CHAPTER xciv.

An Act to extend the time for the completing of certain Waterworks of the Municipal Corporation of Rochdale, to confer further powers on that Corporation for the purposes of those Waterworks and the better government of the Borough; and for other purposes. [29th June 1875.]

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WHEREAS by "The Rochdale Improvement Act, 1853," (with which are incorporated parts of "The Towns Improvement Clauses Act, 1847,") provision was made for the widening, paving, altering, and improving of the streets of the town of Rochdale, and generally for the improvement and good government thereof, and commissioners were incorporated to execute the Act which is in this Act referred to as "the Act of 1853:"

16 & 17 Vict. c. ccxx.

And whereas by royal charter, bearing date the ninth day of September one thousand eight hundred and fifty-six, the inhabitants of the said town were incorporated by the name of the Mayor, Aldermen, and Burgesses of the borough of Rochdale (in this Act referred to as "the Corporation"), and the powers and provisions of the Municipal Corporations Acts were extended to the borough thereby constituted:

Charter dated 9th Sept. 1856.

And whereas the rights, powers, estates, property, and liabilities of the said commissioners were, on the thirteenth day of January one thousand eight hundred and fifty-eight, duly transferred to the Corporation:

Transfer of Commissioners property, &c. to Corporation, 13th June 1858.

And whereas by an Act passed in the tenth year of the reign of Her present Majesty, intituled "An Act for better supplying with "water the inhabitants of the town and borough of Rochdale, "and of several townships and places, all in the parish of Rochdale, "in the county of Lancaster" (in this Act referred to as "the Act of 1847"), the Rochdale Waterworks Company were re-incorporated, and empowered to supply water within the said town, borough, townships, and places:

10 & 11 Vict. c. xxvi.

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29 & 30 Vict. c. clii.

And whereas by "The Rochdale Waterworks Act, 1866" (in this Act referred to as "the Act of 1866"), the undertaking of the Rochdale Waterworks Company was transferred to the Corporation, and they were authorised to make additional waterworks, among which were a reservoir in the township of Spotland, in the said parish of Rochdale, and known as the Spring Mill Reservoir, and were required to divert, in the manner shown on the plans deposited in Parliament for the purposes of that Act, a road crossing the site of that intended reservoir, and the time limited for the completion of those works will expire on the twenty-eighth day of June one thousand eight hundred and seventy-six:

And whereas by a provisional order made under "The Local Government Act, 1858," and confirmed by "The Local Government Supplemental Act, 1869," section one hundred and forty-eight (power to borrow money) and section one hundred and fifty-one (amount to be yearly set apart out of rates for a sinking fund) of the Act of 1853 were repealed, and the Corporation were authorised to borrow such a sum or sums of money as, with the money then borrowed by the Corporation under the Act of 1853, should not exceed in the whole two years assessable value of the premises assessable under that Act, and it was provided that the moneys borrowed or to be borrowed should be repaid in the period of fifty years from the date of the borrowing thereof respectively, which period was, by section two hundred and eleven of the Act of 1872, extended to the period of seventy-five years:

35 & 36 Vict. c. cxlix.

And whereas by "The Rochdale Improvement Act, 1872" (in this Act referred to as "the Act of 1872"), the Corporation were empowered to construct additional waterworks and gasworks in the said parish of Rochdale, and the time limited for the completion of those waterworks will expire on the twenty-fifth day of July one thousand eight hundred and eighty-two, and the time limited for the compulsory purchase of lands for the purposes of the said waterworks, and also of the said gasworks, will expire on the twenty-fifth day of July one thousand eight hundred and seventy-five:

And whereas it is expedient that the time limited by the Act of 1866 for the completion of the works thereby authorised, and by the Act of 1872 for the completion of the waterworks thereby authorised, and by the Act of 1872 for the compulsory purchase of land for the purposes of the waterworks and gasworks authorised thereby, should be extended:

And whereas it is expedient that the Corporation be empowered to purchase certain lands and buildings in the said township of Spotland adjoining the said Spring Mill reservoir:

And whereas the purchase of the said lands and buildings by the Corporation will render the said road across the site of the said intended Spring Mill reservoir useless and the diversion thereof unnecessary, and it is expedient that the Corporation be relieved from the obligation to make such diversion:

And whereas it is expedient that further borrowing and other powers be conferred upon the Corporation, and that further and better provision be made for the management and regulation of the borough, and that the recited Acts be amended and altered in divers particulars:

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

And whereas an absolute majority of the whole number of the council, at a meeting held on the twenty-fourth day of October one thousand eight hundred and seventy-four, after ten clear days notice by public advertisement of such meeting and of the purpose thereof in the Rochdale Observer, a local newspaper published or circulating in the borough, such notice being in addition to the ordinary notices required for summoning such meeting, resolved that the expense in relation to promoting the Bill for this Act should be charged on the borough fund and borough rate, and other rates authorised to be made and levied by the Corporation, or some or one of such rates:

And whereas such resolution was published twice in the Rochdale Observer, a newspaper circulating in the borough, and has received the approval of the Local Government Board:

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the council at a further special meeting held in pursuance of a similar notice on the sixth day of January one thousand eight hundred and seventy-five, being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas the owners and ratepayers of the borough by resolution, in the manner provided in "The Local Government Act, 1858," for the adoption of that Act, consented to the promotion of the Bill for this Act:

And whereas plans showing the lands to be acquired under the powers of this Act, and a book of reference to those plans containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of and describing those lands, have been deposited with the clerk of the peace for the county of Lancaster (and are in this Act referred to as the deposited plans 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

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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,)

Short title.

1. This Act may be cited as "The Rochdale Improvement Act, 1875."

Provisions of certain general Acts incorporated.

2. "The Lands Clauses Consolidation Act, 1845" (except sections one hundred and twenty-seven to one hundred and thirty-one, both inclusive), "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Lands Clauses Consolidation Act, 1869," (as far as they are applicable for the purposes of and not varied by or inconsistent with this Act), are hereby incorporated with this Act.

Former Improvement Acts and this Act to be read together.

3. The Act of 1853 as amended by the Provisional Order of 1869 and by the Act of 1872 and by this Act, and the Act of 1872 as amended by this Act, and this Act shall be construed and have effect and be executed together as if they were one Act; and terms to which meanings are assigned in enactments incorporated or to be construed with this Act, or which have therein special meanings, have in this Act and for the purpose of this Act the same meanings.

Power to take additional lands.

4. Subject to the provisions of this Act, the Corporation may enter upon, take, and use the following lands delineated on the deposited plans and described in the deposited book of reference; namely,

Land situate in the township of Spotland, in the parish of Rochdale, on the south, west, north, and north-eastern sides of and adjoining to the said Spring Mill reservoir;

and may stop up, extinguish all rights of way over, and appropriate the soil of all footpaths over or upon the said lands.

Corporation relieved from obligation to divert road.

5. If the Corporation acquire the said lands in the said township of Spotland, or the rights of the persons to whom such lands belong to use the road next herein-after mentioned, they may, if they think fit, abandon the construction of the road in that township commencing near to a farmhouse called "Alders," and terminating at or near to a farmhouse called "Bottoms," and shown on the plans deposited in Parliament for the purposes of the Act of 1866, and thereon described as "intended diversion of road."

Borrowing powers of Corporation for water-works purposes increased.

6. The Corporation may from time to time borrow and reborrow for the purposes of their water undertaking, under the powers of this Act, two hundred thousand pounds, and all the provisions of the Act of 1872 with respect to the amount thereby authorised

to be borrowed, and the interest thereon, and the modes of raising and charging the same, and all incidental matters, shall apply to any sums to be borrowed under the powers of this Act.

Saving for existing charges.

7. All mortgages granted by the Corporation under the powers of any Act of Parliament on the security of the property to be mortgaged under the powers of this Act before the passing of this Act and subsisting at the passing hereof shall, during the continuance of such mortgages, have priority over any mortgages granted by virtue of this Act on the security of the same property.

Extension of time for compulsory purchase of lands for waterworks and for gasworks, and for construction of waterworks.

8. The time limited by the Act of 1872 for the compulsory purchase of lands for the waterworks and gasworks thereby authorised is hereby extended until three years after the passing of this Act, and the times limited by the Act of 1866 and by the Act of 1872 respectively for the construction of waterworks is hereby extended until ten years after the passing of this Act.

For protection of trustees of William Cayley Worsley.

9. If the Corporation acquire the lands belonging or reputed to belong to the trustees of William Cayley Worsley, or any part thereof authorised to be taken by the Act of 1872, for the purposes of the gasworks, the Corporation shall construct and maintain a bridge over the River Roche at the end of and of the same width as Trafalgar Street, and the said trustees, or other the owner or owners for the time being of the said lands, their servants and tenants, shall have a right of road, with or without horses, carriages, carts, and other vehicles, over such bridge when Trafalgar Street shall become a public highway, and the said trustees, or such owner or owners as aforesaid, as the case may be, shall, after the construction of the said bridge, when and so soon as they shall have let for building purposes any part of their lands lying between the said river and Milnrow Road, lay out and dedicate to public use a new street, not less than twelve yards wide, from such bridge across their said lands to the arch under the Lancashire and Yorkshire Railway, situate at the northerly end of a street about to be laid out and intended to be called Spruce Street, and thence through the said arch and along the said intended street to Milnrow Road aforesaid.

Formation of sinking fund for repayment of moneys raised for waterworks purposes deferred.

10. Notwithstanding anything in the Act of 1866 or the Act of 1872 contained, the Corporation shall not be obliged to set apart any sum as a sinking fund for redeeming annuities or repaying moneys borrowed by them under the powers of this Act for the purposes of their waterworks until the first day of January one thousand eight hundred and eighty-five.

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Rate for water for domestic use increased.

11. From and after the passing of this Act, the rate at which the Corporation shall supply water for domestic use to all premises, the annual rackrent or value of which shall exceed six pounds, shall be a rate per centum per annum not exceeding ten pounds on the annual rackrent or value of the premises so supplied with water, and section sixty-nine of the Act of 1847 shall be construed accordingly.

Water rates within and without the borough to be equal.

12. The Corporation shall not at any time charge for a supply of water for any purpose without the borough a higher rate than they are for the time being charging for a like supply for the like purpose within the borough.

As to sale of lands.

13. The provisions of the Act of 1872, contained in section forty-six (powers to sell and lease lands not required), section forty-seven (power to sell reserved rents), and section forty-eight (application of moneys arising from sale of lands not required), shall apply to lands acquired under the powers of this Act.

Certain provisions of the Towns Improvement Clauses Act, 1847, to cease to apply to the borough.

14. From and after the passing of this Act the following sections and parts of sections of "The Towns Improvement Clauses Act, 1847;" (namely,)

Section fifty-four (future streets may be declared highways);

Section fifty-five (commissioners, upon completion of two thirds of any streets, may upon application repair remaining one third to be completed by owners of houses);

shall cease to be applicable within the borough, and section one hundred and seventeen of the Act of 1853 is hereby repealed, but without prejudice to anything done or suffered, or any right accrued, or any liability incurred thereunder before the passing of this Act, and sections one hundred and twenty-seven to one hundred and thirty-one (both inclusive), relating to the sale of superfluous lands, of "The Lands Clauses Consolidation Act, 1845," shall not apply to any lands of the Corporation purchased for the purpose of the waterworks.

Waterworks lands not to be used as building land.

15. The Corporation shall not use for any building purpose unconnected with the waterworks any lands purchased by them for the purposes thereof.

Corporation may require land adjoining streets, &c. to be fenced.

16. If any land adjoining any street or public place within the borough, not being a footpath, on the bank of any river, brook, or stream be not fenced to the satisfaction of the Corporation, they may order the owner to fence the same within the period and in the manner reasonably prescribed in the order, and if after the service of such order on the owner the directions thereof be not complied

with within the prescribed period, the owner shall be liable to a penalty not exceeding five pounds, and to a further penalty not exceeding forty shillings a day for every day such offence shall continue, or if the owner be not known or cannot be found within the borough after due inquiry, the Corporation may execute such works as may be requisite for such fencing, and the expenses thereof shall be deemed private improvement expenses; and in case of any such footpath the Corporation may at their own expense, either upon the said footpath or upon any land lying between the same and such river, brook, or stream, execute such works as may be requisite for fencing the same from such river, brook, or stream, and for that purpose enter upon such land.

Provisions as to courts: section 113 of Act of 1853 repealed.

17. Section one hundred and thirteen (courts and passages to be flagged and channelled) of the Act of 1853 is hereby repealed, and in lieu thereof be it enacted, that if at any time any court or passage shall be not paved, flagged, levelled, drained, sewered, or otherwise made good to the satisfaction of the Corporation, and with such materials as they think fit, they may at any time and from time to time order that it be freed from obstruction, paved, flagged, levelled, drained, sewered, and otherwise made good with such materials, at such levels, with such inclinations, and with sewers and drains of such dimensions, and that the soil thereof be raised, lowered, or altered in such manner and within such time as the order directs, and thereupon the owners of lands and buildings abutting on such courts or passages, and having the use thereof, shall forthwith execute the works mentioned in such order to the satisfaction of the Corporation, and in default of such works being so executed the Corporation may execute the same, and may alter and amend such part or parts thereof as shall not have been so executed, and charge the expenses upon such owners in such proportion as the Corporation think equitable, and such expenses shall be deemed private improvement expenses, and be chargeable and recoverable accordingly, and for the purposes of this enactment joint owners shall be reckoned and considered as one owner.

Streets, &c. not to be maintained by Corporation until declared public highways.

18. If and whenever, under the provisions in that behalf contained in section one hundred and nine of the Act of 1853, or in this Act, the Corporation pave, flag, level, drain, sewer, or otherwise make good any street, court, or passage, or part of a street, court, or passage, such street, court, or passage, or part of a street, court, or passage, as the case may be, shall not thereafter be deemed a street repairable by the Corporation unless and until they shall have declared such street, court, or passage, or part thereof respectively,

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as the case may be, to be a public highway, and the said section one hundred and nine shall be construed accordingly.

Streets sewered, paved, &c. to be public highways.

19. When any street, court, or passage, or any part thereof respectively, has been freed from obstruction, paved, flagged, levelled, drained, sewered, or otherwise made good to the satisfaction of the Corporation, and with such materials as they think fit, they may, so far as relates to any such court or passage, and shall, so far as relates to any such street, give notice of their intention to declare such street, court, or passage, or such part of such street, court, or passage, as the case may be, to be a public highway, by affixing a notice to that effect on some conspicuous part of such street, court, or passage; and unless the owner or owners of buildings or lands in such street, court, or passage, or such part of such street, court, or passage, as the case may be, extending for not less than four fifths of the frontage of such street, court, or passage, or such part of such street, court, or passage, object thereto, by notice in writing served on the Corporation within one month after the affixing of such notice, the Corporation shall, by a declaration recorded among the proceedings of the council, declare such street, court, or passage, or such part of such street, court, or passage, as the case may be, to be and the same shall thenceforward be a public highway, and be repairable accordingly; provided that, for the purposes of this enactment, joint owners shall be reckoned and considered as one owner.

Streets, &c. may be sewered only or paved only, and expenses recovered.

20. The Corporation may order any street, court, or passage to be levelled, drained, and sewered only, without requiring it at the same time to be paved and flagged, or otherwise made good, and in that case all the provisions of this Act and of the Act of 1853, as amended by this Act, with respect to the paving, flagging, levelling, draining, sewering, or otherwise making good of streets, courts, and passages, shall be applicable to the levelling, draining, and sewering only of such street, court, or passage, and the expenses thereof and incidental thereto shall be deemed private improvement expenses, but a street, court, or passage levelled, drained, and sewered shall not be declared to be a public highway until it has also been paved, flagged, and otherwise made good to the satisfaction of the Corporation, and with such materials as they may think fit; and if the Corporation, at any time after any street, court, or passage is levelled, drained, and sewered, think proper to have the same paved, flagged, or otherwise made good, all the provisions of this Act and of the Act of 1853, as amended by this Act, with respect to paving, flagging, levelling, draining, sewering, or otherwise making good

of streets, courts, and passages, shall be applicable to paving, flagging, or otherwise making good such streets, courts, or passages, and the expenses thereof or incidental thereto shall be deemed private improvement expenses.

Corporation may lay new and amend existing drains when they pave, sewer, &c. any street, &c.

21. Whenever the Corporation cause any street, court, passage, or any part or parts thereof respectively to be paved, flagged, levelled, drained, sewered, or otherwise made good, or to be sewered, drained, levelled, or otherwise made good, or to be sewered or drained only, they may construct or lay new drains or pipes, or may alter, amend, and repair any existing drain or pipe from any land, house, or building abutting on such street, court, or passage, and trap and ventilate such new or existing drain or pipe, and connect the same with some sewer of the Corporation or some drain belonging to such land, house, or building, so as to provide to their satisfaction for the drainage of such land, house, or building, and the cost thereof shall be deemed private improvement expenses, and be chargeable and recoverable accordingly.

Value of materials in streets sewered and paved to be allowed for.

22. The Corporation may appropriate, use, and dispose of any old materials in any street, court, or passage at the time of paving, flagging, levelling, draining, sewering, or otherwise making good, or of sewering, draining, and levelling, or of sewering such street, court, or passage by the Corporation, allowing such sum as the surveyor may fix to be the value thereof to the owners of land and buildings in such street, court, or passage in proportion to their interest therein, unless such owners shall, within seven days after notice from the surveyor so to do, remove such materials or their respective proportions thereof, and such notice shall state the sum the Corporation are willing to allow for the same.

Owners who have constructed sewer to the satisfaction of Corporation, or contributed to cost of construction, not to be charged if new sewer again required.

23. If in any street in which there is not a sewer, or in which the existing sewer is insufficient, the owners of the lands abutting on such street construct a new sewer to the satisfaction of the Corporation, or the Corporation construct such new sewer and charge such owners with the payment of the expenses or part of the expenses incurred in the construction thereof, such new sewer shall thenceforward belong to and be maintained by the Corporation at their own cost, and if such new sewer shall at any time, and from any cause, prove insufficient, the expense of constructing any substituted or additional sewer shall be borne by the Corporation alone.

Owners to repair defective streets not being highways.

24. In case any street not repairable by the surveyor or surveyors of any hamlet or township before the passing of an Act

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passed in the sixth year of the reign of King George the Fourth, intituled "An Act for lighting, cleansing, watching, and regulating the town of Rochdale, in the county palatine of Lancaster," or not repairable by the commissioners or by the Corporation since the passing of an Act passed in the eighth year of the reign of Her present Majesty, intituled "An Act for better lighting, paving, "cleansing, watching, regulating, and improving the town of "Rochdale and the environs thereof, in the county palatine of "Lancaster," or not at any time accepted by any such surveyor or surveyors, or commissioners or Corporation respectively, as repairable by him or them respectively, or any part of such street be, in the opinion of the Corporation, in a dangerous or defective condition, they may (in addition and without regard to any other powers vested in them with respect to such street or part thereof) at any time and from time to time, by order in writing under the hand of the surveyor, require the owner or owners of land or buildings abutting on such street, or the owner or owners of any land or buildings abutting on that part of the said street which shall be in a dangerous or defective condition, to repair and amend, within such time and in such manner as such order shall direct, so much of the said street as lies between their or his land or building so abutting thereon and the middle line of such street, and if such owners or owner make default, the Corporation may, if they think fit, execute the necessary work, and charge and recover the cost thereof as private improvement expenses.

Corporation not to execute works under section 20 of this Act or section 109 of Act of 1853, except on default of owners.

25. The Corporation shall not, under section twenty of this Act, or section one hundred and nine (commissioners may pave and sewer streets at expense of owners) of the Act of 1853, execute any works the expenses of which are to be charged on any owner or owners unless and until they shall have ordered such owner or owners to execute within the time named in the order, and to the satisfaction of the Corporation, the works named in such order, and such owner or owners shall have made default therein.

Publication of orders for execution of works.

26. Whenever the Corporation make any order for the execution of any work by the owners of lands, houses, or buildings under the provisions contained in sections seventeen and twenty of this Act, or section one hundred and nine of the Act of 1853, they shall publish such order once in each of two successive weeks in some newspaper circulating in the borough, and shall cause the same to be posted in the street, court, or passage to which it relates for two successive weeks, and such publication shall be sufficient notice to all owners, lessees, and occupiers, and others interested in any land

or building in such street, court, or passage to which the order relates, anything in any other Act to the contrary notwithstanding; and such order may be in the form or to the effect in the schedule to this Act, and if any work by the said order directed to be executed be not commenced within one month after the last publication of such notice, or if any such work when commenced be not carried on without unreasonable delay, or if any such work be not executed within the time mentioned in such order, the person required to execute such work shall be deemed to have made default.

Corporation may define limits of new streets.

27. The Corporation may by order declare the points or limits at or within which any new street shall for any purpose be taken as beginning or ending.

Expenses payable by owners in respect of courts or passages to be apportioned by Corporation.

28. All private improvement expenses charged by the Corporation to or to be paid to the Corporation by owners of any land or building in or abutting on any court or passage, and having the use thereof in respect of any work to be executed in or for such court or passage, or the benefit of which is to be participated in by such court or passage, shall be apportioned among such owners as the Corporation deem equitable, instead of in proportion to their respective frontages as required by section two hundred and forty-one of the Act of 1872, and that section shall be read accordingly.

Owner of agricultural land abutting on any highway not to be charged proportion of costs until his land be let, &c.

29. The owner of any land abutting on any existing highway in which the Corporation shall after the passing of this Act construct a new sewer, such land not having been acquired, let, or used for building purposes, or not being used with any house for the purposes of a yard, garden, plantation, open space, or ornament, shall not be charged with any of the cost of such construction, unless and until he shall have let or used for building, trade, business, or manufacturing purposes some portion of such land, in which case he shall pay a proportionate part of such cost in proportion to the frontage to such highway of the land so let or used, provided that so soon as such owner shall have so let or used such part or parts of such lands as together shall have an aggregate frontage to such highway of not less than two thirds of the whole of his lands abutting on such highway, he shall be charged with the whole of the costs (or, if he shall have paid any portion thereof, the whole of the balance of the costs) payable by him in respect of the whole of his lands abutting on such highway.

What to be deemed private improvement expenses.

30. The expression "private improvement expenses" shall mean and include all private improvement expenses expressly so

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called, and all other expenses at any time incurred by the Corporation for the repayment whereof the owner of the building or lands in respect whereof such expenses may have been or may be incurred is liable under any enactment or under any agreement with or by reason of any application of such owner.

Recovery of private improvement expenses.

31. If any private improvement expenses be not paid on demand the Corporation may, if they think fit, instead of levying a rate for the recovery thereof, recover the same, with interest thereon from the expiration of one month after such demand, at a rate, to be determined by the Corporation, not exceeding five pounds per centum per annum, either as a debt from such owner in any court of competent jurisdiction, or by distress and sale of the goods and chattels of such owner after duly summoning such owner, and any justice may issue his warrant accordingly.

Private improvement expenses to be a charge on lands as if mortgaged.

32. All private improvement expenses, with such interest thereon as aforesaid, and every rate made for the payment thereof, shall be a charge on the building or lands to which the same relate, in priority to any incumbrance or charge on or affecting the same and created subsequently to the day on which the Corporation shall commence the works on account of which those expenses shall be payable, and the Corporation shall have the like rights and remedies in respect of such charge as if they were mortgagees with power of sale of such building or lands for the amount of such charge.

Power to enter into possession, &c. where owner fails to pay his private improvement expenses.

33. If the owner of any building or lands so charged with any private improvement expenses fails for the space of six months after the same become recoverable from him to fully pay the same with all interest thereon, or if any such owner is or becomes bankrupt, or is, after diligent inquiry, unknown to the Corporation, or cannot be found by them, then and in every such case, and as often as the same happens, the Corporation (by way of additional remedy, and whether any action or suit or other proceeding against such owner has been brought by them or not,) may, on or at any time and from time to time after the expiration of one month from service of a notice on such owner, or in the case where such owner is unknown or cannot be found after the expiration of one month from the affixing of a notice on some conspicuous part of the said building or land of their intention to put in force the powers of the present section, proceed as follows; (namely,)

1. The Corporation may enter into receipt of, and demand and receive from tenants and occupiers and persons liable, the rents and profits of such building or lands, and in case of

nonpayment may use all or any such lawful remedies, by way of distress or otherwise, for recovering and obtaining payment of the same, or any part thereof, as may be used by landlords in ordinary cases, and may do all things necessary or expedient for recovering and receiving the rents and profits as if they were the owners of the buildings or lands; and the tenants, occupiers, and persons liable shall pay the rents and profits to the Corporation, and the receipt of the treasurer, or of any officer of the Corporation appointed in that behalf, shall be and shall alone be an effectual discharge for the same:

2. Where any such building or lands is or are unoccupied or unproductive at the time when the Corporation would be entitled under this Act to enter into the receipt of the rents and profits thereof (if any), or at any time afterwards while the claim of the Corporation is unsatisfied, then and in every such case, and as often as the same happens, the Corporation may enter into possession of the building or lands, and may occupy, enclose, and use the same, or any part thereof:

3. The Corporation may from time to time let from year to year, or for any shorter period, any such unoccupied or unproductive building or lands, or any part thereof, and receive the rents and profits thereof, as if they were the owners thereof.

Application of rents and profits received.

34. All rents and profits received in respect of any such building or lands as aforesaid shall be applied in the manner and in the order following; (namely,)

1. There shall be paid thereout all taxes, rates, assessments, expenses of repairs, and other outgoings properly payable by the owner in respect of the building or lands, except any chief rent, and all expenses incurred by the Corporation in relation thereto by reason or in consequence of the failure of the owner thereof to pay any such private improvement or other expenses as aforesaid:

2. There shall be paid any chief rent payable in respect of the building or lands:

3. There shall be paid the interest on all mortgages created prior to and subsisting at the date when the Corporation commence the works on account of which private improvement expenses shall be payable; provided that, in case any such mortgage shall include other property, a portion only of the interest on such mortgage shall be paid proportionate to the value

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of such building and lands, such portion to be agreed on between the mortgagee and the Corporation, or, failing such agreement, to be determined by two justices:

4. There shall be retained on behalf of the Corporation the amount which the owner is at the time of the commencemen of such receipt by the Corporation liable to pay on account of such private improvement expenses as aforesaid, and interest in respect of the same building or lands, or any other building or lands in the same or any other street:

5. The surplus (if any) shall be paid to the owner, his representatives, or assigns.

Right of Corporation to rents to exclude that of owner, &c.

35. Whenever the Corporation so enter into receipt of the rents and profits, or into possession of any such building or lands, then, for and in respect of the period during which their claim against the owner is unsatisfied, as well after the termination of that period as during its continuance, the owner of the building or lands shall not have any right to receive any rents or profits of the building or lands, or have any interest therein, except under the provisions of this Act directing the application of rents and profits received by the Corporation; and for and in respect of the period aforesaid, as well after its termination as during its continuance, every or any such right shall, as against any lessee of the building or lands, or other person taking through or under the Corporation, be by virtue of this Act absolutely extinguished.

Persons having partial interests may raise expenses by mortgage.

36. All owners of buildings or lands, being tenants for life only, and all committees of the estates of lunatics, and all trustees seised, possessed of, or entitled to any estate or interest, either at law or equity, in any buildings or lands for or on behalf of any person or charity (all of whom are in this section included in the expression "mortgagor"), may charge such buildings or lands with such sum as may be necessary to defray the whole or any part of any private improvement expenses which the owners of such buildings or lands for the time being are liable to pay, and the expenses of making such charge, and for securing the repayment of such sum, with interest, may mortgage such buildings or lands for the term of twenty years unto or in trust for any person who shall advance such moneys, but so that every such mortgage be made with a condition to cease and be void, or with an express trust to be surrendered or re-assigned when the money to be thereby secured, with all interest thereon, shall have been fully paid and satisfied, and so that in every such mortgage there be contained a covenant by the mort-

gagor to pay and keep down the interest of the money to be secured during his life or the continuance of his interest therein, as the case may be, and to set aside during such life or continuance, as the case may be, yearly and every year following the execution of such mortgage, one twentieth part at least of the whole original sum secured by such mortgage in such manner that no person afterwards becoming possessed of such house or land, or of any estate or interest therein, shall be subject or liable to pay any larger arrear of interest than for six months previous to the time when his title to possession shall accrue or commence, or any greater proportion of the original sum secured by such mortgage than the unexpired term of such mortgage doth or shall bear to the whole term mentioned; and the amounts annually set aside under the covenants of such mortgage shall be invested in Exchequer bills or other Government securities in the joint names of the mortgagor and the mortgagee, and shall accumulate until the whole amount secured by such mortgage can be paid off, or until the sum so accumulated shall be accepted by the mortgagee in discharge of the like amount of the principal sum secured by such mortgage, and every such mortgagee and his representatives and assigns shall have the like remedies, in case of non-payment of the moneys thereby secured, as in the case of other mortgages of the like nature. If the mortgagor shall advance or pay the whole amount of the moneys so repayable as aforesaid he shall be deemed to be a mortgagee in respect thereof, and shall have the same rights and priority as a mortgagee would have under this section, and a certificate of such advance or payment under the hands of the treasurer of the Corporation shall be conclusive proof of the rights of such mortgagor to the extent of the amount certified for under this section.

Costs of new sewers, &c. to be paid out of the rate for paving and sewering.

37. All the costs and expenses payable by the Corporation in respect of the constructing of new sewers or drains, or of substituted sewers or drains, and not recoverable from the owners of lands, and the interest of all moneys borrowed for those purposes, and all payments to any sinking fund for the repayment of such moneys, shall be paid out of "The Rate for Paving and Sewering," and in estimating from time to time the amount to be raised by that rate, the Corporation shall include therein the sum required for the several purposes aforesaid, and the rate shall be assessed, levied, and recovered accordingly; and the provisions of section two hundred and nine of the Act of 1872, whereby the amount of such rate in any one year is limited to two shillings and sixpence in the pound on the yearly value of the property liable to the payment of such rate, shall not apply to any excess in that rate over

A.D. 1875.

that prescribed limit caused by the including in that rate the said sum.

Saving for special contracts as to expenses of works.

38. Nothing in this Act shall alter the liabilities respecting the payment of any expenses of any owner and occupier as between themselves under any special contract relative thereto made before or after the passing of this Act.

Amending section 164 of Act of 1872 (re-erection of buildings).

39. Section one hundred and sixty-four (re-erection of buildings) of the Act of 1872 shall be read and construed as if the words "not originally constructed for human habitation" had not been inserted therein.

Amending section 141 of Act of 1872 (houses to have separate yards).

40. The open yard required by section one hundred and forty-one (houses to have separate yards) of the Act of 1872 to be attached to every new dwelling-house may, with the consent of the Corporation, be so attached at the back or side, or partly at the back and partly at the side, of such dwelling-house.

Penalty for occupying or letting as a dwelling-house an unfit building.

41. Every owner who shall let or occupy, or permit to be let or occupied, any new building in contravention of the provisions of section one hundred and fifty-nine (certificate of fitness of houses for human habitation) of the Act of 1872 shall be liable to a penalty not exceeding five pounds, and to a further penalty not exceeding forty shillings a day for every day during which such offence shall continue.

Alteration of scale of vertical sections required by section 18 of Towns Improvement Clauses Act, 1847.

42. The vertical sections by section eighteen of "The Towns Improvement Clauses Act, 1847," incorporated with the Act of 1853, required to be prepared by and deposited at the office of the Corporation, may be prepared on a scale of one inch to thirty feet instead of on a scale of one inch to two feet as required by that section.

Corporation may make byelaws.

43. The Corporation may from time to time make such byelaws as they may deem necessary and expedient for the due execution of this Act, and section two hundred and six (general power to make byelaws) and section two hundred and seven (evidence of byelaws) of the Act of 1872 shall extend and apply to such byelaws.

Expenses of Act.

44. The costs, charges, and expenses of and incidental to the applying for, obtaining, and passing this Act shall be paid by the Corporation, and shall be debited to the accounts kept by the Corpo-

ration in such proportions as they think just, subject to the provisions of the Act thirty-five and thirty-six Victoria, chapter ninety-one, section six. A.D. 1875.

A.D. 1875.

SCHEDULE referred to in this Act.

Form of Order for Paving and Sewering, &c.

ROCHDALE BOROUGH IMPROVEMENT ACT, 1875.

day of 18 .

It is resolved and ordered by the council of the borough of Rochdale that, on or before the day of 18 , the following streets [courts *or* passages] [*A* *Street*] [*B* *Street*] * be freed from obstruction, paved, flagged, levelled, drained, sewered, and otherwise made good* at such levels, with such inclinations, and with such drains and sewers of such dimensions as are shown on the plans and sections deposited in the office of the surveyor, and with the materials and in the manner herein-after specified; namely,

(*Here specify nature of materials, &c.*)

A.B.,
Town Clerk.

* If the order is for levelling, draining, and sewering only, or for sewering only, omit the words between the asterisks * *, and insert instead thereof the following; namely, "be levelled, drained, and sewered," or "be sewered."

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1875.