or articles of food in any such premises

A.D. 1936. — cart barrow or other vehicle stand pail container or receptacle or obstructing such officer as aforesaid in the execution of his duty shall be liable to a penalty not exceeding five pounds.

(4) The provisions of this section shall not apply to theatres music halls or cinemas.

As to
inspection
of premises
used for
storage of
food.

148.—(1) On any inspection of any room carried out by the medical officer sanitary inspector or any other officer of the Corporation under the provisions of subsection (5) of section 72 of the Public Health Act 1925 such officer shall have power to take samples of any such materials commodities or articles of food found therein making reasonable payment therefor and if he intends to submit any sample to analysis he shall forthwith notify to the occupier of such room or his agent his intention to have the same analysed by the public analyst and shall divide the sample into three parts to be then and there separated and each part to be marked and sealed or fastened up in such manner as its nature will permit and shall if required to do so deliver one of the parts to such occupier or agent The officer shall afterwards retain one of the said parts for future comparison and submit the third part if he deems it right to have the sample analysed to the public analyst.

(2) The expression “ public analyst ” in this section means the analyst appointed in pursuance of section 15 of the Food and Drugs (Adulteration) Act 1928.

Penalty on
original
vendor of
unsound
food.

149.—(1) Where it is shown that any article liable to be seized under sections 116 to 119 of the Public Health Act 1875 and section 28 (Extension of 38 & 39 Vict. c. 55 ss. 116–119) of the Public Health Acts Amendment Act 1890 and found in the possession of any person was sold to him by another person for food (the proof that the same was not sold for food resting with the party charged) and when so sold was in such a condition as to be liable to be so seized and to be condemned under section 117 (Power of justice to order destruction of unsound meat &c.) of the Public Health Act 1875 the person who so sold the same shall be punishable as mentioned in the said section 117 unless he proves that at the time he sold the said article

he did not know and had no reason to believe that the said article was in such condition. A.D. 1936.

(2) Where any article of food has been condemned by a justice under the said section 117 as amended by the said section 28 the person to whom the same belongs or did belong at the time of deposit of such article for the purpose of sale or of preparation for sale as well as the persons in those sections mentioned shall also be punishable as mentioned in the said section 117 unless he proves that at the time of such deposit he did not know and had no reason to believe that the said article was in such a condition as to be liable to be so condemned.

(3) Before any article liable to be condemned under the said section 117 as amended by the said section 28 and this section is dealt with by a justice the medical officer or the sanitary inspector shall inform the person in whose custody or possession the same was at the time when it was inspected by the medical officer or sanitary inspector of the intention of the medical officer or sanitary inspector to have the same dealt with by a justice and any person who may be liable in respect of such article to a prosecution under the aforesaid provisions shall be entitled to attend the proceedings before the justice and to be heard with his witnesses upon the application for the condemnation of any such article.

150. Sections 116 to 118 of the Public Health Act 1875 as amended by section 28 of the Public Health Acts Amendment Act 1890 shall extend to authorise the medical officer or the sanitary inspector to inspect examine and search any cart or other vehicle or any basket sack bag or parcel whether open or closed in which he has reason to suspect that there is any animal or any of the articles referred to in the said sections intended for sale or in the course of delivery after sale for food and the provisions of such sections shall apply accordingly :

Further powers in relation to unsound food.

Provided that nothing in this section shall authorise the inspection examination or search of any cart or other vehicle belonging to a railway company and used by them for the purposes of their traffic or of any basket sack bag or parcel in the possession of such company as carriers thereof.

A.D. 1936.

As to
filthy
premises.

42 & 43 Vict.
c. 49.

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

151.—(1) If the owner of any dwelling-house or premises occupied therewith within the city represents to the Corporation that the occupier of such dwelling-house or premises habitually maintains the same in a filthy condition any officer of the Corporation duly authorised in that behalf may enter upon such dwelling-house or premises and inspect the same and if the Corporation or a committee of the Corporation are satisfied of the truth of the representation of such owner the occupier shall be liable on the complaint of the medical officer to a court of summary jurisdiction to be ordered to quit the dwelling-house or premises within such time as may be specified in the order and any such order may be enforced in the manner provided by section 34 (Summary order to act other than a payment of money) of the Summary Jurisdiction Act 1879.

(2) Any expenses incurred by the Corporation under this section and not paid by the occupier shall be recoverable from the owner of the dwelling-house or premises.

152.—(1) If the medical officer shall certify that any person is suffering from tuberculosis of the respiratory tract and is in an infectious state and that he is employed within the city in the cooking preparation or handling of food intended for consumption by persons other than himself or members of his household and that his continuance in such employment would in the judgment of the medical officer be detrimental to the public health the Corporation may request such person to stop his employment and on such request being made the Corporation may if they think fit make compensation to him in respect of any loss which he may sustain by reason of such stoppage.

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

(3) If any such person fails to comply with any such order he shall be liable to a penalty not exceeding

[26 GEO. 5. &
1 EDW. 8.]

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forty shillings and to a daily penalty not exceeding ten shillings. A.D. 1936.

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

153.—(1) Every medical practitioner attending on a person in the city who is or is suspected to be suffering from food poisoning shall forthwith on becoming aware that such person is or is suspected to be so suffering send to the medical officer a notification of the case stating the name of such person and the place at which such person is. Medical practitioners to notify cases of food poisoning.

The Corporation shall pay to every medical practitioner for each notification duly sent by him in accordance with this section a fee of two shillings and sixpence if the case occurs in his private practice and of one shilling if the case occurs in his practice as medical officer of any public body or institution.

154.—(1) Public notice of the effect of the foregoing provisions of this Part of this Act shall be given as soon as is reasonably practicable after the passing of this Act by advertisement in two newspapers published or circulating in the city. Public notice to be given of foregoing provisions of this Part of this Act.

(2) Copies of the newspapers containing the advertisement shall be sufficient evidence that the provisions of this section have been complied with.

155. When the medical officer certifies in writing that any dwelling-house is in an insanitary condition and that any occupier thereof is unable through infirmity or mental incapacity to remedy such condition and that his health is thereby endangered a court of summary jurisdiction may on the application of the Corporation (who shall give to such occupier seven days' notice of their intention to make such application) make an order for the removal of such occupier to an institution or other dwelling for such period as the court may by such order direct as being necessary to enable the Corporation to cleanse and disinfect the dwelling-house and the Corporation may carry out the removal and such cleansing and disinfection of the dwelling-house as may be necessary. Cleansing of dwelling-houses in certain cases.

A.D. 1936.

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Entry into
premises in
case of
infectious
disease.

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

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

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

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

Power to
require
provision
of portable
ashbins.

157.—(1) The Corporation may by notice in writing require the owner or occupier of any premises within the time specified in the notice not being less than twenty-eight days—

- (a) to provide portable receptacles for refuse of such number size and material as may be prescribed by the notice in substitution for any ashpit or other fixed or movable receptacle for refuse which is in use at the date of the notice ; and
- (b) to remove or to fill in to the satisfaction of the Corporation any fixed ashpit for which a portable receptacle will be substituted.

(2) Where by a notice under subsection (1) of this section the Corporation require a portable receptacle for refuse to be provided in substitution for an ashpit or other receptacle for refuse which is in use at the date of the notice the Corporation shall contribute towards the reasonable cost approved by them of the receptacle such sum (not being less than one-half of the cost thereof) as they may consider just and proper according to the circumstances and the remainder of the cost shall be borne by the person to whom the notice was addressed

and the Corporation may if they think fit bear the whole of the cost of providing the substituted receptacle and shall subject as hereinafter provided pay the whole of the cost of providing the receptacle and of removing or filling in the fixed ashpit where the existing receptacle is reasonably serviceable: A.D. 1936.

Provided that if the medical officer or the sanitary inspector shall have certified that the existing receptacle for refuse is a nuisance or injurious to health or that an existing portable receptacle is worn out and unfit for use the whole of the cost of the substituted receptacle shall be borne by the person to whom the notice was addressed.

(3) If any notice under subsection (1) of this section is not complied with or is not fully complied with the Corporation may after the expiration of the time specified in such notice provide the required receptacles and do any work thereby required to be done which has not been done by the owner or occupier and may recover from the owner or (if there be more than one owner) from the owners in such proportions as shall be determined by the Corporation the expenses incurred by them in so doing less any part of the said expenses which is to be borne by the Corporation under subsection (2) of this section.

(4) (a) Every owner or occupier by or for whom a receptacle for refuse has been provided whether in pursuance of a notice under this section or not shall maintain the receptacle in good order and condition and when necessary renew it.

(b) Any person who fails to comply with this subsection shall be liable to a penalty not exceeding twenty shillings and to a daily penalty not exceeding five shillings.

(5) The owner or occupier of all premises in connection with which a portable receptacle for refuse has been or may hereafter be provided shall if so required by the Corporation pay to the Corporation on each first day of April after being so required such sum not exceeding three shillings as the Corporation may from time to time by resolution determine for or towards the maintenance repair and renewal by them of such receptacle Such payments shall be in satisfaction of any

A.D. 1936. obligation of such owner or occupier in regard to the maintenance and renewal of such receptacle and shall be recoverable summarily as a civil debt.

(6) Nothing in this section shall apply to any premises occupied by a railway company from which the Corporation do not remove the refuse.

Provision
of dustbins
by Corpora-
tion.

158. The Corporation may at the request of the occupier of any premises within the city provide and maintain at such premises a galvanised iron dustbin or galvanised iron dustbins on such terms and conditions and at such monthly quarterly or annual charge as may be agreed between such occupier and the Corporation.

Restriction
as to use of
dustbins.

159.—(1) From and after the passing of this Act it shall not be lawful for any person to use any ashbin or dustbin within the city for any purpose other than the deposit of dust ashes or other house refuse (not being of a liquid or partly liquid character) intended for removal by or on behalf of the Corporation.

(2) Any person contravening the provisions of this section shall be liable to a penalty of ten shillings and to a daily penalty of ten shillings.

Prohibiting
sorting of
contents of
dustbins
and refuse
tips.

160.—(1) It shall not be lawful for any person (other than a person appointed by the Corporation for the purpose of emptying dustbins or other receptacles for refuse) to sort over or disturb the contents of any such receptacle when placed in any street or in any forecourt adjoining any street for the purpose of the removal of such contents by the Corporation.

(2) It shall not be lawful for any person (other than a person employed by the Corporation in connection with any refuse tip used by the Corporation for the disposal of refuse) to sort over or disturb the refuse at any such refuse tip.

(3) Any person acting in contravention of the provisions of this section shall be liable to a penalty not exceeding five pounds.

Byelaws as
to tipping
refuse.

161.—(1) Section 44 of the Public Health Act 1875 shall extend to empower the Corporation to make byelaws for regulating the tipping of dust soil and refuse and for prohibiting the use of any refuse tip so as to be

a nuisance to the occupiers of any premises in the neighbourhood thereof. A.D. 1936.

(2) The Corporation may by any byelaws made by them in pursuance of this section impose on offenders against the same such penalties as they think fit not exceeding the sum of fifty pounds for each offence and in the case of a continuing offence a further penalty not exceeding ten pounds for each day on which the offence is continued after conviction thereof.

(3) Without prejudice to any other remedy available the Corporation if satisfied of the existence of any conditions constituting a breach of any byelaw made in pursuance of this section may proceed in the same way as they are by the Public Health Act 1875 authorised to proceed with respect to a nuisance of the existence of which they are satisfied and sections 94 to 104 inclusive of that Act with any necessary modifications shall apply accordingly.

(4) Provided that a person offending against any byelaws made in pursuance of this section shall not in respect of such offence be subjected both to a penalty under the byelaws and to a penalty under section 96 of the Public Health Act 1875 as applied by subsection (3) of this section nor shall any such offender be subjected in respect of one and the same period both to a further penalty under the byelaws for continuance of his offence after conviction and to a penalty under section 98 of the Public Health Act 1875 (as so applied) for failing to carry out an order or acting contrary to an order.

(5) Provided that no byelaw made under this section shall extend to regulate or control the tipping of soil or refuse by a railway company for the purpose of constructing widening or maintaining any railway works.

(6) No byelaw made by the Corporation under this section shall extend to regulate or control the tipping of spoil and refuse by the Rochester Chatham and Gillingham Gas Company upon any lands for the time being belonging to them or to prohibit the use of any such lands for the said purpose.

162. The Corporation may provide and supply (with or without charge therefor) to any registered medical practitioner antidotes and remedies against infectious disease.

Corporation
may supply
antidotes
against
infectious
disease.

A.D. 1936.

Extension of
powers of
veterinary
inspector to
section 116
of Public
Health
Act 1875.

163. Every veterinary inspector of the Corporation who is a duly qualified veterinary surgeon may exercise the powers of section 116 of the Public Health Act 1875 in the same manner as the medical officer or the sanitary inspector and the Public Health Acts shall apply within the city as if such veterinary inspector were mentioned in the said section in addition to the medical officer and the sanitary inspector.

As to sale
of food from
barrows &c.

164.—(1) Every dealer in any article intended for food vending his wares from any cart barrow vehicle or stall or from a basket pail container or similar receptacle used without a cart barrow vehicle or stall shall have his name and address legibly painted inscribed or displayed on such cart barrow vehicle pail basket container or receptacle or clearly exhibited on such stall and any person who shall fail to comply with this section shall be liable to a penalty not exceeding forty shillings :

5 & 6
Geo. 5. c. 66.
7 Edw. 7.
c. 32.

Provided that no person shall be liable to a penalty under the provisions of this subsection if he has been convicted for the same offence under the provisions of section 6 of the Milk and Dairies (Consolidation) Act 1915 or any regulations made under the Public Health (Regulations as to Food) Act 1907.

(2) In this section the expression "stall" includes any structure or erection from which food is offered for sale in a street or other open space.

Byelaws as
to stables.

165. The Corporation may make byelaws for securing the proper ventilation and lighting of any stable for the time being used for the accommodation of horses (whether the same is used as such at the passing of this Act or not) and for the prevention of insanitary conditions (a) in or about or arising out of any such stable or (b) in or about or arising out of or with regard to the situation in reference to other buildings of any stable erected after the passing of this Act.

Periods of
letting as
affecting
common
lodging-
houses.

166. No house or part of a house in the city shall be exempt from the provision with respect to common lodging-houses of the Public Health Acts or of this Part of this Act or any byelaws made thereunder on the ground that accommodation in such house or part of a house is let for a longer period or longer periods than one day or is not let for a less period than one week.

167.—(1) The Corporation may without prejudice to their powers under the Public Health Acts refuse to register or to renew the registration of any house as a common lodging-house unless they are satisfied—

A.D. 1936.

—
As to
common
lodging-
houses.

(a) that the premises are suitably equipped for use and occupation as a common lodging-house; or

(b) that the use of the premises as a common lodging-house is not likely to occasion inconvenience or annoyance to the inhabitants or persons in the district in which the premises are situate.

(2) If the Corporation refuse to grant or renew registration under this section they shall if required by the applicant deliver to him a statement in writing of the ground or grounds upon which such registration is refused.

(3) If the registration or renewal of registration be refused any person aggrieved by such refusal may appeal to a court of summary jurisdiction provided that such appeal be made within fourteen days from the date of such refusal and that not less than twenty-four hours' notice of such appeal be sent to the Corporation.

(4) If the registration or the renewal of registration be refused upon the ground that the premises are not suitable or suitably equipped for the purposes of a common lodging-house the court shall have power to appoint a person being a properly qualified surveyor or architect to examine and report to them upon the condition of such premises and their suitability for the purposes of a common lodging-house.

(5) The costs of any such appeal including the expenses of any such examination and report as aforesaid shall be paid in such manner and by such parties to the appeal as the court may direct.

(6) On any such appeal the court may after considering any representations made by the Corporation either by order confirm the refusal or direct the Corporation to grant registration and the Corporation shall comply with any such direction.

168. Section 80 (Byelaws to be made by local authority) of the Public Health Act 1875 shall operate so as to include the making by the Corporation of

Byelaws as
to common
lodging-
houses.

A.D. 1936.

byelaws as regards the maintenance in good condition and free from obstructions of all precautions and means of escape in case of fire which may be provided in or in connection with a common lodging-house and for requiring the exhibition or placing in a conspicuous part of any room in a common lodging-house of a copy of any byelaws applicable thereto and of a placard setting forth the superficial area and the accommodation thereof.

Notice to keepers of common lodging-houses.

169. Within one month after the passing of this Act the Corporation shall give notice of the provisions of the sections of this Act of which the marginal notes are "As to common lodging-houses" and "Byelaws as to common lodging-houses" to the keeper of every lodging-house in the city.

PART VIII.

FINANCIAL PROVISIONS.

Power to borrow.

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

1	2	3
Purpose.	Amount.	Period for repayment calculated (except where otherwise stated) from the date or dates of borrowing.
(a) For the purchase of the agreed portion of the undertaking of the Company and for defraying the costs and expenses incident to such purchase and to the transfer of the agreed portion of such undertaking to the Corporation (other than the costs of this Act) and for the payment of any other sum payable by the Corporation to the Company under the provisions of this Act.	The sum requisite.	Fifty years.

[26 GEO. 5. &
1 EDW. 8.]

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1	2	3	A.D. 1936.
Purpose.	Amount.	Period for repayment calculated (except where otherwise stated) from the date or dates of borrowing.	
(b) For working capital for the water undertaking.	£5,000	Ten years.	
(c) The purchase of land and easements under the powers of this Act.	£200	Sixty years.	
(d) The construction of the water-work authorised by this Act.	£7,500	Thirty years.	
(e) For providing the capital to be contributed by the Corporation and for defraying the expenses of the Corporation in meeting their obligations under the North West Kent Joint Water Act 1936.	The sum requisite.	Fifty years.	
(f) The provision of water mains and other waterworks purposes.	£5,000	Thirty years.	
(g) The payment of the costs charges and expenses of this Act.	The sum requisite.	Five years from the passing of this Act.	

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

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

Application
of Local
Government
Act 1933
to existing
sinking
funds.

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

Closing of
registers.

A.D. 1936.

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

Dividend
warrants
by post.

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

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

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

45 & 46 Vict.
c. 61.

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

As to
recovery of
rates from
tenants and
lodgers.
15 & 16
Geo. 5. c. 90.

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

175.—(1) In addition to any other form of borrowing the Corporation may exercise any statutory borrowing power by the issue of bonds (to be called “Rochester Corporation bonds” and in this Act referred to as “bonds”) in accordance with the provisions of this Act. A.D. 1936.
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Power to borrow by issue of bonds.

(2) Where the Corporation raise money by the issue of bonds sections 209 210 211 212 213 and 214 of the Local Government Act 1933 shall apply as if the money had been raised by borrowing by mortgage under that Act and bonds were mortgages within the meaning of that Act.

(3) The provisions set out in the First Schedule to this Act shall have effect with regard to bonds.

(4) Bonds shall be deemed to be loan capital or funded debt within the meaning of section 8 of the Finance Act 1899 as amended by section 10 of the Finance Act 1907. 62 & 63 Vict.
c. 9.
7 Edw. 7.

(5) The provisions of section 115 of the Stamp Act 1891 (which relates to the composition for stamp duty) shall with the necessary adaptations apply in the case of bonds as if those bonds were stock or funded debt within the meaning of that section. c. 13.
54 & 55 Vict.
c. 39.

176. Notwithstanding anything in this or any other Act the Corporation may use for the purpose of any statutory borrowing power exercisable by them any moneys forming part but not for the time being required for the purposes of any fund accumulated for the redemption of debt or as a reserve renewals depreciation contingent accident insurance or other similar fund (in this section referred to as “the lending fund”) subject to the following conditions:— Use of moneys forming part of sinking and other funds.

- (a) The moneys so used shall be repaid out of the general rate or the general rate fund to the lending fund within the period and by the methods within and by which a loan raised under the statutory borrowing power would be repayable. Provided that the Corporation shall repay to the lending fund the moneys so used or the balance thereof for the time being outstanding (as the case may be) as and when the same shall be required for the purposes of

A.D. 1936.

the lending fund and may if they so resolve repay the same at any time within the period aforesaid and in either case the repayment shall be made out of the general rate or the general rate fund or out of moneys which would have been applicable to the repayment of a loan if raised under the statutory borrowing power;

- (b) In the accounts of the general rate fund an amount equal to interest calculated at such rate per centum per annum as may be determined by the Corporation to be equal as nearly as may be to the rate of interest which would be payable on a loan raised on mortgage under the statutory borrowing power on any moneys so used and for the time being not repaid shall be credited to the lending fund and debited to the undertaking or purpose with reference to which the moneys are so used;
- (c) The statutory borrowing power shall be deemed to be exercised by such use as fully in all respects as if a loan of the same amount had been raised in exercise of the power and the provisions of any enactment as to reborrowing of sums raised under the statutory borrowing power shall apply accordingly.

Consolidated
loans fund.

177.—(1) Notwithstanding anything contained in any other Act or Order on and after the thirty-first day of March one thousand nine hundred and thirty-seven the Corporation may (if they think fit) establish a fund to be called "the consolidated loans fund" to which shall be paid—

- (a) all moneys borrowed by the Corporation by the issue of authorised securities together with any moneys borrowed without security in connection with the exercise of any statutory borrowing power;
- (b) all moneys of a capital nature received by the Corporation whether from the sale of capital assets or otherwise except such as are applied by the Corporation with due authority to

another capital purpose or in accordance with the provisions of the section of this Act of which the marginal note is "Capital fund"; and A.D. 1936.

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

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

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

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

And the moneys of the consolidated loans fund not used or applied in these ways or about to be so used or applied within a reasonable period shall be invested in statutory securities and the sums realised by the sale of such securities shall be repaid on receipt to the consolidated loans fund and the moneys of the consolidated loans fund shall not except with the consent of the Minister be used or applied otherwise than as provided in this subsection.

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

(4) The Corporation may pay into the consolidated loans fund any moneys forming part of any reserve

A.D. 1936. — renewals depreciation contingent insurance superannua-
tion or other similar fund (hereinafter referred to as
“the lending fund”) and not for the time being required
and such moneys shall be deemed to be moneys
borrowed by the Corporation within the meaning of
subsection (1) of this section and shall be used
accordingly subject to the following conditions:—

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

(b) Interest shall be paid to the lending fund on
any moneys so used and for the time being
not repaid at such rate per centum per annum
as may be determined by the Corporation to
be equal as nearly as may be to the rate of
interest which would be payable by the Corpora-
tion on such moneys if they were borrowed by
them on mortgage in pursuance of a statutory
borrowing power at the date when such moneys
are paid into the consolidated loans fund.

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

(6) Nothing in this section shall apply to moneys
borrowed from the Public Works Loan Commissioners.

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

(8) Any scheme approved by the Minister under this
section may be altered amended or revoked by a scheme
made in like manner as the original scheme.

Capital
fund.

178.—(1) The Corporation may establish a fund
to be called “the capital fund” to which they may pay
any sums derived from the sale of corporate estate
and any sums standing to the credit of any of the
Corporation undertakings in any year (after allowing for
the payment of all expenses properly chargeable to

revenue and interest and sinking fund payments in that year in respect of each such undertaking) and the balance of the general rate fund in hand at the close of any year and such other sums (including interest earned on the capital fund and any income arising from the application of the fund to the purposes authorised) as the Corporation may by resolution direct not being moneys directed by law to be applied to any other purpose : A.D. 1936,
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Provided that—

- (a) no sum shall be applied to the capital fund from any of the Corporation undertakings from which revenue is derived except when the reserve fund of the undertaking shall have reached and is at the prescribed maximum if any and in any case the sums so applied shall be limited in any one year to an amount not exceeding one per centum of the capital expenditure of the undertaking as shown in the accounts at the end of the preceding year together with the interest earned on the said reserve fund;
- (b) any sum directed by the Corporation to be paid to the capital fund from the general rate fund shall not exceed in any year the equivalent of a rate of twopence in the pound calculated according to the rules made pursuant to sections 9 and 58 of the Rating Act 1925.

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

(3) (a) Pending the application of the capital fund to the purposes authorised in the foregoing subsection the moneys in the fund shall be either invested in statutory securities or used in the manner provided by the section of this Act of which the marginal note

A.D. 1936. is "Use of moneys forming part of sinking and other funds."

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

(4) All moneys derived from the sale of corporate estate which are applied from the capital fund under the provisions of this section shall be repaid from the account to which such moneys were advanced by such annual instalments with or without interest and within such period as may be determined by the Corporation Provided that where the advance is in the exercise of a statutory borrowing power such period shall not exceed the period prescribed for the repayment of moneys borrowed under that power.

Renewal
and repairs
fund.

179.—(1) The Corporation may if they think fit in any year carry from the general rate fund or from the proceeds of the general rate to the credit of a fund to be called "the renewal and repairs fund" (a) any sum not exceeding an amount equal to twelve and one-half per centum of the cost incurred by the Corporation (otherwise than for the purposes of the Corporation undertakings) in connection with the provision of horses carts mechanically propelled vehicles motor boats stables depots boilers and equipment and apparatus in connection therewith as shown in the accounts at the thirty-first day of March in any such year and (b) any sum not exceeding the average annual cost incurred by the Corporation during the previous three years in connection with the maintenance and repair of buildings (not being buildings in respect of which the Corporation are required to keep a housing repairs account under the provisions of any general enactment for the time being in force).

(2) The maximum amount standing to the credit of the renewal and repairs fund shall not at any time exceed five thousand pounds.

(3) The renewal and repairs fund shall be applicable only to meet expenses requisite for the maintenance

and renewal of the appliances works equipment and buildings referred to in subsection (1) of this section which are not comprised in the Corporation undertakings and shall be so applied from time to time for the purpose of equalising so far as may be the annual charge to revenue in respect of such expenses.

A.D. 1936.
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(4) (a) Pending the application of moneys forming part of the renewal and repairs fund to the purposes authorised in subsection (3) of this section such moneys shall (unless applied in any other manner authorised by this Act) be invested in statutory securities.

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

180.—(1) The Corporation may (if they think fit) establish a fund to be called “the insurance fund” with a view of providing a sum of money which shall be available for making good all losses damages costs and expenses to which the Corporation may be subjected in consequence of the whole or any part of all or any of the following risks (that is to say):—

Insurance
fund.

(a) Risk of fire in respect of buildings works premises and the contents thereof and other property whether belonging or on loan to or under the care custody or control of the Corporation;

(b) Risk of accident and claims by third parties in respect of any vehicles whether belonging to or hired by or under the control of the Corporation and whether drawn or propelled by man or horse or mechanical or other means or power;

(c) Risk of explosion in respect of boilers;

(d) Risks under the common law the Employers' Liability Act 1880 the Workmen's Compensation Act 1925 or any Act or Acts for the time being amending or extending those Acts or

43 & 44 Vict.
c. 42.
15 & 16
Geo. 5. c. 84.

A.D. 1936.

otherwise in respect of accidents to the officers servants or workmen of the Corporation or to third parties;

- (e) Risks of injuries to school children through accident caused by the negligence of a teacher attendant or other person or defect in any school premises provided or maintained by the Corporation;
- (f) Risks of loss due to infidelity of officers or servants of the Corporation;
- (g) Any other risks against which in the absence of such an insurance fund the Corporation would ordinarily insure.

(2) The establishment of an insurance fund under this section shall not prevent the Corporation from insuring in one or more insurance offices of good repute against the whole or any part of all or any of the several risks for which the insurance fund is intended to provide.

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

- (a) such a sum as shall in their opinion be not less than the aggregate amount of the premiums which would be payable if the Corporation fully insured in some insurance office of good repute against the several risks for which the insurance fund is intended to provide; or
- (b) if the Corporation insure in some insurance office of good repute against the whole or any part of all or any of the several risks for which the insurance fund is intended to provide such sum as will together with the premiums paid for the last-mentioned insurance be not less than the aggregate amount aforesaid.

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

A.D. 1936.

(5) The Corporation shall provide the yearly payments aforesaid by contributions from the general rate fund and shall show the same in their accounts under the separate heading or division in respect of the particular undertaking or department of the Corporation which if the risks were insured against in an insurance office would be properly chargeable with the payment of the premium of such insurance.

(6) (a) Except so far as the insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet losses damages costs and expenses in consequence of risks for which the fund is intended to provide all moneys for the time being standing to the credit of the fund shall (unless applied in any manner authorised by this Act) be invested in statutory securities.

(b) In addition to the sum required to be paid into the insurance fund by subsection (3) of this section the Corporation shall in every year so long as the fund is less than fifty thousand pounds pay into that fund out of the general rate fund an amount equal to the interest and other annual proceeds received by the Corporation in respect of or on investments forming part of the insurance fund and carried to the general rate fund.

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

(7) For the purposes of this section the Corporation may if they deem it expedient include in the risks provided for under paragraph (d) of subsection (1) of this section risks of accident to any teacher employed in any public elementary school maintained by the Corporation notwithstanding that such school has not been provided by the Corporation as the local education authority.

A.D. 1936.

(8) The insurance fund shall be applied to meet any losses damages costs or expenses sustained by the Corporation in consequence of risks for which it is intended to provide in the order of the dates on which such losses damages costs or expenses become ascertained and if at any time and from time to time the insurance fund shall be insufficient to make good any such losses damages costs or expenses the Corporation may with the sanction of the Minister borrow at interest such sums of money as will be necessary to make up the deficiency. The amounts of the annual charges in respect of interest on and repayment of principal of any sums so borrowed and the amounts of any such deficiencies as aforesaid not made up by borrowing shall be paid out of the general rate fund and charged in the accounts of the Corporation under the separate headings or divisions in respect of such undertakings departments or services of the Corporation and in such proportions as the Minister may direct having regard to the risks through which such deficiencies arise.

Scheme for
equated
periods.

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

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

(3) Nothing in any scheme made under this section shall prejudice or affect the security rights and remedies of any mortgagee under any mortgage existing at the time of the confirmation of the scheme or of the holder

of any stock existing at that time except with the consent of such mortgagee or holder. A.D. 1936.

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

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

182.—(1) Notwithstanding anything contained in this or any other enactment all money received or receivable by the Corporation whether on capital or revenue account including— Receipts
and
expenses.

- (a) all money received or receivable by the Corporation on account of the revenue of any of the Corporation undertakings or department or service of the Corporation as from time to time existing from which revenue is derived; and
- (b) Interest and other annual proceeds from time to time received or receivable by the Corporation on the investments or balances forming part of any reserve or of any fund accumulated for the redemption of debt or as a renewal depreciation contingent accident insurance loans capital or other similar fund (including the several reserves and funds authorised by this Act but not including the superannuation fund or other funds in respect of which the Corporation hold money in trust); and
- (c) All such interest as is referred to in the section of this Act of which the marginal notes are respectively "Use of moneys forming part of sinking and other funds" and "Consolidated loans fund";

shall be carried to and form part of the general rate fund and all interest on money borrowed for the purposes

A.D. 1936. — of any such undertaking department or service and all other payments and expenses made and incurred by the Corporation in respect of any such undertaking department or service or in carrying into execution the powers and provisions of this or any other Act shall be paid out of the general rate fund or the general rate and the Corporation shall place to the credit of the appropriate reserve or fund an amount equivalent to the interest and other annual proceeds referred to in the foregoing paragraphs (b) and (c) subject to any prescribed limit on the amount of such reserve or fund.

(2) Nothing in this section shall authorise the Corporation to apply capital money to any purpose other than a purpose to which capital money is properly applicable.

Accounts.

183.—(1) The Corporation shall keep their accounts so as to distinguish capital from revenue and shall keep separate accounts in respect of each of the Corporation undertakings and as to revenue shall show under a separate heading or division on the one side all income in respect of the undertaking (including the interest and other annual proceeds received by the Corporation on the investments representing or forming part of any such fund provided in connection with the undertaking as is referred to in paragraphs (b) or (c) of subsection (1) of the section of this Act of which the marginal note is "Receipts and expenses") and on the other side all expenditure in respect of the undertaking such expenditure being divided so as also to show the amounts representing—

- (a) the working and establishment expenses and cost of maintenance of the undertaking;
- (b) the interest on moneys borrowed by the Corporation for the purposes of or connected with the undertaking or used for those purposes in pursuance of the section of this Act of which the marginal notes are respectively "Use of moneys forming part of sinking and other funds" and "Consolidated loans fund";
- (c) the requisite appropriations instalments or sinking fund payments in respect of moneys borrowed or used as aforesaid;

- (d) all other expenses (if any) of the undertaking properly chargeable to revenue; A.D. 1936.
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- (e) the amount (if any) credited to reserves or to a reserve fund provided in respect of the undertaking;
- (f) any money expended or applied for any of the purposes mentioned in the section of this Act of which the marginal note is "Application of revenue of undertakings."

(2) The Corporation shall show in their accounts relating to each undertaking all items (including receipts and payments in respect of loans applicable thereto) which ought to be entered therein in order to show the financial position of the undertaking.

(3) The Corporation shall so far as reasonably practicable apportion between the accounts of separate undertakings or carry to any of them any receipts credits payments and liabilities which from time to time ought to be so apportioned or carried.

184.—(1) If in respect of any year the moneys received by the Corporation on account of the revenue of any of the Corporation undertakings (including the interest and other annual proceeds received by the Corporation in that year on the investments representing or forming part of any such fund as is referred to in paragraphs (b) or (c) of subsection (1) of the section of this Act of which the marginal note is "Receipts and expenses" provided in connection with the undertaking) shall exceed the moneys expended or applied by the Corporation in respect of that undertaking for the several purposes mentioned in paragraphs (a) (b) (c) and (d) of subsection (1) of the section of this Act of which the marginal note is "Accounts" the Corporation may in respect of that year (if they think fit but subject to the provisions hereinafter contained) apply out of the general rate fund a sum not exceeding the amount of such excess to any of the following purposes:—

Application of revenue of undertakings.

- (a) In the reduction of capital moneys borrowed for the purposes of the undertaking;
- (b) In the renewal and the construction extension or improvement of any works and conveniences for the purposes of the undertaking;

A.D. 1936.

(c) In providing a reserve fund in respect of the undertaking by setting aside such an amount as the Corporation may from time to time think reasonable and (unless the amounts so set aside are used under the provisions of the sections of this Act of which the marginal notes are respectively "Use of moneys forming part of sinking and other funds" and "Consolidated loans fund") investing the same in statutory securities until the reserve fund so provided amounts to the maximum reserve fund for the time being prescribed by the Corporation.

(2) Any reserve fund which has been provided in respect of any of the Corporation undertakings and which is in existence on the first day of April one thousand nine hundred and thirty-six shall be carried to and form part of any reserve fund provided under paragraph (c) of subsection (1) of this section in respect of such undertaking.

(3) Any reserve fund provided under the said paragraph (c) may be applied—

(a) in making good to the general rate fund any deficiency at any time happening in the income of the Corporation from the undertaking in connection with which it is formed; or

(b) in meeting any extraordinary claim or demand at any time arising against the Corporation in respect of that undertaking; or

(c) in or towards the payment of the cost of renewing improving or extending any works forming part of the undertaking or otherwise for the benefit thereof;

and so that if that fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens.

(4) Resort may be had to a reserve fund provided under this section although such fund may not at the time have reached or may have been reduced below the prescribed maximum.

185.—(1) The three last preceding sections of this Act shall be deemed to have come into operation on the first day of April one thousand nine hundred and thirty-six.

A.D. 1936.

—
Date of
operation
of certain
sections
and repeal.

(2) As from the said date the following sections of the Act of 1880 shall be repealed (that is to say):—

Section 62 (Separate accounts);

Section 66 (Application of revenue of water undertaking);

Section 67 (Deficiency in water revenue).

186.—(1) The Corporation may advance money to the purchaser or lessee of any lands acquired by them under this Act and with the consent of the Minister to the purchaser or lessee of any other lands belonging to the Corporation (and not required for the purposes for which they were acquired) for the purpose of enabling or assisting him to erect buildings on such land Provided that any advance shall not exceed two-thirds of the amount which in the opinion of the Corporation will be the market value of the interest of such purchaser or lessee in the land with the intended building erected thereon.

Power to
Corporation
to advance
money for
erection of
buildings.

(2) Every such advance shall be repaid with interest at a rate not less than the rate for the time being in operation for the purposes of loans under the Small Dwellings Acquisition Acts 1899 to 1923 (as amended by section 92 of the Housing Act 1935) within such period not exceeding thirty years from the date of the advance as may be agreed upon between the Corporation and such purchaser or lessee.

25 & 26
Geo. 5. c. 40.

(3) The repayment may be made either by equal instalments of principal or by an annuity of principal and interest combined and all payments on account of principal and interest shall be made at such periods not exceeding half a year as may be agreed between the said purchaser or lessee and the Corporation.

(4) Any such purchaser or lessee to whom an advance has been made may at any of the usual quarter days after one month's written notice and on paying all sums due on account of interest repay to the Corporation the whole of the outstanding principal of the advance or any part thereof being one hundred

A.D. 1936.

pounds (or such less sum as may be provided in the instrument hereinafter referred to) or a multiple of one hundred pounds (or of such less sum as aforesaid) and where the repayment is made by an annuity of principal and interest combined the amount so outstanding and the amount by which the annuity will be reduced where a part of the advance shall be paid off shall be determined by a table to be annexed to the instrument securing the repayment of the advance.

(5) Before making any advance under this section the Corporation shall be satisfied that the repayment to them of the advance is secured by a mortgage of the building in respect of the erection of which the advance is made and of the land upon which such building is to be erected or of the lessee's interest therein to the Corporation subject to the right of redemption by the said purchaser or lessee and requiring the said purchaser or lessee to keep the building insured against fire to the satisfaction of the Corporation and to produce the receipts for the premium paid in respect of such insurance to the Corporation when required by them and to keep the building in good repair.

(6) The Corporation shall have power to enter the building in respect of the erection of which any advance is made by them by any person authorised by them in writing for the purpose at all reasonable times for the purpose of ascertaining whether the conditions of this section and of the instrument aforesaid are complied with.

(7) The said purchaser or lessee may with the permission of the Corporation (which permission shall not be unreasonably withheld) at any time transfer his interest in the building in respect of which such advance is made and the land upon which the same is erected but any such transfer shall be made subject to the foregoing provisions of this section.

Reduction
or suspen-
sion of salary
or wages.

187. In the event of the salary or wages of an officer or servant being either—

(a) reduced on account of his mental or physical infirmity; or

(b) suspended by reason of illness;

he may if he so desires with the consent of the Corporation continue to contribute to the superannuation

fund in all respects as if such reduction or suspension had not taken effect and in the event of his so continuing to contribute the amount of his salary or wages for the period in respect of which he so continues to contribute shall for the purposes of the Local Government and other Officers' Superannuation Act 1922 be deemed to be the amount of the salary or wages which he would have received in respect of that period if such reduction or suspension had not taken place.

A.D. 1936.

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12 & 13
Geo. 5. c. 59.

188. Notwithstanding anything contained in the Local Government and other Officers' Superannuation Act 1922 the Corporation shall not be required to make any payment by way of superannuation allowance under that Act to or for the benefit of any person unless satisfactory proof is given to the Corporation in such manner and at such times as they may from time to time require of the continued existence of such person.

Proof of
continued
existence of
pensioners.

189.—(1) Within one month before any date on which if he ceased to hold his office or employment an officer or servant would become entitled to a superannuation allowance under paragraph (b) or paragraph (c) of subsection (1) of section 6 of the Local Government and other Officers' Superannuation Act 1922 he may give notice in writing to the treasurer requiring that the provisions of subsection (2) or subsection (3) of this section shall apply to him and to any wife to whom he is married on the date on which he becomes entitled to a superannuation allowance or (if he dies before ceasing to hold office or employment but would had he so ceased immediately prior to his death have been entitled to a superannuation allowance) to any wife to whom he is married at the date of his death and where any such notice is given then unless the Corporation (being of opinion that the state of health of such person regard being had to his age is not reasonably satisfactory) notify him within one month after the receipt by the treasurer of the notice that they do not intend to comply with the requirement subsection (2) or subsection (3) of this section as the case may be shall apply and the other provisions of this section shall have effect:

Annuities
for widows.

Provided that a notice under this subsection may be given in respect either of the whole or of a specified

A.D. 1936. — part of an allowance and where it is given in respect of a specified part only of an allowance references in this section to the superannuation allowance shall be construed as references to such specified part of the superannuation allowance.

(2) In any case to which this subsection applies—

(a) The amount of the superannuation allowance payable to the officer or servant during the joint lives of himself and such wife as aforesaid shall in any case covered by Part I of the Second Schedule to this Act be such proportion of the superannuation allowance which would have been payable under the Local Government and other Officers' Superannuation Act 1922 if he had not given a notice under this section as is specified in Part I of that schedule as appropriate in relation to the ages of such officer or servant and his wife at the date of his retirement and in any other case such proportion of the said superannuation allowance as is certified by an actuary to be just;

(b) If he predeceases her and—

(i) was in receipt of or entitled to a superannuation allowance; or

(ii) dies before ceasing to hold office or employment but would had he so ceased immediately prior to his death have been entitled to a superannuation allowance;

she shall be entitled after his death to receive for life an annuity equal to one-third of the amount of the superannuation allowance which was or would have been payable under paragraph (a) of this subsection during their joint lives;

(c) If she predeceases him then as from the date of her death or his retirement whichever occurs last the superannuation allowance payable to him shall be an amount equal to two-thirds of the amount which was or would have been payable under paragraph (a) of this subsection during their joint lives.

(3) In any case to which this subsection applies— A.D. 1936.

(a) The amount of the superannuation allowance payable to the officer or servant shall in any case covered by Part II of the Second Schedule to this Act be such proportion of the superannuation allowance which would have been payable under the Local Government and other Officers' Superannuation Act 1922 if he had not given a notice under this section as is specified in Part II of that schedule as appropriate in relation to the ages of such officer or servant and his wife at the date of his retirement and in any other case such proportion of the said superannuation allowance as is certified by the actuary to be just;

(b) If he predeceases her and—

(i) was in receipt of or entitled to a superannuation allowance; or

(ii) dies before ceasing to hold office or employment but would had he so ceased immediately prior to his death have been entitled to a superannuation allowance;

she shall be entitled after his death to receive for life an annuity equal to one-third of the amount of the superannuation allowance which was or would have been payable to him under the Local Government and other Officers' Superannuation Act 1922 if he had not given a notice under this section.

(4) The Minister may on application made by the Corporation by order alter as respects officers or servants giving notice under subsection (1) of this section after the date of the order any of the percentages specified in the Second Schedule to this Act so far as may be necessary to secure that the benefits provided by this section for the officers or servants and their wives shall be actuarially equivalent to the benefits to which such officers or servants would have been entitled if they had not given such notice as aforesaid.

A.D. 1936.

(5) The first payment of any superannuation allowance to a person under this section shall be accompanied by a statement showing the amount of any annuity which may become payable under this section.

(6) An annuity under this section shall be payable out of the superannuation fund. Provided that if the superannuation allowance of the officer or servant was by reason of the proviso to subsection (1) of section 16 of the Local Government and other Officers' Superannuation Act 1922 not payable wholly out of the superannuation fund such proportion only of the annuity shall be paid out of the superannuation fund as corresponds to the portion of the said superannuation allowance which was so payable and the balance shall be paid out of the general rate fund.

(7) In any case in which an annuity becomes payable under this section—

(i) the Corporation shall not be required to make any payment to the legal personal representative of the deceased officer or servant under the provisions of section 12 of the Local Government and other Officers' Superannuation Act 1922;

(ii) on the cesser of the annuity by reason of the death of the recipient the Corporation shall pay to her legal personal representative such sum if any as shall be equal to the amount by which the aggregate amount of the contributions of the officer or servant under the Local Government and other Officers' Superannuation Act 1922 together with compound interest thereon calculated to the date of his death or the date of his retirement whichever first occurred at the rate of three per centum per annum with half-yearly rests exceeds the aggregate of the amounts which he received by way of superannuation allowance under that Act whether as originally enacted or as amended by this Act and she received by way of annuity under this section.

(8) An annuity under this section shall not be capable of assignment or transfer.

[26 GEO. 5. &
1 EDW. 8.]

Rochester Corporation
Act, 1936.

[Ch. lxxv.]

190.—(1) The Corporation if they think fit may make or pay to any employee being a contributor to the superannuation fund who shall lose his office or employment by reason of a reduction of staff or the abolition of his office without becoming entitled to a superannuation allowance under the provisions of the Local Government and other Officers' Superannuation Act 1922 a retiring allowance of such amount (not exceeding (a) an annual sum equivalent to one-sixtieth of the average amount of his salary or wages during the five years which immediately preceded the day on which the employee ceased to hold his office or employment multiplied by the number of years of his service with the Corporation or (b) forty-sixtieths of such average amount whichever shall be the less) and on such terms and conditions as the Corporation may think fit but any employee to whom any such retiring allowance may be made or paid shall thereupon relinquish any claim to any repayment of contributions or any other benefit from the superannuation fund:

Provided that where a person in receipt of a retiring allowance under the provisions of this section is appointed to any office or employment by the Corporation or by any authority where his salary or wages are paid directly or indirectly out of any rate or rates or out of any public moneys such allowance shall cease to be paid so long as he continues to hold such office or employment if the salary or wages thereof are equal to or in excess of the amount of such allowance and if such salary or wages are less than the amount of such allowance then only so much of such allowance shall be paid (so long as he holds such office or employment) as will make up the deficiency and that any such person on ceasing to hold such office or employment shall be entitled to revert to and to receive the full amount of his original retiring allowance.

(2) The Corporation if they think fit may on such terms and conditions as they may determine add to or increase any superannuation allowance to be received out of the superannuation fund by a contributor who shall have retired or ceased to hold office Provided that no superannuation allowance as added to or increased under the powers of this subsection shall exceed an allowance at the rate of one pound per week.

A.D. 1936.

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Power to
pension
employees.

A.D. 1936.

(3) Any retiring allowance or addition to or increase of superannuation allowance made or paid by the Corporation under the provisions of this section shall be made or paid out of the fund rate revenue or account out of which the salary or wages of such employee was or were paid at the date of his retirement.

Payment of
pension &c.
of person
of unsound
mind.

53 & 54 Vict.
c. 5.

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

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

(3) Not less than fourteen days before exercising for the first time in relation to a person detained as aforesaid their power under subsection (1) of this section the Corporation shall give to the master in lunacy notice in writing of their intention in that behalf specifying the name and address of that person and the amount and nature of the sums in respect of which the Corporation intend to exercise the said power.

(4) If at any time the master in lunacy gives to the Corporation notice in writing that he objects to the exercise by the Corporation of the said power in relation to any person the said power shall as from the date of the receipt by the Corporation of the notice cease to be exercisable by the Corporation.

in relation to that person unless and until the master withdraws the notice. A.D. 1936.

(5) The Corporation shall be discharged from all liability in respect of—

(a) any payment or application of money effected by them in exercise of the said power; and

(b) any payment or application of money effected by them before the commencement of this Act which might have been effected by them in exercise of the said power if the provisions of subsections (1) and (2) of this section had been in force at the date of the payment or application and had applied to sums of any amount.

192.—(1) On the death of an employee to whom a sum not exceeding one hundred pounds is due on account of salary wages superannuation allowance or grant if probate of the will of the employee or letters of administration of his estate are not produced within such time (not being less than one month after his death) as the Corporation may think reasonable then at the expiration of that time the Corporation may pay the sum to the person or persons entitled in distribution to the residuary estate of the employee in accordance with the provisions of paragraphs (i) to (v) inclusive of section 46 (1) of the Administration of Estates Act 1925 and section 9 of the Legitimacy Act 1926 and in default of any such person to the Solicitor for the Affairs of His Majesty's Treasury:

As to payments due to deceased employees.

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

Provided that—

(a) the Corporation may if they think fit pay to any person who has paid the funeral expenses of the deceased employee such amount (not exceeding the total amount of such expenses) as the Corporation shall deem it reasonable to allow;

(b) if the Corporation receive notice in writing of any claim of a creditor of the deceased employee before the expiration of one month from the death of the employee they shall retain the whole amount due to the deceased

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employee in their hands or a sufficient sum thereof to satisfy the claim (whichever amount shall be the less) until the said claim has been satisfied disproved or withdrawn.

(2) The Corporation before paying or distributing any moneys under this section to or among any person or persons other than the legal personal representative of the deceased employee shall require—

(a) where the total estate of the deceased employee including the amount of such moneys does not after deduction of debts and funeral expenses exceed one hundred pounds a declaration to that effect by the person or one of the persons to or among whom the Corporation propose to pay or distribute such moneys; and

(b) where the total estate of the deceased employee including the amount of such moneys but after deduction of debts and funeral expenses exceeds one hundred pounds the production of a certificate from the Commissioners of Inland Revenue of the payment of the estate duty and of a duly stamped receipt for the legacy or succession duty payable in respect of such moneys or of a certificate stating that no legacy or succession duty is payable.

(3) The Corporation and any officer of the Corporation making any payment under the provisions of this section shall be discharged from all liability in respect of such payment and the receipt of the person to whom any such payment is made shall be a good and sufficient discharge to the Corporation for the sum paid.

Extension
of section 8
(Discount
on general
rate) of
Rating and
Valuation
Act 1925.

193. Section 8 (Discount on general rate) of the Rating and Valuation Act 1925 is hereby extended in its application to the city so as to enable the Corporation in any resolution under that section directing that an allowance by way of discount shall be made on the amount due in respect of any general rate from every person who pays the net amount due before a date prescribed by the Corporation (in this section referred to as "the normal prescribed date")

to prescribe and make applicable to the cases hereinafter in this section described or any of them a date or dates subsequent to the normal prescribed date (that is to say) cases in which— A.D. 1936.

- (a) (i) any newly erected or newly constructed hereditament; or
(ii) an altered hereditament which has been out of occupation on account of structural alterations;

comes into occupation during the period in respect of which the rate is made but after the normal prescribed date; and

- (b) a change occurs in the occupation of any hereditament during the period in respect of which the rate is made but after the normal prescribed date.

194.—(1) Subsection (3) of section 2 of the Public Health (Interments) Act 1879 shall be extended to enable the Corporation to maintain in perpetuity or for such period as they may determine a grave or grave space or monument in any burial ground or cemetery provided or maintained by them and to accept a sum of money from any person in consideration of such maintenance. Main-
tenance of
graves in
perpetuity.
42 & 43 Vict.
c. 31.

(2) The Corporation may if they think fit invest in statutory securities the whole or any part of any such sum.

(3) There shall be carried to and form part of the general rate fund—

- (a) all sums accepted by the Corporation under subsection (1) of this section so far as they are not for the time being invested;
(b) all interest received by the Corporation from the investment of any such sum as is referred to in this section or of any part of any such sum; and
(c) the proceeds arising from the realisation of any of the investments referred to in this section;

and all expenses which may be incurred by the Corporation in the exercise of the powers conferred by this section shall be met out of the said fund.

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(4) Unless otherwise agreed between the Corporation and the person paying the sum the grave or grave space or monument in respect of which the payment is made shall be maintained in such manner as the Corporation think fit.

(5) Nothing in this section shall—

Impose upon the Corporation an obligation to expend upon the maintenance of a grave or grave space or monument any sums in excess of the sum (including any interest arising from the investment thereof after deduction of any income tax on the interest) accepted by the Corporation under subsection (1) of this section in respect of such maintenance or to maintain any grave or grave space or monument after the burial ground or cemetery in which it is situated has ceased to be used for interments.

(6) For the purposes of this section the expression "monument" includes a gravestone tablet or monumental inscription.

Prizes for
garden
com-
petitions.

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

PART IX.

MISCELLANEOUS PROVISIONS.

Extension of
section 125
of Local
Government
Act 1933.

196.—(1) The Corporation in exercising the powers conferred upon them by section 125 of the Local Government Act 1933 may in connection with the erection of buildings authorised by that section erect as part of or in connection with such buildings houses shops offices and other buildings.

(2) The Corporation may grant or let with or without charge the use of any part or parts of the said buildings and premises on such terms and conditions as the Corporation may think fit:

Provided that the Corporation shall not (unless the Minister otherwise directs) grant or let any such buildings or premises except at the best price or on the best terms which can be reasonably obtained but a lessee shall not be concerned to inquire whether the direction of the Minister is necessary or has been obtained. A.D. 1936.

197.—(1) In the event of the Corporation establishing in pursuance of section 8 of the Air Navigation Act 1920 or in pursuance of any Act amending replacing or consolidating that Act an aerodrome and any subsidiary business in connection therewith (in this section referred to as "the aerodrome undertaking") they may make such charges in respect thereof as they may think fit and may grant a lease of or let the same or any part thereof for such period and upon and subject to such terms and conditions as they may think fit: Aerodrome undertaking.

Provided that the charges to be made in respect of the aerodrome shall be subject to the approval of the Secretary of State for Air.

(2) The Corporation may make byelaws with respect to the aerodrome undertaking and for maintaining order in and for regulating the use of any premises used in connection therewith:

Provided that should any such aerodrome or part thereof be established or should any byelaws relating to it be proposed to be operative within the administrative county of Kent the Corporation one month before submitting for confirmation by the Secretary of State for Air any byelaws under this subsection shall forward a copy of such byelaws to the clerk of the county council who shall submit any objections or representations with respect to such byelaws to the said Secretary of State before the expiration of that period and before confirming such byelaws the said Secretary of State shall consider any objections or representations so submitted.

(3) The aerodrome undertaking shall be in the same relation to the Air Council and the Secretary of State for Air and subject to the like control by them under the Air Navigation Act 1920 or any Act

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amending replacing or consolidating the same as if this Act had not been passed.

Dwelling-houses for persons in Corporation's employment.

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

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

Use of swimming baths for exhibitions and entertainments.

199.—(1) The Corporation may close to the public and may reserve the exclusive use of any swimming bath or open bathing place belonging to them and may grant the use thereof either gratuitously or for payment for swimming contests practices aquatic exercises water polo matches life-saving classes aquatic entertainments aquatic exhibitions or meetings and may demand and take authorise to be demanded and taken at the door or entrance of such swimming bath or open bathing place such sums for the exclusive use of such bath or place or for admission of persons thereto as they may think fit.

(2) The Corporation may also let the exclusive use of any such swimming bath or open bathing place to any school or club on such conditions as they may think fit.

Power of constables to enforce byelaws as to parks &c.

200. From and after the passing of this Act every police constable shall have the same power of enforcing byelaws made by the Corporation under the provisions of the Public Health Acts or any Act or Order for the time being in force within the city relating to any park or place of public resort or recreation ground under the control of the Corporation as is given to the servants of the Corporation by the byelaws for the time being in force under the said provisions.

Power to appoint officers.

201.—(1) The Corporation may appoint officers for securing the observance of the provisions of all Acts relating to parks and pleasure grounds and of the

byelaws and regulations made thereunder and may procure such officers to be sworn in as constables for that purpose but any such officer shall not act as a constable unless in uniform or provided with a warrant. A.D. 1936.

(2) Nothing in this section shall be deemed to render applicable to any such officer the provisions of the Police Pensions Act 1921 or any other enactments relating to pensions gratuities and allowances in respect of police service. 11 & 12
Geo. 5. c. 31.

202. The Corporation may—

- (1) Upon any lands already acquired by the Corporation and used for the purpose of a golf course or acquired after the passing of this Act for the same purpose form construct alter maintain regulate manage and use golf courses with all proper and convenient houses pavilions works buildings and conveniences :
- (2) Make charges for the use of any of their golf courses or of any part thereof and of any buildings conveniences or apparatus provided in connection therewith :
- (3) Permit the use by any club or other body or persons of any of their golf courses lands buildings conveniences or apparatus aforesaid subject to such charges and conditions as the Corporation may think fit :
- (4) Let on lease or otherwise to any club company body or persons any of their golf courses or any part thereof and the lands houses pavilions works buildings and conveniences as aforesaid for such consideration and upon such terms and conditions as the Corporation may think fit :
- (5) (a) Provide and sell and may enter into any agreement or arrangement with any person for the provision and sale at any such golf course or in any such house pavilion or building as aforesaid of refreshments of all kinds subject to the provisions of all Acts relating thereto and may also upon such terms and conditions and for such periods

Establish-
ment of
golf courses.

A.D. 1936.

as they may think fit grant to any person the right so to provide and sell refreshments;

(b) By themselves or any person appointed by them in that behalf apply for and hold licences for the sale of beer or intoxicating liquors or of tobacco for the purposes of this subsection :

(6) Make and enforce byelaws for regulating the use of their golf courses whether within or without the city and the conduct of persons using the same or resorting thereto :

(7) Employ officers and servants in connection with and for the purposes of the powers aforesaid.

Power to
make
regulations
as to traffic
on carnival
&c. days.
10 & 11 Vict.
c. 89.

203. The powers conferred by section 21 of the Town Police Clauses Act 1847 shall extend to enable the Corporation within the city on days appointed for ceremonies public processions rejoicings fairs exhibitions carnivals races sports illuminations or similar occasions to direct the passage and stoppage of vehicles along or in particular streets to direct particular routes to be taken for particular descriptions of traffic and to prohibit the passage or stoppage of particular vehicles through or in certain streets at specified times for a reasonable period not exceeding two consecutive hours at any one time.

Through
routes for
traffic.

204. The Corporation shall not exercise the powers of the sections of this Act of which the marginal notes are respectively "As to barriers in streets" and "Power to make regulations as to traffic on carnival &c. days" in respect of any street or road in the city forming part of a through route for traffic unless they shall at the same time afford proper facilities along an alternative route in the city for traffic proceeding between any places served by such through route and desiring to pass through the city.

Notice of
processions
to be given.

205.—(1) Any person or persons intending to organise or form a public or ceremonial procession or a circus procession or a procession of wild animals through the streets of the city (other than a public or ceremonial procession which is regularly held through

such streets) shall give written notice thereof and of the route proposed to be taken and of the time at which it will take place to the Corporation by leaving such notice at the office of the town clerk thirty-six hours at least (exclusive of Sundays) previous to the time fixed for such procession to pass through the streets. A.D. 1936.

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

206. A person other than an officer of the Corporation or a person or the servant of a person employed by the Corporation in or about any work in connection with the burial grounds belonging to the Corporation shall not except for the purpose of properly tending any grave pluck out or otherwise interfere with any flower plant shrub wreath ornament or other thing on any grave in a burial ground belonging to the Corporation and any person offending against the provisions of this section shall be liable to a penalty not exceeding forty shillings. As to offences in burial grounds.

207.—(1) The Corporation may (subject as hereinafter provided) pay out of the general rate fund as expenses incurred by them under the Local Government Act 1933— Subscriptions to local government associations and other expenses.

(a) reasonable subscriptions whether annually or otherwise to the funds of any association of municipal corporations or other local authorities or their officers formed for the purpose of consultation as to their common interests and the discussion of matters relating to local government;

(b) the reasonable expenses of the Corporation in providing public entertainments on the occasion of or otherwise in connection with any public ceremony or rejoicing and in the reception and entertainment of distinguished persons residing in or visiting the city.

A.D. 1936.

(2) The total amount which the Corporation may expend under the provisions of this section shall not exceed the amount which would be produced by the levying of a general rate of one halfpenny in the pound.

Noise
nuisance.

208.—(1) A noise nuisance shall be liable to be dealt with in accordance with the provisions relating to nuisances of the Public Health Act 1875:

Provided that no complaint shall be made to a justice under section 105 of the said Act unless it is signed by not less than three householders or occupiers of premises within hearing of the noise nuisance complained of.

(2) For the purpose of this section a noise nuisance shall be deemed to exist where any person makes or continues or causes to be made or continued any excessive or unreasonable or unnecessary noise and where such noise (a) is injurious or dangerous to health and (b) is capable of being prevented or mitigated having due regard to all the circumstances of the case:

Provided that if a noise is occasioned in the course of any trade business or occupation it shall be a good defence that the best practicable means of preventing or mitigating it having regard to the cost have been adopted.

(3) Nothing in this section shall apply to a railway company or their servants exercising statutory powers.

Power to
charge
supervision
in addition
to cost.

209. Whenever under this Act or any other local enactment or byelaw or any public general Act for the time being in force in the city the Corporation either on the application or in consequence of the default of the owner or occupier of any premises execute any work the cost of which is payable by such owner or occupier the Corporation may if they think fit (in addition to the actual cost of such work) charge and recover in respect of plans sections measuring supervision and all other matters an amount not exceeding five per centum of the amount of the actual cost of such works.

Recovery of
rates from
person
removing.

210. If a justice is satisfied on complaint by any rating officer or collector of water rates that any person is quitting or about to quit any premises in the city

[26 GEO. 5. &
1 EDW. 8.]

Rochester Corporation
Act, 1936.

[Ch. lxxv.]

or to which the Corporation supply water and has failed to pay on demand any general rate or water rate which may be due from him and intends to evade payment of the same by departing from the said premises the justice may in addition to issuing a summons for non-payment of the same issue a warrant under his hand authorising the said rating officer collector of water rates or other authorised officer to seize forthwith and detain the goods and chattels of such person until the complaint is determined upon the return of the summons.

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211.—(1) The Corporation may if they think fit in cases not within the Workmen's Compensation Act 1925 and not entitled to benefits under the Local Government and Other Officers' Superannuation Act 1922 grant a weekly or other periodical allowance (not exceeding one-half of his salary or wages) or in lieu thereof a gratuity of any sum (not exceeding two years' pay) to any of their officers or servants who may be disabled or injured in their service or may become incapacitated through age sickness or other infirmity or to the widow or family of any such officer or servant who may die in their service.

Power to grant allowances or gratuities in certain cases.

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

212. For the protection of the county council the following provisions shall unless otherwise agreed in writing between the county council and the Corporation have effect with respect to the execution of the waterwork authorised by this Act or the exercise of any of the powers of this Act affecting any highway or bridge (that is to say):—

For protection of Kent County Council.

(1) The provisions of this section are in addition to and not in substitution for the provisions of the Waterworks Clauses Act 1847 (in this section referred to as "the Act of 1847") with respect to the breaking up of streets for the purpose of laying pipes except so far as such last-mentioned provisions are expressly varied by the provisions of this section:

A.D. 1936.

(2) In this section—

“highway” means a county road which is now or may hereafter become vested in or repairable by the county council;

“bridge” means a bridge vested in or repairable by the county council and shall include the road over any such bridge and the approaches thereto and any culvert;

“apparatus” includes any line of pipes discharge pipe or other works of the Corporation;

“the surveyor” means the surveyor to the county council:

- (3) All apparatus to be laid in or along any highway or in or upon or across any bridge shall be laid in such position in or at the side thereof and at such depth as the county council in writing under the hand of the surveyor may reasonably direct:
- (4) The notice required by section 30 of the Act of 1847 to be given to the county council shall (except for laying connecting or repairing communication pipes as to which three days' notice shall be given and except in cases of emergency) be not less than seven days instead of three days:
- (5) The plan required by section 31 of the Act of 1847 shall be accompanied by a section and description of the proposed works and shall (except as aforesaid) be delivered to the surveyor by the Corporation not less than seven days before the Corporation commence to interfere with any bridge or open or break up any highway for the purpose of executing the works. If the surveyor shall not within seven days after the plan section and description shall have been delivered to him express his approval or disapproval thereof or signify his requirements in relation thereto he shall be deemed to have approved thereof:
- (6) The surplus paving metalling or materials removed during the laying renewal or repair of the apparatus shall not (so far as may be

reasonably practicable) be placed on the metalled portion of any highway or in or upon any bridge without the written consent of the surveyor and subject to such conditions (which in no case shall include a payment of money) and directions as he may reasonably require or give :

A.D. 1936.

- (7) Subject to the rights of all parties claiming to be entitled thereto all surplus paving metalling or materials removed during the laying of the apparatus in any highway or in upon or across any bridge and not required by the Corporation for the purpose of reinstating and making good the said highway or bridge may be used by the county council for the maintenance and repair of any highway and may be removed by the county council for that purpose :
- (8) Nothing in this Act shall authorise the Corporation to interfere with the structural part of any bridge without the consent in writing of the surveyor Such consent shall not be unreasonably withheld and may be given upon such conditions as the surveyor may reasonably determine :
- (9) Nothing in this Act shall prejudice or affect the right of the county council at any time or times to divert widen alter the levels of or otherwise alter and improve any highway and to remove alter rebuild widen or repair any bridge in under over or attached to which any apparatus is situate or carried in the same manner as the county council might have diverted improved or removed altered rebuilt widened or repaired any such highway or bridge if this Act had not been passed and the Corporation shall with all reasonable speed after receiving notice in writing under the hand of the surveyor alter the position of any such apparatus in such manner and to such extent as the surveyor may reasonably require Provided that the cost of carrying out any work necessary for the purpose

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—

of complying with any requirement of the surveyor pursuant to the foregoing provisions of this subsection shall—

(i) if carried out in connection with the diversion widening alteration of level or other alteration or improvement of a highway be repaid to the Corporation by the county council; and

(ii) if carried out in connection with the removal alteration widening or repair of a bridge be borne and paid by the Corporation:

Provided also that during any such diversion improvement removal alteration rebuilding widening or reparation of such highway or bridge as aforesaid the county council shall afford to the Corporation all reasonable facilities for temporarily carrying such apparatus along the road or across any stream or river so as not to interrupt the continuous supply of water or to diminish the pressure of such supply through such apparatus and the Corporation may carry such apparatus accordingly:

- (10) All works shall be so executed by the Corporation as not unreasonably to stop the traffic and so far as reasonably practicable as not in any way to impede or interfere with the traffic on any highway or over any bridge and the Corporation shall not without the consent of the surveyor (which consent shall not be unreasonably withheld) open or break up at any one time a greater continuous length than one hundred and fifty yards of any highway at any place where not more than two carts can pass at the same time or than seventy-five yards where only one cart can pass and shall leave an interval of at least one hundred yards between any two places at which they may open or break up such highway at the same time:
- (11) All costs charges amounts and expenses payable by the Corporation to the county council under the provisions of this section

[26 GEO. 5. &
1 EDW. 8.]

Rochester Corporation
Act, 1936.

[Ch. lxxv.]

shall be recoverable as a debt due from the Corporation to the county council: A.D. 1936.

- (12) The county council shall not except in the case of its negligence be liable for or in respect of any damage or injury done to any apparatus laid fixed and executed after the passing of this Act in under or along the metalled portion of any highway or of the roadway over a bridge or the approaches thereto arising from the use by the county council of any steam or other roller not exceeding fifteen tons in weight for the repair of any such highway or of any traction engine not exceeding the weight aforesaid:
- (13) If any difference at any time arises between the county council and the Corporation touching the foregoing provisions of this section or anything to be done or not to be done thereunder such difference shall be referred to and settled by arbitration:
- (14) The provisions of section 41 of the Town and Country Planning Act 1932 shall not apply in relation to any land or building any part of which is within a distance of two hundred and twenty feet from the middle of the highway in relation to which the Corporation shall exercise the powers of the sections of this Act of which the marginal notes are respectively "Power to purchase additional lands by agreement" "Power to hold lands and exercise powers for protection of waters" "Power to hold lands for protection of waterworks" and "Dwelling-houses for persons in Corporation's employment."

213. For the protection of the Rochester Chatham and Gillingham Gas Company (in this section referred to as "the company") the following provisions shall unless otherwise agreed in writing between the Corporation and the company apply and have effect:—

For protection of Rochester Chatham and Gillingham Gas Company.

- (1) Notwithstanding the stopping up temporarily of any street under the powers of the section

A.D. 1936.

of this Act of which the marginal note is "Temporary stoppage of streets" the company their engineers workmen and others in their employ shall at all times have such rights of access to all or any mains pipes valves or other works or apparatus (all of which are in this section referred to as "apparatus") of the company in or under any such street as they had immediately before such stopping up and shall be at liberty to execute and do such works and things in upon or under such street as may be necessary for inspecting repairing maintaining removing or renewing such apparatus:

- (2) Whenever the Corporation in the exercise of the powers of the section of this Act of which the marginal note is "Adjustment of boundaries of streets" shall give up land forming part of a street in exchange for other land there being in or under such first-mentioned land at the date of such giving up any apparatus of the company the Corporation shall give notice in writing to the company of such exchange with a plan showing the position and dimensions of the portion of the street so exchanged and the company may alter the position of such apparatus to such other position as may be reasonable having regard to the circumstances:
- (3) Whenever by virtue of the section of this Act of which the marginal note is "Power to stop up highways where necessary" any highway or part of a highway in or under which any apparatus of the company is for the time being laid or placed is stopped up or diverted the company shall be at liberty to remove such apparatus to and relay or replace the same in the highway (if any) substituted for the highway so stopped up or diverted in such position and at such depth as may be reasonable or to provide and lay or place in such substituted highway or other situation similar apparatus equally suitable in lieu of such existing apparatus:

(4) Not less than twenty-eight days before—

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(a) the Corporation in the exercise of any of the powers of the sections of this Act of which the marginal notes are respectively "Rounding off of corners at street junctions" and "Power to vary width of carriageways and footways" add to the carriageway of a street any portion of any street (not theretofore forming part of the carriageway thereof) in or under which any apparatus of the company is for the time being situate; or

(b) pursuant to the section of this Act of which the marginal note is "Crossings for horses or vehicles over footways" a carriage-crossing is constructed across the footway of any street in or under which any apparatus of the company is for the time being situate or the use of any such footway as a carriage-crossing is allowed by the Corporation;

the Corporation shall give notice in writing to the company and the company may alter the position of any of their apparatus in or under such portion of street or footway (as the case may be) if such alteration shall be reasonably necessary by relaying the apparatus in such position (under either the carriageway or the footway) and at such depth as may be reasonable:

- (5) The Corporation shall repay to the company all expenses reasonably incurred by them under subsections (2) (3) and (4) of this section or any of those subsections:
- (6) The company shall give to the Corporation not less than twenty-one days' notice of their intention to alter the position of any apparatus under the provisions of subsection (2) or subsection (3) or subsection (4) of this section and shall at the same time deliver a plan and section to the Corporation of the proposed alteration. If such plan and section are not disapproved by the Corporation within twenty-one days from the receipt thereof the depth

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and position of the apparatus shown thereon shall be deemed to be reasonable :

- (7) Any question between the Corporation and the Company under this section shall be referred to arbitration.

For
protection
of Kent
Electric
Power
Company.

214. For the protection of the Kent Electric Power Company (in this section referred to as "the company") the following provisions shall notwithstanding anything in this Act contained and unless otherwise agreed in writing between the company and the Corporation apply and have effect :—

45 & 46 Vict.
c. 56.

- (1) In this section "apparatus" means all or any electric lines (as defined in the Electric Lighting Act 1882) posts poles and other apparatus belonging to the company :
- (2) In any case where under the powers of the section of this Act of which the marginal note is "Adjustment of boundaries of streets" the Corporation propose to give up to or convey to an owner of land any part of a street in or under which any apparatus of the company is laid or placed the Corporation shall (in addition to any notices given by them pursuant to the said section) give to the company notice in writing of their proposal and notwithstanding any agreement entered into or grant or conveyance executed by the Corporation under the said section the company their engineers and workmen shall have and may exercise the same powers rights and privileges with respect to such apparatus as if the land in or under which the same is laid or placed had continued to be part of the street or the company may at their option and if so required by the owner of the land shall divert or alter the position of such apparatus to such position in and at such depth below the footway or carriageway of the street as altered under the said powers as the Corporation may reasonably approve and any expense reasonably incurred by the company in effecting any such diversion or alteration as aforesaid shall on demand be repaid to them by the Corporation :

(3) The Corporation shall not exercise the powers of the section of this Act of which the marginal note is "Further powers as to future line of streets" in respect of any building or erection (other than a dwelling-house showroom office or advertisement hoarding) or land held or used for the purposes of their undertaking by the company if—

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(i) the holding or use of such building erection or land is specifically authorised by any Act or by any order confirmed by or having the force of an Act; or

(ii) compliance with any requirement of the Corporation under the said section would entail the purchase by the company of additional land or the execution by the company of works elsewhere than on the land so held and used by them :

(4) (a) Whenever by virtue of the section of this Act of which the marginal note is "Power to stop up highways where necessary" any public highway or part of a public highway in which any apparatus of the company is for the time being laid or placed is stopped up or the public right of way thereover is extinguished the company shall be at liberty to remove such apparatus to and relay the same in the highway (if any) substituted for the highway or part of a highway so stopped up or over which the public right of way is so extinguished or in such other situation as the company may reasonably determine or to provide and lay in such substituted highway or other situation similar apparatus equally suitable in lieu of such existing apparatus and the Corporation shall on demand repay to the company the cost reasonably incurred by them in so doing;

(b) Whenever by reason of the exercise by the Corporation of the powers of the said section any apparatus of the company (other than apparatus for which new apparatus has been substituted at the expense of the Corporation under the provisions of this subsection)

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—

is rendered derelict useless or unnecessary the Corporation shall forthwith pay to the company such a sum as may be agreed between the Corporation and the company or as failing such agreement may be determined by arbitration as hereinafter provided to be the value of such apparatus and such apparatus shall upon such payment become the property of the Corporation :

- (5) Not less than twenty-eight days before pursuant to the section of this Act of which the marginal note is " Crossings for horses or vehicles over footways " a carriage-crossing across the footway of any street in or under which any apparatus of the company is for the time being situate is constructed or the use of any such footway is allowed by the Corporation the Corporation shall give notice in writing to the company and the company may and if so required by the Corporation shall alter the position of any apparatus of the company in or under such footway by relaying the apparatus in such position (under either the carriageway or the footway) and at such depth as the Corporation may reasonably approve and the Corporation shall on demand repay to the company the cost reasonably incurred by them in so doing :
- (6) Whenever the Corporation shall in the exercise of the powers of the section of this Act of which the marginal note is " Power to vary width of carriageways and footways " add to the carriageway any portion of the footway in or under which any apparatus of the company is for the time being situate the company may at their option either—
- (a) relay the apparatus under the altered footway ; or
 - (b) lower such apparatus so as to provide adequate protection therefor against injury ;
- and the Corporation shall repay to the company the expense reasonably incurred by them in so doing :

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(7) The Corporation shall so exercise the powers of the section of this Act of which the marginal note is "Planting of trees in private streets" as not to obstruct or render less convenient the access to any apparatus of the company and shall so maintain every tree or shrub planted under the powers conferred by this section that the same does not injuriously affect any such apparatus :

(8) The Corporation shall pay to the company the reasonable cost of and incidental to the cutting off of any apparatus from any other apparatus of the company and of and incidental to any other works or things rendered necessary or expedient in consequence of any such alteration as is referred to in subsection (2) or paragraph (a) of subsection (4) or subsections (5) or (6) of this section of the position of such apparatus or in consequence of such apparatus being rendered derelict useless or unnecessary :

(9) The Corporation in executing any work under the provisions of this section or under any other provision of this Act shall make good all damage done by them to any apparatus of the company and shall make full compensation for any loss damage costs or expenses which they may sustain by reason of any interference with such apparatus or the access thereto :

(10) The provisions of the sections of this Act of which the marginal notes are respectively :—

"Byelaws as to alterations of buildings" ;

"Extension of section 157 of Public Health Act 1875" ;

"Further power to make byelaws as to new buildings" ;

"As to restriction of air space" ;

"Height of chimneys" ;

shall not extend or apply to any building (not being a dwelling-house office or showroom) chimney or land belonging to the company and used or intended to be used exclusively for the purposes of their undertaking under the provisions of any Act of Parliament or Order :

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(11) (a) If any difference shall arise between the Corporation and the company or their respective engineers under this section (other than a difference as to the meaning and construction of this section) such difference shall be referred to arbitration;

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

For further
protection
of Kent
Electric
Power
Company.

215. The following provisions for the protection of the Kent Electric Power Company (in this section referred to as "the company") shall unless otherwise agreed in writing between the Corporation and the company apply and have effect:—

(1) In this section "apparatus" means all or any electric lines (as defined in the Electric Lighting Act 1882) posts poles and other apparatus belonging to the company:

(2) Nothing in this Act shall extend to or authorise any interference by the Corporation with any apparatus of the company to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with and subject to the provisions of that section and of section 17 of the schedule to the Electric Lighting (Clauses) Act 1899 nor shall anything in this Act authorise the carrying out of any works near to which any apparatus of the company in any street or road has been lawfully placed except in accordance with and subject to the provisions of section 18 of the said schedule.

62 & 63 Vict.
c. 19.

For
protection
of water
companies.

216. For the protection of the Chatham and District Water Company and the Higham and Hundred of Hoo Water Company (each of whom is respectively referred to in this section as "the company") the following provisions shall notwithstanding anything in this Act

[26 GEO. 5. &
1 EDW. 8.]

Rochester Corporation
Act, 1936.

[Ch. lxxv.]

and unless otherwise agreed in writing between the company and the Corporation apply and have effect (that is to say):—

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- (1) In this section " apparatus " means and includes all or any mains cables pipes syphons tubes meters fittings or other apparatus belonging to the company :
- (2) Notwithstanding the stopping up temporarily of any street under the powers of the section of this Act of which the marginal note is " Temporary stoppage of streets " the company their officers servants and agents shall at all times have such rights of access to the apparatus of the company in upon or under such streets as they had immediately before such stopping up and shall be at liberty to execute and do such works and things in upon or under such street as may be necessary for laying placing inspecting repairing maintaining removing or renewing any apparatus in or under such street :
- (3) In any case where under the powers of the section of this Act of which the marginal note is " Adjustment of boundaries of streets " the Corporation propose to give up or convey to an owner of land adjoining any street or any part of a street in or under which any apparatus is for the time being situate the Corporation shall (in addition to any notice given by them pursuant to the said section) give notice in writing to the company of the proposal and to such owner of the existence of such apparatus and notwithstanding any agreement entered into or conveyance executed by the Corporation under that section and subject as hereinafter in this subsection provided the company shall continue to have the same powers and rights in respect of such apparatus as if the land in or under which the same is situate had continued to be part of the street :

Provided that—

- (i) The Corporation may by such notice to the company and the owner may by

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notice in writing to the company given within fourteen days after the receipt of any notice given to him by the Corporation under this subsection require the company to alter and the company if so required shall alter;

(ii) The company may if they notify the Corporation within fourteen days after the receipt of any notice given to the company by the Corporation under this subsection of their intention so to do alter;

the position of any such apparatus to such position in and such depth below the footway or carriageway of the street as altered under the provisions of the said section of this Act as the Corporation may reasonably approve and the Corporation shall on demand pay to the company the reasonable expenses of and in connection with such alteration of position:

- (4) Whenever by virtue of the section of this Act of which the marginal note is "Power to stop up highways where necessary" any public highway or part of a public highway in which any apparatus is for the time being situate is stopped up diverted or turned the company shall be at liberty to remove such apparatus and to relay or replace the same in the highway (if any) substituted for the highway so stopped up diverted or turned in such position as the Corporation may reasonably approve or in such other situation as the Corporation may reasonably approve or to provide and lay or place in such substituted highway or other situation similar apparatus equally suitable in lieu of such existing apparatus and the Corporation shall on demand pay to the company the reasonable expenses incurred by them in so doing:
- (5) (a) Forthwith upon the making by the Corporation of an order under section 17 of the Public Health Acts Amendment Act 1907 as extended by the section of this Act of which the marginal note is "Rounding off of corners

at street junctions” involving the addition to the carriageway of a street of any footway in or under which any apparatus is for the time being situate the Corporation shall give notice thereof to the company;

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(b) Not less than twenty-eight days before—

(i) pursuant to the section of this Act of which the marginal note is “Crossings for horses or vehicles over footways” a carriage-crossing is constructed across the footway of any street in or under which any apparatus is for the time being situate or the use of any such footway as a carriage-crossing is allowed by the Corporation; or

(ii) pursuant to the section of this Act of which the marginal note is “Power to vary width of carriageways and footways” any portion of the footway is added to the carriageway or any portion of the carriageway is added to the footway in or under which any apparatus is for the time being situate;

the Corporation shall give notice in writing to the company;

(c) The company may and if so required by the Corporation shall alter the position of any apparatus in or under such carriageway or footway by relaying the apparatus in such position (under either the carriageway or the footway) and at such depth as the Corporation may reasonably approve and the Corporation shall on demand pay to the company the reasonable expenses of and in connection with such alteration of position:

(6) The provision of the sections of this Act of which the marginal notes are—

“Byelaws as to alterations of buildings”;

“Extension of section 157 of Public Health Act 1875”;

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“ Further amendment of section 157 of Public Health Act 1875 ”; and

“ Further power to make byelaws as to new buildings ”;

and any byelaws made thereunder shall not apply to or in respect of any building (not being a dwelling-house office or showroom) belonging to the company and used for the purpose of their undertaking :

- (7) Before making any byelaws under paragraph (vii) of subsection (1) of the section of this Act of which the marginal note is “ Extension of section 157 of Public Health Act 1875 ” the Corporation shall give reasonable notice to the company and the company shall be entitled to make representations thereon to the confirming authority :
- (8) The provisions of the section of this Act of which the marginal note is “ Further powers as to future line of streets ” shall not extend or apply to any house or building (not being a dwelling-house office or showroom) erection land or premises belonging to the company and used or intended to be used for the purpose of their undertaking under the provisions of any Act of Parliament or Order :
- (9) (a) If any difference shall arise between the Corporation and the company under this section (other than a difference as to the meaning or construction of this section) such difference shall be referred to and determined by arbitration ;

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

217. Nothing in this Act contained shall by implication or otherwise extend or be construed to extend to defeat lessen prejudice alter impair take away or affect any estate property right title interest privilege or power in any wise vested in or enjoyed by the River Medway Catchment Board or any drainage board constituted or to be constituted under the Land Drainage Act 1930.

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Saving for
Medway
Catchment
Board &c.

20 & 21
Geo. 5. c. 44.

218. For the protection of the Southern Railway Company (in this section referred to as "the company") the following provisions shall notwithstanding anything contained in this Act or shown on the deposited plans and sections and unless otherwise agreed in writing between the Corporation and the company apply and have effect (that is to say):—

For
protection
of Southern
Railway
Company.

(1) In this section—

"the authorised work" means the water-work authorised by this Act and any works in connection therewith or subsidiary thereto and all works of maintenance repair renewal and removal thereof across under or over or in any way affecting the railways works or property of the company or across under or over or in any way affecting the structure of any bridge over or under such railways or the approaches to or roads over any such bridge or any other road which the company are or may be liable to maintain:

(2) The Corporation shall not purchase or acquire any of the lands or property of the company but the Corporation may acquire and the company shall if so required by the Corporation grant to the Corporation easements or rights of constructing and maintaining the authorised work across and over the lands and property of the company and the provisions of the section of this Act of which the marginal note is "Corporation may acquire easements only in certain cases" shall apply to such acquisition:

(3) The authorised work where the same passes across and over the company's London and Dover railway at Cuxton Road in the parish of

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Cuxton shall if required by the company's chief engineer (in this section referred to as "the engineer") be carried by the Corporation over that railway outside of and independently of the bridge carrying Cuxton Road over the said railway and if for that purpose it shall in the opinion of the engineer be reasonably necessary to alter any of the telegraph telephone or signal posts or wires or other works or apparatus belonging to or on the said railway the company may effect such alterations and the reasonable cost thereof and any reasonable expenses incurred by the company in connection therewith shall be repaid by the Corporation to the company:

- (4) The authorised work shall be executed under the superintendence (if given) and to the reasonable satisfaction of the engineer and in accordance with plans sections and specifications to be previously submitted to and reasonably approved in writing by him:

Provided that if the engineer shall not signify his approval or disapproval of such plans sections and specifications within twenty-eight days after they shall have been submitted to him he shall be deemed to have approved thereof:

- (5) The Corporation shall give twenty-one days' notice in writing to the company before commencing the authorised work and such notice shall state the proposed date and time of such commencement and the authorised work shall be carried out only at such times as the engineer shall reasonably require:
- (6) The authorised work shall be executed by and at the expense of the Corporation who shall make good and restore to the reasonable satisfaction of the engineer any property or works of the company or any roads or footpaths liable to be maintained by them affected by the authorised work and shall to the like satisfaction maintain such roads or footpaths (so far as the same may have been interfered

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with by the execution of the authorised work) for three months after such restoration and for such further time (if any) not being more than twelve months in the whole as such roads or footpaths shall continue to subside :

- (7) If the company give notice in writing to the Corporation within twenty-one days after the submission of the plans sections and specifications referred to in subsection (4) of this section that they desire so to do they may themselves execute and maintain so much of the authorised works (other than the actual laying down and maintenance of the pipes) as will be situate on the property of the company and the reasonable cost thereof and any reasonable expenses incurred by the company in connection therewith shall be repaid by the Corporation to the company :
- (8) The authorised work shall be executed and maintained so as to cause as little injury or damage as may be to the railways and property of the company and so as not to cause any interruption to the passage or conduct of traffic thereover and if any such injury damage or interruption arises from the acts or operations of the Corporation or from the bursting leakage or failure of the authorised work all such injury or damage shall forthwith be made good by the Corporation or if the company so elect by the company at the expense of the Corporation and the Corporation shall be responsible for and shall indemnify and save harmless the company from all claims arising out of or in connection with any such injury damage or interruption and shall make compensation to the company in respect thereof :
- (9) If by reason of the execution of the authorised work it shall become necessary to alter strengthen or underpin the structure of any bridge embankment or other work of the company such alteration strengthening or underpinning shall be carried out by the company after giving (except in the case

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of emergency) not less than seven days' notice of their intention so to do to the Corporation at such times and in such manner as they may think expedient or necessary and the reasonable cost thereof and any reasonable expense incurred by the company in connection therewith shall be repaid by the Corporation to the company :

- (10) The Corporation shall bear and on demand pay to the company the reasonable expense incurred by the company of and in connection with the superintendence by the engineer of the authorised work and of and in connection with the employment by the company during the carrying out of the same of such inspectors watchmen or signalmen to be appointed by the company as may be reasonably necessary for watching and protecting the railways and property of the company and the conduct of the traffic thereon with reference to and during the carrying out of the authorised work and for preventing as far as may be all interference obstruction danger and accident from any of the operations or from the acts or defaults of the Corporation or their contractors or any person in their respective employ :
- (11) Any additional expense which the company may reasonably incur in effecting any repair renewal widening alteration or extension of their railways or other works in pursuance of any powers existing at the passing of this Act by reason of the existence of the authorised work across over or under the railways or works of the company shall be borne by the Corporation :
- (12) Any expenses reasonably incurred by the company under the provisions of subsections (3) (7) (8) (9) and (10) of this section shall be deemed to include any compensation payable to any workmen or their legal representatives or their dependants in respect of the injury or death of such workmen whilst employed by the company in and about

the works respectively mentioned in the said subsections or the cost of any insurance to cover such risks : A.D. 1936.

- (13) Any difference which may arise between the Corporation and the company under this section (except under subsection (2)) shall be determined by arbitration.

219. As respects byelaws made under this Act the confirming authority for the purposes of section 250 of the Local Government Act 1933 shall be— Byelaws.

(a) in the case of byelaws made under the section of this Act of which the marginal note is "Aerodrome undertaking" a Secretary of State; and

(b) in all other cases the Minister.

220. The Corporation may declare any expenses incurred by them under the provisions of this Act which are recoverable from the owner or owners of any premises to be private improvement expenses and thenceforth those expenses may be recovered and shall be charged upon the premises in respect of which they were incurred in accordance with the provisions of section 257 of the Public Health Act 1875. Expenses may be declared private improvement expenses.

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

222. If the occupier of any house or part of a house or premises shall prevent the owner thereof from carrying into effect any requirement of the Corporation under Part VI or Part VII of this Act or under any byelaw made thereunder then after notice of this provision shall have been given by the owner to the occupier any court of summary jurisdiction upon proof thereof may make an order in writing requiring the occupier to permit the owner to execute the work Penalty on occupier refusing execution of Act.

A.D. 1936.

required by the Corporation to be done and if after the expiration of seven days from the service of such order the occupier shall continue to refuse to permit the owner to execute the said works he shall for every day during which he shall so continue to refuse be liable to a penalty not exceeding two pounds and during the continuance of his refusal the owner shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such work.

Power to enter premises.

223. The provisions of section 102 (Power of entry of local authority) and section 103 (Penalty for disobedience of order) of the Public Health Act 1875 shall extend and apply to the purposes of Part VI and Part VII of this Act as if those purposes had been mentioned in the said section 102.

Breach of conditions of consent of Corporation.

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

In executing works for owner Corporation liable for negligence only.

225. Whenever the Corporation the surveyor or the sanitary inspector under any enactment or byelaw for the time being in force within the city execute re-execute or alter any work or do any act or thing in default or at the request of the owner occupier or other person required to do such work act or thing the Corporation shall not as between themselves and such owner occupier or other person in the absence of any negligence on the part of the Corporation or the surveyor or the sanitary inspector or of any contractor or other person employed by them or him be liable to pay any damages penalties costs charges or expenses for or in respect of or consequent upon the executing re-executing or altering of such work or the doing of such act or thing and any such damages penalties costs charges or expenses payable by the Corporation in the absence of negligence as aforesaid shall be deemed to be part

[26 GEO. 5. & Rochester Corporation [Ch. lxxv.]
1 EDW. 8.] Act, 1936.

of the expenses payable by such owner occupier or other person and shall be recoverable accordingly. A.D. 1936.

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

227. Proceedings for the recovery of any demand made under the authority of this Act or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in a personal action. Recovery of demands.

228.—(1) Any person aggrieved by an order made by a court of summary jurisdiction under the provisions of this Act may appeal against the order to a court of quarter sessions and the Corporation may likewise appeal against the refusal of a court of summary jurisdiction to make any such order. As to appeals.

(2) Any person aggrieved by any order judgment determination or requirement or by the withholding of any certificate licence consent or approval of or by the Corporation or of or by any officer thereof under the provisions of Part VI and Part VII of this Act may if no other mode of appeal is provided by this Act appeal in manner provided by the Quarter Sessions Act 1849 to the next practicable court of quarter sessions held not less than thirty days after notice of the decision appealed against has been sent to him and the notice of appeal shall be given to the Corporation and to the clerk of the peace. 12&13 Vict. c. 45.

229. Where the payment of more than one sum by any person is due under any Act or Order from time to time in force within the city any summons or warrant issued for the purposes of any such Act or Order in respect of that person may contain in the body thereof or in a schedule thereto all the sums payable by him. Several sums in one summons.

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Consents of
Corporation
to be in
writing.

230. All consents given by the Corporation under the provisions of this Act or of any local Act Order byelaw or regulation for the time being in force within the city shall be given in writing and unless otherwise prescribed shall be given under the hand of the town clerk or other duly authorised officer of the Corporation.

Recovery
of penalties
&c.

231. Save as otherwise by this Act expressly provided all offences against this Act and all penalties forfeitures costs and expenses imposed or recoverable under this Act or any byelaw made in pursuance thereof may be prosecuted and recovered in a summary manner Provided that costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts.

Compensa-
tion how
to be
determined.

232. When any compensation costs damages or expenses is or are by this Act directed to be paid and the method of determining the amount thereof is not otherwise provided for such amount shall in case of dispute be ascertained in the manner provided by the Public Health Acts.

Powers
of Act
cumulative.

233. All powers rights and remedies given to the Corporation by this Act shall (except where otherwise expressly provided) be deemed to be in addition to and not in derogation of any other powers rights or remedies conferred on them or on any committee appointed by them by Act of Parliament charter law or custom and the Corporation or such committee as the case may be may exercise such other powers and be entitled to such other rights and remedies as if this Act had not been passed Provided that no person shall incur more than one penalty (other than a daily penalty for a continuing offence) for the commission of the same offence.

Arbitration.

234. Where under this Act any question or dispute is referred to an arbitrator or to arbitration (except where otherwise expressly stated and except questions or disputes to which the provisions of the Lands Clauses Acts apply) the reference shall be to a single arbitrator to be appointed by the President of the Institution of Civil Engineers and otherwise subject to the provisions of the Arbitration Acts 1889 to 1934.

235. Nothing in this Act shall protect any person from being proceeded against by way of indictment in respect of any matter by this Act made punishable on summary proceedings or shall relieve any person in respect of such matter from any penal or other consequence to which he would have been liable if such matter had not been made punishable by this Act. Provided that nothing in this Act shall make a person liable to be punished more than once for the same offence.

A.D. 1936.
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Saving for
indictments
&c.

236. The Minister may hold such inquiries as he may consider necessary in regard to the exercise of any powers conferred upon him or the giving of consents under this Act and section 290 of the Local Government Act 1933 shall apply accordingly.

Inquiries by
Minister.

237. The Minister of Transport may hold such inquiries as he may consider necessary in regard to the exercise of any powers conferred upon him or the giving of consents under this Act and section 290 of the Local Government Act 1933 shall apply accordingly.

Inquiries by
Minister of
Transport.

238. Section 265 (Protection of local authority and their officers from personal liability) of the Public Health Act 1875 shall extend and apply to the purposes of any local enactment as if the same were re-enacted therein.

Application
of section
265 of
Public
Health
Act 1875.

239. A judge of any court or a justice shall not be disqualified from acting in the execution of this Act or any other local Act or Order from time to time in force within the city by reason of his being liable to any rate.

Judges not
disqualified.

240. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Corporation to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Crown Lands or of the Board of Trade respectively without

Crown
rights.

A.D. 1936. — the consent in writing of the Commissioners of Crown Lands or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose.

Repeal. 241. The following provisions of the Act of 1880 are hereby repealed (namely):—

Section 3 (Interpretation of terms)—

In this Act and (for the purposes of this Act) in enactments incorporated with this Act the terms “superior courts” or “court of competent jurisdiction” or any other like term shall have effect as if the debt or demand with respect to which it is used were a common simple contract debt and not a debt or demand created by statute;

Section 22 (As to water supply);

Section 23 (Regulations for preventing waste of water);

Section 24 (Confirmation of regulations);

Section 25 (Publication of regulations);

Section 26 (Evidence of regulations);

Section 27 (For enforcing regulations);

Section 28 (Disputes to be determined by justices);

Section 29 (Water supplied by agreement);

Section 31 (Where several houses supplied by one pipe each to pay);

Section 32 (Notice respecting meter or water pipes);

Section 33 (Supply of water to tenements in a row);

Section 34 (Misuser where supply to several houses is by pipe common to all);

Section 35 (Incoming tenant not liable to pay arrears);

[26 GEO. 5. & *Rochester Corporation* [Ch. lxxv.]
1 EDW. 8.] *Act, 1936.*

Section 68 (Several sums in one summons); A.D. 1936.
Section 69 (Warrant of distress to include costs);
Section 70 (Liability to water rate not to
disqualify justices from acting).

242. The costs charges and expenses preliminary Costs of
to and of and incidental to the preparing applying for Act.
obtaining and passing of this Act as taxed by the taxing
officers of the House of Lords or of the House of
Commons shall be paid by the Corporation out of the
general rate fund and the general rate or out of moneys
to be borrowed under this Act for that purpose.

A.D. 1936.

The SCHEDULES referred to in the
foregoing Act.

THE FIRST SCHEDULE.

PROVISIONS AS TO ROCHESTER CORPORATION BONDS.

1. Bonds shall be issued in such amounts in denominations of five pounds and multiples of five pounds and for such periods not being less than five years as the Corporation may determine.

2. Bonds may be issued at such price and at such rates of interest as the Corporation may from time to time determine and interest shall be payable on bonds on the first day of April and the first day of October in any year. If a bond becomes repayable at a date other than the first day of April or the first day of October the interest on the bond from the first day of April or the first day of October as the case may be until the date of repayment of the bond shall be apportioned and paid to the holder of the bond. If a bond is issued on a date between the first day of April and the first day of October or on a date between the first day of October and the first day of April and becomes repayable before the first day of October or the first day of April as the case may be the interest on the bond between the date of the issue and the date of the repayment thereof shall be apportioned and paid to the holder of the bond.

3. (a) The nominal amount of bonds issued shall not exceed in the aggregate according to the price of issue such amounts as will together produce the actual amount of money for the time being authorised to be borrowed by the Corporation.

(b) Where a bond has been issued at a price lower than par so much of the issue as represents the difference between the price of the bond as issued and its nominal value shall be treated as a loan authorised by a statutory borrowing power and repayable out of the revenues of the Corporation on or before the date for repayment specified in the certificate issued in respect of the bond.

4. Bonds shall be repayable at par (unless the same shall have been previously cancelled by purchase in the open market or by agreement with the bondholder) at the Guildhall Rochester on the dates specified in the bonds or the certificate issued in respect thereof and no interest shall be payable thereon in respect of any period after the date upon which the bond is repayable.

5.—(1) The treasurer shall keep a register of all persons who are holders for the time being of bonds. A.D. 1936.

(2) The register shall contain the following particulars:—

(a) The name address and description of each holder a statement of the denomination of the bonds held by him the price at which and the periods for which they are issued and the numbers and dates of the certificates issued to him as hereinafter provided;

(b) The date of registration of each holder and the date on which he ceased to be so registered.

(3) The register shall be prima facie evidence of any matter entered therein in accordance with the provisions of this Act and of the title of the persons entered therein as holders of bonds.

6.—(1) The Corporation shall issue to each holder of a bond a certificate in respect thereof duly numbered and dated and specifying the denomination of the bond and the period for which it is issued.

(2) If a certificate is worn out or damaged the Corporation on the production thereof may cancel it and issue a new certificate in lieu thereof.

(3) If a certificate is lost or destroyed the Corporation on proof thereof to their satisfaction and if they so require on receiving an indemnity against any claims in respect thereof may give a new certificate in lieu of the certificate lost or destroyed.

(4) An entry of the issue of a substituted certificate shall be made in the register.

(5) A certificate shall be in the following form or in a form substantially to the like effect:—

No.

PER CENT. ROCHESTER CORPORATION BOND.

This is to certify that

of _____ is the
registered holder of a bond for _____ pounds
issued by the corporation of Rochester and repayable at
par on the _____ day of _____
at the Guildhall Rochester.

The corporate seal of the mayor
aldermen and citizens of the
city of Rochester was hereunto
affixed in the presence of _____

A.D. 1936.

7. The certificate shall be prima facie evidence of the title of the person therein named his executors administrators or assigns to the bond therein specified but the want of a certificate if accounted for to the satisfaction of the Corporation shall not prevent the holder of the bond from disposing of and transferring the bond.

8.—(1) The transfer of a Corporation bond shall be by deed in the following form or in a form substantially to the like effect :—

FORM OF DEED OF TRANSFER.

PER CENT. ROCHESTER CORPORATION BOND[S].

I

in consideration of the sum of
paid by (hereinafter called
“the transferee”) do hereby assign and transfer to the
transferee :—

To hold unto the transferee his executors administrators and assigns subject to the several conditions on which I held the same immediately before the execution hereof and I the transferee do hereby agree to accept and take the said bond[s] subject to the conditions aforesaid.

As witness our hands and seals this day of .

(2) A bond may be transferred in whole or in part so however that any part transferred shall not be for an amount other than an amount for which a bond may be issued by the Corporation.

(3) The deed of transfer shall be delivered to and retained by the Corporation and the Corporation shall enter a note thereof in a book to be called the “Register of transfers of Rochester Corporation bonds” (hereinafter called “the register”) and shall endorse on the deed of transfer a notice of that entry.

(4) The Corporation shall upon receipt of the deed of transfer duly executed and properly stamped together with the certificate issued in respect of the bond enter the name of the transferee in the register and shall issue a new certificate or certificates to the transferee or to the transferor and transferee as the case may require.

(5) Until the deed of transfer and the certificate have been delivered to the Corporation as aforesaid the Corporation shall not be affected by the transfer and the transferee shall not be entitled to receive any payment of interest on the bond.

[26 GEO. 5. &
1 EDW. 8.]

Rochester Corporation
Act, 1936.

[Ch. lxxv.]

(6) The Corporation before registering a transfer of a bond may if they think fit require evidence by statutory declaration or otherwise of the title of any person claiming to make the transfer. A.D. 1936.

9.—(1) Any person becoming entitled to a bond by reason of the death or bankruptcy of a holder or by any lawful means other than a transfer may by the production of such evidence of title as the Corporation may require either be registered as holder of the bond or instead of being himself registered may make such transfer of the bond as the holder could have made and the Corporation shall issue a certificate accordingly.

(2) Until such evidence as aforesaid has been furnished to the Corporation the Corporation shall not be affected by the transmission of the bond and no person claiming by virtue thereof shall be entitled to receive any payment of interest thereon.

(3) Where two or more persons are registered as holders of a bond they shall be deemed to be joint holders with right of survivorship between them.

10. The Corporation shall not be required to pay any executors or administrators any interest on bonds held by their testator or intestate until the probate of the will or the letters of administration has or have been left with the Corporation for registration.

11. The Corporation before paying any interest on any bonds may if they think fit require evidence by statutory declaration or otherwise of the title of any person claiming a right to receive the interest.

A.D. 1936.

THE SECOND SCHEDULE.

PART I.

Percentage of the full superannuation allowance payable under the Local Government and Other Officers' Superannuation Act 1922 to an officer or servant which may be paid during the joint lives of such officer or servant and his wife in order that (1) his wife shall be entitled to receive during the remainder of her life after his death an annuity equal to one-third of the amount of the superannuation allowance payable during their joint lives and (2) the officer or servant shall be entitled to receive during the remainder of his life after the death of his wife an annuity equal to two-thirds of the amount of the superannuation allowance payable during their joint lives.

Age last birth-day of wife at date of retirement of officer or servant.	Age last birthday of officer or servant at date of his retirement.							
	60	61	62	63	64	65	66	67
48	86							
49	86 $\frac{1}{2}$	85 $\frac{1}{2}$						
50	87	86	85					
51	87 $\frac{1}{2}$	86 $\frac{1}{2}$	85 $\frac{1}{2}$	84 $\frac{1}{2}$				
52	88 $\frac{1}{4}$	87 $\frac{1}{4}$	86	85	84			
53	89	88	86 $\frac{3}{4}$	85 $\frac{1}{2}$	84 $\frac{1}{2}$	83 $\frac{1}{2}$		
54	89 $\frac{3}{4}$	88 $\frac{3}{4}$	87 $\frac{1}{2}$	86 $\frac{1}{4}$	85	84 $\frac{1}{2}$	83	
55	90 $\frac{1}{2}$	89 $\frac{1}{2}$	88 $\frac{1}{4}$	87	85 $\frac{3}{4}$	84 $\frac{1}{2}$	83 $\frac{1}{2}$	82 $\frac{1}{2}$
56	91 $\frac{1}{4}$	90 $\frac{1}{4}$	89	87 $\frac{3}{4}$	86 $\frac{1}{2}$	85 $\frac{1}{4}$	84	83
57	92	91	89 $\frac{3}{4}$	88 $\frac{1}{2}$	87 $\frac{1}{4}$	86	84 $\frac{3}{4}$	83 $\frac{1}{2}$
58	93	92	90 $\frac{3}{4}$	89 $\frac{1}{2}$	88 $\frac{1}{4}$	87	85 $\frac{3}{4}$	84 $\frac{1}{4}$
59	94	92 $\frac{3}{4}$	91 $\frac{3}{4}$	90 $\frac{1}{2}$	89 $\frac{1}{4}$	88	86 $\frac{3}{4}$	85 $\frac{1}{4}$
60	95	93 $\frac{3}{4}$	92 $\frac{3}{4}$	91 $\frac{1}{2}$	90 $\frac{1}{4}$	89	87 $\frac{3}{4}$	86 $\frac{1}{4}$
61	96	94 $\frac{3}{4}$	93 $\frac{3}{4}$	92 $\frac{1}{2}$	91 $\frac{1}{4}$	90	88 $\frac{3}{4}$	87 $\frac{1}{4}$
62	97	95 $\frac{3}{4}$	94 $\frac{3}{4}$	93 $\frac{1}{2}$	92 $\frac{1}{4}$	91	89 $\frac{3}{4}$	88 $\frac{1}{4}$
63	98	96 $\frac{3}{4}$	95 $\frac{3}{4}$	94 $\frac{1}{2}$	93 $\frac{1}{4}$	92	90 $\frac{3}{4}$	89 $\frac{1}{2}$
64	99 $\frac{1}{4}$	98	97	95 $\frac{3}{4}$	94 $\frac{1}{2}$	93 $\frac{1}{4}$	92	90 $\frac{3}{4}$
65		99	98	97	95 $\frac{3}{4}$	94 $\frac{1}{2}$	93 $\frac{1}{4}$	91 $\frac{3}{4}$
66			99 $\frac{1}{4}$	98 $\frac{1}{4}$	97	95 $\frac{3}{4}$	94 $\frac{1}{4}$	93
67				99 $\frac{1}{2}$	98 $\frac{1}{4}$	97	95 $\frac{3}{4}$	94 $\frac{1}{4}$

[26 GEO. 5. &
1 EDW. 8.]

Rochester Corporation
Act, 1936.

[Ch. lxxv.]

PART II.

A.D. 1936.

Percentage of the full superannuation allowance payable under the Local Government and Other Officers' Superannuation Act 1922 which may be paid to an officer or servant during his lifetime in order that his wife shall be entitled to receive during the remainder of her life after his death an annuity equal to one-third of the amount of such full superannuation allowance.

Age last birth-day of wife at date of retirement of officer or servant.	Age last birthday of officer or servant at date of his retirement.							
	60	61	62	63	64	65	66	67
48	80 $\frac{1}{4}$							
49	81	79 $\frac{1}{2}$						
50	81 $\frac{3}{4}$	80 $\frac{1}{4}$	78 $\frac{3}{4}$					
51	82 $\frac{1}{2}$	81	79 $\frac{1}{2}$	77 $\frac{3}{4}$				
52	83	81 $\frac{3}{4}$	80 $\frac{1}{4}$	78 $\frac{1}{2}$	76 $\frac{3}{4}$			
53	83 $\frac{3}{4}$	82 $\frac{1}{2}$	81	79 $\frac{1}{2}$	77 $\frac{3}{4}$	76		
54	84 $\frac{1}{2}$	83 $\frac{1}{4}$	81 $\frac{3}{4}$	80 $\frac{1}{2}$	78 $\frac{3}{4}$	77	75 $\frac{1}{4}$	
55	85 $\frac{1}{4}$	84	82 $\frac{3}{4}$	81 $\frac{1}{4}$	79 $\frac{3}{4}$	78	76 $\frac{1}{4}$	74 $\frac{1}{2}$
56	86	84 $\frac{3}{4}$	83 $\frac{1}{2}$	82 $\frac{1}{4}$	80 $\frac{3}{4}$	79	77 $\frac{1}{4}$	75 $\frac{1}{2}$
57	86 $\frac{3}{4}$	85 $\frac{1}{2}$	84 $\frac{1}{4}$	83	81 $\frac{1}{2}$	80	78 $\frac{1}{4}$	76 $\frac{1}{2}$
58	87 $\frac{1}{2}$	86 $\frac{1}{4}$	85	83 $\frac{3}{4}$	82 $\frac{1}{2}$	81	79 $\frac{1}{4}$	77 $\frac{1}{2}$
59	88	87	85 $\frac{3}{4}$	84 $\frac{1}{2}$	83 $\frac{1}{4}$	81 $\frac{3}{4}$	80 $\frac{1}{4}$	78 $\frac{1}{2}$
60	88 $\frac{3}{4}$	87 $\frac{3}{4}$	86 $\frac{1}{2}$	85 $\frac{1}{2}$	84 $\frac{1}{4}$	82 $\frac{3}{4}$	81 $\frac{1}{4}$	79 $\frac{3}{4}$
61	89 $\frac{1}{2}$	88 $\frac{1}{2}$	87 $\frac{1}{2}$	86 $\frac{1}{4}$	85	83 $\frac{3}{4}$	82 $\frac{1}{4}$	80 $\frac{3}{4}$
62	90 $\frac{1}{4}$	89 $\frac{1}{4}$	88 $\frac{1}{4}$	87 $\frac{1}{4}$	85 $\frac{3}{4}$	84 $\frac{1}{2}$	83 $\frac{1}{4}$	81 $\frac{3}{4}$
63	90 $\frac{3}{4}$	90	89	88	86 $\frac{3}{4}$	85 $\frac{1}{2}$	84 $\frac{1}{4}$	83
64	91 $\frac{1}{4}$	90 $\frac{1}{2}$	89 $\frac{3}{4}$	88 $\frac{3}{4}$	87 $\frac{3}{4}$	86 $\frac{1}{2}$	85 $\frac{1}{4}$	84
65	91 $\frac{3}{4}$	91	90 $\frac{1}{4}$	89 $\frac{1}{2}$	88 $\frac{1}{2}$	87 $\frac{1}{2}$	86 $\frac{1}{4}$	85
66	92 $\frac{1}{4}$	91 $\frac{1}{2}$	91	90 $\frac{1}{4}$	89 $\frac{1}{4}$	88 $\frac{1}{4}$	87 $\frac{1}{4}$	86
67	92 $\frac{1}{2}$	92	91 $\frac{1}{2}$	90 $\frac{3}{4}$	90	89	88	87

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