

Winchester Corporation Act, 1952

15 & 16 GEO. 6 & 1 ELIZ. 2 Ch. xiv

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short and collective titles.
2. Division of Act into Parts.
3. Incorporation of Lands Clauses Acts.
4. Interpretation.

PART II

LANDS AND CAR PARK

5. Power to acquire lands.
6. Correction of errors in deposited plan and book of reference.
7. Acquisition of part only of certain properties.
8. Power to expedite entry.
9. Power to enter for survey or valuation.
10. Disregard of recent improvements and interests.
11. Set-off of betterment against compensation.
12. Extinction of private rights of way.
13. Grant of easements by persons under disability.
14. Provision of substituted sites.
15. Power to reinstate owners or occupiers of property.
16. Allowances to displaced persons.
17. Agreements with adjoining owners.
18. Provision of central car park.
19. Retention and disposal of land.
20. Powers of leasing.
21. Reservation of easements etc. by Corporation.
22. Proceeds of disposal of surplus land.
23. Development of land.
24. Extension of power to acquire land by agreement.
25. Undertakings and agreements binding successive owners.

PART III

STREET WORKS

Section

- 26. Power to construct street works.
- 27. Limits of deviation.
- 28. Power to make subsidiary works.
- 29. Closing streets to vehicular traffic.
- 30. Land laid into streets to form part thereof.
- 31. Application of road materials excavated in construction of street works.

PART IV

TRANSFER OF CEMETERY UNDERTAKING

- 32. Transfer of cemetery undertaking.

PART V

STREETS

General

- 33. Interpretation of Part V.

New streets

- 34. Prohibition of building until street defined.
- 35. Prohibition of building until street formed and sewerred.
- 36. Termination of new streets.
- 37. Adjustment of boundaries of estates in connection with streets.

Improvement of streets

- 38. Trees grass verges and gardens.
- 39. Variation of width of carriageways and footways.
- 40. Adjustment of boundaries of streets.
- 41. Shelters etc. for passengers on public service vehicles.
- 42. Guard rails in private streets.
- 43. Direction signs.
- 44. Attachment of street lamps brackets etc.

Protection and repair of streets

- 45. Crossings over footways.
- 46. Retaining walls.
- 47. Fencing of forecourts.
- 48. Extension of power to contribute to expenses of private street works.
- 49. Application of Act of 1892 to parts of public streets.
- 50. Urgent repairs of private streets.
- 51. Evasion by owners of private street works expenses.

Miscellaneous

Section

- 52. Stopping up and diversion of highways.
- 53. Temporary stoppage of streets.
- 54. Means of access to buildings.
- 55. Removal of trees etc. from streets.

PART VI

SANITATION AND BUILDINGS

Sewers drains and sanitary conveniences

- 56. Recovery of expenses of sewerage public highway.
- 57. Recovery of expenses of sewerage prospective street.
- 58. Prevention of evasion of liabilities under sections 56 and 57.
- 59. Separate sewers for foul water and surface water.
- 60. Sewers for draining Corporation property.
- 61. Delegation of power to examine and test drains etc.
- 62. Summary power to remedy stopped-up drains etc.
- 63. Power to repair drains and private sewers.
- 64. Penalty for improper construction or repair of water-closet etc.
- 65. Abandoned drains to be cut off.
- 66. Closet accommodation for separate dwellings.
- 67. Power to cleanse drains etc.
- 68. Sanitary conveniences for persons employed on construction work.

Nuisances

- 69. Nuisance from pigeons etc.

Buildings and structures

- 70. Ruinous and dilapidated buildings and neglected sites.
- 71. Food storage accommodation.
- 72. Separate approach for separate tenements.
- 73. Extension of powers under section 9 of Housing Act 1936.

PART VII

INFECTIOUS DISEASES

- 74. Definition of notifiable disease.
- 75. Information to be furnished by occupier in case of notifiable disease.
- 76. Restriction on attendance at schools places of assembly etc.
- 77. Exclusion of children from entertainments etc.
- 78. Compensation for stopping employment to prevent spread of disease.
- 79. Prohibition of tuberculous persons from handling food.

PART VIII

FOOD

Section

- 80. Slaughter of animals otherwise than for human consumption.
- 81. Animals slaughtered outside slaughter-houses.
- 82. Registration of hawkers of food and their premises.

PART IX

PARKS CEMETERIES AND OTHER MUNICIPAL PROPERTY

- 83. Power to let parks etc. for games.
- 84. Parking places in parks etc.
- 85. Transmission of entertainments.
- 86. Saving for trusts etc.
- 87. Agreements to maintain graves and tombstones.
- 88. Extension of power to maintain burial grounds.

PART X

PUBLIC ORDER AND PUBLIC SAFETY

- 89. Barriers in streets.
- 90. Notice of street processions.
- 91. Touting hawking etc.

PART XI

FINANCE AND RATING

- 92. Power to borrow.
- 93. Saving for powers of Treasury.
- 94. Dividend warrants by post.
- 95. Receipts in case of minors.
- 96. Scheme for equated periods.
- 97. Application of general rate fund for certain purposes.
- 98. Capital fund.
- 99. Renewal and repairs fund.
- 100. Insurance fund.
- 101. Art fund.
- 102. Power to grant allowances or gratuities in certain cases.
- 103. Service of demand notes.
- 104. Collection and recovery of water rates and charges.
- 105. As to recovery summarily of sums due for fittings.
- 106. Expenses of public ceremonies etc.

PART XII

MISCELLANEOUS

- 107. Information centres.
- 108. Provision of lectures etc.
- 109. Facilities for engineering and science.

Section

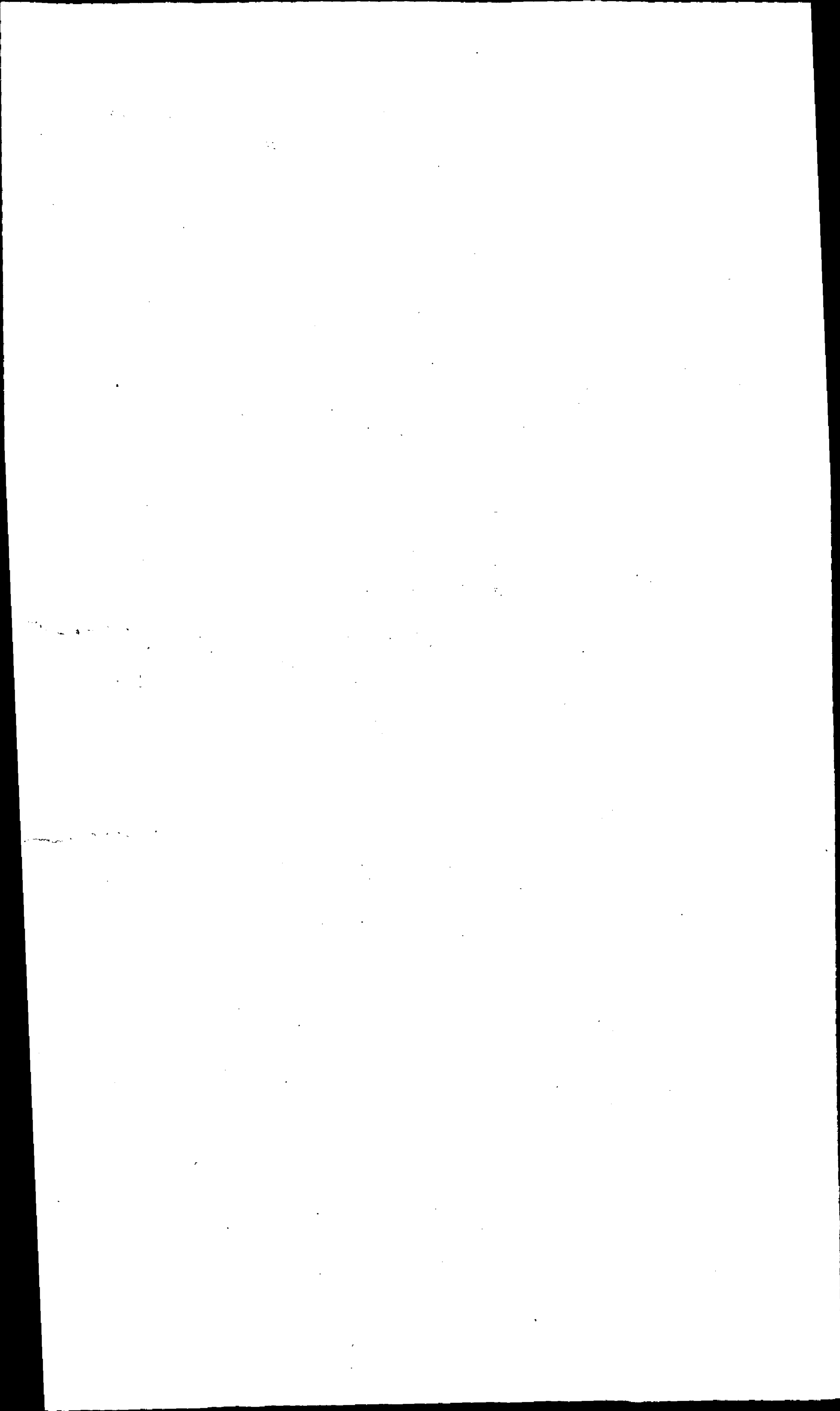
- 110. Custody of ancient documents.
- 111. Robes of office.
- 112. Planning advice etc.
- 113. Provision of slaughter-house.
- 114. Prizes for garden competitions.
- 115. Summary recovery of damages for negligence.
- 116. Powers to use ladders etc. for entry or inspection.
- 117. Power to advertise facilities of city.
- 118. Noise nuisance.
- 119. Restrictions on use of loudspeakers in streets.
- 120. Dangerous bridges.

PART XIII

GENERAL

- 121. Confirming authority for byelaws.
- 122. The appointed day.
- 123. Restriction on right to prosecute.
- 124. Appeals.
- 125. Apportionment of expenses in case of joint owners.
- 126. Breach of conditions of consent of Corporation.
- 127. In executing works for owner Corporation liable for negligence only.
- 128. Damages and charges to be settled by court.
- 129. Application of Arbitration Act.
- 130. Determination of compensation.
- 131. Inquiries by Ministers.
- 132. Application of provisions of Act of 1936.
- 133. For protection of Postmaster-General.
- 134. For protection of gas and electricity boards.
- 135. Saving for town and country planning.
- 136. Costs of Act.

SCHEDULE—Apportionment and recovery of expenses of constructing sewers.





CHAPTER xiv

An Act to empower the mayor aldermen and citizens of the city of Winchester to construct street works and to provide a parking place and a slaughter-house and to acquire lands for those and other purposes to make further provision in reference to lands to provide for the transfer to the Corporation of the undertaking of the Winchester Cemetery Company to make further provision in reference to the improvement health local government and finances of the city of Winchester and for other purposes. [9th July 1952.]

WHEREAS the city of Winchester (hereinafter called "the city") in the county of Southampton is a municipal borough under the government and local management of the mayor aldermen and citizens of the city (hereinafter called "the Corporation"):

And whereas it is expedient to empower the Corporation to construct the street works which are referred to in this Act and to provide and manage a parking place and to enact other provisions in regard thereto:

And whereas it is expedient to empower the Corporation to provide a slaughter-house:

And whereas it is expedient to empower the Corporation to acquire lands for the several purposes mentioned in this Act and to make further provision in regard to lands:

And whereas the Winchester Cemetery Company was incorporated by the Act 3 & 4 Vict. c. viii by which Act the said company was authorised to establish a cemetery in the city:

And whereas for many years no meeting of the said company has been held and there are no surviving directors:

And whereas it is expedient to transfer to the Corporation the undertaking of the said company together with its rights powers and privileges and to provide for the dissolution of the said company :

And whereas it is expedient to make further provision with reference to the improvement health and local government of the city :

And whereas it is expedient to make further provision in regard to the finances of the Corporation :

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 purposes hereinafter mentioned and such estimates are as follows :—

	£
(a) the construction of the street works authorised by this Act	33,000
(b) the provision of a parking place and the redevelopment of lands	19,000
(c) the provision of a slaughter-house	8,000
(d) the provision of equipment for a slaughter-house	3,000

And whereas the works included in such estimates are permanent works and it is expedient that the cost thereof should be spread over a term of years :

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 street works 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 Southampton and are hereinafter respectively referred to as the deposited plans sections and book of reference :

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen'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):—

J. J. J. J.
J. J. J. J.

PART I

PRELIMINARY

1.—(1) This Act may be cited as the Winchester Corporation Act 1952. Short and collective titles.

(2) The Winchester Corporation Act 1936 and this Act may together be cited as the Winchester Corporation Acts 1936 and 1952.

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

Division of Act into Parts.

- Part I.—Preliminary.
- Part II.—Lands and car park.
- Part III.—Street works.
- Part IV.—Transfer of cemetery undertaking.
- Part V.—Streets.
- Part VI.—Sanitation and buildings.
- Part VII.—Infectious diseases.
- Part VIII.—Food.
- Part IX.—Parks cemeteries and other municipal property.
- Part X.—Public order and public safety.
- Part XI.—Finance and rating.
- Part XII.—Miscellaneous.
- Part XIII.—General.

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

Provided that the bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be sufficient without the addition of the sureties mentioned in that section.

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

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

“The Act of 1933” “the Act of 1936” and “the Act of 1947” mean respectively the Local Government Act 1933 the Public Health Act 1936 and the Town and Country Planning Act 1947;

PART I
—cont.

- “Alter” and “alteration” in respect of a telegraphic line have the same meaning as in the Telegraph Act 1878 ;
- “The appointed day” has the meaning assigned to that expression by section 122 (The appointed day) of this Act ;
- “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 city” means the city of Winchester ;
- “The commission” means the British Transport Commission and any reference to the commission in relation to any functions of the commission which are for the time being delegated to an executive in pursuance of section 5 of the Transport Act 1947 shall be construed as a reference to that executive ;
- “Contravention” includes a failure to comply and “contravene” shall be construed accordingly ;
- “The Corporation” means the mayor aldermen and citizens of the city ;
- “Corporation undertaking” means the water undertaking of the Corporation and any undertaking of the Corporation for the time being existing from which revenue is derived and which is determined by a resolution of the council to be a Corporation undertaking ;
- “The council” means the council of the city ;
- “The county council” means the county council of the administrative county of Southampton ;
- “Daily penalty” means a penalty for each day on which an offence is continued after conviction therefor ;
- “The electricity board” means the Southern Electricity Board ;
- “Electric line” has the same meaning as in the Electric Lighting Act 1882 ;
- “Enactment” includes an enactment in this Act or in any general or local Act and any order byelaw or regulation for the time being in force within the city ;
- “Financial year” means the period of twelve months ending on the thirty-first day of March ;
- “Food” has the same meaning as in the Food and Drugs Act 1938 ;
- “The gas board” means the Southern Gas Board ;

- “ 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 by Part V of the Act of 1947 by the Lands Tribunal Act 1949 and by this Act ;
- “ The Minister ” means the Minister of Housing and Local Government ;
- “ Operational land ” in relation to the gas board or the electricity board has the meaning ascribed to that expression by the Act of 1947 ;
- “ Parking place ” means a place where vehicles or vehicles of any particular class or description may wait ;
- “ Slaughter-house ” has the same meaning as in the Food and Drugs Act 1938 ;
- “ The specified lands ” means the lands numbered 1 to 60 on the deposited plans ;
- “ Statutory borrowing power ” includes a power of borrowing money conferred on the Corporation by or under any enactment except paragraph (a) of subsection (1) of section 215 of the Act of 1933 ;
- “ Statutory security ” means any security in which trustees are for the time being authorised by law to invest trust moneys and any mortgage bond, debenture, debenture stock, stock or other security created by a local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities, rentcharges or securities transferable by delivery or any securities of the Corporation ;
- “ Telegraphic line ” has the same meaning as in the Telegraph Act 1878 ;
- “ The town clerk ” “ the medical officer ” “ the treasurer ” “ the surveyor ” and “ the sanitary inspector ” mean respectively the town clerk, the medical officer of health, the treasurer, the surveyor and any sanitary inspector of the city ;
- “ 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 as amended by the Lands Tribunal Act 1949.

(3) Except where the context otherwise requires any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment including this Act.

PART II

LANDS AND CAR PARK

Power to
acquire lands.

5.—(1) Subject to the provisions of this Act the Corporation may enter upon take and use such of the lands in the city delineated on the deposited plans and described in the deposited book of reference as may be required for the following purposes (namely):—

- (a) as regards the specified lands for the purposes of section 18 (Provision of central car park) and section 23 (Development of land) of this Act and for the purposes of the street works authorised by this Act;
- (b) as regards the lands numbered 61 to 98 on the deposited plans for the purposes of the street works authorised by this Act and for the purposes of section 23 (Development of land) of this Act;
- (c) as regards the lands numbered 99 on the deposited plans for the provision of a slaughter-house:

Provided that nothing in this Act shall authorise the Corporation to acquire—

- (a) any of the properties numbered 90 91 92 and 93 ; or
- (b) the interest of the Minister of Works or the Minister of Food in the properties numbered 35 and 40 ;

on the deposited plans.

(2) The powers of the Corporation for the compulsory purchase of land under this section shall cease after the expiration of five years from the first day of December nineteen hundred and fifty-two.

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

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

6.—(1) If any omission misstatement or wrong description of any land or of the owner lessee or occupier of any land is found to have been made on the deposited plans or in the deposited book of reference the Corporation after giving ten days' notice to the owner lessee and occupier of the land in question may apply to two justices having jurisdiction in the city for the correction thereof.

Correction of errors in deposited plan and book of reference.

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

(3) Any such certificate shall be deposited with the clerk of the county council and a copy thereof shall be deposited with the town clerk and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Corporation to take the land and execute the works in accordance with the certificate.

(4) Any certificate or copy deposited under this section with any person shall be kept by him with the other documents to which it relates.

7.—(1) For the purposes of this Act the following provisions of this section shall have effect in substitution for section 92 of the Lands Clauses Consolidation Act 1845.

Acquisition of part only of certain properties.

(2) No person shall be required to sell a part only of any house building or factory or of a park or garden belonging to a house if he is willing and able to sell the whole of the house building factory park or garden unless the tribunal determines—

- (a) in the case of a house building or factory that such part as is proposed to be taken can be taken without material detriment to the house building or factory; or
- (b) in the case of a park or garden that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house to which it belongs.

(3) If the tribunal determines as aforesaid compensation shall be awarded in respect of any loss due to the severance of the part proposed to be taken in addition to the value of that part and thereupon the person interested shall be required to sell to the Corporation that part of the house building factory park or garden.

8. At any time after serving a notice to treat in respect of any land that may be acquired compulsorily under this Act but not less than one month after giving the owner and occupier of the land notice of their intention to exercise the powers of this section the Corporation may enter on and take possession of the

Power to expedite entry.

PART II
—cont.

land or such part thereof as is specified in the last-mentioned notice without previous consent and without compliance with sections 84 to 90 of the Lands Clauses Consolidation Act 1845:

Provided that the Corporation shall pay the like compensation for land of which possession is taken under this section and the like interest on the compensation awarded as would have been payable if the provisions of those sections had been complied with.

Power to enter
for survey or
valuation.

9. Any person acting on behalf of the Corporation and duly authorised by the town clerk may at all reasonable times enter on any land that may be acquired compulsorily under this Act for the purpose of surveying or valuing the land:

Provided that no land shall be entered under this section unless the Corporation not less than twenty-four hours before the first entry and not less than twelve hours before any subsequent entry have given notice to the owner and occupier of the land.

Disregard
of recent
improvements
and interests.

10. In determining any question of disputed compensation or purchase money in respect of land acquired under this Act the tribunal shall not take into account—

(a) any improvement or alteration made or building erected after the fifth day of December nineteen hundred and fifty-one; or

(b) any interest in the land created after the said date; which in the opinion of the tribunal was not reasonably necessary and was made erected or created with a view to obtaining or increasing the compensation or purchase money.

Set-off of
betterment
against
compensation.

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

(a) he has an interest in any other land contiguous with or adjacent to the land so acquired; and

(b) the value of his interest in any such contiguous or adjacent land is enhanced by reason of the execution of the street works authorised by this Act or by reason of any such contiguous land becoming land fronting on any street;

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

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

12.—(1) Any private right of way over any land that may be acquired compulsorily under this Act shall if the Corporation so resolve and give notice of their resolution to the owner of the right be extinguished as from the acquisition of the land whether compulsorily or by agreement or as from the expiration of one month from the service of the notice whichever is the later.

Extinction of private rights of way.

(2) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to be paid by the Corporation compensation to be determined in case of dispute under and in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949.

13.—(1) Any person empowered by the Lands Clauses Acts to sell and convey or release lands may if he thinks fit subject to the provisions of those Acts grant to the Corporation any easement or right required for the purposes of this Act in or affecting any such lands (not being an easement or right of water in which some person other than the grantor has an interest).

Grant of easements by persons under disability.

(2) The provisions of the said Acts with respect to lands and rentcharges so far as they are applicable shall extend and apply to any such grant and to any such easement or right as aforesaid.

14. The power of the Corporation of purchasing land by agreement shall include power to purchase land by agreement for the purpose of providing substituted sites or facilities for the owners and occupiers of land that may be acquired under this Act.

Provision of substituted sites.

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

Power to reinstate owners or occupiers of property.

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

16.—(1) The Corporation may pay to any person displaced from any building acquired under this Act and carrying on a trade or business therein such reasonable allowance as they think fit towards the loss which in their opinion he will sustain by reason of the disturbance of his trade or business in consequence of his having to quit the building.

Allowances to displaced persons.

(2) In estimating the said loss the Corporation shall have regard to the period for which the premises occupied by that person might reasonably have been expected to be available for the purpose of his trade or business and the availability of other premises suitable for that purpose.

PART II
—cont.Agreements
with
adjoining
owners.

(3) The provisions of this section shall be in addition to and not in derogation of any enactment or any rule of law relating to compensation for disturbance.

17.—(1) The Corporation may enter into and carry into effect agreements with any person being the owner of or interested in any land abutting on any portion either of the street works authorised by this Act or of land that may be acquired under this Act with respect to the sale by the Corporation to him of any land.

(2) The Corporation may accept as satisfaction of the whole or any part of the consideration for any such sale the grant by the purchaser of any land required by the Corporation for the purposes of this Act.

Provision of
central car
park.

18.—(1) The Corporation may upon the whole or any part of the specified lands provide maintain and manage a parking place together with all necessary buildings conveniences and appurtenances and may from time to time vary the position and size of such parking place upon the specified lands.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section the Corporation may exercise the following powers upon and in respect of the whole or any part of the specified lands:—

- (a) They may lay out those lands and adapt the same for use as a parking place and may construct and provide roads paths ramps steps and gardens ;
- (b) They may provide and maintain cloakrooms waiting-rooms shelters offices information bureaux and displays lavatories and conveniences ;
- (c) They may make reasonable charges for the use of the parking place or any building or structure ;
- (d) They may make byelaws as to the use of the parking place and in particular as to the vehicles or class of vehicles which may be entitled to use the same and the conditions upon which such parking place may be used ;
- (e) They may set aside part of the specified lands to be used as stands for hackney carriages and as offices and shelters in connection therewith.

(3) So much of the specified lands as is in accordance with paragraph (e) of subsection (2) of this section for the time being set aside to be used as a stand or stands for hackney carriages and is by notice boards or in some other manner clearly designated as having been so set apart shall not be deemed to form part of the parking place for the purposes of paragraph (d) of

that subsection but for the purposes of the Town Police Clauses Act 1847 shall be deemed to be a stand fixed by the council in accordance with section 68 of that Act.

PART II
—cont.

(4) The Corporation may upon such terms and conditions and subject to such restrictions and for such period as they may think fit lease to any person the right to collect and retain such reasonable charges for the use of the said parking place buildings or structures as the Corporation may approve.

19.—(1) The Corporation may—

- (a) retain and hold and use for such time as they think fit any land or interest in land acquired by them under this Act ;
- (b) sell lease exchange or otherwise dispose of any such land or interest in such manner and for such consideration and on such terms and conditions as they think fit (whether in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of payment in any other form) ;
- (c) appropriate any such land for any purpose for which they are authorised to acquire land ;
- (d) sell exchange or dispose of any rents reserved on the sale lease exchange or other disposition of any such land or interest ;
- (e) make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition ;
- (f) on any such exchange pay or receive money for equality of exchange :

Retention and
disposal of
land.

Provided that the Corporation shall not without the consent of the Minister sell lease exchange or otherwise dispose of any such land or any interest therein at a price or rent or for a consideration of a value less than the current market value of the land or interest but a purchaser or lessee shall not be concerned to inquire whether the consent of the Minister is necessary or has been obtained.

(2) Nothing in this section shall release the Corporation or any person purchasing or acquiring any land or interest in land 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 the land or interest has been conveyed or leased to or otherwise acquired by the Corporation or any persons from or through whom the Corporation have derived title to it.

PART II
—cont.Powers of
leasing.

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

- (a) accept a surrender of any lease of the land granted by them and grant either to the lessee or tenant under the surrendered lease or to any other person a new lease of all or any of the land leased by the surrendered lease ;
- (b) grant reversionary leases of all or any of the said land ;
- (c) enter into and carry into effect any agreement for or with respect to the surrender or grant of any such lease ;
- (d) in any such lease or agreement give to the lessee or tenant or intended lessee or tenant on such terms and conditions as the Corporation think fit an option to purchase the fee simple in reversion or other the reversionary interest of the Corporation in all or any of the land leased or agreed to be leased.

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

21. On selling any land the Corporation—

- (a) may reserve to themselves all or any part of the water rights or other rights or easements belonging thereto and may make the sale subject to such reservation accordingly ;
- (b) may make the sale subject to such other reservations special conditions restrictions and provisions with respect to the exercise of noxious trades or the deposit or discharge of manure sewage or other impure matter or otherwise as they think fit.

Reservation
of easements
etc. by
Corporation.

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

(2) Any capital money so received and not so applied shall (subject to the provisions of section 98 (Capital fund) of this Act) be applied in or towards the extinguishing of any loan raised by the Corporation under any enactment.

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

(4) Any capital money received by the Corporation on the resale or exchange of or by leasing any land acquired under any enactment other than this Act shall be applied in the same

Proceeds of
disposal of
surplus land.

manner as capital money received under that enactment is applicable or in such other manner as may be approved by the Minister.

PART II
—cont.

23.—(1) The Corporation may lay out and develop the whole or any part of the lands mentioned in paragraph (a) or paragraph (b) of subsection (1) of section 5 (Power to acquire lands) of this Act and (with the consent of the Minister) any other land for the time being belonging to them and not required for the purpose for which it was acquired and may on any such lands erect and maintain houses shops offices warehouses and any other buildings and construct sewer drain pave channel and kerb streets roads and highways: Development of land.

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

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

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

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

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

(4) Section 79 (Further powers for the acquisition of land) of the Winchester Corporation Act 1936 is hereby repealed and any land acquired under that section shall be deemed to have been acquired under this section.

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

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

PART II
—cont.

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

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

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

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

PART III

STREET WORKS

Power to
construct
street works.

26. Subject to the provisions of this Act the Corporation may within the city make and maintain in the lines and according to the levels shown on the deposited plans and sections the street works referred to in this section together with all necessary and proper works and conveniences connected therewith or incidental thereto (that is to say):—

Street Work No. 1 A widening and improvement of Upper Brook Street on the easterly side thereof ;

Street Work No. 2 A widening and improvement of Middle Brook Street on the westerly side thereof ;

Street Work No. 3 A widening and improvement of Saint George's Street on both sides thereof.

Limits of
deviation.

27. In the construction of the street works authorised by this Part of this Act the Corporation may deviate from the lines thereof as shown on the deposited plans to any extent not exceeding the limits of deviation shown on those plans and from the levels thereof as shown on the deposited sections to any extent not exceeding five feet either upwards or downwards.

Power to make
subsidiary
works.

28. Within the limits of deviation shown on the deposited plans the Corporation in connection with and for the purposes of this Act and as part of the street works authorised by this Part of this Act may execute or do any of the following works or things:—

(a) make junctions and communications with any existing streets (whether or not they are dedicated to the public use or repairable by the inhabitants at large) intersected or interfered with by or contiguous to the said street works and divert widen or alter the line or alter the level of any such existing street for the purpose of connecting the same with the street works ;

- (b) execute any works for the protection of any adjoining land or buildings ;
- (c) execute any works and do any things necessary for the strengthening and supporting of any walls of adjoining buildings ;
- (d) alter or remove any monument drinking-trough lamp-post refuge railings or other structure erected upon any street or land ; and
- (e) raise sink or otherwise alter the position of any of the steps areas cellars windows and pipes or spouts belonging to any house or building and remove all other obstructions so that the same be done with as little delay and inconvenience to the inhabitants as the circumstances of the case will admit ;

and shall make compensation for any damage done by them in exercise of the powers of this section.

29.—(1) The Corporation may close to vehicular traffic to such extent as they may determine so much of Saint Peter Street and Upper Brook Street as is shown on the deposited plans as intended to be closed to vehicular traffic :

Closing streets to vehicular traffic.

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

(2) The Corporation shall pay compensation to all persons interested in respect of any private rights of way extinguished by virtue of this section and such compensation shall in case of dispute be determined in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949.

30. All lands acquired by the Corporation under this Act and laid into or appropriated as part of any street shall form part of that street and shall be maintained and repaired in all respects as the rest of that street is for the time being by law maintained and repaired.

Land laid into streets to form part thereof.

31. Any paving metalling or like materials excavated by the Corporation in the construction of the street works authorised by this Part of this Act from any road under their jurisdiction and control shall absolutely vest in and belong to the Corporation and may be dealt with removed and disposed of by them in such manner as they may think fit.

Application of road materials excavated in construction of street works.

PART IV

TRANSFER OF CEMETERY UNDERTAKING

Transfer of
cemetery
undertaking.

32.—(1) In this section—

“the company” means the Winchester Cemetery Company ;

“the date of transfer” means the first day of April nineteen hundred and fifty-three ;

“the undertaking” means the undertaking of the company and includes the cemetery and properties numbered 100 and 101 on the deposited plans and all lands buildings premises apparatus furniture fittings working stock monuments books of account papers documents and all real and personal property of the company.

(2) On the date of transfer the undertaking shall by virtue of this Act be transferred to and vest in and become the property of the Corporation.

(3) As from the date of transfer—

(a) the Corporation shall pay and discharge the debts outgoings and liabilities of the company ;

(b) all rights powers and privileges vested in or had and enjoyed by the company shall as from the date of transfer be transferred to and vested in and may be had and enjoyed by the Corporation ; and

(c) subject to the provisions of this section the Corporation shall be deemed to have acquired the undertaking of the company in pursuance of the provisions of the Public Health (Interments) Act 1879.

(4) On the date of transfer—

(a) the Act 3 & 4 Vict. c. viii shall be repealed ; and

(b) the company shall by virtue of this Act be dissolved and cease to exist.

PART V

STREETS

General

Interpretation
of Part V.

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

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

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

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

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

New streets

34.—(1) Where a plan and sections of a new street have been deposited with the Corporation in pursuance of street byelaws and have been approved by them no person shall without their consent begin to erect a building on land abutting on the street until he has defined by posts or in some other suitable manner the approved line width and level of so much of the street as abuts on the land on which the building is to be erected and on any land which will be occupied in connection with the building.

Prohibition
of building
until street
defined.

(2) Where the approved width of a new street has been defined as aforesaid no person shall begin to erect a building or structure nearer to the centre of the street than the line of the posts or other marks by which the width has been so defined.

(3) If any person contravenes the provisions of either of the foregoing subsections he shall be liable to a penalty not exceeding twenty pounds and the Corporation may—

(a) in the case of a contravention of subsection (1) define as aforesaid the approved line width and level of the new street; and

(b) in the case of a contravention of subsection (2) remove the building or structure;

and in either case recover the expenses of so doing from that person.

35.—(1) Where a plan and sections of a new street deposited with the Corporation in pursuance of street byelaws are approved by them they may by notice prohibit the erection of any building on land abutting on the street until the carriageway of the street has been constructed and the street has been sewered in accordance with the said byelaws:

Prohibition
of building
until street
formed and
sewered.

Provided that where the plan shows that the street will exceed one hundred yards in length the Corporation shall divide the street for the purpose of the notice into lengths not exceeding one hundred yards and each such length shall for that purpose be treated as a separate street.

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

PART V
—cont.

(3) If any person contravenes the provisions of any such notice he shall be liable to a penalty not exceeding twenty pounds and the Corporation may construct the carriageway and works of sewerage which should have been constructed and recover the expenses of so doing from that person :

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

(4) The execution of any works under the provisions of this section shall not relieve any person from any liability under the Private Street Works Act 1892 or any local Act relating to private street works for the time being in force in the city.

Termination
of new
streets.

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

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

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

(3) Where in pursuance of a notice under subsection (1) of this section any structure existing at the passing of this Act is removed the owner of such structure shall be entitled to be paid by the Corporation compensation to be determined in case of dispute in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949.

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

Provided that this subsection shall have effect subject to the provisions of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 with respect to the

avoidance of any such notice for want of registration as a local land charge.

PART V
—cont.

37.—(1) Where a plan and sections of a new street deposited with the Corporation in pursuance of street byelaws are approved by them they may for the purpose of securing the proper laying out or development of any estate through which the street is to run by notice require that such provision shall be made—

Adjustment of boundaries of estates in connection with streets.

(a) for adjusting and altering the boundaries of the estate and any other estate adjacent or near thereto and for effecting exchanges of land in connection therewith; and

(b) for the removal modification or imposition of covenants restrictions and conditions attaching to the land comprised in the estate or any such other estate;

as may be necessary or desirable having regard to the line and layout of the new street.

(2) Any such notice shall be given to the owners of all the estates affected thereby.

(3) The powers conferred by subsection (1) of this section may also be exercised on the approval of a plan for the widening of an existing street or the widening or adaptation of a road foot-path or way so as to form a new street.

(4) The provision so to be made and the terms and conditions upon which it is to be made shall failing agreement between the Corporation and the persons interested in the respective estates be determined by a single arbitrator to be appointed in default of agreement by the Minister.

(5) An agreement or award made under this section may provide for the payment of money by the Corporation but no such award shall provide for the payment of money by any other person without his consent.

(6) Any award made under this section shall operate to effect any adjustment or alteration of boundaries or exchange of land or the removal modification or imposition of covenants restrictions and conditions attaching to any land which may be provided for by the award and shall be duly stamped accordingly.

(7) The costs and expenses of any arbitration under this section shall unless and except in so far as the award may otherwise provide be paid by the Corporation.

(8) Any land or money received by any person in respect of any adjustment or alteration of boundaries or exchange of land under this section shall be held by him subject to the same trusts (if any) as the land exchanged therefor.

(9) Any land received by any person as aforesaid shall also be held subject to the same covenants restrictions and conditions

PART V
—cont.

if any so far as the same are applicable as the land exchanged therefor and any such covenants restrictions or conditions shall be deemed to be applicable unless otherwise provided in an agreement or award made under this section.

(10) For the purposes of this section the Corporation may themselves purchase any land by agreement and—

- (a) may sell or lease the whole or part of any land so purchased at such time and at such price and on such conditions as they think fit ; or
- (b) may exchange the whole or part of any such land for other land at such time and on such conditions as they think fit and pay or receive money for equality of exchange ; or
- (c) may appropriate any such land for any purpose approved by the Minister ;

and until any such sale lease exchange or appropriation may occupy manage or let the land or any part thereof in such manner as they think reasonable :

Provided that the Corporation shall not without the consent of the Minister sell or lease any such land at a price or rent or for a consideration of a value less than the current market value of the land but a purchaser or lessee shall not be concerned to inquire whether such consent is necessary or has been obtained.

(11) In this section the expression “ estate ” includes any parcel of land.

Improvement of streets

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

- (a) to plant trees or shrubs in any street in the city or in tubs placed by them for the purpose in any such street ;
- (b) to lay out grass verges or gardens in any such street ;
- (c) to erect and maintain guards or fences and otherwise do anything expedient for the maintenance or protection of such trees shrubs tubs grass verges or gardens ;
- (d) to cut down any such tree or shrub to remove any such tub and to abolish any such grass verge or garden or enlarge or diminish the area thereof ;
- (e) by notice to prohibit persons from entering upon or causing or permitting horses cattle or vehicles to enter upon any such grass verge which is maintained in an ornamental condition or mown or any such garden.

(2) Any such notice as is referred to in paragraph (e) of the foregoing subsection shall be conspicuously posted on or in

proximity to the grass verge or garden to which it relates and if any person contravenes a notice so posted he shall be liable to a penalty not exceeding twenty shillings.

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

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

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

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

(6) Nothing in this section shall affect the duty of the Corporation to provide footpaths or grass or other margins under section 58 of the Road Traffic Act 1930.

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

Variation of
width of
carriageways
and footways.

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

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

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

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

PART V
—cont.
Adjustment of
boundaries
of streets.

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

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

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

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

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

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

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

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

(7) In this section the expression “ratepayers” has the same meaning as in the Rating and Valuation Act 1925.

Shelters etc.
for passengers
on public
service
vehicles.

41.—(1) In any street in the city or on land belonging to the Corporation and abutting on any such street the Corporation may subject to the provisions of this section erect and maintain at stopping places on the routes of public service vehicles—

(a) shelters and other accommodation for persons intending to travel by such vehicles ; and

(b) barriers for the regulation of queues of such persons.

(2) The Corporation shall not exercise the powers of this section—

(a) without the consent of the Minister of Transport in any street being a trunk road or on land abutting on any such street ; or

(b) without the consent of the undertakers concerned—

(i) in or upon any bridge carrying a street over any railway or the approaches thereto or under a bridge carrying a railway over any street ; or

(ii) in any street belonging to and repairable by any railway undertakers or passenger road transport undertakers and forming the approach to any station or depot of such undertakers ; or

(iii) so as to obstruct or interfere with the access to or exit from any station or depot of any railway undertakers or passenger road transport undertakers ; or

(c) without the consent of the owner of the land concerned in any street or on land abutting on any street in such manner as to obstruct an existing access to any land abutting on such street.

(3) Any consent required by this section shall not be unreasonably withheld but may be given subject to any reasonable conditions including a condition that the Corporation shall remove any shelter or other accommodation or barriers either at any time or at or after the expiration of a period if reasonably required so to do by the person giving the consent.

(4) Any question arising as to whether any consent required by this section has been unreasonably withheld or has been given subject to unreasonable conditions or whether the removal of any shelter or other accommodation or barriers has been unreasonably required shall—

(a) in the case of a consent of the Minister of Transport be referred to and determined by an arbitrator ;

(b) in any other case be referred to and determined by the Minister of Transport.

(5) The Corporation may enter into and carry into effect agreements with any person authorised to run public service vehicles within the city in relation to the erection maintenance and use of any such shelter or other accommodation or barriers and as to the contributions to be made by any such person towards the cost of the provision and maintenance thereof.

(6) In this section the expression “public service vehicle” has the same meaning as in the Road Traffic Acts 1930 to 1947.

42.—(1) So much of section 149 of the Public Health Act 1875 as relates to fences and posts for the safety of foot-passengers in streets repairable by the inhabitants at large shall extend to streets in the city which are not so repairable. Guard rails in private streets.

PART V
—cont.

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

(a) in any street belonging to or repairable by any transport undertakers and forming the approach to any station or depot of those undertakers; or

(b) so as to obstruct or interfere with the access to or exit from any station or depot of any transport undertakers:

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

(3) In this section the expression “transport undertakers” means any railway or passenger road transport undertakers.

Direction
signs.

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

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

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

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

Attachment of
street lamps
brackets etc.

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

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

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

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

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

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

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

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

“appropriate authority” means a court of summary jurisdiction except that in relation to a building mentioned in the first column of the following table it means the

PART V
—cont.

Minister specified in relation thereto in the second column of that table:—

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

“ building ” includes a structure and a bridge or aqueduct over a street ;

“ owner ” means—

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

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

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

and the expression “ owned ” shall be construed accordingly.

Protection and repair of streets

Crossings over
footways.

45.—(1) Where the owner or occupier of any premises in the city which abut on any street repairable by the inhabitants at large habitually uses or permits to be used any grass verge or kerbed or paved footway in the street as a crossing for any horse or horse-drawn or mechanically propelled vehicle (other than a

motor-cycle) in passing to and from those premises the Corporation may by notice to the owner or occupier (as the case may be) either—

- (a) require the construction across the grass verge or footway of a carriage-crossing constructed of such materials and in such manner as may be specified in the notice ; or
- (b) in the case of a footway require it to be strengthened or adapted in such manner as may be so specified ; or
- (c) impose such other reasonable conditions on the use of the grass verge or footway as a crossing as aforesaid as may be so specified :

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

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

(3) If the Corporation make any requirement under paragraph (a) or paragraph (b) of subsection (1) of this section such works as may be necessary to secure compliance with that requirement may be executed by the Corporation and not by any other person and the Corporation may recover the expenses of executing the works from the owner or occupier.

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

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

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

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

PART V
—cont.

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

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

- (c) The Corporation shall give the applicant notice of their decision under the foregoing paragraph and if they approve the work proposed or propose alternative work shall furnish him with an estimate of the cost of the work as approved or proposed by them;
- (d) The applicant may deposit with the Corporation the amount of the said estimate and require them to execute the work as approved or proposed by them but shall not himself execute any such work;
- (e) As soon as practicable after such a deposit has been made the Corporation shall execute the work as approved or proposed by them and any difference between the sum deposited and the actual cost of the work shall be paid to or by the Corporation by or to the applicant as the case may require.

Retaining
walls.

46.—(1) In this section the expression “retaining wall” means a wall which—

- (a) serves or is intended to serve as a support for earth or other material on one side only; and
- (b) does not form part of a permanent building;

and this section applies to any length of a retaining wall being a length—

- (i) any cross-section whereof is wholly or partly within twelve feet of a street in the city; and
- (ii) which is at any point of a greater height than six feet above the level of the ground at the boundary of the street nearest that point.

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

(3) Any person aggrieved by the refusal of the Corporation to approve any plans sections and specifications submitted to them in pursuance of the last foregoing subsection may appeal to a court of summary jurisdiction.

(4) If any length of a retaining wall to which this section applies—

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

(b) having been erected before the passing of this Act or erected in contravention of subsection (2) of this section is so constructed as to be liable as aforesaid ;

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

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

(6) The provisions of this section shall not apply to a retaining wall erected by the Minister of Transport on a trunk road.

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

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

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

49.—(1) In this section the expression “ private street works ” has the same meaning as in section 6 of the Private Street Works Act 1892. Application of Act of 1892 to parts of public streets.

PART V
—cont.

(2) Notwithstanding anything contained in the said Act of 1892 where it appears to the Corporation that by reason of additions made otherwise than by the giving up for the purpose by the Corporation of lands owned by them to an existing foot-path, bridle-path or other way repairable by the inhabitants at large (not being or comprising a carriageway) a new street has been formed the Corporation may in respect of such street or any part of such street carry out private street works under the provisions of the said Act of 1892 and apportion the expenses thereof on the premises fronting adjoining or abutting on such street or such part thereof as if no part of the said street was so repairable.

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

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

Urgent repairs
of private
streets.

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

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

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

Evasion by
owners of
private street
works
expenses.

51.—(1) If—

- (a) any owner of land fronting adjoining or abutting on a private street in the city transfers the part or any portion of the part of that land which fronts adjoins or abuts on that street; and
- (b) any expenses of private street works in or in relation to that street are apportioned on that part or portion of that land; and

(c) the Corporation are unable to recover those expenses in whole or in part from the person to whom that part or portion of the land was transferred or by the sale thereof; and

(d) a court of summary jurisdiction is satisfied that the transfer was intended for the purpose of evading the payment of any expenses of private street works;

then the expenses so apportioned or so much thereof as has not been recovered by the Corporation may to such extent as the court may determine be recovered from the owner in the same manner as expenses of private street works may be recovered as though he had not made the transfer.

(2) In this section the following expressions have the following meanings:—

“private street” means a street within the meaning of the Private Street Works Act 1892 or land which is deemed to be a private street by virtue of subsection (2) of section 48 of the Act of 1947;

“private street works” means works executed under the Private Street Works Act 1892 or in relation to land which is deemed to be a private street as aforesaid works executed under that Act as applied by subsection (3) of the said section 48;

“transfer” includes any disposal of land whether by way of sale lease exchange gift or otherwise and “transfers” shall be construed accordingly.

Miscellaneous

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

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

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

(2) An application or order under this section—

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

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

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

and in relation to any application or order in respect of a part of a highway or two or more highways or parts of highways

PART V
—cont.

any reference in the subsequent provisions of this section to a highway shall be construed as a reference to that part or those highways or parts of highways as the case may be.

(3) No application or order shall be made under this section with respect to a trunk road or a public path within the meaning of Part IV of the National Parks and Access to the Countryside Act 1949.

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

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

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

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

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

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

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

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

(7) An appeal against a decision of a court of summary jurisdiction under this section may be brought to quarter sessions

by any person (including the Corporation and the local planning authority) who was entitled under the last foregoing subsection to be and was or claimed to be heard on the application and for the purposes of the provisions of the Summary Jurisdiction Act 1879 as amended by the Summary Jurisdiction (Appeals) Act 1933 with respect to appeals to quarter sessions—

- (a) a refusal by a court of summary jurisdiction to make an order under this section shall be deemed to be an order ;
- (b) where more than two persons were heard or claimed to be heard in opposition to the application it shall be sufficient if a notice of appeal against a refusal to make an order upon that application is served upon any two of those persons in addition to the clerk of the court but without prejudice to the right of any of those persons to appear as respondents to the appeal ;
- (c) any appeal under this section whether against an order or against a refusal to make an order shall be in the nature of a rehearing.

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

- (a) as a lump sum ; or
- (b) by annual payments of such amount and continuing for such number of years as may be agreed or determined as aforesaid.

(9) Every order made under this section—

- (a) shall have annexed thereto a plan signed by the chairman of the court ; and
- (b) shall be transmitted by the clerk of the court to the clerk of the peace for the city together with any written consents produced to the court under subsection (5) of this section ;

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

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

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

PART V
—cont.
Temporary
stoppage of
streets.

53. For the purpose of—

- (a) the street works authorised by Part III (Street works) of this Act ; or
- (b) making any new street for the purpose of which premises have been purchased under section 154 of the Public Health Act 1875 ; or
- (c) providing a parking place for vehicles under section 68 of the Public Health Act 1925 ;

the Corporation may break up and for any reasonable time stop up divert and interfere with any street in the city and divert the traffic therefrom and prevent persons using it :

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

- (i) as respects any trunk road without the consent of the Minister of Transport ; or
- (ii) so as to deprive foot-passengers bona fide going to or from any building or land in the street of reasonable access to the building or land ; or
- (iii) so as to obstruct or interfere with the access to or exit from any station or depot of any railway undertakers or passenger road transport undertakers or any operational land or depot of the gas board or the electricity board.

Means of
access to
buildings.

54.—(1) Where the plans of any new building intended or adapted for use as a house have been deposited with the Corporation in pursuance of building byelaws they may by notice prohibit either the erection of the building or the sale letting or occupation thereof (as may be specified in the notice) until sufficient means of communication are provided between the building and a street which either is a highway repairable by the inhabitants at large or has been laid out and constructed in accordance with street byelaws.

(2) Any such notice shall be given to the person by whom or on whose behalf the plans were deposited—

- (a) before or together with the notice required to be given under subsection (2) of section 64 of the Act of 1936 ; or
- (b) where the plans have been passed but the erection of the building has not begun before the passing of this Act at any time before the erection thereof has begun ;

and the prohibition imposed by any such notice shall be binding on successive owners of the building.

(3) If it appears to the Corporation to be necessary any such notice may require that the provision of the means of communication shall include the carrying out of constructional work not exceeding that required for a new street by street byelaws.

(4) If any person contravenes any notice under this section he shall be liable to a penalty not exceeding twenty pounds and the Corporation may themselves provide the means of communication to which the notice refers and recover the expenses of so doing from that person:

PART V
—cont.

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

55. If any tree or structure or any part thereof shall fall on or across any street so that obstruction is caused or is likely to be caused to persons or vehicles using such street the Corporation may remove the same and recover the reasonable cost of so doing from the owner thereof or if such owner was not in beneficial occupation of the land upon which such tree or structure or any part thereof was situated from the occupier thereof.

Removal of
trees etc.
from streets.

PART VI

SANITATION AND BUILDINGS

Sewers drains and sanitary conveniences

56.—(1) Where the council—

(a) resolve to construct a sewer in a street or part of a street in the city being a street or part which is repairable by the inhabitants at large and has not been previously sewered; and

(b) include in the resolution a declaration that the construction of the sewer will in the opinion of the council increase the value of premises fronting adjoining or abutting on the street or that part thereof;

Recovery of
expenses of
sewering
public
highway.

then the provisions of the schedule to this Act shall have effect as respects the apportionment and recovery by the Corporation of the expenses incurred in constructing the sewer:

Provided that all liabilities under the said schedule in respect of the sewer shall cease at the expiration of two years from the date when the resolution becomes operative if the construction of the sewer is not then complete.

(2) Notice of any such resolution shall be published by the Corporation in a local newspaper circulating in the city and the resolution shall become operative for the purposes of this section and the said schedule on the date of such publication.

(3) Either—

(a) a copy of any such newspaper containing any such notice; or

PART VI
—cont.

- (b) a photostatic or other reproduction certified by the town clerk to be a true reproduction of a page of any such newspaper bearing the date of its publication and containing any such notice ;

shall be evidence of the publication of the notice and of the date of the publication.

Recovery of
expenses of
sewering
prospective
street.

57. Where land in the city in which a length of sewer has been constructed after the passing of this Act at the expense of the Corporation becomes a street (whether repairable by the inhabitants at large or not) then the provisions of the schedule to this Act shall have effect as respects the apportionment and recovery by the Corporation of the expenses incurred in constructing the length of sewer :

Provided that where compensation due to the owner of any land in respect of damage sustained by reason of the construction therein of the length of sewer has been diminished by setting off any sum on account of the enhancement in value of the land by reason aforesaid this section shall not apply to so much of the length of sewer as has been constructed in that land.

Prevention of
evasion of
liabilities
under sections
56 and 57.

58.—(1) If on a complaint by the Corporation to a court of summary jurisdiction it is proved to the satisfaction of the court—

- (a) that by reason of any transfer of land any part of any premises (hereafter in this section referred to as “the severed part”)—

(i) has ceased to be included in premises fronting adjoining or abutting on a street or part of a street to which section 56 (Recovery of expenses of sewer-ing public highway) of this Act applies ; or

(ii) has been excluded from premises which have subsequently become premises fronting adjoining or abutting on a street to which section 57 (Recovery of expenses of sewer-ing prospective street) of this Act applies or has ceased to be included in premises fronting adjoining or abutting on such a street ; and

- (b) that the transfer was intended for the purpose of evading liability under the schedule to this Act imposed by the said section 56 or the said section 57 as the case may be ;

then the court may make such order under the following provisions of this section as it thinks just for the purpose of ensuring that the said liability is not evaded by reason of the transfer.

(2) Any such order may direct—

(a) that for the purposes of paragraph 2 of the said schedule the severed part shall be deemed to be premises fronting adjoining or abutting on the street or part of the street in question and shall be deemed to have had at the relevant date within the meaning of the said schedule such frontage on the street as may be specified in the order ;

(b) that for the purposes of sub-paragraph (a) of paragraph 6 of the said schedule the site of a new building erected on the severed part and the land occupied therewith shall be deemed to have such frontage on the street or part of the street as may be specified in the order ;

(c) that any such amendment shall be made of any entry in the register of local land charges as may be specified in the order including an amendment taking effect as from a past date.

(3) Any order made under paragraph (a) of subsection (2) of this section may also direct that any premises from which the severed part has been excluded or in which it has ceased to be included shall not be deemed to be premises fronting adjoining or abutting on the street or part of the street or shall be deemed to have such frontage as may be specified in the order.

(4) Orders under any provision of subsection (2) of this section may be made on separate complaints made by the Corporation at different times.

(5) For the purposes of this section the expression “ transfer ” includes any disposal of land whether by way of sale lease exchange gift or otherwise.

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

Separate
sewers for
foul water
and surface
water.

60. The Corporation shall have the like powers and be subject to the like restrictions in respect of the construction of sewers by them within or without the city for the purpose only of draining property belonging to them as under the provisions of Part II of the Act of 1936 they have and are subject to in respect of the construction of public sewers within or without the city (as the case may be) but save as aforesaid the proviso to subsection (2) of section 20 of the Act of 1936 (which provides that a sewer constructed by a local authority for the purpose

Sewers for
draining
Corporation
property.

PART VI
—cont.

only of draining property belonging to them shall not be deemed to be a public sewer for the purposes of that Act until it has been declared so to be) shall apply to any such sewer constructed by them.

Delegation of
power to
examine and
test drains etc.

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

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

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

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

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

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

Summary
power to
remedy
stopped up
drains etc.

62.—(1) If it appears to the medical officer or the sanitary inspector that on any premises in the city a drain private sewer water-closet or soil-pipe is stopped up he may by notice require the owner or occupier of the premises to remedy the defect within such period (not being less than forty-eight nor more than ninety-six hours from the service of the notice) as may be specified in the notice.

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

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

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

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

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

PART VI
—cont.

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

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

63.—(1) If any drain or private sewer in the city—

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

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

Power to
repair drains
and private
sewers.

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

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

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

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

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

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

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

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

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

PART VI
—cont.

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

- (a) if after the commission of the offence has been proved the original defendant proves that the offence was due to the act or default of that other person that other person may be convicted of the offence ; and
- (b) if the original defendant further proves that he used all due diligence to secure that the water-closet drain or soil-pipe in question was so constructed or repaired as not to be prejudicial to health or a nuisance he shall be acquitted of the offence.

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

- (a) the prosecutor as well as the person whom the original defendant charges with the offence shall have the right to cross-examine the original defendant if he gives evidence and any witness called by him in support of his pleas and to call rebutting evidence ; and
- (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

Abandoned
drains to be
cut off.

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

- (a) reconstruct any drain which communicates with any sewer or other drain ;
- (b) lay such drain in a new position ; or
- (c) on the occasion of the execution of any works to or in connection with such drain permanently discontinue the use of such drain ;

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

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

Closet
accommoda-
tion for
separate
dwellings.

66. For the purposes of section 44 of the Act of 1936 any part of a building in the city being a part occupied as a dwelling shall be treated as a separate building and where two or more

parts of such a building are occupied as dwellings by separate families each such part shall be treated as a separate building:

PART VI
—cont.

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

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

68.—(1) The Corporation may by notice require a contractor engaged in or upon any building operations or the construction or reconstruction of any works in the city within such time as may be specified in the notice— Sanitary
conveniences
for persons
employed on
construction
work.

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

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

if it is reasonably practicable so to do :

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

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

Nuisances

69.—(1) For the purpose of abating or mitigating any nuisance annoyance or damage caused in the city by house-doves pigeons or starlings having or believed by the Corporation to have no owner or of preventing or minimising any such nuisance annoyance or damage which might in the opinion of the Corporation be so caused the Corporation may notwithstanding anything in the Larceny Act 1861 or in any other Act or at common law— Nuisance from
pigeons etc.

(a) seize and humanely destroy or cause to be seized and humanely destroyed any such house-doves pigeons or starlings in excess of such number as the Corporation consider reasonable ;

PART VI
—cont.

- (b) sell or otherwise dispose of or cause to be sold or otherwise disposed of the carcasses of any such house-doves pigeons or starlings; and
- (c) take such other steps as they think necessary for any such purpose:

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

- (i) enter upon any premises (other than a public highway) without the consent of the occupier or the person having the exclusive control and management of the premises; or
- (ii) execute or do any work or thing affecting the structure of any building or the use of any land without the consent of the owner of the building or land.

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

Buildings and structures

Ruinous and dilapidated buildings and neglected sites.

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

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

- (a) to execute such works of repair or restoration; or
- (b) if he so elects to take such steps for demolishing the building or any part thereof and removing any rubbish or other material resulting from or exposed by the demolition;

as may be necessary for remedying the cause of complaint.

(3) Where rubbish or other material resulting from or exposed by the demolition or collapse of a building or part of a building in the city is lying on the site of the building or that part thereof or on any land occupied with the building and by reason thereof the site or land is in such a condition as to be seriously detrimental to the amenities of the neighbourhood the Corporation may by notice require the owner of the site or land within a reasonable time specified in the notice to take such steps for removing the rubbish or material as may be necessary for remedying the cause of complaint.

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

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

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

71.—(1) Every house erected in the city after the passing of this Act shall be provided with sufficient and suitable accommodation for the storage of food and any other house in the city not so provided shall if reasonably practicable be so provided within one month from the service by the Corporation on the owner thereof of a notice requiring it to be so provided. Food storage accommodation.

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

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

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

(5) For the purposes of this section—

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

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

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

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

72.—(1) The powers of the Corporation under section 6 of the Housing Act 1936 shall include power to make byelaws for requiring in the case of houses let in lodgings or occupied by members of more than one family a separate approach to each Separate approach for separate tenements.

PART VI
—cont.

room or tenement separately occupied without passing through any other room or tenement.

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

Extension of powers under section 9 of Housing Act 1936.

73.—(1) A house in the city which is occupied or is of a type suitable for occupation by persons of the working classes shall be deemed for the purposes of section 9 of the Housing Act 1936 to be not in all respects fit for human habitation if it is not kept repaired and painted sufficiently to prevent the dilapidation thereof and to secure reasonable amenities for the occupiers thereof.

(2) On an appeal to the county court under section 15 of the said Act by a person aggrieved by a notice requiring the execution of works to remedy the defects referred to in subsection (1) of this section the court shall take into consideration—

- (a) in the case where the person aggrieved is a lessee or agent for a lessee the length of the unexpired period of the lease ;
- (b) the period for which the house is likely to continue occupied ;
- (c) the expenditure incurred on the house during the preceding three years by the person having control of the house or the owner thereof ;
- (d) in the case of any house the rent of which is subject to control in pursuance of the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 the financial return accruing to the owner in respect of his ownership of the house ; and
- (e) whether the condition of the house is or is not due to the wilful default or neglect of the occupier.

(3) In this section the expressions “house” “owner” and “person having the control of the house” have the same meanings as in the Housing Act 1936.

PART VII

INFECTIOUS DISEASES

Definition of notifiable disease.

74. In this Part of this Act the expression “notifiable disease” means—

- (a) any notifiable disease as defined by section 343 of the Act of 1936 ; and
- (b) any infectious disease to which section 144 of that Act for the time being applies in the city by virtue of regulations made under section 143 thereof.

75.—(1) On the application of the medical officer 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 a notifiable disease shall furnish such information within his knowledge as the medical officer may reasonably require for the purpose of enabling measures to be taken to prevent the spread of the disease.

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

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

(3) In this section the expression “occupier” includes—

- (a) a person having the charge management or control of the building or of the part of the building in which the person suffering from a notifiable disease is or has been; and
- (b) in the case of a building the whole of which is ordinarily let out in separate tenements or in the case of a lodging-house the whole of which is ordinarily let to lodgers the person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person.

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

Restriction on attendance at schools places of assembly etc.

“(b) having the care of a person—

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

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

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

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

Exclusion of children from entertainments etc.

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

PART VII
—cont.

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

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

Compensation
for stopping
employment
to prevent
spread of
disease.

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

- (a) a notifiable disease ; or
- (b) a milk-borne disease as defined in section 37 of the Food and Drugs Act 1938 ; or
- (c) food poisoning ;

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

Prohibition of
tuberculous
persons from
handling food.

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

- (a) that any person is suffering from tuberculosis of the respiratory tract and is in an infectious state ; and
- (b) that he is occupied in the cooking preparation or handling of food in the city intended for consumption by persons other than himself or members of his household ; and
- (c) that his continuance in that occupation would in the judgment of the medical officer be a danger to the health of other persons ;

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

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

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

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

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

PART VIII

FOOD

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

Slaughter of animals otherwise than for human consumption.

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

- (a) he shall not less than twelve hours before slaughtering the animal or causing it to be slaughtered give notice to an authorised officer of the intention to slaughter it unless by reason of accidental injury illness or exposure to infection it is necessary to slaughter it before the expiration of twelve hours from the giving of such notice or before such notice is given ;
- (b) where it is necessary by reason aforesaid to slaughter the animal before the expiration of the said twelve hours he shall retain the carcase intact until the expiration of twelve hours from the time of slaughter or until its disposal is approved by an authorised officer whichever first occurs ;
- (c) where it is necessary by reason aforesaid to slaughter the animal before such notice is given he shall give notice of the slaughter to an authorised officer as soon as practicable thereafter and shall retain the carcase intact until the expiration of twelve hours from the time when notice is given under this paragraph or until its disposal is approved by an authorised officer whichever first occurs ;
- (d) he shall on the application of an authorised officer made within two weeks from the date of the slaughter of the animal furnish such information within his knowledge as that officer may reasonably require for the purpose of enabling him to trace the disposition of the carcase or any part thereof.

(3) If any person—

- (a) fails to comply with any of the provisions of subsection (2) of this section ; or
- (b) furnishes in response to an application under paragraph (d) of that subsection information which he knows to be false ;

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

PART VIII
—cont.

(4) (a) Nothing in paragraphs (b) and (c) of subsection (2) of this section shall prevent a veterinary surgeon or veterinary practitioner as from the time of slaughter from sending with the consent of the owner the whole carcase part of the carcase or any organs from the carcase of the animal to a pathological chemical or other laboratory for examination or from retaining in his possession specimens from the carcase or organs:

Provided that the veterinary surgeon or veterinary practitioner shall before the expiration of twelve hours from such dispatch or retention notify an authorised officer of the action he has taken and the provisions of paragraph (d) of subsection (2) of this section shall apply as if the veterinary surgeon or veterinary practitioner were the owner of the animal.

(b) In the computation of the period of twelve hours referred to in this subsection there shall be excluded any period between five in the afternoon and nine in the morning.

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

(6) In this section—

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

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

Animals
slaughtered
outside
slaughter-
houses.

81.—(1) As from the appointed day where the slaughter of an animal intended for human consumption shall take place outside a slaughter-house and the carcase of the animal shall be brought into a slaughter-house within the city such carcase accompanied by the head the tongue the lungs the heart the liver the kidneys the spleen and stomach (contents emptied) the intestines the mesenteric fat and in the case of a female animal the uterus and the udder shall be retained and kept apart from other meat intended for human consumption until such carcase and organs have been inspected or their removal has been authorised in accordance with the provisions of the Public Health (Meat) Regulations.

(2) Where there is any contravention of the provisions of this section the occupier of the slaughter-house and also the

person by whom the carcass shall have been prepared or dressed shall be liable to a penalty not exceeding five pounds.

PART VIII
—cont.

(3) In this section—

- (a) the expressions “ animal ” “ slaughter-house ” and “ meat ” have the same respective meanings as in the Public Health (Meat) Regulations ;
- (b) the expression “ Public Health (Meat) Regulations ” means regulations for the time being in force under section 8 of the Food and Drugs Act 1938 or having effect by virtue of subsection (3) of section 101 of that Act as if they had been made under the said section 8.

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

Registration
of hawkers of
food and their
premises.

- (a) No person shall sell or offer or expose for sale any food from or upon a vehicle or from or upon a basket pail tray table or other portable receptacle or stand unless he is registered by the Corporation ;
- (b) No premises shall be used as storage accommodation for food intended for sale from or upon a vehicle or from or upon a basket pail tray table or other portable receptacle or stand unless the premises are registered by the Corporation :

Provided that nothing in this subsection shall apply—

- (i) to the sale or offer or exposure for sale of food by a person keeping open shop for the sale of food or by a person employed and in the course of his employment by such a person or to the use by a person so keeping open shop or by a person employed and in the course of his employment by such a person of any premises as storage accommodation for food intended for sale by him or his employer as the case may be ;
- (ii) to the sale or offer or exposure for sale of food by a dairyman registered under regulations for the time being in force under Part I of the Food and Drugs (Milk Dairies and Artificial Cream) Act 1950 or having effect by virtue of subsection (2) of section 36 of that Act as if they had been made under the said Part I or by a person employed and in the course of his employment by such a dairyman or to the use by any person as storage accommodation for food of a dairy so registered ;
- (iii) to the use by any person as storage accommodation for food of premises registered under section 14 of the Food and Drugs Act 1938 ;

PART VIII
—cont.

- (iv) to the sale or offer or exposure for sale of food by any person on premises owned or occupied by him or his employer or to the use by any person of any premises owned or occupied by him or his employer as storage accommodation for food intended for sale by him or his employer on those or any other such premises ;
- (v) to the sale or offer or exposure for sale of food by any person or to the use of any premises as storage accommodation for food intended for sale if the profits of the sale are devoted to a religious or charitable purpose.

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

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

(4) If it appears to the Corporation—

- (a) that the public health is or is likely to be endangered by any act or default of a person who has applied to be or is registered under this section being an act or default in relation to the quality storage or distribution of food ; or
- (b) that any premises in respect of which an application has been made for registration under this section or which are registered under this section do not satisfy the requirements of subsection (1) of section 13 of the Food and Drugs Act 1938 or are otherwise unsuitable for use as storage accommodation for food intended for sale as aforesaid ;

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

- (i) stating the place and time (not being less than seven days after the date of the service of the notice) at which it is proposed that a committee of the council shall take the matter into consideration ; and
- (ii) informing him that he may attend before the said committee with any witnesses whom he desires to call at the place and time mentioned to show cause why the Corporation should not for reasons specified in the notice refuse to register him or the premises or revoke his or their registration as the case may be.

(5) If a person on whom a notice is served under the last preceding subsection fails to show cause to the satisfaction of the said committee the Corporation may refuse to register him or the premises or revoke his or their registration as the case may be and shall forthwith give notice to him of their decision in the matter and shall if so required by him within fourteen days of their decision give to him within forty-eight hours a statement of the grounds on which it was based.

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

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

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

PART IX

PARKS CEMETERIES AND OTHER MUNICIPAL PROPERTY

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

Power to let
parks etc.
for games.

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

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

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

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

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

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

(2) For the purpose of any cricket or other sporting festival or entertainment provided or arranged by the Corporation in

PART IX
—cont.

the North Walls Recreation Ground under section 132 of the Local Government Act 1948 paragraph (a) of subsection (2) of that section shall have effect as if “one-quarter” were therein substituted for “one-tenth”.

Parking places
in parks etc.

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

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

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

Transmission
of enter-
tainments.

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

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

- (a) any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line; or
- (b) the working of any wire or line used for the purpose of electric signalling communication on railways or the electrical control of railways.

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

- (a) in or upon any bridge carrying a street over any railway or the approaches thereto or under a bridge carrying a railway over any street except where the portion of the

street over or under such bridge or approach is a highway repairable by the inhabitants at large ; or

- (b) in any street belonging to and repairable by the commission and forming the approach to any station or depot of the commission.

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

Saving for trusts etc.

- (a) as to be at variance with any trust subject to which any land or building is held managed or controlled by the Corporation without an order of the High Court or of the Charity Commissioners or of the Minister of Education or (where the trust instrument reserves to the donor or any other person the power to vary the trust) without the consent of the donor or that other person ; or
- (b) as to contravene any covenant or condition subject to which a gift or lease of any land or building has been accepted by or granted to the Corporation without the consent of the donor grantor lessor or other person entitled in law to the benefit of the covenant or condition.

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

Agreements to maintain graves and tombstones.

- (a) The said sum shall subject to the next following paragraph and any other enactment authorising its application in some other manner be invested in statutory securities ;
- (b) If and in so far as the cost of maintaining the grave or tombstone in accordance with the agreement exceeds in any year the interest received on the said sum the cost shall be defrayed out of the capital of the said sum ;
- (c) At the expiration of the period fixed by the agreement for the maintenance of the grave or tombstone the Corporation may apply the capital of the said sum or so much thereof as has not been expended under the last foregoing paragraph in any manner in which capital money may properly be applied by them under any enactment ;
- (d) The amount of the capital of the said sum and the interest thereon shall be shown separately in the accounts of the Corporation relating to the cemetery.

PART IX
—cont.

(2) In this section—

- the expression “cemetery” includes a burial ground and a crematorium;
- the expression “grave” includes a grave space niche or urn;
- the expression “tombstone” includes a monument or other memorial of a deceased person.

Extension of
power to
maintain
burial grounds.

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

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

(i) by publishing the notice once in each of two successive weeks in a local newspaper circulating in the city with an interval between each publication of not less than six clear days; and

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

(b) Any such notice shall—

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

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

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

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

(2) In this section—

- the expression “burial ground” includes a cemetery;
- the expression “grave” includes a grave space;
- the expression “tombstone” includes a monument or other memorial of a deceased person.

PART X

PUBLIC ORDER AND PUBLIC SAFETY

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

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

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

(b) as respects any street belonging to or repairable by any railway undertakers or passenger road transport undertakers and forming the approach to any station or depot of those undertakers without the consent of those undertakers ;

(c) so as to obstruct or interfere with the access to or exit from any station or depot of any railway undertakers without the consent of those undertakers ; or

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

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

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

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

90.—(1) No procession shall pass through the streets of the city unless written notice stating the route by which and the time at which it will so pass has been delivered at the office of the town clerk and the principal police station in the city at least thirty-six hours (exclusive of Sundays) before the time so stated. Notice of street processions.

(2) If any procession passes through the streets of the city in contravention of the preceding subsection or by a route or at a time other than that stated in the notice delivered with

PART X
—cont.

respect thereto under that subsection any person organising or conducting the procession shall be liable to a penalty not exceeding five pounds.

(3) In this section the expression "procession" means any public or ceremonial procession or any circus procession or procession of wild animals:

Provided that nothing in this section shall apply to any public or ceremonial procession habitually held.

Touting
hawking etc.

91.—(1) As from the appointed day no person shall at any place in the city to which this section applies—

- (a) importune any person by touting for any hotel lodging-house refreshment-house or shop or any garden theatre or place of amusement or any boat hackney-carriage or public service vehicle; or
- (b) without the consent of the Corporation which may be given on such terms and conditions as they think fit—
 - (i) hawk sell or offer for sale any article or commodity; or
 - (ii) take any photograph by way of trade or business of any person:

Provided that—

- (i) the Corporation shall not withhold their consent under paragraph (b) of this subsection to the sale or offering for sale by any person of newspapers and periodicals except on the ground that their consent to such sale or offering for sale has already been given to a reasonably sufficient number of other persons; and
 - (ii) for the purpose of the said paragraph (b) the taking of a photograph for press purposes by any duly accredited representative of a newspaper periodical or news agency or by any person systematically selling or supplying photographs to newspapers periodicals or news agencies shall not be deemed to be the taking of a photograph by way of trade or business.
- (2) This section applies to any place—
- (a) in any park pleasure ground or open space within the meaning of the Open Spaces Act 1906 which is provided by the Corporation or under their management and control;
 - (b) in any street or part of a street to which this section may be applied by byelaws made by the Corporation under this section.
- (3) Any person aggrieved by the refusal of the Corporation to give their consent under paragraph (b) of subsection (1) of

this section or by any terms or conditions attached to such consent may appeal to a court of summary jurisdiction.

PART X
—cont.

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

PART XI

FINANCE AND RATING

92.—(1) The Corporation shall have power in addition and without prejudice to their powers of borrowing under the Act of 1933 from time to time to borrow without the consent of any sanctioning authority for and in connection with the purposes mentioned in the first column of the following table the respective sums mentioned in the second column thereof and they shall repay any sum 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) The purchase of lands under the powers of this Act	The sum requisite	Sixty years.
(b) The construction of the street works authorised by this Act	£33,000	Twenty years.
(c) The provision of a parking place and the re-development of lands	£19,000	Thirty years.
(d) The provision of a slaughter-house	£8,000	Thirty years.
(e) The provision of equipment for a slaughter-house	£3,000	Ten years.
(f) 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 Act of 1933 so far as they are not inconsistent with this Part of this Act shall extend and apply to money borrowed under this section as if it were borrowed under the said Part IX and the period fixed by this section for the repayment of any money borrowed shall as respects that money be the fixed period for the purposes of the said Part IX.

93. It shall not be lawful to exercise the powers of borrowing conferred by this Act (other than the power of borrowing to pay the costs charges and expenses of this Act) otherwise than in compliance with the provisions of the Local Authorities Loans Act 1945 or of any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946.

Saving for powers of Treasury.

PART XI
—cont.Dividend
warrants by
post.

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

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

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

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

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

Receipts in
case of minors.

95. If any money is payable to a holder of any authorised security being a minor the receipt of his guardian shall be a sufficient discharge to the Corporation.

Scheme for
equated
periods.

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

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

effect and such scheme shall be deemed to be within the powers of this Act.

PART XI
—cont.

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

(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 section may be extended amended or annulled by schemes prepared and confirmed in like manner as the original scheme.

97.—(1) If in respect of any financial 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 authorised fund provided in connection with the undertaking) shall exceed the moneys expended or applied by the Corporation in respect of that undertaking properly chargeable to revenue the Corporation (if they think fit) may in respect of that year apply out of the general rate fund a sum not exceeding the amount of such excess to any of the following purposes:—

Application
of general rate
fund for
certain
purposes.

- (a) in the reduction of capital moneys borrowed for the purpose of the undertaking;
- (b) in the renewal construction extension or improvement of any works and conveniences for the purposes of the undertaking or in payment of any expenses in respect of the undertaking which might otherwise have been defrayed out of capital moneys;
- (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 applied in any other manner authorised by any enactment) 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 in respect of that undertaking.

PART XI
—cont.

(2) Any reserve fund which has been provided in respect of any of the Corporation undertakings shall be carried to and form part of any reserve fund provided under this section in respect of such undertaking.

(3) Any reserve fund provided under this section 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 acquiring land for or 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) Sections 71 (Application of revenue of undertakings) and 72 (Reserve funds) of the Winchester Corporation Act 1936 are hereby repealed.

Capital fund.

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

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

(b) the sums available as a result of the settlement of the Corporation’s income tax liability for the years during the period first April nineteen hundred and forty-two to thirty-first March nineteen hundred and fifty-one ;

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

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

Provided that—

(i) the aggregate amount paid to the capital fund under paragraphs (c) and (d) of this subsection (in addition to the sum equal to the interest earned on the capital fund and any income arising from the application of the fund to the purposes authorised) shall not except with the consent of and to such extent as may be approved by the Minister exceed in any year the equivalent of three times the product of a penny rate as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925; and

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

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

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

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

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

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

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

PART XI
—cont.

(6) Nothing in this section shall affect the operation of paragraphs (a) (b) or (c) of subsection (1) of section 8 of the Local Authorities Loans Act 1945 in any case in which the moneys in the capital fund are used in pursuance of that section.

(7) When the Corporation establish a capital fund under this section section 76 (Capital reserve fund) of the Winchester Corporation Act 1936 shall cease to have effect and any moneys standing to the credit of the capital reserve fund established under that section shall be carried to and form part of the capital fund established under this section.

Renewal and
repairs fund.

99.—(1) The Corporation may (if they think fit) establish a fund (to be called “the renewal and repairs fund”) for the purpose of defraying the expenditure to be incurred from time to time in repairing maintaining and renewing any buildings works plant tools machinery appliances vehicles boilers and equipment and apparatus in connection therewith office machinery furniture fittings and appliances or things and may from time to time apply the moneys of the fund in defraying such expenditure but this section shall not apply to expenditure in connection with any buildings works plant appliances or things for the purposes of any of the Corporation undertakings in respect of which they have provided a reserve fund or to any building in respect of which they are required by the Acts relating to housing to keep a housing repairs account.

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

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

(b) Any income arising from the investment of the moneys in the renewal and repairs fund in the manner provided by 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) When the Corporation establish a renewal and repairs fund under this section section 77 (Renewal and repairs fund) of the Winchester Corporation Act 1936 shall cease to have effect

and any moneys standing to the credit of the renewal and repairs fund established under that section shall be carried to and form part of the renewal and repairs fund established under this section.

PART XI
—cont.

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

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

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

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

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

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

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

PART XI
—cont.

statutory securities and the interest and other annual proceeds received by the Corporation in respect of such investments shall be carried to the general rate fund.

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

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

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

(b) The amounts of the annual charges in respect of interest on and repayment of principal of any sums borrowed in pursuance of this subsection and the amounts of any such deficiencies as aforesaid not made up by borrowing shall be paid out of the general rate fund and charged in the accounts of the Corporation under the separate headings or divisions in respect of such undertakings departments or services of the Corporation and in such proportions as the Corporation may determine having regard to the risks through which such deficiencies arise.

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

(9) When the Corporation establish an insurance fund under this section section 75 (Insurance fund) of the Winchester Corporation Act 1936 shall cease to have effect and any moneys standing to the credit of the insurance fund established under that section shall be carried to and form part of the insurance fund established under this section.

101.—(1) The Corporation may (if they think fit) establish a fund to be called “the art fund” to provide for the purchasing of any pictures sculptures or other objects of artistic scientific or historical interest which in their opinion it is desirable at any time to acquire for exhibition in and as additions to the collection in any art gallery museum or other building of the Corporation and such fund shall be formed by paying thereto out of the general rate fund such an amount as the Corporation may from time to time determine not exceeding in any financial year the equivalent of one-fifth of the product of a penny rate as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925 or such greater fraction (not exceeding one-half) of the product of a penny rate as may be approved by the Minister:

Art fund.

Provided that when the art fund shall amount to the sum of five thousand pounds the Corporation shall discontinue such annual payments but if the said fund is at any time reduced below the sum of five thousand pounds the Corporation may recommence and continue the annual payments until the said fund be restored to the sum of five thousand pounds.

(2) (a) Pending the application of the art fund to the purposes authorised by this section the moneys in the said fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(b) Any income arising from the investment or use of the moneys in the art fund in manner provided by this subsection shall be carried to and form part of the general rate fund and (subject to the limitation imposed by the proviso to subsection (1) of this section) an amount equivalent to such income shall be credited to the art fund.

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

Power to grant allowances or gratuities in certain cases.

Provided that this section shall not apply—

(a) in the case of a widow to whom an annuity is granted in pursuance of section 78 (Annuities for widows) of the Winchester Corporation Act 1936 ; or

(b) in the case of a widow or dependant entitled in consequence of the death of such employee to compensation under the Workmen’s Compensation Acts 1925 to 1943 or to death benefit under the National Insurance (Industrial Injuries) Act 1946.

PART XI
—cont.

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

Service of
demand
notes.

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

Collection and
recovery of
water rates
and charges.

104.—(1) Any water rate or charge payable to the Corporation may be demanded and collected together with the general rate and the same books may be used for the said rate or charge and the general rate.

(2) Notwithstanding the provisions of any other enactment any water rate or charge recoverable by the Corporation in a court of summary jurisdiction may (without prejudice to any other right or remedy of the Corporation) be recoverable in the same manner and subject to the same provisions in respect of such recovery as the general rate.

(3) There may be included in one and the same complaint information summons or warrant or in any schedule thereto two or more sums payable to the Corporation by any one person in respect of the water rate and charge and general rate payable by him.

As to recovery
summarily of
sums due for
fittings.

105. 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 apparatus or fittings supplied by them for or in connection with the consumption or use 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 in the aggregate exceed twenty pounds.

Expenses of
public
ceremonies etc.

106. The Corporation may pay—

- (a) reasonable expenses of the Corporation in providing public entertainments on the occasion of or otherwise in connection with public ceremony or rejoicing and in the reception and entertainment of distinguished persons residing in or visiting the city ;
- (b) reasonable expenses in connection with official and courtesy visits by or on behalf of the Corporation and

travelling expenses and expenses reasonably incurred by or on behalf of any member or officer of the Corporation in connection therewith ; and

PART XI
—cont.

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

PART XII

MISCELLANEOUS

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

108. It shall be lawful for the Corporation—

Provision of
lectures etc.

- (1) to provide suitable lecture rooms and to cause lectures to be given on such subjects as the Corporation think fit and to let such rooms and to make reasonable charges for admission to such lectures ; and
- (2) to provide suitable rooms for art exhibitions and to provide or permit art exhibitions in such rooms and to let such rooms and to make reasonable charges for admission to such exhibitions :

Provided that—

- (a) the sum to be expended by the Corporation in any one financial year on the provision of lectures ; and
- (b) the sum to be expended by the Corporation in any one financial year on the provision of art exhibitions ;

shall not in either case exceed the equivalent of one-third of the product of a penny rate as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925 in addition to any moneys received by the Corporation under the provisions of this section.

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

Facilities for
engineering
and science.

PART XII
—cont.

(2) It shall be lawful for the Corporation to provide or arrange for the provision of or contribute towards the expense of providing suitable rooms with machinery tools and equipment for use by members of any engineering scientific or other club society or body (not carrying on business for profit) whose object is to provide suitable facilities for persons pursuing engineering or scientific hobbies and the Corporation may make or authorise the making of such charges (if any) as they think fit in respect of the use of the rooms machinery tools or equipment provided under this section.

(3) The payments to be made by the Corporation under this section shall not in any financial year exceed the equivalent of one-half of the product of a penny rate as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925.

Custody of
ancient
documents.

110. The Corporation may enter into and carry into effect agreements with the owners of documents books or papers of historic or other interest for the custody and exhibition by the Corporation of such documents books or papers.

Robes of office.

111. The Corporation may provide and maintain or contribute towards the cost of providing and maintaining robes of office for the use of the mayor aldermen and councillors for the time being of the city :

Provided that any robes provided by the Corporation under the powers of this section shall remain the property of the Corporation.

Planning
advice etc.

112. The Corporation may—

- (1) employ and pay persons to advise them on the planning or development of the whole or any part of the city or upon the architecture of any proposed buildings in the city ; and
- (2) provide prizes for competitions relating to the architecture of any proposed buildings in the city.

Provision of
slaughter-
house.

113.—(1) The Corporation may provide a public slaughter-house upon the lands acquired under the powers of this Act for that purpose.

(2) Any slaughter-house provided by the Corporation under the powers of subsection (1) of this section shall be deemed to have been provided under the powers of section 60 of the Food and Drugs Act 1938.

Prizes for
garden
competitions.

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

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

Summary recovery of damages for negligence.

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

Powers to use ladders etc. for entry or inspection.

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

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

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

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

117.—(1) The Corporation may advertise the facilities and amenities afforded by the city as a tourist centre place of historical or cultural interest or holiday resort in any manner which they may think fit and for that purpose and in connection with the Corporation's powers under section 108 (Provision of lectures etc.) of this Act and under the Public Libraries Acts 1892 to 1919 may—

Power to advertise facilities of city.

(a) cause to be published and may sell or dispose of bulletins journals and leaflets and documents of historical or literary interest having a local connection ;

(b) combine with any organisation company or person and with any local authority authorised in that behalf ; and

(c) expend a sum not exceeding in any financial year the equivalent of one and one-third times the product of a penny rate as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925.

(2) Any expenditure under this section shall be separate from and additional to the expenditure (if any) of the Corporation under the Local Authorities (Publicity) Act 1931.

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

Noise nuisance.

PART XII
—cont.

Provided that—

- (a) in any proceedings brought by virtue of this section under the said Part III in respect of a noise occasioned in the course of any trade business or undertaking it shall be a defence for the defendant to prove that he has used the best practicable means for preventing or mitigating the noise having regard to the cost and to other relevant circumstances ;
- (b) a justice shall not entertain a complaint under section 99 of the said Act with respect to a noise unless it is made by not less than three occupiers of premises within hearing of the noise.

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

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

Restrictions
on use of
loudspeakers
in streets.

119.—(1) No person shall for the purpose of advertising any entertainment or meeting or any trade or business or any part of a trade or business operate or cause or suffer to be operated any loudspeaker when such loudspeaker is in any street in the city.

(2) No person shall operate or cause or suffer to be operated any loudspeaker for any purpose when such loudspeaker is in any street in the city unless he shall have given notice to the Corporation and to the chief constable of the administrative county of Southampton by leaving such notice at the office of the town clerk and at the police headquarters in the city respectively at least forty-eight hours before such loudspeaker is operated.

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

(4) This section shall not apply to the use of a loudspeaker—

- (a) by the Corporation or the police or the fire brigade in the execution of their duty or in case of emergency ;
or
- (b) by the commission for the purpose of announcements to their passengers or staff at any station or depot of the commission ; or
- (c) by any persons operating a service or services of public service vehicles for the purpose of announcements to their passengers or staff at any of their stations or depots ; or
- (d) in connection with a parliamentary or local government election.

(5) For the purposes of this section a loudspeaker shall not be deemed to be in use in connection with (a) a parliamentary election if it is used at any time other than on or between the date of the issue of the writ of election and the date of the declaration of the result of the election or (b) a local government election if it is used at any time other than on or between the day appointed for giving notice of the election and the day on which a candidate is deemed to be elected or as the case may be the date on which a candidate is declared to be elected.

(6) In this section the expression "loudspeaker" includes an amplifier or similar instrument.

120.—(1) If it appears to the Corporation that any bridge which is adjacent to any street or public walk or any park pleasure ground or open space provided by the Corporation or under their management or control (other than a bridge carrying a public highway or a railway) over a river or stream in the city is in such a condition as to be dangerous to persons who might use the bridge the Corporation may apply to a court of summary jurisdiction and the court may make an order requiring the owner of the bridge to execute such work as may be necessary to obviate the danger or (if he so elects) to demolish the bridge and remove any rubbish or other material resulting from the demolition.

Dangerous
bridges.

(2) If the person on whom an order is made under subsection (1) of this section for the execution of work or the demolition of a bridge and the removal of any rubbish or other material resulting from the demolition fails to comply with the order within the time specified the Corporation may execute the order in such manner as they think fit and may recover the expenses reasonably incurred by them in so doing from the person in default.

(3) The Corporation shall not except with the consent of the Hampshire River Board apply to a court under this section in respect of a bridge which any person is liable to maintain under any obligation to which he was before the passing of the Land Drainage Act 1930 subject by reason of tenure custom prescription or otherwise:

Provided that the consent of the said board under this subsection shall not be unreasonably withheld and any question arising as to whether any such consent has been unreasonably withheld shall be referred to and determined by the Minister of Agriculture and Fisheries.

(4) Nothing in this section or in any order made thereunder shall require the construction (except by way of replacement or reconstruction of an existing bridge) of a bridge over the main river of the Hampshire River Board.

PART XIII

GENERAL

Confirming
authority
for byelaws.

121. As respects byelaws made under this Act the confirming authority for the purpose of section 250 of the Act of 1933 shall be the Minister except that in the case of byelaws made under section 18 (Provision of central car park) and section 91 (Touting hawking etc.) of this Act the confirming authority shall be the Secretary of State.

The appointed
day.

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

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

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

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

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

and the date so fixed shall not be earlier than the expiration of one month from the date of publication of the said notice.

(4) Either—

(a) a copy of any such newspaper containing any such notice; or

(b) a photostatic or other reproduction certified by the town clerk to be a true reproduction of a page of any such newspaper bearing the date of its publication and containing any such notice;

shall be evidence of the publication of the notice and of the date of the publication.

(5) Where any provision of this Act coming into operation on a day fixed by resolution under this section requires the registration of a person carrying on any business or of premises used for any purpose it shall be lawful for any person who—

(a) immediately before that day was carrying on that business or using any premises for that purpose; and

(b) had before that day duly applied for the registration required by that provision;

to continue to carry on that business and to use those premises for that purpose until he is informed of the decision with regard to his application and if the decision is adverse during such further time as is provided under subsection (2) of section 124 (Appeals) of this Act.

123. Proceedings in respect of an offence created by or under this Act shall not without the written consent of the Attorney-General be taken by any person other than a party aggrieved or the Corporation.

PART XIII
—cont.
Restriction
on right to
prosecute.

124.—(1) Section 300 of the Act of 1936 shall apply with respect to appeals to a court of summary jurisdiction under any enactment in this Act as it applies with respect to such appeals under any enactment in that Act and sections 301 and 302 of that Act shall apply accordingly.

Appeals.

(2) Where any requirement refusal or other decision of the Corporation against which a right of appeal is conferred by this Act—

- (a) involves the execution of any work or the taking of any action ; or
- (b) makes it unlawful for any person to carry on any business which he was lawfully carrying on up to the time of the requirement refusal or decision or to use any premises for any purpose for which they were lawfully used up to that time ;

then until the time for appealing has expired or when an appeal is lodged until the appeal is disposed of or withdrawn or fails for want of prosecution—

- (i) no proceedings shall be taken in respect of any failure to execute the work or take the action nor shall the Corporation themselves execute the work or take the action ; and
- (ii) that person may carry on that business and use those premises for that purpose.

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

Apportionment
of expenses in
case of joint
owners.

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

Breach of
conditions of
consent of
Corporation.

PART XIII

—cont.

In executing
works for
owner
Corporation
liable for
negligence
only.

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

Damages and
charges to be
settled by
court.

128. 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.

Application of
Arbitration
Act.

129. Where under this Act any question or dispute is to be referred to an arbitrator or to arbitration other than questions or disputes to which the provisions of the Lands Clauses Acts apply then unless other provision is made the reference shall be to a single arbitrator to be agreed upon between the parties to the question or dispute or in default of such agreement appointed on the application of either party by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to any such arbitration.

Determination
of compen-
sation.

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

Inquiries by
Ministers.

131. The Minister the Secretary of State and the Minister of Transport may hold such inquiries as they respectively may consider necessary in regard to the exercise of any powers conferred upon them or the giving of consents under this Act and section 290 of the Act of 1933 shall apply accordingly.

Application of
provisions of
Act of 1936.

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

Section 271 (Interpretation of "provide");

- Section 275 (Power of local authority to execute certain work on behalf of owners or occupiers);
- Section 276 (Power of local authority to sell certain materials);
- Section 277 (Power of councils to require information as to ownership of premises);
- Section 283 (Notices to be in writing; forms of notices &c.);
- Section 284 (Authentication of documents);
- Section 285 (Service of notices &c.);
- Section 286 (Proof of resolutions &c.);
- Section 287 (Power to enter premises);
- Section 288 (Penalty for obstructing execution of Act);
- Section 289 (Power to require occupier to permit works to be executed by owner);
- Section 291 (Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments);
- Section 293 (Recovery of expenses &c.);
- Section 294 (Limitation of liability of certain owners);
- Section 295 (Power of local authority to grant charging orders);
- Section 296 (Summary proceedings for offences);
- Section 297 (Continuing offences and penalties);
- Section 299 (Inclusion of several sums in one complaint &c.);
- Section 304 (Judges and justices not to be disqualified by liability to rates);
- Section 328 (Powers of Act to be cumulative);
- Section 329 (Saving for certain provisions of the Land Charges Act 1925):

Provided that the said sections 277 287 289 291 293 294 295 and 329 shall only apply to the provisions contained in Part V (Streets) Part VI (Sanitation and buildings) Part VII (Infectious diseases) and Part VIII (Food) of this Act and in section 118 (Noise nuisance) and section 120 (Dangerous bridges) of this Act.

133.—(1) Where pursuant to section 40 (Adjustment of boundaries of streets) of this Act the Corporation enter into an agreement with a person having a legal interest in land adjoining any street for the conveyance to that person of the site of any part of the street and immediately before the date on which the site ceases to be part of the street there was under in upon over along or across such site any telegraphic line belonging to or used

For protection
of Postmaster-
General.

PART XIII
—cont.

by the Postmaster-General the Postmaster-General shall continue to have the same powers in respect of that line as if such site had remained part of the street but nothing in Part I of the Public Utilities Street Works Act 1950 shall have effect in relation to those powers:

Provided that if any person in whom such site is vested desires that such telegraphic line should be altered paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 shall apply to the alteration and accordingly shall have effect subject to any necessary modifications as if references therein to undertakers included references to the said person desiring the alteration.

(2) As between the Corporation and the Postmaster-General nothing in the foregoing subsection shall affect the operation of Part II of the Public Utilities Street Works Act 1950 or the rights of the Postmaster-General and the Corporation thereunder.

(3) Where any highway or part of a highway is stopped up in pursuance of the power to divert streets conferred by section 28 (Power to make subsidiary works) of this Act or in pursuance of an order made under section 52 (Stopping up and diversion of highways) of this Act the following provisions shall unless otherwise agreed in writing between the Corporation and the Postmaster-General have effect in relation to any telegraphic line belonging to or used by the Postmaster-General which is under in upon over along or across such highway or part of a highway at the time of such stopping up:—

(a) The power of the Postmaster-General to remove the line shall be exercisable notwithstanding the stopping up of the highway or part of the highway so however that the said power shall not be exercisable as respects the whole or any part of the line after the expiration of a period of three months from the date mentioned in subsection (4) of this section unless before the expiration of that period the Postmaster-General has given notice to the Corporation of his intention to remove the line or that part thereof as the case may be;

(b) The Postmaster-General may by notice to the Corporation in that behalf abandon the said line or any part thereof and shall be deemed as respects the line or any part thereof to have abandoned it at the expiration of the said period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it;

(c) The Postmaster-General shall be entitled to recover from the Corporation the expense of providing in substitution for the line and any telegraphic line connected therewith which is rendered useless in consequence of the

removal or abandonment of the line a telegraphic line in such other place as the Postmaster-General may require ;

- (d) Where under paragraph (b) of this subsection the Postmaster-General abandons the whole or any part of a telegraphic line it shall vest in the Corporation and the provisions of the Telegraph Acts 1863 to 1951 shall not apply in relation to the line or part in question as respects anything done or omitted after the abandonment thereof.

(4) As soon as the whole or any part of any highway has been stopped up the Corporation shall send by post to the Postmaster-General a notice informing him of such stopping up and the period of three months mentioned in subsection (3) of this section shall commence to run from the date on which such notice is sent.

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

For protection
of gas and
electricity
boards.

- (1) In this section unless the context or subject otherwise requires—

" apparatus " means—

(a) in relation to the gas board any mains pipes or other apparatus belonging to the gas board and includes any structure constructed for the lodging therein of apparatus ; and

(b) in relation to the electricity board electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to the electricity board ;

" in " in a context referring to apparatus includes under over across along or upon ; and

" position " includes depth :

- (2) The Corporation shall not under the powers of this Act acquire except by agreement any apparatus situate in a street :
- (3) For the purposes of section 34 (Prohibition of building until street defined) of this Act land shall not be deemed to be occupied in connection with a building by reason only of the existence of apparatus in such land and nothing in the said section 34 shall prevent the electricity board from beginning to erect a building (not

PART XIII
—cont.

being a house office or showroom) for the purpose of their undertaking abutting on any new street before such new street is defined :

- (4) Nothing in section 35 (Prohibition of building until street formed and sewered) of this Act shall prevent—

(a) the gas board from beginning to erect or proceeding with the erection of a pressure governor or meter house for the purposes of their undertaking ;
or

(b) the electricity board from beginning to erect or proceeding with the erection of an electricity sub-station feeder pillar or transformer kiosk for the purposes of their undertaking ;

abutting on any new street before such new street is constructed or sewered in accordance with street byelaws :

- (5) Whenever the Corporation in the exercise of the powers of section 40 (Adjustment of boundaries of streets) of this Act shall give up land forming part of a street in exchange for other land there being in such first-mentioned land any apparatus the Corporation shall give notice of such exchange to the board with a plan showing the position and dimensions of the portion of the street so exchanged and the board shall notwithstanding any agreement entered into under the said section continue to have the same powers and rights in respect of any apparatus remaining in the land previously forming the site of the street as if such land had continued to be part of the street or the board may and if reasonably so required by the Corporation shall alter the position of such apparatus to such other position as may be reasonable :

Provided that nothing in this subsection shall extend or apply the provisions of the Public Utilities Street Works Act 1950 to the exercise of any such powers or rights in any case in which those provisions would not have applied if this subsection had not been enacted :

- (6) The board shall within twenty-eight days after the receipt of a notice from the Corporation pursuant to subsection (5) of this section give to the Corporation notice of their intention to alter the position of any apparatus (otherwise than on the requirement of the Corporation) under the provisions of that subsection and shall at the same time deliver to the Corporation a plan and section of the proposed alteration If such plan and section

be not disapproved by the Corporation within twenty-eight days after the receipt thereof the proposed position of the apparatus shown thereon shall be deemed to be reasonable:

- (7) Whenever by virtue of the provisions of section 52 (Stopping up and diversion of highways) of this Act any highway or any part of a highway in which any apparatus is situate is stopped up or diverted the board may and (if so requested by the Corporation) shall—

(i) remove the apparatus and relay or replace the same in the highway (if any) substituted for the highway or part of a highway so stopped up or diverted or in such other position as the board may reasonably determine; or

(ii) provide and lay or place other apparatus in such substituted highway or in such other position as aforesaid in lieu of such existing apparatus:

- (8) Notwithstanding the stopping up or diversion under an order made pursuant to section 52 (Stopping up and diversion of highways) of this Act of any highway or any part of a highway in which any apparatus is situate the board shall (unless the apparatus is removed or relaid or unless new apparatus as been laid in substitution therefor) continue to have the same powers and rights in respect of any apparatus remaining in the highway or part of highway so stopped up as if the same had remained a highway:

Provided that nothing in this subsection shall extend or apply the provisions of the Public Utilities Street Works Act 1950 to the exercise of any such powers or rights in any case in which those provisions would not have applied if this subsection had not been enacted:

- (9) Whenever by reason or in consequence of the exercise by the Corporation of the powers of the said section 52 any apparatus (other than apparatus for which new apparatus has been substituted at the expense of the Corporation under the provisions of this section) is rendered derelict useless or unnecessary the Corporation shall forthwith pay to the board such a sum as may be agreed between the Corporation and the board or as failing agreement between them may be determined by arbitration to be the value of the apparatus so rendered derelict useless or unnecessary and such apparatus shall upon such payment become the property of the Corporation:

PART XIII
—cont.

(10) The Corporation shall repay to the board the reasonable expenses incurred by the board in or in connection with—

(a) the alteration of the position of any apparatus under subsection (5) of this section ; or

(b) the removal and relaying or replacing of any apparatus and the provision and laying or placing of any new apparatus under the provisions of subsection (7) of this section ;

and the reasonable costs of and incidental to (i) the cutting off of any apparatus from any other apparatus and (ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this subsection :

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act 1950 which imposes limitations on undertakers' rights to payments shall so far as applicable extend and apply to any payment to be made by the Corporation under paragraphs (a) and (b) of this subsection as if the works therein mentioned were such undertakers' works as are referred to in the said subsection (3) and as if in the said subsection (3) for the words " had not been specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority " there were substituted the words " had not been agreed or settled by arbitration under section 134 (For protection of gas and electricity boards) of the Winchester Corporation Act 1952 " :

(11) (a) The board shall not be entitled to any payment in connection with the exercise of the powers of section 40 (Adjustment of boundaries of streets) or section 52 (Stopping up and diversion of highways) of this Act if the existing apparatus of the board was laid or placed within two years immediately preceding the giving of the notice referred to in subsection (5) of this section or the making of an application under the said section 52 (as the case may be) and if notice in writing of their intention to exercise the powers of the said section 40 or of the said section 52 (as the case may be) was given by the Corporation to the board within eight days from the relevant date and within twenty-nine days from the relevant date a plan and section of the proposals of the Corporation were furnished by them to the board and the proposals of the Corporation were carried out in accordance with the said plan and section or without any departure therefrom materially affecting the board :

Provided that nothing in this subsection shall apply in relation to any apparatus the works for the laying or placing of which were emergency works within the meaning of the Public Utilities Street Works Act 1950 ;

(b) For the purposes of this subsection “ the relevant date ” means the date on which the intention to lay or place the apparatus was signified to the Corporation by the submission of a plan and section if the laying or placing of the apparatus was a work to which section 3 of the said Act of 1950 applied or by notice under section 6 of that Act if such laying or placing was not such a work :

(12) Notwithstanding the stopping up temporarily of any street under the powers of section 53 (Temporary stoppage of streets) of this Act the board their officers and servants shall at all times have such rights of access to all or any apparatus situate in any such street as they had immediately before such stopping up and shall be at liberty to execute and do all such works and things in upon or under such street as may be necessary for inspecting repairing maintaining renewing or removing such apparatus :

(13) The Corporation shall so exercise the powers of the following sections of this Act as not (so far as reasonably practicable) to cause any damage to or to obstruct or render less convenient the access to any apparatus :—

Section 38 (Trees grass verges and gardens) ;

Section 41 (Shelters etc. for passengers on public service vehicles) ;

Section 42 (Guard rails in private streets) ;

Section 85 (Transmission of entertainments) ;

Section 89 (Barriers in streets) :

(14) (a) Except as otherwise expressly provided by this section any difference or dispute which may arise between the Corporation and the board thereunder shall be referred to arbitration ;

(b) In settling any difference under this section the arbitrator may if he thinks fit require the Corporation to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

PART XIII
—cont.
Saving for
town and
country
planning.
Costs of Act.

135. This Act shall be deemed to be an enactment passed before and in force at the passing of the Act of 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

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

THE SCHEDULE

APPORTIONMENT AND RECOVERY OF EXPENSES OF CONSTRUCTING SEWERS

1. The sum apportionable shall not exceed the sum certified by the surveyor to be at the relevant date the average cost per lineal yard of providing a public sewer having an internal diameter of nine inches in a private street in the city multiplied by the extent in lineal yards (as so certified) of the sewer or length of sewer in question.

2. The expenses incurred by the Corporation not exceeding the sum so apportionable shall be apportioned by the Corporation on the premises fronting adjoining or abutting on the street or part of the street in question according to the frontages of the respective premises as existing at the relevant date:

Provided that no sum shall be apportioned on any premises in contravention of any agreement between the Corporation and the owner of the premises and any sum which but for this proviso would have been apportioned on any premises shall be deducted from the aggregate sum to be apportioned under this paragraph.

3. As soon as the apportionment has been made the Corporation shall serve on the owners of the several premises affected notice of the sums respectively apportioned to them and the notice shall state the right of appeal conferred by the next following paragraph.

4. Any person aggrieved by an apportionment under this schedule may appeal to a court of summary jurisdiction and may on the appeal dispute the correctness of the surveyor's certificate as well as any other matter affecting the validity or correctness of the apportionment.

5. If the court finds on any such appeal that the aggregate sum apportioned is excessive or that the apportionment thereof is erroneous the court—

(a) shall order the Corporation to revise not only the sum apportioned to the appellant but also the sums apportioned to the owners of the other premises affected and to submit the revised apportionment to the court for approval; and

(b) may if satisfied that the owners of all premises affected have had due notice of the proceedings and an opportunity of being heard approve any such revised apportionment either without amendment or with such amendments as it thinks just.

6. Whenever a new building requiring foul water drainage is erected after the relevant date on any premises on which a sum has been or is thereafter apportioned under this schedule that sum shall be recoverable by the Corporation subject to and in accordance with the following provisions:—

(a) The said sum shall be recoverable to an extent proportionate to the frontage on the street or part of the street of the site of the new building and the land occupied therewith:

Provided that where a sum has become payable under sub-paragraph (c) of this paragraph in respect of the frontage of the site of a new building and land occupied therewith no further sum shall be recoverable in respect of the same length of frontage or any part thereof by reason of the erection of another new building on that site or that land ;

(b) At any time after whichever of the following events last occurs (that is to say):—

(i) the erection of the new building ; or

(ii) the expiration of the time for appealing against the apportionment or if an appeal is brought within that time the final determination of the appeal ;

the Corporation may serve on the owner for the time being of the new building a demand for payment of the amount recoverable together with interest thereon from the date of the demand :

Provided that where the drains of the new building are at the time of its erection made to communicate with a sewer other than the sewer the expenses of the construction of which are apportioned no such demand shall be served in respect of the building unless and until the drains thereof are made to communicate with the last-mentioned sewer ;

(c) As from the date of the service of the said demand the amount recoverable together with interest thereon from that date until payment thereof shall be payable by the owner on whom the demand is served and shall be charged on the new building and the land occupied therewith and on all estates and interests therein ;

(d) The rate of interest chargeable under this paragraph shall be such rate as the Corporation may determine not exceeding the maximum rate fixed by the Minister for the purpose of section 291 of the Act of 1936 at the time when the said demand is served or if different maximum rates are then so fixed the highest of those rates.

7.—(1) If any person from whom any sum becomes recoverable under the last preceding paragraph proves that by reason of the length of frontage of the land occupied with the building in respect of which the sum is so recoverable the amount of that sum is disproportionate to the benefit accruing to the premises the Corporation may remit such part of that sum as they may think just but in that event if another new building is subsequently erected on the said land the said paragraph shall apply to that other building as if the first-mentioned building had not been erected :

Provided that the amount recoverable in respect of that other building shall not exceed the amount remitted.

(2) Any person aggrieved by a decision of the Corporation with respect to any such remission may appeal to a court of summary jurisdiction.

8.—(1) The sum apportioned on any premises under this schedule shall for the purposes of section 15 of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 be deemed to be a charge on the premises notwithstanding that it is not immediately recoverable.

(2) Where the whole or part of the sum so deemed to be a charge (hereafter in this sub-paragraph referred to as “the provisional charge”) becomes actually charged on the whole or part of the premises under the foregoing provisions of this schedule—

(a) within fourteen days the registration of the provisional charge under the said section 15 shall be cancelled and the actual charge shall be registered under that section as from the date on which the provisional charge was registered ;

(b) where a part only of the said sum has become actually charged on a part of the premises the remainder of that sum shall be deemed to be a charge on the remainder of the premises notwithstanding that it is not immediately recoverable and shall be registered accordingly within the said fourteen days under the said section as from the said date and the foregoing provisions of this sub-paragraph shall apply thereto accordingly.

9. For the purposes of this schedule—

(a) a building shall be deemed to be a new building erected after the relevant date unless its erection was completed before that date ;

(b) the following alterations and extensions shall be deemed to be the erection of a new building (that is to say):—

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

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

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

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

(c) the expression "the relevant date" means—

(i) in relation to an apportionment under section 56 (Recovery of expenses of sewerage public highway) of this Act in pursuance of a resolution of the council the date when the resolution became operative; and

(ii) in relation to an apportionment under section 57 (Recovery of expenses of sewerage prospective street) of this Act in respect of land becoming a street the date on which the street was laid out.

Table of Statutes referred to in this Act

Title	Session and chapter
An Act for establishing a General Cemetery for the Interment of the Dead in the City and Borough of Winchester in the County of Southampton	3 & 4 Vict. c. viii.
Lands Clauses Consolidation Act 1845	8 & 9 Vict. c. 18.
Town Police Clauses Act 1847	10 & 11 Vict. c. 89.
Larceny Act 1861	24 & 25 Vict. c. 96.
Telegraph Act 1869	32 & 33 Vict. c. 73.
Public Health Act 1875	38 & 39 Vict. c. 55.
Local Loans Act 1875	38 & 39 Vict. c. 83.
Telegraph Act 1878	41 & 42 Vict. c. 76.
Public Health (Interments) Act 1879	42 & 43 Vict. c. 31.
Summary Jurisdiction Act 1879	42 & 43 Vict. c. 49.
Electric Lighting Act 1882... ..	45 & 46 Vict. c. 56.
Bills of Exchange Act 1882	45 & 46 Vict. c. 61.
Private Street Works Act 1892	55 & 56 Vict. c. 57.
Open Spaces Act 1906	6 Edw. 7. c. 25.
Public Health Acts Amendment Act 1907	7 Edw. 7. c. 53.
Acquisition of Land (Assessment of Compensation) Act 1919	9 & 10 Geo. 5. c. 57.
Increase of Rent and Mortgage Interest (Restrictions) Act 1920	10 & 11 Geo. 5. c. 17.
Land Charges Act 1925	15 Geo. 5. c. 22.
Roads Improvement Act 1925	15 & 16 Geo. 5. c. 68.
Public Health Act 1925	15 & 16 Geo. 5. c. 71.
Rating and Valuation Act 1925	15 & 16 Geo. 5. c. 90.
Law of Property (Amendment) Act 1926	16 & 17 Geo. 5. c. 11.
Local Government Act 1929	19 Geo. 5. c. 17.
Road Traffic Act 1930	20 & 21 Geo. 5. c. 43.
Land Drainage Act 1930	20 & 21 Geo. 5. c. 44.
Local Authorities (Publicity) Act 1931	21 & 22 Geo. 5. c. 17.
Summary Jurisdiction (Appeals) Act 1933	23 & 24 Geo. 5. c. 38.
Local Government Act 1933	23 & 24 Geo. 5. c. 51.
Restriction of Ribbon Development Act 1935	25 & 26 Geo. 5. c. 47.
Public Health Act 1936	26 Geo. 5. & 1 Edw. 8. c. 49.
Housing Act 1936	26 Geo. 5. & 1 Edw. 8. c. 51.
Winchester Corporation Act 1936	26 Geo. 5. & 1 Edw. 8. c. xxxviii.

Title	Session and chapter
Factories Act 1937	1 Edw. 8. & 1 Geo. 6. c. 67.
Agriculture Act 1937	1 Edw. 8. & 1 Geo. 6. c. 70.
Food and Drugs Act 1938... ..	1 & 2 Geo. 6. c. 56.
Local Authorities Loans Act 1945	8 & 9 Geo. 6. c. 18.
Borrowing (Control and Guarantees) Act 1946... ..	9 & 10 Geo. 6. c. 58.
National Insurance (Industrial Injuries) Act 1946	9 & 10 Geo. 6. c. 62.
Transport Act 1947	10 & 11 Geo. 6. c. 49.
Town and Country Planning Act 1947	10 & 11 Geo. 6. c. 51.
Local Government Act 1948	11 & 12 Geo. 6. c. 26.
Lands Tribunal Act 1949	12 & 13 Geo. 6. c. 42.
Wireless Telegraphy Act 1949	12 & 13 Geo. 6. c. 54.
Civil Aviation Act 1949	12 & 13 Geo. 6. c. 67.
National Parks and Access to the Countryside Act 1949	12 13 & 14 Geo. 6. c. 97.
Arbitration Act 1950	14 Geo. 6. c. 27.
Food and Drugs (Milk Dairies and Artificial Cream) Act 1950	14 Geo. 6. c. 35.
Public Utilities Street Works Act 1950	14 Geo. 6. c. 39.
New Streets Act 1951	14 & 15 Geo. 6. c. 40.

PRINTED BY HENRY GEORGE GORDON WELCH, C.B.E.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

Ch. xiv

*Winchester Corporation
Act, 1952*

15 & 16 GEO. 6
& 1 ELIZ. 2

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 4s. 0d. net

PRINTED IN GREAT BRITAIN

(77593)