

**CHAPTER xiv**

An Act to provide for the transfer to the mayor aldermen and burgesses of the borough of Bromley of the powers and duties of the conservators appointed under a scheme for the local management of Hayes Common to enact further provisions with respect to the common to provide that the Corporation shall be the burial authority for the whole borough to make further provision for the improvement health local government and finances of the borough and for other purposes. [20th May 1953.]

WHEREAS—

(1) The borough of Bromley (in this Act called “the borough”) in the county of Kent is a municipal borough under the government and local management of the mayor aldermen and burgesses of the borough (in this Act called “the Corporation”):

(2) By a scheme made in pursuance of the Metropolitan Commons Act 1866 approved and certified by the Inclosure Commissioners for England and Wales and confirmed by the Metropolitan Commons Supplemental Act 1869 provision was made for the local management by a body of conservators of Hayes Common then in the parish of Hayes in the county of Kent but now in the borough:

(3) It is expedient that the body of conservators all of whom are appointed by the Corporation should be dissolved and that their property rights powers liabilities and obligations should be transferred to the Corporation that an addition should be made to the common and that further provisions should be enacted with respect thereto as in this Act contained:

(4) By article 82 of the Kent Review Order 1934 it was provided that the Burial Acts 1852 to 1906 shall be in force throughout the borough as altered by that Order and that the council shall be the burial authority for so much of the borough as is not comprised within the area for which the Bromley Saint Luke's Burial Board acted:

(5) By a resolution passed by the council in pursuance of section 62 of the Local Government Act 1894 the powers duties property debts and liabilities of the last-mentioned burial board were transferred to the Corporation:

(6) For the purpose (amongst others) of avoiding separate accounts in respect of the two areas it is expedient to provide that the Corporation shall be the burial authority for the whole borough:

(7) It is expedient to make further provision with reference to lands and the health local government and improvement of the borough and the finances of the Corporation:

(8) It is expedient that the other provisions contained in this Act be enacted:

(9) The purposes of this Act cannot be effected without the authority of Parliament:

(10) 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:

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):—

PART I

PRELIMINARY

- Short title. 1. This Act may be cited as the Bromley Corporation Act 1953.
- Division of Act into Parts. 2. This Act is divided into Parts as follows:—
- Part I.—Preliminary.
 - Part II.—Hayes Common.
 - Part III.—Miscellaneous.
 - Part IV.—Finance.
 - Part V.—General.

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

4.—(1) In this Act the several words and expressions to which meanings are assigned by section 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 1929 ” and “ the Act of 1933 ” mean respectively the Local Government Act 1929 and the Local Government Act 1933;

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

“ the Act of 1947 ” means the Town and Country Planning Act 1947;

“ 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 borough ” means the borough of Bromley;

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

“ the Corporation ” means the mayor aldermen and burgesses of the borough;

“ Corporation undertaking ” means the market 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 borough;

“ county road ” has the meaning assigned to it by section 29 of the Act of 1929;

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

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

PART I
—cont.

- “ financial year ” means the period of twelve months ending on the thirty-first day of March;
- “ the general rate fund ” means the general rate fund of the borough;
- “ 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 and by the Lands Tribunal Act 1949;
- “ the Minister ” means the Minister of Housing and Local Government;
- “ 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;
- “ 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;
- “ the town clerk ” and “ the surveyor ” mean respectively the town clerk and the surveyor of the borough.

(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

HAYES COMMON

Definitions
in Part II.

5. In this Part of this Act unless the subject or context otherwise requires—

- “ the appointed day ” means the first day of April nineteen hundred and fifty-four;
- “ the conservators ” means the persons who immediately before the appointed day constitute the body of conservators for whose appointment provision is made by the scheme as amended by the Kent Review Order 1934;

“ Hayes Common ” means the common with respect to which the scheme was made with the addition thereto referred to in the next following section;

PART II
—cont.

“ the scheme ” means the scheme for the establishment of local management with respect to Hayes Common certified by the Inclosure Commissioners for England and Wales pursuant to the provisions of the Metropolitan Commons Act 1866 and dated the thirty-first day of December eighteen hundred and sixty-eight and confirmed by the Metropolitan Commons Supplemental Act 1869.

6.—(1) There shall be added to Hayes Common as it exists at the date of the passing of this Act the land belonging to the Corporation and coloured pink on the plan signed in triplicate by the Right Honourable the Earl of Drogheda the chairman of the committee of the House of Lords to which the Bill for this Act was referred one copy of which plan has been deposited in the office of the Clerk of the Parliaments House of Lords one in the Private Bill Office of the House of Commons and one with the town clerk at his office.

Addition
to Hayes
Common.

(2) The land referred to in the foregoing subsection shall form part of Hayes Common aforesaid for the purposes of the Metropolitan Commons Act 1866 the Metropolitan Commons Supplemental Act 1869 the scheme and this Act and of any byelaws relating to Hayes Common.

(3) A copy of the said plan certified by the town clerk to be true shall be sent by him as soon as may be after the passing of this Act to the Minister of Agriculture and Fisheries to be placed with the plan deposited with the Inclosure Commissioners for England and Wales and referred to in the scheme.

(4) Copies of the said plan deposited with the town clerk certified by him to be true shall be received in all courts of justice and elsewhere as prima facie evidence of the contents of such plan so far as it relates to the said land.

7.—(1) As from the appointed day the conservators shall cease to act and their body shall by virtue of this Act be dissolved and cease to exist.

Dissolution of
conservators
and transfer
of their
property
liabilities
etc. to
Corporation.

(2) All property rights and powers which immediately before the appointed day belonged to or were vested in the conservators shall as from the appointed day by virtue of this Act and subject to the provisions thereof be transferred to and vest in the Corporation.

PART II
—cont.

(3) All liabilities and obligations which immediately before the appointed day were binding upon the conservators shall as from the appointed day by virtue of this Act and subject to the provisions thereof be transferred to and become binding upon the Corporation.

(4) All receipts of the Corporation in respect of Hayes Common shall be carried to the general rate fund and all liabilities in respect thereof shall be discharged out of that fund.

Partial
repeal and
amendment
of scheme.

8. On the appointed day paragraphs 2 to 8 10 11 13 to 35 37 and 38 of the scheme shall be repealed and the unrepealed provisions thereof shall be amended and on and after that day shall have effect as set out in the schedule to this Act.

Byelaws.

9. On and after the appointed day—

- (1) The byelaws made by the conservators in pursuance of the scheme shall continue in operation until repealed and shall have effect as if the Corporation were therein referred to in the place of the conservators and shall apply to Hayes Common as defined in this Part of this Act:

Provided that the said byelaws shall unless previously repealed by the Corporation cease to have effect on the expiration of two years from the appointed day;

- (2) A copy of the said byelaws shall be deposited at the office of the town clerk and (until they cease to have effect) shall at all reasonable hours be open to public inspection without payment and a copy thereof shall on application be furnished to any person on payment of such sum (not exceeding one shilling for every copy) as the Corporation may determine;
- (3) The production of a printed copy of a byelaw purporting to be made by the conservators upon which is endorsed a certificate purporting to be signed by the town clerk stating—
 - (a) that the byelaw was made by the conservators;
 - (b) that the copy is a true copy of the byelaw;
 - (c) that on a specified date the byelaw was confirmed by the authority named in the certificate;
 - (d) the date (if any) fixed by the confirming authority for the coming into operation of the byelaw;shall be prima facie evidence of the facts stated in the certificate and without proof of the handwriting or official position of the town clerk;

(4) (a) The Corporation may make byelaws for the regulation and preservation of and the preservation of order on Hayes Common and by such byelaws provide for the removal from the common of any person infringing any such byelaw by any officer of the Corporation or a constable;

(b) The confirming authority for the purpose of section 250 of the Act of 1933 shall as respects byelaws made under this paragraph be the Secretary of State.

10. Every officer and servant in the employment of the conservators on the appointed day who is willing to enter the service of the Corporation shall on the appointed day become an officer or servant of the Corporation and shall hold his office or situation by the same tenure and upon like terms and conditions as he held the same under the conservators and while performing the same or analogous duties shall receive not less salary or wage than he was entitled to on that date. Transfer of employees of conservators to Corporation.

11. Nothing in this Act shall release discharge or suspend any action arbitration or other proceeding which shall be pending by or against the conservators or their clerk as representing the conservators on the appointed day and any such action arbitration or other proceeding may be maintained prosecuted or continued by or in favour of or against the Corporation. Continuance of proceedings.

12. All sales conveyances grants assurances deeds contracts bonds and agreements affecting the conservators or their clerk as representing the conservators and in force on the appointed day shall on and from that day be as binding and of as full force in every respect against or in favour of the Corporation and may be enforced as fully and effectually as if instead of the conservators or their clerk the Corporation had been a party thereto or bound thereby or entitled to the benefit thereof. Saving of agreements etc.

13. All books and documents which if this Act had not been passed would have been evidence in respect of any matter for or against the conservators shall be admitted in evidence in respect of the same or the like matter for or against the Corporation. Books etc. to remain evidence.

PART III

MISCELLANEOUS

14.—(1) As from the first day of April nineteen hundred and fifty-four the Corporation shall be the burial authority for the whole of the borough and accordingly the expenses shall be defrayed out of the proceeds of a uniform rate throughout the borough. Burial authority.

PART III
—cont.

(2) Any table of fees and charges in force in respect of any existing burial ground maintained by the Corporation shall continue to apply in respect of that burial ground until altered or annulled.

(3) All rates which have been levied before the first day of April nineteen hundred and fifty-four in respect of either of the areas for which the Corporation are the burial authority may be collected and recovered as if this section had not been enacted.

North Street
to be deemed
a "claimed
highway".

15. As from the first day of April nineteen hundred and fifty-four the part of route A.2212 known as North Street in the borough shall be deemed to be a county road in respect of which the Corporation have made a claim to exercise the functions of maintenance and repair in accordance with section 32 of the Act of 1929 and within the time mentioned in paragraph (e) of subsection (2) of that section and the Corporation shall thereupon be entitled to exercise those functions and that road shall vest in the Corporation and for the purpose of the maintenance repair and improvement of and other dealing with that road the Corporation shall have the same functions as if they were as respects that road the highway authority and the road were an ordinary road vested in them.

Extension
of power to
acquire land
by agreement.

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

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

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

Awnings over
footways.

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

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

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

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

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

18. If any tree or structure or any part thereof shall fall on or across any highway in the borough 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
highways.

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

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

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

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.

PART III
—cont.

(3) In this section the expression “private sewer” does not include any sewer vested in the West Kent Main Sewerage Board.

Registration
of hawkers of
food and their
premises.

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

- (a) No person shall sell or offer or expose for sale any food from or upon a 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;
- (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;

(vi) to the sale or offer or exposure for sale of food by any person at the Chartered Market in the borough where such person shall be entitled to trade by virtue of the payment by himself or by his employer of a toll stallage or rent or to the use of any premises in any such market as storage accommodation for food intended for sale by a person at such market.

(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

PART III
—cont.

matter and shall if so required by him within fourteen days of their decision give to him within forty-eight hours a statement of the grounds on which it was based.

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

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

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

(9) For the purposes of this section “the appointed day” means such day as may be fixed by resolution of the council subject to and in accordance with the following provisions of this section.

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

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

(b) of the general effect of the foregoing provisions of this section;

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

(11) 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 or part 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.

(12) It shall be lawful for any person who on the appointed day—

(a) is carrying on a business or using premises in respect of which registration is required by this section; and

(b) before that day has duly applied for registration;

to continue to carry on the business and to use the premises 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 29 (Appeals) of this Act.

PART IV

FINANCE

21.—(1) Notwithstanding anything contained in any enact- Consolidated
ment on and after the thirty-first day of March nineteen hundred loans fund.
and fifty-four the Corporation may (if they think fit) establish
a fund to be called “the consolidated loans fund” to which
shall be paid—

- (a) all moneys borrowed by the Corporation by the issue of authorised securities together with all moneys borrowed without or pending the issue of an authorised security in connection with the exercise of any statutory borrowing power;
- (b) all moneys of a capital nature received by the Corporation whether from the sale of capital assets or otherwise except such as are to be applied by the Corporation with due authority to another capital purpose; and
- (c) the appropriate sums provided in each financial year out of other funds of the Corporation to comply with the terms and conditions as to repayment attaching to their several borrowing powers or otherwise provided for the repayment of debt:

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

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

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

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

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

PART IV
—cont.

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

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

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

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

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

Capital fund.

22.—(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 (other than sums received from the sale of any property forming part of a Corporation undertaking);
- (b) any capital moneys not derived from the sale of property and not required by law to be applied to any other purpose;

- (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 that fund to the purposes authorised) shall not except with the consent of and to such extent as may be approved by the Minister exceed in any year the equivalent of twice the product of a penny rate as ascertained or estimated for the purpose of section 9 of the Rating 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 (other than expenditure in connection with a Corporation undertaking) 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 fifteen 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 the foregoing paragraph 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.

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—cont.

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

Renewal and
repairs fund.

23.—(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 by any enactment shall be carried to and form part of the general rate fund.

Power to
Corporation
to borrow etc.
for layout and
development
of corporate
land.

24. The layout and development of any corporate land (as defined by section 305 of the Act of 1933) for the time being belonging to the Corporation and the alteration enlargement improvement extension reconstruction or rebuilding of any existing building thereon shall be purposes for which the Corporation may borrow money or may expend money out of the general rate fund.

25.—(1) If on the death of an employee (which expression in this section includes a former employee or pensioner of the Corporation or other person) to whom or to whose personal representative a sum not exceeding one hundred pounds is due from the Corporation on account of salary wages superannuation allowance pension gratuity grant or repayment of contributions to any superannuation fund or of contributions otherwise made in respect of superannuation with or without interest a grant of probate of the will of the employee or of letters of administration to his estate is not produced to the Corporation within such time (not being less than one month after his death) as the Corporation may think reasonable then at the expiration of that time the Corporation may pay such sum to the person or persons entitled to the residuary estate of the employee by virtue of the provisions of paragraphs (i) to (vi) of subsection (1) of section 46 of the Administration of Estates Act 1925 and section 9 of the Legitimacy Act 1926 to the intent that such sum shall be applied in due course of administration:

Provided that—

- (a) the Corporation may (notwithstanding the receipt of a notice under proviso (b) of this subsection) if they think fit pay out of such sum the funeral expenses of the deceased employee or so much thereof as the Corporation consider reasonable having regard to any death grant which has been or is to be paid under section 22 of the National Insurance Act 1946;
- (b) if the Corporation receive notice in writing of any claim against the estate of the deceased employee at any time before they shall have paid the whole of such sum in accordance with the provisions of this subsection they shall not (except in any case in which the provisions of paragraph (vi) of subsection (1) of section 46 of the Administration of Estates Act 1925 are applicable) pay such sum or the balance thereof in their hands to any person other than the personal representative of the deceased employee unless and until such claim has been satisfied disproved or withdrawn.

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

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

PART IV
—cont.

the total estate of the deceased employee (including such sum but after deduction of debts and funeral expenses) does not exceed four hundred pounds; or

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

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

Payment of
pension etc.
of person
of unsound
mind.

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

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

(3) This section applies to any sum payable by the Corporation to an employee or former employee or pensioner of the Corporation or the widow or a child of a deceased employee or pensioner by way of salary wages pension superannuation or other allowance gratuity or annuity or by way of repayment with or without interest of contributions made to any superannuation or other fund but the amount to be paid in pursuance of this section to or in respect of any such employee former employee or pensioner shall not exceed one hundred pounds in any year.

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

in relation to any person to whom subsection (2) of this section applies the Corporation shall at the same time give notice to that person in a form approved by the Master in Lunacy:

PART IV
—cont.

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

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

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

27. The Corporation may pay—

Expenses
of public
ceremonies
etc.

- (a) reasonable expenses of the Corporation in providing public entertainments on the occasion of or otherwise in connection with public ceremony or rejoicing and in the reception and entertainment of distinguished persons residing in or visiting the borough;
- (b) reasonable expenses in connection with official and courtesy visits by or on behalf of the Corporation and travelling expenses and expenses reasonably incurred by or on behalf of any member or officer of the Corporation in connection therewith; and
- (c) reasonable expenses in connection with the presentation of the freedom of the borough to persons whom the council may resolve to admit as honorary freemen.

PART V

GENERAL

28. 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. Restriction
on right to
prosecute.

29.—(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.

PART V
—cont.

(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.

In executing works for owner Corporation liable for negligence only.

30. 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.

Power to charge in respect of establishment expenses.

31. Whenever under any public general Act from time to time in force in the borough (other than the Act of 1936) or under any local enactment the Corporation on the application or in consequence of the default of the owner or occupier of any premises execute any work the cost of which is payable by such owner or occupier the Corporation may include in and recover as part of such cost such additional sum not exceeding five per centum of the cost of the works as they think fit in respect of their establishment charges.

32. Section 265 of the Public Health Act 1875 shall extend and apply to the purposes of this Act or any local enactment for the time being in force in the borough as if the same were re-enacted therein. Application of section 265 of Public Health Act 1875.

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

Section 271 (Interpretation of “provide”);

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

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

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

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

Section 284 (Authentication of documents);

Section 285 (Service of notices &c.);

Section 286 (Proof of resolutions &c.);

Section 287 (Power to enter premises);

Section 288 (Penalty for obstructing execution of Act);

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

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

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 277 287 289 291 294 295 and 329 shall only apply to the provisions contained in Part III (Miscellaneous) of this Act.

PART V
—*cont.*

(2) Section 284 (Authentication of documents) of the Act of 1936 shall in its application to the council extend and apply in relation to any enactment for the time being in force in the borough as if that section were enacted in that enactment and in terms made applicable thereto.

Saving for
town and
country
planning.

34. 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.

Costs of Act.

35.—(1) 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.

(2) The Corporation may borrow without the consent of any sanctioning authority the sum requisite for the payment of the said costs charges and expenses and they shall repay all moneys so borrowed within such periods as the Corporation may determine not exceeding five years from the passing of this Act.

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

SCHEDULE

METROPOLITAN COMMONS ACT 1866

SCHEME FOR THE ESTABLISHMENT OF LOCAL MANAGEMENT WITH RESPECT
TO HAYES COMMON

1. Hayes Common in the county of Kent (which shall for all the purposes of this scheme be deemed to include Pickhurst Green) as the same is delineated in a plan deposited with the Ministry of Agriculture and Fisheries and therein edged with green shall henceforth for all the purposes of this scheme be regulated and managed by the mayor aldermen and burgesses of the borough of Bromley (hereinafter referred to as "the Corporation").

9. The Corporation shall take into consideration and if they see fit shall undertake and execute the drainage and improvement of Hayes Common so far only as is required for the purposes of health exercise and recreation and shall preserve the turf the gorse fern grass brushwood and trees in such manner as to maintain the natural features and aspect of the Common.

12. The Corporation shall be at liberty to receive and apply for the purposes of this scheme or any of them any subscriptions or donations applicable thereto respectively that may come to their hands.

36. Saving always to all persons and bodies politic and corporate and their respective heirs successors executors and administrators all such estates interests or rights of a profitable or beneficial nature in over or affecting Hayes Common or any part thereof as they or any of them had before the confirmation of this scheme by Act of Parliament or could or might have enjoyed if this scheme had not been confirmed by Act of Parliament.

The Inclosure Commissioners of England and Wales pursuant to the provisions of the Metropolitan Commons Act 1866 hereby certify the above-written scheme.

In witness whereof the said Inclosure Commissioners have caused their official seal to be hereunto affixed this thirty-first day of December one thousand eight hundred and sixty-eight.

Table of Statutes referred to in this Act

Short title	Session and chapter
Lands Clauses Consolidation Act 1845	8 & 9 Vict. c. 18.
Metropolitan Commons Act 1866	29 & 30 Vict. c. 122.
Metropolitan Commons Supplemental Act 1869	32 & 33 Vict. c. lix.
Public Health Act 1875	38 & 39 Vict. c. 55.
Local Loans Act 1875	38 & 39 Vict. c. 83.
Lunacy Act 1890	53 & 54 Vict. c. 5.
Local Government Act 1894	56 & 57 Vict. c. 73.
Acquisition of Land (Assessment of Compensation) Act 1919	9 & 10 Geo. 5. c. 57.
Land Charges Act 1925	15 Geo. 5. c. 22.
Administration of Estates Act 1925	15 Geo. 5. c. 23.
Rating and Valuation Act 1925	15 & 16 Geo. 5. c. 90.
Legitimacy Act 1926	16 & 17 Geo. 5. c. 60.
Local Government Act 1929	19 & 20 Geo. 5. c. 17.
Local Government Act 1933	23 & 24 Geo. 5. c. 51.
Public Health Act 1936	26 Geo. 5. & 1 Edw. 8. c. 49.
Food and Drugs Act 1938... ..	1 & 2 Geo. 6. c. 56.
National Insurance Act 1946	9 & 10 Geo. 6. c. 67.
Town and Country Planning Act 1947	10 & 11 Geo. 6. c. 51.
Lands Tribunal Act 1949	12 & 13 Geo. 6. c. 42.
Food and Drugs (Milk, Dairies and Artificial Cream) Act 1950	14 Geo. 6. c. 35.

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SCHEDULE—Metropolitan Commons Act 1866.