A digest of the law relating to public health and local government : with the statutes in full, various precedents, various official documents, brief notes of 1260 leading cases, a table of offences and punishments, and ample indexes the whole forming an exhaustive index to the "Public Health Act, 1875" / by George F. Chambers.

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A

DIGEST OF THE LAW

RELATING TO

Public Health

AND

Local Government,

WITH

The Statutes in full,

VARIOUS PRECEDENTS; VARIOUS OFFICIAL DOCUMENTS;

BRIEF NOTES OF 1260 LEADING CASES;

A TABLE OF OFFENCES AND PUNISHMENTS; AND AMPLE INDEXES,

THE WHOLE FORMING

AN EXHAUSTIVE INDEX TO THE "PUBLIC HEALTH ACT, 1875."

BY

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AN ASSOCIATE OF KING'S COLLEGE LONDON, (ENGINEERING DEPARTMENT); AND
FORMERLY AN INSPECTOR OF THE LOCAL GOVERNMENT BOARD.

Eighth Edition.

MUCH ENLARGED, AND REVISED UP TO DATE.

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Preface

TO THE EIGHTH EDITION.

AS *eight* Editions (comprising 5000 copies in all) of this work have been called for in the comparatively short period of 9 years I may be permitted to infer that it meets satisfactorily the requirements of those who have to use books relating to Public Health Law. At any rate it is in great and constant request not only with the Legal Profession but with Clerks and other Officers of Local Authorities, including Medical Officers of Health. This fact has encouraged me to make renewed efforts to keep up the repute of the book, and to augment its usefulness; and the present edition will, I hope, be found much superior to all the previous ones. It follows in the main the lines of the 7th edition, but all the details have been thoroughly overhauled, and in many places re-arranged; and many annotations on Practical Points have been added. The Indexes in the last edition not having been so conveniently placed as experience showed was desirable they have now been brought together at the end of the work; and the General Index has been entirely reconstructed. In its new form this Index will, it is hoped, be regarded as a specially valuable feature of the work.

It is in the Part, (now No. V.), entitled "Digest of Cases," that the most extensive alterations and improvements have been introduced. The Highway and Rating Cases have been withdrawn in order to re-appear in the Companion Volumes *Highways and Bridges*, and *Rates and Rating*, respectively, and their places are occupied by a vast number of Cases, collected from many sources, relating to Local Government Law. A large number of Cases reported only in the *Times* Newspaper are given; many of these Cases are of such importance as to make it a matter of surprise that they did not find their way into some of the regular Law Reports. The insertion of these cannot fail to add greatly to the usefulness of this volume for Reference purposes.

The Statutes, (now Part II.) have been rendered more generally useful by the addition of an immense number of Foot-notes in the shape of cross references, and references to Cases decided under the particular Statutes, or which are calculated to illustrate them in a greater or less degree. To select and arrange these references proved a most laborious task.

The following paragraphs from the Preface to the 7th edition may be conveniently reprinted here:—

"Urban Authorities consulting Part I. will find what concerns them in the first *five* Chapters: but Rural Authorities must in the first instance refer to Chapter VI. and then ascertain the details of their duties by turning to so many of the first 808 Paragraphs as have a Maltese Cross (✠) prefixed to them.

"With the view of saving space, I have in Part I. used certain abbreviations as follows:—

LGB	... ...	Local Government Board.
LA	... ...	Local Authority.
A	... ...	Authority.
A	... ...	"Public Health Act, 1875."

"The 'Digest of Cases' in Part V. will, it is hoped, be useful to all classes of readers. My aim has been to furnish a succinct outline of all the Case Law which is available for the interpretation of the Acts relating to Local Government. Accordingly, I have included not only Cases which have been decided immediately under Acts of this class, but also a large number of other Cases calculated to throw light upon points which either have arisen, or may perhaps hereafter arise. The selection has been made in a liberal spirit, as it has been deemed preferable to err on the side of undue comprehensiveness. Respecting the summaries which are given of the Cases it may be well to remark that for the sake of brevity each is usually confined to such a statement of the points involved as will enable a reader to judge whether any particular Case is likely to help him. Nevertheless the substance of the decisions is given as often as and as far as it was found convenient to do so. The *Law Journal Reports* being in many respects the handiest have been used as the primary standard of reference, but references to other Reports have been made freely.

"I have to thank many friends, particularly Mr. *E. J. Athawes*, and Mr. *W. H. Michael*, of the Common Law Bar, and Mr. *H. J. Hood*, of the Equity Bar, for much valuable assistance in carrying this work through the press. I trust that few, if any, serious errors have crept in: however, I shall always be glad to have mistakes pointed out, and, generally, to receive suggestions."

1 *Cloisters, Temple.*
November 1, 1881.

G. F. C.

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MOST OF WHICH ARE WITHIN THE SUMMARY JURISDICTION OF JUSTICES.

*** The sub-divisions of this Table conform as far as may be to the sub-divisions of Chapter V. of Part I. of this Volume.

Subject.	Statute.	Maximum Penalty.
(2.) Adulteration of Food, &c.		
Mixing for sale injurious ingredients with Food or Drugs.	38 & 39 Vict., 63, §§ 3—4	£50: subsequent offence, 6 m. hard labour.
Selling articles not of the proper nature, quality, &c. . .	Ib. §§ 6—7	£20
Selling articles tampered with by abstraction	Ib. § 9	£20
Refusing to sell to officer for analysis	Ib. § 17	£10
Forging certificate or warranty, or uttering same knowing it to be forged	Ib. § 27	2 y. hard labour.
Misapplying certificate; giving a false warranty or a false label	Ib. § 27	£20
Refusing to supply milk for analysis	42 & 43 Vict., 30, § 4	£10
(3.) Arbitration.		
Arbitrator wilfully acting contrary to his Declaration .	8 Vict., 18, § 33: A 180 (11)	As for "Misdemeanour."
Juryman or Witness duly summoned failing to appear or refusing to be examined	8 Vict., 18, §§ 44—5	£10
Witness giving false evidence	Ib. § 149: A 263	As for "Perjury."
(5.) Audit of Accounts.		
Officer making default in preparing or exhibiting, &c., his accounts	A 247 (4)	£5
Officer neglecting to produce papers or to sign Declaration	A 247 (5)	£2
Officer falsely or corruptly making Declaration	A 247 (5)	As for "Perjury."
Officer neglecting to make Financial statement	42 Vict., 6, § 7	£20
(9.) Borrowing Powers.		
Clerk or custodian of Register of Mortgages of Rates refusing to allow inspection	A 237	£5
Clerk wilfully failing to register a Mortgage of Rates . .	A 238	£20
(10.) Buildings.		
Bringing forward new building beyond the line	A 156	£2 per day.
Breach of Building By-Laws	A 183	£5: and £2 per day.
(12.) Canal Boats.		
Using boat in contravention of the "Canal Boats Act, 1877"	40 & 41 Vict., 60, § 1	£1
Obstructing an Inspector of Canal Boats	Ib. § 5	£2
Illegally detaining a Certificate of Registry	Ib. § 10	£2
(13.) Cellars.		
Letting for hire or occupying any cellar contrary to the "Public Health Act, 1875"	A 73, 75	£1 per day: after 2 convictions within 3 m. Justices may close cellar.
(17.) Fires.		
Wilfully setting chimney on Fire	10 & 11 Vict., 89, § 30	£5: and offender liable for Felony.
Occupier negligently allowing chimney to catch fire . .	Ib. § 31	10*s.*
(18.) Food, Unwholesome. (See also "Market" and "Slaughter-houses").		
Exposing for sale for human food any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour or milk unfit for human food	A 117	£20 each item, or 3 m. imprisonment without fine.
Obstructing an officer wishing to enter premises and inspect food	A 118	£5
Obstructing an officer armed with a Justice's warrant. .	A 119	£20, in addition to main penalty.

Subject.	Statute.	Maximum Penalty.
(20.) Hackney Carriages, &c.		
Making false statement as to ownership of carriage, when applying for license	10 & 11 Vict., 89, § 40	£10
Proprietor neglecting to notify change of abode	Ib. § 44	£2
Plying for hire with unlicensed vehicle	Ib. § 45	£2
Acting as driver without a license. [Proprietor liable also]	Ib. § 47	£1
Proprietor neglecting to retain or refusing to produce his driver's license	Ib. § 48	£2
Various offences by proprietors and drivers	Ib. §§ 52—64	Fines from £1 to £5.
Hirer wilfully injuring vehicle	Ib. § 67	£5 and amount of damage.
(21.) Highways and Streets.		
Erecting new building over or constructing vault, arch, or cellar under, carriageway	A 26	£5 and £2 per day.
Injuring pavement stones, materials, fences, posts or trees.	A 149	£5, and 5*s.* per square foot; and for trees, compensation
Default by Water Company and others in re-instating street broken up	10 Vict., 17, §§ 33, 52 and 65	£5 and £5 per day.
Destroying or defacing names or numbers in streets	10 & 11 Vict., 34, § 64	£2
Occupiers making default in numbering houses	Ib. § 65	£2, and expense of work done by Local Authority.
Default in removing projections erected since constitution of District	Ib. § 69	£2, and expense of work done, &c.
Default in altering doors opening outwards erected since the constitution of the District	Ib. § 71	£2, and expense of work done, &c.
Default as to coverings for cellars	Ib. § 73	£5 [and defaulter liable to Action for damages. See the Cases in Part V.]
Default as to water-shoots	Ib. § 74	£2
Interfering with bars or lights which protect works going on in streets	Ib. § 79	£5
Default in erecting or lighting fences and handrails during building operations	Ib. § 80	£5 and £2 per day.
Default in fencing or lighting deposits of building materials	Ib. § 81	£5 and £2 per day.
Keeping building materials lying about or excavations open an unnecessary time	Ib. § 82	£5 and £2 per day.
(24.) Lodging-houses (Common).		
Neglecting to keep posted up on the outside the words "Registered Common Lodging-house".	A 79	£5, and 10*s.* per day
Breach of By-Laws	A 80 and 183	£5, and £2 per day.
Default in lime-washing walls and ceilings in April and October	A 82	£2
Refusing to admit officer of Local Authority	A 85	£5
Default as to various matters.	A 86, 88	£5, and £2 per day. On 3rd conviction keeper may be subjected to special disqualification.
(25.) Lodging-houses (Ordinary).		
Breach of By-Laws	A 90 and 183	£5 and £2 per day.
(26.) Markets.		
Breach of By-Laws	A 167 and 183; 10 Vict., 14, §§ 42—3	£5 and £2 per day.
Exposing for sale articles liable to toll, elsewhere than in the market, or seller's dwelling-place or shop	10 Vict., 14, § 13	£2
Exposing for sale unwholesome meat or provisions, or obstructing Inspector removing the same	Ib. § 15	£5
Assaulting or obstructing Superintendent or other officer of Market	Ib. § 16	£2
Refusing to permit articles offered for sale to be weighed	Ib. § 22	£2
Officer refusing to weigh articles when called upon to do so	Ib. § 23	£2
Driver of cart refusing to assist in weighing the same	Ib. § 26	£1
Various offences involving fraud by Drivers of Carts, buyers, sellers, or others	Ib. §§ 27—30	£5
Demanding excessive Toll	Ib. § 37	£2
Refusing to pay Toll	Ib. § 38	Distress for amount

Subject.	Statute.	Maximum Penalty.
Disputes as to Tolls	10 Vict., 14, § 39	Distress for amount
Assaulting or obstructing a Toll Collector	Ib. § 40	£2
(27.) Medical Powers.		
Neglecting notice by Local Authority to cleanse and disinfect house	A 120	From 1*s.* to 10*s.* per day, and Local Authority may disinfect and recover expenses of doing so.
Disobeying or obstructing Justice's Order for removal of infectious patient to a hospital	A 124	£10
Breach of Regulations relating to removal of infectious patients from ships or boats to hospital	A 125	£2
Person suffering from dangerous infectious disorder wilfully exposing himself in any street, public place, shop, inn, or public conveyance; person in charge exposing such patient; exposing infected bedding, clothing, &c.	A 126	£5; and where offence has reference to a public conveyance compensation for loss and expense in disinfecting.
Owner or driver of public conveyance neglecting to disinfect same after conveying infectious patient	A 127	£5
Knowingly letting for hire house or room lately occupied by infectious patient without disinfecting same, and articles therein	A 128	£20
Making false answer to question when Letting for hire house or room, as to same having been occupied within 6 weeks by infectious patient	A 129	£20; or imprisonment for 1 m.
Wilfully neglecting to obey or obstructing execution of any Regulation made by Local Government Board as to cholera, &c.	A 130	£50
Wilfully violating any Regulation issued by the Local Government Board under A 134, or being guilty of obstruction in respect of the same	A 140	£5
Burying body under church or place of worship contrary to Law	A Sched. V., Pt. iii.	£50 recoverable by Action.
Breach of Order in Council forbidding Landing, without permission, in United Kingdom, from ship coming from place where yellow fever or other highly infectious distemper prevails	39 & 40 Vict., 36, § 234	£100
Obstructing officer acting with respect to case of infectious disease in Canal Boat	40 & 41 Vict., 60, §§ 4—5	£2 (other penalties the same as under der A).
(28.) Nuisances.		
Neglecting to whitewash, cleanse or purify house in filthy or unwholesome condition	A 46	10*s.* per day after notice.
Permitting, in Urban District, nuisance from pigs, from waste or stagnant water, or from overflow of water-closet, &c.	A 47	£2; 5*s.* per day; and expenses incurred by Urban Authority.
Being responsible for a nuisance under A 91 (which see)	A 96	£5 and all costs incurred.
Disobeying an Order to comply with requisitions of Local Authority, or to abate a nuisance	A 98; and see A 105	10*s.* per day; or if default wilful, £1 per day: together with expenses of doing the work.
Refusing to admit officer provided with Justice's Order to inspect premises	A 103	£5
(29.) Obstructions, &c., in Streets.		
Committing in a street any of the offences specified in the "Towns Police Clauses Act, 1847," §§ 21, 22	10 & 11 Vict., 89, §§ 21—4	£2
Permitting cattle to stray	Ib. § 24	£2, and expenses of keep.
Attempting to release impounded cattle or damaging Pound	Ib. § 26: see also 5 & 6 Will. IV., 50, § 75: 6 & 7 Vict., 30, § 1	3 m. imprisonment
Distrainer neglecting to feed impounded animal	12 & 13 Vict., 92, § 5	£1

Subject.	Statute.	Maximum Penalty.
Committing in a street any of the offences specified in the "Towns Police Clauses Act, 1847," § 28 . . .	10 & 11 Vict., 89, § 28	£2, or 14 d. imprisonment.
Being drunk, or riotous, or indecent in any street or Police office within an Urban District	Ib. § 29	£2, or 7 d. imprisonment.
Committing various offences specified in the "Highway Act, 1835," § 72	5 & 6 Will. IV., 50, § 72	£2; together with value of damage.
Throwing, casting or firing fireworks in a "highway, street, thoroughfare, or public place"	38 & 39 Vict., 17, § 80: See also 5 & 6 Will. IV., 50, § 72: 10 & 11 Vict., 89, § 28.	£5; (or 1 m. imprisonment).
(30.) Offensive Trades or Manufactures.		
Establishing without consent of Urban Authority . . .	A 112	£50 and £2 per day.
Causing nuisance from	A 114	1st offence £5, and not less than £2. As to subsequent offences see Act.
(31.) Overcrowding.		
Overcrowding house or part of house.	A 91 (5), 96, 98.	£5 and 10*s.* per day; or if wilful, £1 per day.
(32.) Petroleum.		
Unlawfully keeping	34 & 35 Vict., 105, § 7, [continued by later Acts.]	£20 per day and forfeiture.
Obstructing officer of Local Authority	Ib. § 12	£20
(35.) Public Pleasure Grounds.		
Damaging shrubs to the value of 1*s.*	24 & 25 Vict., 97, § 22 42 & 43 Vict., 49, § 5	3 m. imprisonment with hard labour; or £5, and value.
(37.) Rates and Rating.		
Official having the custody of an Estimate or a Rate refusing to allow a Ratepayer to inspect same . . .	A 219	£5
Neglecting to pay a Rate duly demanded	A 256	Distress for amount
(38.) Scavenging and Removal of Refuse.		
Default by Local Authority in removing house refuse . .	A 43	5*s.* per day.
Default by owner of stable in removing manure . . .	A 50	£1 per day.
Obstructing Local Authority or contractor in removing refuse, &c.	A 42	£5
(39.) Sewers and Drains.		
Interfering with communications with	A 21	£20
Building or rebuilding house without proper drainage . .	A 25	£50
Erecting a building over an Urban Sewer	A 26	£5, and £2 per day.
Not complying with notice to repair	A 41	10*s.* per day, and expenses if work is done by Loc. Auth.
(40.) Slaughter-houses.		
Using new slaughter-house without license	10 & 11 Vict., 34, § 126	£5, and £5 per day after conviction.
Using old slaughter-house not registered	Ib. § 127	£5, and 10*s.* per day
Using slaughter-house when license suspended	Ib. § 130	£5, and £5 per day.
Having bad meat therein	Ib. § 131	£10 for every piece
Obstructing an officer	Ib. § 131	£5
Neglecting to exhibit the words "Licensed slaughter-house"	A 170	£5, and 10*s.* per day
(41.) Smoke, (Prevention of).		
Locomotive on Railway or Highway not consuming as far as practicable its smoke. (See 41 & 42 Vict., 77, 30)	8 Vict, 20, § 114, &c. [See Part I. "Digest of Statutes," Par. 741, p. 107.]	£5 per day.
Trade fire-place or furnace not consuming, as far as practicable, its smoke	A 91 (7), 96, 98.	£5 and 10*s.* per day; or if wilful, £1 per day.
(42.) Steam Whistles.		
Using without sanction of Local Authority	35 & 36 Vict., 61, § 2	£5, and £2 per day.
(45). Water-closets, &c.		
Building or rebuilding house without.	A 35	£20
Factory, &c., unprovided with	A 38	£20, and £2 per day
(46.) Waters, (Pollution of).		
Polluting generally by throwing in rubbish, &c.	10 Vict., 17, § 61	£5, and £1 per day
Polluting by Gas products	A 68	£200, and £20 per day.

Subject.	Statute.	Maximum Penalty.
(47.) Water Supply.		
Default by Water Company to lay communication pipes	10 Vict., 17, § 45	£5, and £2 per day.
Removing communication pipes without notice to Water Company	10 Vict., 17, § 51	£5, and value of damage.
Permitting cisterns, &c., to be out of repair so as to waste	10 Vict., 17, § 55	£5
Fraudulently supplying or permitting person to take water	10 Vict., 17, § 58	£5
Fraudulently taking water without agreement for supply	10 Vict., 17, § 59; 26 & 27 Vict., 93, § 20	£10; £5
Damaging pipes and fittings or drawing off water from reservoir	10 Vict., 17, § 60	£5
Obstructing person authorised by Justices to inspect reservoir	26 & 27 Vict., 93, § 7	£50
Obstructing officer inspecting water meter	26 & 27 Vict., 93, § 15	£5
Wilfully wasting or misusing water	26 & 27 Vict., 93, § 17	£5
Altering communication pipes without notice to Water Company	26 & 27 Vict., 93, § 19	£5, and value of damage.
Wilfully injuring or tampering with meter.	A 60	£2 and value.
Occupying a house in Rural District in respect of which a certificate of water supply or a Justice's Order for occupation has not been issued	41 & 42 Vict., 25, § 6	£10
By-Laws.		
Breach of Borough By-Laws	5 & 6 Will. IV., 76, § 90	£5
Breach of By-Laws under the "Public Health Act, 1875."	A 182	£5, and in case of continuing offence, £2 per day.
Local Authorities.		
Obstructing member, officer, or person employed; destroying, pulling down, injuring, or defacing notice board	A 306	£5
Occupier obstructing owner armed with Justice's Order who seeks to comply with any provision of the "Public Health Act, 1875."	A 306	£5 per day.
Occupier refusing to disclose or mis-stating owner's name	A 306	£5
Wilfully damaging works or property	A 307 24 & 25 Vict., 97, § 52 42 & 43 Vict., 49, § 5	2 m. imprisonment, with or without hard labour; or £5 and value not exceeding £5.
Offences at Local Board Elections.		
Poor Law official refusing to allow Books to be inspected for Election purposes by a Returning Officer	A, Sched. II. (1), 38	£5
Fabricating or tampering with Voting-paper or personating any voter or interfering with delivery or collection of Voting-paper or delivering any untrue Voting-paper	A, Sched. II. (1), 69	£20, or 3 m. imprisonment, with or without hard labour
Returning Officer wilfully misconducting himself	A, Sched. II. (1), 68.	£50
Assistant to Returning Officer wilfully misconducting himself	A, Sched. II. (1), 68	£5
Member corruptly making Declaration	A, Sched. II. (1), 57	As for Misdemeanour
Unqualified person acting as member of Local Board	A, Sched. II. (1), 70	£50, recoverable by Action.
Officers of Local Boards.		
Improperly holding more than one office	A 192	£100, recoverable by Action.
Officer or servant failing to render accounts, or deliver up papers or moneys	A 196	6 m. imprisonment.
Officer or servant being concerned in bargain or contract	A 193	£50, recoverable by Action.

Addenda et Corrigenda.

Page.	Paragraph.	
1	4	In foot-note, *for* "A 10" read "A 10."
12	77	Foot-note (*d*). For *King* v. *Burrell*, read *Queen* v. *Burrell*.
19	129	The "Municipal Corporations (new Charters) Act, 1877," is *not* given in Part II., because its repeal is under consideration in connection with a consolidation of all the "Municipal Corporation Acts."
29	185	*For* "Paragraph 164" *read* "Paragraph 170."
39	250	*Add* at the end "The Sea Fisheries (Clam and Bait Beds) Act, 1881," (43 Vict., 11), invests the Board of Trade with similar powers as to Bait Beds.
45	300	*Omit* "31 & 32 Vict., 122, 24," and *add* "42 Vict., 6."
45	302	*Dele* the whole Paragraph and substitute the following words :—"The 'District Auditors Act, 1879,' (42 Vict., 6) has repealed part of A 247 (1) and the whole of A 247 (2), and the audit of the accounts of Urban As not being Municipal Corporations is now entirely under the control of LGB.
50	335	A new scale was settled by a Treasury Minute dated Aug. 16, 1879, and for 20, 30, 40, and 50 years the per-centage is now 3½, 3¾, 4, and 4¼ respectively.
55	377	In margin. *For* "10 & 11 Vict., 34, 58," *read* "10 & 11 Vict., 34, 68."
57	387 and 388	Should have Maltese crosses (✠) prefixed, they being Rural.
59	404	Add in line 6 :—"But this restriction as to the Jurisdiction of Justices must, it seems, give way to the wider enactment in the 'Summary Jurisdiction Act, 1879,' § 46, sub-s. 3."
61	412	Add the words :—"It may be inferred that any expenses incurred by a LA in connection with this enactment are to be deemed payable as expenses under A. (Therefore see A 207 and 229.)"
70	480	Add as a foot-note :—"A 254 conflicts with the 'Municipal Corporations Act, 1835,' § 126, and must probably be taken to override it."
84	581	The doubt expressed in this paragraph has been recognised to be well founded, and has been set at rest by the "Petroleum (Hawkers) Act, 1881," (44 & 45 Vict., 67.)
110	765	*Dele* in the margin "Ib. § 2."
353		The "Customs and Inland Revenue Act, 1881," (43 & 44 Vict., 12), contains some Stamp Duty provisions which affect the "Local Authorities Loans Act, 1875." § 46 of the new Act runs thus :—"(1) Every 'Stock Certificate to "Bearer' which shall, after the passing of this Act be issued under the pro- "visions of the 'Local Authorities Loans Act, 1875,' or of any other Act "authorising the creation of Debenture Stock, County Stock, Corporation "Stock, Municipal Stock, or Funded Debt, by whatever name known, shall be "charged with the Stamp Duty of 7*s.* 6*d.*, for every full sum of £100, and also "for any fraction, less than £100, or over and above £100, or a multiple of "£100, of the nominal amount of the Stock described in the Certificate. (2) "Where the holder of any Stock Certificate to Bearer so issued shall have been "entered on the Register of the Local Authority as the owner of the share of "Stock described in the Certificate, such Certificate shall be forthwith cancelled "so as to be incapable of being re-issued to any person. (3) The foregoing "charge of Stamp Duty shall not be applicable where a composition has "been paid under the provisions of the § 53 of the 'Inland Revenue Act, "1880,' for the Stamp Duty on transfers of the Stock described in the Certifi- "cate. (4) Every person and body of persons, whether corporate or unincor- "porate, by whom a 'Stock Certificate to Bearer' is issued without being duly "stamped, shall forfeit the sum of £50."
410 and 411	In margin.	*For* "vol. xvii.," *read* "vol. xvi."
412	§ 5	*For* "hawkings" *read* "hawking."
417, 419		Foot-note (*a*). The "Local Board Accounts Order" has *not* been printed in Part IV. as was intended.

SUPPLEMENT.

This Supplement comprises just so much matter as is requisite to enable purchasers of the *Digest* to keep pace, up to date, with the progress of legislation, and with the decisions of the Courts of Law. It therefore does not furnish a full statement of the consequential amendments which require to be made in the text, but those amendments may readily be made by the reader himself.

PART II. Statutes.

42 & 43 Vict. 64 ... ... Artizans' Dwellings Act (1868) Amendment Act ... 1879 ... ...
Enlarges the Powers conferred by "Torrens's Act."

45 & 46 Vict. 23 ... ... Public Health (Fruit Pickers' Lodgings) Act ... ... 1882 ... ...
Empowers Local Authorities to make By-Laws for the lodging and accomodation of persons engaged in the picking of fruit and vegetables.

45 & 46 Vict. 27 ... ... Highway Rate Assessment and Expenditure Act ... 1882 ... ...
Empowers Highway Authorities to compound for Highway Rates as for Poor Rates; authorises the maintenance of Mile-stones; and makes sundry provisions as to Audit.

45 & 46 Vict. 30 ... ... Baths and Wash-houses Amendment Act ... ... 1882 ... ...
Amends the Act of 1846 by removing in part the restrictions in the choice of Sites.

45 & 46 Vict. 54 ... ... Artizans' Dwellings Act... ... ... 1882 ... ...
Amends the Acts of 1875 and 1879, and enlarges the powers of Local Authorities.

45 & 46 Vict. 56 ... ... Electric Lighting Act ... ... 1882 ... ...
Confers various powers on Urban and Rural Sanitary Authorities.

45 & 46 Vict. 58 ... ... Divided Parishes and Poor Law Amendment Act ... 1882 ... ...
Simplifies the procedure under 39 & 40 Vict., c. 61, as to detached parts of Parishes, giving much additional power to the Local Government Board as to boundaries.

45 & 46 Vict. 62 ... ... Public Works Loans Act ... ... 1882 ... ...
§§ 7—9 amend the Law, especially as to Statements to be made by the Local Authorities desirous of borrowing money.

46 Vict. 15 ... ... Lands Clauses (Umpire) Act ... ... 1883 ... ...
Varies § 28 of the "Lands Clauses Act, 1845."

46 & 47 Vict. 37 ... ... Public Health Act, (Support of Sewers) Amendment Act 1875 ... ...
Extends to sanitary works §§ 18—27 of the "Water Works Clauses Act, 1847," with modifications.

46 & 47 Vict. 53 ... ... Factory and Workshop Act ... ... 1883 ... ...
Restores to Sanitary Authorities their jurisdiction over Bakehouses.

46 & 47 Vict. 59 ... ... Epidemic and other Diseases Prevention Act ... 1883 ... ...
Adds Borrowing Powers to the Epidemic Diseases Sections (§§ 134—40) of the "Public Health Act."

47 & 48 Vict. 12 ... ... Public Health (Confirmation of By-Laws) Act... ... 1884 ... ...
By-laws as to Slaughter-houses, Hackney Carriages, Bathing, and Markets, are now in all cases to be confirmed by the Local Government Board.

47 & 48 Vict. 72 ... ... Disused Burial Grounds Act... ... ... 1884 ... ...
Prohibits erection of buildings on disused Burial Grounds.

47 & 48 Vict. 74 ... ... Public Health (Officers) Act... ... ... 1884 ... ...
Restricts Proceedings for penalties under § 193 of the "Public Health Act, 1875," to cases where the sanction of the Attorney-General has been given.

47 & 48 Vict. 75 ... ... Canal Boats Act ... ... 1884 ... ...
Amends and extends the "Canal Boats Act, 1877."

PART V. Cases.

*** An Asterisk (*) indicates that the Case having been appealed, the Report is that of the Court below.

ADULTERATION OF FOOD.

1883. [1]
Chappell v. *Emson.* Milk stated to be purchased for analysis—No offer to divide it into 3 parts under § 14 of the "Sale of Food Act, 1875"—Held nevertheless that Justices were entitled to hear the case, and conviction upheld. (47 J. P., 804.)

1883. [2]
Gage v. *Elsey.* "Sale of Food Act, 1875"—Vendor of Gin, adulterated with 40 per cent. of water, held not punishable under the Act, ample notice having been given that quality was not guaranteed. (52 L. J., M. C., 44: L. R., 10 Q. B. D., 518: 48 L. T., 226: 47 J. P., 391.)

1883. [3]
Harris v. *May.* Milk—Written *general* Warranty by farmer to Dealer held not to protect the latter in a specified case of adulteration. (53 L. J., M. C., 39: L. R., 12 Q. B. D., 97: 48 J. P., 261.)

1884. [4]
Lane v. *Collins.* "Sale of Food Act, 1875." Skimmed milk held to be "milk," and Magistrate justified in refusing to convict. (L. R., 14 Q. B. D., 193: 49 J. P., 89.)

1881. [5]
Morton v. *Green.* "Sale of Food Act, 1875," § 6: "Amendment Act, 1870," § 2—Cream thinned with skim milk, and sold at a price obviously below the price of genuine cream—Held that no offence had been committed, the custom of selling such "cream" being well-known, and no deleterious ingredient being added. (8 Ct. of Sess. Cas., 4th. Ser., Ct. of Justic., 36.)

1882. [6]
Parsons v. *Birmingham Dairy Co.* "Sale of Food Act, 1875, § 14—This Section applies equally to a purchase by a private individual under § 12, and by the public officer mentioned in § 13. (51 L. J., M. C., 111: L. R., 9 Q. B. D., 172: 46 J. P., 727.)

1881. [7]
Warnock v. *Johnstone.* "Sale of Food Act, 1875" § 6 subs. 4—Butter-milk to which water had been added held not within the Act, such water being a necessary addition to render the milk available for butter-making in the first instance. (8 Ct. of Sess. Cas., 4th Ser., Ct. of Justic., 55.)

ARBITRATION.

1882. [8]
Brighton Sewers Act, In re. Local Act—Duty of County Court Judge to act as Arbitrator. (L. R., 9 Q. B. D., 723.)

1884. [9]
Brierley Hill L. B. v. *Pearsall.* "Public Health Act, 1875," § 308—A person claiming compensation may insist on amount being decided by arbitration, even though a dispute exists as to the liability—A valid decision as to liability is not a condition precedent to arbitration as to amount—A Local Authority can raise the question of liability by defending an Action on the award. (54 L. J., Q. B. D., 25: L. R., 9 App. Cas., 595: 51 L. T., 577: 49 J. P., 84.)

1884. [10]
Walker and Beckenham L. B. Arbitration. An Award in an Arbitration under § 308 of the "Public Health Act, 1875," for damages for carrying a sewer through lands is not enforceable by Motion—Claimant must bring an Action and prove his title to the lands injuriously affected (48 J. P., 264.)

ARTIZANS' DWELLINGS.

1881. [11]
Badham v. *Marris.* "Artizans' Dwellings Act, 1875." § 20—If any interference with ancient lights occurs in consequence of proceedings under this Act, compensation may be recovered from the Local Authority. (52 L.J., Ch., 237: 45 L.T., 579.)

1882. [12]
Barnet v. *Metrop. B. W.* "Metropolitan Building Act, 1855," § 80: "Artizans' Dwellings Act, 1875,"—Notice to take certain dilapidated premises had been served on owner; yet owner held liable for emergency repairs notwithstanding that proceedings for compulsory sale were pending, and were brought to a close only 3 days after the expenses were incurred. (46 L. T., 384: 46 J. P., 460.)

1884. [13]
Shaw and Birmingham Corporation, In re. "Artizans' Dwellings Act, 1875,"—Arbitration—Payment into Court of sum awarded—Appeal—Verdict of Jury for larger sum—Interest on difference. (L. R., 27 Ch. D., 614: 51 L. T., 684.)

1883. [14]
Swainston v. *Finn & Metropolitan B. W.* "Artizans Dwellings Act, 1875," § 20—Easement affecting Land purchased by Local Authority—No right of Action to restrain interference with easement, but compensation payable in respect thereof. (52 L. J., Ch., 235: 48 L. T., 634: W. N., 1883, p. 19.)

1883. [15]
Wilkins v. *Birmingham Corporation.* "Artizans' Dwellings Act, 1875"—Publication under this Act of a Notice of intention to take property is analogous to a Notice under the "Lands Clauses Act," and after it is given the property cannot be dealt with by way granting a new lease. (53 L. J., Ch., 93: L. R., 25 Ch. D., 78: 49 L. T., 468: 48 J. P., 231.)

BUILDING-LINE.

1884. [16]
Barlow v. *St. Mary Abbott's, Kensington, Vestry.* "Metropolis Management Act, 1862," § 75—Building-line of corner house—How the Building-line of a corner house is to be determined. (53 L. J., Ch., 899: L. R., 27 Ch. D., 362.)

1882. [17]
Elsdon, Ex parte. "Metropolis Management Amendment Act, 1862," § 75—An Appeal to Sessions in respect of any "Penalty or forfeiture" held not to extend to proceedings for the demolition of an encroachment on a Building-line. (51 L. J., M. C., 94: 46 J. P., 551: [*Reg.* v. *Middlesex*] L. R., 9 Q. B. D., 41.)

1881. [18]
Paddington Vestry v. *Snow.* "Metropolis Management Act, 1862, § 75—The Certificate of the Architect does not necessarily establish the Building-line, or the offence of building beyond such Line—Limitation of time—*Morant* v. *Taylor*, and *Wandsworth* v. *Hall* followed. (45 L. T., 475: 46 J.P., 87)

1884. [19]
Plumstead B. W. v. *Spackman.* Architect's definition of "building-line" is final, and Magistrate cannot review it—*St. George's H. S.* v. *Sparrow*, and *Simpson* v. *Smith* disapproved. (53 L. J., M. C., 142: 51 L. T., 757: 49 J. P., 132.)

BY-LAWS, (1.) BUILDING.

1884. [20]
Blashill v. *Chambers.* By-Law as to foundations of house—"Foundations" means ground actually covered and pressed upon by bottoms of walls—"Site" means the place which the building filled up and on which the house was erected. (8 J. P., 804.)

1885. [20 *a*]
Clark v. *Bloomfield.* "Public Health Act, 187-," § 158—Defendant gave a month's notice of his intention to build on part of an open space—Board came to no decision, and so he built—Held that proceedings for penaltes could not be taken. (*Times*, March 5, 1885.)

1884. [21]
James v. *Wyrill.* "Public Health Act, 1875," §§ 157, 170—Whether works are "additions to an old building" or are a "new building," is a question of fact for Justices to decide. (51 L. T., 237: 48 J.P., 725.)

1884. [22]
Metrop. B. W. v. *Anthony.* Temporary structure erected without license—Held a continuing offence which might be made the subject of complaint at any time whilst structure existed. (54 L. J., M. C., 39.)

1883. [23]
Robinson v. *Barton L. B.* "Public Health Act, 1875," § 156—"New street" is not confined to streets formed for the first time out of grass or other vacant land, but may include old rural roads which by having become occupied by buildings have become popularly "streets." (53 L. J., Ch. 226: L. R., 8 App. Cas., 798: 50 L. T. 57: 48 J. P., 276.)

1884. [24]
Rudland v. *Sunderland, Mayor.* "Public Health Act, 1875," § 157—By-law requiring kerbing to be laid in new street before erection of new building held unreasonable and void. (48 J. P., 804.)

1882. [25]
Rumball v. *Schmidt.* "Public Health Act, 1875," § 156—Continuing offence—An offence to which the penalty is applicable continues so long as the addition to the house is maintained after written notice from the Authority, notwithstanding that the addition was completed before the notice—*Marshall* v. *Smith* distinguished. (L. R., 8 Q. B. D., 603: 46 L. T., 661: 46 J. P., 567.)

1883. [26]
Williams v. *Powning.* Cottages built in a lane—Held that there was no evidence that builder was liable for not having proceeded as if laying out a new street. (48 L. T., 672: 47 J. P., 486.)

BY-LAWS, (3.) VARIOUS.

1882. [27]
Torquay L. B. v. *Bridle.* "Public Health Act, 1875," § 164—By-Laws to regulate a Pleasure Ground—Owner of fowls which had strayed into Ground fined under By-Law for the trespass—By-Law held *ultra vires*—Conviction quashed. (47 J. P., 183.)

COMPENSATION.

1882. [28]
Caledonian Railway Co. v. *Walker's Trustees.* Direct access to premises cut off by new railway—Such an injury fit matter for compensation, although no land taken—Principles on which compensation is payable where works are executed which injure private property. (L. R., 7 App. Cas., 259: 46 L. T., 826: 46 J. P., 676.)

1883. [29]
Drew v. *Metrop. B. W.* Office abolished—Salary small but increased by extras—How extras to be taken into account. (50 L. T., 138.)

CONTRACT.

1885. [30]
Eastbourne L. B. v. *Jackson.* Contract to build sea wall—Part of wall washed away—Default by contractor to rebuild and finish—Wall finished by Board—Board held entitled to recover damages and excess of cost beyond contract. (*Times*, Feb. 19, 1885.)

1884. [31]
Hanson v. *Halifax, Mayor.* Motion for Injunction to restrain affixing of Seal to contract for coals alleged to be improvident—Motion refused—A Corporation is elected to deal with such matters: they are too trivial for the Court—Where the "Municipal Corporations Act" and the "Public Health Act" are inconsistent, a Corporation is at liberty to proceed under either Act. (*Loc. Gov. Chron.*, Feb. 2, 1884.)

1884. [32]
New Windsor, Mayor v. *Stovell.* "Public Health Act, 1848," § 63—Improvident bargain with landowner for outlet of sewage made by Local Board held binding on their successors, the Corporation, although a great change had taken place in the circumstances. (54 L. J., Ch. D., 113: L.R., 27 Ch. D., 665: 51 L. T., 626.)

1883. [33]
Lawson v. *Wallasey L. B.* Contract for Works—Powers of a Board's Engineer to authorise delays and additional Works, and so compromise his employers. (52 L. J., Q. B. D., 302: L.R., 11 Q. B. D., 229: 48 L. T., 507: 47 J.P., 437.)

CONTRACT, DISQUALIFICATION BY.

1884. [34]
Burgess v. *Clark*. "Public Health Act, 1875," § 193—Clerk of Local Board receiving rent for rooms let to Board, held liable to penalty. (*Times*, Oct. 28, 1884.) [See now 47 & 48 Vict., c. 74.]

1883. [35]
Hunnings v. *Williamson*. "Metropolis Management Act, 1855," §§ 54, 60—Member interested in contract between Board and his brother by having lent his brother money and taken an assignment of the contract as security—Member held liable to penalty—Evidence of acting as member. (L. R., 11 Q. B. D., 533 : 49 L. T., 361 : 48 J. P., 132.)

1884. [36]
Todd v. *Robinson*. "Public Health Act, 1875," § 193—Defendant, Clerk of Local Board and Director of Gas Company—Contract between Board and Company—Defendant held liable to penalty—Yet not a "convicted offender" within 22 Vict., c. 32, so that Treasury could remit penalty. (54 L. J., Q. B. D., 47 : *L. R., 12 Q. B. D., 530 : *50 L.T., 298.)

DRAINS.

1882. [37]
Stannard v. *St. Giles, Camberwell, Vestry*. Dispute as to drain interfered with by plaintiff—Proceedings before Justices—Injunction to restrain such proceedings refused, no intention to commit a trespass being shown. (51 L. J., Ch., 629: L. R., 20 Ch. D., 190: 46 L. T., 243.)

FOOD, UNWHOLESOME.

1882. [38]
Vinter v. *Hind*. "Public Health Act, 1875," §§ 116-7—These Sections only apply where a seizure and condemnation has taken place on intending vendor's premises — A person only becomes liable to penalty under § 117, when the formalities of § 116 have been complied with. (52 L. J., M. C., 93: L. R., 10 Q. B. D., 63: 48 L. T., 359: 47 J. P., 373.)

1882. [39]
Williams v. *Narberth S. A.* Meat sold in July condemned by Medical Officer but not till next day, and after it had been sent home — Conviction quashed — The "Public Health Act, 1875," §§ 116--7 only authorises seizure when food is exposed for sale, and a Conviction when it is found at once to be unsound. (*Times*, Dec. 7, 1882.)

ELECTION BUSINESS.

1883. [40]
Henry v. *Armitage*. "Municipal Elections Act, 1875" § 1, subs. 2 — Nomination paper in which "William" was represented by "Wm." held good. (53 L. J., Q. B. D., 111 : L. R., 12 Q. B. D., 257 : 48 J. P., 424.)

1872. [41]
Reg. v. *Franklin*. A contractor held disqualified from being elected member of a Corporation, even though he had, before the election (but without the privity of the Corporation), purported to assign his contract to a third person—A vote given for a disqualified person is not a mere nullity unless the voter had notice of the disqualification; and therefore if a disqualified candidate has a majority of votes a defeated candidate cannot claim the the seat by means of a scrutiny. (6 Ir. R., C.L., 239.)

GAS COMPANY, POWERS, &c., OF.

1883. [42]
Hornby v. *Liverpool United Gas Co.* "Gas-Works Clauses Act, 1847," § 6—Company's servant lawfully breaking up a street caused a fragment of concrete to break a plate-glass window—Company held liable. (47 J. P., 231.)

1882. [43]
Normanton Gas Co. v. *Pope*. "Gas-Works Clauses Acts, 1847 and 1871": Special Acts—Plaintiffs held entitled to be protected against the consequences of injury to highway resulting from Defendant's mining operations. (52 L. J., Q. B. D., 629 : 49 L. T., 798 : W. N., 1883, p. 108.)

HIGHWAY.

1884. [44]
Dyson v. *Greetland L. B.* "Public Health Act, 1875," § 144, impliedly repeals "Highway Act, 1835," § 29, and therefore consent of Inhabitants not necessary before an Urban Authority can levy a Highway Rate exceeding 2*s.* 6*d.* (53 L. J., M. C., 106 : *48 L. T., 636 : 48 J. P., 596.)

1882. [45]
Oxenhope L. B. v. *Bradford, Mayor*. "Public Health Act, 1875," § 206 — 300 yds. of stone kerbing held not to be "Public works of Paving" so as to render a Highway Rate invalid. (47 J. P., 21.)

1881. [46]
Reg. v. *Belper L. B.* "Public Health Act, 1875," § 216, subs. 3 — Highway Rate levied in District where there existed some stone drains of old date used as sewers, and where some Paving had been done at the cost of the Rates — Held that these were public works of sewerage, &c., and therefore Highway Rate invalid. (46 J. P., 166.)

"HOUSE," DEFINITION OF.

1881. [47]
Esdaile v. *Metropolitan, &c. Railway Co.* "Lands Clauses Act, 1845" — *Per* Cave, J.:— "A house is an enclosed space, with walls, a roof, and an entrance capable of being closed. (46 J. P., 103.)

INFECTIOUS DISEASES, HOSPITALS, MORTUARIES.

1882. [48]

A.-G. v. *Strand B. W.* Action to restrain use of disinfecting chamber and premises at hours likely to involve danger to the children of an adjoining day-school — Arrangement agreed on that all clothes taken to the chamber should be partially disinfected previously, and hours of user restricted to before 8.30 a.m., after 8.0 p.m., and during school hours. (*Times*, May 25, 1882.)

1883. [49]

A.-G. v. *Strand B. W.* Proceedings by London School Board to restrain defendants from disinfecting clothes of scarlet fever patients at a place in a crowded neighbourhood—Injunction refused, the evidence showing that all reasonable care was being exercised. (*Times*, May 2, 1883.)

1883. [50]

Benthall v. *Kilmorey, E. of.* Action by resident Medical Officer to restain Hospital Committee from dismissing him—There being a Trust Deed and plaintiff having proceeded without the sanction of the Charity Commissioners (16 & 17 Vict., c. 137, § 17) held that he was without remedy. (53 L.J., Ch., 298 : L.R., 25 Ch.D., 39 : 50 L.T., 137.)

1882. [51]

Booker v. *Taylor.* "Public Health Act, 1875," § 124 —Infectious case—Where a medical man issues a Certificate for the removal, and a Magistrate issues an Order, and the removal is obstructed, on a Summons for the obstruction other Magistrates cannot review the validity of the Certificate and Order, but must convict for the obstruction, if the evidence suffices. (*Times*, Nov. 21, 1882.)

1881. [52]

Chambers v. *Metropolitan Asylums Board.* Application for Injunction to limit the area from which small-pox patients were to be received into the hospital of defendants, in order to minimise the danger likely to arise from the concentration of large numbers of patients—Injunction granted. (*Times*, December 3, 1881.)

1882. [53]

Dalton v. *St. Mary Abbots, Kensington, Guardians.* Action to restrain use of house as Small-pox Hospital—Plaintiff's interest in the property alleged to be injured had ceased, but he was willing that one B. should be joined as co-plaintiff —Sanction of Court refused—The Injury being personal, the Remedy was also personal. (47 L. T., 348.) Action compromised, Guardians undertaking not to use Hospital except on great emergency, and after sanction of Local Government Board. (*Times*, Feb. 17, 1883.)

1882. [54]

St. Luke's, Chelsea, Re. Application for a Faculty to erect Mortuary on part of a closed Burial-ground —Mortuary intended to comprise rooms for infectious as well as ordinary cases— Some grave-stones to be moved—Application granted, subject to a short delay to enable parties interested in the grave-stones to appear. (*Times*, Jan. 24, 1882.)

LANDLORD AND TENANT.

1884. [55]

Bird v. *Greville, (Lord).* Recent case of infectious disease in furnished house—The fact not disclosed to intending tenant — Held that Landlord could not enforce agreement to hire— *Per* Field, J.:— In a contract for letting a furnished house it is implied that the house is "in a fit state for occupation at the commencement of the tenancy." (*Times*, May 21, 1884.)

1882. [56]

Buck v. *Hurlock.* Action by Tenant against Landlord to recover 400*l.*, losses and expenses attendant on an outbreak of typhoid fever alleged to have arisen from use of well found polluted by sewage— Judgment for defendant, there being no proof that he had warranted the water, or that it was impure when the house was taken. (At *Nisi Prius.*) (*Times*, March 31, 1882.)

1883. [57]

Robertson and Thorne's Arbitration, In Re. Works required by Board of Works to be executed in respect of Theatre—Lessor held entitled to recover the expenses from Lessee. (47 J. P., 566.)

1882. [58]

Weston v. *Metropolitan Asylums Managers.* Landlord and Tenant — Covenant in Lease not to carry on any offensive trade — Premises converted into an Ambulance Depot — Forfeiture held incurred. (51 L. J., Q. B. D., 399: L. R., 9 Q. B. D., 404: 46 L. T., 580: *Times*, March 1, 1882: [*Watson* v. *M. A. B.*] 46 J. P., 564.)

1884. [59]

Wilkinson v. *Collyer.* Paving expenses held payable by Owner as a charge for the permanent improvement of a property, and not payable by a tenant although he had covenanted to pay "all Rates, Taxes, and Assessments." (Metrop.) (L. R., 13 Q. B. D., 1 : 51 L. T., 299; 48 J. P., 791.)

"LANDS CLAUSES ACT, 1845."

1882. [60]

Huddersfield, Mayor, Ex parte; Dyson In re. "Lands Clauses Act, 1845," § 85 — Practice as to repayment of Deposit where the property has been purchased in due course after the Deposit has been paid. (46 L. T., 730.)

1882. [61]

Pullen and Liverpool Corporation, In re. "Lands Clauses Act, 1845," §§ 23, 31 — The period of 3 months within which an umpire must make his Award is to be calculated from the date of his appointment, and not from the time when the awarding power of the arbitrator came to an end. (51 L. J., Q. B. D., 285: 46 L. T., 391: 46 J. P., 468.)

1884. [62]

Reg. v. *Essex.* Where part of an estate is taken for a Sewage farm the Owner may claim compensation not only for the value of the land taken, but for the depreciation of the remainder not taken — *Brand* v. *Hammersmith Rail. Co.* distinguished. (49 J. P., 87.)

1882. [63]

Spencer v. *Metrop. B. W.* "Lands Clauses Act, 1845:" Local Act — Land may be said to be "taken" for a public purpose although possession is not actually entered upon. (52 L. J., Ch., 249: L. R., 22 Ch. D., 142 : 47 L. T., 459.)

LEGAL PROCEEDINGS, (1.) GENERAL.

1883. [64]
A.-G. v. *Bermondsey Vestry.* Practice — Costs — Action against Corporation—When Costs are not asked for against a Corporation it is irregular to make individual members defendants solely for the purpose of saddling them with the Costs of the main proceedings. (52 L. J., Ch., 567: L. R., 23 Ch. D., 60: 48 L. T., 445: 47 J. P., 453.)

1884. [65]
Bristol, Mayor v. *Cox.* Opinion of Counsel taken by a Town Council is a privileged document, and Council may refuse inspection even to Ratepayers —*Semble* that a confidential Report by a Committee is similarly privileged. (53 L. J., Ch. D., 144: L. R., 26 Ch. D., 678: 50 L. T., 719.)

1883. [66]
Holder v. *Margate, Mayor.* "Public Health Act, 1875," § 264—Notice of Action is not required in proceedings for the recovery of land. (52 L. J., Q. B. D., 711: [*Foat* v. &c.] L. R., 11 Q. B. D., 299: 47 J. P., 535.)

1882. [67]
Prestney v. *Colchester, Mayor.* Place at which valuable Corporation documents should be produced in connection with pending legal proceedings. (52 L. J., Ch., 346: 48 L. T., 353.)

LEGAL PROCEEDINGS, (6.) INJUNCTION.

1883. [68]
Foster v. *Bristol Corporation.* Local Act—Formation of new street through part of disused Burial ground—Allegation that works were being carried out indecently—Injunction granted in form of an admonition to defendants to take precautions not to disturb human remains. (*Times*, June 12, 1883.)

LEGAL PROCEEDINGS, (7.) JUSTICES.

1881. [69]
Reg. v. *Deal JJ.* Justices, annual subscribers to local Branch of Society managed in London, held not disqualified from adjudicating on a charge preferred by the London Committee— Payment of a subscription is merely a mode of expressing an opinion—Allegation of bias too remote. (45 L. T., 439: 46 J. P., 71.)

1881. [70]
Reg. v. *Handsley.* "Public Health Act, 1875," § 258—A Justice though member of Body which prosecutes is not on that account disqualified from acting as a Justice: he is only disqualified when he has such a substantial interest in the result as to make bias likely— *Reg.* v. *Gibbon* disapproved of. (51 L. J., M. C., 137: L. R., 8 Q. B. D., 383: 46 J. P., 119.)

1882. [71]
Reg. v. *Lee.* "Public Health Act, 1875" §§ 116, and 275 —Conviction—One of the convicting Justices Chairman of the Committee which directed the prosecution — Conviction quashed — § 258 does not apply to such a manifest case of bias. (L. R., 9 Q. B. D., 394: 30 W. R., 750: 47 J. P., 118.)

1885. [71 *a*]
Reg. v. *Priestley.* Non-compliance with Building By-Laws—Limitation of time—Justices held bound to state a Case. (49 J. P., 148.)

1882. [72]
Reg. v. *Winchester, JJ.* Building By-Laws—Certain members of an Urban Authority, being also Justices, took part in a meeting whereat it was resolved that a Roof was to be pulled down—Some of the same Justices heard the case, and ordered Builder in default to be fined—Order quashed on *Certiorari*, and the Justices who acted in both capacities to pay the Costs. (46 J. P., 724.)

LEGAL PROCEEDINGS, (9.) SESSIONS.

1882. [73]
Eaglesfield v. *Teasdale.* "Public Health Act. 1875," § 117 —Charge of having diseased meat dismissed by Justices—Held that no appeal against such dismissal lay to Quarter Sessions. (At Q. Sess.) (46 J. P., 744.)

LEGAL PROCEEDINGS (11.) TAXATION OF COSTS.

1883. [74]
Cowdell, In Re. Arbitration under the "Public Health Act, 1875"—Powers of Local Board to control Taxation of Costs to which they were liable. (51 L.J., Ch., 246: 31 W.R., 335: W.N., 1883, 18.)

LIABILITY FOR ACCIDENTS.

1882. [75]
Blackmore v. *Mile End Vestry.* Flap placed in street to protect water meter used by Vestry—Accident —Held that Vestry was liable for the negligent non-repair of the flap, the flap not being used by Vestry *qua* Highway Authority—*White* v. *Hindley* approved. (51 L. J., Q. B. D., 496: L. R., 9 Q. B. D., 451: 46 L. T., 869.)

1881. [76]
Dewsbury Corporation v. *Batley Corporation.* Accident to culvert maintained jointly by 2 united Authorities — Action by Landowner against them — Union dissolved by Act of Parliament after the accident but before the Action — Held that the one Corporation which had bought out the other could not recover contribution, the matter not having been brought before the Arbitrator who settled accounts at the dissolution. (*Times*, June 4, 1881.)

1882. [77]
Duke v. *Courage.* Nuisance to highway—Refuse from brewery removed by contractor—Some spilt on highway — Accident to plaintiff—Brewer held liable. (46 J. P., 453.)

1884. [78]
Gas-light and Coke Co. v. *St. Mary Abbot's, Kensington, Vestry.* Action for damage to mains by steam roller, and for Injunction to restrain future use of roller so as to endanger mains—Judgment for plaintiffs, and Injunction granted—Consideration of the rights of the parties. (*Times*, May 20, 1884.)

1884. [79]
Fowler v. *East London Waterworks Co.* Street plug allowed to project above general level of street—Accident to plaintiff's cart and injury to plaintiff—Defendants held liable: damages 125*l.* (*Times*, July 9, 1884.)

1882. [80]
Kent v. *Worthing L. B.* Ground round water-valve in highway worn lower than top of valve—Accident to horse—Board held liable *qua* Water Authority for negligence in not repairing the road. (52 L. J., Q. B. D., 77: L. R., 10 Q. B. D., 118: 48 L. T., 362: 47 J. P., 23.)

1812. [81]
Leslie v. *Pounds.* Entrance to cellar from highway left uncovered, whereby plaintiff fell into cellar and was hurt—Landlord held liable for negligence of workpeople employed by him to execute repairs to the house. (4 Taunt., 649.)

1883. [82]
Mellor v. *Heywood, Mayor.* Accident by carriage being driven against an unlighted street lamp—Action for damages held not maintainable, there being no duty to light the lamp, only a power to do so. (48 J. P., 149.)

1882. [83]
Murley v. *Grove.* Private road—Accident to trespasser by falling into a hole—Landowner held not liable to any person using the road without a license. (46 J. P., 360.)

1877. [84]
Reid v. *Darlington H. B.* Wall of bridge out of repair repaired by Board's contractor — Stones left by him in highway — Accident to plaintiff — Held that there was no evidence of negligence against the Board's Surveyor. (41 J. P., 581.)

1882. [85]
Scott v. *Huddersfield Corporation.* Corporation held liable for accident to horse passing along a road newly asphalted, and therefore unusually slippery. (*Times*, Dec. 7, 1882.)

1884. [86]
Wackerbarth v. *St. Giles's B. W. and Mowlem.* Accident caused by Steam Roller—Liability of Board or Contractor—Verdict for plaintiff — New Trial granted on points of evidence. (*Times*, June 21, 1883.)

LICENSES.

1884. [87]
Coles v. *Fibbens.* Resolution passed to license common lodging-house not acted upon by Local Board Clerk—Summons for keeping unlicensed house—Decision of magistrates not to convict, upheld—Defendant held entitled to consider himself licensed although no license had been issued. (48 J. P., 820.)

LOCAL GOVERNMENT BOARD.

1881. [88]
Barker v. *King's Norton Rural Sanitary A.* Application for Injunction to stay drainage scheme—Demurrer allowed on the ground that the Local Government Board had full power to deal with the plaintiff's case when the Local Inquiry was held. (W. N., 1882, p. 14.)

1882. [89]
Bexley L. B. v. *West Kent Sewerage Board.* Local Act — Dispute between 2 Authorities — The Local Government Board is not empowered to state Special Cases for the opinion of the High Court, under the "Common Law Procedure Act, 1854." (51 L. J., Q. B. D., 456: L. R., 9 Q. B. D., 518: 47 L. T., 192: 46 J. P., 519.)

1884. [90]
Reg. v. *Cheshunt L. B.* Default of Board for several years to provide sewerage—*Mandamus* issued at instance of Local Government Board under "Public Health Act, 1875," § 299. (*Times*, Jan. 22, 1884.)

1882. [91]
Reg. v. *Local Government Board & Taylor.* "Public Health Act, 1875," §§ 150, 257, and 268—Paving expenses—Apportionment—Notice of demand—Decision by Local Authority — Appeal by Party aggrieved—Time for appeal—Memorial to Local Government Board — Grounds of Appeal — Prohibition held not to lie, under the circumstances —*Semble* that it would, where Local Government Board was exceeding its powers. (52 L. J., M. C., 4: L. R., 10 Q. B. D., 309: 48 L. T., 173: 47 J. P., 228.)

MARKET.

1884. [92]
A.-G. v. *Horner.* Interpretation of a Charter granted in 1683—Question as to extent of area to which Charter applied. (L. R., 14 Q. B. D., 245.)

1882. [93]
A.-G. v. *Norwich Corporation.* Application for an Injunction to restrain Corporation from letting a part of its Market land as a site for an Agricultural Hall, refused, it not being shown that the proposal was objectionable. (*Times*, May 22, 1882.)

1883. [94]
Great Eastern Railway Co. v. *Goldsmid.* Market established by Railway Co. in connection with a Goods Station, held an infringement of Plaintiff's Market under Royal Letters Patent. (54 L. J., Ch. D., 162: L. R., 9 App. Cas., 927: *49 L. T., 717.)

1884. [95]
Horner v. *Whitechapel B. W.* Approaches to a Market—Interference with Market Rights by erection of posts. (54 L. J., Ch. D., 148: 51 L. T., 414.)

1882. [96]
Manchester, Mayor v. *Lyons.* Market established by Statute—Old Market rights thereby extinguished—Sale of fish, &c., in shop not an Infringement of Market. (L. R., 22 Ch. D., 287: 47 L. T., 677.)

1884. [97]
Shepherd v. *Folland.* Infringement of market—Potatoes held *ejusdem generis* with "corn, grain, meat, fish, poultry, or other provisions." (48 J.P., 804.)

1883. [98]
Torquay Market Co. v. *Burridge.* Local Act—Person living and selling outside Market limits for delivery inside, held guilty of Infringement of Market. (48 J. P., 71.)

NOTICES.

1883. [99]
Freeman v. *Newman.* Registration of Parliamentary Voters—Notices served in 1883 on old printed forms, dated 1880—Nobody misled or inconvenienced—Held nevertheless that the notices were bad; and that Overseers could not waive the objection and accept the notices—A notice which requires to be dated must be correctly dated. (53 L. J., Q.B.D., 108: L. R., 12 Q.B.D., 373: 51 L.T., 396.)

NUISANCE, (1.) ANIMALS.

1881. [100]
Banbury Sanitary Authority v. *Page.* "Public Health Act, 1875," § 47—Pigs evidently kept so as to be a nuisance — Proof of injury to health not necessary in order to sustain a conviction so long as there is a "nuisance" in the Common Law meaning of the term. (51 L.J., M.C., 21: L.R., 8 Q.B.D., 97: 45 L.L., 759: 46 J.P., 184.)

1884. [101]
Heap v. *Burnley Union.* "Public Health Act, 1875," §§ 44, 276—By-Law forbidding pigs being kept within 50 ft. of a dwelling-house, in a rural district, held unreasonable. (53 L. J., M. C., 76: L. R., 12 Q. B. D., 617: 48 J. P., 359.)

NUISANCE, (2.) BRICK-BURNING.

1881. [102]
Smith v. *Taylor.* Nuisance—Burning of Bricks—Promise that nuisance was only temporary—Circumstances under which apparent acquiescence in a nuisance will not disentitle an aggrieved party to redress. (*Times*, Dec. 3, 1881.)

NUISANCE, (3.) NOXIOUS TRADES.

1882. [103]
A.-G. v. *Metropolitan Railway Co.* Action for nuisance from mineral oil gas-works, nuisance comprising foul smells and chemical deposits—Injunction granted. (*Times*, Jan. 14, 1882.)

1883. [104]
Braintree L. B. H. v. *Boyton.* "Public Health Act, 1875," § 112—The frying of fish, although an offensive trade is not within the Section not being *ejusdem generis* with the trades there mentioned. (48 J. P., 582.)

1885. [104A]
Houldershaw v. *Martin.* "Public Health Act, 1875," § 114—Nuisance from frying of fish—Medical certificate that process was a "nuisance" held sufficient without stating also that it was "injurious to health"—Justices should have convicted. (*Times*, March 4, 1885.)

NUISANCE, (5.) VARIOUS.

1885. [104B]
Andrews v. *Mansfield.* Market garden—Deposits of dust and refuse causing a nuisance held actionable: perpetual Injunction also granted. (*Times*, March 6, 1885.)

1882. [105]
Bishop Auckland L. B. v. *Bishop Auckland Iron Co.* "Public Health Act, 1875," § 91, subs. 4 — To constitute an offence it suffices if the accumulation interferes with the personal comfort of the neighbours though not injurious to their health — *G. W. R.* v. *Bishop* distinguished; *Malton* v. *Malton*, and *Banbury* v. *Page* followed. (52 L. J., M. C., 38: L. R., 10 Q. B. D., 138: 48 L. T., 223: 47 J. P., 389.)

1884. [106]
De La Torre v. *Kensington, JJ.* "Nuisances Removal Act, 1855," § 8 [="Public Health Act, 1875" § 91]—Large numbers of cats and dogs in a private house held a "nuisance" within the Act. (At Q. Sess.) (48 J. P., 503.)

1618. [107]
Dewell v. *Saunders.* The erection of a new pigeon-house by a Freeholder of a Manor is not a common nuisance inquirable at the leet; but if the pigeons fly abroad to the damage of the King's subjects, the Judges of Assize may take cognisance of it. (Cro. Jac., 490.)

"OWNER," DEFINITION OF.

1883. [108]
St. Helen's Corporation v. *Riley.* "Public Health Act, 1875," § 150: Local Act—Paving expenses—Definition of "owner." (47 J. P., 471.)

PARLIAMENTARY EXPENSES.

1883. [109]
Birmingham Town Council, In Re. "Birmingham Improvement Act, 1851," § 63—Poll of Ratepayers as to promotion of Bill in Parliament—A 4 days' poll, between 9 a.m. and 4 p.m. each day, held to afford sufficient facilities for voting although population of Borough, 400,000. *Per* Huddleston, B.:—"There is no trace of any authority, in Cases reported now for 200 years, for any right in Ratepayers to insist upon a scrutiny against the decision and discretion of the presiding officer." (*Times*, March 22, 1883.)

PAVING EXPENSES.

1882. [110]
Allum v. *Dickinson.* "Metropolis Management Amendment Act, 1862," § 96—Paving Expenses held not a "Rate" but a Capital outlay, and therefore not recoverable by the Landlord from his Tenant in spite of covenants in Lease that Tenant was to pay all "Rates," &c. (52 L. J., Q. B. D., 190: L. R., 9 Q. B. D., 632: 47 L. T., 493: 47 J. P., 102.)

1883. [111]
Bolton v. *Bolton Corporation.* "Public Health Act, 1875," § 150—Evidence to prove dedication of highway. (At Q. Sess.) (47 J. P., 505.)

1883. [112]
Great Eastern Railway Co. v *Hackney B W.* Railway Company which had built a bridge across its line held liable to contribute to the paving of the roadway, such roadway being a "new street," and the Company owners of land "abutting on such new street." (52 L. J., M. C., 105: L. R., 8 H. L., 687: 49 L. T., 509.)

1883. [113]
Midland Railway Co. v. *Withington L. B.* Paving expenses wrongly charged in respect of a lane found afterwards to be a public highway—Action to recover the money so paid by mistake—Action held not maintainable because the limitations of time prescribed by "Public Health Act, 1875," § 264, had not been observed. (52 L. J., Q. B. D., 689: 49 L. T., 489: 47 J. P., 789.)

1882. [114]
Newington L. B. v. *Wright.* Paving expenses — Capital outlay duly paid, but payment of interest refused—Interest and Costs of the Action ordered to be a "Charge" on the premises, under §§ 150, and 257 of the "Public Health Act, 1875." (*Times*, Jan. 23, 1882.)

1882. [115]
Newport Urban A. v. *Graham.* "Public Health Act, 1875," § 150 — Back of premises held to "abut" on a new street although inaccessible from that street owing to a difference of level of 5 ft. (L. R., 9 Q. B. D., 183: 47 L. T., 98: 47 J. P., 133.)

1882. [116]
Read v. *Bullen.* Building land—Covenant by vendor to form a road—Successful proceedings by Highway Authority against purchaser, in respect of further works—Vendor held not bound under his covenant, to recoup purchaser the charges levied by the Highway Authority for further improvements to the road. (46 J. P., 259.)

1883. [117]
Reg. v. *Sheffield, Recorder.* "Public Health Act, 1875"—Bad notice to pave—Justices not on that account without jurisdiction to enforce paving expenses—Persons wrongly charged should have appealed. (53 L. J., M. C., 1: 47 J. P., 504: [*Wake v. S.*] L. R., 12 Q. B. D., 142: 50 L.T., 76.)

1883. [118]
Salford Corporation v. *Clowes.* On proof that a road was an "Occupation road" to 2 farms, adjacent Owners held liable for Paving and Sewering. (*Times*, March 23, 1883.)

1881. [119]
Simcox v. *Handsworth.* "Public Health Act, 1875," § 257—Paving expenses—Information laid within the statutory 6 months, but summons not issued till 13 months afterwards—Held that the Information having been laid in time, payment of the expenses could be enforced. (51 L.J., Q.B.D., 168: L.R., 8 Q.B.D., 39: 46 J.P., 260.)

1882. [120]
Sunderland Corporation v. *Alcock.* "Public Health Act, 1875," § 257 — Paving Expenses remain a charge on premises, and may be enforced against the owner for the time being, even though the premises have changed hands, and no Summary proceedings were taken against the owner who who was such when the works were completed. (51 L. J., Ch., 546: 46 L. T., 377.)

1884. [121]
Williams v. *Wandsworth B. W.* Owner of a strip of land 4 *inches* wide and 26 feet long held a frontager, and as such, liable for paving expenses. (Metrop.) (53 L. J., M. C., 187: L. R., 13 Q. B. D., 211: 48 J. P. 439.)

POUND.

1883. [122]
Little Bowden H. B. v. *Wandly.* Action against Lord of Manor for appropriating materials belonging to a pound, held not to lie although Parish had occasionally repaired pound. (47 J. P., 772.)

POWERS OF LOCAL BOARDS.

1855. [123]
Dorling v. *Epsom L. B. H.* "Public Health Act, 1848," § 89 [="Public Health Act, 1875," § 211 (4)]—The division of a District for Rating purposes is a matter for the discretion of the Board — All persons liable whether their property receives benefit or not. (24 L. J., M. C., 152: 5 E. & B., 471: [*Reg.* v. *Dorling*] 3 C. L. R., 945.)

1884. [124]
Gooding v. *Ealing L. B.* A builder had signed a notice which said "See Regulations over," and one was that deposited plans should become the property of Board—Board held therefore entitled to retain plans even though they might be disapproved and not be carried out. (*Times*, Nov. 14, 1884.)

1881. [125]
Holyhead L. B. v. *London and North-Western Railway Co.* Application by Board to Railway Commissioners to order erection of a foot-bridge, refused—The "Railway and Canal Traffic Act, 1854," § 2, is not available to support such an application. (4 Browne & Mac., 37.)

1882. [126]
Hyde, Mayor v. *Bank of England.* "Public Health Act, 1875, § 310—Local Board replaced by Municipal Corporation—Bank Annuities held to pass to the new Authority. (51 L. J., Ch., 747: L. R., 21 Ch. D., 176: 46 L. T., 910.)

1884. [127]
Paddington Burial Board v. *Inland Revenue.* Circumstances under which Income Tax is payable by a public Board carrying on work which yields a profit. (53 L. J., Q. B. D., 224: L. R., 13 Q. B. D., 9: 50 L. T., 211: 48 J. P., 311.)

1884. [128]
Ramsdale, Ex parte. Local Board District about to be merged in adjoining Municipal Borough—Peremptory *Mandamus* to Board to make a Rate before the extinction of the Board, to repay a debt duly incurred. (*Times*, March 25, 1884.)

1883. [129]
St. Helen's Corporation v. *St. Helen's Colliery Co.* "Public Health Act, 1875," § 227: Local Act—Special exemptions as to limit of Borough Rate held not to apply so as to restrict amount of Rates under the "Public Health Act, 1875." (48 J. P., 39: Affirmed on Appeal, *Times*, June 28, 1884.)

SCAVENGING.

1883. [130]
Corrie v. *Reddin.* Action by Freeholder for damage done to his estate by a Leaseholder excavating soil and filling up the holes with scavenger's refuse—Damages awarded, 2000*l*; and Injunction to remove the refuse and restore good soil. (*Times*, June 26, 1883.)

1883. [131]
Goodacre v. *Watson.* Injunction granted at suit of neighbours to restrain land from being used for deposit of house refuse, and before being built upon— *Per* Fry, J.:—"It was nothing short of horrible to think that persons should seek to place foul vegetable and animal matter as foundations for buildings, and then come into Court to defend such conduct." (*Times*, Feb. 23, 1883.)

1884. [132]
Metropolitan B. W. v. *Eaton.* 18 & 19 Vict., c. 120, § 205 — Scavenger who had swept mud into sewer held duly convicted of an offence against the Act. (50 L. T., 634: 48 J. P., 611.)

SEAL.

1882. [133]
A.-G. v. *Gaskill.* "Public Health Act, 1875 — An agreement between a Board and a person that a pending Action should be settled by his undertaking not to do a certain thing, and to pay the Costs of the Action, is not a contract under § 173 requiring to be sealed under § 174, and therefore may be enforced though unsealed. (52 L. J., Ch., 163: L. R., 22 Ch. D., 537: on a point of Practice, 51 L. J., Ch., 870.)

1884. [134]
Bournemouth Commissioners v. *Watts.*—Non-compliance with notice to pave—Thereupon Board employed contractor to do the work, but had no contract with him under seal—They paid him, and on suing the frontage he set up as defence that the paving contract was void—Held no defence for him. (54 L. J., Q. B. D., 93: L. R., 14 Q. B. D., 87: 51 L. T., 823: 49 J. P., 102.)

1882. [135]
Reg. v. *Norwich, Mayor.* "Municipal Corporations Acts:" "Public Health Act, 1875," § 174—Street paved, several tradesmen supplying materials—No contracts under seal—Separate amounts under 50*l.* with one exception — The work being useful and the prices reasonable, the Court held that there would be no misapplication of the Borough Fund. (46 J. P., 308: W. N., 1882, p. 74: 30 W. R., 752.)

SEWER.

1884. [136]
Acton L. B. v. *Batten.*—"Public Health Act, 1875," §§ 4, 13—A drain in new street laid by owner of houses to drain those houses and other houses is not a "sewer made for profit"—"Sewer" in said Act should receive largest possible interpulation —A drain is a "sewer" when more than one house has been connected with it. (54 L. J., Ch. D., 251: L. R., 28 Ch. D., 283: 52 L.T., 17.)

1882. [136 *a*]
A.-G. v. *Acton L. B.* "Public Health Act, 1875," §§ 15 and 23 —An existing right to send the sewage of one district into the sewers of another is subject to limitations; the quantity cannot be increased except by consent. (52 L. J., Ch., 108: L. R., 22 Ch. D., 221: 47 L. T., 510.)

1882. [137]
Baker v. *St. Pancras Vestry.* Injunction to restrain erection of urinal, refused — *Per* Jessel, M. R.:— "A wide street is a much more suitable place for a urinal than a narrow quiet street." (*Times.* July 29, 1882.)

1883. [138]
Bird v. *Brentford Union.* Application for Injunction to restrain entry on land to lay a sewer under the "Public Health Act, 1875," § 16, no proper statutory notice having been previously given—On it being shown that a notice had been given 5 days after the entry, and that no real inconvenience had been caused, Injunction refused. (*Times,* July 2, 1883.)

1884. [138 *a*]
Birkenhead, Mayor v. *Great Westecn Railway Co.*—Embankment formed over sewer rendering access to sewer for repairs very difficult—Held that Corporation had no grounds on which to claim compensation from Railway. (49 J. P., 135.)

1881. [139]
Dudley Corporation, In re. "Public Health Act, 1875," §§ 15, 16, 175, 308—A Local Authority taking a sewer through private lands is entitled to subjacent support for such sewer, but must compensate the landowner for the consequent interference with his freedom to work minerals lying underneath—But compensation not payable for prospective injury by percolation. (51 L. J., Q. B. D., 86: L. R., 8 Q. B. D., 86: [*Dudley Mayor* v. *Dudley Trustees*] 45 L. T., 733: 46 J. P., 340.)

1883. [140]
Merrett v. *Bridges.* Grant of lands subject to a Rent-charge in respect of use of roads and sewer—Effect of roads and sewer becoming vested in a Local Authority—Rent-charge held still in force. (47 J. P., 775.)

1883. [141]
Metropolitan B. W. v. *Willesden L. B.* Rights of Local Authorities just outside the Metropolis as to user of Metropolitan sewers. (*Times,* Dec. 4, 1883.)

1884. [142]
National Model Dwellings Co. v. *St. George's, Southwark, Vestry.* Proposed erection of Urinal at junction of 2 streets—Injunction to restrain erection refused, it not being shown that any special nuisance was to be anticipated. (*Loc. Gov. Chron.,* Feb. 9, 1884.)

1883. [143]
Sandgate L. B. v. *Lenney.* Sewer carried through private land—Covenant in Deed granting Board access to Sewer held not broken by defendant merely by building over a portion of the ground, seeing that reasonably convenient access to sewer could still be had at all time. (*Times,* Aug. 2. 1883: L. R., 25 Ch. D., 183, n.)

STATUTES, INTERPRETATION OF.

1882. [144]
Birkenhead Corporation v. *Crowe.* Special Act altering the general Law as to the incidence of Paving Expenses — Held that though the date for the alteration to come into force had (unknown to the defendants) been postponed whilst the Bill was in Parliament, yet the defendants could not claim the benefits which the Bill as originally drawn would have conferred on them. (46 J. P., 551.)

1883. [145]
Burton v. *Salford Corporation.* "Highway Act, 1835," § 109: "Public Health Act, 1875," § 261—Limitation of time prescribed by former Act held available by way of defence, and Action not maintainable—*Taylor* v. *Meltham* distinguished. (52 L. J., Q. B. D., 668: L. R., 11 Q. B. D., 286: 49 T. L., 43: 47 J. P., 614.)

1883. [146]
Portsmouth, Mayor v. *Smith.* "Towns Improvement Clauses Act, 1847," § 53: Local Acts— Right of Action for Paving expenses—Effect of repeals in Local Acts—Defendant held not liable—*Maude v. Baildon* disapproved. (53 L. J. Q. B. D., 92: L. R., 13 Q. B. D., 184: 50 L. T., 308: 48 J. P., 404.)

STREET.

1884. [147]
Fulham B. W. v. *Smith.* Local Acts—Obstruction of street by costermonger's barrow. (48 J. P., 375.)

1883. [148]
Gard v. *Commissioners of Sewers.* Local Act—Powers to take premises for widening a street restricted —*Thomas* v. *Daw* and *Galloway* v. *London* distinguished. (18 L. J., N. of C., 107: 42 L. T., 325.)

1884. [149]
Gay v. *Powell.* "Municipal Corporation Act, 1835," § 90—By-Law prohibiting street music held good—Salvation army. (51 L. T., 92: [*Reg.* v. *Powell*] 48 J. P., 740.)

1883. [150]
Maude v. *Baildon L. B.* Whether a place is a "street" within the "Public Health Act, 1875," § 150, is a question of fact for Justices: they are not bound by definition of "street" in § 4. (L. R., 10 Q. B. D., 394: 48 L. T., 875: 47 J. P., 644.)

1884. [151]
Metrop. B. W. v. *Lathey.* Notices of intention to lay out new street held good, and proceedings barred by time. (48 J. P., 773.)

1881. [152]
Metrop. B. W. v. *Steed.* "Metropolis Management Amendment Act, 1862," § 98—Street not open at both ends held to contravene the Act, although of the specified width. (51 L. J., M. C., 22: L. R., 8 Q. B. D., 445: 45 L. T., 611: 46 J. P., 109.)

1884. [153]
Reg. v. *Sheil.* "Metropolis Management Acts, 1855, 1862"—Meaning of "street"—Magistrate found that a certain lane was not a "street"—Held that this was a question not of Law but of fact—*Mandamus* to state a case refused. (50 L. T., 590: 49 J. P., 68.)

1884. [154]
Wandsworth B. W. v. *Postmaster General.* "Telegraph Act, 1878"— Decision by Railway Commissioners as to places where wires ought to be put overhead, and where they ought not to be so put—Rule laid down that distance between supports ought not to exceed 100 yards. (*Times*, May 21, 1884.)

1884. [155]
Wandsworth B. W. v. *United Telephone Co.* Street vested in a Board—Injunction to restrain the maintenance of telephone wires across a street refused, there being no sufficiently exclusive rights. (53 L. J., Q. B. D., 449: 51 L. J., 148: 48 J. P., 676.)

TRAMWAYS.

1883. [156]
Howitt v. *Not'ingham Tramways Co.* "Tramways Act, 1870" §§ 28–9, 55— Where a Tramway Co. contracts with a Road Authority for latter to repair road for an annual payment, the Road A. becomes liable for accidents due to non-repair. (53 L. J., Q. B. D., 21: L. R., 12 Q. B. D., 16: 50 L. T., 99.)

1885: [157]
Oxford L. B. v. *Oxford Tramways Co.* Action for specific performance by company of agreement to relay tramway in a certain manner. (*Times*, Feb. 10, 1885.)

1883. [158]
Wallasey Tramway Co. v. *Wallasey L. B.* Conviction under Tramway By-Laws held bad where they had not been confirmed by Q. Sess. (47 J. P., 821.)

WATER COMPANY, POWERS, &c. OF.

1884. [159]
Colne Valley Water Co. v. *Treharne.* "Public Health Act, 1875": "Public Health (Water) Act, 1878"—§ 62 of the former Act is not repealed by § 3 of the latter Act; the latter applies to cases which do not come within the former. (50 L. T., 617: 48 J. P., 279.)

1882. [160]
Dobbs v. *Grand Junction Water Co.* Special Acts—Held that the Water Rate was to be computed on the "Rateable Value" of the premises, as appearing from the Poor Rate Assessment. (53 L. J., Q. B. D., 50: L. R., 9 App. Cas., 49: 49 L. T., 541: 48 J. P., 5.)

1883. [161]
Ferens v. *O'Brien.* Water stored in a Water Main may be the subject of a Larceny at Common Law. (52 L. J., M. C., 70: L. R., 11 Q. B. D., 21: 47 J. P., 472.)

1884. [162]
Hayward v. *East London Water Co.* "Waterworks Clauses Act, 1847," § 68—Circumstances under which an Injunction to restrain cutting off of water will or will not be granted. (L. R., 28 Ch. D., 138.)

1882. [163]
Milnes v. *Huddersfield Mayor.* A Water Company is not liable for injury to the health of a customer merely because its water, otherwise pure and wholesome, is of such a nature as to take up an abnormal quantity of lead in passing through leaden pipes. (53 L. J., Q. B. D., 12: L. R., 12 Q. B. D., 443: 50 L. T., 73: 48 J. P., 134.)

1882. [164]
Newhaven Water Co. v. *Newhaven L. B.* "Public Health Act, 1875" § 52 — Action to restrain the Board from constructing Water-works—Company formed, but no works in operation—The evidence showing a *bona fide* probability that the Company would be able to fulfil its promises, Injunction granted. (*Times*, Jan. 21, 1882.)

1881. [165]
Piercy v. *Pope.* "Waterworks Clauses Act, 1847," § 59; Ib. 1863, § 20 — Water drawn from tap in an empty house by daughter of person paying the Water-rent and therefore entitled to draw in his own house but not in an empty house — Such an offence (if an offence at all) held not within § 59. (45 L. T., 477: 46 J. P., 102.)

1883. [166]
Sheffield Water Co. v. *Bingham.* Supply of Water to Bath—Consumer held liable to provide a proper meter. (52 L. J., Ch., 624: L. R., 25 Ch. D., 443: 48 L. T., 604.

1882. [167]
Sheffield Water Co. v. *Carter.* Powers of Company as to cutting off supply—Failure of occupier to pay or tender, Rate in advance. (51 L. J., M. C., 97: L. R., 8 Q. B. D., 632: 46 J. P., 548.)

1884. [168]
Southend Water Co. v. *Howard.* "Public Health Act, 1875, § 62—Non-compliance of house-owner with notice from Local Authority to obtain a supply of water—Owner held liable, and that it was not a condition precedent that the works necessary to take water into the house should have been executed by plaintiffs. (53 L. J., Q. B. D., 354: L.R., 13 Q. B. D., 215: 48 J. P., 469.)

1882. [169]
Warrington Water Co. v. *Longshaw.* "Waterworks Clauses Act, 1847," § 68 — Water Rates are payable on the "Rateable Value" of the premises, and not on the "Gross Estimated Rental." (51 L. J., Q. B. D., 498: L. R., 9 Q. B. D., 145: 46 L. T., 815: 46 J. P., 773.)

1883. [170]
Weaver v. *Cardiff Corporation.* Local Act—Bath in private house held used for a "Domestic" purpose, and therefore not subject to a special charge leviable on "baths, wash-houses, or public purposes." (48 L. T., 906: 47 J. P., 599.)

1885. [170 *a*]
West Middlesex Water Co. v. *Coleman.* Premium paid for lease may be taken into account in fixing annual value of premises. (49 J. P., 148.)

WATER, POLLUTION OF, (2.) BY SEWAGE.

1884. [171]
A.-G. v. *Burslem L. B.* Pollution of stream by sewage —Injunction followed by Order for sequestration —Latter Order not to be enforced for 6 months—Orders so conditioned disapproved of by the Court. (*Times*, Feb. 16, 1884.)

1882. [172]
A.-G. v. *Dorking Guardians.* Action by Landowner to restrain pollution of stream by sewage where defendants neglected to take any remedial measures — Judgment for defendants — *Glossop* v. *Heston* followed. (51 L. J., Ch., 585: L. R., 20 Ch. D., 595: 46 L. T., 573.)

1885. [173]
Ballard v. *Tomlinson.* Water in well polluted by sewage sent into another well 99 yards distant — Held that though the pollution resulted from underground percolation there was a remedy at Law. (*L. R., 26 Ch. D., 195: *48 J. P., 535. *Times*, Feb. 18, 1885.)

1884. [174]
Bristol Corporation v. *Gee.* Pollution of stream by washings from Glue-works—Application to commit defendants to prison for breach of an Injunction. (*Times*, Jan. 16, 1884.)

1883. [175]
Charles v. *Finchley L. B.* Action against Board for not prosecuting a third party polluting a stream held maintainable, the third party being under contract with the Board, and having failed to comply with the conditions of his contract—*Glossop* v. *Heston* and other analogous cases distinguished. (52 L. J., Ch., 554: L. R., 23 Ch. D., 767: 48 L. T., 569: 47 J. P., 791.)

1885. [176]
Jersey, (Earl of) v. *Woodward.* Stream polluted by sewage—Injunction granted to restrain any more sewer connections being made whereby the pollution would be increased. (*Times*, Jan. 27, 1885.)

1884. [177]
Lee Conservancy Board v. *Hertford, Mayor.* Sewage disposed of in a way and under conditions prescribed by Parliament—The Parliamentary conditions having been complied with. Action held not maintainable, although some evidence of nuisance was forthcoming. (48 J. P., 628.)

1884. [178]
Marsh v. *Sheffield Guardians.* Injunction to stop flow of sewage having been disregarded Sequestration ordered—The Court will be lenient in stopping the misuse of old sewers, but peremptory in dealing with nuisances from newly constructed sewers. (*Times*, Aug. 9, 1884.)

1884. [170]
Taylor v. *Barnet Union.* Pollution of watercourse by sewage flowing from Sewage Works and tanks—No real effort having been made to mitigate the nuisance, Injunction granted, framed to extend not only to defendants' own acts but to acts permitted by them. (*Times*, Feb. 16, 1884.)

1884. [180]
Snow v. *Whitehead.* Escape of water from cellar of one house to cellar of adjoining house—Owner of former house held liable for damage done. (53 L. J., Ch. D., 885: L. R., 27 Ch. D., 588: 51 L. T., 253.)

1885. [181]
Taylor v. *Friern Barnet L. B.* Rural Sanitary Authority replaced by Local Board—Injunction granted promptly against new Body to restrain pollution of stream by sewage although the old Body had commenced the mischief. (*Times*, Jan. 13, 1885.)

WORKS.

1884. [182]
Reg. v. *Llewellyn.* "Public Health Act, 1875" §§ 94–6 Notice to defendant to do various specified works in and about privy—Order of Justices to enforce notice, upheld — *Saunders, Ex parte* followed: *Whitchurch, Ex parte* distinguished or dissented from. (L. R., 13 Q. B. D., 681: 49 J. P., 101.)

1882. [183]
Saunders v. *Barstow.* "Metropolis Management Acts" — Neglect to provide sufficient water-closets — Penalties inflicted in case of 11 houses—Wrong penalties having been inflicted the Quarter Sessions revised the amounts, but confirmed the convictions generally. (46 J. P., 361.)

1883. [184]
Saunders, Ex parte. "Public Health Act, 1875," § § 94–6—On default of owner to move a water-closet which was a nuisance to another and specified situation, Justices issued an Order under § 96—Order held good — *Whitchurch, Ex parte* distinguished. (52 L. J., M. C., 89: L. R., 11 Q. B. D., 191: 47 J. P., 584.)

PART I.

Digest of Statutes.

CHAPTER I.

THE CONSTITUTION OF URBAN SANITARY AUTHORITIES.

THE following public bodies in England are in one way or another concerned in attending to the Health of the Community:— A 6 and 9.

(*a*) Town Councils of Boroughs.
(*b*) Boards of Improvement Commissioners executing Local Acts of Parliament.
(*c*) Local Boards of Health formed under the "Public Health Act, 1848."
(*d*) Local Boards formed under the "Local Government Act, 1858," or the "Public Health Act, 1875."
(*e*) Boards of Guardians constituted "Rural Sanitary Authorities" by the "Public Health Act, 1872."

(2.) The 2 classes of Local Boards may be taken together, so that there are therefore but 3 sorts of Urban As.

(3.) A does not extend either to Scotland, Ireland, or the Metropolis (except as is expressly provided). A 2.

(4.) In addition to the powers, rights, duties, capacities, liabilities, and other obligations exercised by, or attaching to, an Urban A under the "Public Health Act, 1875," every such A is invested with all the powers of the "Local Authority" under the "Artizans and Labourers Dwellings Act," or under the Acts amending that Act.[a] A 10. 31 & 32 Vict., 130; 42 & 43 Vict., 64.

(5.) Where the "Baths and Wash-houses Acts" or the "Labouring Classes Lodging Houses Acts," or any of them, are in force in an Urban district, the Urban A executes these Acts. A 10.

(6.) Where the "Baths and Wash-houses Acts" and the "Labouring Classes Lodging Houses Acts" are *not* in force, the option of putting them in force rests exclusively with the Urban A. A 10.

(*a*) Be it noted that Urban As have been deprived of the supervision of Bakehouses, mentioned in A 10, by the "Factory and Workshop Act, 1878," (41 Vict., 16; see §§ 33—5; Sch. VI.)

(7.) The nature of the provision made for the supersession of inferior Urban Authorities by superior ones may be conveniently exhibited thus :—

A 6 (1).

A *Borough* the whole of which is included in and forms part of a "Local Government," or an "Improvement District"—

An *Improvement District* which is included in and forms part of a "Local Government District"—

A *Local Government District* which is included in and forms part of an "Improvement District"—

Is, for purposes of A, *absorbed in the larger District, and the Urban Authority of the larger District is the Urban Authority of the whole area.*

A 6 (2). Where an "Improvement District" is coincident in area with a "Local Government District," the "Improvement Commissioners," and not the Local Board, are the Urban Authority.

A 6 (3). Where part of an "Improvement District" is situated within a Borough or within a "Local Government District," or where part of a "Local Government District" is situated within a Borough, the remaining part of the District continues under the same Sanitary jurisdiction as if A had not passed, unless LGB by Provisional Order otherwise directs.

A 6 : 39 & 40 Vict., c. lx. [Local.] The following Boroughs are specially dealt with :—Oxford, Cambridge, Blandford, Calne, Wenlock, and Folkestone.

A 270 (2). When a Borough comprises or is co-extensive in area with an "Improvement District," LGB may by Provisional Order dissolve the District and transfer to the Council the powers, &c., remaining vested in the Improvement Commissioners.

A 10. (8.) Where any Local Act (other than an Act for the conservancy of a river) is in force in any Urban District and confers powers the same as or similar[a] to those of A (but not for the pecuniary benefit of the Commissioners, &c.), all such powers, rights, liabilities, &c., pass to the Urban Authority.

A 303 : and refer to A 6. (9.) LGB may on the application of any LA issue a Provisional Order wholly or partially to repeal, alter, or amend any Local Act not being a River Conservancy Act or an Act conferring pecuniary privileges. Any such Order may enlarge or diminish the area to which such Act applies, and settle the Authority which is to have jurisdiction.

A 12. ✠ (10.) All the property, &c., of any superseded Authority has become transferred to and vested in the LA under the Act (Urban or Rural as the case may be).

A 12. ✠ (11.) Debts, liabilities, and obligations which have been incurred by an Authority, whose powers and property have passed to a LA will be enforceable against the LA which is the transferee, to the same extent and in the same manner as they might have been enforced against the Authority which incurred them.

A 304. ✠ (12.) The transfer of property thus provided for may in some cases occasion difficulties in the way of adjustment of interests, and it is therefore enacted that, upon the application of an Authority from whom or to whom any powers, liabilities, obligations, and property are

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(*a*) Where two Public Statutes are, in regard to any point, contradictory, the requirements of the later one are to prevail (*Daw* v. *Metropolitan B. W.*); but it is expressly enacted, that where the General Act and a Local Act contain provision for effecting the same or a similar object in different modes, the LA may proceed under either the General Act or the Local Act. But a person is not to be punished for the same offence both under the General Act and under a Local Act. (A 340 (1).) An Authority is not exempt from the performance of any duty to which it may be subject under the General Act, merely because a Local Act is in force. (A 340 (2).)

transferred, or are alleged or claimed to be transferred, under A, or of any person affected by the transfer, LGB may, by Order, settle any doubt or difference and adjust any accounts arising out of or incidental to the transfer, and direct the parties by whom and to whom any moneys found to be due are to be paid, and the mode of raising such moneys. But where the Order directs "any Rate to be made, or other act or thing to be done which the party required to make or do would not, apart from the provisions of this Act, have been enabled to make or do by law," the Order is to be provisional only, until it has been confirmed by Parliament. Any settlement or adjustment under this section may be included in any Provisional Order which gives rise to the same.

(13.) Under the "Public Health Act, 1872," every parish, &c., not under an Urban A, came under the control, for Sanitary purposes, of the Guardians of the Poor Law Union in which it was situated. And although that Act is repealed by A the status of the As is preserved. 35 & 36 Vict., 79, 8. A 326.

✠ (14.) The Ratepayers of a place not under an Urban A may initiate proceedings for the establishment of a Local Board. A 272.

✠ (15.) A place may have some or all of the powers of an Urban A applied to it on the application of the existing Rural A, or of Ratepayers representing *one-tenth* of the assessment of the particular place. Urban powers are obtained from LGB by the issue of an Order to be published in the *London Gazette* or otherwise. The application of these powers when suggested by Ratepayers is not to invest the Rural A with any new powers beyond the limits of the contributory place in respect of which the application is made. A 276.

✠ (16.) LGB may also, by Provisional Order, declare any Rural District, or any portion of a Rural District or Districts, to be an Urban ("Local Government") District. The new A is set up by a Provisional Order of LGB made after an Inquiry by one of its Inspectors. [See Chap. IV. *post.*] This Order must be confirmed by Parliament, and then, but not till then, will the Ratepayers be called upon to select representatives to sit on a Board of their own, which will be a "Local Board." A 271.

✠ (17.) The proceedings to be taken locally with a view to the establishment of a Local Board in a Rural place will now be set forth. No place can become a "Local Government District," without the permission of LGB. [Refer to Paragraph 34, *post.*] A 272.

✠ (18.) The first thing to be done is to convene a Meeting of the Owners and Ratepayers of the place which it is suggested should come under the jurisdiction of a Local Board. A Sch. III.

✠ (19.) This meeting is to be summoned on the requisition [in writing] of any 20 persons being Ratepayers or Owners. It will in all cases be well to secure more than 20 signatures, say 30, in case it should afterwards turn out that some of the persons who signed the requisition were not qualified to do so. A Sch. III. 1.

✠ (20.) The requisition is, in the case of places in any Rural District having known and defined boundaries, to be presented to the persons A Sch. III. 2.

or person indicated by the Act as the proper Summoning Officers or Officer, that is to say, to the Churchwardens or one of them, or, if there are no Churchwardens, to the Overseers or one of them, or if there are no Churchwardens or Overseers, or if they neglect, or are unable, or refuse to act, then to some person appointed by LGB to act as Summoning Officer. In order that the Parish officials named may lawfully act as Summoning Officers, they must be officials exercising jurisdiction co-extensive with the area over which the proposed Local Board will exercise jurisdiction. It is not sufficient if they are merely appointed for an area which includes the proposed Local Board District, or is included within it.

A Sch. III. 4. ✠ (21.) On receiving the requisition the Summoning Officer is to fix a time and place for holding the meeting, and is to give notice thereof (i) by advertisement in one or more of the local Newspapers circulated in the place, and (ii) by causing a notice to be affixed to the principal doors of every Church and Chapel [a] in the place to which notices are usually affixed.

A Sch. III. 5. ✠ (22.) The Summoning Officer is to preside at the meeting, unless unable or unwilling, in which case those present are to choose one of their number to be Chairman. With the consent of the majority the meeting may be adjourned "*from time to time.*"

A Sch. III. 6. ✠ (23.) The Chairman must propose the necessary resolution for the adoption of the Act,[b] and the meeting is to decide for or against such resolution. Any Owner or Ratepayer may demand a Poll of the Owners and Ratepayers, which Poll must be taken by Voting-papers in the form prescribed, and subject to the rules prescribed, which are mainly those of Local Board Elections, so far as applicable. If no Poll is demanded, or if the demand is withdrawn by the persons making it, a declaration by the Chairman will, in the absence of proof to the contrary, be sufficient evidence of the decision of the meeting.

A Sch. III. 6. ✠ (24.) The Poll, if there is one, is to be conducted by the Summoning Officer, who will have the powers and perform the duties of a Returning Officer.

A Sch. III. 7. ✠ (25.) A copy in writing under the hand of the Summoning Officer of every resolution so passed is to be forwarded by him to LGB.

A Sch. III. 7. ✠ (26.) The Summoning Officer is also to give notice of the Resolution by Newspaper advertisements and by Church, &c., door notices. [As to both of these see Paragraph 21, *ante*.]

A 273. ✠ (27.) A resolution for the adoption of the Act[b] may be appealed against either by impugning the validity of the vote, or on the merits.

A 274. ✠ (28.) With respect to the validity of the vote—any Owner or Ratepayer may within 6 weeks of the Declaration memorialise LGB, and that Board may direct an Inquiry, and issue such Order as it deems fit.

(*a*) *I.e.* of the Established Church (1 Vict., 45). Dissenting Meeting-houses are not "Chapels."

(*b*) Or, as the case may be, where the meeting is one of owners and occupiers convened to consider some other subject.

✠ (29.) With respect to an appeal on the merits—if any number being not less than 1-20th of the Owners and Ratepayers of the place, such 1-20th to be 1-20th in number of the Owners and Ratepayers of the place taken together, or the Owners, or Ratepayers, in respect of 1-20th of the rateable property in the place, are desirous that the proposed Local Government District should not be constituted, or that any part of the place should be excluded, they may present to LGB a petition to that effect under regulations which are set forth. LGB may direct any Inquiry, and make an Order. A 273.

✠ (30.) In order to provide for the expenses, should the proposal made at the Meeting fail, the Summoning Officer may require the requisitionists to give a bond with 2 sufficient sureties for the repayment to him of the costs incurred.[a] A Court of Summary Jurisdiction must settle disputes as to the amount of the security, &c. A Sch. III. 3.

✠ (31.) If **A** be adopted, the preliminary expenses *incurred by the Summoning Officer*[b] are to be defrayed out of the District Rate. A Sch. III. 8.

✠ (32.) After the expiration of 6 weeks from the receipt of a copy of the Resolution of Owners and Ratepayers in favour of the formation of a Local Government District, LGB may, by Order, declare accordingly, and from and after "the commencement of such Order"[c] the place will become a "Local Government District" under a "Local Board." A 272.

(33.) But Meetings of Owners and Ratepayers may be necessary under **A** for other purposes besides the adoption of **A**. In such cases the Summoning Officer will be (i) in Boroughs, the Mayor; (ii) in Improvement Act Districts, the Chairman of the Commissioners; (iii) in Local Government Districts, the Chairman of the Board. The costs, if a Resolution is passed, are to come out of the General Purposes Fund or Rate. To provide against the opposite result a Bond should be called for. (See Par. 30.) A Sch. III. 2. A Sch. III. 8.

✠ (34.) The adoption of the Act by a place does not become conclusively effectual until the consent of LGB is obtained. [It would be prudent, therefore, if there should be grounds for anticipating that for any reason, (*e.g.* small population), LGB might eventually withhold its consent, that a few of the leading Ratepayers should communicate with that Board previously to any steps whatever being taken in respect of the adoption, with the object of learning beforehand the probable views of the Board when its consent is formally applied for.] A 272

✠ (35.) No objections can be taken at any trial, &c., as to the validity of the adoption, unless 14 days' previous notice is given to the other side, specifying fully the nature of the objection which is to be made. After 6 calendar months from the date of the constitution of the District no objections will be admissible. A 274.

(*a*) Care must be taken in framing this bond. A case occurred once of a Summoning Officer losing his expenses because he had not provided for the contingency of the Local Government Board withholding its sanction to the constitution of a District after a meeting had pronounced in favour of that course. The bond only provided for the failure of the meeting and was silent as to failure at a subsequent stage.

(*b*) Notice the words italicised. Where the constitution of a District is brought about by the action of private individuals no expenses incurred by them in the employment, say, of a Solicitor or of a Surveyor, can be lawfully refunded out of the General District Rate when one is levied. If any such payments are made it will be at the risk of disallowance by the Auditor.

(*c*) This phrase means the date mentioned in such Order as that from which it is to take effect.

A 272. ✠ (36.) The privilege of adopting **A** attaches only (with an exception to be dealt with in Par. 37) to places which, being within the jurisdiction of a Rural A have a "known and defined boundary." This expression includes any Parish or Township having Overseers of its own; an Ecclesiastical District under the "Church Building Acts," although carved out of more than one parish[a]; and any place for which LGB has settled boundaries for the purposes of **A**.

A 272: Sch. III. 1. ✠ (37.) It often happens that a populous locality needing Urban powers may be without a suitable boundary. In such a case LGB may by Order settle a boundary, and nominate a Summoning Officer.

A 272. ✠ (38.) LGB is for this purpose set in motion by a Petition suggesting boundaries, which Petition must be signed by "*one-tenth* of the persons rated to the relief of the Poor and resident within such boundaries." This Petition should, of course, set forth at length the circumstances which are thought to render it expedient that the place should be constituted a Local Government district. After receiving such a Petition LGB usually directs one of its Inspectors to hold a Local Inquiry. On the receipt of its Inspector's report, LGB gives such decision as it deems fit, dealing also with the costs. LGB may curtail the proposed boundaries, but to enlarge them it appears that a Provisional Order (under **A** 270 (1)) is requisite.

A 278. ✠ (39.) LGB may, upon the application of any Local Board or Improvement Commissioners interested, settle by Order disputes as to the Boundaries of adjoining Districts. A Local Inquiry is to be held, and the Order, when made, shall, from its commencement, be conclusive. It is to be published in some Local Newspaper.

A 270 (1). ✠ (40.) Provision is made for a Local Government District being dissolved.

A 310. (41.) If an Improvement Act District or a Local Government District should become constituted or included in a Corporate Borough after the passing of **A**, the Board of Commissioners or the Local Board ceases to exist, and its powers, &c., pass to the Town Council.

A 8: Sch. II. (42.) Local Boards are elective, according to Rules set out in **A**.

A Sch. II. (1) 32-5. (43.) The first election is presided over by the Summoning Officer or by a person named by LGB in its Order establishing the Local Board. Subsequent Elections will be conducted by the Chairman, but if the office is vacant, or if the Chairman should be a Candidate,[b] or be unable, owing to illness "or other sufficient cause," or be absent, or refuse, to conduct the election, some other person[c] is to be appointed, (in the case of a first election, by LGB, and in any other case by the Local Board) to act as Returning Officer. Provision is made for the appointment, if needs be, of a substitute.

(*a*) *Reg.* v. *Northowram and Clayton Ratepayers.* The meaning of the expression "known or defined boundary" was exhaustively considered in *Reg.* v. *Grasmere L. B.*

(*b*) Refer to *Reg.* v. *Ward*, and see *Reg.* v. *Cousins:* also *Reg.* v. *White* and *Reg.* v. *Owens.*

(*c*) Not necessarily a member of the Board though usually it will be desirable that he should be such. It is not advisable to appoint the Clerk, though it would not seem to be illegal to do so.

(44.) If the Chairman be absent during an election and no person has been appointed Returning Officer, the proceedings will be void[a].

(45.) The Local Board (or at the first election, the Returning Officer) is to appoint persons to assist the Returning Officer. A Sch. II. (1) 34.

(46.) The Voting is by Voting-papers, framed upon information, supplied mainly by the Poor-Rate Books, and therefore the Returning Officer is entitled to inspect certain Parochial Books and Papers which are in the hands of the local Poor Law Officers. The Returning Officer may cause an alphabetical list of the Voters to be made. A Sch. II. (1) 38. A Sch. II. (1) 37.

(47.) The Voters are all persons[b] who have been rated to the Poor-Rate for "one whole year," preceding the day of tendering the vote, provided they have paid[c] all arrears of rates (as well Rates under **A** as Poor Rates), except Rates made or due within 6 months immediately preceding.[d] It is not requisite that there should have been rating for the same property continuously for 12 months. The occupation of different properties in succession suffices. But if there is a difference in the votes conferred it is right to assume that the minimum number rules: so that a voter changing, *e.g.* from a house carrying 2 votes into one carrying 3 is entitled to no more than 2 votes till he has completed a year in the property carrying 3 votes. Owners also, provided they are on the Register, are likewise entitled to vote. As regards "Compound householders" see the references in the margin. A Sch. II. (1) 11. A 211 (1): 31 & 32 Vict., 41, 19.

(48.) No person is entitled to vote who is in receipt of relief given to himself or his wife or child, or who has been in receipt of such relief on any day during the year last preceding the election.[e] 39 & 40 Vict., 61, 14.

(49.) With regard to owners it may here be observed that there is no provision such as is contained in the "Reform Act" (2 & 3 Will. IV., **45**, 26,) that persons succeeding to a qualification by descent, succession, marriage, devise or promotion to any benefice, may vote, although they have not been in possession of their qualifications for the qualifying time. Such persons therefore cannot vote, and this excludes the widow of a deceased ratepayer who has not been rated a full year in her own name.

(50.) The Votes depend on the rating of the Voter, according to the following scale[f]:— A Sch. II. (1) 12.

Under 50*l.*	One vote.
50*l.* and under 100*l.*	Two ,,
100*l.* and under 150*l.*	Three ,,
150*l.* and under 200*l.*	Four ,,
200*l.* and under 250*l.*	Five ,,
Over 250*l.*	Six ,,

(*a*) *Reg.* v. *Backhouse.*

(*b*) But this statement must be taken as subject to the qualification that disabilities at common Law as to Voting under analogous franchises must be deemed to prevail in connection with Local Board elections. Therefore infants and idiots are not entitled to vote, nor lunatics save at lucid intervals; and, by statute, aliens cannot vote (33 & 34 Vict., 14, 2); nor persons convicted of felony (33 & 34 Vict., 23, 2).

(*c*) Where a ratepayer has paid part only of an amount due from him (*à fortiori*, where he has paid none at all), by reason of having appealed against a Rate, he must be deemed a defaulter altogether, and to have lost for the time being his right to vote. See 37 J. P., 460.

(*d*) This provision as to 6 months probably applies to both classes of Rates, but the matter is not absolutely beyond doubt.

(*e*) There seems no room to doubt that the Act here cited applies to Local Board elections.

(*f*) This of course only applies to elections in Local Board Districts. A different Franchise is in force in Municipal Boroughs, &c.

A Sch. II. (1) 13. (51.) Owners, whether Ratepayers or not, are entitled to special votes in respect of their ownership according to the rateable value of the property occupied (or owned without personal occupation, as the case may be). These special votes are separately computed up to a maximum of 6.

A Sch. II. (1) 14. (52.) Owners may vote either personally or by proxy.

A Sch. II. (1) 15. (53.) A person is appointed proxy by writing under the hand of the appointor, or under the common seal, or under the hands of 3 directors, &c., according as the owner is an individual, a Corporation, or an unincorporate body of persons respectively. Every instrument appointing a proxy must be attested.

A Sch. II. (1) 16. (54.) No member of a Corporation, or of any unincorporate body of persons (other than a partnership of not more than 6 persons) may vote individually in respect of the Corporate, &c., properties.

A Sch. II. (1) 17. (55.) Partners in a Firm consisting of not more than 6 persons may vote as owners of the Partnership property as if it were equally divided among them, but **A** makes no specific provision for the voting of joint Ratepayers [See Paragraph 62, *post.*] It is however a general practice that such should vote and the usage seems to have arisen out of the arrangements prescribed in the "Vestries' Act, 1818."

58 Geo. III., 69, 3.

A Sch. II. (1) 43. (56.) The Ratepayers have Voting-papers left for them at their residences, &c., marked with a statement of the number of Votes allotted to them by the Returning Officer, but the Votes of Owners and Proxies are only allotted in virtue of their either being on the Register of Owners, &c., or of a claim having been made between March 1 and 6; or, in the case of a first election, at least 14 days before the last day appointed for the delivery of the Voting Papers. This claim (which must furnish certain specified items of information) remains in force so long as it remains correct or not withdrawn. It is desirable that it should be signed by the Owner or by his authorised agent, though this is not prescribed by the Act. On proof of a wrong number of Votes having been allotted, the Returning Officer may at the scrutiny amend the figures, *but if Voters do this they may come within the enactment as to tampering with Voting-papers.*

A Sch. II. (1) 18, 20 and 31.

A Sch II. (1) 69.

A Sch. II. (1) 19. (57.) Every Local Board is to keep a Register of Owners and Proxies. This Register is to be open to the inspection of candidates and persons interested, subject to regulations prescribed by the Board.

A Sch. II. (1) 30.

A Sch. II. (1) 20—31. (58.) Various provisions are made as to the formation of the Register of Owners and Proxies, and for the revision of the same annually in the month of March. A few of the chief points are as follows:—Objections may be made to the retention of names on a Register; claims and objections must be sent to the Chairman of the Local Board[a] on some one of the first 6 days of March or they will not be admissible; and there is special provision as to the Voting of Owners and Proxies at a first election.

(*a*) If the Chairman should be a member retiring by rotation and intending to stand again it will be proper that he should *not* act as Reviser of the Register, but that the person appointed as Returning Officer should perform this work.

(59.) A proxy paper now needs a 10s. stamp,[a] and remains in force so long as it continues correct, &c. 33 & 34 Vict., 97. (Sch. Title, "Letter of Attorney."

✠ (60.) The word "Owner" when used in relation to voting means a person for the time being in the actual occupation of any kind of property rateable to the Poor-Rate, and not let to him at a Rack-Rent, or a person receiving the Rack-Rent either on his own account or as mortgagee or other incumbrancer in possession. And the "Rack-Rent" is a rent equal to at least *two-thirds* of the full nett annual value of the property free of certain (specified) charges. It would seem therefore that the following persons are entitled to vote under the generic name of "Owner":—Freeholders, Tenants for life, Copyholders, Long Leaseholders paying ground rents, Mortgagees or other Incumbrancers in possession. It does not appear to be requisite for an Owner to have possessed his property for any given length of time, so long as he is *bonâ fide* Owner when he makes his claim in the month of March. When used otherwise than *in relation to Voting*, the word "Owner" comprises also an Agent[b] and a Trustee receiving Rack-Rents (including the Trustees of a School-house and School dwellings not receiving any rent,[c] or the person who would receive the Rack-Rents if such were payable in respect of the premises. And a Receiver appointed by the Chancery Division must probably be deemed an "Owner,"[d] for purposes other than Voting. A Sch. II. (1) 10: and see A 4.

(61.) As regards the process of Voting—a Voting-paper is to be sent by the Returning Officer, at least 3 days before the day of collection, to every Ratepayer and Owner entitled to one, so that the papers are to be at the disposal of the Voter for at least 3 clear days and be collected on the day next after. Thus, papers sent out on a Monday must not be collected before the Friday. A Sunday should not be reckoned as one of such 3 clear days. A Sch. II. (1) 44.

(62.) Inexact descriptions of Occupiers in a Rate-book will occasionally give rise to difficulties in allotting Votes. Thus "A. & Son;" "B. Brothers;" "C.'s Executor;" "D.'s Trustees" may be entries in the Rate-book. Here it may be said that the Occupiers are impliedly named and are discoverable, and in such cases Voting-papers may perhaps safely be furnished. But if, however, this is not done the Voter will not be without a remedy. [See Paragraph 67, *post.*] Where Occupiers are described in doubtful terms only those Occupiers whose identity is not doubtful will, it seems, be entitled to vote. Thus it was held by the Poor Law Commissioners that for an election of Guardians a Rate on "A. & Co." only authorises A. to vote because it does not appear who is meant by the "& Co."[e] Where a Voting-paper actually is, however, delivered to a firm, if the signature of the firm is duly affixed thereto it might be hazardous for a

(*a*) But there is an exception to this rule in the case of a proxy appointed to represent a Society registered under the "Friendly Societies Act, 1875" (38 & 39 Vict., 60, 15 (2)).
(*b*) See *Peek* v. *Waterloo and Seaforth L. B.*
(*c*) *Bowditch* v. *Wakefield L. B. H.*
(*d*) *Eddleston* v. *Francis.*
(*e*) *Off. Cir.* No. 26, p. 163. On the other hand, in the case of *Moss* v. *St. Michael, Lichfield, Overseers*, Erle, J., said, "Where a firm is rated all the partners comprising the firm are included in the Rate."

Returning Officer to reject the Voting-paper solely on that account. At the same time the opinion is widely held that under **A** Firms are only entitled to Vote as Ratepayers by separate Voting-papers filled up by each partner for himself only, and with Votes allotted on the supposition that he has an equal interest in the property with his partners.

A Sch. II. (1) 11. (63.) A Voter excused his Rates on the ground of poverty (under **A** 225) forfeits his right to vote unless he pays up his arrears.

A Sch. II. (1) 45. (64.) Every Voter must initial his Voting-paper in the margin against the name of each candidate voted for, and must append his Signature. For the Signature, the Voter's usual Signature suffices—Surname with Initials only, or with Christian name in full, as he
A Sch. II. (1) 46. pleases.[a] A Proxy must write his own initials and name, and state the name of the person or body of persons for whom he is Proxy.

(65.) If a Voting-paper is sent out with an error in the name of the Voter for whom it is intended, and he signs it according to his true name, the variance should not be deemed to invalidate the Vote if the Voter can be identified. It is true that the **A** does not contain any provision to this effect, but the principle which underlies the
6 Vict., 18, 81. suggestion is acted upon in Parliamentary Elections, and the precedent thus created may well be followed by an intelligent Returning Officer.

A Sch. II. (1) 47. (66.) Voters who cannot write may affix "marks" to their Voting-papers, and this operation must be duly witnessed. In the case of "Marksmen" who vote their initials must be written for them in the margin of their Voting-papers by their witnesses.

(67.) A Voter must attend carefully to the instructions printed on the Voting-paper; he must also comply with certain requirements which frequently are not specified. Amongst these may be noted one, the non-observance of which seldom fails to invalidate many Voting-papers: Voting-papers when filled up must neither be sent nor given
A Sch. II. (1) 49. (b) to anybody save the Authorised Collector. The only exception to this rule is, when the Collector *neglects to call*, in which case, on the day or first day appointed for the examination and casting up of Votes, the Voter may *in person* attend before 12 o'clock at noon, before the Returning Officer, and hand in the uncollected Voting-paper. This provision does not meet the case of a Voting-paper uncollected owing to the default *of the Voter*. In such case the Voting-paper becomes void.

A Sch. II. (1) 49. (a) (68.) A Person entitled to receive a Voting-paper who has not received one, must, if he wishes to vote, go to the Returning Officer before *the day of collection*,[b] and in his presence fill up a Voting-paper which such officer is required to supply, and take charge of.

(*a*) See *Reg.* v. *Tart*. A question arises here as to the Voter adding his "address," which the statutory form of Voting-paper directs him to do, but as to which A Sch. II. (1) 45 is silent. Probably it will be quite safe to regard the matter as immaterial, especially as A 317 makes the Statutory Forms permissive by validating Forms which are "to the like effect." It would seem not legal for the initials in the margin to be written by any person save the voter himself, except in the case of voters who are unable to write.

(*b*) To go *on the day of collection* will be to go *too late*.

(69.) The Returning Officer is to cause the Voting-papers to be collected on the day of collection, which [subject to what is stated in Paragraph 80, *post*] is not to be later than April 7. A Sch. II. (1) 48.

(70.) A Voting-paper handed to a Collector unsigned or improperly filled up is bad, and is not to be counted.[a] A Sch. II. (1) 30.

(71.) It has never been determined judicially what is the extent of the discretion vested in the Returning Officer to reject Voting-papers which there are probable grounds for supposing have not been signed or "marked" by the persons by whom they purport to have been signed or "marked." Probably however it is the duty of the Returning Officer to reject such papers, and if he acts in good faith, and to the best of his judgment, no attempt to impeach his conduct will be successful.[b]

(72.) To fabricate or in any way to tamper with a Voting-paper, or to personate a Voter, is punishable by a fine of 20*l.* or less, or 3 months' imprisonment; but voting in the name of a deceased voter is not punishable.[c] It is not specifically stated who may prosecute for breaches of this enactment, but the duty may with much propriety be undertaken by a Local Board. LGB has no jurisdiction to inquire into Elections alleged to have been brought about by improper means. A Sch. II. (1) 69.

(73.) On the day following the day of collection, and on as many days immediately succeeding as may be necessary, the Returning Officer is to attend at the place appointed and add up the votes, ascertaining the validity of each, when questionable, by reference to the Rate-books, and to such documents and persons as he sees fit. This work accomplished, he is to cast up the valid votes, and then the Candidates who, being duly qualified, shall have obtained the greatest number of votes are to be deemed duly elected. A Candidate or his Agent may attend the examination, but must not obstruct business. A Sch. II. (1) 51.

(74.) The Returning Officer is to notify the result to each successful Candidate, and is to cause copies of a printed Official Record of the result to be exhibited at the places where Parochial Notices are usually exhibited. [See Paragraph 21, *ante*.] The Nomination and Voting-papers and a Certificate of the result are to be laid before the Local Board at its next meeting. These, and all other documents relating to the election, are to be preserved and left open to Public Inspection[d] for 6 months without charge. A Sch. II. (1) 52. A Sch. II. (1) 53. A Sch. II. (1) 54.

(75.) The Returning Officer's Certificate is conclusive, and cannot be set aside on the ground of the invalidity of certain votes.[e]

(*a*) See *Reg.* v. *Avery*.

(*b*) See *Reg.* v. *Lofthouse; Reg.* v. *Backhouse;* and *Tozer* v. *Child*.

(*c*) *Whiteley* v. *Chappell*. This case was decided on 14 & 15 Vict., 105, 3 (Poor Relief Act), but the same words—"persons entitled to vote"—are used in both Acts.

(*d*) It does not appear that non-ratepayers are not entitled to inspect the papers. As regards the time during which such papers should be preserved it may be remarked that the letter of the law seems complied with if they are kept for 6 months only and then destroyed. Nevertheless it is usual to keep them at least during the tenure of office of the members to whose election they relate, and this practice will for various reasons be found convenient. The right to "inspect" the Voting-papers, &c., by no means seems to carry with it the right to take copies of them.

(*e*) *Reg.* v. *Cross*. *Reg.* v. *Diplock*.

(76.) The Returning Officer has similar powers in deciding[a] whether a Candidate is qualified, to those which he has with respect to the validity of a vote. He is therefore (it seems) bound not to return an unqualified person, even though that person has a majority of votes.[b] But he is not entitled to a casting vote in case of a tie. Nor, having made his return, is he at liberty to alter it either *ex mero motu* or at the instance of his Board.[c]

A Sch. II. (1) 68. (77.) A Returning Officer and his Assistants can be punished for wilful misconduct: Penalty not exceeding 50*l.* in the case of a Returning Officer: not exceeding 5*l.* in the case of an Assistant. The misconduct of a Returning Officer must be as to some certain point, not a mere mistake about a doubtful point.[d]

A Sch. II. (1) 50. (78.) An Agent of a Candidate may accompany a person who delivers or collects Voting-papers, but *one* clear day's notice in writing must be given to the Returning Officer of the intention to send an
A Sch. II. (1) 69. Agent. Such Agent is prohibited from interfering. If he does so he will incur penalties.

A Sch. II. (1) 36. (79.) The Nomination of Candidates must now be considered. Before every election the Returning Officer is to publish a notice intimating that an election is coming on, and stating the number and qualification of the persons to be elected, the dates of nomination and election, &c., and the mode of voting in case of a contest. This notice is to appear after the close of the revision of the Register, and not less than 14 days before the last day for the delivery of the nomination papers, and Copies are to be exhibited at the places where Parochial Notices are ordinarily exhibited. [See Paragraph 21, *ante*.]

A Sch. II. (1) 66. (80.) Whenever the day appointed for the performance of any act relating to an election is a Sunday, Christmas Day or Good Friday, a Bank Holiday, or a Public Fast or Thanksgiving Day, such act is to be performed on the day next following, unless that day also be one of the days excluded as aforesaid, in which case it is to be performed on the day next following such excluded day.

See A Sch. II. (1) 36. (81.) The last day for receiving Nominations for every Local Board Election is fixed by the Returning Officer.[e]

A Sch. II. (1) 39. (82.) Any person entitled to vote may nominate any person qualified to be elected, but he must take care not to nominate a greater number of Candidates than there are vacant seats.

(*a*) But a Returning Officer does not seem to possess, in plain terms, any power to insist on a Candidate proving his property qualification when that kind of qualification is relied on. If, therefore, a Returning Officer intends to take upon himself to make a decision as to this, which will be unfavourable to a Candidate, he had better do so before the Voting-papers are issued.

(*b*) *Reg.* v. *St. Pancras Inspectors of Votes.*

(*c*) In Mr. Lumley's opinion, "When the Returning Officer makes his return of the election it is competent for the Board to which the return is made to admit or refuse any particular member whose election is disputed." —*L.B. Election Manual*, 3rd Ed., p. 115. I hesitate to subscribe to this view, though I quote it.

(*d*) See *King* v. *Burrell; Summerhill* v. *Coley.*

(*e*) And as the Statute is silent on the point it is to be presumed that any nomination delivered to him up to midnight is valid. Yet the case of *Watson* v. *Pitt* seems to be an authority for the view that he is not bound to keep himself accessible up till midnight.

(83.) A Nomination must be in writing ;[a] it must be signed by the Nominator,[b] and must state the Names, Residences and Callings (or Qualities) of the Nominees ; and must be delivered to the Returning Officer. A Sch. II. (1) 40.

(84.) If there are not more Candidates than there are vacant seats when the last day for receiving Nominations has gone by, the Returning Officer has only to prepare his Certificate that the persons nominated are (if duly qualified) duly elected. But if there are more Candidates, as aforesaid, then Voting-papers, in the form prescribed, must be prepared and issued. A Sch. II. (1) 42. A Sch. IV. Form N.

(85.) The names of the Candidates are to appear on the Voting-papers in the alphabetical order of their Surnames. Although a Candidate is nominated by different persons and on different papers it is not necessary to print his name more than once on the Voting-papers, nor the name of more than one of his Nominators. A Sch. II. (1) 43.

(86.) A person nominated may withdraw from his Candidature by notice in writing to the Returning Officer. Such withdrawals are common, and it occasionally happens (either by accident or arrangement) that they are sufficiently numerous to leave no greater number of Candidates than there are vacant seats : in this case also there can of course be no contest. A refusal to serve may be tendered to the Returning Officer not only after the Voting-papers have gone out but even after they have been collected : at any time, in fact, up to the execution of the Returning Officer's Certificate of the result. If tendered after that act, it is so far ineffectual, that the Candidate next highest on the poll does not take the seat. A vacancy thus arising is a "casual vacancy." A Sch. II. (1) 41.

(87.) Similarly, if after an annual election there are seats still vacant because there were fewer Candidates than seats to be filled, the vacancies are to be treated as "casual" and dealt with accordingly. A Sch. II. (1) 65.

(88.) A casual vacancy howsoever occurring[c] may be filled up by the Board itself choosing any qualified person. But this choice must be made within 6 weeks of the vacancy occurring, or not at all,[d] unless LGB enlarges the time. A member thus chosen holds his seat only for the unexpired time for which his predecessor would have held it had he continued in office. A Sch. II. (1) 65. and compare Sch. II. (1) 71 (c).

(89.) In the event of a casual vacancy, or an ordinary vacancy which ought to have been filled up in a previous year, being filled up at an annual election, the successful Candidate chosen by the fewest votes A Sch. II. (1) 65.

(*a*) There is no doubt that this may be taken to mean "partly in writing and partly in print." —(See A 266.) It is not any part of the duty of a Local Board, or of its officers, to furnish blank Nomination Papers ; a remark which applies also to Owners' Claims.

(*b*) There is nothing to prevent two persons from joining as nominators and signing one and the same nomination paper.

(*c*) As this power now extends to the filling up of vacancies not filled up at an annual election, it may be presumed that a case of a tie at such an election may now be dealt with.

(*d*) Glen used to infer that the "one month" limit under the old Act did not really imply a limitation (*Public Health*, 5th Ed., p. 56) ; but it is to be noted that he gave an opposite interpretation to a form of words nearly similar which has reference to Elections of Guardians (*Poor Law Orders*, 7th Ed., p. 23). The form of words used in A removes a doubt which ought never to have existed.

is to be deemed elected to fill such special vacancy. If there is no poll the matter is to be settled by lot.[a]

A Sch. I. (1) 9. (90.) The existence of vacancies, or a defect in an election of members, does not invalidate the proceedings of a Local Board.

A Sch. II. (1) 67. (91.) The expenses of a Local Board election are defrayed out of the General District Rate, and are in the discretion of the Board.[b] The Board may sanction payments to the Returning Officer and to other persons for his or their services, but in the case of a Returning Officer such a payment is not as often made as it should be.

A Sch. I. (1) 12. (92.) In the case of newly-created Boards, the first meeting is to be held within 10 days of the election. The Returning Officer names the place and time, and summons the members. The first permanent Chairman is elected for "one year" so that a Board constituted in any other month than April will not immediately fall into the arrangements as to its Chairman prescribed by **A** Sch. II. (1) 55 for Chairmen generally.

(93.) No express power of resignation is given to members of Local Boards, but if a member wishes to resign, a letter to that effect addressed to the Chairman suffices.[c] In the case of a member ceasing to be qualified the Board may proceed to a new election directly it possesses sufficient proof of the facts. No formal resignation need in such case be awaited, for in point of fact having ceased to be a member the ex-member has no office to resign.

A Sch. II. (1) 1. (94.) The number of members to compose a Local Board will henceforth be determined by the Order forming the Board, but doubtless suggestions emanating from the meeting which adopts the Act, or from Ratepayers, will receive due consideration from LGB.

A Sch. II. (1) 2. (95.) LGB may, after Local Inquiry, increase or diminish by Order the number of members of a Local Board, and may prescribe the time and manner of such increase or diminution and may vary temporarily the provisions as to the continuance in office and retirement of members.

A Sch. II. (1) 59-60. (96.) Subject as hereinafter mentioned, *one-third* of the whole number of members of a Local Board (or the number nearest to *one-*

A Sch. II. (1) 63. *third*) go out of office every year on April 15; they are eligible for re-election.

A Sch. II. (1) 59. (97.) If a District is divided into Wards, *one-third* of the members

A Sch. II. (1) 61. elected for each ward retire annually. Where the number to be elected

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(*a*) **A** does not in terms make provision for the case which not unfrequently occurs of an additional vacancy happening after the Returning Officer has issued his notice in March for the annual election and before the new Board meets in April. Can he amend his notice; or the notice on the Voting-papers if the Voting-Papers have not been distributed? This is doubtful; and it will be safer to treat the vacancy as a casual one and fill it up as such after April 15.

(*b*) *Metcalfe, Ex-parte.*

(*c*) A resignation results in a casual vacancy: casual vacancies must be filled up within 6 weeks. What is the *terminus â quo* from which this period must be computed? Either the receipt of the resignation by the Clerk (or Chairman) to whom it was addressed: or the meeting of the Board at which the resignation is announced? There is nothing to guide one in a decision on the point, but it seems more reasonable to calculate from the receipt of the resignation than from any other time.

for any ward is less than 3 the rota of retirement is to be such as the Local Board with the sanction of LGB may determine.[a]

(98.) Every Local Board election is to be completed not later than April 15 on which day the new members come into office. But in the case of a first election in a newly formed district the Order of LGB will govern the necessary election dates. Members elected under such circumstances are to be deemed to come into office on the 15th of April next following the "commencement of the Order." A Sch. II. (1) 55.

(99.) Before April 15 a number of persons equal to the number of members going out are to be elected, and so many others as may be necessary to complete the full number of the Board. A Sch. II. (1) 62.

(100.) The law makes no provision as to the way in which retirements by rotation are to be regulated, and each Local Board arranges its rota as it pleases. But however it may decide, no member is to remain continuously in office for more than 3 years, unless he is re-elected. A Sch. II. (1) 60. A Sch. II. (1) 61.

(101.) When a Board meets for the first time it should forthwith frame a scheme for the retirement of its members in 3 batches. There can scarcely be a simpler or a fairer plan than to write the names of the members on so many slips of paper, and let some one draw them one by one. Then let the first batch of one-third go out the first year, and so on. There does not appear anything in **A** to forbid an arrangement made being altered in after years if good cause for a change should arise.

(102.) Another plan is to take the one-third who stand nearest the bottom of the poll as the first batch to retire; then, the one-third next above these as the second batch, and so on. This plan has the advantage that it keeps on the Board for the longest period possible those members who, by their original high position on the poll, may be deemed it to be most in favour with the electoral body; but of course it falls through if at the first election there should be no poll.

(103.) The retirement and mode of election of certain Improvement Commissioners previously regulated by the old "Local Government Acts" are now to be regulated by **A**. But this does not affect qualifications fixed by a Local Act, or interfere with *ex-officio* members in cases where there are such. A 312.

(104.) Provision is made for a failure to elect a Local Board and for the lapse of one. Mortgagees may obtain the appointment of a receiver; a new Board may be elected; or the District may be dissolved, and made "Rural." A Sch. II. (2) 1-2.

(105.) Provision is made for a Local Government District being divided into Wards. The proposal may emanate from the Owners and Ratepayers, but LGB will have to give effect to it (after a Local A Sch. II. (1) 6-9: and 271.

(a) If a District already governed by a Local Board is divided into Wards the Ward System can only be brought into full operation gradually; *e.g.*, supposing a District having 12 members is divided into 4 Wards: then the one-third of members going out in a body next after the Division being authorised must be replaced by one new member for each of the 4 Wards, and similarly for the next year, and the year after, when the revision would be completed. Occasionally some trouble may be experienced in respect of this matter.

Inquiry). Where Wards are instituted, certain special provisions as to Voting apply. For instance, an Owner or Ratepayer may elect in what ward or wards he will vote for the ensuing year, and determine the proportion of votes which he will give in any one or more of such wards. If he does not give notice he will not be entitled to vote for any ward in which he does not reside ; so that a non-resident owner who fails to signify his choice of a ward will not be entitled to vote at all, even if his claim to vote is in other respects good. Ward arrangements may be altered from time to time. A District divided into Wards under a Provisional Order can only be interfered with by another Provisional Order duly confirmed.

A Sch. II. (1) 56-8. (106.) No person elected can act (except in witnessing Declarations) until he has signed[a] a Declaration regarding his qualification. This Declaration must be witnessed by 2 other members,[b] and be filed by the Clerk. Corruptly making a false declaration is a misdemeanor. Any person who neglects for 3 months to sign the Declaration is to be deemed to have refused to act and his seat thereupon becomes vacant.

A Sch. II. (1) 3. (107.) A member must reside within the District, or within 7 miles thereof,[c] and be possessed of real or personal estate, or both, or be rated[d] to the Poor-rate as follows :—

Population of District.	Estate Qualification.	Rating Qualification.
Under 20,000	500*l.*	15*l.*
Over 20,000	1000*l.*	30*l.*

A Sch. II. (1) 4. Where persons are jointly possessed or rated, their qualifications, if divided equally, must amount for each to the prescribed minimum.[e] The same property is not to qualify both owner and occupier.[f]

A Sch. II. (1) 5. (108.) No bankrupt, &c., or person whose affairs are under liquidation, or who has entered into any composition with creditors, is capable of being elected, so long as proceedings are pending as to his affairs.

A Sch. II. (1) 64. (109.) A member's seat becomes vacant[g] if he loses his qualification ; or becomes a bankrupt ; or submits his affairs to liquidation by

(*a*) If a member is unable to sign his name does it suffice that he should make a mark ? This seems doubtful.

(*b*) It does not appear to be essential that this act should be performed at a Board meeting, though it is clearly desirable that it should be.

(*c*) Measured "as the crow flies," *Reg.* v. *Saffron Walden Inhabitants; Stokes* v. *Grissell.* The word "reside" must be deemed to bear here its usual meaning, and therefore daily attendance at a place of business within the limits and for which the member is duly rated is not sufficient, if his place of *bonâ fide* residence is beyond the limits.

(*d*) Rating for the full period of 12 months seems not requisite now (See 32 & 33 Vict., 41, § 16), and it suffices that a candidate possesses the Rating qualification at the time of election.

(*e*) For Local Boards of Health constituted under the "Public Health Act, 1848," the qualification was somewhat different, nor were the disqualifications expressed in quite the same terms. (See §§ 16, 18 and 19). But no new Boards are now formed under that Act, which has been repealed. In respect of old Boards formed under that Act, A contains some special provisions. (See A Sch. II. (1) 71-2).

(*f*) The precise aim of this prohibition is not very clear, and still less clear is it how the prohibition is to be worked out in practice. If both the owner of a freehold estate and his tenant are candidates, is one of them debarred from being elected, and which ? And who is to decide the point ?

(*g*) What is the duty of the Clerk of a Board and indeed of the Board generally with respect to a member whose disqualification has become a matter of notoriety ? Probably it would be well for the Board to pass a Resolution reciting that it having been brought under their notice that A. B. has lost his qualification and thereby vacated his seat, it is expedient to proceed to a new election on a definite date. This Resolution having been communicated to A. B., and he having failed to show cause why it should not be acted on, the new election can take place. After the passing of the Resolution the Clerk ought not to summon the disqualified member to any meetings and the Chairman ought not to receive any vote which he may tender. As to his expulsion from a meeting *vi et armis* no advice can be safely given here.

arrangement; or compounds with his creditors; or accepts an office of profit under the Board; or becomes concerned[a] in any bargain or contract entered into by the Board, or a participator in the profit either thereof,[b] or of any work done under **A** in the District; or is absent from the meetings of the Local Board for more than 6 months consecutively (unless in the case of illness).

(110.) But a member does not lose his seat because he is interested in any sale, or lease of lands, or loan of money to the Local Board, or because a Joint-stock Company in which he is a Shareholder has a contract with the Board, but such Shareholder is not to vote upon any question in which his Company is interested. LGB may however dispense with this last restriction so far as it concerns Shareholders in Water Companies and Companies carrying on "other Works of a like public nature." It is not clear what works are here included.[c] A Sch. II. (1) 64.

(111.) By the "Municipal Franchise Act, 1869," no person is to be deemed interested in a contract with a Town Council merely by reason of his having a share or interest in a Railway Company, or in a company incorporated by Act of Parliament or Royal Charter, or under the "Companies Act, 1862," or to be disqualified in consequence thereof. 32 & 33 Vict., 55, 5.

(112.) Any person not qualified, or being disabled,[d] or who has not signed the required declaration, who shall act as a member is liable to a penalty of 50*l.*, recoverable by any person by action of debt. A Sch. II. (1) 70.

✠ (113.) LGB possesses extensive powers[e] with respect to the alteration of areas, and the union of Districts. A 270.

✠ (114.) As regards the alteration of areas—LGB may by Provisional Order dissolve any Local Government District, and may merge it in other Districts, Urban or Rural; or it may by Provisional Order add any portion of a Local Government District or of a Rural District immediately adjoining a Local Government District to such District; or add any portion of a Local Government District immediately adjoining a Rural District to such District. The remaining part of such Local Government or Rural District will continue under the same Sanitary jurisdiction as it was before the severance, unless LGB, by Provisional Order, otherwise directs. A 270 (1).

✠ (115.) The dissolution of a District, and the inclusion of the whole or any part thereof in any other District, are matters which may all be embraced in one Provisional Order. A 275.

(*a*) This word seems sufficient to disqualify a man who acts as surety for a contractor even though he participates in no profit.

(*b*) The question often arises whether the local Manager of a Branch Bank whose principal is Treasurer of a Board may be a member of the Board for which his principal is Treasurer. Such a case is perhaps not within the *letter* of the prohibition in the text but it is certainly within its *spirit*. Such a member would often have an obvious motive in manipulating his Board's Finances in a particular direction. A Registrar of Births and Deaths although receiving from time to time from a Board fees for copies of entries is not within the Disqualification, for his fees are payable by Statute and not under any contract.

(*c*) A different rule applies in the case of Municipal Corporations.

(*d*) It may be assumed that Aliens and perhaps also persons who have been convicted of felony are also "disabled." See the "Poor Law Amendment Act, 1834" (4 & 5 Will. IV., 76, § 48), which disqualifies felons from holding any "Parish Office."

(*e*) But not any powers to enlarge the boundaries of a Borough. This can only be done by special Act of Parliament.

A 275. ✠ (116.) Every Order made by LGB under Part VIII. of **A** (Alteration of Areas, &c.,) shall specify a day on which it is to come into operation. Such day will be the "Commencement of the Order;" from and after that day the powers, &c., of any superseded A pass to the superseding A; but in the case of the Constitution of a new Local Government District the powers, &c., continue with the old A till the first meeting of the newly formed Local Board.

A 275. ✠ (117.) Any such order may provide for the settlement of differences or the adjustment of accounts as between Districts, Parishes, or other places, rendered requisite in consequence of the exercise of any of the powers in Part VIII. of **A**. Where any Local Government District is altered in extent the Order shall prescribe the number of members to be elected for the District when altered.

A 270 (3). ✠ (118.) LGB may by Order dissolve any Special Drainage District constituted either before or after the passing of **A** in which a loan for the execution of Works has not been raised, and merge it "in the Parish or Parishes in which it is situated." But in a case where a loan has been raised for works, LGB can only dissolve the District by a Provisional Order.

✠ (119.) The Guardians as the Rural A may initiate the proceedings for thus bringing about the dissolution of a District.

A 279. ✠ (120.) If it should appear to LGB on the application of any LAs, or of one of them, and after Inquiry, that it would be for the advantage of such Districts, or any of them, or any parts thereof, or of any contributory places, to be formed into a United District for all or any of the following purposes :—

(i.) The procuring a common supply of water.
(ii.) The making a main Sewer or carrying into effect a system of sewerage for the use of all such Districts or places.
(iii.) For any other purpose of A.

LGB may, by Provisional Order, form such Districts or contributory places into a United District. Should the union be carried out, the expenses incidental thereto are to be a first charge on the Rates of the United District, leviable under **A**.[a]

A 280. ✠ (121.) The governing body of a United District is a Joint Board consisting of such *ex-officio* members and of such number of elective members as LGB, by the Provisional Order forming the District, determines.

A 280. ✠ (122.) A Joint Board is a body corporate by the name determined by the Provisional Order, having a perpetual succession and a common seal, with power to acquire and hold lands without any licence in mortmain. Its business arrangements will be much the same as those of an ordinary Board.

A 282 : and Sch. I. (2).

A 281. ✠ (123.) The Provisional Order forming a United District will prescribe the powers, liabilities, and election and other arrangements, &c., of the Joint-Board, and may deal with the adjustment of liabilities, &c.

(*a*) The proportions in which these costs are to be borne must be settled by agreement between the Authorities concerned. It does not seem that LGB has any control over the matter.

✠ (124.) For all purposes save those special objects for the execution of which the Joint Board has been deemed necessary, the component Districts will continue to exercise independent powers. But nevertheless the Joint Board may delegate any of its functions to the LA of a component District. A 281.

✠ (125.) The expenses of a Joint Board are to be defrayed (unless the Provisional Order establishing the Joint Board prescribes some other arrangement) out of a Common Fund contributed by the component Districts in proportion to their rateable value, according to the Valuation List in force for the time being. [See Chap. V., *post.*] A 283.

✠ (126.) The contributions to be supplied by the component Districts are to be levied in each by their respective As on the requisition of the Joint-Board communicated by precept. A sum mentioned in a precept is a debt, and is recoverable accordingly. A 284.

✠ (127.) Provision is made for the case of Districts making default in the payment of their contributions. A 284.

✠ (128.) A district under § 10 of the "Public Health Act, 1848," formed for main sewerage, or a Joint Sewerage Board District under § 10 of the "Sewage Utilisation Act," 1867," may be dissolved by LGB, by Provisional Order, or may be constituted a United District under **A**. Until an Order is made, existing arrangements continue. But enactments of the "Sanitary Acts" in force in any such District at the passing of **A** are to be deemed replaced by the corresponding provisions of **A**. Any Order under **A** 323 may settle differences, adjust accounts, or apportion liabilities. A 323.

(129.) It may be convenient here to mention that by the "Municipal Corporations (New Charters) Act, 1877," some facilities are given for the conversion of Local Board Districts into Municipal Boroughs. The existing machinery of a petition to the Crown for the grant of a Charter is not interfered with, but the working out of the details is made the subject of some legislative enactments. Every petition for a Charter is to be referred to the consideration of a Committee of the Privy Council which is empowered to settle a Scheme for regulating the transfer of the rights, &c., of an existing LA to the proposed new Municipal Corporation, and where a Scheme is objected to (after resort to procedure borrowed in part from the "Public Health Act, 1875,") it must, in order to take effect, receive the confirmation of Parliament unless the objections are withdrawn. With the evident object of avoiding as far as possible a clashing of jurisdictions between different LAs such as Sanitary As, School Boards, ancient Municipalities, Burial Boards, Improvement Trustees, or Commissioners, or any other public Local Government or Rating As, a Scheme is to be referred to a Secretary of State, LGB, or the Education Department, or, in certain cases, to the Board of Trade. The Act as a whole naturally belongs rather to the domain of Municipal Law than Public Health Law, and therefore no fuller analysis of it will be given here, but the text of the Act will be found in Part II., *post.* 40 & 41 Vict., 69. A 273. 40 & 41 Vict., 69, 7.

CHAPTER II.

THE MEETINGS AND BUSINESS ARRANGEMENTS OF URBAN SANITARY AUTHORITIES.[a]

SOME suggestions on the choice of candidates for a UA, on the duties of members, and on the business arrangements which should be made with a view to its work being performed in the best manner, will now be offered.[b]

✠ (131.) Candidates are generally forthcoming in sufficient numbers, but men of the right stamp are frequently not to be had. It is always desirable to have at least a Lawyer (either a Barrister or Solicitor), an Engineer, an Architect, a Medical Practitioner, and a professional Financier (either Banker or Accountant). The technical knowledge which such men commonly possess will often keep a Board out of difficulties. One or two Builders are also useful, but when the building element is too strongly represented, a disposition to jobbery often springs up. Clergymen, too, are able to do good service by reason of their extensive acquaintance with people and places.

✠ (132.) It is very important to have a good Chairman: on the tact, experience, and popularity of the Chairman much will depend. A UA may often have the law on its side and yet may not command willing obedience, and constant litigation to enforce the law is as impossible as it is undesirable. No effort therefore should be wanting on the part of a Board, collectively and individually, to earn the confidence of the public, always taking care, however, not to condone, for the sake of popularity, a disinclination to obey the law.[c]

A 199: and Sch. I. ✠ (133.) Business will be much facilitated if the meetings are conducted in accordance with some recognised Regulations as to Business; indeed **A** prescribes a few such Regulations for Local Boards, and a complete code will be found in Part III. [*post*].

(*a*) Some parts of this Chapter do not apply where a Town Council is the Urban A. In such a case the proceedings are to be regulated according to the law with respect to Municipal Corporations. (See **A** 198.)

(*b*) Some of the observations which follow are based on the writer's personal experience as Chairman of a Local Board.

(*c*) This caution will often be found much needed in reference to Building By-Laws.

(134.) Every Local Board is to appoint a Chairman at the first meeting after it is established, and thenceforward annually, at the first meeting after the annual election, which will be the "annual" meeting named in the Act. If the office of Chairman becomes vacant during the year it may be filled up again. No Vice-Chairman is contemplated: indeed having regard to the language of the Statute it would be illegal to appoint one, for if the Chairman is absent when a meeting should commence, the members present are to appoint one of their number to act as Chairman for the occasion. A Sch. I. (1) 12 and 3-4. A Sch. I. (1) 5.

(135.) Every Urban Authority (not being the Council of a Borough) must hold an annual meeting; and at least once in each month an ordinary meeting. [The day may be varied at the pleasure of the Board.] A 199. See 13 & 14 Vict., 21, 4.

(136.) The annual meeting of every Local Board is to be held as soon as convenient after April 15 every year.[a] A Sch. I. (1) 11.

(137.) *One-third* of the full number of members, or the number nearest thereto, is the quorum, but this is subject to the qualification that in no case shall a larger quorum than 7 be required. A Sch. I. (1) 2.

(138.) The names of all members present are to be recorded [in the Minute Book], and when any vote [*i.e.* "division"] is taken the names of the members voting on each question are to be recorded. Those present who do not vote are to be ignored. Voting by Ballot is clearly not admissible. A Sch. I. (1) 6.

(139.) Every question is to be decided by a majority of votes, [unless more than a simple majority is required in a particular case.] A Sch. I. (1) 7.

(140.) The Chairman is entitled to vote on all questions, and when the numbers are equal he is entitled to a second or casting vote. But he is under no legal obligation to give a casting or any vote. A Sch. I. (1) 8.

(141.) Every Urban Authority is to provide itself with Offices, and a Common Seal.[b] A 197: and 7.

(142.) It is no longer necessary that documents under the seal of a Local Board should be signed by 5 members. It is proper, however, to attest the sealing in some such form as the following:—"The Common Seal of the ——— Local Board was affixed at a meeting of the said Board, held on the ——— day of ——— by A.B., the Chairman at such meeting, in the presence of C.D., the Clerk of the said Board"—the signatures being added.

(143.) By the "Criminal Justice Act, 1854," the Town Hall, Court House or other Public Building belonging to any county, city, borough, town or place, or any Court House provided by the Treasury under the "County Courts Act, 1846," may be used for Petty Sessions, without charge except for expenses of lighting, warming and cleaning, and other expenses "necessarily incidental." This matter is mentioned here because a Local Board in arranging to provide office 18 & 19 Vict., 126, 15. 9 & 10 Vict., 95.

(*a*) In appointing the Chairman the votes should be counted by the Clerk.

(*b*) A Local Board acting as a Burial Board need not have a special seal for its Burial work. The "Burial Act, 1852" (15 & 16 Vict., 85, § 16) requires minutes to be signed by at least 2 members. Be it noted that there is nothing in the "Burial Act, 1857" (20 & 21 Vict., 81, § 4) to imply that this enactment is to be deemed superseded when a Local Board becomes the Burial Board.

accommodation for itself under A 197 may sometimes be able to enter into advantageous arrangements with the Treasury and with the County Authorities for securing a subsidy from both these sources towards the cost of building offices conditional on the County Court Judge and Justices in Petty Sessions being able to share them.

A 311. (144.) A Local Board may with the sanction of LGB change its name. Every such change is to be published as LGB directs. No such change is to affect the legal status of the Board.

A 200: and Sch. I. (2). (145.) Every Urban A may appoint Committees, but no Committee is to borrow money, make a Rate, or enter into a contract. Committees are to be subject to any regulations or restrictions imposed on them.(a) If no quorum is prescribed, the quorum is to be 3 members.

A 204: and Sch. I. ✠ (146.) Meetings of committees are to be conducted in accordance with the rules for meetings prescribed in A, so far as such meetings are not otherwise regulated by the A appointing the committee. It will be convenient that the Regulations mentioned in a preceding Paragraph should be made applicable to committees.

A 203. ✠ (147.) Casual vacancies in committees may be filled up within 6 weeks.

A 182-3. ✠ (148.) LAs have power to frame By-Laws with respect to various matters though Rural As are rather restricted as to this. These By-Laws may prescribe reasonable penalties, in no case (even under Incorporated Acts) exceeding 5*l.* for each offence; and, in the case of continuing offences,(b) a further penalty not exceeding 2*l.* a day. By-Laws imposing penalties must be so framed as to allow of the recovery of less than the full amount. By-Laws may be altered or repealed. See A 315. No By-Law is to be of any effect if repugnant to the laws of England, or to the provisions of A.

✠ (149.) By-Laws may be framed by LAs with respect to the following matters:—

A 44.	✠ Cleansing Footways; removal of House refuse; cleansing of earth-closets, privies, ash-pits, and cesspools.
A 44.	The keeping of animals so as not to be injurious to health.(c)
A 44.	Nuisances arising from snow, filth, dust, ashes and rubbish.
A 157 (1).	Level, width, construction and sewerage of new streets.
A 157 (2).	Walls, foundations, roofs and chimneys of new buildings so as to secure stability, prevent fire, and for purposes of health.
A 157 (3).	Ventilation of buildings inside and out.
A 157 (4).	Drainage of buildings; water-closets, &c., ash-pits, cesspools; and closing of buildings unfit for habitation.
A 171 (4): 172: 10 & 11 Vict., 89, 68.	Hackney carriages (including the drivers thereof); and horses, ponies, mules and asses, and boats let for hire.
A 171 (5): 10 & 11 Vict., 89, 69.	Bathing, where any part of the sea-shore or strand of a river is within the District.
A 10: 9 & 10 Vict., 74, 34: 41 Vict., 14, 6.	Baths and Wash-houses.
A 169: 10 & 11 Vict., 34, 128.	Slaughter-houses and Knackers' yards.

(a) As to the relation of a Board to its committees, see *Barnsley L. B.* v. *Sedgwick*.

(b) As to the meaning of this expression, see the judgment of Keating, J., in *Marshall* v. *Smith*.

(c) Refer to the important case of *Wansted L. B.* v. *Wooster*.

Newly-established Offensive Trades.	A 112.
Markets.	A 167: 10 Vict., 14, 42-9.
✠ Number of lodgers who may be received into a common Lodging-house; and the separation of the sexes; promoting cleanliness and ventilation in such houses; notices and precautions as to infectious diseases; generally for the well ordering of such houses.	A 80.
Labouring classes Lodging-houses.	A 10: 14 & 15 Vict., 34, 46.
✠ Other Lodging-houses:—Number of persons to occupy a house, or part of a house, and the separation of the sexes; the registration of such houses; the inspection of them; enforcing drainage, privy accommodation and promoting cleanliness and ventilation in them; cleansing and lime-washing of them at stated times; the paving of the courts and court-yards; and notices and precautions as to infectious diseases. [But the permission of LGB must be had specially as to By-Laws for the ordinary Lodging-houses.]	A 90.
Artizans and Labourers Dwellings.	42 & 43 Vict., 64, 20.
✠ Lodging and accommodation of hop-pickers.	A 314.
Management of Public Libraries and Museums.(*a*)	18 & 19 Vict., 70, 21.
✠ Management of Mortuaries.	A 141.
Management of Burial-grounds.	A Sch. V., part III.
Public Walks and Pleasure-grounds.(*b*)	A 164.
Tramways.	33 & 34 Vict., 78, 46.
✠ Management of Cemeteries.	42 & 43 Vict., 31: A 141.

✠ (150.) All By-Laws made by a LA under and for the purposes of A must be sealed with the common seal. A 182.

✠ (151.) All(*c*) By-Laws under A must be confirmed by LGB or they will not be enforceable. No By-Laws are to be confirmed unless notice of intention to apply for their confirmation has been given in a local Newspaper circulated in the District *one* month at least before the application. Nor unless a copy of the proposed By-Laws has lain open for inspection at the office of the LA during a period of *one* month. Provision is made for obtaining extracts from proposed By-Laws. A 184.

✠ (152.) Respecting proposals for the confirmation of By-Laws LGB has issued the following instructions dated Nov. 21, 1873:—

> "By-Laws and regulations which require the confirmation of the Local Government Board should, before they are finally approved of by the Local Authority, be submitted to the Board in writing, and not in print, upon foolscap paper, with a margin of one-third on each folio. The draft thus forwarded for the perusal and observations of the Board should be written on one side only, and signed by the Clerk to the Authority.
>
> "The notice of intention to apply for confirmation should be postponed till after the draft has been examined by the Board, and the copy of proposed By-Laws for the inspection of the ratepayers should not be deposited at the office of the Authority until the draft has been so examined and returned by the Board.
>
> "When the draft has been thus examined and returned, and the By-Laws have been published as required by the statute applicable thereto, they should, together with the draft so returned, be forwarded sealed, and where necessary signed, to the Local Government Board for confirmation. The Board should at the same time be furnished with a copy of the newspaper containing the advertisement of the intention of the Authority to apply for confirmation of the By-Laws."

(*a*) The enactments for Libraries and Museums will be "Rules and Regulations." These are much the same as By-Laws, except that Par. 151 does not seem to apply to them.

(*b*) As the play-grounds, &c., under the 23 & 24 Vict., 30, are to be conducted on the management principles prescribed by the "Baths and Wash-houses Act, 1847," the Law Officers of the Crown have advised that By-Laws for the regulation of such play-grounds, &c., may be enacted.

(*c*) These observations do not apply to Tramway By-Laws, which are dealt with by the Board of Trade, and are the subject of special conditions.

A 185. ✠ (153.) By-Laws when confirmed are to be printed and hung up in the office of the LA. A copy is to be delivered to any Ratepayer applying for the same.

A 184. ✠ (154.) A By-law requiring to be confirmed by LGB needs no other confirmation.

5 & 6 Will. IV., 76, 90. (155.) By-Laws made under the "Municipal Corporations Act, 1835," for the prevention and suppression of various nuisances, now

A 187. require no other confirmation than that of LGB.

36 & 37 Vict., 33, 2. (156.) In the case of By-laws made by the Council of a Borough, a written or printed copy, authenticated by the common seal of the Borough, is to be evidence, until the contrary is proved, of the due making and existence of such By-Laws.

A 186. ✠ (157.) By-Laws of LAs are proved in evidence by the production of a copy certified by the Clerk to be such, and to be duly confirmed.

A 158. (158.) Where a notice, plan, or description of any work is required by an Urban By-Law to be laid before an Urban A, such A shall within *one* month approve or disapprove in writing. If the work is commenced after disapproval, or before the expiration of such month without such approval, *and* is in any respect not in conformity with any By-Law, the Urban A may cause so much of the work as has been executed to be pulled down or removed.[a]

A 158. (159.) Expenses incurred by an Urban A in or about the removal of works contrary to a By-Law may be recovered in a summary manner, either from the person executing the works or from the person causing the works to be executed.

A 158. (160.) Where an Urban A may, under **A** 158, pull down or remove a work which contravenes a By-Law, or where the beginning or the execution of a work is a penal offence, the existence of the work during its continuance in such a form or state as to contravene a By-Law shall be deemed a continuing offence, but a penalty shall not be incurred in respect thereof after the expiration of *one* year from the day when the offence was committed or the By-Law broken.

✠ (161.) Besides By-Laws, LAs may enact "Regulations" on various subjects as follows:—

A Sch. I. (1) 1. Summoning, &c., of meetings: Business arrangements.
A 189. Duties and conduct of officers and servants.
A 200. Committees.
A 21. Communications between Drains and Sewers.
A 125. ✠ Removal of infected persons from ships to hospitals. [Must be approved by LGS.]
A 143. ✠ Management of place provided for *Post-mortem* examinations.

A 188. ✠ (162.) "Regulations" made by a LA are not subject to the foregoing provisions respecting By-Laws. A LA may publish, in any way it sees fit, Regulations issued by it.

(*a*) A Building By-Law to the effect that unless plans sanctioned by a Board are acted upon within some definite time the sanction shall be deemed to have lapsed is probably void as *ultra vires*. The same remark probably applies to a By-Law or Regulation that all plans deposited or duplicates thereof shall become the property of the Board for permanent reference: but the practice of insisting on the permanent deposit of such plans is very general, and certainly, for obvious reasons, very convenient, for otherwise the Surveyor has little opportunity of detecting a departure from plans which have been sanctioned.

✠ (163.) By the "Births and Deaths Registration Act, 1874," it is enacted that every Registrar, when and as required by a Sanitary A, as defined by the "Public Health Act, 1872," (*i.e.*, an "Urban" or a "Rural" Sanitary A,) is to transmit by post or otherwise a return, certified under his hand to be a true return, of such of the particulars registered by him concerning any death as may be specified in the requisition of the Sanitary A. The A may prescribe its own form, and in that case the return is to be made according to such form. The Registrar making such return will be entitled to a fee of 2*d.*, and to a further fee of 2*d.* for every death entered in such return, which fee is to be paid by the A. 37 & 38 Vict., 88, 28.

✠ (164.) Inspectors of LGB may attend any meetings of Urban As (being Local Boards[a]) and of Rural As generally, when directed so to do by LGB. A 205.

✠ (165.) Every LA is to submit annually to LGB a report of all works executed, and of its receipts and expenditure under **A** during the preceding year. An Urban A is to publish a copy of the Report in some local Newspaper circulating in the District. A 206.

✠ (166.) The practice is believed to be not uncommon of committees of LAs ordering vehicles to be hired and refreshments provided for their special use in connection with necessary journeys for the inspection of works, &c. Another form of this sort of expenditure is the provision of refreshments for Clerks and others engaged at an election. The hire of vehicles may, if requisite, be safely charged to the Rates, but it is open to great doubt whether under any circumstances Refreshments may be so charged.[b]

(*a*) Except Oxford.

(*b*) See as regards Guardians of the Poo 56 *Off. Cir.*, (N.S.), 80.

CHAPTER III.

THE OFFICERS OF URBAN SANITARY AUTHORITIES.

A 189 and 191. THE appointment by Urban As of the following officers is obligatory :—Medical Officer of Health (who must be a legally qualified practitioner), Surveyor, Inspector of Nuisances, Clerk and Treasurer.(a) "Other officers and servants as may be necessary" are also to be appointed, but an officer under a Local Act may be also an officer under **A**. These officers need not of necessity be formally re-appointed every year. In the case of officers holding office only during pleasure an appointment for a term of years certain would seem to be irregular. In the absence of any agreement as to notice it would appear that an appointment may be determined without any notice.

A 189 and 207. (168.) The salaries of all officials are paid out of the General District Rate, except that under certain circumstances [See Paragraph 170] a Parliamentary grant in aid may be had.

A 189. (169.) Urban As control the duties and salaries of their officers.

A 191. ✠ (170.) If any portion of the salary of any officer is paid out of moneys voted by Parliament, LGB has the same power with respect to his qualification, appointment, duties, salary, and tenure of office, as in the case of a District Medical Officer of a Union.

A 189. (171.) The duties and conduct of officers and servants are to be dealt with by Regulations.(b) But LGB may prescribe the qualification and duties of *all* Medical Officers of Health appointed under **A**.

A 191. In case of illness, &c., a LA may appoint a deputy Medical Officer.

✠ (172.) Questions being occasionally raised at proceedings before Justices, &c., as to the proper way of proving formally an officer's appointment, it may be well to state that there appears to be no

(a) *Semble* that only *one* Treasurer may be appointed and that he must act for all purposes. This remark is made because it has been sometimes contended that an Urban A may appoint one Treasurer, say, for its Local Board work, and another for its Burial Board work, so as to divide its patronage between 2 different bankers.

(b) With respect to the appointment of Medical Officers and of Inspectors of Nuisances 3 Circulars dated March, 1880, have been issued by LGB. These Circulars are given in Part IV. of this work, where also will be found other information of a practical character which will assist LAs in the performance of their duties.

necessity for an appointment to be under seal. A certified extract from the Minute Book of a LA would seem to be sufficient proof of the person named therein having been duly appointed to the office he is stated to hold. Perhaps even oral evidence would suffice.

✠ (173.) A Medical Officer of Health may exercise any of the powers conferred on an Inspector of Nuisances, and he may act for more than one LA, but the consent of LGB must be obtained before he can accept a second appointment. With the sanction of LGB any District Medical Officer of a Union may be appointed a Medical Officer of Health. When two or more As agree to join in the appointment of a Medical Officer, or of an Inspector of Nuisances, LGB shall by Order prescribe the necessary arrangements for appointment, &c. A 191.

✠ (174.) Where it appears to LGB that the appointment of a Medical Officer of Health for two or more Districts in the same county would diminish expense and otherwise be desirable it may by Order unite such Districts for this purpose, and make regulations as to the appointment and removal of such officer, and the apportionment of his salary, and other matters, including the meetings and expenses of the representatives of the constituent bodies. When such a combination is formed no other Medical Officer of Health may be appointed for any constituent District, except as an assistant to the chief officer. No Urban District with a population of 25,000 or upwards, or (in the case of a Borough) having a separate Quarter Sessions is to be included in a combination without the consent of the LA or Council. LGB is to give 28 days' notice of its intention to make an Order to every LA which is to be included in a combined district. If within 21 days of the notice any LA objects to be included in the combination, the Order is to be provisional only until confirmed by Parliament. LGB may require any District Medical Officer of a Union comprising or coincident with any constituent District to render local assistance to the chief Medical Officer of Health. Additional remuneration may be made to him in consideration of this extra work. A 286.

✠ (175.) Neither the Treasurer, nor any partner of his, nor any one in his or their employ, can be Clerk, or *vice versâ*. Penalty, 100*l*., which may be recovered by any person, with full costs of suit, by action of debt. A 192.

✠ (176.) Nothing in A is to affect any Clerk or Treasurer whose tenure of office is regulated by § 12 of the "Public Health Act, 1872."(a) A 318.

(a) This section runs as follows:—"Where the Council of a Borough or Improvement Commissioners, having been previously to the passing of this Act a Local Board, have appointed, in their capacity of Local Board, a different person as Clerk or Treasurer from the person who is their Clerk or Treasurer in their capacity of Council or Improvement Commissioners, the Clerk or Treasurer so appointed by them shall continue to hold his office upon the terms upon which he held the same at the passing of this Act, but on such Clerk or Treasurer vacating the office it shall be discontinued as a separate office, and the person for the time acting as Clerk or Treasurer to such Council or Improvement Commissioners, in their capacity of Council or Improvement Commissioners, shall perform the duties of Clerk or Treasurer under the Sanitary Acts, with such additional remuneration as the Council or Improvement Commissioners may determine. The Clerk and Treasurer of the Union shall be the Clerk and Treasurer of the Rural Sanitary Authority having jurisdiction in such Union, but there may be awarded to such Clerk and Treasurer, in respect of their additional duties under the Sanitary Acts, such remuneration as the Rural Sanitary Authority may, with the approval of the Local Government Board, determine."

A 309. ✠ (177.) An officer deprived of his functions in consequence of the fusion, &c., of two or more As, or in consequence either of the "Public Health Act, 1872," or of A, of or any Provisional Order made under either of those Acts, and not re-employed in an office of equal value by a LA, may by Order of LGB receive compensation by way of annuity or otherwise out of the Rates.[a]

A 192. (178.) The Surveyor and Inspector of Nuisances may be the same person. Except in small towns this combination of duties is undesirable, for each class of work generally needs the undivided attention of one man.

(179.) Whether the three offices of Clerk, Surveyor, and Inspector may be held by one person is not clear. Such combination is not directly prohibited, but probably the maxim *Expressio unius est exclusio alterius* applies, and only the Surveyorship and Inspectorship can be held by the same person.

(180.) The duties of the Surveyor are very numerous, and he should not only be well versed in the technicalities of his profession, but should possess at least an elementary acquaintance with those branches of Law which bear upon his functions. Some knowledge of road-making, of the arts of construction, of the strength of materials, and of engineering generally is essential. It is better for a LA to offer a good salary and get a good man than hire a "cheap" Surveyor.

(181.) Every Urban A should provide itself with a good map of its District. On this map should be marked all sewers,[b] sewer ventilators, public lamps, water mains, pumps, and reservoirs, even although the A has no control over these works. A map provided by an Urban A is to be open at all reasonable times to the inspection of ratepayers.[c]

Compare A 20.

✠ (182.) The Inspector of Nuisances should not only be a man of active and businesslike habits, but he should also possess tact and discretion; for if he does his work properly he will be constantly called upon to confront the prejudices of the public.

✠ (183.) The Inspector of Nuisances should keep not only a diary of his daily proceedings, but also what may be called a "house ledger,"

(*a*) The Local Government Board, in determining the compensation allowance to be awarded to officers for abolition of office, adopts the scale laid down in the Act 22 Vict., 26, and the Treasury minute of the 14th June, 1859, with reference to the Civil Service. According to this scale, an annual allowance of one-sixtieth of the annual salary and emoluments of the office would be made in respect of each year of service; but in no case would the amount awarded exceed forty-sixtieths of the annual salary and emoluments of the officer. In computing the length of service of an officer, a certain number of years (not exceeding 10) would be added to the actual period of service. The addition to a service of 20 years and upwards is 10 years; but in no case is any service after 40 years taken into account. To a service of not less than 15 and under 10 years, 7 years are added. To one of not less than 10 and under 15 years, the addition is 5 years. To a service of not less than 5 years and under 10 years, it is 3 years; and where the service is less than 5 years, an addition of 1 year is made. The average annual emoluments of the officer during the 3 years next preceding the determination of his office are taken as the amount of the emoluments for the purpose of calculating the amount of the compensation.

(*b*) According to the strict letter of the Act a Local Board is only entitled to a map when sewerage works are to be "exhibited," but it seems pedantic to urge such a fine-drawn distinction. It has, however, been done by at least one of the officials of LGB.

(*c*) Though A is silent as to maps for Rural Districts it must be remembered that the Statute 27 & 28 Vict., 39, § 10, enables maps to be made for the use of Assessment Committees.

that is to say, a book enumerating all the houses within his district, and particulars in a tabular form as to (1) number of rooms; (2) number of inmates; (3) nature of water supply; (4) existing provision for sewerage; (5) existing provision for removal of refuse; (6) prevalent nuisances; (7) alterations required; and (8) general remarks. The Inspector should likewise have a "nuisance book" in which to enter notes of all nuisances, and of all complaints made to him. These books should be laid before the LA at stated intervals.

✠ (184.) As regards the classes of the community from which an Inspector of Nuisances should be selected, this much may be said. A retired non-commissioned officer of the army will often make a good Inspector, but LGB has expressed its disapproval of licensed victuallers being appointed, and has refused to sanction such an appointment.

✠ (185.) An Inspector of Nuisances may, with the sanction of LGB, act for more than one LA. [See Paragraph 164, *ante*.] A 191.

✠ (186.) The general powers of entry conferred on officers of LAs will be learnt from the references in the margin, but it may be stated generally here that officers have not as a matter of right any power to enter premises against the will of the occupier. A 41, 102, 305.

✠ (187.) Officers, if they are to be entrusted with money, are to give "sufficient security for the faithful execution" of their duties,[a] and are to account for all moneys which they receive. Every Board is left to determine for itself what security shall be "sufficient" in respect of each officer. A 194.

✠ (188.) Every officer must make out when and in such manner as is required, a perfect account in writing of all moneys received and disbursed by him for the purposes of A. Disbursements must be shown by vouchers, and cash balances must be paid over to the Treasurer. A 195.

✠ (189.) Every officer who collects Rates must within 7 days of receiving money pay it over to the Treasurer. And when directed to do so he must deliver a list of persons in arrear, which list is to be authenticated by his signature. A 195.

✠ (190.) If an officer fails to account, or fails within 5 days to deliver up papers, &c., or money, summary proceedings may be taken against him, and he may be sent to gaol (but not for more than 6 months). Proceedings under this section do not release sureties. A 196.

✠ (191.) No writ or process is to be served against an officer in respect of the execution of his duties until after *one* month's notice in writing, "clearly stating the cause of action." At the trial the plaintiff will be kept to his notice, and unless the notice is proved, the jury must find for the defendant. A 264.

✠ (192.) All Actions must be commenced within 6 months after the accruing of the cause of Action, and in the County or place where the A 264.

(*a*) When this is by a Bond bearing a stamp the stamp duty should be paid by the officer who gives the security.

action arose, and not elsewhere,[a] unless a Judge otherwise order.[b] For further information respecting procedure see the reference in the margin.

A 265. ✠ (193.) Members and officers of LAs (including Joint Boards and Port Sanitary As) are not personally liable for anything done *bonâ fide* in the execution of **A**. But this broad statement is subject to the provisions as to Audit.

A 306-7. ✠ (194.) Persons wilfully obstructing a member of a LA, or any person duly employed in executing **A**; or defacing, &c., notices put up by authority of LGB or any LA, or injuring works the property of a LA, are subject to a penalty of 5*l.* or less.

A 193. ✠ (195.) An officer or servant employed under **A** is not to be concerned in any bargain or contract made with his Board; if he be so, or if under cover of his office or employment he accept "any fee or reward whatsoever, other than his proper salary, wages, and allowances," he becomes permanently disqualified from holding or continuing in any office under **A**, and also subject to a penalty of 50*l.*, recoverable by any person by Action of Debt. An Action by a common informer must be brought within one year of the offence.[c] On a person being convicted of treason or felony, any public office which he may hold becomes vacant.

33 & 34 Vict., 23, 2.

38 & 39 Vict., 86, 4. (196.) A person employed by a "Municipal" A [which probably would be held to mean 'any Urban A'] on works of Gas or Water Supply who "wilfully and maliciously breaks a contract of service" under circumstances likely to lead to interference with the regular supply of gas or water may incur a penalty of 20*l.* or less, or be liable to imprisonment for 3 months or less, with or without hard labour.

✠ (197.) Whether or not a LA is justified in employing temporarily an accountant to examine into its finances, paying his fees out of the Rates, will depend upon circumstances, which a Court of Quarter Sessions, called upon to quash a Rate appealed against on this ground, is a proper tribunal to decide. In one Case the payment was condemned by the Sessions, and the Superior Court refused to interfere.[d]

A 173, 174 (2). ✠ (198.) Any LA may enter into contracts necessary for the execution of **A**. Every Urban contract shall specify the work, materials, matter or things to be furnished, had, or done; the price; the time limited for performance; and some penalty for default.

A 174 (1 and 4). (199.) Every written contract must bear a stamp, the value of which should, it seems, be 10*s.*[e] In an Urban District, when the amount of a proposed contract[f] exceeds 50*l.*, it is to be in writing and under seal. When the amount equals 100*l.* or upwards it must be the

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(*a*) It does not appear that the "Judicature Acts" affect this special provision of **A**.
(*b*) *Southampton Bridge Co.* v. *Southampton. L. B.*
(*c*) *Dyer* v. *Best.*
(*d*) *Reg.* v. *Workshop L. B.*
(*e*) Refer to an opinion in 38 J. P. 511. The question who is to pay the stamp should be settled beforehand by agreement between the parties.
(*f*) On the meaning to be given to this enactment see *Eaton* v. *Basker.*

subject of a public tender.[a] In this latter case 10 days' "public notice" [not necessarily by newspaper advertisement] inviting tenders is to be given, and with respect to such a contract sufficient security for its "due performance" is to be taken.

(200.) Before contracting for the execution of any work, an Urban A 174 (3).
𝔄 must obtain from its Surveyor an estimate in writing both of the probable expense of executing the work, and of the annual expense of repairing it; also a report as to the most advantageous mode of contracting; whether for the execution only of the work, or for its maintenance for a term of years as well. This provision is only directory; notwithstanding its omission a Board will be liable on its contract.[b]

(201.) As regards contracts under the "Baths and Wash-houses Acts," and under the "Labouring Classes Lodging-houses Acts," see the references in the margin. 9 & 10 Vict., 74, 26. 14 & 15 Vict., 34, 37.

(202.) It has been decided that an estimate for work to be executed is only a pre-requisite when the Board is about to incur an outlay for works which it will hereafter be required to keep up, *e.g.*, permanent works on public highways.[c] At the same time it is evidently desirable that no considerable outlay should ever be embarked on without an estimate, whether legally necessary or not. The line may perhaps be conveniently drawn at 10*l.*

(203.) Provision is made for contracts being binding on successors, A 174 (5).
and an Urban 𝔄 may accept a composition in respect of a penalty incurred by reason of the non-performance of a contract.

(204.) Officers of 𝔏𝔄𝔰 are not entitled to any exemptions from Turnpike Tolls merely by virtue of their office.

(205.) Local Boards in receipt of rents, &c., must pay the usual Income Tax on their rents.

(*a*) But this does not seem to prevent a 𝔏𝔄 from carrying out work by its own men and and plant if it deems such an arrangement preferable to accepting any tender which may have been sent in. In the case of Gas contracts, if the contract is beyond 100*l.*, there must be the usual notice even where there can be no competition owing to the fact that there is only one Gas Company.

(*b*) *Nowell* v. *Worcester, Mayor.*

(*c*) *Cunningham* v. *Wolverhampton L. B. H.*

CHAPTER IV.

THE LOCAL GOVERNMENT BOARD.— PROVISIONAL ORDERS, &c.

34 & 35 Vict., 70, 3.

✠THE Local Government Board (the central Public Health Authority for England and Wales), consists of a President appointed by the Queen, and of the following *ex-officio* members:—the Lord President of the Council, all the Secretaries of State, the Lord Privy Seal, and the Chancellor of the Exchequer.

34 & 35 Vict., 70, 4.

✠ (207.) The President and one of the Secretaries may be members of the House of Commons.

34 & 35 Vict., 70, 2, and Schedules.

✠ (208.) LGB now conducts all the Poor-Law business of the abolished Poor Law Board, and also the Sanitary business formerly conducted by a Secretary of State, or by the Privy Council.

A Sch. V., part III.

15 & 16 Vict., 84: 34 & 35 Vict., 113.

✠ (209.) The powers and duties formerly vested in the Board of Trade in connection with Alkali Works, and under the "Metropolis Water Acts, 1852 and 1871," and of the Secretary of State in connection with Highway and Turnpike Acts, now devolve on LGB.

34 & 35 Vict., 70, 5.

✠ (210.) Save as provided elsewhere, any act to be done or instrument to be executed by, or on behalf of, LGB, may be done or executed in the name of the Board by the President, or by any member, or by a Secretary, or Assistant-Secretary, if such officer is authorised accordingly. A Rule, Order, or Regulation made by the Board is valid if sealed, and if signed by the President or an *ex-officio* member, and countersigned by a Secretary or an Assistant-Secretary. The production of such *primâ facie* evidence of any such Rules, &c., as is required by the "Documentary Evidence Act, 1868," with respect to the Rules, &c., of the (late) Poor Law Board is, until the contrary be shown, sufficient proof that any such Rule, &c., of LGB was duly made.

31 & 32 Vict., 37.

✠ (211.) Large Powers of supervision are possessed by LGB. Some of these powers have already been noticed, but there are others,

including especially the Provisional Order System, which remain to be examined.

✠ (212.) A Provisional Order is a decree somewhat resembling in its nature an Act of Parliament, and frequently based in the first instance on an Inquiry conducted by an Inspector of LGB, whose Court is, in some of its attributes, not unlike a Parliamentary Committee, but much less cumbersome and costly. The Inquiry, when there is one, secures for the project brought up for review a reasonably sufficient investigation; at the same time the Order afterwards made only becomes binding when confirmed by Parliament, which confirmation however is usually granted as a matter of course unless an aggrieved party presents a petition to Parliament praying to be heard against the confirmation of the Order, when the Order is referred to a Select Committee and treated as a Private Bill. The Provisional Order system is simple and economical. A 297.

✠ (213) The following is an enumeration of the matters which may be the subject of Provisional Orders under A :—

Alteration of areas.	A 6 (3) : 270 (1-2)
Purchase of land.	A 176 (5).
Alteration of incidence of Urban expenses.	A 208 and 211 (c)
Constitution of Local Government Districts.	A 270.
Formation of United Districts.	A 279-80.
Union of Districts for Medical Officers of Health.	A 286.
Formation of Port Sanitary Authorities and matters incidental thereto.	A 287.
Repeal and alteration of Local Acts.	A 303.
Settlement of differences arising out of transfers of Powers, &c. [In certain cases only.]	A 304.
Alteration of Provisional Orders.	A 304 and 339.
Apportionment of Turnpike debts.	36 & 37 Vict., 90, 15.

✠ (214.) The steps to be taken to obtain a Provisional Order are briefly these :—A LA needing certain additional powers, publishes certain advertisements and notices : it then presents to LGB a petition stating its requirements, and thereupon an Inspector may be sent down into the locality to hold a Court of Inquiry. The case of the petitioning A is opened by Counsel, or by an Attorney, or by the Clerk, and supported by such evidence as is deemed necessary : if the project is opposed, the opponents bring rebutting evidence whereby they seek to show, for instance, that the plan propounded by the A is intrinsically bad, or unduly costly, or that another and better plan may be devised. The Inspector takes notes of the evidence and eventually makes a Report on the project. A 297.

✠ (215.) If the result is in favour of the LA, LGB issues at its discretion a Provisional Order granting the desired Powers, subject to confirmation by Parliament, and with the issue of the Order the contest usually ends.[a] The confirmation is obtained by a Bill introduced by LGB itself, which Bill generally embraces several Provisional Orders.

(a) But if it does not, its defence before a Parliamentary committee must be undertaken by the promoters of the proposition contained in the Order and not by LGB. LGB will withdraw an Order from a Bill if it seems expedient to do so. (Lumley).

9th Annual Report of LGB, p. 144.

(216.) Every application to LGB for a Provisional Order to be confirmed in the next ensuing Session must be made before January 1, subject to the exception that where the Application is for an Order to put in force the compulsory powers of the "Land Clauses Acts," or to confirm an Artizans Dwellings Improvement Scheme, and the advertisements have not been published till November, then the application may be made up to February 1.

A 297. ✠ (217.) With respect to Provisional Orders of LGB the following enactments are in force.

A 297 (1). ✠ (218.) No Provisional Order is to be made unless public notice of the purport of the proposed Order has been previously advertised for 2 successive weeks in some local newspaper circulating in the District to which it relates.

A 297 (2). ✠ (219.) Before making a Provisional Order LGB must consider any objections offered by persons affected. Where the subject matter is one to which a Local Inquiry is applicable, such must be held. All persons interested may attend.

A 297 (3). ✠ (220.) LGB makes to Parliament the necessary application for the confirmation of a Provisional Order.

A 297 (4). ✠ (221.) A Provisional Order contained in a confirmation Bill which is before Parliament may be petitioned against, in which case the Bill may be referred to a Select Committee, before which the petitioner may be heard.

A 297 (5). ✠ (222.) Any Act confirming a Provisional Order under the "Sanitary Acts" or A, and any Order in Council under the "Sanitary Acts" may be repealed, altered or amended by another Provisional Order made by LGB and duly confirmed by Parliament.

A 297 (6). ✠ (223.) LGB may revoke, wholly or partially, any Provisional Order before it is confirmed, but not whilst the confirming Bill is pending in Parliament.

A 297 (7-8). ✠ (224.) The making of a Provisional Order is *primâ facie* evidence that all the requirements as to preliminary proceedings have been complied with. Every Act confirming a Provisional Order is deemed a Public General Act.

A 298. ✠ (225.) The reasonable costs incurred by a LA in respect of a Provisional Order and of the Inquiry preliminary thereto, as sanctioned by LGB (whether in promoting or opposing the same), shall be deemed expenses properly incurred and they may be paid accordingly (*i.e.*, out of the Rates, &c.) Or LGB may sanction the costs being defrayed out of a loan.

42 & 43 Vict., 17, 1. ✠ (226.) The costs incidental to Provisional Order business in Parliament may be taxed by the Taxing Officer of the House of

32 & 33 Vict., 18, 1. Commons. Costs of Arbitrations under the "Lands Clauses Act, 1845," may be taxed by the Taxing Master of the Superior Courts.[a]

(a) This Paragraph applies only to Law Costs. There is no means of taxing the charges of Engineers and Surveyors called in *ab extra* to advise LAs. A specific agreement should be arrived at beforehand with such as to the charges which they are to be paid. This would often save disputes and litigation.

✠ (227.) A Provisional Order cannot be removed by *Certiorari* with a view to its being quashed.[a]

✠ (228.) Besides Provisional Orders LGB issues Orders of lesser moment, against which there is no appeal,[b] and which become operative so soon as they are issued. Every Order of LGB under A is binding and conclusive, and is published in such a manner as the Board may direct.

A 295: and see Sch. V., part III.

✠ (229.) LGB may cause to be held such Inquiries as are directed by A, and Inquiries in relation to any matter concerning the Public Health in any place, or as to matters with respect to which its sanction is necessary.

A 293.

✠ (230.) LGB may make Orders as to the costs of Inquiries and Proceedings instituted by it; and as to appeals to it, and as to the parties by whom, or the Rates out of which, such costs are to be borne. Every such Order may be made a Rule of a Superior Court.

A 294.

✠ (231.) Inspectors when holding under A Inquiries directed by LGB have, as far as regards witnesses, the production of papers and accounts, and the inspection of places and matters, powers similar to those possessed by the Poor-Law Inspectors for the purposes of the Poor Law Acts. [And they are exempt from personal liability in respect of anything done *bonâ fide* in the execution of A.]

A 296.

See 4 & 5 Will. IV., 76. 12: and 10 & 11 Vict., 109. 19—22.

✠ (232.) Persons wilfully obstructing an Inspector duly employed in the execution of A, are subject to a penalty of 5*l.* or less.

See A Sch. V., Part III.

✠ (233.) By various General and Local Acts it is prescribed that the consent sometimes of one and sometimes of another Department of State is to be obtained before LAs can put in force certain Acts or do certain things. Now the consent of LGB is substituted for these various consents, and its determination as to what is within this provision is conclusive.

34 & 35 Vict., 70. 2 and 7. A Sch. V., part III.

✠ (234.) LGB is a Court of appeal and General Inquiry Office for information and advice on a large number of subjects.[c]

✠ (235.) Important powers have been conferred on LGB to interfere when LAs fail in their duty.[d] If satisfied after due inquiry that a LA has been guilty of default, LGB must make an Order limiting a time for the performance of the duty neglected. If the Order is disregarded, it may be enforced by *Mandamus*, or LGB may appoint some person to perform the duty; the expenses and costs are to be paid by the LA in default.

A 299: and see 106.

(*a*) *Frewen* v. *Hastings L. B.*

(*b*) This statement is in one sense too broad. When a Department of State such as LGB exceeds its proper functions, the Courts can and will interfere. See the remarks of Stuart, V.C., in *A. G.* v. *Manchester, Bp.*, quoting a Judgment of Cottenham, C.

(*c*) "The Local Government Board are required to report to Parliament on every local Bill relating to sanitary matters deposited in the offices prior to the meeting of Parliament, and hence they will not generally approve of any Bill which proposes to introduce into any local district provisions which can be obtained by a Provisional Order, nor will they approve of the introduction into a Local Bill of provisions which the general law of the land already supplies." (Lumley).

(*d*) The default must have reference to some serious matter of general importance. The Local Government Board has declined to interfere under this § 299 in such a question as an alleged default in the conduct of a Local Board election.

A 299-300. ✠ (236.) A person thus appointed by LGB, and who may be changed from time to time, is invested with all the powers of the LA in default, including (in an extreme case) the power of levying Rates.

A 301. ✠ (237.) LGB may from time to time certify as to expenses incurred, or as to an estimate of expenses to be incurred ; also as to the amount of any loan required to meet the expenses in respect of a defaulting LA. The Public Works Loan Commissioners may grant loans on security of the Rates. A certificate of LGB is conclusive as to the matters to which it refers.

A 302. ✠ (238.) The word "expenses" includes all sums payable by, or by order of, LGB, or the person appointed by LGB, on the occasion of a default by a LA.

A 299. ✠ (239.) Default as to the following matters is within the scope of these provisions :—

Provision of Sewers.

Maintenance of existing Sewers.

Provision of Water Supply where danger to health arises from the insufficiency or unwholesomeness of an existing supply, and a proper supply can be got at a reasonable cost.

Default in enforcing any provision of the "Public Health, Act 1875," which it is the duty of the A to enforce.

CHAPTER V.

THE POWERS AND DUTIES OF URBAN SANITARY AUTHORITIES.

(1.) GENERAL POWERS OF THE "PUBLIC HEALTH ACT, 1875," AND SAVING CLAUSES, &c.

✠ THE schedules of **A** are to be read and have effect as part of the Act. A 317.

✠ (241.) Where in any Act or Order in force at the passing of **A**, or in any document, any Provisions of the "Sanitary Acts," repealed by **A** are referred to, such Act, &c., is to be read as if the corresponding Provisions of **A** were therein referred to, and substituted for the same. Nevertheless those substituted provisions are to be governed by any limitations previously in operation. A 313.

✠ (242.) Any By-Law made under the "Sanitary Acts" which is inconsistent with **A**, is to be deemed repealed so far as it is inconsistent. A 315: see def. in A 4.

✠ (243.) In the construction of the provisions of Acts incorporated with **A** the term "Special Act" includes **A**, and, in the case of the "Lands Clauses Acts," any Order confirmed by Parliament and authorising the purchase of lands otherwise than by agreement: the term "the limits of the Special Act" means the limits of the District: and the A is to be deemed "Promoters," "Commissioners," or "Undertakers" as the case may be. A 316.

(244.) The expressions "superintendent constable," and "any constable or other officer appointed by virtue of this or the Special Act" are for the purposes of **A** to mean any constable or officer of Police acting in and for an Urban District. And "within the prescribed distance" is to mean within an "Urban District." A 171.

✠ (245.) All powers given by **A** are to be deemed additional, and not to derogate from any other Powers confirmed by Parliament, law, or A 341: see also A 260.

custom; and such other powers may be exercised as if **A** had not passed. Nothing in **A** is to exempt any person from any penalty to which he would have been subject had the Act not passed. No person adjudged to pay a penalty under **A** is to be liable, for the same offence, under any other Act.

A 285. ✠ (246.) A LA may, with the consent of an adjoining LA, execute in the adjoining District any of the works or things which it may execute within its own District, and upon such terms as may be arranged. Provision is made for the recovery of expenses.

A 308. ✠ (247.) A LA is to make compensation to persons sustaining any damage by reason of the exercise of any of the powers of **A**. Disputes are to be settled by arbitration unless the compensation claimed does not exceed 20*l*., in which case a Court of Summary Jurisdiction may, at the option of either party, decide the matter. This provision is of general applicability. No limit of time is prescribed beyond which proceedings for compensation cannot be taken.

✠ (248.) **A** contains various saving clauses and temporary provisions which must be briefly noted:—

A 169. The rights of persons incorporated for the establishment of slaughter-houses before Aug. 31, 1848, are protected.

A 318. The rights of a Clerk or Treasurer whose office is regulated by § 12 of the "Public Health Act, 1872" are protected.

A 319. Special District Rates under the "Local Government Acts" are kept alive.

A 320. LGB may make provision for the continuance of a division of expenses between landlords and tenants.

A 321. Certain Securities are declared to remain valid.

A 322. Turnpike Trustees possessing Sanitary Powers are not to be deemed Urban As, but their Powers are to be exercised by the LA within whose District the Turnpike Act area is locally contained.

A 326. Urban and Rural Sanitary As existing at the time of the passing of A continue to exist undisturbed, and pass under A: likewise all members and officers; and By-Laws not inconsistent with A.

A 327, 330, 332. Interference with various Government Department Rights and Water and Navigation Rights is prohibited.

A 334. Interference with mines, smelting of ores, and iron-works, &c., is prohibited.

A 335. Collegiate Bodies and Government Departments continue in possession of former powers and subject to former obligations.

A 336. The powers and duties of the Metropolitan Board of Works are saved.

A 337. Annual Payments in respect of drains are saved.

A 338. Rates, Orders, acts, &c., of As under certain Local Acts, made, &c., before the passing of A, are saved.

A 339. The constitution of a Local Board of Health under the "Public Health Act, 1848," is not affected. [This keeps alive the 1848 qualifications and disqualifications of members], but Orders in Council or Provisional Orders under that Act may be repealed, altered, or amended under A.

A 67, 205, 228, 342, and Sch. I. (1) 13: II. (1) 75. Several special provisions are made as to Oxford and Cambridge.

A Sch. V. Numerous Acts are repealed in whole or in part subject to various savings and provisoes.

38 & 39 Vict., 17, 7. (249.) The "Explosives Act, 1875," enacts that when a proposed new Factory or Magazine for explosives is situated within or within one mile of the limits of the Jurisdiction of any Urban Sanitary A,

the applicant for the new Factory or Magazine is to serve on the said A, if it is not the Local A under the "Explosives Act," notice of the application, &c.

(250.) By the "Fisheries (Oyster, &c.) Act, 1877," any Urban or Rural Sanitary A may apply to the Board of Trade to make an Order to prohibit or restrict dredging for oysters on any oyster bank or bed for any period not exceeding one year. An Order may be renewed, varied or revoked. 40 & 41 Vict., 42, 6.

(2.) ADULTERATION OF FOOD, &c.

(251.) The "Sale of Food and Drugs Act, 1875," amended by another Act in 1879, provides that for every borough in England having a separate Court of Quarter Sessions or a separate Police Establishment, the Town Council may appoint a Food Analyst, who is to possess "competent knowledge, skill, and experience." The appointment of these officers for the country at large rests with the Courts of Quarter Sessions of each County. LGB controls the appointment and removal of these officers, and may insist on their being appointed. 38 & 39 Vict., 63, 10: amended by 42 & 43 Vict., 30.

(252.) Sanitary As are not in terms responsible for the execution of the Act, but nevertheless Medical Officers of Health, Inspectors of Nuisances, of Weights, &c., and of Markets are, under the direction and at the cost of the A which appoints them, to procure samples of food or drugs, if they suspect the same to be adulterated, and to submit them to be analysed by the Analyst of the District. 38 & 39 Vict., 63. 13.

(253.) It may here be mentioned that the "Contagious Diseases (Animals) Act, 1878," contains some quasi-sanitary enactments bearing on Food Questions so far as regards Dairy produce. (See *post*.) 41 & 42 Vict., 74, 34.

(3.) ARBITRATION.

✠ (254.) With a view of saving expense to the parties, certain disputes either as to money payments or as to things relating to the work of LAs may be referred to Arbitration. A 179-80.

✠ (255.) All questions referable to arbitration under A may, at the option of either party,[a] when the sum in dispute is less than 20*l*., and it is the amount, not the liability, which is at issue,[b] be determined by a Court of Summary Jurisdiction. The Court may invoke the advice of a competent Surveyor (not being the Surveyor of the LA), and may make what Order it thinks proper as to costs. A 181.

(*a*) In *Cook* v. *Ipswich L.B.H.*, Cockburn, C.J. held this to mean "must." (*b*) *Reg.* v. *Burslem L.B.*

A 262. ✠ (256.) It would seem that no award can be set aside for want of form ; or be removed by *Certiorari* or other writ or process into any Superior Court.

✠ (257.) The following are some of the matters which either are required to be, or may be, settled by Arbitration :—

A 150. Disputes relative to the paving, &c., of private streets.

A 155. Compensation payable in respect of alterations of Building Line.

A 52. ✠ Terms upon which Water Companies are to furnish supplies of water "proper and sufficient for all reasonable purposes," and questions as to what supplies are "proper and sufficient," and what purposes are "reasonable."

A 61. ✠ Supply of Water to a LA of an adjoining District.

A 308. ✠ Compensation payable for damage sustained in consequence of the exercise of any of the powers conferred on a LA.

A 328. ✠ Differences of opinion as to what will be the effect on rivers, canals, docks, &c., of works proposed to be done by a LA.

A 333. ✠ Differences of opinion with respect to the efficiency of substituted sewers, &c., and with respect to the consequences resulting from interferences with water-rights.

A 22. ✠ Terms on which sewers may be used by persons outside the District.

34 & 35 Vict., 41, 24 and 29. Differences relating to supplies of gas.

38 & 39 Vict., 36. Purchase of lands, &c., under the "Artizans' and Labourers' Dwellings Improvement Act, 1875."

(4.) ARTIZANS' AND LABOURERS' DWELLINGS.

(258.) Several Acts on this subject have been passed during the last quarter of a century, but for one reason or another very little has been done under any of them. The subject, however, again received the attention of Parliament in the Session of 1875, and a measure was passed which (as amended in 1879) promised to be much more useful than any of its predecessors. The "Artisans' and Labourers' Dwellings Improvement Act, 1875," does not profess to repeal any previous statute, but as its obvious effect is to supersede more or less all the earlier Acts, it is to be regretted that they were not avowedly consolidated by, and embodied in, the new Act.[a]

38 & 39 Vict., 36, amended by 42 & 43 Vict., 63.

(259.) So far as England generally is concerned, irrespective of London, the Act only applies to Urban Sanitary Districts having at least 25,000 inhabitants. The Urban Sanitary AS of such Districts are charged with its execution.

38 & 39 Vict., 36, 2.

(260.) Proceedings under the Act are to be initiated by an "official representation" to the effect that certain houses, courts, or alleys, within a certain area are unfit for human habitation, or that diseases indicating a generally low condition of health have been prevalent, and that such prevalence may reasonably be attributed to the closeness, narrowness, and bad arrangement or condition of the streets and houses, or to the want of light, air, ventilation, or proper conveniences,

38 & 39 Vict., 36, 3.

(*a*) The Act in question (Sir R. A. Cross's) having been found very expensive in working is likely ere long to be further amended. A committee of the House of Commons was appointed during the session of 1881 to investigate the subject.

or to some other sanitary defect. The official representation must proceed to state that the sanitary defects which it recites cannot be effectually remedied otherwise than by an Improvement Scheme for the re-arrangement and re-construction of some or all of the streets and houses within the area.

(261.) The LA is to take the representation into its consideration, and if satisfied of the truth thereof and of the sufficiency of its resources, it is to pass a resolution that the area concerned is an unhealthy area for which an Improvement Scheme ought to be propounded. The resolution being passed the LA is forthwith to proceed to make a Scheme, which may include any number of unhealthy areas. A member of a LA beneficially interested in lands within an area complained of is not to vote on such resolution, or on any question relating to the purchase, &c., of lands in which he is interested. Penalty for voting, 20*l.* or less. The resolution will, however, remain valid. 38 & 39 Vict., 36, 3.

(262.) An official representation may emanate from the Medical Officer either on his own account, or because he is moved to make it by two or more Justices of the Peace, or 12 or more ratepayers. The Medical Officer is enjoined to make a representation whenever he sees cause; and when instigated as aforesaid he must inspect the area and report his opinion. 38 & 39 Vict., 36, 4.

(263.) The action of the local Medical Officer is not conclusive. If after such complaint he does not inspect or report, or reports an area to be not unhealthy, the 12 ratepayers may, if dissatisfied, apply to LGB for an independent investigation by a Medical Officer speciallly appointed. The costs will fall as LGB may think fit. 38 & 39 Vict., 36, 15.

(264.) If a LA declines to act upon an official representation, or to proceed with an Improvement Scheme, it must notify its reasons to LGB, which may direct a local Inquiry. 38 & 39 Vict., 36, 8.

(265.) Every Improvement Scheme is to be accompanied by maps, particulars and estimates. Various requisities are prescribed for it; especially that it shall provide for the accommodation, in suitable dwellings, of at least as many persons of the working classes as may be displaced, and this either within the area or in its vicinity. Power is given to a LA to make terms with an owner for the improvement of property included in a Scheme. 38 & 39 Vict., 36, 5. See also § 9.

(266.) On the completion of a Scheme, the LA is to publish a certain advertisement, and serve various notices. This done the LA is to petition LGB for a Provisional Order to confirm the proposed Scheme and authorise the purchase of the requisite property. If LGB views the application favourably, it will direct a local Inquiry, preparatory to the issue of the Provisional Order. 38 & 39 Vict., 36, 6.

(267.) There are various provisions as to costs of which there are two classes:—(1) costs incurred by, or sanctioned by, LGB, and (2) costs sanctioned by a Parliamentary Committee in connection with an opposed Provisional Order. 38 & 39 Vict., 36, 6-7.

(268.) When an Improvement Scheme has been confirmed by Parliament it is the duty of the LA to take steps for carrying it into 38 & 39 Vict., 36, 9.

execution "as soon as practicable." Having purchased the requisite lands, it may re-sell or let on lease all or any part of the area, under condition that the purchasers or lessees will carry the scheme into execution. But, except with the express approval of LGB, the LA is not to meddle with building operations beyond clearing sites and making streets. The LA is to impose suitable conditions as to the design, &c., of the houses to be erected. Any dwellings duly erected by a LA out of funds provided under the Act must be sold within 10 years. LGB may, for reasons and on conditions that are specified, sanction the modification of a Scheme.

38 & 39 Vict., 36, 12.

38 & 39 Vict., 36, 10.

(269.) If within 5 years after the removal of any old buildings the LA has failed to carry out an Improvement Scheme, LGB may order the sale of the land, but the purchaser will have to enter into an undertaking to erect dwellings for the working classes.

38 & 39 Vict., 36, 11.

(270.) When a LA proposes to take as many as 15 houses it must give at least 13 weeks notice by placards, &c., and then obtain a Justice's certificate that its intentions have been duly made known.

38 & 39 Vict., 36, 16-18.

(271.) As regards the Local Inquiry by the officer of LGB preparatory to the issue of a Provisional Order, various regulations are laid down.

38 & 39 Vict., 36, 19-20; and 8ch.

(272.) The purchase of lands required for an Improvement Scheme will be governed generally by the "Lands Clauses Acts," but some alterations in the details of these Acts are prescribed. For instance, the compensation payable for property taken compulsorily is to be assessed on the "fair market value . . . due regard being had to the nature and then condition of the property, and the probable duration of the buildings in their existing state . . . without any additional allowance in respect of the compulsory purchase."

38 & 39 Vict., 36, 21-3.

(273.) Elaborate provision is made with respect to the financial working of the Act. A separate account of receipts and expenditure is to be kept, and any deficiency on the former side is to be made good out of the Local Rate, or from moneys borrowed. The borrowing arrangements of a LA under the Act will depend generally on the "Public Health Act, 1875." And the same remark applies to the audit of accounts.

A 316.

38 & 39 Vict., 36, 30.

(274.) Where, in any place to which the Act applies, a Local Act of similar effect is in force, the LA may proceed under either; but it is not by reason of the Local Act exempted from the obligations of the Act of 1875.

38 & 39 Vict., 36, 24-9, and Sch.

(275.) There are various miscellaneous provisions as to the authentication and service of notices; as to advertisements; as to the obstruction of officers (the penalty for this offence is 20*l.* or less); as to deposit of Maps and Plans; as to payment of purchase moneys and entry on lands; and as to Arbitration proceedings, including appeals in respect thereof; and costs.

7th *Annual Report of* LGB, p. 182; 9th *A.R.*, p. 180.

(276.) A Circular of Instructions as to applications for Provisional Orders to confirm Improvement Schemes under the Act has been issued by LGB.

(277.) From a perusal of the Paragraphs which now follow, it will readily be seen how much the Act of 1875 interferes with previous legislation.

(278.) Under the "Artizans' and Labourers' Dwellings Act, 1868," amended by the "Artizans' and Labourers' Dwellings Act, 1868, Amendment Act, 1879," the Medical Officer of Health is to report in writing to the Urban A any premises which are in a state dangerous to health, so as to be unfit for human habitation. The A must refer this report to a Surveyor or Engineer, who is to report on the cause and remedy of the evil, or whether the premises ought to be demolished. On receipt of the Surveyor's report the A is to cause a copy of it and of the Medical Officer's report to be given to the owner, with notice of the time and place appointed by the A for the consideration of them. The owner may attend and state objections. The A may next make an order in writing, and, if necessary, may cause to be prepared a plan, specification, and estimate with respect to the suggested works. The Clerk is forthwith to inform the owner that this plan, &c., has been prepared and may be seen and copied by him. The owner may within 3 weeks state in writing any objection he may entertain, and may support such objection at a personal interview. The A shall thereupon make such order as it may think fit.

31 & 32 Vict., 130, 5; 42 & 43 Vict., 64, 3; A 10 and 97.

31 & 32 Vict., 130, 6.

31 & 32 Vict., 130, 7.

31 & 32 Vict., 130, 8.

(279.) Any person aggrieved by an order of a A may appeal to the Quarter Sessions under regulations which are fully set forth.

31 & 32 Vict., 130, 9-11.

(280.) If 4 or more Householders in or near any street represent to the Medical Officer of Health in writing that any premises in or near that street are in a state dangerous to health, so as to be unfit for human habitation, he must forthwith inspect the premises and report on them. But the absence of representation does not excuse him. If the A neglects for 3 calendar months to take proceedings, the Householders may apply to LGB, which may compel the A to proceed.

31 & 32 Vict., 130, 12.

31 & 32 Vict., 130, 13.

(281.) The provisions of the Act relating to the execution of works by owners are very complicated and cannot well be summarised.

31 & 32 Vict., 130, 14-16, and 18.

(282.) If owners make default, the A must order the premises to be shut up or demolished, or it may itself execute the required works. In this latter case the A may apply to the Quarter Sessions for an order charging the expenses on the premises with interest at the rate of 4 per cent. per annum; and the A is to be deemed a mortgagee.

31 & 32 Vict., 130, 18-19.

23 & 24 Vict., 145, part II.

(283.) The Act contains various provisions protecting tenants against owners, owners against tenants, and one owner against another.

31 & 32 Vict., 130, 21-2, and 24.

(284.) If the A orders the demolition of any premises and the owner does not within 3 months comply, the A must do the work, selling the materials and paying the balance (if any), to the owner, after deducting expenses.

31 & 32 Vict., 130, 20; 42 & 43 Vict., 64, 9.

(285.) If the A orders the improvement of any premises, it will be a compliance with the order if the owner, instead of effecting the required works, takes down the premises. A site cleared in virtue of this or the previous provision, is not to be re-occupied by a house or other building injurious to health. If it is so re-occupied, the A may

31 & 32 Vict., 130, 23; 42 & 43 Vict., 64, 8.

order alterations, and, on non-compliance, may effect alterations at the expense of the owner.

42 & 43 Vict., 64, 6-7. (286.) An owner of premises which are the subject of an order may call upon the A to purchase his premises, in which case the price is to be settled by arbitration.

31 & 32 Vict., 130, 25. (287.) On the completion by an owner of works ordered, he may apply to the A for an order to charge on the premises an annuity, as compensation to him for his expenditure. The A on being furnished with the requisite evidence (Surveyor's certificate, &c.) may make a charging order. An annuity under the Act is to be at the rate of 6 per cent. per annum on the expenditure, and is to be payable for 30 Sch. II., Form A. years. The costs are to be deemed part of the expenditure. A form of charging order is prescribed.

31 & 32 Vict., 130, 29. (288.) A certified copy of every charging order, of the Surveyor's certificate on which it is based, and of the accounts, is within 6 months after the date of the order, to be deposited with the Clerk of the Peace of the County and filed. Every charging order in Middlesex and Yorkshire is to be registered as if the charge were made by deed by the absolute owner.

31 & 32 Vict., 130, 15-17, and 34. (289.) There are special provisions as to the service and authentication of notices issued by the A.

31 & 32 Vict., 130, 31: 42 & 43 Vict., 64, 21. (290.) The expenses of working the Act are to be defrayed out of a Special Rate not exceeding 2*d.* in the £ in any year.

31 & 32 Vict., 130, 32: 42 & 43 Vict., 64, 22; 43 Vict., 8. (291.) The Public Works Loan Commissioners may advance moneys to the A subject to the sanction of LGB.

31 & 32 Vict., 130, 33. (292.) There are also special provisions as to the service of summonses, &c., against an A.

31 & 32 Vict, 130, 37. (293.) Any Company or Body Corporate may appear before Magistrates by any Member of their Board.

31 & 32 Vict., 130, 35-6. (294.) Penalties of 20*l.*, which, under § 36, may accumulate from day to day, are prescribed for obstructing Officers of an A engaged in executing the Act.

A 4. (295.) The Act 31 & 32 Vict., **130**, is one of the "Sanitary Acts."

(296.) Urban As may be charged with the working of several other Acts of Parliament for facilitating the construction of Improved Dwellings for the Labouring Classes. These Acts are the "Labouring Classes Lodging Houses Act, 1851," (14 & 15 Vict., **34**); the "Labouring Classes Dwelling Houses Act, 1866," (29 Vict., **28**); the "Labouring Classes Dwelling Houses Act, 1867," (30 & 31 Vict., **28**); and the "Working Mens' Dwellings Act, 1874," (37 & 38 Vict., **59**). But these Acts are not necessarily in force in the Districts of Urban As.

(5.) AUDIT OF ACCOUNTS.

✠ (297.) The accounts of every LA are to be made up in the form and to the day or days in every year appointed by LGB. A 245 and see 324.

(298.) Urban accounts (not being the accounts of a Borough) are to be audited once in every year, as soon as may be after March 25, which day is therefore by implication the last day of the financial year of Urban As. Such accounts are to be audited by the Poor Law Auditor of the District; but if he should happen to be a member of the Board, LGB is to entrust the audit to the Auditor of some adjoining Union. A 247 (1).

✠ (299.) The power of Auditors auditing the accounts of any LA extends to the accounts of Officers, or Assistants, receiving moneys or goods on behalf of such A. A 250.

✠ (300.) Information as to Poor Law audits will be found as follows:—7 & 8 Vict., **101**, 32—3 and 35—6; 11 & 12 Vict., **91**, 4—5 and 7—10; 12 & 13 Vict, **103**, 8—9 and 11; 29 & 30 Vict., **113**, 6—7; and 31 & 32 Vict., **122**, 24.

(301.) In Boroughs the Sanitary accounts are to be audited by the Borough Auditors under the same regulations as those under which the Municipal accounts are audited. And they may be removed by *Certiorari*. A 246: 5 & 6 Will. IV. 76, 73 and 92: 1 Vict. 78, 44.

(302.) The Auditor is to be paid not less than *two guineas* a day, and, elsewhere than in Boroughs, his travelling expenses. Nothing is said about the Auditor's personal expenses, but in settling his fee it seems reasonable to make some allowance for refreshments, and, if needs be, for his lodging. A 247 (2).

(303.) The Auditor fixes the day (or days) on which he will conduct his audit, and when the fixture is made the A is to give in one or more of the local newspapers 14 days' notice of the time and place of the audit, and also notice as to when and where the accounts will be open for the inspection of the ratepayers. The production of any such newspaper containing the notice is to be deemed, on any proceeding, sufficient proof of the notice. A 247 (3).

(304.) As to inspection by persons interested.—For 7 days previous to the day of audit a copy of the accounts to be audited, together with all "Rate-Books, Account-Books, Deeds, Contracts, Accounts, Bills, Vouchers, and Receipts mentioned or referred to in such Accounts," are to be deposited at the Office of the A, and to be open, during Office hours, to the inspection (including copying) of all persons interested without any fee being charged.[a] Any officer who neglects to make up accounts, or who tampers with the accounts, or obstructs inspection, is liable to a penalty of 5*l.* or less. A 247 (4).

(*a*) "All persons interested," should be understood to mean only "Owners and Ratepayers."

A 247 (5, 7, and 9).

(305.) The duties of the Auditor are set forth at great length. He is first of all to examine the accounts with minute attention to all the items, and then to disallow such items as he deems to be contrary to law, but inasmuch as many of the illegal charges will have been actually paid, he is to surcharge the amount on the person who has made or authorised the same, and such person is within 14 days to refund it out of his own pocket.[a] The power of surcharge extends to the amount of deficiencies or losses caused by negligence or misconduct. The Auditor can compel the production of papers and the attendance of persons, failure as to which involves penalties.

A 247 (7).

(306.) A person surcharged may compel an Auditor to state in writing his reasons for making the surcharge, and the person so aggrieved

A 247 (8).

may apply to the Court of Queen's Bench for a writ of *Certiorari* to remove the disallowance into that Court as if it were a disallowance by a Poor Law Auditor. Or the person aggrieved may apply for redress to LGB.

A 247 (9).

(307.) The Auditor is required himself to enforce by legal proceedings his surcharges, and the A is to re-imburse him such expenses as he may be unable to recover from the person surcharged.

A 247 (6).

(308.) On the other hand, ratepayers and owners not only may make before the Auditor objections to accounts, but also they have the same right of appeal against allowances made by him as they have by law against disallowances.

7 & 8 Vict., 101, 35-6: 11 & 12 Vict., 91, 4: 29 & 30 Vict., 113, 6: 34 & 35 Vict., 70, 2.

✠ (309.) The law relating to appeals against the decision of a Poor Law Auditor, may be ascertained by the references in the margin.

A 247 (9): 7 & 8 Vict., 101, 35-6.

✠ (310.) The law relating to the recovery of disallowances may be ascertained by the references in the margin.

A 247 (10).

(311.) The audit being completed, the Auditor is within 14 days to transmit to the Clerk a report as to the audit, which report is to be deposited at the office of the A. An abstract of the accounts prepared by the Clerk is then to be published in one or more local newspapers.

23 & 24 Vict., 64, 3.

(312.) The accounts of a Local Board, and of Improvement Commissioners constituted a Burial Board, are to be kept distinct; and when their expenses are met by moneys raised under 23 & 24 Vict., 64 these accounts are to be audited in the same manner as their other

A 247, ad fin.

accounts. The audit provisions of Local Acts are specially dealt with.

12 & 13 Vict., 35. 23 & 24 Vict., 51. 34 & 35 Vict., 70, 8.

✠ (313.) All LAs are to transmit annually to LGB, particulars of their income and expenditure. The necessary returns are to be prepared by the Clerk, or where there is no Clerk, by the Treasurer. The returns are to be made for the latest period of 12 months preceding the month of June in each year for which the accounts of the Board shall have been made up. Penalty for neglecting to prepare a return,

40 & 41 Vict., 66, 1—2.

20*l*. The "Local Taxation Returns Act, 1877" makes further provision with respect to the annual returns as to Finance which LAs have to

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(*a*) When an improper payment is made by cheque, the person signing the cheque will be the person to be surcharged. (*A.G.* v. *Tottenham L.B*).

render. The returns are to be transmitted only to LGB and not to a Secretary of State. They are to be made up to March 25, or to such other day as in any particular case LGB may prescribe. Every return is to be sent in within one month after the audit of the Accounts to which the return relates is completed ; or if the Audit is not completed within 6 months after the end of the financial year for which the return is to be made, then on the expiration of such 6 months ; or if there is no audit then within one month after the end of the said financial year. LGB is invested with a discretionary power to vary dates in certain cases. The officers to make the returns and the penalty for default remain as before.

8th *Annual Report of* LGB, pp. 11, 14.

✠ (314.) In the case of a Rural A, the returns are to be prepared by the Clerk at the close of each half-year.

A 245 : Gen. Ord. for Accounts, Art. 30.

✠ (315.) With a view of facilitating the preparation by LAs of annual returns, LGB has issued a blank form.

Local Board Accounts order, March 22, 1880.

(316.) Documents issued by an Urban A, are now subject to the appropriate stamp duty, all exemptions having been abolished. The cheques of a Board are therefore liable to the usual stamp.

33 & 34 Vict, 97, 3.

✠ (317.) And LGB has advised that the old-established exemptions enjoyed by Guardians of the Poor for their various legal instruments are interfered with so far as regards instruments which are under the "Sanitary Acts," but this view has not yet been supported by a Court of Law, and regard being had to the form of § 42 of the "Public Health Act, 1872," compared with § 151 of the "Public Health Act, 1848," does not seem sound. Nor has it ever been considered by any Court whether the "Stamp Act, 1870," affects old exemptions of Guardians in respect of Poor Law Matters.

33 & 34 Vict., 97.

✠ (318.) Provision is made for bills owing to Solicitors or Attorneys by LAs being taxed by the Clerk of the Peace of the County, or his deputy, in cases where the accounts are required by A to be audited by the Clerk of the Peace. LGB issued an Order on Nov. 29, 1872, fixing the fee payable on such taxation at "*four pence* per sheet or folio of 72 words each." This taxation is only *primâ facie* evidence of the reasonableness, not of the legality, of the charges. If a Bill of this kind is presented to the Auditors or Auditor untaxed, their or his decision upon both the reasonableness and the legality of the charges is final.

A 249.

2nd *Annual Report of* LGB. p. 53.

(6.) BAKEHOUSES.

✠ (319.) LAs are no longer charged with the supervision of the Bakehouses in their respective Districts, that duty having been transferred to the Inspectors of Factories under the Home Office.

41 & 42 Vict., 16, 34-5, 61, 68-9.

(7.) BATHING.

A 171 (5). 10 & 11 Vict., 89, 69.

(320.) An Urban A having within its District any Sea-shore or River-strand, may make By-Laws respecting Public Bathing Places, the use of Bathing Machines, and for preventing indecent exposure. It may prescribe the charges to be made, and the limits within which Bathing may or may not take place.[a]

(8.) BATHS AND WASH-HOUSES.

(321.) Inasmuch as personal cleanliness is an important security for health, Parliament has given facilities for the establishment of Public Baths and Wash-houses, but these facilities have been most unwisely neglected. The adoption of the "Baths and Wash-houses Acts" by an Urban A, is optional, but when adopted, the said A is charged with the execution of those Acts.[b]

9 & 10 Vict., 74: 10 & 11 Vict., 61: 41 Vict., 14. A 10.

A 65.

✠ (322.) Any LA carrying on Water Works may supply water to Public Baths and Wash-houses. This extends to any Baths and Wash-houses that are "public" and not carried on for private profit.

41 Vict., 14.

(323.) The "Baths and Wash-houses Acts, 1846 and 1847," are amended by the "Baths and Wash-houses Act, 1878," which authorises the establishment of covered swimming baths. All the powers and provisions of the principal Acts are to be as applicable to such baths as if they were named in the principal Acts. The Governing Body is to be at liberty to close the swimming bath during 5 winter months, or to utilise it for a gymnasium, or for such other means of healthful recreation, including mere exercise, as they may think fit. The Section which confers these powers ends with the important proviso that no swimming bath, when closed for swimming purposes, is to be used for music or dancing.

41 Vict., 14, 5.

41 Vict., 14, 6—13.

(324.) The Act contains various enactments of a business character relating to money matters, By-laws, etc. A schedule prescribes the maximum charges to be made for each person using a covered swimming bath. These charges are arranged in three classes respectively headed 8*d*., 4*d*., and 2*d*. each.

(9.) BORROWING POWERS.

A 233 & 244.

✠ (325.) Any LA, Joint Board, or Port Sanitary A (including the Local Board of Health of any Main Sewerage District, and any Joint Sewerage Board under any of the "Sanitary Acts") may, with the

(*a*) See the Cases under the head of "Bathing" in Part V. *post*.

(*b*) Has the Vestry lost the right of "adopting" the Baths and Wash-houses Acts? Apparently not.

sanction of LGB, for the purpose of defraying expenses incurred in the execution of the "Sanitary Acts" or A, borrow money or re-borrow in order to discharge existing loans.

(326.) In the case of an Urban A, the security is to be a mortgage of any Fund, or of all or any Rates out of which the A is authorised to defray expenses incurred in the execution of A. A 233.

✠ (327.) In the case of a Rural A, the security is to be the Common Fund, *or* the Rates, according as the money borrowed is for "general" or for "special" expenses. A 233.

✠ (328.) The exercise of this power is subject to the sanction of LGB and to other conditions as follows :— A 233-4.

(i.) The money must be expended only on permanent works, including under this expression any works of which the cost ought in the opinion of LGB to be spread over a term of years (*a*).

(ii.) The sum borrowed must not at any one time exceed in the whole, with the balances of all the outstanding loans contracted by the LA, under the "Sanitary Acts" and A the assessable value for 2 years of the premises assessable within the District in respect of which the money is to be borrowed (*b*).

(iii.) Where the sum proposed to be borrowed would with such balances (if any) exceed the assessable value for one year the sanction of LGB is not to be given until after a Local Inquiry and Report by an Inspector.

(iv.) The LA, with the sanction of LGB, determines the time for repayment, which is in no case to exceed 60 years. The repayment is to be either by equal annual instalments of principal, or of principal and interest, or by a sinking fund created by the purchase of Exchequer Bills or other Government Securities. But the moneys borrowed must be paid off within the period sanctioned.

(v.) A LA may at any time apply the whole or part of a Sinking Fund under A towards the discharge of the moneys, for the repayment of which the Fund has been established. But in such case a sum equivalent to the interest which would have been produced by the Sinking Fund (or part) so applied is to be paid into the fund each year, and accumulated until the whole moneys borrowed are discharged.

(vi.) Where money is borrowed to discharge a previous loan, the time for repayment is not to extend beyond the unexpired portion of the period for which the original loan was contracted, unless with the sanction of LGB, and shall in no case extend beyond 60 years from the date of the original loan.

(These extended powers apply also to Burial Grounds when they are in the hands of Improvement Commissioners appointed under any Local Act). 25 & 26 Vict., 100, 1. [Not Rural.]

✠ (329.) A LA is under no legal obligation to exercise the whole of its borrowing powers if it should eventually find that a smaller amount than that which has been sanctioned will suffice for its needs.

✠ (330.) It may here be noted that Income Tax is payable on the interest of money thus lent, and it is the duty of the LA to deduct the tax from the interest before handing it over, paying to the proper Revenue Officer the amount thus withheld. If the deduction is not duly made from time to time, and at the proper time, the LA may eventually have to pay the amount of the tax a second time.(*c*) See 5 & 6 Vict., 35, 102.

(*a*) A steam roller is within this provision (Croydon, *2nd Annual Report of* LGB, p. 342). Also costs in respect of Provisional Orders or incidental thereto (A 296). But no direct definition of the expression "permanent works" exists. The practice of LGB is to consider the probable duration of the works and fix the term accordingly. "For reservoirs of water, extensive sewerage works, the purchase of land, and the establishment of gas works, the Board sanction a long term of years, but for paving of streets, for the purchase of heavy engines or machinery, or the erection of slight buildings, a short term only is generally allowed." (Lumley). Loans are occasionally granted for the purchase of plant for street scavenging, including horses and carts, &c.

(*b*) This expression may be taken to mean the aggregate rateable value of the property assessable to the General District Rate, as shown by the Rate-Book which immediately precedes in date the application to LGB for permission to borrow. "Two years' assessable value" is twice this sum.

(*c*) Refer to 37 J. P., 61.

(331.) In calculating the term of a loan it is proper to start from the date on which the money is actually borrowed and not from the date when the sanction of LGB is given.

A 234. (332.) When an Urban A borrows money to defray private expenses, or expenses chargeable to only a part of its District, it must, as between the ratepayers of the District, make good so far as it can the money borrowed, as occasion requires, either out of Private Improvement Rates, or out of a rate levied in the part of the District.

(333.) Money borrowed for road-making is usually required by LGB to be repaid in 20 years.

A 242-4: See also 38 & 39 Vict., 89. ✠ (334.) The Public Works Loan Commissioners are empowered to make advances to a LA for the purposes of **A**. Repayment must be made within 50 years, as LGB may determine. The interest is to be 3½ per cent., unless the Treasury should determine that some other rate is necessary in order to obviate loss to the Imperial Exchequer.

2nd *Annual Report of* LGB 1872, p. xlviii. ✠ (335.) Under this enactment, the following scale has been settled between LGB and the Treasury :—

30 Years Loan	...	...	...	...	...	...	...	3½	per cent.
40 „ „	...	...	...	...	...	...	...	3¾	„
50 „ „	...	...	...	...	...	...	...	4	„

A 243 (1). ✠ (336.) In determining the time within which a loan under **A** shall be repayable, LGB is to have regard to the probable duration and continuing utility of the works in respect of which it is required. This section does not extend to any loan required for defraying

A 243 (2). expenses incurred by LGB in the performance of the duty of a defaulting LA after August 10, 1872.

A 243. ✠ (337.) The Public Works Loan Commissioners may reduce to 3½ per cent. the interest on loans made before August 10, 1872.

A 234 (6). ✠ (338.) Loans may for sufficient reasons be contracted to pay off existing loans, but to this latter power recourse should only be had in exceptional cases.

A 236 and 238, and Sch. IV. ✠ (339.) There are Statutory forms of mortgage deeds, and of transfers of mortgages.

A 237-8. ✠ (340.) Registers of the mortgages and transfers are to be kept. A Clerk who wilfully fails to make a Statutory entry in a Register is liable to a penalty of 20*l.* or less.

A 239: and see Sch. II. (2), 1-2. ✠ (341.) On default for 6 months in the payment of any principal or interest due under a mortgage, and after demand in writing, the mortgagee, &c., may apply to a Court of Summary Jurisdiction for the appointment of a Receiver, who will both make and collect Rates to pay off the money due. But it is a condition precedent to an application for the appointment of a Receiver being granted that at least 1000*l.* should be due to the applicant or joint applicants.

A 331. ✠ (342.) Special provision is made as to the validity of certain securities granted for a term less than the limited period of years, in cases where the Sanction or Provisional Order authorising them

specified repayment *within* such limited period of years. [This provision is only of temporary application.]

✠ (343.) In addition to the powers of raising money on security of the Rates, all LAs and Joint Boards which possess "any land, works, or other property," for the purposes of disposal of sewage, may mortgage such property up to *three-fourths* of its value, to procure advances of money, in addition to their general borrowing powers, on the condition, however, that the money so borrowed "shall be applied for purposes for which moneys may be borrowed under **A**." Mortgagees are not responsible for the application of their advances. A 235 & 244. A 235.

(344.) An elected Board of Improvement Commissioners acting as a LA and constituted a Burial Board may borrow money for Burial Ground purposes. 24 & 25 Vict., 90, 1-2.

✠ (345.) By the "Local Loans Act, 1875," additional facilities are granted to LAs for the raising of money. They may issue Debentures, Debenture Stock, or Annuity Certificates, by way of security for moneys advanced to them. 38 & 39 Vict., 83. 38 & 39 Vict., 83, 4.

✠ (346.) Any A having power to levy a rate for public local purposes leviable on the basis of an assessment in respect of property *may* resort to the Act. It is, therefore, available to every Urban and Rural Sanitary A, and *this notwithstanding any provision in any other Act of Parliament passed previously to the Act.* The Act came into force on January 1, 1876, and does not extend to Scotland or Ireland. 38 & 39 Vict., 83, 34. 38 & 39 Vict., 83, 31. 38 & 39 Vict., 83, 2-3.

✠ (347.) A LA shall be deemed to borrow subject to the provisions of the Act, whenever it raises a loan by the issue of Debentures or Debenture Stock or Annuity Certificates purporting to be created under the powers of the Act, or partly in one way and partly in the other, subject to the proviso that where a particular mode is prescribed, that and no other shall be adopted. 38 & 39 Vict., 83, 4.

✠ (348.) A Debenture is to take effect as a deed, and charge the local Rate or property specified therein with payment as in the Debenture mentioned of the principal and interest therein specified. Where a Debenture charges property other than the local Rate, and it is intended in default of payment of the principal and interest that the property is to be sold, this is to be stated. The principal sum may be made payable to bearer or to a person named, and his executors, &c. A Debenture in which the principal sum is made payable to bearer is to be transferable by delivery. A Debenture in which the principal sum is made payable to a person named therein and his executors, &c., is to be termed a "Nominal Debenture," and be transferable by writing in manner directed by the LA. There may be attached to a Debenture under the Act, or be thereafter issued in respect thereof, or partly in one way and partly in the other, Coupons making the interest therein mentioned payable to the bearer or to the person named or to his order; or the interest may be made payable to the owner of the Debenture or otherwise as mentioned therein. The Debentures are not to be issued for less than the prescribed sums; where no sum is prescribed, for less than 20*l.* 38 & 39 Vict., 83, 5.

38 & 39 Vict., 83, 6. ✠(349.) A LA duly empowered so to do may create and issue Debenture Stock under regulations and conditions for which reference must be made to the Act.

38 & 39 Vict., 83, 7. ✠(350.) Every Annuity Certificate is to take effect as a deed, and charge the local Rate or property therein specified with payment as in such certificate mentioned of the annual sum therein specified. The provisions as to sale of property charged, as to payees, and as to transfers, which are enacted in respect of Debentures, are applicable almost *verbatim* to annuity certificates. The minimum amount of an annuity certificate is to be 3*l.*

38 & 39 Vict., 83, 8. ✠(351.) All sums due or authorised to be raised on or in respect of any securities issued in respect of the same loan are to be paid without any preference. When issued in respect of several loans they are to take priority according to the dates of the loans. Moneys borrowed may, unless it is otherwise prescribed, be deemed to form one loan or several loans, as may be deemed most convenient by the borrowers, so that the aggregate amount authorised to be borrowed be not exceeded. The date of the commencement of each loan is to be fixed by the LA, and may be so fixed irrespectively of the dates of the particular securities issued in respect of the loan so that the period within which the loan is required to be discharged be not exceeded.

38 & 39 Vict., 83, 13. ✠(352.) Provision is to be made for the discharge within the prescribed period of every loan in respect of which securities have been issued; where no period is prescribed, the period is to be 20 years. The discharge of the loan is to be secured by the LA by one or more of the following methods :—

(1.) By the issue of Annuity Certificates limited to expire within the prescribed period ;

(2.) By the issue of Debentures in such manner as to make it obligatory on the LA to pay off an equal sum in each year of the prescribed period, or of some lesser period ;

(3.) By the annual appropriation of a fixed sum to the discharge of a certain portion of such loan ;

(4.) By the creation of a Sinking Fund, when such is prescribed, but not otherwise.

38 & 39 Vict., 83, 14. ✠(353.) When the discharge of a loan is to be effected by the appropriation of an annual sum, this is to be carried out under regulations which are detailed in the Act with great minuteness.

38 & 39 Vict., 83, 15. ✠(354.) Various regulations are prescribed with respect to Sinking Funds. The following are some of the more important :—

(1.) Such equal yearly and half-yearly sums are to be paid into the fund each year as, being accumulated at compound interest at the prescribed or sufficient rate per cent. per annum, will at the expiration of some period not longer than the prescribed period suffice to discharge the whole of the sum borrowed ;

(2.) The first payment is to be made within one year from the date of the loan ;

(3.) All moneys paid into the Sinking Fund and all accumulations thereof are to be invested by the LA in the prescribed manner, or if no manner is prescribed, or if a manner has been prescribed then, notwithstanding such prescription, but with the assent of LGS, in securities in which trustees are by law for the time being authorised to invest, or in Debentures, Debenture Stock, or Annuity Certificates issued under the Act [by the borrowing or by some other LA]. Any such investments may be from time to time varied and the dividends are to be invested in like securities ;

(4.) A LA is to apply the Sinking Fund to the purposes for which it was created and until the loan is wholly discharged to no other purpose ;

(5.) Provision is made for the selection of the Debentures, &c., which are to be paid off ;

(6.) Any surplus of a Sinking Fund remaining after the discharge of a loan is to be paid to some other Sinking Fund of the LA; or if no such fund exist, shall be disposed of as the LA may with the sanction of LGB think expedient;

(7.) Where any part of a Sinking Fund is invested in any securities of the LA, or is applied in paying off part of a loan before the prescribed period, the interest which would otherwise be payable on such securities or part of a loan shall be paid into the Sinking Fund and invested;

(8.) If the annual income of the Sinking Fund is not less than the annual interest payable on so much of the loan as remains undischarged, the equal annual sums required to be paid into the Sinking Fund may cease to be paid.

✠ (355.) Where a Sinking Fund is created, an annual return is to be made by the LA to LGB, in such form as may be prescribed by that Board, and verified as required, showing the amount which has been invested or applied for the purpose of such Sinking Fund during the year preceding the making of such return, and the description of the securities upon which any investment has been made, and also showing the purposes to which any portion of the Sinking Fund has been applied during the same period, and the total amount (if any) remaining invested at the close of the year. This return must be prepared and transmitted within 21 days after the expiration of each year. 38 & 39 Vict., 83, 16. 8th *Annual Report of* LGB, p. 93.

✠ (356.) In case a LA fails to comply with the provisions of the Act with respect to any Sinking Fund, LGB may order the payment into the Sinking Fund of a sum in respect of which default has been made. Such Order may be enforced by *Mandamus*. 38 & 39 Vict., 83, 16.

✠ (357.) In case of non-payment for 21 days by a LA of moneys due on securities under the Act, a remedy may be had by *Mandamus*, or by Action, or, instead of or in addition to Action, by the appointment of a Receiver. The smallest aggregate amount (whether in one sum or separate sums) to authorise the appointment of a Receiver is 500*l*. A Receiver may acquire the power to levy Rates. 38 & 39 Vict., 83, 11-12.

✠ (358.) A holder of securities is exempt from all responsibility with reference to the application of the moneys advanced. 38 & 39 Vict., 83, 10.

✠ (359.) Trustees or other persons authorised or directed to invest any moneys in the Debentures or Debenture Stock of any railway company, may unless the contrary is provided by the instrument authorising or directing such investment, invest such moneys in Nominal Debentures or Nominal Debenture Stock issued under the Act. 38 & 39 Vict., 83, 27.

✠ (360.) A notice of Trust is not receivable by a LA in relation to any security issued by such A under the Act. 38 & 39 Vict., 83, 9.

✠ (361.) There are various miscellaneous provisions calculated to facilitate the working of the Act, including power to make General Rules. A few such Rules are prescribed. 38 & 39 Vict., 83, 29-30, and Schs.

✠ (362.) Every Debenture, Stock Certificate to bearer, and Annuity Certificate is to be deemed well executed if under the common seal of the LA, where that A is a body corporate; and if signed by 2 or more members where the LA is not a body corporate, or if otherwise executed as LGB may on the application of *any* LA direct. 38 & 39 Vict., 83, 22.

✠ (363.) A register of securities under the Act is to be kept by the LA. This register may, under conditions, be inspected, and provision is made for its rectification. 38 & 39 Vict., 83, 23-5.

38 & 39 Vict., 83, 32. ✠ (364.) Debenture Stock is to be deemed to be capital stock of a body corporate, and any other security issued under the Act is to be considered a writing obligatory for the purposes of the "Forgery Act, 1861." Any Coupon "crossed" as a Banker's cheque might be is to be deemed a banker's cheque or draft.

24 & 25 Vict., 98.

38 & 39 Vict., 83, 34. ✠ (365.) For definitions of certain terms used in the "Local Loans Act" see the reference in the margin.

38 & 39 Vict., 83, 22. ✠ (366.) The Commissioners of Inland Revenue are, on the application of any LA, and on payment of such sum as may, with the sanction of the Treasury be agreed upon, to supply blank forms of Certificates, &c.

38 & 39 Vict., 83, 33. ✠ (367.) A LA, "on such indemnity being given as it may require, and on payment of the expense of the issue," must issue fresh securities to replace any that have been lost, mislaid, or destroyed.

38 & 39 Vict., 83, 17-19. ✠ (368.) Coupons in respect of any Debenture, or Stock Certificate to Bearer, may be issued comprising the Interest payable during the whole term of the Debenture, &c., or during any less period. At the expiration of any such less period fresh Coupons may be issued, or such Debenture, &c., may be exchanged for another with Coupons for a further period. The Act contains some other provisions respecting Coupons.

38 & 39 Vict., 83, 20-1. ✠ (369.) Stock Certificates to Bearer may under certain regulations be converted into Nominal Debenture Stock. A Trustee of Debenture Stock is not to hold a Stock Certificate to Bearer unless authorised to do so by his Trust. This provision affects the Trustee, but not the LA.

38 & 39 Vict., 83, 26. ✠ (370.) A very important Section deals with Loans under Official sanction. Any LA about to raise a Loan under the Act may apply to LGB to authorise the issue of "Securities under Official Sanction." Before granting such Sanction LGB is to require the LA to produce particulars of its financial condition, and the sanction of LGB is not to be given unless that Board is satisfied with the result of the Inquiries made. Securities under Official Sanction are to be authenticated by official stamps as LGB may direct. The sanction of LGB is to be conclusive evidence that the securities to which it relates are in conformity with the Act. The owner of any security issued under official sanction is on request by him to LGB to be furnished, in the case of a security charged on a Rate, with a statement of the rateable value of the property subject to the Rate; and in the case of a security charged on property, with a statement of the estimated value of such property; also, of the relative priority of the Loan in respect of which such security is issued, and of the other Loans (if any) of the LA.

38 & 39 Vict., 83, 28. ✠ (371.) The Public Works Loan Commissioners may, under conditions, accept securities under the Act as security for Loans made by them.

38 & 39 Vict., 83, 31. ✠ (372.) LAs may re-borrow in manner provided by the Act for the purpose of discharging their Loans, "provided that the time for repayment of any money so borrowed shall not be extended beyond the unexpired portion of the term for which the original loan was con-

tracted, unless with the sanction of LGB, and in no case shall be extended beyond the prescribed period."

✠ (373.) LGB is entrusted with certain powers of supervision over the disposal of loans obtained by LAs from the Public Works Loan Commissioners on the security of Rates. It may appoint an officer to institute an examination of the accounts of any A so borrowing, and provision is made for dealing with cases where there has been a misappropriation of moneys so borrowed. By an Order, which may be enforced by *Mandamus*, LGB may direct that moneys misapplied shall be made good by the As in default, and moneys unexpended and not required shall be repaid to the Loan Commissioners. 38 & 39 Vict., 89, 36; 41 Vict., 18, 4.

(10.) BUILDINGS.

(374.) An Urban A is constantly called upon to exercise control over buildings, especially over new buildings. But these matters depend as much upon By-Laws as upon Statutes. There is nothing in **A** to limit the expression "new building" to Dwelling-houses.

(375.) It has already been stated [see Paragraph 149, *ante*], what subjects are to be treated in By-Laws concerning buildings. Building By-Laws may prescribe conditions as to notices and the deposit of plans, &c. Work done in contravention of valid By-Laws may be altered or pulled down. No By-Law can affect buildings erected in any place before such place became constituted, or included in, an Urban District, or by virtue of any Order of LGB became subject to this enactment. A 157.

(376.) The re-erection of a building pulled down to, or below, the ground floor, or of any frame building of which only the frame-work is left down to the ground floor, or the conversion into a dwelling house of any building not originally such, or the conversion of one dwelling house into more than one, are severally to be considered cases of "the erection of a new building."[a] A 159.

(377.) When any house or building situated in any street in an Urban District, or the front thereof, has been taken down to be re-built or altered, an Urban A may prescribe a new building line, paying compensation for the loss or damage caused by the house, &c., being set back or forwards. The case of a temporary Church removed to make way for a permanent one, is within this provision, but the line must be prescribed before progress is made with the works. A Perpetual Curate in whom a site is vested[b] under 43 Geo. III., **108**, is an "owner" for the purpose of compensation. A 155: 10 & 11 Vict., 34, 58.

(378.) An existing building line is not to be encroached upon without the consent of the Urban A, but that consent may be given for the purpose of improving the line of a street. Penalty (continuing) for an encroachment, 2*l.* per day, or less, after written notice.[c] A 156 and 160 (2): 10 & 11 Vict., 34, 66.

(*a*) *Hobbs* v. *Dance.*

(*b*) *Folkestone Corporation* v. *Woodward.*

(*c*) But if the LA declines to move in the matter it does not appear that any one else can do so in virtue of A, not even an aggrieved adjacent owner. Private remedies remain available.

A 160 (3): 10 & 11 Vict., 34, 75-8.

(379.) Ruined or dangerous buildings are to be dealt with by an Urban A. In certain cases moneys expended by the A may be recovered by distress from the defaulting owner. If the owner cannot be found within the District, or sufficient distress cannot be made, the buildings may, after 28 days' notice, be taken and sold (compensation being made), or they may be pulled down, and the materials sold, the overplus (if any), accruing from the sale being restored to the owner, on demand. But notwithstanding the sale, the remedies for compelling payment of so much of the whole expense as is deficient, remain.

A 157.

(380.) Buildings belonging to a Railway Company and used for *Railway purposes* under any Act of Parliament are exempt from §§ 155-7 of **A**. This is a recent enactment. Be it observed that it does not grant to a Railway Company a general exemption from Building By-Laws.

(11.) BURIAL OF THE DEAD.

20 & 21 Vict., 81, 4.

(381.) Burials are regulated by a number of Statutes with which LAs have no direct concern, but it is necessary to refer to the matter because, by certain Statutes, Local Boards and Commissioners under Improvement Acts are authorised to be the Burial Authorities, and the economical advantages of this plan are self-evident.

20 & 21 Vict., 81, 4.

(382.) With reference to the circumstances under which powers conferred by the "Burial Acts" may be exercised by Urban As (not being Town Councils) the following information may be given :—(1.) By 20 & 21 Vict. **81** (amended as to expenses, &c., by 23 & 24 Vict. **64**) Her Majesty in Council acting on the petition of a Local Board or Improvement Commissioners may order that such Board or Commissioners be the Burial Board for their District. In such petition it must appear (*inter alia*) that the District of the Board or Commissioners is co-extensive with that of the proposed Burial Board.

A Sch. V. Part III.

(2.) Where the Burial Act 20 & 21 Vict. **81** is adopted by the Vestry of a Parish (*i.e.*, a place which has or might have a Poor Rate or an Overseer of its own) which is wholly comprised in the District of a Local Board, the Local Board may *at the option of the Vestry* be the Burial Board for such Parish. If however such Parish be a ward for the election of members of the Local Board, the members elected for such ward will be the Burial Board, and apparently as to this the Vestry has no option. In this latter way a Local Board, or the members elected for a ward, as the case may be, may become the Burial Board acting for an area not co-extensive with that of the Local Board, but comprised within it.

A Sch. V. Part III.

(383.) When the District of a Burial Board is included in, or is *conterminous* with, that of a Urban A, the former may, with certain consents, transfer its property to the latter.

(384.) It is to be noted that if a Parish has been divided into Ecclesiastical Districts, any one of which has a separate Burial Ground, the Vestry of the entire Parish cannot appoint a Burial Board without the approval of a Secretary of State. 23 & 24 Vict., 64, 4.

(385.) For other provisions the "Burial Acts" must be consulted.

(386.) The transfer, by virtue of the "Public Health Act, 1872," of the powers, &c., of any Local Board or Improvement Commissioners to an Urban Sanitary A includes all powers, &c., attached to such Local Board, &c., as a Burial Board under any General Act. A 310.

(387.) A LA may, and if required by LGB shall, provide a proper place for the reception of dead bodies. It may make the necessary arrangements for the interment of the same. By-Laws may be prescribed. A 141—3.

(388.) A LA may provide a place for the reception of dead bodies that are to undergo *post-mortem* examination; but this is *not*[a] to be at a Workhouse or at a Mortuary. Orders for the removal of a body may be made by a Coroner or other constituted authority. Regulations may be prescribed, and there is a provision as to expenses. A 143.

(389.) Any Urban A which is constituted a Burial Board is empowered to repair fences which surround a disused Burial Ground, and to make By-Laws for the Preservation and Regulation of all Burial Grounds within its limits. A Sch. V. Part III.

(390.) As regards the steps to be taken to bring about the closing of Burial Grounds for the protection of the Public Health see 16 & 17 Vict., **134**, 1—5; 18 & 19 Vict., **128**, 1—2.

✠ (391.) Parliament determined in 1879 by passing the "Public Health (Interments) Act," that the question of Burial Grounds should be dealt with as a sanitary matter. Accordingly, in cases where additional Burial Ground accommodation is found to be requisite, LAs may, and on the requisition of LGB, shall, establish cemeteries; and for this purpose, they are invested with the same powers as those which they have respecting Mortuaries, the provisions of the "Cemeteries Clauses Act, 1847," being superadded. 42 & 43 Vict., 31. 10 & 11 Vict., 65.

✠ (392.) By-Laws for the Regulation of any Cemetery thus established may be prescribed by the LA. A 141: read with 42 & 43 Vict., 31.

(12.) CANAL BOATS.

✠ (393.) The scandals arising in connection with canal boats and the scenes which occur in such boats have long been matters of notoriety, and the need that existed for the interference of Parliament has long ceased to be questioned.

(a) It seems to me that this is the meaning of what is enacted, but I have heard doubts expressed. However, in cases where no special place has been provided under A 143 doubtless use may be made of a Workhouse or of a Mortuary so far as, in any given instance, may seem necessary or expedient.

40 & 41 Vict., 60, 1. ✠ (394.) After the expiration of 12 months from the commencement of the "Canal Boats Act, 1877," a canal boat must not be used as a dwelling unless registered under the Act. The Registration As are such Sanitary As in England and Wales, having Districts abutting on the canal, as LGB may prescribe. If any canal boat is used as a dwelling in contravention of the Act, the master, and also the owner if he is in fault, will each be liable to a fine of 1*l.*, or less, for each occasion on which the boat is so used.

Ib. § 2. ✠ (395.) LGB is to make regulations for (1) the registration of canal boats, including fees in connection therewith; (2) the lettering, marking, and numbering of such boats; (3) fixing the number, age, and sex of the persons who may dwell in a canal boat, having regard to the cubic space, ventilation, provision for the separation of the sexes, and general healthiness and convenience of accommodation of the boat; (4) promoting cleanliness in boats; and (5) preventing the spread of infectious disease by boats.

Ib. § 3. ✠ (396.) On registering a boat, the Registration A is to give to the owner two certificates identifying the owner and the boat, and stating, amongst other things, the number, age, and sex of the persons allowed to dwell in the boat. Every registered boat is to be marked as such, by having on it the word "registered," and the name of the place of registry, and the registered number. A boat not duly marked, lettered and numbered, or with its mark, letter, or number altered, defaced, or obliterated, is to be deemed an unregistered boat.

Ib. § 4. ✠ (397.) Where any Sanitary A is informed that a person dwelling on a boat is suffering from an infectious disorder, the A is to take such steps as may by medical certificate appear requisite for preventing the said disorder from spreading.

Ib. § 4. ✠ (398.) The A may remove the patient, and may detain the boat, and is, moreover, invested with all the powers respecting infectious
A 120—30. diseases conferred by the "Public Health Act, 1875." But the detention of the boat is not to be for a longer time than is necessary for cleansing and disinfecting it.

40 & 41 Vict., 60, 5. ✠ (399.) Important powers of inspection are conferred on nominees of a Registration or Sanitary A, but it would seem that such nominees must be armed with a special warrant, for the person acting as inspector may be required to produce either a "copy of his authorisation" or "some other sufficient evidence of his being authorised" to inspect. The master of the boat must, if required, exhibit his Certificate, and permit it to be examined and copied. A penalty of 2*l.* or less is prescribed for obstructing an Inspector. "Obstructing" includes refusals to comply with such requirements.

Ib. §§ 6—7 and 12. ✠ (400.) The education of children dwelling on board canal boats is the subject of special provisions which are, however, foreign to the present purpose of explaining the Public Health features of the Act.

Ib. § 8. ✠ (401.) The expenses incurred by a LA are to be defrayed out of its ordinary fund; and in Rural Sanitary Districts are to be deemed

"general expenses." All Fees are to go to the fund or Rate of the Registration A.

✠ (402.) An order of LGB making, revoking, or varying any Regulation under the Act is not to come into force until it has lain for 40 days before both Houses of Parliament during a Session of Parliament. LGB is to take steps for enabling all persons interested in Regulations to obtain copies thereof on payment of a fee of 6*d.* or less. 40 & 41 Vict., 60, 9.

✠ (403.) Provision is made for the illegal detention of a Certificate by a Master of a Boat. Penalty for detaining a Certificate 2*l.*, or less. A person injured by the detention of a Certificate may receive any part of the fine. Ib. § 10.

✠ (404.) Offences under the Act are to be prosecuted and fines recovered under the "Summary Jurisdiction Acts." It is specified that the Act may be administered by Justices having jurisdiction either in the place to which the boat is registered to belong, or where the offence is committed, or where the alleged offender for the time being is, as the case may be. "Canal" includes any river, inland navigation, lake, or water within the body of a County, whether it is or is not within the ebb and flow of the tide. "Canal boat" means any vessel, however propelled, which is used for the conveyance of goods along a canal as defined in the Act, and which is not a ship registered under the "Merchant Shipping Acts." The Act came into operation on January 1, 1878, and does not extend to Scotland or Ireland. Ib. §§ 13—7. 11 & 12 Vict., 43: 42 & 43 Vict., 49.

(405.) Under date of March 20, 1878, LGB issued a very elaborate General Order in pursuance of the "Canal Boats Act, 1877." As this Order embraces *inter alia* various matters connected with overcrowding, ventilation and infectious diseases it deserves the careful attention of all LAs which have Canals running through their Districts. An explanatory letter was issued on July 22, 1878. The present state of the Law with respect to Canal Boats is not satisfactory the machinery for working the Act of 1877 not being adequate, or the Act itself sufficiently stringent. 8th Annual Report of LGB, pp. 18 and 41.

(13.) CELLARS.

✠ (406.) No cellars are to be occupied as dwellings unless they were in existence and lawfully so occupied at the time of the passing of **A**, and not even then unless certain conditions as to dimensions, light, drainage, private conveniences, ventilation, &c., are fulfilled. Penalty, 1*l.* per day or less. The Act applies to any vault, cellar, or underground room in which any person passes the night. A 71—4.

✠ (407.) Where 2 convictions against the provisions of any Act relating to the occupation of a cellar, &c., have occurred within 3 months a Court of Summary Jurisdiction may order the premises to be closed for a *time*, or may empower the LA to close them *permanently*. A 75.

(14.) CLOCKS (PUBLIC).

A 165: see also 10 & 11 Vict., 34, 143.

(408.) An Urban A may provide and maintain Public Clocks, and may illuminate the same by night.[a]

(15.) DITCHES, &c.

A 48.

✠ (409.) Where any Water-course or open Ditch lying near to, or forming the boundary between, two adjoining Districts is foul and offensive, a Justice of the District injuriously affected may on the application of the LA summon the adjoining (and defaulting) LA before a Court of Summary Jurisdiction, which may order the cleansing of the Water-course, or permanent or other structural works.

A 144. 5 & 6 Vict., 50, 67.

(410.) LAs fulfilling the duties of Surveyors of Highways may keep in order ditches lying near highways, even if on private lands,[b] making payment, however, for any damage that may be done. The amount payable is to be settled as in the case of damages for materials taken out of enclosed lands for Highway purposes. Turnpike Trustees possess similar powers over ditches.

3 Geo. IV., 126, 114.

(16.) FACTORIES AND WORKSHOPS.

41 Vict., 16, 3.

(411.) LAs have not much jurisdiction over these places, but by the "Factory Act, 1878," every factory and workshop is to be kept in a cleanly state and free from effluvia arising from any drain, privy, or other nuisance. A factory or workshop is not to be so overcrowded while work is carried on therein as to be injurious to the health of those employed therein, and it is to be ventilated in such a manner as to render harmless, so far as is practicable, all gases, vapours, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health. A factory or workshop in which there is a contravention of this requirement is to be deemed not kept in conformity with the "Factory Act, 1878." [See also **A** 38 and 91 (6).]

41 Vict., 16, 4.

(412.) Where it appears to a Factory Inspector that any act, neglect, or default in relation to any drain, watercloset, earthcloset, privy, ashpit, water supply, nuisance, or other matter in any factory or workshop is punishable or remediable under the law relating to Public Health, but not under the "Factory Act, 1878," that Inspector is to give notice in writing of such act, neglect, or default to the Sanitary A in whose district the factory or workshop is situate, and

(*a*) This does not seem to include any power of maintaining clocks not originally provided by the A, unless vested in the A by gift.

(*b*) *Tuthill* v. *West-Ham L. B.* illustrates the powers of LAs in dealing with ditches along the side of highways.

the Sanitary Ā must make such inquiry into the subject of the notice, and take such action thereon, as to that Ā may seem proper for the purpose of enforcing the law. A Factory Inspector may, for the purposes of this enactment, take with him into a factory or a workshop a Medical Officer of Health, Inspector of Nuisances, or other officer of the Sanitary Ā.

(17.) FIRES.

(413.) An Urban Ā is charged with certain duties with respect to fires, for which the "Towns Police Clauses Act, 1847," must be consulted. Briefly the points are as follows :— A 171 (2). 10 & 11 Vict., 89.

Power to have persons who set Chimneys on fire wilfully, fined 5*l.* or less. The offender is also liable to be indicted for felony. 10 & 11 Vict., 89, 30.

Power to have persons who negligently allow Chimneys to catch fire, fined 10*s.* or less. 10 & 11 Vict., 89, 31.

Fire-Engines and Appliances and Fire-men may be provided. The Fire-men may be paid, and rules may be prescribed for their guidance. 10 & 11 Vict., 89, 32.

And these may go out beyond the District, but in such cases charges are to be made by the Ā.(*a*) Disputes are to be settled by 2 Justices. 10 & 11 Vict., 89, 33.

(414.) The ordinary expenses relating to Fire-Engine matters fall on the General District Rate. A 207.

(415.) An Urban Ā is to cause Fire-plugs and appliances to be provided and maintained(*b*) ; and for this purpose may make agreements with Water Companies or any persons.(*c*) The situation of the plugs is to be made known by marks on the neighbouring buildings and walls. A 66.

(18.) FOOD (UNWHOLESOME).

✠ (416.) The Medical Officer or Inspector of Nuisances may at all reasonable times examine any articles of food (*of the kinds specified*) exposed for sale, or deposited in any place for sale, or for preparation for sale and intended for human food. Proof of intention rests with the party charged. If any such article of food appears diseased, unsound, unwholesome, or unfit for human food, the officer may cause the removal thereof that it may be dealt with by a Justice. **A** 253 does not operate to hinder the summary remedy provided by **A** 116. A 116.

✠ (417.) The kinds of food which may be dealt with are :—"Any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, A 116.

(*a*) See *Drighlington L. B* v. *Bower*, and *Lewis* v. *Arnold*.

(*b*) In the case of *Atkinson* v. *Newcastle Waterworks Co.*, compensation was held not recoverable against a Water Company for premises burnt down because its mains were not duly charged. This was under § 35 of the "Waterworks Clauses Act, 1847," which is not incorporated by **A**, though A 55 resembles it.

(*c*) A question has arisen whether under § 38 of the "Waterworks Clauses Act, 1847," a Water Company can insist on the privilege of providing and fixing (at the cost of the Urban Ā, § 40) the fire-plugs which the Urban Ā may deem requisite. The answer must probably be in the affirmative.

bread, flour, or milk;" and care must be taken that any article seized comes under some one or other of these heads. [This is less comprehensive than 10 Vict., **14**, 15, which is to the same effect, but that Act is only in force in a few, and those Urban, places.]

A 117. ✠ (418.) If satisfied that the article seized is diseased, &c., the Compare A 251. Justice must condemn it and order it to be destroyed, or so disposed of, as to prevent it from being exposed for sale or used as food. The owner of the article, or of the premises on which it was found, may be fined 20*l.* for "every animal, carcase, or fish, or piece of meat, flesh, fish, or any poultry or game, or for the parcel of fruit, vegetables, corn, bread, flour, or for the milk so condemned." Or he may be imprisoned for 3 months without the option of a fine. The Justice who convicts need not be the Justice who condemned the article
A 118. seized. Penalty for obstructing, &c., an officer, 5*l.* or less.

A 119. ✠ (419.) On complaint, on oath, by an officer of a 𝔏𝔄 that there is reason for believing that unsound, &c., food is concealed in any building, a Justice may grant a search warrant, and authorise the removal of the suspected articles. Penalty for obstructing a search, or a removal, 20*l.* or less, additional to the main penalty.

✠ (420.) It is doubtful whether food can be seized *after* it has been sold.

41 & 42 Vict., 74. (421.) The "Contagious Diseases (Animals) Act, 1878," is an important Statute having some relation to Public Health matters generally, but the Government Department which supervises its execution is the Privy Council and not 𝔏𝔊𝔅.

41 & 42 Vict., 74, 34, 37—45. (422.) The milk supply may, if needs be, be placed under very strict supervision; and certain 𝔄𝔰 may be invested with powers for the establishment of landing places for foreign cattle.

41 & 42 Vict., 74, 46—9. (423.) Ample provision is made for the raising of money to defray the necessary expenses of working the Act.

(19.) GAS SUPPLY.

A 161, and compare 10 Vict., 15, 13; 10 & 11 Vict., 34, 119-20, and 34 & 35 Vict., 41, 24-7. (424.) Any Urban 𝔄 may contract with any person for the lighting by gas or otherwise of the streets, markets and public buildings in its District, and may provide the necessary appliances.

A 161. (425.) Subject to certain conditions as to non-interference with existing Gas Companies, &c., any Urban 𝔄 may establish and carry on Gas Works for their district, obtaining their powers in that behalf under the "Gas and Water Works Facilities Act, 1870," but the Provisional Order will require the sanction of 𝔏𝔊𝔅, and not that of the Board of Trade.[a]

(*a*) In A 161 certain words are used, upon which a question arises; 'What is a Gas Company "authorised by any Act of Parliament?"' 'Is it only a company armed with a special Act, or does it include a Company formed under the "Companies Acts, 1862 to 1877?"' Probably the former only.

(426.) An Urban 𝔄 may, with the sanction of 𝔏𝔊𝔅, buy up existing Gas Works. [See "Purchase of Lands and Undertakings," *post.*] A 162

(427.) All the powers conferred by the old "Lighting and Watching Act" (3 & 4 Will. IV., **90**,) devolve on an Urban 𝔄 as soon as one is established, and the ownership of all Lamps, Lamp-posts, Gas-pipes, Fire-Engines, Hose, &c., which previously belonged to the Lighting Inspectors, becomes vested in the said 𝔄. A 163.

(428.) An Urban 𝔄 may compel the lighting of private streets. A 150.

(429.) An Urban 𝔄 may, after notice in writing, alter the position of Gas-pipes in streets, if necessary. Certain conditions are imposed. A 153.

(430.) A 𝔏𝔄, when managing Water or Gas Works, may supply, either gratuitously, or on favourable terms, Water and Gas to Public Baths and Wash-houses, and to Lodging-houses erected under the Act 14 & 15 Vict., **34**. A 65; 9 & 10 Vict., **74**, 28; 14 & 15 Vict., **34**, 39.

(431.) Under the "Gas and Water Works Facilities Act, 1870," the consent of the 𝔏𝔄 is needed before Gas or Water Powers can be obtained by Undertakers by a Board of Trade Provisional Order. 33 & 34 Vict., **70**, 4, and Sch. A.: this Act has been amended by 36 & 37 Vict., **89**.

(20.) HACKNEY CARRIAGES, &c.

(432.) An Urban 𝔄 controls all Hackney Carriages publicly plying for hire within its District. A 171 (4); 10 & 11 Vict., **89**.

(433.) But in Local Board Districts within the Metropolitan Police District there are special provisions in force. See 6 & 7 Vict., **86**; 16 & 17 Vict., **33** and **127**; 23 & 24 Vict., **113**; 32 & 33 Vict., **115**.

(434.) The provisions with respect to this matter are derived almost exclusively from the "Towns Police Clauses Act, 1847." The following is an outline of them :— 10 & 11 Vict., **89**.

Hackney Carriages to be Licensed.	§ 37.
Definition of Hackney Carriages.	§ 38.
License Fee not to exceed 5*s*.	§ 39.
Persons applying for Licenses to do so in writing.	§ 40.
What is to be specified in the Licenses.	§ 41.
Licenses to be registered.	§ 42.
Licenses to be in force for one year only.	§ 43.
Proprietors to give notice if they change their abode.	§ 44.
Penalty for plying for hire (*a*) without a license, 2*l*. or less.	§ 45.
Drivers not to act without being Licensed; License fee 1*s*.	§ 46.
Penalty on Drivers acting without a License, 1*l*. or less.	§ 47.
Proprietor to hold the License of his drivers; procedure before Justices, as to Licenses.	§ 48.
Proprietor to return License to Drivers when they quit his service.	§ 49.
Licenses may be suspended or revoked for misconduct.	§ 50.
Every Hackney Carriage to have painted on it the number of the persons which it is designed to carry.	§ 51.
Various miscellaneous provisions.	§ 52-67.
The 𝔏𝔄 may make By-Laws to regulate the hire of Carriages, &c.	§ 68.

(*a*) A vehicle when on a Railway Company's premises is not "plying for hire" within the meaning of this section. (See the Cases in Part V. *post*: Title "Hackney Carriages."

A 171. (435.) Licenses to drivers are to terminate at the Annual Licensing Meeting next after the day on which they are issued.[a]

A 172. (436.) Any Urban A may license the proprietors, drivers, and conductors of horses, ponies, mules, or asses, plying for hire within the District, in like manner and with like incidents and consequences, so far as applicable, as in the case of proprietors, &c., of Hackney Carriages. By-Laws may be prescribed as to various matters.

A 172. (437.) Any Urban A may license the proprietors and boatmen, &c., of Pleasure Boats.[b] By-Laws may be prescribed as to various matters.

(21.) HIGHWAYS AND STREETS.

A 157. (438.) An Urban A may regulate by By-Laws the level, width, construction and sewerage of new streets.

A 154: 160 (2): 10 & 11 Vict., 34, 67. (439.) An Urban A may purchase premises for improving streets,[c] or with the sanction of LGB, may purchase premises for new streets. [See "Purchase of Lands and Undertakings," *post.*]

A 144. (440.) An Urban A has the exclusive control of all Public Highways (not being Turnpike roads) within its District. It takes the 5 & 6 Will. IV., 50, 69. place of the Parish Vestry[d] for the purposes of the "Highway Act, 1835," and may deal with encroachments. An Urban Surveyor or other person appointed by the A may perform ministerial acts appertaining to a Surveyor of Highways. By the "Highways and 41 & 42 Vict., 77, 14. Locomotives Amendment Act, 1878" a share of the expenses of repairing certain highways, namely, disturnpiked roads thrown upon Urban As, may be recovered from the County A.

28 & 29 Vict., 107, 2. 3 Geo. IV., 126, 118 and 124. (441.) An Urban A has power to remove encroachments, &c., on a road which has been a Turnpike road, but which at any time subsequent to July 5, 1865, may have become an ordinary highway. Penalty for an encroachment, 2*l.* The penalty and the expenses of restorations may be recovered by distress, from the offender.

A 146. (442.) An Urban A may agree for the making of roads by private parties, such roads thereafter to be repaired by the public. And by a vote of *two-thirds* of the whole number of members, may agree to share the expense of making such roads. It may also make terms for

A 147. the adoption, maintenance, or construction of bridges, &c., and by a vote of *two-thirds* of the whole number of members it may agree to pay part of the expense of making or altering such bridges. More-

A 148. over an Urban A may enter into agreements respecting Turnpike and private roads, and county bridges. That is to say, such A may under certain conditions agree with Turnpike Trustees, or persons liable for the repair of streets or roads, or County Bridge Surveyors, to assume

(*a*) This is doubtless the meaning of the Act, but the language is less precise than it might have been.

(*b*) Doubtless it is not intended that this enactment should extend to steamers, for these are sufficiently controlled by the Board of Trade.

(*c*) *I.e.*, Provided they are highways repairable by the public at large. An Urban A has no power to widen or improve a private street.

(*d*) As to this point a question has arisen when is alluded to *post*, in connection with Highway Rates.

the duty of maintaining, repairing, cleansing, or watering any such streets or roads, or road over a County Bridge, and may remove or replace Toll-gates, &c., on agreed terms. Personal representatives of persons interested in Tolls may join in such agreements.

(443.) Where a Gas, Water, Telegraph (G.P.O.), or Tramway Company desires to break up highways under the control of a LA, it can only (save on emergencies) do so after notice. It is the duty of such Company to repair the temporary damage which it have caused, and its liability does not cease when such repairs are finished ;[a] for Gas and Water Companies must keep the road, &c., in "good repair" for 3 months, and for 12 months are liable for any subsequent damage caused by subsidence.[b] In the case of Telegraph and Tramway Companies the conditions are slightly different. They are to "pay all reasonable expenses . . . for 6 months."

10 Vict., 15, 8—12. 10 Vict., 17, 30—4. 26 & 27 Vict., 112, 17—21. 33 & 34 Vict., 78, 27.

(444.) An Urban A has the management of all streets within its District, being highways "repairable by the inhabitants at large," and is to provide for their being kept in repair.[c] Persons wilfully displacing, &c., pavements, stones, materials, fences, posts, or trees in streets are subject to penalties ; namely 5*l.* or less for every offence, and 5*s.* for every square foot of surface injured. An action for personal injury owing to non-repair, does not lie against a LA.[d] Improvements must not be made in a way calculated to cause unnecessary injury to owners.[e]

A 149.

See A 4 for definition of "street."

(445.) No vault, arch, or cellar is to be constructed under the carriageway[f] of any street without the consent, in writing, of the Urban A. Penalty 5*l.*, and 2*l.* per day ; and the A may alter or deal with the work.

A 26.

(446.) Where a street (not being a highway) is not sewered, levelled, paved, metalled, flagged, channelled, made good, or lighted[g] to the satisfaction of the Urban A such A may serve notices[h] on the adjacent owners or occupiers requiring them to make good the street in the

A 150.

(*a*) See *London & Blackwall Railway Co.* v. *Limehouse B. W.*

(*b*) Refer to *Hyams* v. *Webster*.

(*c*) In connection with the repair of highways troublesome questions often arise as to the rights and duties of Highway As of all kinds as to the repair of Public Footpaths which traverse private lands. It may well be doubted whether as a rule such As are sufficiently active in exercising the powers which they possess over footpaths which are often more extensive than either they or the public are aware of. Where the duty to repair attaches to landowners vigilance should be shown in keeping them up to the due performance thereof. If the footways are highways repairable by the inhabitants at large the duty of repairing falls on the Local Board where there is one, but the repairs must be executed subject to the reservations (if any) originally made by the adjacent owners. (See *Arnold* v. *Blaker*).

(*d*) See *Gibson* v. *Preston, Mayor*.

(*e*) *Milward* v. *Redditch L. B.* In this case a Mandatory Injunction was granted.

(*f*) Note the use of this word. The prohibition does not seem to apply to works under a mere footway.

(*g*) If none of these works have been executed in a particular street the A would not be justified in taking over the street, but it is not essential that *all* should be executed. The view usually taken is that if the A is satisfied that such of the works named as are desirable have been performed then the street may be adopted. Even when a street is adopted after having been renovated in such particulars as the LA at the time deemed necessary, the LA may demand of the owners, it is presumed, additional new works when the time arrives for such new works to be wanted. For instance, when a footpath is kerbed and channelled, some years may elapse before it needs to be paved : when it does the LA may call upon owners to pave it.

(*h*) If a notice is not proved to have been given, the Board cannot recover the expenses (*Jarrow L. B.* v. *Kennedy*.)

particulars specified, or any of them.[a] If the requirements of the A are not complied with, it may itself execute the necessary works and charge the owners in default, in proportion to their frontages. This enactment also applies to any street, a portion of which in width is already repairable by the public, by reason of its being a public footpath.[b] The notice, it will be observed, is to be given to owners or occupiers, but the owners only are held liable for the expenses, which may be recovered summarily, or may be declared to be "Private Improvement Expenses."[c]

A 213-15.

A 150. (447.) Before serving notices calling upon parties to pave, &c., private streets, plans and sections, according to scales specified, and an estimate showing how the works are to be carried out, are to be deposited at the office of the A, open to inspection. Objections may be taken by parties interested, and disputes are to be settled by arbitration.[d] Apportionments cannot be questioned after 3 months.

A 257.

A 152. (448.) When a private street, not being a highway, is paved, &c., to the satisfaction of the Urban A, it may be adopted as a highway, but a sole owner or a majority of owners may object.[e]

A 151: 3 & 4 Will. IV., 30, 1. (449.) The Incumbent of any Church or Chapel, or the Minister of any place of Public Worship, which is now by law exempt from Poor Rates, is also exempt from the liability attaching to "owners" or "occupiers" under the provisions just set forth. This exemption extends to Churchyards and Burial Grounds, but not in all cases to lands which may be appurtenant to such buildings, nor to a School-house and school Dwellings[f] in the hands of Trustees. The Urban A may undertake the burdens of which certain properties are thus relieved.

A 153. (450.) An Urban A has power to require reasonable alterations to be made (at the public expense) in the position of gas and water pipes, &c., and in default of this being done by the Proprietors on request, it may execute the works itself. The user of the pipes must not be permanently injured. Liabilities under Local Acts are not affected.

A 160 (1): 10 & 11 Vict., 34, 64-5. (451.) An Urban A must name streets and number houses.[g] The occupiers are to affix the numbers and renew them from time to time. Penalty for defacing numbers or names, or putting up any different ones, or not renewing, 2*l.* or less.

(*a*) Where a street is one newly-laid out and all the building plots are not yet occupied, the A is not bound to delay action till they are. The notices are addressed to owners, &c., of "premises," and by A 4 "premises" includes "lands."

(*b*) Where a road comprises 2 or more Terraces in succession, separately named and numbered, it may nevertheless have to be treated in many cases as one street for the purposes of A 150.

(*c*) A is silent on the important point whether when a street has been dealt with under § 150 any legal duty rests on the LA to take over the street and to deem it thenceforward to be a public Highway. That there is an equitable duty to do so cannot be doubted. There is no judicial decision on the point.

(*d*) Refer to *Cook* v. *Ipswich L. B. H.*

(*e*) This is a convenient place to mention that when such a course seems reasonable LGB will authorise the borrowing of money for the improvement of a *private* street.

(*f*) *Bowditch* v. *Wakefield L. B. H.*

(*g*) This means simply 'indicate what shall be the numbers.' The right to name a street and number a house seems to imply a right on the part of the Urban A to change a name and a number even in cases where both have originally been prescribed by the Urban A.

(452.) An Urban 𝔄 has power to order, after 14 days' notice, the removal or alteration of any projection from a house or building which obstructs the safe and convenient use of a street, which projection has been erected since the adoption of the "Local Government Acts." Penalty for default, 2*l.* or less. On default, the 𝔄 may remove the obstruction and recover the expenses from the occupier in default. If such projection were lawfully erected before the constitution of the District, the removal can only be accomplished after 30 days' notice, and moreover compensation is payable. An occupier is entitled to deduct from rent, expenses saddled on him for the removal of obstructions not put up by him.

A 160 (2): 10 & 11 Vict., 34, 69-70.

See the def. in A Sch. V.

(453.) An Urban 𝔄 has power to order, after 8 days' notice, that all doors, &c., which open upon any street shall not open outwards, except (and by leave of the 𝔄) in the case of public buildings. Penalty for default, 2*l.* or less. On default, the 𝔄 may make the alteration and recover the expenses from the occupier in default. In the case of doors, &c., in existence at the time of the adoption of the Acts, the alteration may be made by the 𝔄 at the public expense.

A 160 (2): 10 & 11 Vict., 34, 71-2.

(454.) Street openings to vaults or cellars are to be properly covered in. Penalty for default, 5*l.* or less.

A 160 (2): 10 & 11 Vict., 34, 73.

(455.) Every building in or near any street is to be provided with a proper water-shoot. Penalty for default, 2*l.* per day or less.

A 160 (2): 10 & 11 Vict., 34, 74.

(456.) Bars or chains, protected at night by lights, are to be erected across streets whilst repairs are in progress. Penalty for interfering with such bars or lights, 5*l.* or less.

A 160 (4): 10 & 11 Vict., 34, 79.

(457.) During the repairs, &c., of houses, hoardings are to be put up to the satisfaction of the 𝔄. The safety and convenience of foot-passengers is to be considered, and lights are to be provided at night. Penalty for default, 5*l.* or less, and 2*l.* per day or less.

A 160 (4): 10 & 11 Vict., 34, 80.

(458.) Deposits of building materials, &c., or excavations in a street, are to be securely fenced, and, by night, lighted. Penalty for default, 5*l.* or less, and 2*l.* per day or less.

A 160 (4): 10 & 11 Vict., 34, 81.

(459.) Keeping a deposit of materials, &c., lying about, or an excavation open, for an unnecessary time, subjects the offender to a penalty of 5*l.* or less, and 2*l.* per day or less.

A 160 (4): 10 & 11 Vict., 34, 82.

(460.) An 𝔄 is to take note of any building, hole, or other place dangerous to passers by, and is to cause the same to be suitably protected. The expenses may be recovered from the owner in default. Similarly, it may erect and maintain fences and posts for the protection of foot-passengers.

A 160 (4): 10 & 11 Vict., 34, 83.

A 149.

(22.) LEGAL PROCEEDINGS.

✠ (461.) A 𝔏𝔄 appears before any Court, or in any legal proceeding, by its Clerk, or by any officer or member empowered generally, or by a resolution of such Authority, so to appear.

A 259: 31 & 32 Vict., 130, 37.

A 260. ✠ (462.) In any proceeding by or against a LA, it is not necessary for the plaintiff to prove the corporate name of the LA or the constitution or limits of the district. But this does not deprive a defendant of any right of which he might have availed himself if A had not been passed.

A 7. (463.) Every Local Board, and any Improvement Commissioners being an Urban A and not otherwise incorporated, is a body corporate with perpetual succession and a common seal and with power to sue and to be sued in its corporate name and capacity, and to hold lands for the purposes of A without any license in Mortmain. As in existence at the passing of A retain their old designations; new As take the names sanctioned by LGB.[a]

And see A 326.

A 266; see also 38 & 39 Vict., 36, 24-5, and 28. ✠ (464.) Any Notice, Order, or other such document under A may be in writing or print, or partly in writing and partly in print. If it requires authentication, it will be sufficient if signed by the Clerk, Surveyor, or Inspector of Nuisances.[b]

A 267; see 8 Vict. 18, 134. ✠ (465.) The service of Notices may be considered as dealt with in A 267. From this it may be collected that Notices to a LA may be served by post, directed to the Board or its Clerk, at its Office, or they may be delivered to the Clerk in person.

A 267; and see 31 & 32 Vict., 130, 15-17. ✠ (466.) Notices, Orders, and other documents under A may be served by delivery of them to, or at the residence of, the person addressed, or where addressed to an owner or occupier the service may be by delivery either of the original or of a true copy to some person on the premises; if there be no person who can be so served the service may be accomplished by fixing the Notice, &c., on some conspicuous part of the premises. Or the service may be effected by Post, in which case the Notice, &c., is to be deemed to have been served at the time when the letter containing the same would have been delivered in the ordinary course of Post. Proof of posting with the proper address will be proof of service. It suffices if the notice, &c., be addressed simply "To the Owner," or "To the Occupier," of the premises (naming them).

Also A 220.

A 160. (467.) Notices, &c., served under §§ 69, 70, 71, 73, and 74, of the "Towns Improvement Act," may at the option of the A be served on Owners instead of Occupiers, or on Owners as well as Occupiers. Occupiers may deduct from rent (as in the case of Private Improvement Expenses) a proportion of any payments which they may make in virtue of this provision. The LA when dealing with the Owners directly, will recover from such Owners in the ordinary way.

10 & 11 Vict., 34.

✠ (468.) Consents of a LA should in all cases be in writing, but it may be said generally that the acts of a LA do not require to be under seal unless it is intended to authenticate the acts of others.[c]

(*a*) It may be mentioned here that LGB has advised that it suffices if Local Authorities be designated by their simple corporate names without any such additions as "acting as the Local Board of Health" or "acting as the Urban Sanitary Authority," both of which supplementary titles are frequently met with. Moreover the use of the term "Local *Government* Board" when some Local Board is meant, is both improper and misleading.

(*b*) Though the practice is a common and convenient one to print an officer's signature it seems somewhat doubtful whether a notice required in the course of legal proceedings under A can be deemed duly authenticated if it only bears a printed signature.

(*c*) See *Barnsley L. B.* v. *Sedgwick.*

✠ (469.) No Rate, Order, Conviction, or thing is to be vacated, quashed, or set aside for want of form, or to be removeable by *Certiorari* or other writ or process into any Superior Court, unless the contrary is expressly provided by **A**. But this enactment is not to prevent the removal of any Case stated for the opinion of a Superior Court, or of any Rate, Order, Conviction or thing to which such Special Case relates. A 262. See also 42 & 43 Vict., 49, 33.

✠ (470.) No Justice is incapable of acting at Sessions in respect of matters arising out of **A** merely because he is interested by reason of being a member of a 𝔏𝔄 or a ratepayer.[a] A 258: 30 & 31 Vict., 115: 34 & 35 Vict., 41, 46.

(471.) By the "Judicial Proceedings (Rating) Act, 1877," the principle of this is made applicable to Her Majesty's Judges. 40 Vict., 11.

✠ (472.) The course of procedure before Justices with respect to matters directed to be dealt with in a summary manner, will be found by aid of the references in the margin. The "Summary Jurisdiction Acts" now apply generally to **A**. [See Par. 489, *post.*] A 251-52, 256: and see also 104. 11 & 12 Vict., 43; 42 & 43 Vict., 49.

(473.) Any judicial act which "two Justices" may do, may be done by *one* Stipendiary Magistrate. See 21 & 22 Vict., 73, 1.

✠ (474.) The time within which summary proceedings for the recovery of "Private Improvement Expenses" must be taken, is to be reckoned from the date of service of notice of demand. A 257; and see A 232.

✠ (475.) Expenses in the nature of Private Improvement Expenses, including expenses specifically so designated, are recoverable with interest from any person who is for the time being owner of the premises concerned. And they are a charge on the premises.[b] Apportionments can only be questioned within 3 months. The 6 months, within which proceedings to recover must be taken, run from the date of a demand made after the expiry of the aforesaid 3 months.[c] A 257. A 252.

✠ (476.) If a *bonâ fide* question of title arises the summary jurisdiction of Justices is ousted: this has always been held as a maxim when the title to property is in question. In the case of a nuisance the parties must resort to their remedy by Indictment or by applying for an Injunction.[d]

✠ (477.) Proceedings for the recovery of demands below 50*l.*, if recoverable in a summary manner, may, at the option of the 𝔏𝔄, be taken in the County Court. [When, however, resort is had to the County Court, the limitation of time for procedure is regulated by the statutes of limitation applying to Actions for debt.[e] So that the lapse of more than 6 months would not necessarily be a good defence.] A 261.

✠ (478.) Proceedings for the recovery of any penalty under **A** shall not, except[f] as is expressly provided, be taken by any person other A 253.

(*a*) But if an Officer, for instance, or Treasurer or a M. O. of Health is also a Justice he certainly should not adjudicate in prosecutions instituted by his Board. The cases decided in the Superior Courts on this subject are not altogether as consistent with one another as they might be. See them in Part V. "Digest of Cases," (*post*), Title "Legal Proceedings (7) Justices," especially the case of *Reg.* v. *Weymouth, JJ.*

(*b*) But as no provision is made for realising a charge which may be thus created this enactment do not appear to be of much practical value.

(*c*) See *Jacomb* v. *Dodgson; Grece* v. *Hunt.*

(*d*) 37 J. P., 366.

(*e*) See 37 J. P., 701.

(*f*) This exception was not in the old Act and therefore the value of the decision in the case of *Boyce* v. *Higgins* is impaired.

than "a party aggrieved,"[a] or the LA of the district in which the offence is committed, except with the written consent of the Attorney-General. But in certain cases connected with noxious Trades and buildings, &c., proceedings may be taken by the LA of a district other than that in which the offence was committed, the consent of the Attorney-General being in such a case dispensed with.

A 115.

A 108 and 115. ✠ (479.) Any act or default causing a nuisance within the District of a LA shall, except as hereinafter stated, be deemed to be committed within the District of such A, but proceedings before a Court of Summary Jurisdiction must take place only within the district where the default happens.

A 254. ✠ (480.) Where the application of a penalty is not otherwise provided for, *one-half* shall go to the informer and the remainder to the LA. If the LA is the informer, it will take the whole penalty, which will go into the General Fund.

A 316. ✠ (481.) Penalties incurred under any Act incorporated by **A** are to be recovered and applied as penalties incurred under **A**.

A 340: and see A 111. ✠ (482.) In a District where there is in force a Local Act providing for purposes the same as or similar to those of **A**, proceedings may be instituted under either the Local Act or **A**, or under both, but no person may be punished for the same offence under both Acts.

A 223 : Sch. I. (1) 10. ✠ (483.) Books purporting to contain any Rate or assessment made under **A** or any Minute; and copies of any Orders or Resolutions, are respectively to be received as *primâ facie* evidence of the validity of such Rates, Minutes, Orders, and Resolutions, and are to be taken to be what they profess to be unless the contrary be shown.

A 186. ✠ (484.) By-Laws must be proved in evidence by the production of a copy signed by the Clerk, and certified by him to be a true copy and to have been duly confirmed. But this does not apply to Borough By-Laws. These depend on another Statute.

36 & 37 Vict., 33.

A 263. ✠ (485.) False evidence given wilfully and corruptly at any examination, after the witness has taken an oath, or made an affirmation, subjects the offender to the penalties attaching to wilful and corrupt perjury.

A 255. ✠ (486.) Where proceedings are to be taken against several persons for one joint nuisance, they may be included in one complaint. Any Order in such a case may be made upon one or more of the persons so included, so far as the nuisance appears to the Court to be caused by his or their acts or default, notwithstanding that it may not be practicable to determine the precise extent to which each may contribute to the nuisance. The Costs may be distributed as the Court deems reasonable. Proceedings thus taken against several persons jointly are not to abate because of the death of one of them. In proceedings as to nuisances it suffices to designate "Owners" and "Occupiers" by those terms respectively. Persons against whom proceedings are

(*a*) The earlier decisions of the Courts on the meaning of the expression "a party aggrieved," were such as to render proceedings by private individuals most hazardous. (See the cases of *Boyce* v. *Higgins* and *Hollis* v. *Marshall*, but *Verdin* v. *Wray* has placed the matter on a far better footing.)

taken may recover contribution from others if otherwise legally entitled to do so.

A 317: and Sch. IV. See the General Index (post), Title, "Forms."

✠ (487.) Various forms to be used in legal processes are prescribed.

✠ (488.) Where any person feels aggrieved by any Rate, or by any Order, Conviction, Judgment, or determination, an appeal lies to the Quarter Sessions, and thence, if the Court of Quarter Sessions thinks fit, to a Superior Court. There may be an appeal against a conviction in respect of a Rate, as well as against the Rate itself.[a] A 269.

✠ (489.) The "Summary Jurisdiction Acts," apply to the recovery of penalties under **A**, but subject to the restrictions contained in 42 & 43 Vict., **49**, 6. These restrictions in effect limit the remedy to Distress (See § 35), unless there is wilful default in payment, when the defendant may be committed. [See Par. 472, *ante*.] A 251: and see A 4: 31 & 32 Vict., 130, 38.

✠ (490.) There are special provisions with respect to proceedings against Collectors of Rates, and against ratepayers in arrear. A 196 and 256.

✠ (491.) The "6 months" within which proceedings must be taken for the recovery of a General District Rate seem to run from the expiration of 14 days after a Rate has been lawfully demanded in writing, and therefore after the expiration of such 6 months a Rate becomes irrecoverable, but the point is not free from doubt. See A 256.

(492.) For information concerning legal proceedings under the "Baths and Wash-houses Acts," the "Labouring Classes Lodging Houses Acts," and the "Artizans and Labourers' Dwellings Acts," see the references in the margin, but probably all summary proceedings under these Acts should now be deemed to be regulated by **A**. 9 & 10 Vict., 74, 30 and 40: 14 & 15 Vict., 34, 41: 31 & 32 Vict., 130, 9: 42 & 43 Vict., 64, 23.

(493.) For penalties for miscellaneous offences as to which no particular provision is made in any General or Local Act, reference must be made to the penalty clauses of the "Railways Clauses Consolidation Act, 1845," which are rendered available for the purpose by § 210 of the "Towns Improvement Clauses Act, 1847," in all Urban Districts where that Act is in force in its entirety. 8 Vict., 20. 10 & 11 Vict., 34.

✠ (494.) In the case of damage to the property of a LA, &c., if the element of wilfulness is wanting it would seem that the only remedy is by civil action for the amount of the injury.

(495.) Certain As[b] may expend funds which are under their control in promoting or opposing Bills in Parliament, but before this enactment becomes operative various consents have to be obtained, and the conditions generally in regard to this are very stringent. Amongst other things there must be a public meeting of Ratepayers. As to whether this must be held within the limits of the district the Act is silent. Perhaps a meeting held within a reasonable distance beyond the limits for the lack of a suitable place within the District would not necessarily be void. 35 & 36 Vict., 91

(*a*) See *Ricardo* v. *Maidenhead L.B.*

(*b*) The words in 35 & 36 Vict., 91, § 1., "embrace every Sanitary Authority" (Lumley). This view seems to have been doubted by the Court of Referees of the House of Commons in 1873, at the hearing of the *Wrexham and East Denbighshire Water Bill.* (1 Cliff. and Rick., 59.)

(496.) Where the Chairman of a meeting of a Board of Commissioners, not in terms required to appoint a permanent Chairman, signs a petition to Parliament on any subject relating to a private Bill the petition must contain an allegation that he was authorised to sign such petition.[a]

(23.) LIBRARIES AND MUSEUMS.

18 & 19 Vict. 70, 4-5: 29 & 30 Vict., 114: 34 & 35 Vict., 71, 1. 40 & 41 Vict., 54, 1—3.

(497.) Town Councils, Improvement Commissioners and Local Boards are empowered to excute the Acts relating to Public Libraries and Museums.[b] The opinions of the Ratepayers of a place on the question of adopting the Acts may now be ascertained by Voting-papers as an alternative to the public meeting hitherto requisite. Ratepayers in filling up their Voting-papers may stipulate for an assessment lower than the statutory maximum.

(24.) LODGING HOUSES (COMMON).

A 76-7. ✠ (498.) Every LA is to keep a Register of all Common Lodging Houses within its District, and of the number of lodgers authorised to be received in each,[c] and of the names and residences of the Keepers thereof. No person may keep such a house until the statutory regulations have been complied with. But in the case of the death of the Registered Keeper his widow or any member of his family may for 4 weeks keep the house without being registered.

A 78. ✠ (499.) A house is not to be registered[d] until it has been inspected and approved by some officer of the LA. The LA may refuse to register as the Keeper of a Common Lodging House a person who does not produce a certificate of character, signed by 3 inhabitant Householders rated at not less than 6*l.* each.

A 76. ✠ (500.) A certified extract from a Register is to be received in evidence, and such an extract is to be furnished gratis.

A 83. ✠ (501.) A LA may require Keepers of Common Lodging Houses who take in beggars or vagrants to make returns of inmates on Schedules furnished by the A.

A 80 and 182, &c. ✠ (502.) A LA may make By-laws as to Lodging Houses.

(*a*) *Swansea Harbour Bill*, Session 1874. 1 Cliff. and Rick., 117.

(*b*) See my *Digest of the Law relating to Public Libraries and Museums and Literary and Scientific Institutions generally*. 8*vo*. Lond. 1879. (Stevens & Sons.)

(*c*) By-Laws as to the reception of inmates in Common Lodging Houses often prescribe an allowance of so many cubic feet for each inmate. It becomes an important question whether in calculating the available space deductions are to be made for space blocked up by bulky articles of furniture such as chests of Drawers and Bed-steads. These effectively reduce the air space in rooms and should, it seems, be taken into account in some way.

(*d*) No fee can be exacted by the LA for doing this.

✠ (503.) A Common Lodging House is to be open at all times to any officer of the 𝔏𝔄 who visits the house to inspect it. Penalty for refusing to admit an officer, 5*l.* or less. A 85.

✠ (504.) A 𝔏𝔄 may, by notice in writing, require the Keeper of every Registered Common Lodging House to affix and keep undefaced and legible, on some conspicuous place on the outside of the house, the words "Registered Common Lodging House." Penalty for default, 5*l.* or less, and 10*s.* per day after conviction. A 79.

✠ (505.) The Keeper of a Common Lodging House is to lime-wash Walls and Ceilings in the 1st weeks of April and October in every year. Penalty for default, 2*l.* or less. A 82.

✠ (506.) The Keeper of a Common Lodging House is to give immediate notice to the Medical Officer of Health, and also to the Relieving Officer, when a case of fever or of any infectious disease occurs in his house. A 84.

✠ (507.) A 𝔏𝔄, on being satisfied that a Common Lodging House is without a proper supply of water and that such a supply may be had at a reasonable rate, may require an additional supply to be furnished to such house; if the Owner or Keeper neglects to comply with the notice of the 𝔏𝔄 the said house may be removed from the Register until the notice is complied with. A 81.

✠ (508.) For offences by the Keeper of a Common Lodging House penalties are prescribed of 5*l.* or less, and for continuing offences, of 2*l.* per day or less. The following are enumerated as offences:— A 86.

(1.) Receiving a lodger in an unregistered house.

(2.) Failing to make a report of lodgers, though furnished with the necessary forms.

(3.) Failing to give notices as to infectious disease. [But unless the patient has been *confined to his bed* it does not appear that the Lodging House Keeper will be liable for default as to this matter!]

✠ (509.) A Keeper of a Common Lodging House convicted of a *third* offence against **A**, *may be* debarred for 5 years from keeping such a house. A 88.

✠ (510.) As it is a common trick for persons to pretend that they belong to the same family, in order to evade the law respecting Common Lodging Houses, it is provided that the burden of proving such a statement shall rest on those who make it. A 87.

✠ (511.) The expression "Common Lodging House" includes a part of a house. A 89.

(512.) The "Towns Improvement Clauses Act, 1847," thus defines a "*Public* Lodging House:"—"Every house shall be deemed a Public Lodging House within the meaning of this Act in which persons are lodged for hire for a single night or for less than a week at one time, or any part of which is let for any term less than a week." [This Section is not incorporated by **A**, and therefore is only in force in a limited number of Urban Districts, but it is cited here as it may be useful in determining what is a "Common Lodging House" under **A**.] 10 & 11 Vict., 34, 116.

(25.) LODGING HOUSES (ORDINARY).

A 90. ✠ (513.) LGB may, by notice in the *London Gazette*, empower any LA to make By-Laws applicable to houses let in lodgings, which yet are not *Common* Lodging Houses. The points which these By-Laws may embrace are as follows :—

(1.) Number of inmates : separation of sexes.
(2.) Registration of the houses.
(3.) Inspection of the houses.
(4.) Drainage and privy accommodation ; cleanliness and ventilation.
(5.) Cleansing and lime-whiting at stated times ; paving of courts and court-yards.
(6.) Notices and precautions connected with infectious disease.

(26.) MARKETS.

A 166-7, and Sch. III. (514.) An Urban A being a Local Board or Improvement Commissioners, with the consent of the Owners and Ratepayers expressed by resolution at a meeting convened as prescribed, and a Town Council with the consent of *two-thirds* of their number, may provide within its District a Market Place, and other conveniences for holding Markets.

10 Vict., 14. And to facilitate this, § § 12—16 and 21—49 of the "Markets and Fairs Clauses Act, 1847," are partly incorporated.(a) By-Laws may be made.

A 166 : 10 Vict., 14, 13. (515.) When an Urban A establishes a Market, it acquires by so doing exclusive rights.(b) Existing exclusive private rights must not be prejudiced ; so that if such rights exist the Urban A cannot set up a Market of its own without the consent of the parties whose rights

A 167. will be affected. All Tolls must be sanctioned by LGB.

A 168. (516.) An Urban A may buy up an existing Market. [See "Purchase of Lands and Undertakings," *post.*]

41 & 42 Vict., 74. (517.) The "Contagious Diseases (Animals) Act, 1878," invests certain Urban As, described in Schedule II. of the Act, with powers which have some bearing on Public Health matters. These powers are however of a very special character and seem not to require detailed treatment here.

(27.) MEDICAL POWERS.

A 142. ✠ (518.) In certain cases of death by infectious disease a Justice may order the removal of a dead body to a mortuary. Penalty for obstructing the execution of an order, 5*l.* or less.

(*a*) The 27 Hen. VI. 5, amended by 13 & 14 Vict. 23, prohibits Markets on Sundays, Ascension Day, Corpus Christi Day, Assumption Day, All Saints Day, and Good Friday. These prohibitions are still Law, but the later Act has been repealed by the "Statute Law Revision Act, 1875."

(*b*) See *Ashworth* v. *Heyworth*. What amounts to an infringement of "Market Rights" is discussed at length in *Fearon* v. *Mitchell*. A licensed hawker or pedlar under the "Pedlar's Act, 1871" (34 & 35 Vict. 96, § 6) is exempt from the penalties of the "Markets and Fairs Clauses Act, 1847." (*Howard* v. *Lupton*).

✠ (519.) Any LA may provide (by building or hiring, &c.) a Hospital, or a temporary place for the reception of the sick, and may, with the sanction of LGB, make provision for the supply of Medicine and Medical Assistance for the Poor. Two or more As may combine. A 131 and 133.

✠ (520.) The "Poor Law Act, 1879," contains some provisions of importance to facilitate the user of hospitals and other buildings belonging to Guardians of the Poor as general infectious hospitals. If it appear to the Guardians of any Union desirable that any hospital or building vested in them as Guardians should be vested in them as the Rural Sanitary A for the reception of persons suffering from any dangerous infectious disorder, the Guardians may, by resolution, to be confirmed by an Order of LGB, transfer such hospital, &c., accordingly; and from and after the date named in the Order, such hospital, &c., shall be deemed to be vested in the Guardians as the Rural Sanitary A, for the use of the inhabitants of the Union or part thereof named in the resolution and Order. If the same is to be for the use of the inhabitants of any part of the Union comprised in an Urban Sanitary District, the Order may determine the contribution to be made by the Urban Sanitary A towards the maintenance of the hospital, &c. Where an Urban Sanitary District comprises part of the Union, and the hospital or building transferred is not to be for the use of the inhabitants of that part, the Order may determine the value of the interest of that part of the Union in such hospital or building, and the manner in which such value is to be paid to that part by the residue of the Union for whose use the hospital or building is to be kept, and the application of the sum so paid. 42 & 43 Vict., 54, 14.

✠ (521.) Any expenses incurred by a LA in maintaining in a Hospital, &c., a patient who is not a pauper may be recovered from him within 6 months, or from his estate. A 132.

✠ (522.) Any LA may provide a place, and apparatus at that place, for the disinfection of bedding, clothing, or other articles; and a carriage for the conveyance of infected persons.[a] A 122-3.

✠ (523.) Any LA may order the destruction of infected bedding, clothing, &c., and give compensation. There is nothing to restrict the payment of compensation to paupers only; any person may claim it whose bedding is destroyed under the directions of a LA. A 121.

✠ (524.) A LA is empowered, on receiving a Certificate from its Medical Officer of Health or from any legally qualified [*i.e.* registered] Medical Practitioner, to call upon the owner or occupier of a house to cleanse and disinfect the same, or any part thereof, or any articles therein likely to retain infection, within a specified time. Penalty (continuing), not less than 1*s.* and not exceeding 10*s.* per day. On default the LA must do the work and may recover the expenses in a summary manner from the owner or occupier in default. Or in case of poverty, or other sufficient cause, it may, with his consent, do the work at the public expense. A 120.

(*a*) It seems not open to doubt that a LA may, if it pleases, charge for the disinfecting, and also for the use of the carriage.

A 124. ✠ (525) A Justice may, on the Certificate of a legally qualified [*i.e.* registered] Medical Practitioner, direct the removal,[a] at the cost of the LA, of a person suffering from any dangerous infectious disorder to a suitable Hospital, &c., within the District of the LA, or within a convenient distance, if the Hospital Managers consent. It is specified that this provision is intended to meet the case of a patient who is without proper lodging or accommodation,[b] or is lodged in a room occupied by more than one family, or is on board a ship, or is in a Common Lodging House; but in this last-named case the LA makes the Order.

A 124. ✠ (526.) An Order under A 124 shall be addressed to such constable or officer of the LA as the Justice or LA making it may think expedient. Penalty for disobeying or obstructing the execution of an Order, 10*l.* or less.

A 125 and 188. ✠ (527.) Persons who are landed from ships while suffering from dangerous infectious disorders, are the subject of further provisions. A LA may make regulations (which must be sanctioned by LGB) for the removal of such persons to any Hospital to which such A is entitled to remove patients, and for keeping them there so long as may be necessary. Regulations may impose penalties of 2*l.* or less, for each offence.

A 126. ✠ (528.) Persons suffering from dangerous infectious disorders who wilfully expose themselves without proper precaution against spreading the same, in any street, public place, shop, inn, or public conveyance, or who enter any public conveyance without previously informing the owner, conductor, or driver, of their state (and those in charge of[c] persons so suffering), are liable to a penalty of 5*l.* or less. The same penalty also applies to persons giving, lending, selling, transmitting, or exposing infected bedding, clothing, rags, or other things which have not been disinfected. But the penalty does not apply where the transmission is "with proper precautions" to a place where disinfecting is to be performed.

A 126. ✠ (529.) The person suffering as aforesaid who enters a public conveyance without previously notifying to the owner or driver the fact that he is so suffering, shall also in addition make compensation to the owner or driver.

A 127. ✠ (530.) Every owner or driver of a public conveyance shall immediately provide for its disinfection after it has to his knowledge conveyed any person suffering from a dangerous infectious disorder. Penalty, 5*l.* or less. An owner asked to convey a patient may insist on being paid beforehand his probable expenses under this section.

A 128. ✠ (531.) Any person (including an Innkeeper) who lets for hire any house, room, or part of a house, in which there has been any person suffering from a dangerous infectious disorder, without the same, and all articles therein likely to retain infection, having been disinfected to

(*a*) It does not appear essential that this Order should be made at a Petty Sessions.

(*b*) This is a very vague expression.

(*c*) The want of an authoritative interpretation of this expression is oftentimes a source of great embarrassment. Reference may be made to the case of *Tunbridge Wells L. B.* v. *Bisshopp.*

the satisfaction of a qualified [*i.e.*, registered] Medical Practitioner, as testified by a Certificate, is liable to a penalty of 20*l.* or less.[a]

✠ (532.) Any person who lets for hire, or shows for the purpose of letting for hire, a house or part of a house, who, if questioned as to there having been at any time within 6 weeks a person in the house suffering from any dangerous infectious disorder, knowingly makes a false answer, is liable to a fine of 20*l.* or less, or to imprisonment with or without hard labour for *one* month or less. A 129.

✠ (533.) During the prevalence of an epidemic it will often be a very desirable thing that Public Elementary Schools should be closed. A recommendation to this effect proceeding from a LA, or a Medical Officer, is usually acted upon; however, if it is not acted upon it cannot be enforced.

✠ (534.) Whenever any part of England is threatened to be, or is, affected by any formidable epidemic,[b] &c., LGB may by Order published in the *London Gazette*, put into force certain Regulations. An Order will last for such time as is specified therein. The LA of the District is to carry out its provisions. LGB may direct 2 or more As to act jointly. It may, by subsequent Order, abridge or extend the period of the Order, or alter or revoke the same. A 134 7. A 139.

✠ (535.) The Regulations issued as aforesaid may embrace all or any of the following purposes. A 134.

(1.) The speedy interment of the dead;

(2.) House to house visitation;

(3.) The provision of Medical Aid and accommodation, for the promotion of cleansing, ventilation, and disinfection, and for guarding against the spread of disease.

✠ (536.) An Order may apply to vessels whether on Inland waters or on arms of the sea lying within the jurisdiction of the Admiralty. Provision is made for the fees of Medical Men attending persons on board ship. A 134. A 138.

✠ (537.) Provision is made respecting power of entry; violation of regulations; obstruction of officers, &c.; and penalties. A 137 and 140.

(538.) By the "Customs Law Consolidation Act, 1876," it is provided that Her Majesty in Council or any 2 Lords of the Privy Council may by Order forbid persons to land from Ships coming to the United Kingdom from any place abroad where it is apprehended that yellow fever or other highly infectious distemper prevails, until after an examination as to the health of the passengers and crew of such ships, and permission to land has been given. Penalty for quitting a vessel, 100*l.*, or less. A person in charge of a vessel must hoist such signal as the Order may direct. Penalty for default, 100*l.*, or less. 39 & 40 Vict., 36, 234.

(*a*) Refer to *Best* v. *Staff*.

(*b*) The several classes of infectious disease have been thus defined:—"*epidemic*, that is diseases that are not native diseases, but which arise from a general cause, as excessive heat, and are generally prevalent: *endemic*, that is, diseases peculiar to the inhabitants of the country, or which prevail locally, as from Marsh Miasma, when they are called natives diseases: and *contagious*, that is, diseases which are propagated from one individual to another, generally by contact, as distinguished from infection, which is the propagation of disease by effluvia from patients crowded together."—Hoblyn's *Medical Dictionary*.

(28.) NUISANCES.[a]

A 92. ✠ (539.) It is the duty of every LA to make from time to time an inspection of its District with the view of ascertaining what Nuisances
A 95 and 102. exist calling for abatement, and of enforcing their abatement. A Justice, on complaint on oath made after notice of an intention to make the same, may make an Order to permit entry for purposes of inspection, or with a view to proceedings, in cases where admission has been refused.

A 101. ✠ (540.) Any matter or thing removed by a LA as a nuisance may be sold by Auction. The surplus, after paying expenses, is to be handed on demand to the owner.

A 91. ✠ (541.) For a full account of all that is included under the name of "nuisances," reference must be made to **A**, but a concise summary may be given here :—

Any premises in such a state as to be a nuisance or injurious to health.

Any ditch, &c., privy, &c., that is so foul or in such a state as to be a nuisance or injurious to health.

Any animal so kept as to be a nuisance or injurious to health.

Any accumulation or deposit which is a nuisance or injurious to health.

Any house or part of a house so over-crowded as to be dangerous or injurious to the health of the inmates, whether of the same family or not.

See 41 Vict., 16, 101. Any factory, &c., not kept clean and properly ventilated, or so over-crowded as to be dangerous or injurious to the health of those employed.

Any furnace, &c., not consuming as far as practicable its own smoke, and used for working engines, &c., for trade purposes.

Any chimney (not of a private dwelling house) sending forth black smoke so as to be a nuisance.

There are of course exceptions and provisoes, but for these **A** must
41 Vict., 16, 101. be consulted, as no summary of them can well be framed. **A** 91 does not apply to any Factory or Workshop which is subject to the "Factory and Workshop Act, 1878," but it does apply to every other Factory, Workshop, or Workplace.

A 47. Compare 10 & 11 Vict., 89, 28. (542.) Any person in an Urban District keeping pigs in a Dwelling House, or so as to be a nuisance, or allowing stagnant water to remain in a cellar or place within a Dwelling House for 24 hours after written notice from the A to remove the same ; and any person allowing a water-closet, &c., to overflow and soak away, is liable for every offence to a penalty of 2*l.* or less, and 5*s.* per day or less. The A must abate the nuisance, and may recover the expenses from the occupier.

A 91. ✠ (543.) Any accumulation or deposit which is connected with a manufacture, and which is proved not to have been kept longer than is necessary for the purposes of such manufacture, and to have been protected by the best available means, is exempt.

A 111. ✠ (544.) The provisions of **A** as to nuisances are to be deemed additional and do not abridge or affect other rights or remedies, but no person is to be punished for the same offence under **A** and under some other enactment. And to the like effect **A** 341.

(*a*) Reference may be made to the dictum of Lush, J. in *Brown* v. *Bussell*. And see *Rex* v. *White*, and *Great Western Railway Co.* v. *Bishop*.

✠ (545.) Information of a nuisance may be given to the LA by (i.) any person aggrieved; (ii.) *two* inhabitant householders; (iii.) any officer of the LA; (iv.) the Relieving officer; or by (v.) any constable or police officer. A 93.

✠ (546.) Having received information of a nuisance, the LA is to make inquiries. If satisfied of the existence of a nuisance it is to serve a Notice on the person by whose act, default, or sufferance the nuisance arises or continues. If such person cannot be found, the owner or occupier is to be served. The Notice is to require the abatement of the nuisance within a specified time, and the execution of such works and the doing of such things as may be necessary. Should any question of structural alterations arise, or should there be no occupier, the Notice is to be served on the owner. A 94.

✠ (547.) If the person on whom the Notice is served makes default in compliance, or if the nuisance, although abated, is in the opinion of the LA likely to recur, complaint is to be made to a Justice who is to summon the person on whom the Notice was served. A 95.

✠ (548.) If the Court is satisfied that the alleged nuisance exists, or is likely to recur, the Court is to make an Order on the person served to comply with all or any of the requisitions of the Notice, or otherwise to abate the nuisance, or to do any works necessary; or an Order prohibiting the recurrence of the nuisance and directing the execution of works necessary to prevent recurrence, or an Order for both abatement and prohibition. The Court may by its Order impose a penalty of 5*l.*, or less, on the person on whom the Order is made, and is also to give directions as to the Costs. A 96.

✠ (549.) If in the judgment of the Court a house or building is rendered unfit for human habitation by reason of the existence of a certain nuisance, the Court may prohibit the house, &c., being used until the cause of unfitness as aforesaid has been removed. Subsequently the Court may determine its first Order by another declaring the house habitable. Neglect to obey an Order involves a penalty of 10*s.* per day or less. If the neglect is wilful the penalty may be 1*l.* per day. Moreover the LA may do the work and recover the expenses in a summary manner from the person on whom the Order was made. A 97. A 98.

✠ (550.) Any person on whom an Order has been made may appeal to the Quarter Sessions. Thereupon the Order becomes suspended. A 99 and 269.

✠ (551.) If the author of a nuisance, or the owner or occupier of the premises, is not known or cannot be found, the Order of the Court may be addressed to and executed by the LA. A 100.

✠ (552.) Where a nuisance is caused by a person who cannot be found, and the owner or occupier is clearly not responsible, the LA may abate the same at the public expense. A 94 (2).

✠ (553.) Where a nuisance within the District of a LA appears to be wholly or partially caused without the District, proceedings may nevertheless be taken, subject to the proviso that summary proceedings are A 108.

not to be taken otherwise than before a Court having jurisdiction in the
42 & 43 Vict., 49, 46. District where the default is alleged to arise, such Court however now has jurisdiction to a distance of 500 yards beyond its own boundary.

A 105. ✠ (554.) Moreover, complaint of a nuisance may be made to a Justice by (i.) any person aggrieved, (ii.) any inhabitant of the District, or (iii.) any owner of premises within the District, and thereupon proceedings may be had as if the LA were the complaining party. But the Court may adjourn the hearing of the Summons in order that the premises may be examined by a constable or other person. The Court may authorise any constable or other person to enter and examine and do all necessary acts, and to recover the expenses. The powers and duties of a constable or other person acting under this section are assimilated to those of an officer of a LA.

A 102. ✠ (555.) For the purpose of examining as to the existence of a nuisance a LA or an officer may enter, under conditions, &c., set forth. The entry must be between 9 a.m. and 6 p.m., except that in the case of a nuisance arising from a business, it may be at any hour when the business is in progress or is usually carried on.

A 102. ✠ (556.) If admission for the purposes of **A** 102 be refused, a Justice may by Order compel the person having the custody of the premises to admit the LA, or its officer, or if no such person can be found the Justice may authorise entry [by force, it would seem]. A Justice's Order for admission continues in force until the nuisance has been abated or the work for which entry was necessary has been done.

A 103. ✠ (557.) Any person refusing to obey a Justice's Order to admit a LA or its officer is liable to a penalty of 5*l.* or less.

A 104. ✠ (558.) Ample provision is made as to Costs and expenses incurred in respect of proceedings for the removal of nuisances. These will in general be chargeable on the person on whom the Order is made. If, however, the Order is made on the LA, or if no Order is made, but the existence of the alleged nuisance is proved, then the person in default will have to pay the Costs. Costs in the case of nuisances caused by an owner may be recovered from the owner for the time being. No Costs and expenses are to exceed one whole year's rack-rent of the premises. Costs may be recovered in a summary manner, or in any County or Superior Court. The Court may apportion expenses amongst persons in default. Costs and expenses to which an owner is liable may be recovered by a LA from the occupier, who may deduct the amount from his next payment of rent. No occupier is to be required thus to pay more than the amount of rent for the time being due, unless he refuses to disclose truly the amount of his rent and the name and address of the person to whom it is payable. Nothing in the Section is to affect any existing contract between landlord and tenant, by which the occupier has agreed to discharge all dues, &c., on the property.

A 4. ✠ (559.) "Owner" is defined in **A** 4. A lessee for 21 years who sub-lets, and not the Freeholder, &c., may be the "owner" for the purposes of this enactment if his sub-tenant is the author of the nuisance.[a]

(*a*) *Cook* v. *Montague*. And see the various cases mentioned under A 4 in Part II., *post*.

✠ (560.) An occupier who prevents an owner from carrying into effect any provisions of **A**, and who has been ordered by a Justice to permit the necessary works to be executed, is liable to a penalty of 5*l.* or less per day. Refusal (without good cause) on the part of an occupier to disclose an owner's name and address, and wilful neglect and mis-statement subject the offender to a penalty of 5*l.* or less. A 306.

✠ (561.) Where a 𝔏𝔄 neglects its duties as to nuisances, 𝔏𝔊𝔅 can interfere and set the law in motion through an officer of police; such officer may recover from the 𝔏𝔄 such expenses as are not paid by the person proceeded against. But no officer of police may enter a dwelling-house without the occupier's consent, except with a Justice's warrant.[a] A 106.

✠ (562.) On receipt of a certificate from the Medical Officer of Health, or from 2 medical practitioners, that a house is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, or that cleansing, &c., would tend to prevent or check infectious disease, the 𝔏𝔄 shall, by written notice to the owner or occupier, require that the house or part thereof be white-washed, cleansed, or purified, as the case may require. Penalty for default, 10*s.* per day or less; or the 𝔏𝔄 may do the work itself and charge the person in default. A 46.

✠ (563.) If, in the opinion of a 𝔏𝔄, summary proceedings would afford an inadequate remedy for a nuisance, it may cause proceedings to be taken in any Superior Court. The expenses are to be defrayed out of the General Fund or Rate. A 107.

✠ (564.) As regards nuisances arising on board ships see Paragraph 593 (*post*).

(29.) OBSTRUCTIONS, &c., IN STREETS.

(565.) Certain of the powers of the "Towns Police Clauses Act, 1847," are conferred on Urban 𝔄𝔖, and may be exercised by them in the usual way.[b] A 171; 10 & 11 Vict., 89.

(566.) These powers (all of which involve penalties) may thus be concisely exhibited :—

Power to make orders for preventing obstructions in streets during Public Processions, &c., and in the neighbourhood of Theatres and other places of public resort.	10 & 11 Vict., 89, 21.
Power to regulate the route of Vehicles during Divine Service on Sundays and certain other days. Orders are to be posted up.	10 & 11 Vict., 89, 22.
Power to authorise Proprietors of Stage Coaches to deviate by order from their licensed route with immunity from penalty.	10 & 11 Vict., 89, 23.
Power to provide a Pound, to impound and sell Stray Cattle, and to prosecute persons guilty of Pound-breach. ["Cattle" includes horses, asses, mules, sheep, goats and swine.]	10 & 11 Vict., 89, 24-7. 10 & 11 Vict., 89, 3.
Power to prosecute persons committing various offences(*c*) in a street, such as exhibiting, &c., animals, &c., ; suffering ferocious dogs to be at large ; slaughtering cattle ;	10 & 11 Vict., 89, 28.

(*a*) See *A. G.* v. *Gee*; and 37 J. P., 654.

(*b*) In Local Board Districts the Police *quâ Police* do not appear to have the right to prosecute for offences against the "Towns Police Clauses Act." They should report the offenders with the view of action being taken by the Local Board under A 253 and 259.

(*c*) It is doubtful whether the common but very objectionable game of "Tip-cat" is within this enactment. Perhaps § 72 of the "Highway Act, 1835," would reach that game.

improperly or furiously driving carts ; letting carts stand unattended in a street ; improperly drawing timber, &c,; riding or driving on a footway ; obstructing streets with furniture or goods ; exposing themselves indecently ; distributing obscene books (see also 20 & 21 Vict., 83) ; singing obscene songs ; using profane language; discharging fire-arms and fire-works (see also 23 & 24 Vict., 139, 9) ; wilfully or wantonly ringing or knocking at any door ; flying kites ; making slides ; beating carpets, &c., (except door mats before 8 a.m.) ; placing in windows heavy articles liable to fall ; throwing anything from a building (except snow with care) ; permitting servants to stand on window sills ; leaving cellars open ; throwing down litter (except on account of frost or illness) ; keeping pigstyes or pigs so as to be a nuisance.

10 & 11 Vict., 89, 29. Power to have drunken and riotous persons fined. [But there are also other important Statutes dealing with these offenders, with which Statutes, however, Urban As have nothing to do. Section 29 of the "Towns Police Clauses Act" is however still operative in all Urban Districts, and therefore proceedings may be taken under that Section, but they must be in accordance with the restrictions in A 253, as to which see *post*.]

38 & 39 Vict., 17, 80. ✠ (567.) Persons who "throw, cast, or fire any fire-works in or into any highway, street, thoroughfare or public place" are liable to a penalty of 5*l*. or less, or imprisonment for *one* month or less.

5 & 6 Will. IV., 50, 72. (568.) The "Highway Act, 1835," contains some provisions relating to nuisances and obstructions on highways which may occasionally be found useful by Urban As. And see the "Railways Clauses Act, 1863," with respect to the obstruction of highways by trains standing at, or being shunted over, Level crossings.

26 & 27 Vict., 92, 5.

(30.) OFFENSIVE TRADES OR MANUFACTURES.

A 112-13. (569.) An Urban A can control the establishment for the first time within its District of any offensive trade.[a] Some such are mentioned in **A** in the form following; namely :—Blood-boiler, bone-boiler, fellmonger, soap-boiler, tallow-boiler, tripe-boiler, and any other noxious or offensive trade, business or manufacture. Penalty on offenders, 50*l*. or less, and there may be a continuing penalty of 2*l*. per day or less, whether there has or has not been a conviction in respect of the establishment thereof. By-Laws may be made. Proceedings for the offence of "establishing" a noxious trade within **A** 112 must be commenced within 6 months of the commencement of the trade.

A 252.

A 114. (570.) With respect to existing candle-houses, melting-houses, melting-places, soap-houses, slaughter-houses, buildings or places for boiling offal or blood, or for boiling, burning or crushing bones, or any manufactory, &c., used for any trade, &c., causing effluvia, the law can only be put in motion with a repressive object by an Urban A on its receiving a certificate signed by (i) the Medical Officer of Health, or (ii) any *two* legally qualified Medical Practitioners, or a Requisition

(*a*) As regards the interpretation to be put on this enactment, reference should be made to the case of *Wanstead L. B.* v. *Hill*, and especially to the observations of Willes, J., thereon. The question whether A 112 (originally the 64th section of the "Public Health Act, 1848") applies to a place where noxious materials are simply deposited for sale, as distinguished from a place where they are manufactured, does not seem to have been judicially decided. Probably, however, the enactment does so apply. (Refer to an Opinion in 37 J. P., 350, and the recent case of *General Ice Well Co.* v. *Clerkenwell Vestry* throws some light upon the point.) Brick-making is not necessarily an offensive trade, and the question whether it is a nuisance must depend upon circumstances, for no general rule as to distance can be laid down. (*Cleve* v. *Mahany*; but *Smith* v. *Taylor* seems more explicit.)

signed by (iii) *ten* inhabitants [not necessarily ratepayers or males], calling attention to a particular establishment as being a nuisance. On receipt of such memorial, the Urban 𝔄 must direct complaint to be made to a Justice, who is to summon before a Court of Summary Jurisdiction the proprietor, &c., of the establishment of which complaint is made. The Court may convict if it appears that the trade, &c., is a nuisance, or causes effluvia which is a nuisance or injurious to the health of the District, and unless it be shown that the defendant has used "the best practicable means" to abate such nuisance, or to prevent or counteract such effluvia. Penalty, 5*l.* or less, but in no case less than 2*l.* The penalty is to be doubled on each conviction, but in no case to exceed 200*l.* The Court may suspend its final determination on an undertaking being given by the defendant to adopt, within a reasonable time such means as the Court may deem practicable and order to be carried into effect; or if he give notice of appeal.

(571.) Any Urban 𝔄 may on such certificate as aforesaid take proceedings at Law or in Equity in respect of matters alleged therein. A 114.

(572.) Where the manufactory, &c., complained of is situate without the District of an Urban 𝔄, proceedings may nevertheless be taken by such 𝔄, subject to the proviso that summary proceedings are not to be taken otherwise than before a Court having jurisdiction in the District in which such manufactory, &c., is situate. A 115. But see 42 & 43 Vict., 49, 46.

(573.) The proceedings before Justices will fail if the defendant proves that he has used the best practicable means for abating the nuisance; [but he may still be indicted at Common Law.] A 114. Compare A 341.

✠ (574.) A noxious accumulation or deposit necessary for effectually carrying on any business or manufacture, is not punishable as a nuisance if it can be proved to be only temporary, unavoidable, and as well protected as the circumstances permit. See A 91.

(575.) Alkali Works may properly be mentioned under this head, but as the legislation relating to them is of rather a special and exceptional character the reader is referred to the "Alkali Act" itself for particulars.

(31.) OVER-CROWDING.

✠ (576.) Any house[a] so over-crowded as to be dangerous or injurious to the health of the inmates (whether or not members of the same family) is a nuisance. Usually the occupier will be the proper person to proceed against under **A 94** as being (primarily) the person by whose act, &c., the nuisance arises or continues. A 91 (5).

(577.) Where two convictions against any Act relating to overcrowding have taken place within 3 months, a Court of Summary Jurisdiction may, on the application of the 𝔏𝔄, direct the closing of the house for such period as it deems necessary.[b] A 109.

(*a*) It does not appear that a caravan or Gipsy waggon used for sleeping purposes can be deemed a "house" within A 91, or that any means exist for dealing with the over-crowding which often prevails in those vehicles.

(*b*) Nothing is said as to who is to see to the execution of the order, but presumeably the Clerk of the 𝔏𝔄 is the proper officer.

(32.) PETROLEUM.

34 & 35 Vict., 105, 8-10 : 42 & 43 Vict., 47.

(578.) By the "Petroleum Act, 1871" (kept alive and amended by the "Petroleum Act, 1879") certain Urban 𝔄𝔰 were constituted the 𝔄𝔰 to grant Licenses under that Act.

34 & 35 Vict., 105, 11.

(579.) Any officer authorised by the 𝔄 may purchase Petroleum for the purpose of testing it, and may inspect the places where it is stored. An elaborate system of chemical testing is prescribed.

42 & 43 Vict., 47, Sch. I.

(580.) The officers of an Urban 𝔄 should exercise vigilance in ascertaining whether Petroleum is stored in places and in quantities contrary to the conditions laid down in the licenses granted.[a]

(581.) Whether Petroleum can be lawfully hawked about the streets either under an Urban or under a hawker's license is a moot point. It often is so hawked, and, as it would seem, in breach of the Law.

(33.) PLACES OF PUBLIC RESORT.

A 171 (3) : 10 & 11 Vict., 89.

(582.) Under Incorporated Sections of the "Towns Police Clauses Act, 1847," an Urban 𝔄 may obtain the imposition of :—

10 & 11 Vict., 89, 34. A penalty on Victuallers harbouring Constables while on duty, 1*l.* or less.

10 & 11 Vict., 89, 35. A penalty on Refreshment-house Keepers harbouring disorderly persons, 5*l.* or less.

10 & 11 Vict., 89, 36. A penalty on persons keeping places for fighting, baiting, or worrying animals, 5*l.* or less, or imprisonment for a month or less. Spectators also are liable to be arrested and fined 5*s.* or less. (See also 12 & 13 Vict., 92.)

(583.) The various "Licensing Acts" obviously come into close contact with the subject matter of the foregoing Paragraph, but they are beyond the scope of this book, except the "Public House Closing Acts," which may be mentioned because they may be adopted in certain Urban Districts. But they have, however, been much modified in their scope by the "Licensing Act, 1872," and now only apply to Refreshment Houses in which intoxicating liquors are *not* sold.

27 & 28 Vict., 64 ; 28 & 29 Vict., 77.

35 & 36 Vict., 94.

(34.) PORTS AND HARBOURS.

✠ (584.) It having been found by experience that many severe epidemics which have occurred in this country (especially Cholera) have been propagated from Sea-port Towns, special provision is made for the Sanitary regulation of Harbours and Ports.

A 287 and 291.

✠ (585.) A "Port" under **A** means a Port as established for Customs purposes. The Port Sanitary provisions of **A** extend to the Port of London.

(*a*) See the case of *Burslem L. B.* v. *Shropshire Union Railway Co.*

✠ (586.) LGB may by Provisional Order permanently constitute as the Sanitary A of a Port any LA or Conservators, &c., whose District, or part thereof, abuts on any part of the Port. The Provisional Order will state what are to be the powers, duties, &c., of the Port A, and how its expenses are to be met. A 287–8.

✠ (587.) Until a Provisional Order setting up a Port Sanitary A has been made, and confirmed by Parliament, LGB may by Order temporarily constitute a Port Sanitary A, and renew such Order. A 287 and 325: and see 290.

✠ (588.) A Port Sanitary A may, with the sanction of LGB, delegate any of its powers to any Riparian A within or bordering on its District. A 289.

✠ (589.) The Sanitary concerns of a Port may be entrusted by LGB to a Port A formed by the Union of two or more Riparian As, or to a Joint Board specially constituted. One Port A may be empowered, by Provisional Order, to govern 2 or more Ports. A 287.

✠ (590.) **A** provides the machinery necessary to enable the principal Port A to recover from the Constituent As payment of their several shares in the common expenses. But LGB may, by Order, declare a constituent A exempt from contributing. A 287, 290, and 292.

✠ (591.) In some instances LGB has decided that the expenses shall be apportioned on the following principles:—Urban As to pay in proportion to the rateable value of their respective Districts; Rural As to pay in proportion to the rateable value of such of the Parishes within their respective Districts as abut upon that part of the Customs Port which is within the jurisdiction of the Port Sanitary A; such rateable value to be ascertained from the valuation lists in force for the time being for the purpose of the Poor Rate.

✠ (592.) The duties of a Port A will in each case be defined broadly in the Provisional Order establishing it. A 287.

✠ (593.) For the purposes of **A** as regards nuisances, any Ship, &c., lying within the District of a LA is to be subject to the jurisdiction of such A as if it were a house: any Ship lying not within the District of any LA is to be deemed to be within the District of such LA as LGB may prescribe: or where none is prescribed, then within the District of the nearest LA. The officer in charge is to be deemed the "occupier." This section does not apply to any Ship in charge of an officer bearing Her Majesty's commission; or belonging to a Foreign Government. A 110

✠ (594.) LGB may make Regulations to be published in the *London Gazette* with a view to the treatment of persons affected with cholera and epidemic, endemic, or infectious disease, and to prevent the spread of such diseases, as well on the Waters of the United Kingdom, and on the high seas within 3 miles of the coast thereof, as on land; and may declare by what As such regulations shall be executed. Penalty for wilful neglect, 50*l.* or less. A 130.

✠ (595.) All penalties imposed by the "Quarantine Act," (6 Geo. IV., **78**), may be reduced in amount by the Court. Every Vessel A Sch. V., Part III.

having on board any person affected with a dangerous or infectious disorder should be deemed to be within the provisions of that Act, although such Vessel has not commenced her voyage, or has come from, or is bound to, some place in the United Kingdom.

✠ (596.) The Admiralty, with the consent of the Treasury, lends old Ships to Port Sanitary 𝔄𝔰 to be fitted up by them as Floating Hospitals. Such 𝔄𝔰 will often do well to obtain in this way the Hospital accommodation they may want.

(35.) PUBLIC PLEASURE GROUNDS, &c.

A 164. (597.) An Urban 𝔄 may purchase, take on lease, lay out, plant, improve, and maintain land for public walks or pleasure grounds, and may prescribe By-Laws applicable thereto. When such places are provided by private persons the 𝔄 may contribute to the expenses of maintenance.

A 149. (598.) Persons damaging trees in streets are liable to a penalty of 5*l.* or less ; and to make compensation for injury done.

(599.) Some recent Acts[a] connected with this subject may be noted in this place, viz., the "Recreation Grounds Act, 1859," (22 Vict., **27**) ; the "Public Improvement Acts" (23 & 24 Vict., **30**) ; the "Gardens in Towns Act," (26 Vict., **13**) ; and the "Public Parks, &c., Act, 1871," (34 Vict., **13**) ; and see also 10 & 11 Vict., **34**, 135.

39 & 40 Vict., 56, amended by 41 & 42 Vict., 56. (600.) The "Commons Act, 1876," contains some provisions which Urban 𝔄𝔰, ought not to neglect. To summarise the Act as a whole, much more to expound its details, would be foreign to our present purpose.[a] In what follows, therefore, the specific allusions to Urban 𝔄𝔰, will chiefly be dealt with.

(601.) The preamble of the Act implies that hitherto in the inclosure of Commons in accordance with the "Inclosure Acts," too much attention has been paid to the interests of individuals and too little attention to the health, comfort and convenience of the public at large. Accordingly, henceforth more publicity will be given to proposals for inclosure, and in the case of a Common which is either wholly or partly in any town or towns, or within 6 miles thereof (which Common is termed a "suburban Common") the Urban 𝔄 is to be served with every notice of application under the Act. The Urban 𝔄 may appear before the Assistant Commissioner who holds the preliminary Local Inquiry on behalf of the Inclosure Commissioners, and before the Commissioners themselves, and may make representations as to the expediency of the application, "regard being had to the health, comfort and convenience of the inhabitants" of the town, and the 𝔄 may propose special provisions to protect the interests of such inhabitants.

39 & 40 Vict., 56, 8.

(*a*) These Acts are dealt with in detail in my *Digest of the Law relating to Commons and Open Spaces, Public Parks, and Recreation Grounds*, 8vo., London, 1877, (Stevens & Sons).

(602.) An Urban A may, with the sanction of the Inclosure Commissioners, agree to contribute out of its funds to the maintenance of any Recreation Grounds or of paths or roads, or, in the very comprehensive words of the Act, to do "any other matter or thing for the benefit of their town, in relation to the Common." Such an A has also power to buy up the rights of commoners in order to secure greater privileges for its town. 39 & 40 Vict., 56, 8.

(603.) An Urban A may acquire by gift and hold without licence in mortmain, in trust for the benefit of its town, any suburban Common within the reach of the Act. It may also purchase with a view to prevent the extension of any rights of common, any saleable rights in common or any tenement of a commoner which has rights annexed thereto. Ib. § 8.

(604.) Powers for the management of Commons are also conferred on Urban As, under certain restrictions, as regards the consent of persons interested. Ib. § 8.

(605.) The Act contains some miscellaneous practical provisions with respect to the method of working it. Expenses incurred by an Urban A, may be defrayed as expenses under **A**. A "town" means any Municipal Borough, Improvement Act District, or Local Board District, having not less than 5000 inhabitants according to last published census. Distances are to be measured in a direct line from (1) the Town Hall; or (2), if there is no Town Hall, from the Cathedral or Church, if there is only one Church; or (3), if there is more than one Church, from the principal market place—in every case to the nearest point of the suburban Common. When part only of a Common is within the statutory distance of 6 miles from a town, such part is for the purposes of § 8 of the Act to be deemed a Common by itself, distinct from the part situated beyond the 6-mile limit. Ib. § 8.

(606.) These provisions are very plain, and there seems no reason to doubt that they are capable of being easily worked. Considering that there are in England upwards of 960 Urban As, of which the vast majority govern places of more than 5000 inhabitants, and considering that the term "Common" is not limited to what is popularly called a Common, but "means any land subject to be inclosed under the 'Inclosure Acts, 1845 to 1868,'" it may be hoped that the Act will in time prove to be of general usefulness. It may be said that the practical effect of recent legislation as to Commons is to raise a presumption against all Inclosures, and, as a matter of fact, Inclosures are now seldom authorised. Inclosures chiefly take place now in cases where the Lord of the Manor and the Commoners are agreed; and where the intervention of the Inclosure Commissioners is not required. This may be considered a complete reversal of the policy in vogue a generation or two ago; for formerly an application to sanction an Inclosure was not often refused. It will thus be seen that LAs have every encouragement to adopt a policy favourable to the preservation of open spaces within the limits of their Districts.

29 & 30 Vict., 122; 32 & 33 Vict., 107; 39 & 40 Vict., 56; 40 & 41 Vict., 71.

(607.) Under the "Metropolitan Commons Act, 1866," as amended by subsequent Acts, Local Boards within the Metropolitan Police District are charged with certain duties as to Commons.

(36.) PURCHASE OF LANDS AND UNDERTAKINGS.

A 154 and 175.

✠ (608.) LAs often need to acquire land, especially for sewerage purposes. To this end various facilities are afforded them. They may acquire the land which they want either by purchase out and out, or, when a limited right will suffice, by lease. The acquisition may take place either by agreement, or by the exercise of compulsory powers.

A 178.

✠ (609.) In respect of lands belonging to the Duchy of Lancaster, special provision is made.

A 175 and 4: see also 13 Vict., 21, 4.

✠ (610.) A embraces not only lands but water-mills, dams and weirs. The words "lands" and "premises" include "messuages, buildings, lands, easements and hereditaments of any tenure."(a)

A 175 and 177. See also 42 & 43 Vict., 64, 10, and 43 Vict., 8.

✠ (611.) Any surplus lands acquired under A by a LA must be sold unless LGB otherwise direct. The proceeds are to be applied towards the discharge, by means of a Sinking Fund or otherwise, of borrowed moneys, or if no loans are outstanding, then to the General Purposes Fund or Rate. Surplus property may also be dealt with by letting or exchange.

A 176 (1). 8 Vict., 18, as amended by 23 & 24 Vict., 106, and 32 & 33 Vict., 18.

✠ (612.) The land transactions of LAs in general relate to the acquisition of land to be devoted to purposes as to which diversity of opinion prevails, and friendly negociation is out of the question. It is often necessary, therefore, to resort to the compulsory powers of the "Lands Clauses Consolidation Act, 1845," the provisions of which (excepting a few sections), are now available to all LAs.

A 176.

✠ (613.) The regulations to be observed by a LA proposing to acquire land compulsorily are so plainly set out in A that it is only necessary to submit a brief summary. The LA begins by publishing and serving notices: it then presents a petition under seal to LGB for leave to put in force the powers of the "Lands Clauses Acts;" this petition, which must contain a statement of the property intended to be taken, and certain particulars as to the names of the owners, lessees, and occupiers thereof, is usually referred to an Inspector, who holds an Inquiry on the spot: if the report of the Inspector is favourable, LGB usually issues a Provisional Order conferring either conditionally or unconditionally the powers sought. This Order does not come into force until confirmed by Parliament, but, as soon as it is made, a copy is to be served on every owner, lessee, and occupier affected.

A 176.

✠ (614.) Notices under A may be given in September—October, or October—November, as well as in November—December, but no

(a) Probably a right of fishery may be included under the word "lands." See *Oldaker* v. *Hunt*.

Inquiry preliminary to a Provisional Order under this provision shall be held until the expiration of *one* month from the end of such 2 months.

✠ 615. The time within which a Provisional Order for the compulsory purchase of land must be put in force to prevent it from lapsing will be 3 years unless this term (fixed by the "Lands Clauses Act, 1845," § 123,) is varied by the Provisional Order. The confirming Act may, it seems, be deemed to be equivalent to the "Special Act," and on this assumption the 3 years will run from the date of the passing of the confirming Act.

✠ (616.) Notices or Orders under **A** 176, which have to be served on a number of persons who have rights in, over, or on, lands in common, may be served on any 3 such persons, and this will be service on all. A 176.

(617.) In Urban Districts the costs of these proceedings become a charge on the District Fund and General District Rate. A 207.

✠ (618.) In Rural Districts the costs of these proceedings will usually be "special expenses." A 229. [Rural only.]

✠ (619.) For further information on all matters relating to Provisional Orders, see Chap. IV., *ante*.

(620.) An Urban A may (with the sanction of LGB) purchase, by agreement with the Directors of the same, any Gas-works, or Market belonging to a Company. If the company was formed under the "Companies Acts, 1862, to 1867," a "Special Resolution" must be passed; otherwise, *three-fourths* of the Shareholders (in number and value) of the Company at a meeting specially convened for the purpose must (personally or by proxy) concur in the sale. All this applies to Water-works, except that the sanction of LGB is not needed. A 162 and 168. 25 & 26 Vict., 89, 51, &c. A 63.

(621.) An Urban A may acquire Tramways by compulsory purchase. [But see Paragraph 747 *post*..] 33 & 34 Vict., 78, 43—4.

(622.) An Urban A may acquire land for carrying out the "Baths and Wash-houses" and the "Labouring Classes Lodging Houses Acts," but only by agreement with the owners. A 173, 10, 4. 9 & 10 Vict., 74, 24. 10 & 11 Vict., 61, 4. 14 & 15 Vict., 34, 35. 29 Vict., 28, 5.

(37.) RATES AND RATING.[a]

(623.) The Rate-levying Powers of LAs are very extensive, especially now that Parliament has enacted that any limit for a Rate prescribed by a Local Act shall not apply to a Rate required to be levied for expenses incurred by an Urban A in executing **A**. A 227.

(624.) All expenses payable by an Urban A and not otherwise provided for, shall be charged on the District Fund and General District Rate, subject to the following exceptions :— A 207.

(*a*) The Cases cited in this Section which do not appear in Part V. "Digest of Cases," *post*, for the reason that they are Rating Cases, being so very numerous, it has been deemed unadvisable to encumber these pages with the requisite references, but to refer the reader at once to my *Law relating to Rates and Rating*, 8vo. Lond., 1878, (Stevens & Sons), where upwards of 500 Rating Cases will be found summarised in the usual manner.

(1) Expenses payable by a Town Council in the execution of the "Sanitary Acts" chargeable at the passing of **A** to the Borough Fund or Borough Rate, continue so chargeable.(*a*)

(2) Expenses payable by Improvement Commissioners in the execution of the "Sanitary Acts," chargeable at the passing of **A** to any Rate in the nature of a General District Rate, leviable over the whole District, continue so chargeable.

(3) Expenses payable by an Urban Authority in the execution of *certain purposes* of the "Sanitary Acts," chargeable at the passing of **A** to the Borough Fund or Borough Rate, whilst expenses for other purposes of the said Acts, were chargeable to a General Rate for paving, sewering, and other general purposes leviable over the whole District, continue so respectively chargeable.

A 208. (625.) Where, at the passing of **A**, the sanitary expenses of an Urban Authority were payable otherwise than according to the old "Local Government Acts," the Local Government Board may, on the application of such Authority, or of any 10 persons rated to the Relief of the Poor, declare by Provisional Order that thenceforth the expenses incurred in the execution of **A** shall be defrayed out of the District Fund and General District Rate, subject to the restrictions prescribed in certain cases as to Highway Expenses.

See def. in **A**, Schd. V., Part I.

A 207 and 210. (626.) The "General District Fund" serves to defray the expenses specifically directed to be charged to it, and all other expenses not otherwise provided for.(*b*)

A 209. (627.) In the District of every Urban Authority whose expenses are to be defrayed out of the District Fund and General District Rate, there is to be a "District Fund," and the Treasurer is to keep a separate account called "The District Fund Account:" moneys carried to that account are to be applied in defraying such of the expenses chargeable thereon under **A** as the Urban Authority may think proper.

A 210. (628.) For the purpose of defraying expenses chargeable on the District Fund, which that Fund is insufficient to meet, the Urban Authority shall from time to time, by writing under its common seal, levy a General District Rate, which accordingly is the principal Rate of every Local Board and of some other Urban Authorities.

A 319. (629.) § 86 of the "Public Health Act, 1848," authorised the levy of "Special District Rates," *i.e.* Special Rates over a Special District. With a saving as to things done (which saving was amended by 24 & 25 Vict., **61**, 12), § 86 was repealed by § 54 of the "Local Government Act, 1858." *Special* Rates in a District were Rates for special (permanent) works, as distinguished from *General* Rates in a District, which were Rates for current expenses.(*c*) Where any such Rates were leviable at the passing of **A** they may still be levied.

A 210. (630.) A General District Rate may be levied to meet prospective expenditure, and it may be so far retrospective that it may be applied to defray expenses incurred within 6 months before the making of

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(*a*) In Boroughs the expenses of Public Baths and Wash-houses are chargeable to the Borough Fund (9 & 10 Vict., **74**, § 4.)

(*b*) The question having occasionally arisen as to whether some part of the salary of a Surveyor might not be charged to the Highway Rate, when most of his time for a lengthened period has been devoted specially to Highway work, it may be well to state that it would seem that such an arrangement would not be legal. As regards the "Artizans and Labourers' Dwellings Act, 1868," Schedule I. must be read with § 31 and be taken to mean that the Local Board may add, in respect of that Act, 2*d.* in the £, but not more, to its General District Rate. (See 42 & 43 Vict., **64**, § 21.)

(*c*) T. Taylor: *Treatise on L. G. Act*, p. 82.

the Rate. Retrospective and prospective expenditure may be included in one and the same Rate, but the two classes of items should be sufficiently specified in the estimate.[a] It may be doubted whether As in general are scrupulous to observe the limits of time permitted by law in the allocation of the proceeds of a General District Rate. It may be worth while, therefore, to recommend the individual Members of As who are disposed to make payments that are retrospective beyond the limits named by the statute, to be careful how they act in this matter, or they may have to refund[b] the amounts wrongfully paid out of the Rate by cheques signed by them.[c] In calculating the aforesaid period of 6 months, during which a Rate may be made for retrospective purposes, the time during which any appeal or other proceeding relating to such Rate is pending is to be excluded.

(631.) The levy of a General District Rate is governed by **A** 211, which Section is sufficiently explicit as regards all the practical details. A 211.

(632.) The question has arisen whether a Rate levied under the authority of LGB to repay expenses incurred in relation to the default of a LA is controlled by the provisions of **A** with respect to the limit of time for recovery. (See **A** 252.) The better opinion is that it is *not* so controlled.

(633.) Urban As must henceforth levy their General District Rates on the assessment employed for the Poor-Rate, the option of having an assessment of their own having been taken away[d] The local Poor Law officers are to give to the officers of the Urban A certain (specified) facilities, as regards access to books, &c., for preparing the General District Rate. Refusal subjects the offender to a penalty of 5*l.* or less. A 211 (1). A 212.

(634.) The powers of an Urban A with respect to the levying of Rates are very large, and as a guarantee that those powers shall not be abused, every Rate before being made is to be preceded by an Estimate, which is to contain particulars of the amount needed, of the purposes to which it is to be applied, of the rateable value of the property assessable, and the amount of the Rate in the £ which it is necessary to make. The estimate after being approved by the A is to be entered in the [proposed] Rate-book, and the two together are to be open free to the inspection of Ratepayers and persons interested at the office of the A, before the Rate is actually made. Copies or extracts may be taken. An estimate is not to be deemed part of a Rate nor to affect the validity thereof. Penalty for obstructing inspection, &c., 5*l.* or less. A 218. A 219.

(*a*) Per Cockburn, C.J., in *Reg.* v. *Worksop L.B.* (1865).

(*b*) As to the consequences of improper expenditure generally, see *A.-G.* v. *Tottenham L.B.*

(*c*) This liability does in truth attach to all improper payments; *e.g.* to payments made for work done, which ought to have been the subject of a formal contract and was not.

(*d*) With the statement here made (and which is in strict accordance with **A** 211) the enactment in **A** 221 assuredly clashes, because under the latter the Poor Rate is *not* conclusive. And the Law is in a very uncertain state as to what powers Urban As possess to amend Rates so as to include new property which has become assessable since the last preceding Valuation List came into force. It will be safer for no attempt to be made to include such property.

A 210. (635.) Public notice of the intention to make a General District Rate, and of the time when it is to be made, and of the place where the [proposed] Rate-book is deposited for inspection, is to be given in the previous week at least 7 days previous to the making [by notices on the Church-doors, &c.] The 7 days are exclusive of the day on which the notice was posted, and of the day when the making takes place.[a] But in seeking to recover a Rate it is not necessary to prove that notice was given. The Rate will be invalid if the Estimate contains illegal items, [b] and, arguing from the analogy of the Poor-Rate, the General District Rate will also be invalid if it be not accompanied by an Estimate at all.[c]

A 269. (636.) A Ratepayer can appeal against his assessment to the Quarter Sessions.[d]

See A 220. (637.) If in the course of preparing a Rate the Clerk finds that he is ignorant of the name of the owner or occupier of a property, it suffices if he designates the person to be rated as the "owner" or the "occupier" of the property (naming it) as the case may be. It is, however, his duty to use his best endeavours to ascertain the names. It is even possible that in case of a change of ownership or occupation the absence of names might cause a difficulty, especially if any question of apportionment should arise.

A 221. (638.) An Urban 𝔄 may from time to time amend a Rate[e] by making alterations in the names of the parties charged, and in the amounts, for reasons and on conditions which are specified. A Ratepayer can appeal against amendments.

A 222. ✠ (639.) Every Rate under **A** (except a Private Improvement Rate) 17 Geo. II. 3. is to be published just as a Poor-Rate is published, that is to say, by posting notices at the usual parochial posting places, before Morning Service on the Sunday after the Rate has been made.[f] Though publication is enjoined, yet non-publication does not render void a Local Board Rate, [g] there being in **A** no words of avoidance as in 17 Geo. II., 3. If the defect causes a grievance to any individual he can appeal.

A 222. (640.) Urban Rates are to commence and be payable, &c., and be collected as the Urban 𝔄 may from time to time appoint.[h]

A 210. (641.) A General District Rate must be in writing under the common seal of the 𝔄, or it will be void,[i] but the signatures of 5 members seem no longer requisite.

(642). It seems that a Rate must be paid according as it appears in the Rate-book, even if erroneously calculated, for the Ratepayer

(*a*) *Reg.* v. *Shropshire JJ.*

(*b*) See *Reg.* v. *Worksop L. B.* (1857).

(*c*) This has been so held in the case of a Poor-Rate, and the principle seems applicable to a General District Rate. *Eastern Counties Railway and Moulton Overseers, In re.*

(*d*) The proceedings on an appeal from a Rate are governed by the Local Act (if any), even though the valuation is made under an Act independent of such Local Act. (*Reg.* v. *Middlesex JJ.*)

(*e*) See note to Paragraph 634.

(*f*) It does not appear that this need be done actually *on* the *Sunday* morning. Posting on Saturday would suffice so long as the Notice was duly visible on the Sunday morning.

(*g*) See *Le Feuvre* v. *Miller.*

(*h*) On this point a question has arisen in connection with the levy of Water Rates, § 70 of the "Waterworks Clauses Act, 1847," being incorporated by **A** and **A** 222 being inconsistent with the aforesaid § 70. Probably it will be safe to assume that **A** 222 overrides the earlier enactment.

(*i*) *Reg.* v. *Worksop L.B.* (1865).

should have looked when the Rate was published to see how he was charged, and should have appealed if he felt aggrieved.[a]

(643.) Unoccupied premises are not to be charged to a General District Rate, but they must be entered in the Rate-book precisely as if they were to be so charged. If they should become occupied or should be occupied during any part of the period to which the Rate relates, the occupier for such portion of the time is to be charged for the appropriate proportional part. Similarly, where a change of tenancy takes place, a Rate is to be apportioned between the outgoing and the in-coming occupier. [But where the out-going occupier has actually paid the whole Rate in advance, it does not appear that he has any claim on the Urban A for the return of a portion of the money.] A 211 (2–3).

(644.) Sometimes an uncertainty arises as to which of two parties ought to be rated, where both are in some sense occupiers. The case of *Roads* v. *Trumpington Overseers* will aid the settlement of a controversy of this kind.

(645.) In the case of a Ratepayer becoming a bankrupt, an unpaid Rate, if it became payable within 12 months before his bankruptcy, is a charge on his estate, payable in full, but it has been held that the principle of this enactment does not apply to a Company in liquidation.[b] If the property of the bankrupt is not sufficient for a payment in full, the debt will rank equally with the other debts mentioned in the Section, and all will abate in equal proportions amongst themselves. 32 & 33 Vict., 71, 32.

(646.) The General District Rate is to be levied upon the occupier of all such kinds of property as by the laws in force for the time being are, or may be, assessable to the Poor-Rate, and is to be assessed upon the full nett annual value of such properties, as shown by the latest Poor-Rate, subject, at the option of the Urban A, to certain conditions, as follows :— A 211 (1).

(647.) The owner instead of the occupier may be rated :— A 211 (1) (a).

(i.) Where the rateable value of the premises does not exceed 10*l.*

(ii.) Where the premises are let to weekly or monthly tenants. [Whatever the value.]

(iii.) Where the premises are let in separate apartments.

(iv.) Where the rents are payable or are collected more frequently than once a quarter.

(648.) The following additional points must be noted. Where the owner is rated instead of the occupier, the Urban A must reduce the rateable value of the premises. This abatement is not to be less than *one-fifth* of the annual value, nor more than *one-third*. Also, if an owner is willing to continue paying Rates whether the premises are occupied or not, he may be charged on only *one-half* the rateable value.[c] A 211 (1).

(*a*) *Barin* v. *Hutchinson*.

(*b*) *West Hartlepool Iron Co.* v. *West Hartlepool*. In such a case probably the Rate is recoverable from the liquidators or occupiers.

(*c*) Local Boards will in general do well to encourage this seemingly heavy discount. By so doing an infinite amount of time, trouble, and account-keeping will be saved the Collectors, and summonses against defaulters will seldom be required. It is to be observed that the allowance made by the "Poor Rate Assessment and Collection Act, 1869," (32 & 33 Vict., 41, §§ 3—6) as regards Poor-Rates is different from this. Moreover a resolution by the Vestry under § 4 of that Act to rate owners will not apply to the collection of Local Board Rates. Nevertheless the 1869 Statute, repealing as it did the "Small Tenements Rating Act, 1850," (13 & 14 Vict., 99), very undesirably enlarged the franchise in Local Government Districts, for it does apply to that extent to Local Board Rating arrangements. (See § 7 read with A 211.)

A 211 (1) (b).

(649.) Certain kinds of property are assessable at *one-fourth* their nett annual value.

✠ (650.) Some difficulty has occasionally been experienced in valuing farms under this and kindred enactments, because buildings are to be valued in full, but land only at *one-fourth*, and farm buildings depend for their value on the land which surrounds them. The correct principle of assessment is now considered to be to assess the buildings at the fair interest of the capital invested in them: then to deduct this from the total value of the farm as a whole and levy the rate on *one-fourth* of the difference.

(651.) With respect to exemptions either partial or total,[a] it may be convenient to throw together the following heads of information, gathered partly from Statutes and partly from Cases; but by no means intended to be an exhaustive statement on the subject:—[b]

Properties Rateable at One-fourth.

Tithes, &c. (*c*); Land used as arable, meadow, or pasture ground only, or as woodlands, market gardens (*d*), or nursery grounds (*e*); or hop gardens, or garden ground not let or occupied with a messuage (*f*), land used for plantations or woods, or for saleable underwood (*g*).

Land covered with water; wet docks (*h*); canals (and the towing paths thereof) (*i*); Railways (and the land appurtenant thereto used for sidings, turn-tables, &c.) (*j*), but not a Railway constructed without Parliamentary Powers (*k*); reservoirs, but not the pipes or mains connected therewith (*l*); the canals and filter beds of Waterworks (*m*).

Properties Rateable at their Full Value.

Workhouses (*n*); Railway Stations, Offices, Warehouses, &c. (*o*); Tramways (*p*); Dock Buildings of all kinds (*q*); Works connected with sewers (*r*).

Properties wholly exempt.

Churches, Meeting-houses and premises, or such parts thereof as are exclusively appropriated to public religious worship (*s*); Easements (*t*); Light-houses, &c., vested in the Trinity House (*u*); Volunteer Store-houses (*v*); certain Literary and Scientific Societies (*w*); Ragged and Sunday Schools (*x*) *may be* exempt at the discretion of the A making the Rate (*y*); Harbour Piers (*z*); Sewers (*a*); Tolls at Markets in respect of animals coming to market (*b*); a Derrick afloat and anchored with stones (*c*); Property exempted by Local Acts from payment of Rates (*d*); Property outside the jurisdiction of a LA, even though deriving benefit from the use of the A's sewer (*e*).

(*a*) Rateability depends on the question "whether the subject is or is not capable of beneficial occupation." *Metrop. B.W.* v. *West Ham Churchwardens.*

(*b*) For fuller information see my *Rates and Rating*, 8vo., London, 1878, (Stevens & Sons); especially the "Digest of Cases" therein.

(*c*) 14 & 15 Vict., 50. No deductions allowable for Curate's salary. *Reg.* v. *Sherford Inhabitants.*

(*d*) Doubtless this would include orchards.

(*e*) A 211. And where land has been flooded, say, for some months, it seems reasonable to make some remission in the amount charged in respect of it. (37 J.P., 238.)

(*f*) *Chelmsford Union* v. *Chelmsford L.B.*

(*g*) 37 & 38 Vict., 54, § 12.

(*h*) *Reg.* v. *Newport Dock Co.*

(*i*) A 211; and refer to *Reg.* v. *Neath Canal Co.*

(*j*) *Midland Railway Co.* v. *Birmingham Council.*

(*k*) *North Eastern Railway Co.* v. *Leadgate L.B.*

(*l*) *Reg.* v. *Birmingham Water-works Co.*

(*m*) *East London Water-works Co.* v. *Leyton Sewer Authority.*

(*n*) *Chelmsford Union* v. *Chelmsford L.B.*

(*o*) *South Wales Railway* v. *Swansea.*

(*p*) *Pimlico Tramway Co.* v. *Greenwich Union.*

(*q*) *Reg.* v. *Newport Dock Company.*

(*r*) *Metro. B.W.* v. *West Ham Churchwardens.*

(*s*) See also A 151; 3 & 4 Will. IV., 30, § 1.

(*t*) *Rex* v. *Aire and Calder Navigation.* (1829).

(*u*) 17 & 18 Vict., 104, §§ 389 and 430.

(*v*) 26 & 27 Vict., 65, 26.

(*w*) 6 & 7 Vict., 36.

(*x*) 32 & 33 Vict., 40, § 1.

(*y*) See *Bell* v. *Crane.*

(*z*) *New Shoreham Harbour Commissioners* v. *Lancing Churchwardens.*

(*a*) *Metro. B.W.* v. *West Ham Churchwardens.*

(*b*) *Caswell* v. *Wolverhampton Overseers.*

(*c*) *Cory* v. *Greenwich Churchwardens;* and *Cory* v. *Bristow* (1875). But in *Forrest* v. *Greenwich Churchwardens* a floating pier made fast by anchors was held rateable, as there was a profitable occupation of land in the case.

(*d*) *Reg.* v. *L. & N. W. R.* (1876); *Walton Commissioners* v. *Walford; Monmouth* v. *Monmouth.*

(*e*) *Reg.* v. *Warner.*

Special.

Land acquired under the Burial Acts for a Burial Ground (with or without a building thereon) is not to be assessed to any Local Rate at a higher value than that at which it was assessed at the time it was so acquired (*a*); Telegraphs (*b*); Cemeteries (*c*); Factories not at work are not assessable at their full value, but as warehouses for storage of machinery when machinery is in them (*d*); Lunatic Asylums (*e*). The provision in § 133 of the "Lands Clauses Act, 1845," as to a Railway Company making good a deficiency by reason of the construction of a Railway applies only to a Poor Rate; and, therefore, cannot affect a General District Rate under A. 8 Vict., 18, 133.

(652.) If within any Urban District or part thereof "any kind of property" is, by a Local Act, exempt from rating in respect of all or any of the purposes for which a General District Rate may be made, such exemptions are to continue as regards a General District Rate levied under A, unless LGB, by Provisional Order, otherwise directs. A 211 (1) (c).

(653.) Nearly everything that has been said respecting General District Rates applies, *mutatis mutandis*, to all the other Rates which Urban As are authorised to levy, save that Tithes and lands, &c., are rated for Highway Rates at their *full value;* and Private Improvement Rates are the subject of some special provisions. Compare A 216.

(654.) The principal(*f*) other Rates which it is necessary or lawful for Urban As to levy, are:—Highway Rates,(*g*) Lighting Rates, Watering Rates, and Private Improvement Rates.

(655.) Private Improvement Rates are always separately levied; but the other Rates are sometimes levied separately under their several names, and are sometimes merged in the General District Rate and have no separate existence. A 213.

(656.) An Urban A may from time to time divide its District, or a street in it, into one or more parts for any of the purposes of A, and may make a separate assessment on such parts. Divisions may be abolished or altered. Every such part, so far as relates to the purposes for which the separate assessment is made, is exempt from any other assessment under A. But expenses incurred in common in respect of the different parts of a District thus divided, must be apportioned between them in an equitable manner. A 211 (4).

(*a*) 18 & 19 Vict., 128, § 15.

(*b*) See *Electric Telegraph Co.* v. *Salford Overseers;* referred to in 37 J.P., 237; but the case of *St. Marylebone Vestry* v. *Postmaster General* shows a difficulty which besets the recovery of Rates in respect of Telegraphs, namely, that the amount to be paid is in the absolute discretion of the Treasury. The Statute says that lands and undertakings acquired by the P.O. for Telegraph purposes are to be assessed at sums not exceeding the value at which they are assessable upon such acquisition. (31 & 32 Vict., 110, § 22.)

(*c*) See the cases of *Reg.* v. *St. Mary Abbot's, Kensington*, and *Reg.* v. *Abney Park Cemetery Co.*

(*d*) *Staley* v. *Castleton Overseers; Harter* v. *Salford Overseers.*

(*e*) 16 & 17 Vict., 97, § 35.

(*f*) Provision is made for the levy by a Local Board of certain miscellaneous Rates, such as a Burial Rate; (A Sch. V. part III: 23 & 24 Vict., 64, § 1); an Artizans' Dwellings Rate (31 & 32 Vict., 130, § 31; 42 & 43 Vict., 64, § 21); a Labouring Classes Lodging Houses Rate (14 & 15 Vict., 34, §§ 5, 8, and 12); a Library Rate (18 & 19 Vict., 70, §§ 7 and 15: 34 & 35 Vict., 71, § 1), &c.: but it is the best to levy these together with and as part of the General District Rate. The extra amount levied under the Act of 1868 in respect of Artizans' Dwellings must not exceed 2*d.* in the £; nor in respect of a Library or a Stipendiary Magistrate (26 & 27 Vict., 97, § 7) 1*d.* in the £ in any one year. Urban As may also levy Highway Rates under the "Highway Act, 1835" (5 & 6 Will. IV., 50); but whether the limits prescribed by § 29 of that Act bind Urban As is not clear. Perhaps they do not, seeing that by A 144 the Urban A can exercise all powers which, under the "Highway Act, 1835," are vested in the Inhabitants in Vestry assembled, and one of those is a power to enlarge the Rate limits from 10*d.* to 2*s.* 6*d.* Yet the meeting to be convened to authorise this enlargement is not specifically a "Vestry meeting," nor convened under quite the same formalities.

(*g*) But as to separate Highway Rates, only under the circumstances specified in A 216.

A 216 (657.) In any Urban District where expenses under **A** are charged on the District Fund and General District Rate, and no other provision for Highways is made by a Local Act, the repair of Highways is to be defrayed as follows :—

(i.) Where the *whole* District is rated for works of paving, water supply and sewerage, or for any of these works, the cost of repairing Highways is to be defrayed out of the General District Rate.

(ii.) Where *only a part* of a District is rated for such public works the Highways within that limited area are to be repaired out of the General District Rate. All other Highways are to be repaired out of a separate Highway Rate levied only in those parts of the District that are free of all charge for such public works as aforesaid.

5 & 6 Will. IV., 50 : 25 & 26 Vict., 61 : 27 & 28 Vict., 101 : 41 & 42 Vict., 77. (iii.) Where there are no charges for public works as aforesaid, the Highways are to be repaired by a separate Highway Rate levied over the whole area which is subject to the jurisdiction of the Urban Ⱥ. Such a rate will be governed by the "Highway Acts," and consequently lands, &c., will be rated at their full assessable value.

A 216. (658.) Where part of a parish is within an Urban District, and the excluded part was, before the constitution of such Urban District, liable to Highway Rates for the original undivided parish, such excluded part (unless in the case of an Urban District constituted before the passing of **A** a resolution was passed under the "Local Government Amendment Act, 1861," 24 & 25 Vict., **61**, § 9 [whole Act now repealed] deciding that such excluded part should be a separate Highway District, or unless such excluded part has been included in a Highway District under the "Highway Acts,"[a]) shall, for all Highway purposes, be treated as part of the Urban District.

A 216. (659.) In the case of an Urban District constituted after the passing of **A**, a meeting of Owners and Ratepayers of an excluded part may decide that such excluded part shall be a Highway Parish for all Highway purposes. But the requisition to hold the necessary meeting must be presented within 6 months of the constitution of the Urban District. The Quarter Sessions may direct that for any such excluded part Waywardens shall be elected, and may invest such Waywardens with all or any of the powers of Waywardens under the "Highway Acts."

A 144. (660.) **A** contains few provisions as to Highways. Local Boards are specifically invested with exclusive powers within their Districts over the Highways therein, and this implies that they are to consult

A 145. the several "Highway Acts" for guidance.[b] But Ratepayers within an Urban District are specially exempt from Rates for the repair of Highways outside their District.

25 & 26 Vict., 61, 7 and 41. 27 & 28 Vict., 101, 5. (661.) A Local Government District cannot be formed into a Highway District under the "Highway Act, 1862," but a part of a parish which is excluded from a Local Government District is to be deemed a place separately maintaining its own Highways, and capable of being

See A 216. included in a Highway District without the consent of the Urban Ⱥ.

A 217. (662.) Highway Rates need *not* be laid before Justices nor the Vestry, nor need "the signature of the Urban Ⱥ" be annexed. High-

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(*a*) *I.e.*, 5 & 6 Will. IV., 50; 25 & 26 Vict., 61, "and any Act passed, or to be passed, amending the same." (27 & 28 Vict., 101, § 1).

(*b*) See my *Law relating to Highways and Bridges*, 8vo. Lond., 1878, (Stevens & Sons).

way accounts need not be verified before Justices. It would seem that Highway Rates levied by Local Boards must be recovered in accordance with the procedure of the "Highway Acts," and not as if they were General District Rates under **A**.

(663.) Any Surveyor of Highways who ceases to be such in virtue of any provision of **A** may, before he goes out of office, recover arrears of Highway Rates. Any surplus he may have after discharging any debts legally owing on account of Highways is to be paid by him to the Treasurer of the Urban A, who is to carry it to the Highway Fund or Rate account. A 145.

(664.) By the annual "Turnpike Acts Continuance Act, 1875," it is enacted that where in a Turnpike Act provision has been made that, in any place in which the "Local Government Act" or any Act relating to the Public Health Act is from time to time in force, none of the tolls or moneys received by the Trustees by virtue of such Turnpike Act are to be expended in maintaining, repairing, or improving any roads within the limits of such place, and that the Trustees shall not take any toll or erect or continue any toll-gate within such limits, LGB may, if it thinks fit, in any case in which a District has been constituted under the "Sanitary Acts," whether by Provisional Order or otherwise, after June 24, 1875, declare, by Order, that such provision shall be suspended during the whole or any part of the continuance of such Turnpike Act. 38 & 39 Vict., cxciv., 11 (Local)

(665.) Lighting Rates and Watering Rates may for our present purpose be taken together. Although as to both, *eo nomine*, **A** is silent, yet the power to levy such Rates seems conferred by **A** 211 (4).

(666.) These Rates are usually separately levied only in those cases where a Local Government District comprises areas of both an Urban and Rural character. To light and water highways in sparsely populated localities is unnecessary, and the expenses of lighting and watering are commonly and justly fastened on the Urban parts of a District.

(667.) With respect to Watering Rates—inasmuch as **A** authorises an A to water, if it thinks fit, only a portion of its District, it may be supposed that in that way has arisen the usage of defraying the expense of watering by a Rate limited to a portion of a District. But the law is rather obscure as regards this point. A 42; and see A 211 (4).

(668.) If the area to be lighted and the area to be watered are conterminous, as it is obviously convenient that they should be, this class of expenditure may be met by the levy of a single Rate for the double purpose. Occasionally, however, a Lighting and a Watering District must have distinct boundaries, and then two separate Rates must be made.

✠ (669.) Not every LA is called on to levy a Private Improvement Rate. This is a Rate to repay expenditure which a LA has declared to be necessary, owing to the default of an owner. A 213 and 232.

✠ (670.) The following are the items of expenditure which may be the subject of a Private Improvement Rate :—

A 23. Construction of necessary House Drains.

A 36. Construction of a sufficient Water-closet (or Privy or Earth-closet), and of an Ash-pit.

A 41. Reparation of existing Water-closets, &c., and Ash-pits.

A 62. Laying on Water to Houses (in certain cases).

A 150. Sewering, Paving, &c., and Lighting, &c., Private Streets (*a*).

A 213, 232, and 257. ✠ (671.) Money expended by a LA in Private Improvement Expenses may be advanced by the A for a period not exceeding 30 years. The repayment is to be by a Rate levied year by year on the occupiers, which Rate is to include an allowance for interest[b] at a rate not to exceed 5 per cent. per annum. If the premises charged should become unoccupied, the Rate is payable by the owner so long as the premises continue unoccupied.

A 214. ✠ (672.) A proportion of a Private Improvement Rate may be deducted by an occupier from his rent under complicated regulations.

A 215. ✠ (673.) A Private Improvement Rate may be redeemed as regards the remainder of the time for which it has to run. Moneys paid in redemption of a Private Improvement Rate are to be applied in a particular manner (which is specified).

A 218-22 and 232. ✠ (674.) Provisions which apply to General District Rates apply also to Private Improvement Rates, except that publication is not required.

A 240-1. ✠ (675.) Money may be advanced for Private Improvement Expenses on the security of a yearly Rent-charge, payable half-yearly during a term not exceeding 30 years, with interest and costs limited to 6 per cent. Rent-charges may be deducted in part from Rent, and may be redeemed precisely as Private Improvement Expenses. Rent-charges and Transfers thereof must be registered.

A 257. ✠ (676.) Private Improvement Expenses and expenses in the nature of Improvement Expenses are recoverable with interest from any person who is the owner of the premises when the works are completed: and they are a charge on the premises.[c] Apportionments cannot be questioned after *three* months. (See Paragraph 475, *ante*.)

A 268. ✠ (677.) Persons aggrieved by the decision of a LA with respect to any expenses recoverable summarily or Private Improvement Expenses may appeal to LGB within 21 days' of receiving notice of the decision.

✠ (678.) A LA should exercise a careful judgment in fastening outlays of capital on individuals against their will.[d]

(679.) All casual receipts whatsoever[e] arising in Urban Districts are to be placed to the credit of a separate account to be called the "District Fund Account." Moneys carried to that account are to be applied in defraying such of the expenses chargeable thereon under **A** as the Urban A may think proper.

A 209.

(*a*) Rural As, as such, are not invested with any paving, &c., powers.

(*b*) It seems proper that the Interest should begin to run from the date when the Expenses are formally declared to be Private Improvement Expenses.

(*c*) Although the Statute makes these expenses a "charge," it has provided no special means by which such a charge can be enforced. Yet the A could probably obtain from the Chancery Division a Decree that the premises should stand charged with a payment to meet the expenses.

(*d*) See *Wilson* v. *Bolton, Mayor*.

(*e*) Interest paid by a Banker who acts as Treasurer in respect of moneys deposited with him must be regarded as within this category.

(680.) The expenses of executing the "Labouring Classes Lodging Houses Act, 1851," (when that Act is in force), are to be charged to the District Fund. Any deficiency is to be made up from the General District Rate or by a separate Lodging Houses Rate. A 207: and see A 4 and 209.

✠ (681.) In valuing premises all improvements and additions calculated to enhance their annual value for letting should be systematically taken into account. This applies not only to structural additions, but to alterations in value brought about by the application of agricultural land to more profitable uses (*e.g.*, Nursery Gardens), or by the development of traffic on a Railway.

(682.) The payment of any Urban Rate may be excused, in whole or in part, on the ground of poverty, but for obvious reasons such excusals should be made with great discrimination. A 225.

✠ (683.) Nothing in Part VI. of **A** ("Rating") is to affect any lease, contract, or agreement entered into between Landlord and Tenant. A 226: see also A 104 and 320.

(38.) SCAVENGING AND REMOVAL OF REFUSE.

(684.) If it appears to the Inspector of Nuisances of an Urban District that any accumulation of manure, dung, soil, or filth or other offensive or noxious matter, ought to be removed, he shall give notice to that effect to the owner thereof or to the occupier of the premises. If in 24 hours the notice is not complied with, the manure, &c., may be seized and sold by the Urban A. The nett proceeds (after paying expenses) are to be paid on demand to the owner of the manure, &c. If the proceeds do not suffice to defray the expenses, the deficiency may be recovered in a summary manner from the owner of the accumulation, or from the occupier of the premises, or (if there is no occupier) from the owner of the premises. A 49.

(685.) Notice may be given by any Urban A (by public announcement or otherwise) that manure and other refuse matter is to be removed periodically from Mews and other premises. Penalty for default, 1*l.* per day, or less. A 50.

✠ (686.) Every LA may, (and when ordered by LGB *shall*,) undertake or contract for—

The removal of house refuse from premises.
The cleansing of earth-closets, privies, ash-pits, and cesspools.

either for the whole or a part of its District; moreover every Urban A, and any Rural A invested by LGB with the requisite powers, may (and when ordered by LGB, *shall*) undertake or contract for the proper cleansing and watering of streets. All refuse thus collected may be sold or otherwise disposed of, and any profit made by an Urban A is to be carried to the District Fund Account. In a Rural District any such profit shall be placed to the credit of the contributory place in which it arises. If any person removes or obstructs A 42.

the removal by the LA, or Contractor, of any refuse thus authorised to be removed by the LA, he will for each offence incur a penalty of 5*l.* or less. An *occupier of a house within the District* is not liable to such penalty in respect of refuse, &c., produced on his own premises, and intended to be removed for sale, or for his own use, and in the meantime kept so as not to be a nuisance.

A 43. ✠ (687.) If a LA has made provision for removing house refuse and cleansing earth-closets, privies, ash-pits and cesspools, and fails without reasonable excuse after notice in writing from an occupier to perform its duty in respect of any of these matters within 7 days, the LA may be fined 5*s.* a day for every day that default continues. The fines will go to the occupier.

✠ (688.) A LA may perform its scavenging work either by having its own staff of men, carts, and horses, or by employing Contractors. The carts of a LA must have the name, &c., of an officer painted on them, or they will be liable to penalties, as in the margin.

4 Geo. IV., 95, 15 : 5 & 6 Will. IV., 50, 76, 78.

✠ (689.) Where a LA does not itself undertake or contract for the cleansing of footways and pavements adjoining any premises ; the removal of house refuse ; or the cleansing of earth-closets, privies, ash-pits and cesspools, it may establish By-Laws imposing on occupiers of premises the duty of doing these things at prescribed intervals. [When these matters are thus left to take care of themselves they are seldom properly attended to.]

A 44.

(690.) It is open to question whether the expression "cleansing footways" used in **A** would be held to imply that it was the duty of an occupier to remove weeds and grass growing in a public footway adjoining his premises.

A 44. (691.) An Urban A may make By-Laws for the prevention of Nuisances arising from snow, filth, dust, ashes, and rubbish ; and for the prevention of the keeping of Animals so as to be injurious to health.

A 45. (692.) An Urban A may provide convenient places both for the temporary and for the permanent deposit of refuse of all kinds.

(39.) SEWERS AND DRAINS.

A 4. ✠ (693.) "Sewer" includes sewers and drains of every description, except drains to which the word "drain" applies, and except drains vested in and controlled by a Road A which is not a LA. "Drain" means any drain of and used for the drainage of one building only, or premises within the same curtilage, and made merely for the purpose of communicating therefrom with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed.

(694.) An Urban A may provide a map of its District, indicating the sewers thereof. Such map is to be open to the inspection of Ratepayers. A 20.

✠ (695.) All public sewers and their appurtenances are under the sole control of the LA of the District. But sewers within the District of a LA, which have been or hereafter may be constructed by or transferred to some other LA, or by or to a Sewage (*sic*) Board or other A empowered by Parliament to construct Sewers shall (subject to any agreement to the contrary) vest in the A which constructed them or to whom they have been transferred. The following sewers are also exempt from such control:—Sewers made for profit; sewers for draining, preserving, or improving land under any local or private Act; sewers for irrigating land; sewers under the authority of Commissioners appointed by the Crown. A 13.

✠ (696.) Any LA can[a] buy up sewers or rights as to sewers within its District, but the rights of third parties are protected, and the purchase money is to be subject to the same trusts (if any) as the sewer right or property sold was subject to. A 14.

✠ (697.) On every LA is cast, in explicit terms, the duty of keeping in repair old sewers and of making new ones. A 15.

✠ (698.) In order to facilitate the construction of sewers, large powers (including powers of entry on lands after giving "reasonable notice") are conferred upon LAs. The "reasonable notice" is to be given to any owner, or occupier, whose property will be affected. A 16.

✠ (699.) Old sewers may be enlarged or improved; or, under reservation of the lawful rights of all persons, may be closed up and disused, but in no case so as to be a nuisance. A 18.

✠ (700.) For the purpose of making a sewer through private lands, a LA may proceed either under a general or under a Local Act (if any), at its option.[b]

(701.) An Urban A may construct a sewer along a private street, not being a highway, in default of the owner doing so. At the option of the Board the expense may be recovered summarily, or may be declared to be a "private improvement" outlay: it is chargeable on the owner in either case, though under certain circumstances an occupier may have to share the burden with the owner. A 150. A 214.

✠ (702.) All public sewers are to be constructed, covered, ventilated, and kept so as not be a nuisance or injurious to health, and properly cleansed. A 19.

✠ (703.) If a LA should consider that it is not able to provide a proper sewerage outfall within its District, it may purchase or lease land for the purpose lying outside its District. A 27.

(*a*) But can the machinery of the "Lands Clauses Act" be invoked for the compulsory purchase of a Sewer? Refer to the remarks of Cranworth, C. in *Pinchin* v. *London & Blackwall Railway Co.*

(*b*) *Derby, (Earl of)*, v. *Bury Improv. Com.*

✠ (704.) An obligation to make compensation applies to all cases in which land is interfered with,[a] whether involving temporary damage only, or the deterioration of property by permanent occupation,[b] but does not comprise any "indirect injury."[c]

A 327-36. ✠ (705.) A contains some important restrictions as to works, the existence of which restrictions it is proper to note here.

A 32: as to notices generally see A 265. ✠ (706.) A LA proposing to construct works outside its district, is required to give a variety of notices at least 3 months beforehand. The Section prescribing these notices is very precise, and care must be taken to comply exactly with its requirements.

A 33-4. ✠ (707.) If any of the parties entitled to receive notice should lodge notice of objection within the said 3 months, the proposed work cannot be commenced without the sanction of LGB. This sanction is petitioned for by the LA, and thereupon an Inspector of LGB may be directed to proceed to the place and hold an Inquiry there into the propriety of such work. (See Chap. IV., *ante*.)

✠ (708.) It is desirable that the notices mentioned in the previous Paragraph should be given at the same time as the notices for a Provisional Order to take the land which is wanted outside the District, otherwise there may be a difficulty in obtaining the Order; or even if the Order be obtained, it may afterwards be rendered of no avail because of the appearance of parties making objections which eventually evoke an unfavourable decision from LGB.

A 27 and 29. ✠ (709.) LAs possess many facilities for utilising their sewage. Any A may acquire lands, buildings, and apparatus for receiving, storing, disinfecting, distributing or otherwise disposing of sewage. It may let its lands on lease or carry on farming operations by its own servants; or may enter into arrangements with Contractors to take the sewage. Provision is to be made for so effectually disposing of all the sewage brought to the land, that there may be no nuisance.

A 30. ✠ (710.) A LA may also in its corporate capacity contribute to the expenses of any sewage contracts, or take Shares[d] in a Company formed for dealing with the sewage of its District.

A 29. ✠ (711.) A lease of lands granted by a LA must be for agricultural
A 27 (3). purposes and must not be for a longer term than 21 years. A contract for the supply of sewage may be for any period not exceeding 25 years.

A 31. ✠ (712.) Any owner or occupier of premises within the District of a LA is entitled to apply for the admission of his sewage into its sewers after notice, but the said A may make its own regulations[e] with respect to the mode in which the communications are to be made. Non-compliance with these provisions subjects the offender to a penalty

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(*a*) *Lister* v. *Lobley*.

(*b*) See *Derby* (*E. of*), v. *Bury Improvement Commissioners*; also *Herring* v. *Metropolitan B.W.*; also *Reg.* v. *Wallasey L.B.*

(*c*) *Bigg* v. *London Corporation*; and see *Reg.* v. *Metropolitan B.W.*, (1869.)

(*d*) But the wisdom of doing so would be very doubtful in any case.

(*e*) This word does not appear to authorise the demand of any fee by the LA for permission to connect the drains of a house with a public sewer.

not exceeding 20*l.*, and the 𝔏𝔄 may close any communications wrongfully made, and can recover in a summary manner the expenses which it has incurred. [The application for permission to make a connection between a drain and a sewer must in all cases precede any attempt to accomplish such a junction.]

(713.) No building is to be newly erected over any sewer of an Urban 𝔄 without the consent of the 𝔄. Penalty 5*l.*, and 2*l.* for every day which the offence is continued after notice in writing; and the 𝔏𝔄 may pull down, &c., the building, and recover in a summary manner the expenses of doing so. A 26.

✠ (714.) Any owner or occupier of premises outside the District of a 𝔏𝔄 may use[a] its sewers upon such terms and conditions as may be agreed on. Disputes on these points may be settled by a Court of Summary Jurisdiction, or by arbitration, at the option of the owner, or occupier. A 22.

✠ (715.) If at the passing of **A** it happened that any sewers were thus used by persons outside a District in consideration of an annual payment for such use, that payment is not affected. If the user should cease, the payment is to cease. If the user should be resumed, the payment is to revive.[b] A 337.

(716.) In an Urban District no new house is to be built or occupied, or old house (pulled down to the ground floor) re-built or occupied without proper drainage. The drain is to be connected with a sewer of the 𝔏𝔄, unless there is no sewer within 100 *feet* "of some part of the site of the house;" in that case the connection is to be with a covered cesspool, or other "place," not being under any house. In any case the works must be constructed in accordance with the requirements of the 𝔄. Penalty for default, not exceeding 50*l.*, and costs. A 25.

(717.) The drainage of buildings may be the subject of By-Laws. A 157 (4).

✠ (718.) If any house within the District of an 𝔏𝔄 is without effectual drainage, the 𝔏𝔄 shall by written notice require the owner or occupier to make a connection with a public sewer, if there is one within 100 *feet* "of the site of such house," or with a covered cesspool or other "place," if there be no sewer available.[c] The 𝔄 may prescribe the materials, &c., to be used. If the owner does not comply with the Order, the 𝔏𝔄 may execute the works and recover the outlay from the owner in a summary manner, or it may declare the outlay to be a "Private Improvement Expense." In certain cases the 𝔄 may construct specially a new sewer, and apportion the expenses amongst the owners; and recover them summarily, or declare them to be Private Improvement Expenses. A 23.

(*a*) It is a moot point whether "may use" is to be treated as equivalent to "may insist on using," (subject, of course, to settlement of terms in the usual way).

(*b*) On the user of sewers by permission see *Metropolitan B.W.* v. *L. & N.W.R.*

(*c*) Notice that the permission granted by the "Public Health Act, 1848," § 49, to drain into the sea no longer appears in this, the corresponding section of **A**.

A 24. ✠ (719.) If a house has a drain which, though sufficient generally, is in the opinion of the LA objectionable for any reason, the LA may close such drain on the condition that it provides at its own expense an effectual substitute.[a]

A 17. ✠ (720.) LAs are not authorised to discharge unclarified sewage into natural streams, watercourses, canals, ponds, or lakes. Nor may they allow sewage to continue to be so discharged even after a long acquiescence on the part of the riparian owners.[b] If, however, the mischief is of small moment the Courts will not interfere.[c]

✠ (721.) And even when no proceedings are taken to stop absolutely all discharge of sewage, yet an Injunction will often be granted to prohibit any *additional* sewage being discharged.[d]

A 31. ✠ (722.) The construction of works for the application of sewage to lands is to be deemed an "Improvement of Land" within the "Improvement of Land Act, 1864." 27 & 28 Vict., 114.

A 299. ✠ (723.) If a LA makes default in providing its District with sufficient sewers or in the maintenance of existing sewers, LGB may order the A to remedy its default within a specified time. The powers thus conferred on LGB are of a very stringent character, and LAs would in all cases do wisely not to neglect their duty so as to compel matters being pushed to this extreme. [See Paragraphs 235—9, *ante*.]

✠ (724.) A LA need not, for the mere purpose of constructing a sewer through private lands, acquire the absolute possession of any land under the "Lands Clauses Act;" for to acquire permission to make a sewer is to acquire an easement.[e]

A 224. (725.) Premises which are deemed by an Urban A to be already sufficiently drained may be relieved in part from contributing to the construction of a new sewer according as the A may consider just under all the circumstances.

A 331. ✠ 726.) Any Navigation, &c., Corporation owning property through or near which any sewer, &c., belonging to a LA runs or is situate, may at its own expense take up, divert, or alter the level of such A 333. sewer, &c., or may replace it by a new sewer, &c. But the substituted sewer, &c., must be certified by the Surveyor of the LA to be as effectual as the old one. Any dispute may be settled by arbitration.

✠ (727.) A LA in providing sewers, or generally in executing works is not at liberty to commit a nuisance itself[f], by adopting, for instance, an ill-conceived out-fall. An individual damnified under such circumstances may obtain an Injunction to restrain the LA from proceeding with its works.[g]

(*a*) See *Fulham B.W.* v. *Goodwin*; *St. Marylebone Vestry* v. *Viret*.
(*b*) *A. G.* v. *Leeds, Mayor*.
(*c*) *A. G.* v. *Gee*: *Elmhirst* v. *Spencer*.
(*d*) *A. G.* v. *Richmond*.
(*e*) *Hughes* v. *Metrop. B.W.*; *Thornton* v. *Nutter*.
(*f*) *Itchen Bridge Co.* v. *Southampton L.B.H.*
(*g*) *A. G.* v. *Birmingham Council*.

✠ (728.) Inasmuch as LAs are supposed to be in general acting for the interest of the public at large, the Courts are not over-willing to interfere unless good reason be shown.[a] But it is the fact that Injunctions against LAs for permitting sewage to flow into streams have of late become increasingly common, and have stimulated the utilisation of sewage.

✠ (729.) Merely to attempt to deodorise sewage flowing into a river (especially if the attempt fails) will not be recognised as compliance with an Injunction prohibiting the sending of sewage into a river, and is a contempt of Court.[b]

✠ (730.) If a house is drained into a sewer and the drainage is not defective, a LA, if it chooses to divert the sewer, cannot charge on the owner of the house the expense of making the new connection. This was decided in 2 London cases,[c] but the principle seems to be of general application.

✠ (731.) Two adjacent LAs may, with the sanction of LGB, make terms for the use by one of them of the sewers of the other. If the As are not able to agree as to terms, LGB may settle the terms. Storm water (as far as practicable), and also the sewage of other Districts or places, must be excluded from the sewers when an arrangement under this power is in force, unless the receiving A consents. A 28.

(732.) By the "Defence of the Realm Act, 1860," the Secretary of State for War is invested with certain powers of stopping up, diverting, or altering highways, ways, sewers, drains, or pipes in or adjoining lands taken by the War Department. 23 & 24 Vict., 112, 40, and some other Acts to the like effect

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(40.) SLAUGHTER-HOUSES.

(733.) An Urban A may provide or may license such Slaughter-houses in its District as it deems requisite, and fitly located.[d] Existing rights must not be prejudiced. A 169: 10 & 11 Vict., 34, 125-31.

(734.) No new Slaughter-houses are to be established without a license.[e] Penalty, 5*l.* or less, and after conviction, 5*l.* per day or less. A 169: 10 & 11 Vict., 34, 126.

(735.) Existing Slaughter-houses are to be registered.[f] Penalty, 5*l.* or less, and 10*s.* per day or less. A 169: 10 & 11 Vict., 34, 127.

(*a*) See *Ware* v. *Regent's Canal Co.*; *Lillywhite* v. *Trimmer*; *Goldsmid* v. *Tunbridge Wells Improvement Commissioners*; *A. G.* v. *Gee*; *A. G.* v. *Colney Hatch Lunatic Asylum.*

(*b*) *Spokes* v. *Banbury L. B.*

(*c*) *St. Marylebone Vestry* v. *Viret*; *Fulham B.W.* v. *Goodwin.*

(*d*) See *Anthony* v. *Brecon Markets Co.*

(*e*) No fee can be exacted for this. It is a good arrangement to make the licenses renewable annually, as by so doing the holders are kept more under control.

(*f*) It may be taken to be clear that except to enforce registration the Urban A has no direct power to interfere with slaughterhouses in use when the "Public Health Act, 1848," or the "Local Government Act, 1858," or A respectively, as the case may be, were applied to its District, and used continuously as slaughter-houses ever since. By the indirect process of making stringent By-Laws and vigorously enforcing them some hold may perhaps in certain cases be obtained over old slaughter-houses.

A 169: 10 & 11 Vict., 35, 128-30.

(736.) Slaughter-houses are to be regulated by By-Laws. Penalties for breaches, viz.:—5*l.* or less, or 10*s.* per day or less, may be prescribed. Justices may suspend a license for 2 months on the conviction of the holder, or if the person convicted is the owner they may forbid slaughtering on the premises for 2 months ; on a *second* or subsequent conviction a license may be revoked, or an owner absolutely forbidden to slaughter. Penalties for using Slaughter-houses, the licenses of which have been suspended or revoked, 5*l.* or less, and the same sum per day or less.

A 170.

(737.) The owner or occupier of every licensed or registered Slaughter-house shall within *one* month after the licensing or registration affix, on some conspicuous place on the premises, the words "Licensed Slaughter-house," or "Registered Slaughter-house," as the case may be. The notice is to be kept undefaced and legible so long as the premises are used for the purpose aforesaid. Penalty for default, 5*l.* or less, and 10*s.* per day after conviction.

A 169: 10 & 11 Vict., 34, 131.

(738.) The Inspector of Nuisances, or Officer of Health, or other officer of an Urban A appointed for the purpose, may enter and inspect any Slaughter-house and any place kept or used for the sale of butcher's meat, and may examine any cattle or carcase there, and may seize the same if it appears unfit for food, and may carry it before a Justice, who may, after further inspection by competent persons, inflict on the owner or on the person having the custody of the article, a penalty of 10*l.* or less for every animal, carcase, or part of a carcase. What is thus seized is to be immediately destroyed or otherwise disposed of. Penalty for obstructing an officer, 5*l.* or less.

26 Geo. III., 71, 1.

(739.) No person may keep or use any house for slaughtering any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle not killed for butcher's meat, without a license from the Quarter Sessions, granted on a certificate from the Minister and Churchwardens or Overseers, or from the Minister and 2 householders. It may be doubted whether this enactment is as generally known as it should be. It is however a question whether or not it is to be deemed obsolete.

(41.) SMOKE, (PREVENTION OF).

A 91 (7).

(740.) A Trade Fire-place or Furnace that does not consume "as far as practicable," its own smoke, is a "nuisance," and has already been dealt with in general terms. [See "Nuisances," *ante* p. 78.] At an Inquiry before a Court of Summary Jurisdiction, the Court must dismiss the complaint if satisfied that the Furnace is constructed so as to consume as far as practicable its smoke (having regard to the nature of the manufacture), and that it has been carefully attended to by the person in charge.

✠ (741.) Every Locomotive used on a Railway or Highway must consume its own smoke. Penalty, 5*l.* per day or less. 8 Vict., 20, 114, as extended by 31 & 32 Vict., 119, 19; 28 & 29 Vict., 83; 43 & 44 Vict., 48.

(742.) Smoke, with or without noxious or offensive vapours, will, except in trifling cases, justify an 𝔄 in taking proceedings.[a]

(743.) Nothing in **A** extends to Mines, so as to interfere with or obstruct their efficient working, nor to the smelting of ores and minerals, nor to certain classes of ironworks. A 334.

(42.) STEAM WHISTLES, &c.

✠ (744.) No person may use a Steam Whistle or Steam Trumpet for summoning or dismissing workmen without the sanction of the 𝔏𝔄. Penalty, 5*l.* or less, and 2*l.* per day or less. 𝔏𝔊𝔅 may revoke a sanction on the application of a person prejudicially affected, if the 𝔏𝔄 refuses to do so. When the facts are disputed, an Inquiry by one of its Inspectors is usually ordered by 𝔏𝔊𝔅. 35 & 36 Vict., 61, 2.

(43.) STIPENDIARY MAGISTRATES.

(745.) By the "Stipendiary Magistrates Act, 1863," a place which is under a Local Board and has 25,000 inhabitants, may obtain a Stipendiary Magistrate. The proposal for the appointment of such a functionary is in the first place to be sanctioned by at least *two-thirds* of the Local Board, and the Board is empowered to fix his salary; and eventually, to provide it out of the "Local Improvement Rate;" and also to provide a Police Office. 26 & 27 Vict., 97, 3-4.

(44.) TRAMWAYS.

(746.) Under a Board of Trade Provisional Order, an Urban 𝔄 may construct Tramways. 33 & 34 Vict., 78, 4, 6-16.

(747.) An Urban 𝔄 may acquire Tramways by purchase, and may lease and take tolls in respect of the same, but such an 𝔄 is expressly prohibited from working Tramways. 33 & 34 Vict., 78, 43-5. 33 & 34 Vict., 78, 19.

(748.) The expenses are to be borne by the General District Rate, or money may, with the sanction of the Board of Trade, be borrowed under much the same regulations as those which control the borrowing of money for Sanitary purposes. 33 & 34 Vict., 78, 20, and Sch. A.

(*a*) Refer to *Crump* v. *Lambert*; *Cooper* v. *Woolley*; *Barnes* v. *Akroyd*; *Norris* v. *Barnes*. These, however, are private cases, but they will serve to show the nature of Nuisance which may be repressed, and the relief which will be granted by the Courts. See, as to disregarding an Order of Justices to abate a Nuisance, *Reg.* v. *Waterhouse*.

33 & 34 Vict., 78, 26-33.

(749.) Persons engaged in establishing Tramways are placed under various restrictions with a view to protect the interests of Road, Gas, Water, Telegraph and Sewer Authorities.

33 & 34 Vict., 78, 4, 46-8.

(750.) An Urban A exercises control over Tramways in that its sanction is necessary before a Tramway can be constructed; and it regulates by By-Laws the working of Tramways, and is empowered to license Drivers, &c. By-Laws as to Tramways require the sanction of the Board of Trade, not that of LGB.

42 & 43 Vict., excili., 3, 6-9.

(751.) The "Tramways Orders Confirmation Act, 1879" contains some provisions respecting the use of Steam or Mechanical power on Tramways.

(45.) WATER-CLOSETS; PRIVIES; EARTH-CLOSETS.

A 40-1.

✠ (752.) Every LA is to see that the house-drains, water-closets, earth-closets, privies, cesspools, and ash-pits within its District are constructed and kept so as not to be a nuisance or injurious to health. In order properly to attain this end, the Surveyor or Inspector of Nuisances is armed with certain powers of entry. If he find any drain, &c., in bad condition, or in need of alteration or amendment, the LA must serve notice on the owner or occupier to execute within a reasonable time the necessary works. Penalty for default, 10*s.* per day or less. If the default continues, the LA may execute the necessary works and recover the expenses in a summary manner, or declare them to be "Private Improvement Expenses." Any person may invoke, by writing, the intervention of the LA.

A 35.

✠ (753.) No new house is to be built, or old house (pulled down to the ground floor) rebuilt, without a sufficient water-closet, earth-closet, or privy, and an ash-pit furnished with proper doors and coverings.[a] Penalty, 20*l.* or less.

A 36.

(754.) A LA must require the owner or occupier of a house unprovided with a sufficient water-closet, earth-closet or privy, forthwith to provide such of these appliances as it may deem requisite; on default it may do the work required and recover the expenses in a summary manner or declare them to be "Private Improvement Expenses." A water-closet, &c., may, by leave of the LA, be used in common by two or more houses. The word "house" includes schools, factories and other buildings in which persons are employed.

A 4, as varied by 41 Vict., 16, 101.

A 38.

✠ (755.) These enactments apply to factories, &c., as well as to houses, but in the case of factories there is, on the requisition of the Urban A, to be separate accommodation for each sex. Penalty, 20*l.* or less, and 2*l.* per day or less.

(*a*) There is an opinion very prevalent (Lumley, &c.) that it is requisite, in order to comply with A 36, that the ashpit should be connected with the privy, &c., but though the Section may as a matter of grammar be read in that sense it seems certain that the opinion alluded to is erroneous. So long as every new house has a sufficient water-closet, &c., or privy, and so long as it has also an ash-pit, the relative situation of these is an indifferent matter.

✠ (756.) Earth-closets having come into use, they are the subject of special provision. Any enactment requiring the construction of a water-closet, may, with the approval of the LA, be satisfied by an earth-closet. A LA may undertake, or contract for, the supply of dry earth, &c. A 37.

(757.) An Urban A may provide and maintain public urinals, water-closets, earth-closets, privies, and ash-pits; and other similar conveniences. A 39.

(46.) WATERS (POLLUTION OF).

✠ (758.) Provision is made for dealing with wells, tanks or cisterns, public or private, or supplied from any public pump, and used, or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, which are polluted so as to be injurious to health. On receiving a representation to this effect, a LA may apply to a Court of Summary Jurisdiction to order a remedy. The Court must summon the owner or occupier if the well, &c., be private, or any person alleged to be interested, if it be public. The Court may direct that the well, &c., be permanently or temporarily closed, or that the water be used for certain purposes only, or may make such other order as shall appear requisite to prevent injury to the health of persons drinking the water. The Court may order water to be analysed. If the person on whom the Order is made fails to comply with it the Court may authorise the LA to do what is necessary and recover the expenses in a summary manner from the person on whom the Order is made. In Rural Districts expenses not recovered as aforesaid are to be deemed "special." A 70.

✠ (759.) The costs connected with proceedings for the closing of Wells depend upon **A** 104, 251 and 261. But no direct provision is made for authorising a LA to incur the expense of having suspected water analysed, except under an Order of a Court of Summary Jurisdiction. When this step is taken, otherwise than under such direction, auditors sometimes surcharge the members who sanction the outlay. A 104, 251, 261.

✠ (760.) A person who bathes in, or washes, any dog or other animal, or throws "rubbish, dirt, filth, or other noisome thing," into any stream, reservoir, aqueduct or other water-works belonging to or under the control of a LA, or washes skins, &c., or clothes, &c., therein, or does any other act to foul such water, is liable to a penalty of 5*l.* or less, and 1*l.* per day or less after written notice. A 57; 10 Vict., 17, 61.

✠ (761.) A LA may, with the consent of the Attorney-General, take such legal proceedings for the protection of water-courses from pollution by sewage as it may deem advisable. The costs may come out of the Rates. A 69.

✠ (762.) A Gas Manufacturer who causes or suffers refuse products to flow into any stream, &c., or who wilfully does any act whereby water is fouled, is liable to a penalty of 200*l.* for every offence, and after 24 hours' notice from the LA or person to whom the water belongs, to a A 68; 10 Vict., 17, 62-4; and compare 10 Vict., 15, 21—4.

further penalty of 20*l.* per day. The principal penalty must be sued for within 6 months after the offence has ceased.

A 57; 10 Vict., 17, 65-7; and compare 10 Vict., 15, 26-9.

✠ (763.) For the purpose of ascertaining whether any water is fouled by Gas, a LA may lay open any pipes, &c., after giving 24 hours' notice to the owner or manager. Provision is made as to the costs of such examination according as the Gas-owner is or is not in default. In the former case they are borne by him: in the latter they are chargeable on the Rates.

30 & 40 Vict., 75.

(764.) The "Rivers Pollution Prevention Act, 1876" contains provisions which must be briefly noticed here.

Ib. § 3.

(765.) Every person is to be deemed to have committed an offence against the Act who causes to fall or flow, or knowingly permits to fall or flow or to be carried into any stream any solid or liquid sewage

Ib. § 2.

matter, or any other waste or putrid solid matter, or solid refuse or rubbish. But this prohibition is subject to an important proviso, as follows:—Where any sewage matter reaches the stream along a channel used, constructed, or in process of construction, on Aug. 15, 1876, the person concerned is not to be deemed an offender, if he can show the Court that he is using the best practicable and available means to render harmless the sewage matter before it reaches the stream. Nor is a person to be deemed an offender in respect of the passing of sewage into a stream, along a drain communicating with a public sewer, if he has the sanction of the Sanitary A for such a use of such sewer. Where a Sanitary A is discharging sewage into any stream by a channel used or constructed, &c. (as above limited), LGB may grant and renew a dispensation to delay for a time the duty of complying with the Act.

Ib. § 4.

✠ (766.) Every person is to be deemed guilty of an offence against the Act who causes to fall or flow, or knowingly permits to fall or flow, or to be carried, into any stream, any poisonous, noxious or polluting liquid from any factory or manufacturing process. But there is a proviso somewhat similar to that in the previous paragraph. Where any liquid, as aforesaid, reaches the stream along a channel used, constructed, or in process of construction, on August 15, 1876, or along any new and substituted channel having the same outfall, the person concerned is not to be deemed an offender if he can show the Court that he is using the best practicable and reasonably available means to render harmless the polluting liquid carried into the stream.

Ib. § 5.

✠ (767.) Mining pollutions are separately dealt with, and in nearly the same terms as above, but in addition, solids in such quantities as to prejudicially interfere with the flow of the stream, and also poisonous, noxious, or polluting solids are included.

Ib. § 6.

✠ (768.) Proceedings with respect to manufacturing and mining pollutions are subject to another and very important restriction. Unless and until Parliament provides otherwise, proceedings are not to be taken except by a Sanitary A, and that A must obtain the consent of LGB. Where a Sanitary A refuses to take action, LGB

may, on the application of any interested persons compel it to do so. This Board in its action, is to have regard to "the industrial interests involved," and to "the circumstances and requirements of the locality." The Board is also to take care that "no material injury" be inflicted on any manufacturing industry. A person proceeded against is entitled to appear before the Sanitary Authority either in person or by an agent, and with witnesses, to show cause why legal proceedings should not be commenced against him. One set of proceedings being commenced, no other Sanitary Authority is to proceed against the offending person until the steps previously taken have proved abortive, by reason of the party proceeded against having failed to carry out the order of a competent Court.

✠ (769.) Every Sanitary or Local Authority controlling sewers is to give facilities to manufacturers within its district for the admission into such sewers of waste liquids. This Section is not to be construed as compelling an Authority to admit into its sewers any liquid which would prejudicially affect such sewers, or the sale or the application to land or otherwise of the other sewage matters passing through the sewers, or which would, owing to its temperature or otherwise, be injurious in a sanitary point of view. A Sanitary Authority may refuse facilities where its sewers are only sufficient [a] for its district, or where the granting of facilities would interfere with any Order of a Court respecting the sewage of such Authority. 30 & 40 Vict., 75, 7.

✠ (770.) Every Sanitary Authority will, subject to the restrictions of the Act, have power to enforce the Act in relation to any stream within, or passing through, or by, any part of its district. It may institute proceedings against any other Sanitary Authority, or person, whether the offence is committed within or without its district. The expenses are to be defrayed as if they were expenses under **A**. Let it be noted that these enactments will not deprive of his remedy any person aggrieved by the commission of an offence against the Act. Ib. § 8.

✠ (771.) Offences against the Act are to be dealt with by the County Courts which have jurisdiction in the places where the offences are committed. County Court Judges are empowered to issue summary Orders of the nature of Injunctions. Previously to granting an Order, the Court may remit any matter to an expert for a report as to the best practicable remedy. Default in compliance with an Order may involve a continuing penalty of 50*l.* a day or less, and the Court may appoint persons to carry into effect its Order. There may be an appeal from the County Court to the High Court of Justice in the form of a Special Case, and proceedings commenced in a County Court may be removed to the High Court by leave of any Judge of the High Court. Ib. §§ 10-11.

✠ (772.) The Inspectors of LGB appointed for the purposes of the Act, possess wide powers. Any Certificate signed by such an Inspector, Ib. § 12.

(*a*) The words "sufficient for its district" would probably be held to cover any such development of the population of the district as might be reasonably anticipated within a reasonable time; otherwise, a sewer providently made large enough for an expected increase in the demands upon it, might soon become overburdened.

to the effect that the means used for rendering harmless any sewage matter, or poisonous, noxious, or polluting solid or liquid matter, carried into any stream, are the best or only practicable and available means under the circumstances of the particular case, is to be conclusive evidence of the fact in all Courts and proceedings. A Certificate may remain in force for any period not exceeding 2 years, and may be renewed. Expenses incurred in obtaining a Certificate are to be paid by the applicant. An appeal lies to LGB against the decision of an Inspector.

Ib. § 13. ✠ (773.) Proceedings are to be preceded by a *two* months' notice, and no proceedings under the Act are to be taken while other proceedings are pending in relation to the same offence.

Ib. §§ 14–5. ✠ (774.) LGB and its Inspectors are invested by the Act with various powers connected with procedure, analogous to those conferred upon them by **A**.

Ib. §§ 16–9. ✠ (775.) There are saving clauses to the effect that the powers of the Act are cumulative; that the Act is not to affect rights of impounding or diverting water; and where sewage is carried into the sea or into tidal waters under the authority of an Act of Parliament, nothing done under such Act is to be an offence against the "Rivers Pollution Act."

Ib. § 20. ✠ (776.) The interpretation clause contains a very comprehensive definition of "stream." This word "includes the sea to such extent, and tidal waters to such point as may, after Local Inquiry, and on sanitary grounds, be determined by LGB by Order, published in the *London Gazette*. Save as aforesaid it includes rivers, streams, canals, lakes and water-courses, other than water-courses at the passing of the Act mainly used as sewers and emptying directly into the sea, or tidal waters which have not been determined to be streams within" the Act. "Solid matter" does not includes "particles of matter in suspension in water." "Polluting" does not include "innocuous discolouration."

(47.) WATER SUPPLY.

A 51-2: and 63. ✠ (777.) A LA may provide its District or any part thereof with water, and in order to do so may construct and maintain such Works, dig wells, or contract for a supply, but it is not to put itself in competition with any private Water Company, empowered by Act of Parliament, or Order confirmed by Parliament,[a] so long as such Company is able and willing to supply water "proper and sufficient for all reasonable purposes,"[b] and on such terms as may be agreed upon, or be settled by arbitration. Differences of opinion are also to be settled by arbitration.

See **A** 4 for definition of "Water Works" and "Water Company."

(*a*) A mere Joint Stock Company supplying water is not protected by this enactment.

(*b*) Of course a supply for domestic purposes will be covered by the expression, "reasonable purposes." See Part V., "Digest of Cases," *post*, Title "Water Company, Powers, &c., of."

✠ (778.) As regards the construction by a 𝔏𝔄 of Reservoirs which will hold more than 100,000 gallons, numerous special regulations are prescribed. Persons to be affected, and who object, may obtain a Local Inquiry by an Inspector of 𝔏𝔊𝔅. A 53.

✠ (779.) Any 𝔏𝔄 may buy up any water-mill, dam, or weir which interferes with the proper water supply of its District. It may hire Water-works, or with the sanction of 𝔏𝔊𝔅 purchase water or water rights either within or without its District, and the powers, &c., of any Water Company. The "Lands Clauses Consolidation Act, 1845," is available, but the compulsory powers of that Act are only to be exercised under a Provisional Order of 𝔏𝔊𝔅. A 51, 175-76. 8 Vict., 18.

✠ (780.) All Pumps, Wells, &c., used for the gratuitous supply of water, may be kept in good working order by the 𝔏𝔄, and it may construct new ones (to be used gratuitously). A 64.

✠ (781.) Any 𝔏𝔄 may supply water from Water-works purchased or constructed by it to any Public Baths and Wash-houses, or for trading or manufacturing purposes, on terms to be agreed on. Moreover, any 𝔏𝔄 may construct works for the gratuitous supply of Public Baths and Wash-houses supported out of the Rates. A 65.

✠ (782.) A 𝔏𝔄 is armed with the same powers (and is subject to the same restrictions) for laying down water mains as for laying down sewers, and this both within and without its District.[a] A 54. A 16.

✠ (783.) Any 𝔏𝔄 supplying water may, with the sanction of 𝔏𝔊𝔅, supply water to an adjacent 𝔄 on terms to be agreed on, or settled by arbitration. A 61.

✠ (784.) For the purpose of enabling any 𝔏𝔄 to supply water, the "Water-works Clauses Act, 1863," and various sections of the "Water-works Clauses Act, 1847," are incorporated by **A**. The following are the incorporated provisions of the latter Act :— A 57: 26 & 27 Vict., 93; 10 Vict., 17.

With respect (where the 𝔏𝔄 does not control the streets) to the breaking up of streets.	10 Vict., 17, 28–34.
With respect to the communication pipes to be laid by the undertakers.	Ib. 44–7.
With respect to the communication pipes to be laid by the inhabitants.	Ib. 48–53.
With respect to waste or misuse of the water supplied by the undertakers.	Ib. 54–60.
With respect to the provision for guarding against fouling the water of the undertakers.	Ib. 61–7.
With respect to the payment and recovery of the water rates. (*b*)	Ib. 68–74.

But (1) the provisions just cited as to pipes (§§ 44-53) apply only in Districts where the 𝔏𝔄 lays pipes; (2) any dispute authorised or A 57.

(*a*) It may therefore lay down water mains along a private street not dedicated to the public, but the cost will fall on the District and not on the owners of the street.

(*b*) A very important question is now constantly arising as to the levy of the requisite funds to defray the cost of water supply where only particular individuals or particular parts of an Urban District are benefitted. Without laying down an exact hard and fast line it may be safely stated that as far as possible water supply expenses should only be put upon those who actually participate in the supply, and therefore that in assessing a water rent an allowance for the interest on capital laid out should be included as well as the cost of annual maintenance, and that the General District Rate should only be resorted to for water required for such general purposes as watering streets or flushing sewers. I am aware that some persons, including some Local Government Board Auditors, hold that no allowance in respect of interest on capital ought to be included in the amount claimed for water rent in such a case as that put above, but I think their view is erroneous, or at least unfair. There appear to be no judicial decisions on the point.

directed by any incorporated provision to be settled by an Inspector or 2 Justices is to be settled by a Court of Summary Jurisdiction; (3) some words are to be deemed omitted from § 44; and (4) rent for pipes, &c., paid by an occupier may be deducted by him from his landlord's rent.

A 63. ✠ (785.) Any Water Company may contract to supply water, or may lease its Water-works to a LA, or may, under certain conditions, sell and transfer its Works to a LA.

A 62. ✠ (786.) A LA may compel an owner to have any house of his supplied with water if the house is without "a proper supply," and a proper supply can be had at a cost not exceeding the Water Rate authorised by the Local Act, or where there is no such Act, not exceeding 2*d.* per week. But this limit is no longer absolute. If this payment will not command the requisite service LGB may, on the application of the LA, require an owner to pay a higher charge, so long as it be "reasonable." The A may execute the works if the owner makes default in doing so, and may recover the expenses in a summary manner, or may declare them to be "Private Improvement Expenses," or the A may contract with a Water Company for the execution of the Works. The A or the Water Company may also levy a Water Rate on the premises, as if the owner or occupier had demanded a supply, and were willing to pay for the same. The A is set in motion by a Report from its Surveyor.

A 81. ✠ (787.) A LA may enforce a proper supply of water to Common Lodging Houses. [See Paragraph 507, *ante.*]

A 55-6 and 58. ✠ (788.) LAs providing Water are to supply it pure and wholesome. They may keep it laid on constantly at such pressure as will carry it to the topmost storey of the highest dwelling-house. They may, under certain regulations, charge Water Rates[a] and Rents[b]; and may enter into agreements,[c] as to Water Supply, and as to the provision of Water Meters, and the hire and inspection thereof.

A 59. ✠ (789.) Where water is supplied by measure by any LA, the register of the meter, &c., is to be *primâ facie* evidence of the quantity consumed. Disputes as to this are to be determined by a Court of Summary Jurisdiction, and such Court may award costs.

A 60. ✠ (790.) Any person who by wilful or culpable negligence injures a meter or fittings, or fraudulently tampers with an index, or fraudulently abstracts or uses water, is liable to a penalty of 2*l.* or less (without prejudice to the right of the LA to resort to other remedy).

(*a*) It may be worth while to mention that beyond doubt a "Water Rate" must be levied as any other Rate, *i.e.*, as an equal pound Rate on the rateable value of the premises. A deviation from this would convert the charge into a "Rent." Both Rates and Rents should be collected quarterly.

(*b*) *Semble* that a Water "Rent" is not a "Local Rate" for the purposes of the "Bankruptcy Act, 1869," § 32.

(*c*) These must be in writing. Whether such an agreement will need a stamp will depend on circumstances. The Board of Inland Revenue holds that "every agreement is liable to a stamp duty, unless it bears internal evidence that the subject matter thereof is not of the value of 5*l.*" If the agreement as to Water is for a specified period, and the payment for that period is less than 5*l.*, no stamp will be necessary; but if a greater sum than 5*l.* should be payable, it would, according to the rule referred to, be requisite that the agreement relating thereto should be stamped.

✠ (791.) Any person wilfully injuring property belonging to any works of water-supply, or wasting water, &c., is liable to a penalty of 5*l.* or less. A 57 : 10 Vict., 17, 60.

✠ (792.) When a complaint is made to LGB that a LA has neglected to supply its District with water in cases where danger to health arises from the insufficiency or unwholesomeness of the existing supply, and a proper supply can be got at a reasonable cost, LGB may make an Order limiting a time for the LA to provide a supply. The Order may be enforced by *Mandamus*, or LGB may appoint some person to execute the works which the LA ought to have executed, and may charge the expenses on the Rates by raising a loan or otherwise. [See Paragraphs 235—9, *ante.*] A 299-301.

✠ (793.) By the "Limited Owners Reservoirs and Water Supply Further Facilities Act, 1877,") a Landowner may charge his estate with the cost of constructing works for the supply of water as "Improvements" within the "Improvement of Land Act, 1864." Such Landowner may enter into agreements for the supply of water to any Sanitary or other LA, Water Company, manufacturer, or other person for any term not exceeding the number of years during which the cost of the improvement or any part of it is a charge on his estate. The expression "LA" is defined to mean "Any A having jurisdiction for any public Local purpose." 40 & 41 Vict., 31. 27 & 28 Vict., 114.

(794.) As to the water supply of the Universities of Oxford and Cambridge, there are special provisions. A 67.

(795.) An Urban A may obtain alterations in the position of water-pipes in streets if necessary. Certain conditions are imposed. A 153.

(796.) Though a LA has no power to enact By-Laws as to Water Supply, it may prescribe conditions and regulations which may be made part of the agreements into which it enters; and these conditions may be framed so as practically to serve as By-Laws.

✠ (797.) By the "Public Health (Water) Act, 1878," which is to be construed as one with the "Public Health Act, 1875," very important powers are conferred, on Rural Sanitary As, as to the water supply of dwelling-houses in rural districts. But the Act is not entirely limited to rural districts, for LGB may, by Order, invest any Urban A with all or any of the powers given by the Act to a Rural Authority. Such investment may be made either unconditionally, or subject to conditions to be specified by LGB, as to the time, portion of district, or manner during, at, or in which, the powers and duties are to be exercised. 41 & 42 Vict., 25. 38 & 39 Vict., 55. 41 & 42 Vict., 25, 11.

✠ (798.) The most important Section of the Act is the 3rd, which is the very pivot of the whole statute. It is the duty of every Rural Sanitary A to see (regard being had to the provisions of the Act) that every occupied dwelling-house within its district has within a reasonable distance an available supply of wholesome water sufficient for the consumption and domestic use of the inmates. Where it appears to a Rural A on the report of its Inspector of Nuisances or Medical Officer 41 & 42 Vict., 25, 3.

that any occupied dwelling-house has not such supply within a reasonable distance, and the A is of opinion that such supply can be provided at a reasonable cost, not exceeding a capital sum, the interest on which at 5 per cent. per annum would be 2*d.* per week, and that the expense of providing the supply ought to be paid by the owner or be defrayed as Private Improvement Expenses, proceedings may be taken. Proceedings may also be taken, subject to the sanction of LGB, where a larger outlay is requisite, but that Board is to fix the amount of the outlay, which is, however, not to exceed the capital sum represented at 5 per cent. per annum by 3*d.* a week. It may be convenient here to remind the reader that 2*d.* a week and 3*d.* a week capitalised at 5 per cent. represent respectively 8*l.* 13*s.* 4*d.* and 13*l.*

41 & 42 Vict., 25, 3.

✠ (799.) The steps to be taken are briefly as follows :—(1) The A may serve on the owner a notice requiring him within a specified time, not exceeding 6 months, to provide such supply and do such works as shall be necessary ; (2) If at the expiration of the specified time the notice is not complied with, a second notice may be served, giving one month for compliance with the first notice, and stating that on further default the A will provide the supply and charge the owner, or declare the cost to be a Private Improvement Expense ; (3) On such further default the A may enter the premises and execute the works, and for the purposes of such entry A 102 and 103 are made available ; (4) Expenses incurred by the A may then be recovered in a summary manner from the owner, or, at the option of the A, may be declared to be Private Improvement Expenses ; (5) Where the owners of two or more houses fail to comply with notices served on them the A may, if it think fit, and no greater expense will be occasioned, execute works for the joint supply of those houses, and apportion the expenses. On cause being shown why the requirements of the notice should not be complied with the A may withdraw or modify it. Nothing in the 3rd Section is to relieve the A from the duty imposed on it by the " Public Health Act, 1875," of providing a general scheme of supply where danger arises from the insufficiency or unwholesomeness of the existing supply, and a general scheme can be carried out at a reasonable cost.

38 & 39 Vict., 55, 102-3.

41 & 42 Vict., 25, 4.

✠ (800.) An owner of a house who has been required to provide a supply of water, and who objects to such requirement, has a right of appeal if his objections are on any of the following grounds :—(1) That the supply is not required ; (2) That the time allowed is insufficient ; (3) That a supply cannot be provided at a reasonable cost ; (4) That the A ought to provide a supply for the district or contributory place, or to render the existing supply wholesome ; (5) That the whole or part of the expense ought to be a charge on the district or contributory place. An owner aggrieved may within 21 days after service of the second notice state his objections, in which case the A must not proceed with the works until authorised to do so by a Court of Summary Jurisdiction or by LGB.

41 & 42 Vict., 25, 4.

✠ (801.) If the objections do not include either the 4th or 5th grounds a Court of Summary Jurisdiction may authorise an A to proceed with

the works if satisfied that the owner's objections are not well founded, and if the owner is still in default after a time to be mentioned in the Order of the Court.

✠ (802.) But if the objections do include either the 4th or the 5th grounds the A is to forward a copy of the memorial to the LGB for its decision. If that Board confirms the requirement it is to issue an Order to empower the A to proceed, supposing the default of the owner continues. But if LGB cancels the requirement on the ground that the A ought to provide water, the memorial is to be deemed a "complaint" against the A of default within **A** 299. 41 & 42 Vict., 25, 4.

✠ (803.) Section 6 is very important. It is now not lawful in any rural district for the owner of any new dwelling-house, or of any old dwelling-house, pulled down to or below the ground floor and rebuilt, to permit the same to be occupied until he has obtained from the A of the district a Certificate that there is provided within a reasonable distance of the house such an available supply of wholesome water as may, in the judgment of the Inspector of Nuisances, or Medical Officer, be sufficient for the consumption and domestic use of the inmates. If the A refuse to grant such Certificate the owner may apply to a Court of Summary Jurisdiction to decide the matter. Penalty on an owner permitting a house to be occupied in contravention of this enactment, 10*l.* or less. 41 & 42 Vict., 25, 6.

✠ (804.) Every Rural A is to ascertain, from time to time, the condition of the water supply within its district. If there is reasonable ground for believing that any occupied dwelling-house is without a proper supply a compulsory right of entry for inspection arises, and for such entry **A** 102 and 103 are made available. 41 & 42 Vict., 25, 7. **A** 102—3.

✠ (805.) Where under **A** 62, application is made by a LA to LGB to determne what is a "reasonable cost," the Board may fix a general scale of charges for the whole or part of the district, and the cost of supplying water to any house within the specified area is to be deemed a "reasonable cost" within the meaning of **A** 62, if it does not exceed the cost authorised by such scale. 41 & 42 Vict., 25, 8.

✠ (806.) A Rural A may levy Water Rates or Water Rents from the owner or occupier of every dwelling-house within 200ft. of any standpipe provided by such A if such owner or occupier makes use of such stand-pipe. 41 & 42 Vict., 25, 9.

✠ (807.) Where a Sanitary A supplies, under the "Public Health Act, 1875," as amended by the "Public Health (Water) Act, 1878," water in any Urban District or in any contributory place, and an application is made by any 10 persons rated to the Poor Rate in such Urban District, or by any 5 persons so rated in such contributory place requiring Water Rates or Water Rents to be charged in respect of the water so supplied, it shall be incumbent on the A to exercise its powers in that behalf and charge Water Rates or Water Rents in respect of all water supplied by it in such district or place. 41 & 42 Vict., 25, 10.

✠ (808.) LGB may, conditionally or unconditionally, invest any Urban A with all or any of the powers and duties given to a Rural A by the "Public Health (Water) Act, 1878." 41 & 42 Vict., 25, 11.

CHAPTER VI.

RURAL SANITARY AUTHORITIES.

THE "Public Health Act, 1872" (repealed by **A**) provided that every locality which was not under the control of some Urban Sanitary 𝔄 should, for Sanitary purposes, fall under the supervision of the Guardians of the Poor of the Union in which it is situate, which Guardians were thereby appointed the "Rural Sanitary 𝔄."

A 9. (810.) **A** declares the complete identity of the Rural 𝔄 with the Board of Guardians.[a] Subject to the Provisions of **A**, all Statutes, Orders, and legal provisions applicable to any Board of Guardians, are to apply to them *quâ* Rural 𝔄.

A 9. (811.) Where any Poor Law Union is a "Rural" area (according to the definition given in **A**), no portion of the Union being within an Urban jurisdiction, the whole Board of Guardians, *ex-officio* as well as elected, are the Rural Sanitary 𝔄.

(812.) But, inasmuch as Poor Law Unions were not formed for Sanitary purposes, a Poor Law Union District often includes one or more areas governed by an Urban 𝔄.

A 9 (1). (813.) As it would clearly be unfair to allow the Guardians representing or belonging to such Urban areas to interfere in the Sanitary concerns of the adjacent Rural areas merely because for Poor Law purposes they come in contact with the concerns of such Rural areas, certain restrictions are put upon the action of Guardians who represent Urban places.

A 9 (1-2). (814.) For instance, no Guardian, whether *ex-officio* or elective, who resides in, or represents, any Parish of the Union, which Parish forms or is wholly included within an Urban District, is to act or vote

(*a*) It follows from this that the Chairman of the Board of Guardians is entitled to sit as Chairman of his Board when acting as the Rural Sanitary 𝔄. But perhaps a separate Chairman (and of course Vice-Chairmen) may be elected by consent, in order to divide the work, or for some other reason of convenience, even although there is no legal necessity to sever the offices in consequence of **A** 9 (1) applying.

in any case in which the Guardians of such Union act or vote in their capacity of members of the Rural A. The disability thus *primâ facie* attaching to an *ex-officio* Guardian resident in the Urban portion of a District is removed, if he owns or occupies property in the Rural portion of a value sufficient to qualify him as an elective Guardian for the Union.

(815.) Where the number of elective Guardians qualified to act and vote as members of the Rural A is less than 5, LGB may, from time to time, by Order nominate a sufficient number of persons to act as Guardians so as to make up the number to 5. These persons must be either owners or occupiers of property in the Rural District of a value sufficient to qualify them as elective Guardians. Their functions are limited to Sanitary work.[a] A 9.

(816.) Provision is made for the case of a parish some part only of which is already within an Urban District. In order to permit the principle of mutual non-interference to be carried out, it is enacted that LGB may, by Order, divide such a Parish into wards, and allot a suitable number of Guardians to each. The Guardians who in virtue of such Order represent the Urban ward or wards will act on the Board for Poor Law purposes only. But until such division into wards has been accomplished, all the Guardians of the Parish may act as members of the Rural A. A 9 (3).

(817.) The various Boards of Guardians (modified in their constitution, or liable to be so modified, as aforesaid) are the As now responsible for the health of Rural areas.

(818.) With respect to Legal proceedings in which Guardians as Rural Sanitary As may be interested, it may be desirable to allude to the moot point whether § 27 of the "Poor Law Amendment Act, 1867," applies to cases arising under **A** so as to enable proceedings to be taken by a Rural A before any Justices who have jurisdiction in any place to which the Union extends. The wide terms in which the last paragraph of **A** 9 is couched justifies the opinion that the Act of 1867 does so apply. Hence it follows that proceedings may be taken by a Rural A before certain Justices who have no general jurisdiction in the Rural Sanitary district. 30 & 31 Vict., 106.

(819.) Every Rural A was invested by **A** with all the powers, &c., of the LA under the "Bakehouse Regulation Act," but the "Factory and Workshop Act, 1878," has altered this. [See Paragraph 319, *ante*.] A 11. 41 & 42 Vict., 16, 34—5, 61, 68—9.

(820.) It should be clearly understood that these powers of the Guardians are exclusive. That is to say that for Sanitary purposes the Guardians have entirely superseded every other body, which, within the Rural limits of their jurisdiction (as defined), formerly performed any Sanitary work under any Public General Acts.

(*a*) The period for which these nominated Guardians are appointed depends on the pleasure of LGB. A usual term is 3 years. This is subject, it is presumed, to their retaining during their term of office their property qualification.

(821.) The Board of Guardians thus invested with the duties of supervising the Sanitary management of a number of Parishes is not bound to do the whole of its work itself.

A 201. (822.) It may delegate for the current year of its office *all its Sanitary powers* to a Committee consisting wholly of its own members. But the decision to do this must be obtained at a meeting "specially convened for the purpose," and *one-third* of the members of the Committee are to be *ex-officio* Guardians, unless a number of *ex-officio* Guardians equal to so large a proportion does not exist.

A 201. (823.) It would seem that the Committee once appointed cannot be restricted in any way by the general body of Guardians in its proceedings with respect to Sanitary matters, it being, during its term of office, the Rural A of the District.

A 202. (824.) Further, a Board of Guardians (including any Committee thus formed) may at any meeting specially convened for that purpose, establish, for a contributory place, a Parochial Committee, composed either of Guardians only, or of Guardians and of persons who contribute to the Poor Rate, and qualified in such other manner (if any) as the A may determine. The Guardians chosen may be selected promiscuously from the Board, but the Ratepayers must be Ratepayers of the contributory place, in respect of which the Parochial Committee is formed. This Committee may number as many persons as the A which appoints it sees fit. And the same A may impose regulations and restrictions, and may alter the constitution of, or dissolve, the Parochial Committee. The action of such a Committee is to be confined to its own parish, and as it is only to be deemed the "Agent" of the A which forms it, the said A will not be relieved from any obligation resting upon it in virtue of any Act of Parliament or otherwise.[a] The Rural A cannot confer on a Committee any powers which it does not itself possess.

A 203. (825.) Casual vacancies in Committees may be filled up within 6 weeks by the appointing A out of qualified persons.

(826.) In cases where the Sanitary duties of Guardians are very onerous it will usually be more satisfactory to all parties concerned, that Parochial Committees should be entrusted with the Sanitary duties that have to be performed in particular parishes. And if the Guardians should in virtue of **A** 190 appoint a Surveyor, Paragraphs 178—80 (*ante*) may fairly be deemed of Rural application.

2nd *Annual Report of* LGB, 1872, p. 42. (827.) LGB has stated its views as to the duties which can be properly undertaken by Parochial Committees :—

"The appointment of Officers cannot, therefore, be delegated to a Parochial Committee ; and it would also seem that the power to issue precepts for contributions cannot be so delegated, as it is a matter connected with the general administration of the affairs of the whole Rural District, the liabilities in respect to which attach to the Guardians. The Guardians, as the Sanitary A, are the only body responsible for the Financial transactions of the District, and the Auditor will be unable to accept any accounts of the Committee, except as Agents of the Sanitary A."

(*a*) It seems quite clear that a Committee appointed under this Section lasts only for one year, and must be re-appointed in set form if its services are again desired.

In like manner LGB in its relations with the District only recognises the Rural A, which alone should communicate with the Board. The following duties may, in the opinion of LGB, be assigned to a Parochial Committee:—

"(1.) To inspect their District, from time to time, with a view of ascertaining whether any works of construction are required, or any nuisances exist which should be abated.

"(2.) To superintend the execution and maintenance of any works which may be required, or have been provided for the special use of the District, and to give directions for any repairs or other matters requiring immediate attention in relation to such works which fall within the reasonable scope of the authority which they possess as Agent of the Sanitary A.

"(3.) To consider complaints of any nuisances, and the action of the Medical Officer of Health, or Inspector of Nuisances thereon, and to inform these Officers of any nuisances requiring their attention, and to give such directions for abatement of the same, in cases of urgency, as the circumstances may seem to require.

"(4.) To examine and certify all accounts relating to expenditure chargeable as special expenses within their District.

"(5.) To report to the Sanitary A, from time to time, the several matters requiring their attention, and the manner in which their Officers and Servants have discharged their duties."

(828). Subject as aforesaid Parochial Committees may be empowered to incur expenses, within any limits prescribed by the A which appoints them. They are to report their expenditure according to the directions of the A, which must defray the expenditure legally incurred. A 202.

(829.) As some special points arise in connection with the expenses of a Board of Guardians acting as a Rural A, it may be well to refer to this matter here.

(830). Expenses are divided into "general expenses" and "special" expenses. A 229.

(831.) "General" Expenses, other than those chargeable upon owners and occupiers under A are Establishment Charges appertaining to the Union at large, and expenses connected with disinfection, and the conveyance of infected persons, and all other expenses not determined by A, or by LGB, to be special expenses. Also expenses under the "Canal Boats Act, 1877," and the "Highways Act, 1878." A 229. 40 & 41 Vict., 60, s: 41 & 42 Vict., 77, s. (3).

(832.) "Special" Expenses are expenses incurred for the benefit of any Parish, or contributory place, and embrace outlays for Sewers, Water Supply, (if not self-supporting), Management of transferred Trust Property, and for purposes which are determined by LGB to be "special." A 229.

(833.) "General" Expenses are to be defrayed out of a Common Fund raised out of the Poor-Rate levied in the several Parishes of the Union. A 229.

(834.) "Special" Expenses are to be separately charged on each contributory place. But where the amount required in respect of special expenses is less than 10*l.*, or is so small that a lesser rate than *one* penny in the £ would be required, no special rate is to be levied, but the amount is to be paid as if it formed part of the contribution required for general expenses. A 229-30.

A 229. (835.) The following areas in a Rural District are contributory places for the purposes of **A** :—

For definition see A 4.

(1.) Every *parish* not having any part of its area within a Special Drainage District, formed under the "Sanitary Acts," or 𝔄, or within an Urban District.

(2.) Every *Special Drainage District* as aforesaid.

(3.) In the case of a Parish wholly situated in a Rural District and part of which is within a Special Drainage District as aforesaid, *that part of the Parish which is not within such Drainage District.*

(4.) In the case of a Parish a part of which is within an Urban District, *such portion as is not within such Urban District, nor within a Special Drainage District, as aforesaid.*

A 230. (836.) Ample instructions are given in **A** as to the mode in which payment is to be obtained by the Board of Guardians of the moneys due for Sanitary purposes from the Parishes and contributory places within the Union.

A 230. (837.) An intimation of money being due, or being required, is to be conveyed by a precept of the Board to all the different sets of Overseers, requiring them to pay the amounts specified in the precepts respectively addressed to them within such time and to such persons as are named therein. General Expenses and Special Expenses are not to be mixed up in the precept in one lump sum, but are to be separately stated.

A 230. (838.) When a contributory place is a small area carved out of a larger one, the Overseers of what may be called the Mother Parish, &c., are to perform the Finance duties which the Board of Guardians requires to have performed in order to recover a contribution that is due.

A 230. (839.) The Overseers are to pay the contribution required in respect of General Expenses out of their Poor-Rate. The Special Expenses they are to meet by a separate Rate levied as if it were a Poor-Rate, except that allowance by Justices is not required, and tithes, and land, &c., are to be rated at *one-fourth.*[a] [See Paragraph 651 *ante*, which, as a whole, applies to Urban and Rural Rates equally.]

A 230. (840.) Should the Overseers have a surplus in hand from any separate Rate levied under **A**, when they retire from office, such surplus is to be paid to such person as the Rural 𝔄 may appoint, and is to go in reduction of the next call that may be made for defraying expenses incurred by the Rural 𝔄.

A 231. (841.) Provision (analogous to that which obtains with respect to Poor-Rates) is made for Overseers making default in the payment of the contributions due on behalf of their Parishes, &c. Provision is

A 230. also made for contributions being equitably apportioned between different parts of the same Parish where a special outlay has been incurred for one part of the Parish in particular.

A 229. (842.) Where a Rural 𝔄 makes Sewers, provides Water, or executes other Sanitary works for the common benefit of 2 or more contri-

(*a*) It is to be noticed that A 230 contemplates the levy (if needs be) of what must be called a Secondary Special Rate, for which the allowance of Justices probably *is* requisite.

butory places within its District, it may apportion the expenses. Overseers aggrieved by an apportionment may, within 21 days after notice thereof, appeal to LGB, whose Order will be conclusive.

(843.) A confers extensive powers on LGB with respect to the alteration of areas and the union of Districts. Facilities exist for a Rural area becoming Urban; and *vice versâ*. Or LGB may by Provisional Order decree a conversion. [See Chap. I., *ante*.] A 270—86.

(844.) A place may have some or all of the powers, &c., of an Urban A applied to it. [See Paragraph 15, *ante*.] A 276.

(845.) A Rural A, with the consent of LGB, but not otherwise, may constitute any portion of the area within its jurisdiction a Special Drainage District with separate contribution.[a] A 277.

(846.) For information analogous to that supplied in Chap. II. (*ante*) for Urban As as respects Meetings and Business, Guardians acting as the Rural A must consult almost exclusively the "Consolidated Order" of July 24, 1847, and the Poor Law Acts connected therewith. [See Paragraph 810, *ante*.] A 9.

(847.) The Chairman is appointed annually, at the first meeting after an election, that is to say, after April 15. If the office of Chairman becomes vacant during the year, it must be filled up again. A Vice-Chairman is also to be appointed, and there may be *two* Vice-Chairmen. If the Chairman is absent when a meeting should commence, and no Vice-Chairman is present, the members present are to appoint one of their number to act as Chairman "until the Chairman or a Vice-Chairman take the chair."[b] C. O., 1847, Arts. 29-31. C. O., 1847, Art. 37.

(848.) Meetings must be held at least once in each fortnight. C. O., 1847, Art. 28.

(849.) No act is valid unless *three* members be present and *concur* in what is proposed, and therefore if they are not unanimous so small a number as *three* members cannot settle a particular question. Voting by Ballot is open to grave objections. C. O., 1847, Art. 32.

(850.) The names of all members present should be entered in the Minute Book, and when there is a division it is convenient that the names as well as the numbers of the members voting on each side should be recorded. Those present who do not vote are to be ignored.[c]

(851.) All questions are decided by a majority of votes, unless more than a simple majority is required by Statute in a particular case. C. O., 1847, Art. 32.

(852.) The Chairman is entitled to vote on all questions, and when the numbers are equal, he is entitled to a second or casting vote. 12 & 13 Vict., 103, 19.

(*a*) But a definite boundary must be prescribed and all properties within such boundary will be rateable in the usual way. No favouritism in the way of exemptions will be legal.

(*b*) By-Laws for Meetings, somewhat similar to those prepared for Urban As (see Part III., *post*) would be found useful, and see my *Handbook for Public Meetings*. 8vo. Lond., 1878, (Stevens and Sons.)

(*c*) See *Oldknow* v. *Wainwright*, especially the *Dictum* of Lord Mansfield. (1 W. Bl., 229: 2 Burr., 1017.)

A 201: Sch. I. (2, 1-8.)

(853.) A Rural A may under restrictions delegate its powers to a Committee.[a] [See Paragraph 822, *ante*.] A Committee (Union or Parochial) may choose its own Chairman and may meet and adjourn as it thinks proper. If no quorum is prescribed for it by the A which appoints it, then 3 members are to form the quorum. Every question is determined by a majority of votes of the members present and voting, and the Chairman has a second or casting vote. The proceedings of a Committee are not invalidated by any vacancies amongst its members, or defect in the mode of appointment.

A 204: Sch. I. (2).

(854.) Meetings of Committees are to be conducted in accordance with the Rules for Meetings prescribed in **A**, so far as such meetings are not otherwise regulated by the A appointing the Committee.

2nd *Annual Report of* LGB, 1872.

(855.) A Board of Guardians should have a separate Minute Book and Ledger in connection with its functions as a Rural Sanitary A. In many cases it will be advisable for Sanitary work and Poor-Law work to be dealt with on different days.

A 245: G. O. for Accounts, 1867, Art. 30 & Sch. B.: and see also G. O., June 27, 1870.

A 248.

(856.) The accounts of every Rural A are to be made up in such form and to such day or days in every year as may be appointed by LGB. Rural accounts are to be audited once in every half-year, as soon as may be after March 25 and Sept. 29. Rural accounts and likewise the accounts of Overseers collecting or paying money for the purposes of **A** are to be audited in the same manner as under the Poor Law Acts, and an Auditor auditing Sanitary accounts has the like powers, and is subject to the like obligations as those which prevail in the case of Poor-Law audits. The same right of appeal also exists.

(857.) Parliament has conferred on Rural As power to frame By-Laws with respect to the following matters :—

A 44.	Cleansing footways :
A 44.	Removal of house refuse from premises ; cleansing of earth-closets, privies, ash-pits, and cesspools.
A 80.	Common Lodging-houses : [This is compulsory.]
A 90.	Ordinary Lodging-houses : [Under certain specified circumstances.]
42 & 43 Vict., 31 : A 141.	Management of Cemeteries.
A 141.	Management of Mortuaries.
A 314.	Lodging and Accommodation of Hop-pickers.

And Rural As may obtain from LGB powers to frame By-Laws as to other matters. [See Paragraph 15, *ante*.] And may make certain Regulations. [See Paragraph 161.]

A 125 and 143.

A 182-8.

(858.) For information respecting the formalities attending the enactment of By-Laws, see Chapter II., *ante*, and **A** 182—8.

(859.) The attention of Rural As is also directed to Paragraphs 162—6.

A 190.

(860.) Every Rural A must from time to time appoint fit and proper persons to be Medical Officer (or Officers) of Health, and Inspector (or Inspectors) of Nuisances. Other officers and servants may also be appointed, if necessary.

(*a*) As to the relation of a Board to its Committees, see *Barnsley L. B.* v. *Sedgwick*.

(861.) An increase of salary may, with the sanction of LGB, be awarded to the Clerk and the Treasurer of the Union in consideration of the additional duties thrown upon them in connection with A. A 190.

(862.) If a Union Clerk be unable or unwilling to do Sanitary work, such work may be entrusted to the Assistant Clerk, who may be awarded special remuneration as aforesaid. A 190.

(863.) Officers are to give a bond "for the due and faithful performance" of their duties, with "2 sufficient sureties." Each Board determines for itself what security shall be "sufficient" in respect of each officer, and should take care that the bonds of its officers cover their duties under A. C.O., 1847, Art. 184. See also A 194.

(864.) A Rural A appears before any Court, or in any Legal proceedings, by its Clerk, or by any officer or member authorised by such A so to appear. A 259. C. O. Amend. Order 1866, Art. 3.

(865.) LGB does not deem it expedient that a Relieving Officer should be appointed an Inspector of Nuisances, it being desirable that the post should be occupied by some one who is in a more independent position than a Relieving Officer, and able to devote more time to the duties than such an officer can be expected to do.

(866.) A Rural A may enter into such contracts as may be necessary, but the general regulations as to contracts contained in A 174 only apply, be it remembered, to Urban As. A 173: C.O., 1847, Arts. 44-51.

(867.) The following Urban Paragraphs apply also to the work of Rural As:—170; 172—7; 182—95; 197—8.

(868.) The powers of supervision possessed by LGB in connection with the work of Urban As extend also to Rural As. Therefore Chap. IV., (*ante*), applies to Rural As.

(869.) Such of the Paragraphs in Chap. V., (*ante*), exhibiting the Powers and Duties of Urban As, as apply to Rural As, are indicated by a mark prefixed to them (✠), accompanied here and there by marginal annotations.

(870.) The following are the only heads in Chap. V. to which Rural As need refer in order to find any matters applicable to them:—

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(871.) It is believed that if the aforesaid marks and notes are duly attended to, no difficulty will be found in discriminating between what matters are, and what matters are not, of Rural application, or of discovering generally what is the precise state of the Law available for Rural Authorities.

(872.) One matter remains to be dealt with as to which Rural Authorities have had conferred on them special facilities of a somewhat novel character; and the policy of Parliament herein may not unlikely become a precedent for further changes of importance in regard to Rural local management. By the "Highways and Locomotives Amendment Act, 1878," it is enacted that in forming any Highway Districts, or in altering the boundaries of any such Districts, regard is to be had to the boundaries of the Rural Sanitary Districts, and the new Highway Districts are as far as practicable to be made coincident in area with Rural Sanitary Districts, or to be wholly contained within them. This provision is followed by detailed enactments to enable Rural Sanitary Authorities to carry out the duties of Highway Authorities under the "Highway Acts."[a]

41 & 42 Vict., c. 77, s. 3.

5 & 6 Will. IV., c. 50, &c.

(a) See my *Law relating to Highways and Bridges*, 8vo. Lond., 1878 (Stevens and Sons), for all these Acts in full, especially pp. 11, 58, 67, and 84.

PART II.

Statutes relating to Sanitary Authorities.

THE Statutes here printed are given in their chronological order without any attempt at classification.

It is believed that for purposes of reference the inconvenience of having to examine several sets of Statutes to find any required one, is greater, on the whole, than the inconvenience of having kindred Statutes separated from one another by others because those others happen to be of intermediate date.

Repealed provisions are either omitted altogether, or where for any reason entire omission would have been undesirable, such provisions are printed in Italic, and sometimes within brackets.

Provisions only applicable to the Metropolis, to Scotland, or to Ireland, are as far as possible omitted.

The text of the *Revised Statutes* has been made use of as far as possible; and omissions by reason of repeals, &c., are therefore not particularised in citations from that edition of the Statutes. But where the citations are from the *Law Reports Statutes* exclusively, reasons are given to explain omissions. Formal words ("Be it enacted, &c.,") are uniformly struck out everywhere that they occur in the original text at the commencement of Sections.

The Marginal Notes have been in most cases simplified and shortened so as to make them more convenient.

The Foot-notes are designed to be just numerous and ample enough to prevent a person who consults only the Statutes being seriously mislead for want of sufficient cross references to earlier and later Statutes. Explanatory comments have been very sparingly supplied, for such belong rather to Part I. of this Work. As often as possible Cases which are given in Part V. are mentioned by name under the Statutes and Sections to which they directly belong, or with which they are incidentally connected. Cases which are not digested in Part V. have references appended to them in the usual way.

A few Acts are omitted, except as regards their titles, either because they are very bulky and easily accessible otherwise; or because they are in little request. The various "Public Libraries Acts" are omitted because they will be found in my *Digest of the Law relating to Public Libraries and Museums;* some Acts bearing on Recreation Grounds, because they will be found in my *Digest of the Law relating to Commons and Open Spaces;* and some Acts relating to the Audit of Accounts, because they will be found in my Book on *Rates and Rating.* For the various "Highway Acts," see my *Highways and Bridges.* All the Acts relating to Artizans' Dwellings are omitted owing to the probability of further legislation on the subject.

6 GEO. IV., c. 78.

Revised Statutes, vol. vi., p. 199.

An Act to repeal the several Laws relating to the performance of Quarantine, and to make other provisions in lieu thereof.[a]

(27th June, 1825.)

Acts relating to Quarantine repealed.

WHEREAS it is expedient to repeal the several laws relating to the performance of quarantine, and to make other provisions in lieu thereof: Be it therefore enacted, &c.

* * * * * * *

What vessels shall be liable to Quarantine.

2. From and after the 1st day of June, 1825, all vessels, as well as His Majesty's ships of war as others, coming from or having touched at any place from whence His Majesty, his heirs or successors, by and with the advice of his or their Privy Council, shall have adjudged and declared it probable that the plague or other infectious disease or distemper highly dangerous to the health of His Majesty's subjects may be brought, and all vessels and boats receiving any persons, goods, wares, and merchandise, packets, packages, baggage, wearing apparel, books, letters, or any other article whatsoever, from or out of any vessel so coming from or having touched at such infected place as aforesaid, whether such persons, goods, wares, and merchandise, packets, packages, baggage, wearing apparel, books, letters, or other articles, shall have come or been brought in such vessels, or such persons shall have gone, or articles have been put on board the same, either before or after the arrival of such vessels at any port or place in the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, and whether such vessels were or were not bound to any port or place in the United Kingdom, or the islands aforesaid, and all persons, goods, wares, and merchandise, packets, packages, baggage, wearing apparel, books, letters, or any other article whatsoever on board of any vessels so coming from or having touched at such infected place as aforesaid, or on board of any such receiving vessels or boats as aforesaid, shall be and be considered to be liable to quarantine within the meaning of this Act, and of any Order or Orders which shall be made by His Majesty, his heirs and successors, by and with the advice of his or their Privy Council, concerning quarantine and the prevention of infection, from the time of the departure of such vessels from such infected place as aforesaid, or from the time when such persons, goods, wares, merchandise, packets, packages, baggage, wearing apparel, books, letters, or other articles shall have been received on board respectively;

And all such vessels and boats as aforesaid, and all persons (as well pilots as others), goods, wares, and merchandise, and all other articles as aforesaid, whether coming or brought in such vessels or boats from such infected place as aforesaid, or going or being put on board the same, either before or after the arrival of such vessels or boats at any port or place in the United Kingdom, or the islands aforesaid, and all persons, goods, wares, and merchandise, and other articles as aforesaid, on board such receiving vessel or boat as aforesaid, shall, upon their arrival at any such port or place, be obliged to perform quarantine in such place or places, for such time and in such manner as shall from time to time be directed by His Majesty, his heirs or successors, by his or their Order or Orders in Council, notified by proclamation, or published in the *London Gazette*, and that until such vessels and boats, persons, goods, wares, and merchandise, and other articles as aforesaid, shall have respectively performed, and shall be duly discharged from quarantine, no such person, goods, wares, or merchandise, or other articles as aforesaid, or any of them, shall either before or after the arrival of such vessels or boats at any port or place in the United Kingdom, or the islands aforesaid, come or be brought on shore, or go and be put on board any other vessel or boat, in order to come or be brought on shore in any such port or place, although such vessels so coming from such infected place as aforesaid may not be bound to any port or place in the United Kingdom, or the islands aforesaid, unless in such manner and in such cases, and by such license as shall be directed or permitted by such Order or Orders made by His Majesty, his heirs or successors, in Council, as aforesaid;

And all such vessels and boats, whether coming from such infected place as aforesaid, or being otherwise liable to quarantine as aforesaid, and all persons (as well pilots as others), goods, wares, and merchandise, and other articles as aforesaid, whether coming or brought in such vessels or boats, or going or being put on board the same, either before or after the arrival of such vessels or boats at any port or place in the United Kingdom, or the islands aforesaid, and although such vessels or boats shall not be bound to any port or place in the United Kingdom, or the islands aforesaid;

And all commanders, masters, or other persons, having the charge or command of any such vessels or boats, whether coming from any infected place, or being otherwise liable to quarantine as aforesaid, shall be subject to all provisions, rules, regulations, and restrictions contained in this Act, or in any Order or Orders which shall be made by His Majesty, his heirs and successors, in Council, as aforesaid, concerning quarantine and the prevention of infection; and to all the pains, penalties, forfeitures, and punishments contained in this Act, for any breach or disobedience thereof, or of any Order or Orders of His Majesty in Council made under the authority thereof.

(*a*) Penalties amended by the "Customs Consolidation Act, 1876," (39 & 40 Vict., 36, § 234, *post*).

Privy Council may order vessels coming from America or the West Indies, when the yellow fever, &c., prevails there, to go to certain places without being liable to Quarantine.

3. It shall and may be lawful for His Majesty, his heirs and successors, by his or their Order in Council, or for the Lords or others of his or their Privy Council, or any 2 or more of them, by their Order from time to time, as often as they may see reason to apprehend that the yellow fever or other highly infectious distemper prevails on the continent of America, or in the West Indies, to require that every vessel coming from or having touched at any port or place on the continent of America or in the West Indies, shall come to an anchor at certain places to be appointed from time to time by the Commissioners of His Majesty's Customs (who are hereby authorized to make such appointment), for the purpose of having the state of health of the crew of such vessel ascertained before such vessel shall be permitted to enter the port whereto she shall be bound, or any other port of the United Kingdom;

But that such vessel shall not be deemed liable to quarantine unless it shall be afterwards specially ordered under that restraint.

* * * * * * *

Goods and vessels specified in Order in Council subject to Quarantine; also vessels arriving from any port under suspicious circumstances as to infection.

5. And whereas certain sorts of goods and merchandise are more especially liable to retain infection, and may be brought from places infected into other countries, and from thence imported into the United Kingdom, or the islands aforesaid: Be it enacted, That all such goods and merchandise as shall be particularly specified for that purpose in any Order or Orders made by His Majesty, his heirs or successors, in Council, concerning quarantine and the prevention of infection as aforesaid, which shall be brought or imported into any port or place in the United Kingdom, or the islands aforesaid, from any foreign country or place, in any vessel whatever, and the vessels in which the same shall be brought, and also all vessels which shall arrive from any port or place whatever, under any alarming or suspicious circumstances as to infection, shall be subject and liable to such regulations and restrictions as shall be made by such Order or Orders of His Majesty, his heirs or successors, in Council as aforesaid, respecting same.

Power of Privy Council upon emergencies.

6. It shall and may be lawful for the Lords and others of His Majesty's Privy Council, or any 2 or more of them, to make such Order as they shall see necessary and expedient upon any unforeseen emergency, or in any particular case or cases, with respect to any vessel arriving and having any infectious disease or distemper on board, or on board of which any infectious disease or distemper may have appeared in the course of the voyage, or arriving under any other alarming or suspicious circumstances as to infection, although such vessels shall not have come from any place from which His Majesty, his heirs or successors, by and with the advice of his Privy Council, may have adjudged and declared it probable that the plague or any such infectious disease or distemper may be brought, and also with respect to the persons, goods, wares, and merchandise, and other articles as aforesaid on board the same, and in case of any infectious disease or distemper appearing or breaking out in the United Kingdom, or the islands aforesaid, to make such Orders and give such direction, in order to cut off all communication between any persons infected with any such disease or distemper, and the rest of His Majesty's subjects, as shall appear to the said Lords or others of His Majesty's Privy Council, or any 2 or more of them, to be necessary and expedient for that purpose, and likewise to make such Orders as they shall see fit, for shortening the time of quarantine to be performed by particular vessels or particular persons, goods, wares, merchandise, or any other articles, or for absolutely or conditionally releasing them or any of them from quarantine;

And all such Orders so made by the Lords or others of the Privy Council, or any 2 or more of them as aforesaid, shall be as good, valid, and effectual, to all intents and purposes, as well with respect to the commander, master, or other person having the charge of any vessel, and all other persons on board the same, as with respect to any other persons having any intercourse or communication with them, and to the penalties, forfeitures, and punishments to which they may respectively become liable, as any Order or Orders made by His Majesty, his heirs or successors, by and with the advice of his or their Privy Council, concerning quarantine, notified by proclamation or published in the *London Gazette*.

Vessels within or without the Straits of Gibraltar.

7. If the plague, or such other infectious disease or distemper as aforesaid, shall appear on board any vessel within or without the Straits of Gibraltar, then the commander, master, or other person having the charge or command thereof, shall immediately proceed to such place as His Majesty, his heirs or successors, by and with the advice of his or their Privy Council, shall from time to time direct and appoint;

Where being arrived, he shall make known his case to some officer of the Customs there, who shall with all possible speed send intelligence thereof to the Commissioners of the Customs in the port of London, to the end that such precautions may be used to prevent the spreading of the infection, as the case shall require;

And the said vessel shall there remain until directions shall be given thereto by the Lords or others of His Majesty's Privy Council, or any 2 or more of them;

Nor shall any of the crew or passengers on board thereof go on shore;

And such master and every other person on board such vessel shall obey such directions as he shall receive from the Lords and others of His Majesty's Privy Council, or any 2 or more of them as aforesaid;

And the same commander, master, or any other person on board such vessel as aforesaid, who shall not act comformably to the provisions and regulations herein directed, or shall act in disobedience to such directions as shall be received on board such vessel from the Lords or others of the Privy Council, or any 2 or more of them as aforesaid, shall forfeit the sum of £100.

Masters of vessels liable to Quarantine to make signals on meeting vessels at sea.

8. Every commander, master, or other person having the charge of any vessel liable to the performance of quarantine, shall be and is hereby required at all times, when such vessel shall meet with any other vessel at sea, or shall be within 2 leagues of the coast of the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, to hoist a signal to denote that his vessel is liable to the performance of quarantine, which signal shall in the daytime, if the said vessel shall have a clean bill of health, be a large yellow flag, of 6 breadths of bunting,

at the maintop-mast-head, and if such vessel shall not have a clean bill of health, then a like yellow flag, with a circular mark or ball, entirely black in the middle thereof, whose diameter shall be equal to 2 breadths of bunting;

And in the night-time the signal shall in both cases be a large signal-lanthorn with a light therein (such as is commonly used on board His Majesty's ships of war), at the same mast-head;

And such commander, master, or other person shall keep such signals respectively, as the case shall be, hoisted during such time as the said vessel shall continue within sight of such other vessel, or within 2 leagues of the said coasts or islands, and while so in sight, or within such distance, until such vessel so liable to quarantine as aforesaid shall have arrived at the port or place where it is to perform quarantine, and until it shall have been legally discharged from the performance thereof;

On failure whereof such commander, master, or other person having charge of such ship or vessel so liable to the performance of quarantine shall forfeit and pay for every such offence the sum of £100.

Signals to be hoisted when plague or infectious disease on board.

9. Every commander, master, or other person having the charge of any vessel on board whereof the plague or other infectious disease or distemper highly dangerous to the health of His Majesty's subjects shall actually be, shall be and is hereby required at all times when such vessel shall meet with any other vessel at sea, or shall be within 2 leagues of the coast of the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, to hoist a signal to denote that his vessel has the plague or other infectious disease or distemper highly dangerous to the health of His Majesty's subjects actually on board thereof, which signal shall be in the daytime a flag of yellow and black, borne quarterly, of 8 breadths of bunting, at the maintop-mast-head;

And in the night-time, the signal shall be 2 large signal-lanthorns, such as are commonly used on board of His Majesty's ships of war, one over the other, at the same mast-head;

And such commander, master, or other person shall keep such signal hoisted during such time as the said vessel so having the plague or such other infectious disease or distemper as aforesaid on board thereof, shall continue within sight of such other vessel, or within 2 leagues of the coasts or islands aforesaid, while so in sight or within such distance, until such vessel so having the plague or such other infectious disease or distemper as aforesaid on board thereof, shall have arrived at the port or place where it is to perform quarantine, and until it shall have been legally discharged from the performance thereof;

On failure thereof such commander, master, or other person having charge of such vessel shall forfeit and pay for every such offence the sum of £100.

Penalty for hoisting signals when not liable.

10. If any commander, master, or other person having the charge or command of any vessel, and knowing that the same is not liable to the performance of quarantine, shall hoist such signal as aforesaid, or either of them, by day or night respectively, such commander or other person as aforesaid shall forfeit and pay the sum of £50.

Masters of vessels from foreign parts to notify the places at which they have touched.

Pilots to give notice of any proclamation or Order in Council requiring Quarantine.

11. From and after the 1st day of July, 1825, as to all vessels arriving from any places beyond the Cape of Good Hope, or Cape Horn in South America, and after the 1st day of August, 1825, as to all vessels arriving from any parts of Africa or America not beyond those capes, and from the West Indies and Mediterranean, and from and after the 1st day of June, 1825, as to all vessels arriving from any other places, every commander, master, or other person having the charge of any vessel coming from foreign parts, shall give to the pilot who shall go on board such vessel a written paper, containing a true account of the names of the place and country at which such vessel shall have loaded, and also of all the places at which any such vessel shall have touched on the homeward voyage, on pain of forfeiting the sum of £100 for any neglect or refusal to give such paper, or for any false representation or wilful omission therein;

And if by any proclamation or Order of His Majesty in Council, made after the departure of any vessel from the United Kingdom and the said islands, and then in force, vessels coming from any place mentioned in any such paper shall be liable to the performance of quarantine, such pilot shall immediately give notice thereof to the commander or other person aforesaid, of such vessel, on pain of forfeiting the sum of £100 for any neglect therein;

And such commander or other person shall thereupon hoist a proper signal, according to the provisions of this Act, and under the penalties in this Act contained for any neglect or refusal in respect of hoisting such signals.

Pilot to give notice if articles on board liable to Quarantine.

12. Every commander, master, or other person having the charge of any vessel coming from foreign parts, which shall not be liable to quarantine in respect of the place from whence such vessel comes, shall give to the pilot who shall go on board of such vessel a written paper, containing a true account of the different articles composing the cargo of such vessel, on pain of forfeiting the sum of £50 for any neglect or refusal to give such paper, or for any false representation or wilful omission therein;

And if by any proclamation or Order of His Majesty in Council then in force, vessels having on board any of the articles mentioned in such paper shall be liable to the performance of quarantine, such pilot shall immediately give notice thereof to the commander or other person having the charge of such vessel, on pain of forfeiting £100 for neglect therein, and such commander or other person shall thereupon hoist a signal, according to the provisions and under the respective penalties in this Act contained, for any neglect or refusal in respect of hoisting such signals;

Penalty on pilots conducting vessels to any other place than that appointed.

And in case any pilot shall bring or cause to be brought or conducted any vessel liable to the performance of quarantine, into any place which is not or shall not be specially appointed for the reception of vessels so liable, after receiving such paper as aforesaid, whereby it shall have been made appear that such vessel was liable to the performance of quarantine, or without requiring and receiving such paper as aforesaid, unless compelled thereto by stress of weather, adverse winds, or accidents of the sea, such pilot shall for every such offence forfeit and pay the sum of £200.

Pilot to bring to at request of officer of Customs.

13. If any pilot being on board, or any commander, master, or other person having the charge of any vessel coming from foreign parts, whether such vessel shall be liable to quarantine or not, shall be required by any officer of the Customs, authorised to act in the service of quarantine, to bring to such vessel, to the end that the commander, master, or other person having the charge thereof may be interrogated according to the provision of this Act, and shall neglect or refuse to bring to such vessel, as soon as it can be done with safety, in obedience to such requisition, every such pilot, commander, master, or other person having the charge of any such vessel shall for every such offence forfeit and pay the sum of £100.

For better ascertaining whether vessels be infected, or the persons liable to Quarantine.

14. And to the end that it may be better known whether any vessel be actually infected with the plague or other infectious disease or distemper as aforesaid, or whether such vessel, or the mariners or passengers coming, or the cargo imported in the same, are liable to any orders touching quarantine, be it further enacted, That when any country or place shall be known or suspected to be infected with the plague or other infectious disease or distemper as aforesaid, or when any Order or Orders shall be made by His Majesty in Council concerning quarantine and the prevention of infection as aforesaid, then and in such case, as often as any vessel shall attempt to enter into any port or place in the United Kingdom, or of the Isles of Guernsey, Jersey, Alderney, Sark, or Man, whether such port shall have been appointed for the performance of quarantine or not, the superintendent or assistant at such port or place, or, if not, the principal officer of His Majesty's Customs at such port or place, or such officer of the Customs as shall be authorised to act in that behalf, shall go off to such vessel, and shall, at a convenient distance from such vessel, demand of the commander, master, or other person having charge of such vessel, and such commander, master, or other person shall, upon, such demand give a true answer in writing or otherwise, and upon oath or not upon oath, according as he shall by such superintendent or his assistant, or other officer of the Customs authorised as aforesaid, be required, to all such questions and interrogatories as shall be put to him by virtue and in pursuance of such regulations and directions as His Majesty by Order in Council shall be pleased to prescribe;

Masters refusing to answer interrogatories to forfeit £200.

And in case such commander, or master, or other person having charge of such vessel shall, upon such demand made as aforesaid, refuse to make a true discovery in any of the particulars concerning which he shall be interrogated in manner aforesaid, or in case he shall not be required to answer such questions or interrogatories upon oath, shall give a false answer to any such question or interrogatory as aforesaid, such commander, master, or other person having charge of such vessel for every such offence shall forfeit and pay the sum of £200.

Vessels subject to Quarantine may be forced to repair to the appointed place.

15. In case it shall appear, upon such examination or otherwise, that such vessel is under such circumstances as shall render it liable to perform quarantine, and that the port or place where it so arrived, or at which it attempts to enter as aforesaid, is not the port or place where it ought to perform quarantine, in which case it shall and may be lawful to and for the officers of any of His Majesty's ships of war, or of any of His Majesty's forts or garrisons, and all other His Majesty's officers, upon notice thereof given to them, or any of them respectively, and to or for any other person or persons whom they shall call to their aid and assistance, and such officers and other persons are hereby required to oblige such vessel to go and repair to such place as hath been or shall be appointed for performance of quarantine, and to use all necessary means for that purpose, either by firing of guns upon such vessel, or by any other kind of necessary force whatsoever;

Masters omitting to disclose where they have touched, or to hoist signal.

And in case any such vessel shall come from, or shall have touched at any place infected by the plague, or such other infectious disease or distemper as aforesaid, or shall have any person on board actually infected with the plague or other such infectious disease or distemper as aforesaid, and the commander, master, or other person having charge of such vessel, knowing that the place from whence he came, or at which he had touched as aforesaid was infected with the plague or such other infectious disease or distemper, or knowing some person on board to be actually infected with the plague or such other infectious disease or distemper as aforesaid, shall refuse or omit to disclose the same upon such examination as aforesaid, or shall wilfully omit to hoist the signal hereinbefore directed, to denote that his vessel is liable to the performance of quarantine, at the times and on the occasions herein directed with respect to the same, such commander, master, or other person having charge of such vessel shall forfeit the sum of £300.

Commanders to deliver documents to Superintendent of Quarantine.

16. Every commander, master, or other person having charge of any vessel which shall be ordered to perform quarantine as aforesaid, shall forthwith, after his arrival at the place appointed for the performance of quarantine, deliver on demand to the superintendent of quarantine or his assistant, or other officer of the Customs, authorised to act in that behalf, and which superintendent, assistant or other officer as aforesaid is hereby required to make such demand, his bill of health and Manifest, together with his log-book and journal, under pain of forfeiting the sum of £100 if he shall wilfully refuse or neglect so to do.

Penalty on masters, &c., quitting vessels, or permitting persons to quit them.

17. If any commander, master, or other person having charge of any vessel liable to perform quarantine, and on board of which the plague or other infectious disease or distemper shall not then have appeared, shall himself quit, or shall knowingly permit or suffer any seaman or passenger coming in such vessel to quit such vessel by going on shore, or by going on board any other vessel or boat, before such quarantine shall be fully performed, unless by such license as shall be granted by virtue of any Order in Council to be made concerning quarantine as aforesaid, or in case any commander or other person having charge of such vessel shall not, within a convenient time after due notice given for that purpose, cause such vessel and the lading thereof to be conveyed into the place or places appointed for such vessel and lading to perform quarantine;

Then and in every such case every such commander, master, or other person as aforesaid, for every such offence shall forfeit and pay the sum of £400.

Penalty on persons breaking Quarantine.

And if any such person coming in any such vessel liable to quarantine (or any pilot or other person going on board the same, either before or after the arrival of such vessel at any port or place in the United Kingdom, or the islands aforesaid), shall, either before or after such arrival, quit such vessel, unless by such license as aforesaid, by going on shore in any port or place in the United Kingdom, or the islands aforesaid, or by going on board any other vessel or boat, with

intent to go on shore as aforesaid, before such vessel so liable to quarantine as aforesaid shall be regularly discharged from the performance thereof, it shall and may be lawful for any person whatsoever, by any kind of necessary force, to compel such pilot or other person so quitting such vessel so liable to quarantine to return on board the same; and every such pilot or other person so quitting such vessel so liable to quarantine shall for every such offence suffer imprisonment for the space of 6 months, and shall forfeit and pay the sum of £300.

For punishing refractory persons liable to Quarantine.

18. And whereas disobedience or refractory behaviour in persons under quarantine or liable to the performance of quarantine, or in other persons who may have had any intercourse or communication with them, may be attended with very great danger to His Majesty's subjects:

Be it further enacted, that all persons liable to perform quarantine, and all persons having had any intercourse or communication with them, whether in vessels or in a lazaret or elsewhere, shall be subject, during the said quarantine, or during the time they shall be liable to quarantine, to such Orders as they shall receive from the superintendent of quarantine, or his assistant, or from the principal officer of the Customs at any port or place where there is no such superintendent or assistant, or from any other officer of the Customs authorised to act in that behalf, and the said officers are hereby empowered and required to enforce all necessary obedience to the said Orders, and in case of necessity to call in others to their assistance, and all persons so called in are hereby required to assist accordingly;

And such officers shall and they are hereby empowered and required to compel all persons liable to perform quarantine as aforesaid, and persons having had any intercourse or communication with them, to repair to such lazaret, vessel, or place, and to cause all goods, wares, and merchandise, and other articles comprised within any such Orders to be made as last aforesaid, to be conveyed to such lazaret, vessel, or place duly appointed in that behalf, in such manner and according to such directions as shall be made by Order of His Majesty in Council as aforesaid, or of the Lords or others of the Privy Council, or of any 2 or more of them;

And if any person or persons liable to perform quarantine as aforesaid, or any person or persons having had any intercourse or communication with him, her, or them, shall wilfully refuse or neglect to repair forthwith, when required and directed so to do by such officers as aforesaid, to the said lazaret, vessel, or place duly appointed in that behalf, or having been placed in the said lazaret, vessel, or place, shall escape or attempt to escape out of the same before quarantine duly performed, it shall and may be lawful to and for the said quarantine officers, and also the watchmen and other persons appointed to see quarantine performed, and each of them, and they are hereby respectively required, by such necessary force as the case shall require, to compel every such person so refusing or neglecting as aforesaid, and every such person so escaping or attempting to escape as aforesaid, to repair or return to such lazaret, vessel, or place so appointed as aforesaid;

And every person so refusing or neglecting to repair forthwith as aforesaid to the said lazaret, vessel, or place, and also every person actually escaping as aforesaid, shall forfeit the penalty of £200.

Persons quitting vessels liable to perform Quarantine, &c., may be seized.

19. It shall be lawful for any constable, headborough, tithingman, or other peace officer, or any other person, to seize and apprehend any person that shall, contrary to the provisions of this Act, have quitted or come on shore from any vessel liable to perform quarantine, or who shall have escaped from or quitted any vessel under quarantine, or from any lazaret, vessel, or place appointed in that behalf, for the purpose of carrying such person before any Justice of the Peace or Magistrate;

And it shall be lawful for any such Justice of the Peace or Magistrate to grant his warrant for the apprehending and conveying of any such person to the vessel from which he or she shall have come on shore, or to any vessel performing quarantine, or lazaret, from which he or she shall have escaped, or for the confining of any such person in any such place of safe custody (not being a public gaol), and under such restrictions as to having any communication with any other persons, as may in the discretion of any Justice of the Peace or Magistrate (calling to his aid, if he shall see fit, any medical person) appear to be proper, until such person can be safely and securely conveyed to some place appointed for the performance of quarantine, or until directions can be obtained from the Privy Council as to the disposal of any such person, and to make any further Order, or grant any further warrant that may be necessary in that behalf.

Intercourse with stations allotted for Quarantine may be prohibited.

20. And whereas it may be necessary for the public security to prevent all communication whatever with vessels performing quarantine:

Be it therefore further enacted, that it shall and may be lawful to and for His Majesty, his heirs or successors, by his or their Order or Orders in Council, notified by proclamation or published in the *London Gazette*, to prohibit all persons, vessels and boats whatsoever, from going, under any pretence whatsoever, within the limits of any station which by any Order or Orders in Council as aforesaid has been or may be assigned for the performance of quarantine;

And if any person whatsover, after such notification or publication of any such Order or Orders in Council, shall presume, under any pretence whatsoever, to go with any vessel or boat within the limit of any such station, he or she shall for every such offence forfeit and pay the sum of £200.

Various offences against Quarantine.

21. If any officer of His Majesty's Customs, or any other officer or person whatsoever, to whom it doth or shall appertain to execute any Order or Orders made or to be made concerning quarantine, or the prevention of infection, and notified as aforesaid, or to see the same put in execution, shall knowingly and wilfully embezzle any goods or articles performing quarantine, or be guilty of any other breach or neglect of his duty in respect of the vessels, persons, goods, or articles performing quarantine, every such officer or person so offending shall forfeit such office or employment as he may be possessed of, and shall become from thence incapable to hold or enjoy the same, or to take a new grant thereof;

And every such officer and person shall forfeit and pay the sum of £200.

And if any such officer or person shall desert from his duty when employed as aforesaid, or shall knowingly and willingly permit any person, vessel, goods, or merchandise to depart or be

conveyed out of the said lazaret, vessel, or other place as aforesaid, unless by permission under an Order of His Majesty, by and with the advice of his Privy Council, or under an Order of 2 or more of the Lords or others of his Privy Council;

Or if any person hereby authorized and directed to give a certificate of a vessel having duly performed quarantine or airing, shall knowingly give a false certificate thereof, every such person so offending shall be guilty of felony;

And if any such officer or person shall knowingly or wilfully damage any goods performing quarantine under his direction, he shall be liable to pay £100 damage and full costs of suit to the owner of the same.

Vessels from the Mediterranean, &c., released from Quarantine, to be admitted upon producing certificate.

22. If any vessel arriving from the Mediterranean, or from any port in Turkey or Africa, shall have undergone examination by the proper officer of quarantine, and upon a report of such examination being made to the Lords or others of His Majesty's Privy Council, their lordships shall think proper to direct the release of such vessel from the performance of quarantine, it shall be lawful for such officer and he is hereby required to grant to the master or person having the charge or command of such vessel, a certificate in writing of such examination and release, and upon the production of such certificate to the collector or principal officer of His Majesty's Customs, at any port in the United Kingdom, such vessel shall be admitted to entry without being liable to any further restraint.

After certificate of Quarantine, vessels or persons shall not be liable to further detention.

23. After quarantine shall have been duly performed by any vessel, person or persons, obliged to perform quarantine as aforesaid, according to this Act, and to such Order or Orders made as aforesaid, and upon proof to be made by the oaths of the master or other person having charge of such vessel, and of 3 or more of the persons belonging thereto, or upon proof to be made by the oaths of 2 or more credible witnesses, before the collector or principal officer of the Customs at the port where such quarantine shall be performed, or at the port nearest thereto, or before the superintendent of quarantine, or his assistant at the quarantine station, or before any Justice of the Peace living near to the port or place, or when such quarantine shall have been performed within any of the said isles of Guernsey, Jersey, Alderney, Sark, or Man, before any 2 Jurats or Magistrates of any of the said isles respectively, that such vessel, and all and every such person and persons respectively, have duly performed quarantine as aforesaid, and that the vessel and all and every person and persons are free from infection, and after producing a certificate to that purpose, signed by the chief officer who superintended the quarantine of the said vessel, or person acting for him;

Then and in the said respective cases such collector or principal officer of the Customs, or the superintendent of quarantine, or his assistant, or such Justice of the Peace, or such Jurats or Magistrates as aforesaid, respectively, are hereby required to give a certificate thereof, and thereupon such vessel, and all and every such person or persons so having performed quarantine, shall be liable to no further restraint or detention upon the same account, for which such vessel, person or persons, shall have performed quarantine as aforesaid.

Goods liable to Quarantine shall be opened and aired.

24. All goods, wares, and merchandise, and other articles liable to quarantine as aforesaid, shall be opened and aired in such place or places, and for such time and in such manner as shall be directed by His Majesty, his heirs and successors, by such Order or Orders to be made as aforesaid, and after such Orders shall have been duly complied with, proof thereof shall be made by the oaths of the master of the lazaret or vessel in which the goods, wares, and merchandise and all other articles shall have been opened and aired, and of one of the Guardians, or if there be no Guardians, then one of the officers authorised by the Commissioners of Customs to act in the service of quarantine in such lazaret or vessel, or if there be no such officer, then by the oaths of 2 or more credible witnesses serving in the said lazaret or vessel, before the superintendent of quarantine or his assistant, in case such opening and airing shall be had at a port or place where such superintendent or assistant shall be established, or otherwise before the principal officer of the Customs authorised to act in the service of quarantine at such port or place, which oath such superintendent, assistant, or principal officer is hereby authorised to administer;

And such superintendent, assistant, or principal officer, as the case may be, shall grant a certificate of such proof having been made, and upon production of such certificate to the proper officer of the Customs, such goods, wares, and merchandise, and other articles, shall be liable to no further restraint or detention, either at the port or place where such quarantine shall have been performed, or at any other place whereto they be afterwards conveyed.

Persons forging or uttering false certificates guilty of felony.

25. If any person shall knowingly or wilfully forge or counterfeit, interline, erase, or alter, or procure to be forged or counterfeited, interlined, erased, or altered, any certificate directed or required to be granted by any Order of His Majesty, his heirs or successors, in Council, now in force or hereafter to be made touching quarantine, or shall publish any such forged or counterfeited, interlined, erased, or altered certificate, knowing the same to be forged or counterfeited, interlined, erased, or altered, or shall knowingly and wilfully utter and publish any such certificate with intent to obtain the effect of a true certificate to be given thereto, knowing the contents of such certificate to be false, he or she shall be guilty of felony.

Penalty on persons landing goods, &c., from vessels liable to Quarantine.

26. If any person shall land or unship, or shall move in order to the landing or unshipping thereof, any goods, wares, or merchandise, packets, packages, baggage, wearing apparel, books, letters, or other articles from on board any vessel liable to perform quarantine as aforesaid, or shall knowingly receive the same after they have been so landed or unshipped, every such person shall forfeit and pay the sum of £500.

And if any person or persons shall clandestinely convey or secrete, or conceal for the purpose of conveying any letters, goods, wares, or merchandise or other articles as aforesaid, from any vessel actually performing quarantine, or from the lazaret or other place where such goods, wares, merchandise, or other articles as aforesaid shall be performing quarantine, every such person so offending as last aforesaid shall forfeit the sum of £100.

His Majesty may prohibit vessels under 100 tons from sailing until bond be given.

27. In case it shall at any time happen that any part of the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, or France, Spain, or Portugal, or the Low Countries, shall be infected with the plague, or any other infectious disease or distemper as aforesaid, it shall and may be lawful to and for His Majesty, his heirs and successors, by his or their proclamation, to prohibit or restrain all vessels and boats under the burthen of 100 tons from sailing or passing out of any port or place of the United Kingdom, or the isles of Guernsey, Jersey, Alderney, Sark, or Man, or any of them, until security be first given by the master of every such vessel or boat respectively, to the satisfaction of the principal officers of the Customs, or the Chief Magistrate of the port or place from whence such vessel or boat shall sail, by bond taken by such officer or Magistrate, to the King, his heirs or successors, with sufficient sureties in the penalty of £200, with condition, that if such vessel or boat shall not go to or touch at any country, port, or place to be mentioned for that purpose in such proclamation, and if neither the master or other person having charge of such vessel or boat, nor any mariner or passenger in such vessel or boat, shall, during the time aforesaid, go on board any other vessel at sea, and such master or other person having charge of such vessel or boat shall not permit or suffer any person or persons to come on board such vessel or boat at sea from any other vessel, and shall not during the time aforesaid receive any goods or merchandise whatsoever out of any other vessel, then such bond shall be void;

Penalty for sailing without giving such security, forfeiture of vessel, &c.

For the making of which bond no fee or reward whatsoever shall be taken; and in case any vessel or boat for which such security shall be required by such proclamation shall set sail or pass out of any port or place of the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, or any of them respectively, before security be given as aforesaid, every such vessel or boat so sailing or passing out of any port or place contrary to the true intent and meaning of this Act, together with her tackle, apparel, and furniture, shall be forfeited to His Majesty, his heirs and successors, and the master of and every mariner sailing in such vessel or boat shall severally forfeit and pay the sum of £200.

Power to Consuls, &c., to administer oaths.

28. The Consuls and Vice-Consuls of His Majesty, his heirs and successors, shall and are hereby empowered to administer oaths in all cases respecting quarantine, in like manner as if they were Magistrates of the several towns or places where they respectively reside.

Persons authorised to take examinations may administer oaths.

29. In all cases wherein by virtue of this Act, or any other Act hereafter to be made touching quarantine, any examination or answer shall be taken or made upon oath, the person who shall be authorised and required to take such examinations and answers shall and may be deemed to have full power and authority to administer such oaths;

And if any person who shall be interrogated or examined shall wilfully swear falsely to any matter concerning which such person shall depose or make oath on such examination, or in such answer, or if any person shall procure any other person so to do, he or she so swearing falsely, or procuring any other person so to do, shall be deemed to have been guilty of and shall be liable to be prosecuted for perjury or subornation of perjury, as the case may be, and shall suffer the pains, penalties, and punishments of the law in such case respectively made and provided.

Superintendents of Quarantine to be appointed.

30. All superintendents of quarantine at the several ports, and their assistants, shall and may be appointed by any instrument signed by the Commissioners of Customs for the time being;

And everything required to be done and performed by the superintendent of quarantine, or his assistant, may, in case of the absence or sickness of such superintendent or assistant, be done and performed by such principal officer of the Customs as shall be authorised to act in that behalf.

Publication in the *London Gazette* of Orders of Council.

31. The publication in the *London Gazette* of any Order in Council, or of any Order by any 2 or more of the Lords or others of His Majesty's Privy Council made in pursuance of this Act, or His Majesty's royal proclamation made in pursuance of the same, shall be deemed and taken to be sufficient notice to all persons concerned of all matters therein respectively contained.

Recovery and application of penalties.

32. All forfeitures and penalties (a) that shall be incurred by reason of any offence committed against this Act shall and may be recovered by suit in any of His Majesty's Courts of Record in England or Ireland, in which no essoign or wager of law, or more than one imparlance, shall be granted, or in Scotland by summary action in the Court of Session, or by prosecution before the Court of Justiciary there, or by suit in any of His Majesty's Courts in the islands of Guernsey, Jersey, Alderney, Sark, or Man;

And every such forfeiture and penalty shall belong and be given, two-thirds to the person who shall inform and sue for the same, and the remainder to His Majesty, his heirs, and successors.

Actions for penalties.

33. It shall not be lawful for any person or persons whatsoever to commence, prosecute, enter, or file, or cause or procure to be commenced, prosecuted, entered, or filed, any action, bill, plaint, information, or prosecution, or actions, bills, plaints, informations or prosecutions, in any of His Majesty's Courts in England, Ireland, or Scotland, or any proceeding or proceedings before any Justice of the Peace of any county, riding, division, city, town, stewartry, or place for the recovery of any fine, penalty, or forfeiture, fines, penalties, or forfeitures, incurred by reason of any offence committed against this Act, or against any Order or Orders made by His Majesty, his heirs or successors, in Council, or by 2 or more of the Lords or others of His Majesty's Privy Council as aforesaid, unless the same be commenced, prosecuted, entered, or filed in the names of His Majesty's Attorney-General in England or Ireland, or Advocate in Scotland respectively, or under the direction of the Commissioners of the Customs, and in the name or names of some officer or officers of the Customs in England, Ireland, or Scotland respectively;

And if any action, bill, plaint, information, or prosecution, actions, bills, plaints, informations, or prosecutions, or any proceeding or proceedings before any Justice as aforesaid, shall be commenced, prosecuted, entered, and filed in the name or names of any other person or persons than is in that behalf before mentioned, the same shall be and are hereby declared to be null and void.

(a) Penalties may be reduced (38 & 39 Vict., 55, Sched. V., pt. iii.).

Stay of prosecutions by officers of Customs.

34. In case any prosecution, suit, complaint, or other proceeding as aforesaid, shall be commenced or depending by any officer or officers of the Customs, for the recovery of any fine, penalty, or forfeiture, fines, penalties, or forfeitures, incurred by reason of any offence committed against this Act, or against any Order or Orders made by His Majesty, his heirs or successors, in Council, or by any 2 or more of the Lords or others of His Majesty's Privy Council as aforesaid, it shall and may be lawful for His Majesty's Attorney-General in England or Ireland, or Advocate in Scotland respectively, to stop all further proceedings therein, as well with respect to the share of such fine, penalty, or forfeiture, fines, penalties, or forfeitures, to which any such officer or officers shall or may claim to be entitled, as to the share thereof belonging to His Majesty, if upon consideration of the circumstances under which any such fine, penalty, or forfeiture, fines, penalties, or forfeitures, may be incurred, it shall appear to them respectively to be fit and proper so to do.

Trial of offences

35. All offences committed against any of the provisions of this Act, for which no specific penalty, forfeiture, or punishment is provided by this Act, shall and may be tried, heard, and determined before any 3 Justices of the Peace of the county, riding, division, city, or place where such offence or disobedience shall happen ;

And if any person shall be convicted of any such offence or disobedience, he or she shall be liable to such forfeiture and penalty not exceeding the sum of £500 for any offence, or to such imprisonment, not exceeding 12 months for any one offence, as shall in the discretion of the 3 Justices who shall have heard and determined the same be judged proper :

Application of penalties.

And such forfeiture and penalty shall be paid, two-thirds to the person suing for the same, and the remainder to His Majesty, to be applied as the proceeds of other forfeitures and penalties are hereinbefore directed to be applied.

Evidence as to vessels.

36. In any prosecution, suit, or other proceedings against any person or persons whatsoever, for any offence against this Act, or any Act which may hereafter be passed concerning quarantine, or for any breach or disobedience of any Order or Orders which shall be made by His Majesty, his heirs or successors, with the advice of his Privy Council, concerning quarantine and the prevention of infection, and notified or published as aforesaid, or of any Order or Orders made by 2 or more of the Lords or others of the Privy Council aforesaid, the answer or answers of the commander, master, or other person having charge of any vessel, to any question or interrogatories put to him by virtue and in pursuance of this Act, or of any Act which may hereafter be passed concerning quarantine, or of any such Order or Orders as aforesaid, may and shall be given and received as evidence, so far as the same relates or relate to the place from which such vessel shall come, or to the place or places at which such vessel touched in the course of the voyage,

And where any vessel shall have been directed to perform quarantine by the superintendent of quarantine or his assistant, or where there is no such superintendent or assistant, by the principal officer of the Customs at any port or place, or other officer of the Customs authorised to act in that behalf, they having been so directed to perform quarantine, may and shall be given and received as evidence that such vessel was liable to quarantine, unless satisfactory proof shall be produced by the defendant in any such prosecution, suit, or other proceeding to show that the vessel did not come from or touch at any such place or places as is or are stated in the said answer or answers, or that such vessel, although directed to perform quarantine, was not liable to the performance thereof ;

And where any such vessel shall have in fact been put under quarantine at any port or place by the superintendent of quarantine or his assistant, or other officer of the Customs authorised as aforesaid to act in that behalf, and shall actually be performing the same, such vessel shall in any prosecution, suit, or other proceeding against any person or persons whatever, for any offence against this Act or any other Act which may hereafter be passed concerning quarantine and the prevention of infection, or any Order or Orders which shall be made by His Majesty in Council, or any 2 or more of the Lords or others of his Privy Council as aforesaid, be deemed and taken to be liable to quarantine without proving in what manner or from what circumstances such vessel became liable to the performance thereof.

General issue.

37. If any action or suit shall be commenced against any person or persons for anything done in pursuance or execution of this present Act, or of any Order of Council made by virtue thereof, the defendant or defendants in such action or suit may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and in execution of the said Act ; and if it shall appear so to have been done, then the jury shall find for the defendant or defendants ; . . . . . .

Limitation of actions.

And that no such action or suit shall be brought against any person for any matter or thing done in pursuance or execution of this Act, but within the space of 6 months after such matter or thing shall have been done.

8 VICT., c. 16.

Revised Statutes, Vol. ix., p. 564.

An Act for consolidating in one Act certain Provisions usually inserted in Acts with respect to the Constitution of Companies incorporated for carrying on Undertakings of a Public Nature. *(8th May, 1845.)*

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Borrowing of Money on Mortgage	§§ 38—55.
Accountability of Officers	§§ 109—14.
Bye-Laws	§§ 124—7.
Recovery of Damages and Penalties	§§ 142—60.
Schedules C. D. E. and G.	

[All the above enactments are incorporated by the "Public Baths and Wash-houses Act, 1847," (9 & 10 Vict., 74, § 23), and all save those relating to bye-laws, by the "Public Libraries and Museums Act, 1855," (18 & 19 Vict., 70, § 17.) § 152 from the words "or if the place" to the end is repealed in part by the "Statute Law Revision Act, 1875, Sched."]

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8 VICT., c. 18.

Revised Statutes, Vol. ix., p. 628.

An Act for consolidating in one Act certain Provisions usually inserted in Acts authorising the taking of Lands for Undertakings of a Public Nature.[a] *(8th May, 1845.)*

WHEREAS it is expedient to comprise in one General Act sundry provisions usually introduced into Acts of Parliament relative to the acquisition of lands required for undertakings or works of a public nature, and to the compensation to be made for the same, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several Acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves: May it therefore please Your Majesty that it may be enacted: And be it enacted, &c.

Act to apply to all Undertakings authorised by Acts hereafter to be passed.

This Act shall apply to every undertaking authorised by any Act which shall hereafter be passed, and which shall authorise the purchase or taking of lands for such undertaking, and this Act shall be incorporated with such Act;

And all the clauses and provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same

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(*a*) The above Act is incorporated in whole or in part by the "Markets and Fairs Clauses Act, 1847," (10 Vict., 14, § 6); the "Public Libraries and Museums Act, 1855," (18 & 19 Vict., 70, § 19); the "Gas and Waterworks Facilities Act, 1870," (33 & 34 Vict., 70, § 2); the "Tramways Act, 1870," (33 & 34 Vict., 78, § 15); and the "Public Health Act, 1875," (38 & 39 Vict., 55, § 176).

shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other Act which shall be incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act.

And with respect to the construction of this Act and of Acts to be incorporated therewith, be it enacted as follows: Interpretations in this Act;

2. The expression "the Special Act," used in this Act, shall be construed to mean any Act which shall be hereafter passed which shall authorise the taking of lands for the undertaking to which the same relates, and with which this Act shall be so incorporated as aforesaid; "Special Act:"

And the word "prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the Special Act, and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the Special Act" had been used; "prescribed:"

And the expression "the works" or "the undertaking" shall mean the works or undertaking, of whatever nature, which shall by the Special Act be authorised to be executed; "the Works:"

And the expression "the promoters of the undertaking" shall mean the parties, whether company, undertakers, commissioners, trustees, corporations, or private persons, by the Special Act empowered to execute such works or undertaking. "promoters of the Undertaking."

3. The following words and expressions, both in this and the Special Act, shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction; (that is to say,) Interpretations in this and the Special Act:

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number: Number:

Words importing the masculine gender only shall include females: Gender:

The word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure: "Lands:"

The word "lease" shall include an agreement for a lease: "Lease:"

The word "month" shall mean calendar month. "Month:"

The expression "Superior Courts" shall mean Her Majesty's Superior Courts of Record at Westminster . . . . . "Superior Courts:"

The word "oath" shall include affirmation in the case of Quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by Law from the necessity of taking an oath: "Oath:"

The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town. "County:"

The word "Sheriff" shall include Under Sheriff, or other legally competent deputy; and where any matter in relation to any lands is required to be done by any Sheriff, or by any Clerk of the Peace, the expression "the Sheriff," or the expression "the Clerk of the Peace," shall in such case be construed to mean the Sheriff or the Clerk of the Peace of the county, city, borough, liberty, cinque port, or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the Sheriff or Clerk of the Peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate: "the Sheriff:" "the Clerk of the Peace;"

The word "Justices" shall mean Justices of the Peace acting for the county, city, liberty, cinque port, or place where the matter requiring the cognizance of any such Justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port, or place, the same shall mean a Justice acting for the county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorised or required to be done by 2 Justices, the expression "2 Justices" shall be understood to mean 2 Justices assembled and acting together: "Justices:" "Two Justices:"

Where under the provisions of this or the Special Act, or any Act incorporated therewith, any notice shall be required to be given to the owner of any lands, or where any act shall be authorised or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or Corporation who, under the provisions of this or the Special Act, would be enabled to sell and convey lands to the promoters of the undertaking: "Owner:"

The expression "the Bank" shall mean the Bank of England where the same shall relate to monies to be paid or deposited in respect of lands situate in England . . . . . "the Bank:"

4. In citing this Act in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression the "Lands Clauses Consolidation Act, 1845." Short Title.

5. And whereas it may be convenient in some cases to incorporate with Acts of Parliament hereafter to be passed some portion only of the provisions of this Act: Be it therefore enacted, that, for the purpose of making any such incorporation, it shall be sufficient in any such Act to enact that the Clauses of this Act with respect to the matter so proposed to be incorporated (describing such matter as it is described in this Act in the words introductory to the enactment with respect to such matter) shall be incorporated with such Act, and thereupon all the Clauses and provisions of this Act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if the substance of such Clauses and provisions were set forth therein with reference to the matter to which such Act shall relate. Form in which Portions of this Act may be incorporated.

And with respect to the purchase of lands by agreement, be it enacted as follows:— *Purchase of lands by agreement.*

6. Subject to the provisions of this and the Special Act it shall be lawful for the promoters of the undertaking to agree with the owners of any lands by the Special Act authorised to be taken, Power to purchase by Agreement.

and which shall be required for the purposes of such Act, and with all parties having any estate or interest in such lands or by this or the Special Act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or such parts thereof as they shall think proper, and of all estates and interests in such lands of what kind soever.

Parties under Disability enabled to sell.

7. It shall be lawful for all parties, being seised, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the promoters of the undertaking, and to enter into all necessary agreements for that purpose ;

And particularly it shall be lawful for all or any of the following parties so seised, possessed, or entitled as aforesaid so to sell, convey, or release ; (that is to say,) all corporations, tenants in tail or for life, married women seised in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower, or to any lease for life or for lives and years, or for years or any less interest ;

And the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties, other than married women entitled to dower, or lessees for life, or for lives and years, or for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder, or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians, on behalf of their wards, and as to such committees, on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics, and idiots respectively could have exercised the same power under the authority of this or the Special Act if they had respectively been under no disability, and as to such trustees, executors, and administrators, on behalf of their cestuique trusts, whether infants, issue unborn, lunatics, femes covert, or other persons, and that to the same extent as such cestuique trusts respectively could have exercised the same powers under the authority of this and the Special Act if they had respectively been under no disability.

Parties under Disability to exercise other Powers.

8. The power hereinafter given to enfranchise copyhold lands, as well as every other power required to be exercised by the Lord of any Manor pursuant to the provisions of this or the Special Act, or any Act incorporated therewith, and the power to release lands from any rent, charge, or incumbrance, and to agree for the apportionment of any such rent, charge, or incumbrance, shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the promoters of the undertaking.

Compensation in case of parties under disability to be ascertained by valuation.

9.(a) The purchase money or compensation to be paid for any lands to be purchased or taken from any party under any disability or incapacity, and not having power to sell or convey such lands except under the provisions of this or the Special Act, and the compensation to be paid for any permanent damage or injury to any such lands, shall not, except where the same shall have been determined by the verdict of a jury, or by arbitration, or by the valuation of a surveyor appointed by 2 Justices under the provision hereinafter contained, be less than shall be determined by the valuation of 2 able practical surveyors, one of whom shall be nominated by the promoters of the undertaking, and the other by the other party, and if such 2 surveyors cannot agree in the valuation, then by such third surveyor as any 2 Justices shall upon application of either party, after notice to the other party, for that purpose nominate ;

And each of such 2 surveyors if they agree, or if not then the surveyor nominated by the said Justices, shall annex to the valuation a declaration in writing, subscribed by them or him, of the correctness thereof ;

And all such purchase money or compensation shall be deposited in the Bank for the benefit of the parties interested, in manner hereinafter mentioned.

Where Vendor absolutely entitled, lands may be sold on chief rents.

10.(b) It shall be lawful for any person seised in fee of, or entitled to dispose of absolutely for his own benefit, any lands authorised to be purchased for the purposes of the Special Act to sell and convey such lands or any part thereof unto the promoters of the undertaking, in consideration of an annual rent-charge payable by the promoters of the undertaking . . . . . .

Payment of rents to be charged on tolls.

11.(c) The yearly rents reserved by any such conveyance shall be charged on the tolls or rates, if any, payable under the Special Act, and shall be otherwise secured in such manner as shall be agreed between the parties, and shall be paid by the promoters of the undertaking as such rents become payable ;

And if at any time any such rents be not paid within 30 days after they so become payable, and after demand thereof in writing, the person to whom any such rent shall be payable may either recover the same from the promoters of the undertaking, with costs of suit, by Action of debt in any of the Superior Courts, or it shall be lawful for him to levy the same by distress of the goods and chattels of the promoters of the undertaking.

Purchase of additional lands.

12. In case the promoters of the undertaking shall be empowered by the Special Act to purchase lands for extraordinary purposes, it shall be lawful for all parties who, under the provisions hereinbefore contained, would be enabled to sell and convey lands, to sell and convey the lands so authorised to be purchased for extraordinary purposes.

Authority to sell and re-purchase such lands.

13. It shall be lawful for the promoters of the undertaking to sell the lands which they shall have so acquired for extraordinary purposes, or any part thereof, in such manner, and for such considerations, and to such persons, as the promoters of the undertaking may think fit, and again to purchase other lands for the like purposes, and afterwards sell the same, and so from time to time ;

(*a*) *Stone* v. *Yeovil, Mayor.*

(*b*) Amended by 23 & 24 Vict., 106, § 1 ; and extended by 23 & 24 Vict., 106, § 2 (*post*).

(*c*) Extended by 23 & 24 Vict., 106, § 2 (*post*).

But the total quantity of land to be held at any one time by the promoters of the undertaking, for the purposes aforesaid, shall not exceed the prescribed quantity.

Restraint on purchase from incapacitated persons.

14. The promoters of the undertaking shall not, by virtue of the power to purchase land for extraordinary purposes, purchase more than the prescribed quantity from any party under legal disability, or who would not be able to sell and convey such lands except under the powers of this and the Special Act;

And if the promoters of the undertaking purchase the said quantity of land from any party under such legal disability, and afterwards sell the whole or any part of the land so purchased, it shall not be lawful for any party being under legal disability to sell to the promoters of the undertaking any other lands in lieu of the land so sold or disposed of by them.

Municipal Corporations not to sell without sanction of Treasury.

15. Nothing in this or the Special Act contained shall enable any Municipal Corporation to sell for the purposes of the Special Act, without the approbation of the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, or any 3 of them, any lands which they could not have sold without such approbation before the passing of the Special Act, other than such lands as the Company are by the powers of this or the Special Act empowered to purchase or take compulsorily.

Purchase of lands otherwise than by agreement.

And with respect to the purchase and taking of lands otherwise than by agreement, be it enacted as follows:

Capital to be subscribed before compulsory powers put in force.

16. Where the undertaking is intended to be carried into effect by means of a capital to be subscribed by the promoters of the undertaking, the whole of the capital or estimated sum for defraying the expenses of the undertaking shall be subscribed under contract binding the parties thereto, their heirs, executors, and administrators, for the payment of the several sums by them respectively subscribed, before it shall be lawful to put in force any of the powers of this or the Special Act, or any Act incorporated therewith, in relation to the compulsory taking of land for the purposes of the undertaking.

Certificate of 2 Justices evidence that capital has been subscribed.

17. A certificate under the hands of 2 Justices, certifying that the whole of the prescribed sum has been subscribed, shall be sufficient evidence thereof, and on the application of the promoters of the undertaking, and the production of such evidence as such Justices think proper and sufficient, such Justices shall grant such certificate accordingly.

Notice of intention to take lands.

18.(a) When the promoters of the undertaking shall require to purchase or take any of the lands which by this or the Special Act, or any Act incorporated therewith, they are authorised to purchase or take, they shall give notice thereof to all the parties interested in such lands, or to the parties enabled by this Act to sell and convey or release the same, or such of the said parties as shall, after diligent inquiry, be known to the promoters of the undertaking, and by such notice shall demand from such parties the particulars of their estate and interest in such lands, and of the claims made by them in respect thereof;

And every such notice shall state the particulars of the lands so required, and that the promoters of the undertaking are willing to treat for the purchase thereof, and as to the compensation to be made to all parties for the damage that may be sustained by them by reason of the execution of the works.

Service of notices on owners and occupiers.

19. All notices required to be served by the promoters of the undertaking upon the parties interested in or entitled to sell any such lands shall either be served personally on such parties or left at their last usual place of abode, if any such can after diligent inquiry be found, and in case any such parties shall be absent from the United Kingdom, or cannot be found after diligent inquiry, shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

Service of notice on a Corporation aggregate.

20. If any such party be a Corporation aggregate such notice shall be left at the principal office of business of such Corporation, or, if no such office can after diligent inquiry be found, shall be served on some principal member, if any, of such Corporation, and such notice shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

If parties fail to treat, or in case of dispute, question to be settled as after mentioned.

21. If for 21 days after the service of such notice, any such party shall fail to state the particulars of his claim in respect of any such land, or to treat with the promoters of the undertaking in respect thereof, or if such party and the promoters of the undertaking shall not agree as to the amount of the compensation to be paid by the promoters of the undertaking for the interest in such lands belonging to such party, or which he is by this or the Special Act enabled to sell, or for any damage that may be sustained by him by reason of the execution of the works, the amount of such compensation shall be settled in the manner hereinafter provided for settling cases of disputed compensation.

Amounts not exceeding £50 to be settled by Justices.

22.(b) If no agreement be come to between the promoters of the undertaking and the owners of or parties by this Act enabled to sell and convey or release any lands taken or required for or injuriously affected by the execution of the undertaking, or any interest in such lands, as to the value of such lands or of any interest therein, or as to the compensation to be made in respect thereof, and if in any such case the compensation claimed shall not exceed £50 the same shall be settled by 2 Justices.

Compensation exceeding £50 to be settled by arbitration or jury.

23. If the compensation claimed or offered in any such case shall exceed £50, and if the party claiming compensation desire to have the same settled by arbitration, and signify such desire by notice in writing to the promoters of the undertaking, before they have issued their warrant to the Sheriff to summon a jury in respect of such lands, under the provisions hereinafter contained, stating in such notice the nature of the interest in respect of which such party claims compensation, and the amount of the compensation so claimed, the same shall be so settled accordingly;

(a) *Syer* v. *Metrop. B.W.* (b) *Reg.* v. *Hannay*; *Reg.* v. *Leeds and Bradford Railway Co.*

But unless the party claiming compensation shall as aforesaid signify his desire to have the question of such compensation settled by arbitration, or if when the matter shall have been referred to arbitration the arbitrators or their umpire shall for 3 months have failed to make their or his award, or if no final award shall be made, the question of such compensation shall be settled by the verdict of a jury, as hereinafter provided.

Method of proceeding by Justices.

24. It shall be lawful for any Justice, upon the application of either party with respect to any question of disputed compensation by this or the Special Act, or any Act incorporated therewith, authorised to be settled by 2 Justices, to summon the other party to appear before 2 Justices, at a time and place to be named in the summons, and upon the appearance of such parties, or, in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such Justices to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, upon oath, and the costs of every such inquiry shall be in the discretion of such Justices, and they shall settle the amount thereof.

Appointment of Arbitrator.

25. When any question of disputed compensation by this or the Special Act, or any Act incorporated therewith, authorised or required to settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator, to whom such dispute shall be referred ;

And every appointment of an arbitrator shall be made on the part of the pomoters of the undertaking under the hands of the said promoters or any 2 of them, or of their secretary or clerk, and on the part of any other party under the hand of such party, or if such party be a Corporation aggregate under the Common Seal of such Corporation ;

And such appointment shall be delivered to the arbitrator, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made.

And after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation ;

And if for the space of 14 days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matter so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final.

Vacancy of Arbitrator.

26. If, before the matters so referred shall be determined, any arbitrator appointed by either party die, or become incapable, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if, for the space of 7 days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte* ;

And every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability as aforesaid.

Appointment of Umpire.

27. Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hands, an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under the provisions of this or the Special Act, and if such umpire shall die, or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place, and the decision of every such umpire on the matters so referred to him shall be final.

Powers of Board of Trade in railway cases.

28. If in either of the cases aforesaid the said arbitrators shall refuse, or shall, for 7 days after request of either party to such arbitration, neglect to appoint an umpire, the Board of Trade, in any case in which a Railway Company shall be one party to the arbitration, and 2 Justices in any other case, shall, on the application of either party to such arbitration, appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this or the Special Act, shall be final.

Death of single Arbitrator.

29. If, when a single arbitrator shall have been appointed, such arbitrator shall die or become incapable to act before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this or the Special Act in the same manner as if such arbitrator had not been appointed.

If either Arbitrator refuse to act the other to proceed.

30. If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse or for 7 days neglect to act, the other arbitrator may proceed *ex parte*, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

If Arbitrators fail to make their award within 21 days the matter to go to the Umpire.

31. If where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within 21 days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as shall have been appointed for that purpose by both such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

Powers of Arbitrators as to books, &c.

32. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Arbitrator or Umpire to make declaration.

33. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him, he shall in the presence of a Justice make and subscribe the following declaration ; that is to say,

I, *A.B.*, do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the Act [*naming the Special Act*]. *A.B.*

Made and subscribed in the presence of .

And such declaration shall be annexed to the award when made ; and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanor.

Costs of arbitration.

34. All the costs of any such arbitration, and incident thereto, to be settled by the arbitrators, shall be borne by the promoters of the undertaking, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters of the undertaking, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions.

Award to be delivered.

35. The arbitrators shall deliver their award in writing to the promoters of the undertaking, and the said promoters shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party to the arbitration, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party or any person appointed by him for that purpose.

Submission may be made a rule of Court.

36. The submission to any such arbitration may be made a rule of any of the Superior Courts, on the application of either of the parties.

Award not void through form.

37. No award made with respect to any question referred to arbitration under the provisions of this or the Special Act shall be set aside for irregularity or error in matter of form.

Promoters to give notice before summoning jury.

38. Before the promoters of the undertaking shall issue their warrant for summoning a jury for settling any case of disputed compensation they shall give not less than 10 days' notice to the other party of their intention to cause such jury to be summoned, and in such notice the promoters of the undertaking shall state what sum of money they are willing to give for the interest in such lands sought to be purchased by them from such party, and for the damage to be sustained by him by the execution of the works.

Warrant for summoning jury to be addressed to Sheriff.

39. In every case in which any such question of disputed compensation shall be required to be determined by the verdict of a jury the promoters of the undertaking shall issue their warrant to the Sheriff, requiring him to summon a jury for that purpose, and such warrant shall be under the Common Seal of the promoters of the undertaking if they be a Corporation, or if they be not a Corporation under the hands and seals of such promoters or any 2 of them ;

And if such Sheriff be interested in the matter in dispute such application shall be made to some Coroner of the county in which the lands in question, or some part thereof, shall be situate, and if all the Coroners of such county be so interested, such application may be made to some person having filled the office of Sheriff or Coroner in such county, and who shall be then living there, and who shall not be interested in the matter in dispute ;

And with respect to the persons last mentioned preference shall be given to one who shall have most recently served either of the said offices ;

And every ex-Sheriff, Coroner, or ex-Coroner shall have power, if he think fit, to appoint a Deputy or Assessor.

Provisions applicable to Sheriff to apply to Coroner.

40. Throughout the enactments contained in this Act relating to the reference to a jury, where the term "Sheriff" is used, the provisions applicable thereto shall be held to apply to every Coroner or other person lawfully acting in his place, and in every case in which any such warrant shall have been directed to any other person than the Sheriff, such Sheriff shall, immediately on receiving notice of the delivery of the warrant, deliver over, on application for that purpose, to the person to whom the same shall have been directed, or to any person appointed by him to receive the same, the Jurors Book and Special Jurors List belonging to the county where the lands in question shall be situate.

Jury to be summoned.

41. Upon the receipt of such warrant the Sheriff shall summon a jury of 24 indifferent persons, duly qualified to act as common jurymen in the Superior Courts, to meet at a convenient time and place to be appointed by him for that purpose, such time not being less than 14 nor more than 21 days after the receipt of such warrant, and such place not being more than 8 miles distant from the lands in question, unless by consent of the parties interested, and he shall forthwith give notice to the promoters of the works of the time and place so appointed by him.

Jury to be impannelled

42. Out of the jurors appearing upon such summons a jury of 12 persons shall be drawn by the Sheriff, in such manner as juries for trials of issues joined in the Superior Courts are by law required to be drawn, and if a sufficient number of jurymen do not appear in obedience to such summons the Sheriff shall return other indifferent men, duly qualified as aforesaid, of the bystanders, or others that can speedily be procured, to make up the jury to the number aforesaid;

And all parties concerned may have their lawful challenges against any of the jurymen, but no such party shall challenge the array.

Sheriff to preside.

43. The Sheriff shall preside on the said inquiry, and the party claiming compensation shall be deemed the plaintiff, and shall have all such rights and privileges as the plaintiff is entitled to in the trial of Actions at law ;

Witnesses.

And if either party so request in writing, the Sheriff shall summon before him any person considered necessary to be examined as a witness touching the matters in question, and on the like request the Sheriff shall order the jury, or any 6 or more of them, to view the place or matter in controversy, in like manner as views may be had in the trial of Actions in the Superior Courts.

Penalty on Sheriff and jury for default.

44. If the Sheriff make default in any of the matters hereinbefore required to be done by him in relation to any such trial or inquiry, he shall forfeit £50 for every such offence, and such

penalty shall be recoverable by the promoters of the undertaking by Action in any of the Superior Courts ;

And if any person summoned and returned upon any jury under this or the Special Act, whether common or special, do not appear, or if appearing, he refuse to make oath, or in any other manner unlawfully neglect his duty, he shall, unless he show reasonable excuse to the satisfaction of the Sheriff, forfeit a sum not exceeding £10 and every such penalty payable by a Sheriff or juryman shall be applied in satisfaction of the costs of the inquiry, so far as the same will extend ;

And, in addition to the penalty hereby imposed, every such juryman shall be subject to the same regulations, pains, and penalties as if such jury had been returned for the trial of an issue joined in any of the Superior Courts.

Penalty on witnesses for default.

45. If any person duly summoned to give evidence upon any such inquiry, and to whom a tender of his reasonable expenses shall have been made, fail to appear at the time and place specified in the summons without sufficient cause, or if any person, whether summoned or not, who shall appear as a witness refuse to be examined on oath touching the subject matter in question, every person so offending shall forfeit to the party aggrieved a sum not exceeding £10.

Notice of inquiry.

46. Not less than 10 days notice of the time and place of the inquiry shall be given in writing by the promoters of the undertaking to the other party.

If the party make default the inquiry not to proceed.

47. If the party claiming compensation shall not appear at the time appointed for the inquiry such inquiry shall not be further proceeded in, but the compensation to be paid shall be such as shall be ascertained by a Surveyor appointed by 2 Justices in manner hereinafter provided.

Jury to be sworn.

48. Before the jury proceed to inquire of and assess the compensation or damage in respect of which their verdict is to be given they shall make oath that they will truly and faithfully inquire of and assess such compensation or damage, and the Sheriff shall administer such oaths, as well as the oaths of all persons called upon to give evidence.

Sums for purchase and for damage to be assessed separately.

49. Where such inquiry shall relate to the value of lands to be purchased, and also to compensation claimed for injury done or to be done to the lands held therewith, the jury shall deliver their verdict separately for the sum of money to be paid for the purchase of the lands required for the works, or of any interest therein belonging to the party with whom the question of disputed compensation shall have arisen, or which, under the provisions herein contained, he is enabled to sell or convey, and for the sum of money to be paid by way of compensation for the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such lands by the exercise of the powers of this or the Special Act, or any Act incorporated therewith.

Verdict and judgment.

50. The Sheriff before whom such inquiry shall be held shall give judgment for the purchase money or compensation assessed by such jury, and the verdict and judgment shall be signed by the Sheriff, and being so signed shall be kept by the Clerk of the Peace among the records of the General or Quarter Sessions of the county in which the lands or any part thereof shall be situate in respect of which such purchase money or compensation shall have been awarded ;

And such verdicts and judgments shall be deemed records, and the same or true copies thereof shall be good evidence in all courts and elsewhere, and all persons may inspect the said verdicts and judgments, and may have copies thereof or extracts therefrom, on paying for each inspection thereof 1*s.*, and for every 100 words copied or extracted therefrom 6*d.*, which copies or extracts the Clerk of the Peace is hereby required to make out, and to sign and certify the same to be true copies.

Costs of the inquiry.

51. On every such inquiry before a jury, where the verdict of the jury shall be given for a greater sum than the sum previously offered by the promoters of the undertaking, all the costs of such inquiry shall be borne by the promoters of the undertaking ;

But if the verdict of the jury be given for the same or a less sum than the sum previously offered by the promoters of the undertaking, or if the owner of the lands shall have failed to appear at the time and place appointed for the inquiry, having received due notice thereof, one-half of the costs of summoning, impannelling, and returning the jury, and of taking the inquiry and recording the verdict and judgment thereon, in case such verdict shall be taken, shall be defrayed by the owner of the lands, and the other half by the promoters of the undertaking, and each party shall bear his own costs, other than as aforesaid, incident to such inquiry.

Particulars of costs.

52. The costs of any such inquiry shall, in case of difference, be settled by one of the Masters of the Court of Queen's Bench of England . . . . . on the application of either party, and such costs shall include all reasonable costs, charges, and expenses incurred in summoning, impannelling, and returning the jury, taking the inquiry, the attendance of witnesses, the employment of counsel and attornies, recording the verdict and judgment thereon, and otherwise incident to such inquiry.

Payment of costs.

53. If any such costs shall be payable by the promoters of the undertaking, and if within 7 days after demand such costs be not paid to the party entitled to receive the same, they shall be recoverable by distress, and on application to any Justice he shall issue his warrant accordingly ;

And if any such costs shall be payable by the owner of the lands or of any interest therein, the same may be deducted and retained by the promoters of the undertaking, out of any money awarded by the jury to such owner, or determined by the valuation of a surveyor under the provision hereinafter contained ;

And the payment or deposit of the remainder, if any, of such money shall be deemed payment and satisfaction of the whole thereof, or if such costs shall exceed the amount of the money so awarded or determined, the excess shall be recoverable by distress, and on application to any Justice he shall issue his warrant accordingly.

Either party may have special jury.

54. If either party desire any such question of disputed compensation as aforesaid to be tried before a special jury, such question shall be so tried, provided that notice of such desire, if coming

from the other party, be given to the promoters of the undertaking before they have issued their warrant to the Sheriff;

And for that purpose the promoters of the undertaking shall by their warrant to the Sheriff require him to nominate a special jury for such trial;

And thereupon the Sheriff shall, as soon as conveniently may be after the receipt by him of such warrant, summon both the parties to appear before him, by themselves or their attornies, at some convenient time and place appointed by him for the purpose of nominating a special jury (not being less than 5 nor more than 8 days from the service of such summons);

And at the place and time so appointed the Sheriff shall proceed to nominate and strike a special jury, in the manner in which such juries shall be required by the laws for the time being in force to be nominated or struck by the proper officers of the Superior Courts, and the Sheriff shall appoint a day, not later than the eighth day after striking of such jury, for the parties or their agents to appear before him to reduce the number of such jury, and thereof shall give 4 days' notice to the parties;

And on the day so appointed the Sheriff shall proceed to reduce the said special jury to the number of 20, in the manner used and accustomed by the proper officers of the Superior Courts.

Deficiency of special jurymen.

55. The special jury on such inquiry shall consist of 12 of the said 20 who shall first appear on the names being called over, the parties having their lawful challenges against any of the said jurymen;

And if a full jury do not appear, or if after such challenges a full jury do not remain, then, upon the application of either party, the Sheriff shall add to the list of such jury the names of any other disinterested persons qualified to act as special or common jurymen, who shall not have been previously struck off the aforesaid list, and who may then be attending the Court, or can speedily be procured, so as to complete such jury, all parties having their lawful challenges against such persons;

And the Sheriff shall proceed to the trial and adjudication of the matters in question by such jury, and such trial shall be attended in all respects with the like incidents and consequences, and the like penalties shall be applicable, as hereinbefore provided in the case of a trial by common jury.

Inquiries before same special jury.

56. Any other inquiry than that for the trial of which such Special Jury may have been struck and reduced as aforesaid may be tried by such jury, provided the parties thereto respectively shall give their consent to such trial.

Jurymen not to attend more than once a year.

57. No juryman shall, without his consent, be summoned or required to attend any such proceeding as aforesaid more than once in any year.

Compensation to absent parties to be determined by Surveyor appointed by Justices.

58. The purchase money or compensation to be paid for any lands to be purchased or taken by the promoters of the undertaking from any party who, by reason of absence from the kingdom, is prevented from treating, or who cannot after diligent inquiry be found, or who shall not appear at the time appointed for the inquiry before the jury as hereinbefore provided for, after due notice thereof, and the compensation to be paid for any permanent injury to such lands shall be such as shall be determined by the valuation of such able practical surveyor as 2 Justices shall nominate for that purpose as hereinafter mentioned.

Justices to nominate a Surveyor.

59. Upon application by the promoters of the undertaking to 2 Justices, and upon such proof as shall be satisfactory to them that any such party is, by reason of absence from the kingdom, prevented from treating, or cannot after diligent inquiry be found, or that any such party failed to appear on such inquiry before a jury as aforesaid, after due notice to him for that purpose, such Justices shall, by writing under their hands, nominate an able practical surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

Surveyor to make declaration.

60. Before such surveyor shall enter upon the duty of making such valuation as aforesaid he shall, in the presence of such Justices, or one of them, make and subscribe the declaration following at the foot of such nomination; (that is to say,)

I *A. B.* do solemnly and sincerely declare, that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me. *A.B.*

Made and subscribed in the presence of .

And if any surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

Valuation, &c., to be produced to owner on demand.

61. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the promoters of the undertaking, and they shall at all times produce the said valuation and other documents, on demand, to the owner of the lands comprised in such valuation, and to all other parties interested therein.

Expenses of valuation.

62. All the expenses of and incident to every such valuation shall be borne by the promoters of the undertaking.

Purchase money and compensation, how to be estimated.

63.(a) In estimating the purchase money or compensation to be paid by the promoters of the undertaking in any of the cases aforesaid, regard shall be had by the Justices, arbitrators, or surveyors, as the case may be, not only to the value of the land to be purchased or taken by the promoters of the undertaking, but also to the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such other lands by the exercise of the powers of this or the Special Act, or any Act incorporated therewith.

(a) *Buccleuch (D. of)* v. *Metropolitan B. W.*

A.D. 1845.

Compensation to absent party determined by Surveyor may be submitted to arbitration.

64. When the compensation payable in respect of any lands, or any interest therein, shall have been ascertained by the valuation of a surveyor, and deposited in the Bank under the provisions herein contained, by reason that the owner of or party entitled to convey such lands or such interest therein as aforesaid could not be found or was absent from the kingdom, if such owner or party shall be dissatisfied with such valuation it shall be lawful for him, before he shall have applied to the Court of Chancery for payment or investment of the monies so deposited under the provisions herein contained by notice in writing to the promoters of the undertaking, to require the question of such compensation to be submitted to arbitration, and thereupon the same shall be so submitted accordingly, in the same manner as in other cases of disputed compensation hereinbefore authorised or required to be submitted to arbitration.

Question to be submitted to the Arbitrators.

65. The question to be submitted to the arbitrators in the case last aforesaid shall be, whether the said sum so deposited as aforesaid by the promoters of the undertaking was a sufficient sum, or whether any and what further sum ought to be paid or deposited by them.

If further sum awarded, promoters to pay or deposit same within 14 days.

66. If the arbitrators shall award that a further sum ought to be paid or deposited by the promoters of the undertaking, they shall pay or deposit, as the case may require, such further sum within 14 days after the making of such award, or in default thereof the same may be enforced by attachment, or recovered with costs by Action or suit in any of the Superior Courts.

Costs of arbitration.

67. If the arbitrators shall determine that the sum so deposited was sufficient, the costs of and incident to such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators, but if the arbitrators shall determine that a further sum ought to be paid or deposited by the promoters of the undertaking, all the costs of and incident to the arbitration shall be borne by the promoters of the undertaking.

Compensation in respect of lands, &c., to be settled by arbitration or jury, at the option of the party claiming.

68.(a) If any party shall be entitled to any compensation in respect of any lands, or of any interest therein, which shall have been taken for or injuriously affected by the execution of the works, and for which the promoters of the undertaking shall not have made satisfaction under the provisions of this or the Special Act, or any Act incorporated therewith, and if the compensation claimed in such case shall exceed the sum of £50, such party may have the same settled either by arbitration or by the verdict of a jury, as he shall think fit;

And if such party desire to have the same settled by arbitration, it shall be lawful for him to give notice in writing to the promoters of the undertaking of such his desire, stating in such notice the nature of the interest in such lands in respect of which he claims compensation, and the amount of the compensation so claimed therein;

And unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and shall enter into a written agreement for that purpose within 21 days after the receipt of any such notice from any party so entitled, the same shall be settled by arbitration in the manner herein provided;

Or if the party so entitled as aforesaid desire to have such question of compensation settled by jury, it shall be lawful for him to give notice in writing of such his desire to the promoters of the undertaking, stating such particulars as aforesaid, and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and enter into a written agreement for that purpose, they shall, within 21 days' after the receipt of such notice, issue their warrant to the Sheriff to summon a jury for settling the same in the manner herein provided, and in default thereof they shall be liable to pay to the party so entitled as aforesaid the amount of compensation so claimed, and the same may be recovered by him, with costs, by Action in any of the Superior Courts.

Application of compensation.

And with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, be it enacted as follows:

Purchase money to parties under disability amounting to £200 to be deposited in the bank.

69.(b) If the purchase money or compensation which shall be payable in respect of any lands, or any interest therein, purchased or taken by the promoters of the undertaking from any corporation, tenant for life or in tail, married woman seised in her own right or entitled to dower, guardian, committee of lunatic or idiot, trustee, executor or administrator, or person having a partial or qualified interest only in such lands, and not entitled to sell or convey the same except under the provisions of this or the Special Act, or the compensation to be paid for any permanent damage to any such lands, amount to or exceed the sum of £200, the same shall be paid into the Bank, in the name and with the privity of the Accountant General of the Court of Chancery in England if the same relate to lands in England or Wales . . . . . to be placed to the account there of such Accountant General, *ex parte* the promoters of the undertaking (describing them by their proper name), in the matter of the Special Act (citing it), pursuant to the method prescribed by any Act for the time being in force for regulating monies paid into the said Courts; and such monies shall remain so deposited until the same be applied to some one or more of the following purposes; (that is to say,)

Application of monies deposited.

In the purchase or redemption of the land tax, or the discharge of any debt or incumbrance affecting the land in respect of which such money shall have been paid, or affecting other lands settled therewith to the same or the like uses, trusts, or purposes; or

In the purchase of other lands to be conveyed, limited, and settled upon the like uses, trusts, and purposes, and in the same manner, as the lands in respect of which such money shall have been paid stood settled; or

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(a) *Balls* v. *Metrop. B.W.*; *Bedford* v. *Dawson*; *Bourne* v. *Liverpool*; *Broadbent* v. *Imperial Gas Co.*; *Bush* v. *Trowbridge Waterworks Co.*; *Clark* v. *London School Board*; *Edwards, Ex parte*; *Ferrar* v. *Commissioners of Sewers of London*; *M'Carthy* v. *Metrop. B.W.*; *Reg.* v. *Metrop. B.W.*; *Reg.* v. *St. Luke's, Chelsea*; *Rickett* v. *Metrop. B.W.*; *Souch* v. *East London Railway Co.*; *Stebbing* v. *Metrop. B.W.*; *Ware* v. *Regent's Canal Co.*

(b) *Derby Municipal Estates, In re.*

If such money shall be paid in respect of any buildings taken under the authority of this or the Special Act, or injured by the proximity of the works, in removing or replacing such buildings, or substituting others in their stead, in such manner as the Court of Chancery shall direct; or

In payment to any party becoming absolutely entitled to such money.

Order for application and investment meanwhile.

70. Such money may be so applied as aforesaid upon an order of the Court of Chancery in England . . . . . made on the petition of the party who would have been entitled to the rents and profits of the lands in respect of which such money shall have been deposited;

And until the money can be so applied it may, upon the like Order, be invested by the said Accountant General in the purchase of 3 per centum Consolidated or 3 per centum Reduced Bank Annuities, or in Government or real securities, and the interest, dividends, and annual proceeds thereof paid to the party who would for the time being have been entitled to the rents and profits of the lands.

Sums from £20 to £200 to be deposited or paid to trustees.

71. If such purchase money or compensation shall not amount to the sum of £200, and shall exceed the sum of £20, the same shall either be paid into the Bank, and applied in the manner hereinbefore directed with respect to sums amounting to or exceeding £200, or the same may lawfully be paid to two trustees, to be nominated by the parties entitled to the rents or profits of the lands in respect whereof the same shall be payable, such nomination to be signified by writing under the hands of the party so entitled;

And in case of the coverture, infancy, lunacy, or other incapacity of the parties entitled to such monies, such nomination may lawfully be made by their respective husbands, guardians, committees, or trustees;

But such last-mentioned application of the monies shall not be made unless the promoters of the undertaking approve thereof and of the trustees named for the purpose;

And the money so paid to such trustees, and the produce arising therefrom, shall be by such trustees applied in the manner hereinbefore directed with respect to money paid into the Bank but it shall not be necessary to obtain any Order of the Court for that purpose.

Sums not exceeding £20 to be paid to parties.

72. If such money shall not exceed the sum of £20, the same shall be paid to the parties entitled to the rents and profits of the lands in respect whereof the same shall be payable, for their own use and benefit, or in case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such parties, then such money shall be paid, for their use, to the respective husbands, guardians, committees, or trustees of such persons.

Sums payable under contract with persons not absolutely entitled, to be paid into bank.

73. All sums of money exceeding £20, which may be payable by the promoters of the undertaking in respect of the taking, using, or interfering with any lands under a contract or agreement with any person who shall not be entitled to dispose of such lands, or of the interest therein contracted to be sold by him absolutely for his own benefit, shall be paid into the Bank or to trustees in manner aforesaid;

And it shall not be lawful for any contracting party not entitled as aforesaid to retain to his own use any portion of the sums so agreed or contracted to be paid for or in respect of the taking, using, or interfering with any such lands, or in lieu of bridges, tunnels, or other accommodation works, or for assenting to or not opposing the passing of the Bill authorising the taking of such lands;

But all such monies shall be deemed to have been contracted to be paid for and on account of the several parties interested in such lands, as well in possession as in remainder, reversion, or expectancy:

Provided always, that it shall be in the discretion of the Court of Chancery in England . . . . . or the said trustees, as the case may be, to allot to any tenant for life, or for any other partial or qualified estate, for his own use, a portion of the sum so paid into the Bank, or to such trustees as aforesaid, as compensation for any injury, inconvenience, or annoyance, which he may be considered to sustain, independently of the actual value of the lands to be taken, and of the damage occasioned to the lands held therewith, by reason of the taking of such lands and the making of the works.

Court may direct application of money in respect of leases or reversions.

74. Where any purchase money or compensation paid into the Bank under the provisions of this or the Special Act shall have been paid in respect of any lease for a life or lives or years, or for a life or lives and years, or any estate in lands less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, it shall be lawful for the Court of Chancery in England . . . . . on the petition of any party interested in such money, to order that the same shall be laid out, invested, accumulated, and paid in such manner as the said Court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate, or reversion in respect of which such money shall have been paid, or as near thereto as may be.

Upon deposit being made, owners to convey, or in default the lands to vest in the promoters upon a deed poll being executed.

75. Upon deposit in the Bank in manner hereinbefore provided of the purchase money or compensation agreed or awarded to be paid in respect of any lands purchased or taken by the promoters of the undertaking under the provisions of this or the Special Act or any Act incorporated therewith, the owner of such lands, including in such term all parties by this Act enabled to sell or convey lands, shall, when required so to do by the promoters of the undertaking, duly convey such lands to the promoters of the undertaking, or as they shall direct;

And in default thereof, or if he fail to adduce a good title to such lands to their satisfaction, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their Common Seal if they be a corporation, or if they be not a corporation under the hands and seals of the promoters, or any 2 of them, containing a description of the lands in respect of which such default shall be made, and reciting the purchase or taking thereof by the promoters of the undertaking, and the names of the parties from whom the same were purchased or taken, and the deposit made in respect thereof, and declaring the fact of such default having been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein;

And thereupon all the estate and interest in such lands of or capable of being sold and conveyed by the party between whom and the promoters of the undertaking such agreement shall have been come to, or as between whom and the promoters of the undertaking such purchase money or compensation shall have been determined by a jury, or by arbitrators, or by a surveyor appointed by 2 Justices as herein provided, and shall have been deposited as aforesaid, shall vest absolutely in the promoters of the undertaking, and as against such parties, and all parties on behalf of whom they are hereinbefore enabled to sell and convey, the promoters of the undertaking shall be entitled to immediate possession of such lands.

Purchase money may be deposited in certain cases.

76.(a) If the owner of any such lands purchased or taken by the promoters of the undertaking, or of any interest therein, on tender of the purchase money or compensation either agreed or awarded to be paid in respect thereof, refuse to accept the same, or neglect or fail to make out a title to such lands, or to the interest therein claimed by him, to the satisfaction of the promoters of the undertaking, or if he refuse to convey or release such lands as directed by the promoters of the undertaking, or if any such owner be absent from the kingdom, or cannot after diligent inquiry be found, or fail to appear on the inquiry before a jury, as herein provided for, it shall be lawful for the promoters of the undertaking to deposit the purchase money or compensation payable in respect of such lands, or any interest therein, in the Bank, in the name and with the privity of the Accountant General of the Court of Chancery in England . . . . . to be placed, except in the cases herein otherwise provided for, to his account there, to the credit of the parties interested in such lands (describing them so far as the promoters of the undertaking can do), subject to the control and disposition of the said Court.

Upon deposit being made, receipt to be given, and the lands to vest upon a deed poll being executed.

77. Upon any such deposit of money as last aforesaid being made the cashier of the Bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money, specifying therein for what and for whose use (described as aforesaid) the same shall have been received, and in respect of what purchase the same shall have been paid in;

And it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their Common Seal if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters, or any 2 of them, containing a description of the lands in respect whereof such deposit shall have been made, and declaring the circumstances under which and the names of the parties to whose credit such deposit shall have been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein;

And thereupon all the estate and interest in such lands of the parties for whose use and in respect whereof such purchase money or compensation shall have been deposited shall vest absolutely in the promoters of the undertaking, and as against such parties they shall be entitled to immediate possession of such lands.

Application of monies deposited.

78.(b) Upon the application by petition of any party making claim to the money so deposited as last aforesaid, or any part thereof, or to the lands in respect whereof the same shall have been so deposited, or any part of such lands, or any interest in the same, the said Court of Chancery in England . . . . . may, in a summary way, as to such Court shall seem fit, order such money to be laid out or invested in the public funds, or may order distribution thereof, or payment of the dividends thereof, according to the respective estates, titles, or interests of the parties making claim to such money or lands, or any part thereof, and may make such other order in the premises as to such Court shall seem fit.

Party in possession to be deemed the owner.

79. If any question arise respecting the title to the lands in respect whereof such monies shall have been so paid or deposited as aforesaid, the parties respectively in possession of such lands, as being the owners thereof, or in receipt of the rents of such lands, as being entitled thereto at the time of such lands being purchased or taken, shall be deemed to have been lawfully entitled to such lands, until the contrary be shown to the satisfaction of the Court;

And unless the contrary be shown as aforesaid, the parties so in possession, and all parties claiming under them, or consistently with their possession, shall be deemed entitled to the money so deposited, and to the dividends or interest of the annuities or securities purchased therewith, and the same shall be paid and applied accordingly.

Costs in cases of money deposited.

80. In all cases of monies deposited in the Bank under the provisions of this or the Special Act, or an Act incorporated therewith, except where such monies shall have been so deposited by reason of the wilful refusal of any party entitled thereto to receive the same, or to convey or release the lands in respect whereof the same shall be payable, or by reason of the wilful neglect of any party to make out a good title to the land required, it shall be lawful for the Court of Chancery in England to order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the promoters of the undertaking; (that is to say,)

The costs of the purchase or taking of the lands, or which shall have been incurred in consequence thereof, other than such costs as are herein otherwise provided for, and the costs of the investment of such monies in Government or real securities, and of the re-investment thereof in the purchase of other lands, and also the costs of obtaining the proper Orders for any of the purposes aforesaid, and of the Orders for the payment of the dividends and interest of the securities upon which such monies shall be invested, and for the payment out of Court of the principal of such monies, or of the securities whereon the same shall be invested, and of all proceedings relating thereto, except such as are occasioned by litigation between adverse claimants:

(a) *Barnett* v. *Great Eastern Railway Co.*; *East London Union* v. *Metropolitan Railway Co.*; *Wells* v. *Chelmsford L.B.*

(b) *Great Western Railway* v. *Smith.*

Provided always, that the costs of one application only for re-investment in land shall be allowed, unless it shall appear to the Court of Chancery in England . . . . . that it is for the benefit of the parties interested in the said monies that the same should be invested in the purchase of lands, in different sums and at different times, in which case it shall be lawful for the Court, if it think fit, to order the costs of any such investments to be paid by the promoters of the undertaking.

Conveyances.

And with respect to the conveyances of lands, be it enacted as follows :

Form of conveyances.

81. Conveyances of lands to be purchased under the provisions of this or the Special Act, or any Act incorporated therewith, may be according to the forms in the schedules (A.) and (B.) respectively to this Act annexed, or as near thereto as the circumstances of the case will admit, or by deed in any other form which the promoters of the undertaking may think fit ;

And all conveyances made according to the forms in the said schedules or as near thereto as the circumstances of the case will admit shall be effectual to vest the lands thereby conveyed in the promoters of the undertaking, and shall operate to merge all terms of years attendant by express declaration, or by construction of law, on the estate of interest so thereby conveyed, and to bar and to destroy all such estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts, and interest whatsoever, of and in the lands comprised in such conveyances which shall have been purchased or compensated for by the consideration therein mentioned ;

But although terms of years be thereby merged, they shall in equity afford the same protection as if they had been kept on foot, and assigned to a trustee for the promoters of the undertaking to attend the reversion and inheritance.

Costs of conveyances.

82. The costs of all such conveyances shall be borne by the promoters of the undertaking, and such costs shall include all charges and expenses incurred, on the part as well of the seller as of the purchaser, of all conveyances and assurances of any such lands, and of any outstanding terms or interests therein, and of deducing, evidencing, and verifying the title to such lands, terms, or interests, and of making out and furnishing such abstracts and attested copies as the promoters of the undertaking may require, and all other reasonable expenses incident to the investigation, deduction, and verification of such title.

Taxation of costs of conveyances.

83. If the promoters of the undertaking and the party entitled to any such costs shall not agree as to the amount thereof, such costs shall be taxed by one of the Taxing Masters of the Court of Chancery . . . . . upon an Order of the same Court, to be obtained upon petition in a summary way by either of the parties ;

And the promoters of the undertaking shall pay what the said master shall certify to be due in respect of such costs to the party entitled thereto, or in default thereof the same may be recovered in the same way as any other costs payable under an Order of the said Court, or the same may be recovered by distress in the manner hereinbefore provided in other cases of costs ;

And the expense of taxing such costs shall be borne by the promoters of the undertaking, unless upon such taxation one-sixth part of the amount of such costs shall be disallowed, in which case the costs of such taxation shall be borne by the party whose costs shall be so taxed, and the amount thereof shall be ascertained by the said Master, and deducted by him accordingly in his certificate of such taxation.

Entry on lands.

And with respect to the entry upon lands by the promoters of the undertaking, be it enacted as follows :

Payment of price to be made previous to entry, except to survey, &c.

84. The promoters of the undertaking shall not, except by consent of the owners and occupiers, enter upon any lands which shall be required to be purchased or permanently used for the purposes and under the powers of this or the Special Act, until they shall either have paid to every party having any interest in such lands, or deposited in the Bank, in the manner herein mentioned, the purchase money or compensation agreed or awarded to be paid to such parties respectively for their respective interests therein :

Provided always, that for the purpose merely of surveying and taking levels of such lands, and of probing or boring to ascertain the nature of the soil, and of setting out the line of the works, it shall be lawful for the promoters of the undertaking, after giving not less than 3 nor more than 14 days notice to the owners or occupiers thereof, to enter upon such lands without previous consent, making compensation for any damage thereby occasioned to the owners or occupiers thereof.

Promoters to be allowed to enter lands before purchase, on making deposit by way of security and giving bond.

85. Provided also, that if the promoters of the undertaking shall be desirous of entering upon and using any such lands before an agreement shall have been come to or an award made, or verdict given for the purchase money or compensation to be paid by them in respect of such lands, it shall be lawful for the promoters of the undertaking to deposit in the Bank by way of security, as hereinafter mentioned, either the amount of purchase money or compensation claimed by any party interested in or entitled to sell and convey such lands, and who shall not consent to such entry, or such a sum as shall, by a surveyor appointed by 2 Justices in the manner hereinbefore provided in the case of parties who cannot be found, be determined to be the value of such lands, or of the interest therein which such party is entitled to or enabled to sell and convey, and also to give to such party a bond, under the common seal of the promoters if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters, or any 2 of them, with 2 sufficient sureties to be approved of by 2 Justices in case the parties differ, in a penal sum equal to the sum so to be deposited, conditioned for payment to such party, or for deposit in the Bank for the benefit of the parties interested in such lands, as the case may require, under the provisions herein contained, of all such purchase money or compensation, as may in manner hereinbefore provided be determined to be payable by the promoters of the undertaking in respect of the lands so entered upon, together with interest thereon, at the rate of £5 per centum per annum, from the time of entering on such lands, until such purchase money or compensation shall be paid to such party, or deposited in the Bank for the benefit of the parties interested in such lands, under the provisions herein contained ;

And upon such deposit by way of security being made as aforesaid, and such bond being delivered or tendered to such non-consenting party as aforesaid, it shall be lawful for the promoters of the undertaking to enter upon and use such lands, without having first paid or deposited the purchase money or compensation in other cases required to be paid or deposited by them before entering upon any lands to be taken by them under the provisions of this or the Special Act.

Upon deposit being made cashier to give receipt.

86. The money so to be deposited as last aforesaid shall be paid into the Bank in the name and with the privity of the Accountant General of the Court of Chancery in England . . . . . to be placed to his account there to the credit of the parties interested in or entitled to sell and convey the lands so to be entered upon, and who shall not have consented to such entry, subject to the control and disposition of the said Court;

And upon such deposit being made the cashier of the Bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money, specifying therein for what purpose and to whose credit the same shall have been paid in.

Deposit to remain as a security, and to be applied under the direction of the Court.

87. The money so deposited as last aforesaid shall remain in the Bank, by way of security to the parties whose lands shall so have been entered upon for the performance of the condition of the bond to be given by the promoters of the undertaking, as hereinbefore mentioned, and the same may, on the application by petition of the promoters of the undertaking, be ordered to be invested in Bank Annuities or Government Securities, and accumulated;

And upon the condition of such bond being fully performed it shall be lawful for the Court of Chancery in England . . . . . upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the promoters of the undertaking, or if such condition shall not be fully performed, it shall be lawful for the said Court to order the same to be applied in such manner as it shall think fit for the benefit of the parties for whose security the same shall so have been deposited.

Deposit money may be paid into the bank if the office of the Accountant General is closed.

88. If at any time the company be unable, by reason of the closing of the office of the Accountant-General of the Court of Chancery in England . . . . . to obtain his authority in respect of the payment of any sum of money so authorised to be deposited in the Bank by way of security as aforesaid, it shall be lawful for the company to pay into the Bank, to the credit of such party or matter as the case may require (subject nevertheless to being dealt with as hereinafter provided, and not otherwise), such sum of money as the promoters of the undertaking shall, by some writing signed by their secretary or solicitors for the time being, addressed to the governor and company of the Bank in that behalf, request, and upon any such payment being made the cashier of the Bank shall give a certificate thereof;

And in every such case, within 10 days after the re-opening of the said Accountant General's office, the solicitor for the promoters of the undertaking shall there bespeak the direction for the payment of such sum into the name of the Accountant General, and upon production of such direction at the Bank of England the money so previously paid in shall be placed to the credit of the said Accountant General accordingly, and the receipt for the said payment be given to the party making the same in the usual way for the purpose of being filed at the Report Office.

Penalty on promoters entering lands without consent before payment of purchase money.

89. If the promoters of the undertaking or any of their contractors shall, except as aforesaid, wilfully enter upon and take possession of any lands which shall be required to be purchased or permanently used for the purposes of the Special Act, without such consent as aforesaid, or without having made such payment for the benefit of the parties interested in the lands, or such deposit by way of security as aforesaid, the promoters of the undertaking shall forfeit to the party in possession of such lands the sum of £10, over and above the amount of any damage done to such lands by reason of such entry and taking possession as aforesaid, such penalty and damage respectively to be recovered before 2 Justices;

And if the promoters of the undertaking or their contractors shall, after conviction in such penalty as aforesaid, continue in unlawful possession of any such lands, the promoters of the undertaking shall be liable to forfeit the sum of £25 for every day they or their contractors shall so remain in possession as aforesaid, such penalty to be recoverable by the party in possession of such lands, with costs, by Action in any of the Superior Courts:

Provided always, that nothing herein contained shall be held to subject the promoters of the undertaking to the payment of any such penalties as aforesaid, if they shall *bonâ fide* and without collusion have paid the compensation agreed or awarded to be paid in respect of the said lands to any person whom the promoters of the undertaking may have reasonably believed to be entitled thereto, or shall have deposited the same in the Bank for the benefit of the parties interested in the lands, or made such deposit by way of security in respect thereof as hereinbefore mentioned, although such person may not have been legally entitled thereto.

Decision of Justices not conclusive as to rights.

90. On the trial of any Action for any such penalty as aforesaid the decision of the Justices under the provision hereinbefore contained shall not be held conclusive as to the right of entry on any such lands by the promoters of the undertaking.

Proceedings in case of refusal to deliver possession of lands.

91. If in any case in which, according to the provisions of this or the Special Act, or any Act incorporated therewith, the promoters of the undertaking are authorised to enter upon and take possession of any lands required for the purposes of the undertaking, the owner or occupier of any such lands or any other person refuse to give up the possession thereof, or hinder the promoters of the undertaking from entering upon or taking possession of the same, it shall be lawful for the promoters of the undertaking to issue their warrant to the Sheriff to deliver possession of the same to the person appointed in such warrant to receive the same,

And upon the receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the promoters of the undertaking from the compensation, if any, then payable by them to such party, or if no such compensation be payable to such

party, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice for that purpose he shall issue his warrant accordingly.

Parties not to be required to sell part of a house.

92.[a] No party shall at any time be required to sell or convey to the promoters of the undertaking a part only of any house or other building or manufactory, if such party be willing and able to sell and convey the whole thereof. [b]

Intersected lands

And with respect to small portions of intersected land, be it enacted as follows :

Owners of intersected lands may insist on sale.

93. If any lands not being situate in a town or built upon shall be so cut through and divided by the works as to leave, either on both sides or on one side thereof, a less quantity of land than half a statute acre, and if the owner of such small parcel of land require the promoters of the undertaking to purchase the same along with the other land required for the purposes of the Special Act, the promoters of the undertaking shall purchase the same accordingly, unless the owner thereof have other land adjoining to that so left into which the same can be thrown, so as to be conveniently occupied therewith ;

And if such owner have any other land so adjoining, the promoters of the undertaking shall, if so required by the owner, at their own expense, throw the piece of land so left into such adjoining land, by removing the fences and levelling the sites thereof, and by soiling the same in a sufficient and workmanlike manner.

Promoters may insist on purchase where expense of bridges, &c., exceeds the value.

94. If any such land shall be so cut through and divided as to leave on either side of the works a piece of land of less extent than half a statute acre, or of less value than the expense of making a bridge, culvert, or such other communication between the land so divided as the promoters of the undertaking are, under the provisions of this or the Special Act, or any Act incorporated therewith, compellable to make, and if the owner of such lands have not other lands adjoining such piece of land, and require the promoters of the undertaking to make such communication, then the promoters of the undertaking may require such owner to sell to them such piece of land, and any dispute as to the value of such piece of land, or as to what would be the expense of making such communication, shall be ascertained as herein provided for cases of disputed compensation ;

And on the occasion of ascertaining the value of the land required to be taken for the purposes of the works, the jury or the arbitrators, as the case may be, shall, if required by either party, ascertain by their verdict or award the value of any such severed piece of land, and also what would be the expence of making such communiciation.

Copyholds.

And with respect to copyhold lands, be it enacted as follows :

Conveyance of copyhold lands to be enrolled.

95. Every conveyance to the promoters of the undertaking, of any lands which shall be of copyhold or customary tenure, or of the nature thereof, shall be entered on the Rolls of the Manor of which the same shall be held or parcel ;

And on payment to the steward of such manor of such fees as would be due to him on the surrender of the same lands to the use of a purchaser thereof he shall make such enrolment ;

And every such conveyance, when so enrolled, shall have the like effect in respect of such copyhold or customary lands, as if the same had been of freehold tenure, nevertheless, until such lands shall have been enfranchised by virtue of the powers hereinafter contained, they shall continue subject to the same fines, rents, heriots, and services as were theretofore payable and of right accustomed.

Copyhold lands to be enfranchised.

96. Within 3 months after the enrolment of the conveyance of any such copyhold or customary lands, or within one month after the promoters of the undertaking shall enter upon and make use of the same for the purposes of the works, whichever shall first happen, or if more than one parcel of such lands holden of the same manor shall have been taken by them, then within one month after the last of such parcels shall have been so taken or entered on by them, the promoters of the undertaking shall procure the whole of the lands holden of such manor so taken by them to be enfranchised, and for that purpose shall apply to the Lord of the Manor whereof such lands are holden to enfranchise the same, and shall pay to him such compensation in respect thereof as shall be agreed upon between them and him, and if the parties fail to agree respecting the amount of the compensation to be paid for such enfranchisement the same shall be determined as in other cases of disputed compensation ;

And in estimating such compensation the loss in respect of the fines, heriots, and other services payable on death, descent, or alienation, or any other matters which would be lost by the vesting of such copyhold or customary lands in the promoters of the undertaking, or by the enfranchisement of the same, shall be allowed for.

Lord of the Manor to enfranchise on payment of compensation.

97. Upon payment or tender of the compensation so agreed upon or determined, or on deposit thereof in the Bank in any of the cases hereinbefore in that behalf provided, the Lord of the Manor whereof such copyhold or customary lands shall be holden shall enfranchise such lands, and the lands so enfranchised shall for ever thereafter be held in free and common soccage ;

And in default of such enfranchisement by the Lord of the Manor, or if he fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect of the enfranchisement whereof such compensation shall have been desposited as aforesaid shall be deemed to be enfranchised, and shall be for ever thereafter held in free and common soccage.

(*a*) *Falkner* v. *Somerset & Dorset Railway Co.* ; *Grosvenor* v. *Hampstead Junction Railway Co.* ; *Harvie* v. *South Devon Railway Co.* ; *Littler* v. *Rhyl* ; *Marson* v. *London, Chatham & Dover Railway Co.* ; *Pinchin* v. *London & Blackwall Railway Co.* ; *Reddin* v. *Metropolitan B. W.* ; *Richards* v. *Swansea.*

(*b*) For the purposes of the "Artizans and Labourers' Dwellings Act, 1875," (38 & 39 Vict., 36), this enactment has received an important modification. See 42 & 43 Vict., 63, Sched. par. 3.

Apportionment of copyhold rents.

98. If any such copyhold or customary lands be subject to any customary or other rent, and part only of the land subject to any such rent be required to be taken for the purposes of the Special Act, the apportionment of such rent may be settled by agreement between the owner of the lands and the Lord of the Manor on the one part and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement, then the same shall be settled by 2 Justices ;

And the enfranchisement of any copyhold or customary lands taken by virtue of this or the Special Act, or the apportionment of such rents, shall not affect in other respects any custom by or under which any such copyhold or customary lands not taken for such purposes shall be held ;

And if any of the lands so required be released from any portion of the rents to which they were subject jointly with any other lands, such last-mentioned lands shall be charged with the remainder only of such rents ;

And with reference to any such apportioned rents, the Lord of the Manor shall have all the same rights and remedies over the lands to which such apportioned rent shall have been assigned or attributed as he had previously over the whole of the lands subject to such rents for the whole of such rents.

Common lands.

And with respect to any such lands, being common or waste lands, be it enacted as follows :

Compensation for common lands, where held of a Manor, &c., how to be paid.

99. The compensation in respect of the right in the soil of any lands subject to any rights of common shall be paid to the Lord of the Manor, in case he shall be entitled to the same, or to such party, other than the commoners, as shall be entitled to such right in the soil ;

And the compensation in respect of all other commonable and other rights in or over such lands, including therein any commonable or other rights to which the Lord of the Manor may be entitled, other than his right in the soil of such lands, shall be determined and paid and applied in manner hereinafter provided with respect to common lands the right in the soil of which shall belong to the commoners ;

And upon payment or deposit in the Bank of the compensation so determined all such commonable and other rights shall cease and be extinguished.

Lord of the Manor, &c., to convey to the promoters on receiving compensation for his interest.

100. Upon payment or tender to the Lord of the Manor, or such other party as aforesaid, of the compensation which shall have been agreed upon or determined in respect of the right in the soil of any such lands, or on deposit thereof in the Bank in any of the cases hereinbefore in that behalf provided, such Lord of the Manor, or such other party as aforesaid, shall convey such lands to the promoters of the undertaking, and such conveyance shall have the effect of vesting such lands in the promoters of the undertaking, in like manner as if such Lord of the Manor, or such other party as aforesaid, had been seised in fee simple of such lands at the time of executing such conveyance ;

And in default of such conveyance it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect whereof such last-mentioned compensation shall have been deposited as aforesaid shall vest absolutely in the promoters of the undertaking, and they shall be entitled to immediate possession thereof, subject nevertheless to the commonable and other rights theretofore affecting the same, until such rights shall have been extinguished by payment or deposit of the compensation for the same in manner hereinafter provided.

Compensation for common lands where not held of a Manor, how to be ascertained.

101. The compensation to be paid with respect to any such lands being common lands, or in the nature thereof, the right to the soil of which shall belong to the commoners, as well as the compensation to be paid for the commonable and other rights in or over common lands the right in the soil whereof shall not belong to the commoners, other than the compensation to the Lord of the Manor, or other party entitled to the soil thereof, in respect of his right in the soil thereof, shall be determined by agreement between the promoters of the undertaking and a committee of the parties entitled to commonable or other rights in such lands, to be appointed as next hereinafter mentioned.

A meeting of the parties interested to be convened.

102. It shall be lawful for the promoters of the undertaking to convene a meeting of the parties entitled to commonable or other rights over or in such lands to be held at some convenient place in the neighbourhood of the lands for the purpose of their appointing a committee to treat with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable or other rights ;

And every such meeting shall be called by public advertisement, to be inserted once at least in 2 consecutive weeks in some newspaper circulating in the county or in the respective counties and in the neighbourhood in which such lands shall be situate, the last of such insertions being not more than 14 nor less than 7 days prior to any such meeting ;

And notice of such meeting shall also, not less than 7 days previous to the holding thereof, be affixed upon the door of the parish church where such meeting is intended to be held, or if there be no such church some other place in the neighbourhood to which notices are usually affixed ;

And if such lands be parcel or holden of a manor, a like notice shall be given to the Lord of such Manor.

Meeting to appoint a committee.

103. It shall be lawful for the meeting so called to appoint a committee, not exceeding 5 in number, of the parties entitled to any such rights ;

And at such meeting the decision of the majority of the persons entitled to commonable rights present shall bind the minority and all absent parties.

Committee to agree with the promoters.

104. It shall be lawful for the committee so chosen to enter into an agreement with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable and other rights, and all matters relating thereto, for and on behalf of themselves and all other parties interested therein ; and all such parties shall be bound by such agreement ;

And it shall be lawful for such committee to receive the compensation so agreed to be paid, and the receipt of such committee, or of any 3 of them, for such compensation, shall be an effectual discharge for the same ;

And such compensation, when received, shall be apportioned by the committee among the several persons interested therein, according to their respective interests, but the promoters of the undertaking shall not be bound to see to the apportionment or to the application of such compensation, nor shall they be liable for the misapplication or non-application thereof.

Disputes to be settled as in other cases.

105. If upon such committee being appointed they shall fail to agree with the promoters of the undertaking as to the amount of the compensation to be paid as aforesaid, the same shall be determined as in other cases of disputed compensation.

If no committee appointed, the amount to be fixed by a Surveyor.

106. If, upon being duly convened by the promoters of the undertaking, no effectual meeting of the parties entitled to such commonable or other rights shall take place, or if, taking place, such meeting fail to appoint such committee, the amount of such compensation shall be determined by a surveyor, to be appointed by 2 Justices, as hereinbefore provided in the case of parties who cannot be found.

Upon payment of compensation payable to commoners the lands to vest.

107. Upon payment or tender to such committee, or any 3 of them, or if there shall be no such committee then upon deposit in the Bank in the manner provided in the like case of the compensation which shall have been agreed upon or determined in respect of such commonable or other rights, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect of which such compensation shall have been so paid or deposited shall vest in the promoters of the undertaking, freed and discharged from all such commonable or other rights, and they shall be entitled to immediate possession thereof;

And it shall be lawful for the Court of Chancery in England . . . . . by an Order to be made upon petition, to order payment of the money so deposited to a committee to be appointed as aforesaid, or to make such other Order in respect thereto, for the benefit of the parties interested, as it shall think fit.

Lands in mortgage.

And with respect to lands subject to mortgage, be it enacted as follows:

Power to redeeem mortgages.

108. It shall be lawful for the promoters of the undertaking to purchase or redeem the interest of the mortgagee of any such lands which may be required for the purposes of the Special Act, and that whether they shall have previously purchased the equity of redemption of such lands or not, and whether the mortgagee thereof be entitled thereto in his own right or in trust for any other party, and whether he be in possession of such lands by virtue of such mortgage or not, and whether such mortgage affects such lands solely, or jointly with any other lands not required for the purposes of the Special Act,

And in order thereto the promoters of the undertaking may pay or tender to such mortgagee the principal and interest due on such mortgage, together with his costs and charges, if any, and also 6 months additional interest, and thereupon such mortgagee shall immediately convey his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct, or the promoters of the undertaking may give notice in writing to such mortgagee that they will pay off the principal and interest due on such mortgage at the end of 6 months, computed from the day of giving such notice;

And if they shall have given any such notice, or if the party entitled to the equity of redemption of any such lands shall have given 6 months notice of his intention to redeem the same, then at the expiration of either of such notices, or at any intermediate period, upon payment or tender by the promoters of the undertaking to the mortgagee of the principal money due on such mortgage, and the interest which would become due at the end of 6 months from the time of giving either of such notices, together with his costs and expenses, if any, such mortgagee shall convey or release his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct.

Deposit of mortgage money on refusal to accept.

109. If, in either of the cases aforesaid, upon such payment or tender, any mortgagee shall fail to convey or release his interest in such mortgage as directed by the promoters of the undertaking, or if he fail to adduce a good title thereto to their satisfaction, then it shall be lawful for the promoters of the undertaking to deposit in the Bank, in the manner provided by this Act in like cases, the principal and interest, together with the costs, if any, due on such mortgage, and also, if such payment be made before the expiration of 6 months notice as aforesaid, such further interest as would at that time become due;

And it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them;

And thereupon, as well as upon such conveyance by the mortgagee, if any such be made, all the estate and interest of such mortgagee, and of all persons in trust for him, or for whom he may be a trustee, in such lands, shall vest in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession.

Sum to be paid when mortgage exceeds the value of the lands.

110. If any such mortgaged lands shall be of less value than the principal, interest, and costs secured thereon, the value of such lands, or the compensation to be made by the promoters of the undertaking in respect thereof, shall be settled by agreement between the mortgagee of such lands and the party entitled to the equity of redemption thereof on the one part, and the promoters of the undertaking on the other part, and if the parties aforesaid fail to agree respecting the amount of such value or compensation, the same shall be determined as in other cases of disputed compensation;

And the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to the mortgagee in satisfaction of his mortgage debt so far as the same will extend, and upon payment or tender thereof the mortgagee shall convey or release all his interest in such mortgaged lands to the promoters of the undertaking, or as they shall direct.

Deposit of money when refused on tender.

111. If, upon such payment or tender as aforesaid being made, any such mortgagee fail so to convey his interest in such mortgage, or to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such value or compensation in the Bank, in the manner provided by this Act in like cases, and every such

payment or deposit shall be accepted by the mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of such mortgaged lands from all money due thereon ;

And it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them ;

And thereupon such lands, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, shall become absolutely vested in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession ;

Nevertheless, all rights and remedies possessed by the mortgagee against the mortgagor, by virtue of any bond or covenant or other obligation, other than the right to such lands, shall remain in force in respect of so much of the mortgage debt as shall not have been satisfied by such payment or deposit.

Sum to be paid where part only of mortgaged lands taken.

112. If a part only of any such mortgaged lands be required for the purposes of the Special Act, and if the part so required be of less value than the principal money, interest, and costs secured on such lands, and the mortgagee shall not consider the remaining part of such lands a sufficient security for the money charged thereon, or be not willing to release the part so required, then the value of such part, and also the compensation (if any) to be paid in respect of the severance thereof or otherwise, shall be settled by agreement between the mortgagee and the party entitled to the equity of redemption of such land on the one part, and the promoters of the undertaking on the other, and if the parties aforesaid fail to agree respecting the amount of such value or compensation the same shall be determined as in other cases of disputed compensation ;

And the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to such mortgagee in satisfaction of his mortgage debt, so far as the same will extend ;

And thereupon such mortgagee shall convey or release to them, or as they shall direct, all his interest in such mortgaged lands the value whereof shall have been so paid ;

And a memorandum of what shall have been so paid shall be endorsed on the deed creating such mortgage, and shall be signed by the mortgagee ;

And a copy of such memorandum shall at the same time (if required) be furnished by the promoters of the undertaking, at their expense, to the party entitled to the equity of redemption of the lands comprised in such mortgage deed.

Deposit of money when refused on tender.

113. If, upon payment or tender to any such mortgagee of the amount of the value or compensation so agreed upon or determined, such mortgagee shall fail to convey or release to the promoters of the undertaking, or as they shall direct, his interest in the lands in respect of which such compensation shall so have been paid or tendered, or if he shall fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for the promoters of the undertaking to pay the amount of such value or compensation into the Bank, in the manner provided by this Act in the case of monies required to be deposited in such Bank, and such payment or deposit shall be accepted by such mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of the portion of the mortgaged lands so required from all money due thereon ;

And it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them ;

And thereupon such lands shall become absolutely vested in the promoters of the undertaking, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, and in case such mortgagee were himself entitled to such possession they shall be entitled to immediate possession thereof ;

Nevertheless, every such mortgagee shall have the same powers and remedies for recovering or compelling payment of the mortgage money, or the residue thereof (as the case may be), and the interest thereof respectively, upon and out of the residue of such mortgaged lands, or the portion thereof not required for the purposes of the Special Act, as he would otherwise have had or been entitled to for recovering or compelling payment thereof upon or out of the whole of the lands originally comprised in such mortgage.

Compensation to be made in certain cases if mortgage paid off before the stipulated time.

114. Provided always, that in any of the cases hereinbefore provided with respect to lands subject to mortgage, if in the mortgage deed a time shall have been limited for payment of the principal money thereby secured, and under the provisions hereinbefore contained the mortgagee shall have been required to accept payment of his mortgage money, or of part thereof, at a time earlier than the time so limited, the promoters of the undertaking shall pay to such mortgagee, in addition to the sum which shall have been so paid off, all such costs and expenses as shall be incurred by such mortgagee in respect of or which shall be incidental to the re-investment of the sum so paid off, such costs in case of difference to be taxed and payment thereof enforced in the manner herein provided with respect to the costs of conveyances ;

And if the rate of interest secured by such mortgage be higher than at the time of the same being so paid off can reasonably be expected to be obtained on re-investing the same, regard being had to the then current rate of interest, such mortgagee shall be entitled to receive from the promoters of the undertaking, in addition to the principal and interest hereinbefore provided for, compensation in respect of the loss to be sustained by him by reason of his mortgage money being so prematurely paid off, the amount of such compensation to be ascertained, in case of difference, as in other cases of disputed compensation ;

And until payment or tender of such compensation as aforesaid the promoters of the undertaking shall not be entitled, as against such mortgagee, to possession of the mortgaged lands under the provision hereinbefore contained.

Rentcharges.

And with respect to lands charged with any rent service, rent charge, or chief or other rent, or other payment or incumbrance not hereinbefore provided for, be it enacted as follows :

Release of lands from rent-charges.

115. If any difference shall arise between the promoters of the undertaking and the party entitled to any such charge upon any lands required to be taken for the purposes of the Special Act, respecting the consideration to be paid for the release of such lands therefrom, or from the portion thereof affecting the lands required for the purposes of the Special Act, the same shall be determined as in other cases of disputed compensation.

Release of part of lands from charge.

116. If part only of the lands charged with any such rent service, rent charge, chief or other rent, payment, or incumbrance, be required to be taken for the purposes of the Special Act, the apportionment of any such charge may be settled by agreement between the party entitled to such charge and the owner of the lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement the same shall be settled by 2 Justices ;

But if the remaining part of the lands so jointly subject be a sufficient security for such charge, then, with consent of the owner of the lands so jointly subject, it shall be lawful for the party entitled to such charge to release therefrom the lands required, on condition or in consideration of such other lands remaining exclusively subject to the whole thereof.

Deposit in case of refusal to release.

117. Upon payment or tender of the compensation so agreed upon or determined to the party entitled to any such charge as aforesaid, such party shall execute to the promoters of the undertaking a release of such charge ;

And if he fail so to do, or if he fail to adduce good title to such charge, to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such compensation in the Bank in the manner hereinbefore provided in like cases, and also, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the rent service, rent charge, chief or other rent, payment, or incumbrance, or the portion thereof in respect whereof such compensation shall so have been paid, shall cease and be extinguished.

Charge to continue on lands not taken.

118. If any such lands be so released from any such charge or incumbrance, or portion thereof, to which they were subject jointly with other lands, such last-mentioned lands shall alone be charged with the whole of such charge, or with the remainder thereof, as the case may be, and the party entitled to the charge shall have all the same rights and remedies over such last-mentioned lands, for the whole or for the remainder of the charge, as the case may be, as he had previously over the whole of the lands subject to such charge ;

And if upon any such charge or portion of charge being so released the deed or instrument creating or transferring such charge be tendered to the promoters of the undertaking for the purpose, they or 2 of them shall subscribe, or if they be a corporation shall affix their common seal to a memorandum of such release endorsed on such deed or instrument, declaring what part of the lands originally subject to such charge shall have been purchased by virtue of the Special Act, and if the lands be released from part of such charge, what proportion of such charge shall have been released, and how much thereof continues payable, or if the lands so required shall have been released from the whole of such charge, then that the remaining lands are thenceforward to remain exclusively charged therewith ;

And such memorandum shall be made and executed at the expense of the promoters of the undertaking, and shall be evidence in all Courts and elsewhere of the facts therein stated, but not so as to exclude any other evidence of the same facts.

Leases.

And with respect to lands subject to leases, be it enacted as follows :

Where part only of lands under lease taken, the rent to be apportioned.

119. If any lands shall be comprised in a lease, for a term of years unexpired, part only of which lands shall be required for the purposes of the Special Act, the rent payable in respect of the lands comprised in such lease shall be apportioned between the lands so required and the residue of such lands ;

And such apportionment may be settled by agreement between the lessor and lessee of such lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement between the parties, such apportionment shall be settled by 2 Justices ;

And after such apportionment the lessee of such lands shall, as to all future accruing rent, be liable only to so much of the rent as shall be so apportioned in respect of the lands not required for the purposes of the Special Act ;

And as to the lands not so required, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of such portion of rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease ;

And all the covenants, conditions, and agreements of such lease, except as to the amount of rent to be paid, shall remain in force with regard to that part of the land which shall not be required for the purposes of the Special Act, in the same manner as they would have done in case such part only of the land had been included in the lease.

Tenants to be compensated.

120. Every such lessee as last aforesaid shall be entitled to receive from the promoters of the undertaking compensation for the damage done to him in his tenancy by reason of the severance of the lands required from those not required, or otherwise by reason of the execution of the works.

Compensation to be made to tenants at will, &c.

121. (a) If any such lands shall be in the possession of any person having no greater interest therein than as tenant for a year or from year to year, and if such person be required to give up possession of any lands so occupied by him before the expiration of his term or interest therein, he shall be entitled to compensation for the value of his unexpired term or interest in such lands, and for any just allowance which ought to be made to him by an in-coming tenant, and for any loss or injury he may sustain, or if a part only of such lands be required, compensation for the

(a) *Cranwell* v. *London* ; *Reg.* v. *Combe* ; *Reg.* v. *G.N.R.* ; *Tyson* v. *London*.

damage done to him in his tenancy by severing the lands held by him, or otherwise injuriously affecting the same;

And the amount of such compensation shall be determined by 2 Justices, in case the parties differ about the same;

And upon payment or tender of the amount of such compensation all such persons shall respectively deliver up to the promoters of the undertaking, or to the person appointed by them to take possession thereof, any such lands in their possession required for the purposes of the Special Act.

Where greater interest claimed than from year to year, lease to be produced.

122. If any party, having a greater interest than as tenant at will, claim compensation in respect of any unexpired term or interest under any lease or grant of any such lands, the promoters of the undertaking may require such party to produce the lease or grant in respect of which such claim shall be made, or the best evidence thereof in his power;

And if, after demand made in writing by the promoters of the undertaking, such lease or grant, or such best evidence thereof, be not produced within 21 days, the party so claiming compensation shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

Limit of time for compulsory purchase.

123. The powers of the promoters of the undertaking for the compulsory purchase or taking of lands for the purposes of the Special Act shall not be exercised after the expiration of the prescribed period, and if no period be prescribed, not after the expiration of 3 years from the passing of the Special Act.

Interests omitted to be purchased.

And with respect to interests in lands which have by mistake been omitted to be purchased, be it enacted as follows:

Promoters empowered to purchase interests the purchase whereof may have been omitted by mistake.

124. If, at any time after the promoters of the undertaking shall have entered upon any lands which under the provisions of this or the Special Act, or any Act incorporated therewith, they were authorised to purchase, and which shall be permanently required for the purposes of the Special Act, any party shall appear to be entitled to any estate, right, or interest in or charge affecting such lands which the promoters of the undertaking shall through mistake or inadvertence have failed or omitted duly to purchase or to pay compensation for, then, whether the period allowed for the purchase of lands shall have expired or not, the promoters of the undertaking shall remain in the undisturbed possession of such lands, provided within 6 months after notice of such estate, right, interest, or charge, in case the same shall not be disputed by the promoters of the undertaking, or in case the same shall be disputed then within 6 months after the right thereto shall have been finally established by law in favour of the party claiming the same, the promoters of the undertaking shall purchase or pay compensation for the same, and shall also pay to such party, or to any other party who may establish a right thereto, full compensation for the mesne profits or interest which would have accrued to such parties respectively in respect thereof during the interval between the entry of the promoters of the undertaking thereon and the time of the payment of such purchase money or compensation by the promoters of the undertaking, so far as such mesne profits or interests may be recoverable in law or equity;

And such purchase money or compensation shall be agreed on or awarded and paid in like manner as according to the provisions of this Act the same respectively would have been agreed on or awarded and paid in case the promoters of the undertaking had purchased such estate, right, interest, or charge before their entering upon such land, or as near thereto as circumstances will admit.

How value of such lands to be estimated.

125. In estimating the compensation to be given for any such last-mentioned lands, or any estate or interest in the same, or for any mesne profits thereof, the jury, or arbitrators, or justices, as the case may be, shall assess the same according to what they shall find to have been the value of such lands, estate or interest, and profits, at the time such lands were entered upon by the promoters of the undertaking, and without regard to any improvements or works made in the said lands by the promoters of the undertaking, and as though the works had not been constructed.

Promoters to pay the costs of litigation as to such lands.

126. In addition to the said purchase money, compensation, or satisfaction, and before the promoters of the undertaking shall become absolutely entitled to any such estate, interest, or charge, or to have the same merged or extinguished for their benefit, they shall, when the right to any such estate, interest, or charge shall have been disputed by the company, and determined in favour of the party claiming the same, pay the full costs and expenses of any proceedings at law or in equity for the determination or recovery of the same to the parties with whom any such litigation in respect thereof shall have taken place;

And such costs and expenses shall, in case the same shall be disputed, be settled by the proper officer of the Court in which such litigation took place.

Sale of superfluous land.

And with respect to lands acquired by the promoters of the undertaking under the provisions of this or the Special Act, or any Act incorporated therewith, but which shall not be required for the purposes thereof, be it enacted as follows:

Lands not wanted to be sold, or in default to vest in adjoining owners.

127.(a) Within the prescribed period, or if no period be prescribed within 10 years after the expiration of the time limited by the Special Act for the completion of the works, the promoters of the undertaking shall absolutely sell and dispose of all such superfluous lands, and apply the purchase money arising from such sales to the purposes of the Special Act;

And in default thereof all such superfluous lands remaining unsold at the expiration of such period shall thereupon vest in and become the property of the owners of the lands adjoining thereto, in proportion to the extent of their lands respectively adjoining the same.

Lands to be offered to owner of lands from which they were originally taken, or to adjoining owners.

128.(b) Before the promoters of the undertaking dispose of any such superfluous lands they shall, unless such lands be situate within a town, or be lands built upon or used for building purposes, first offer to sell the same to the person then entitled to the lands (if any) from which the same were originally severed;

(a) *G.W.R.* v. *May*; *Hooper* v. *Bourne*. This section is not incorporated by the "Public Health Act."

(b) *London & South Western Railway Co.* v. *Blackmore.*

Or if such person refuse to purchase the same, or cannot after diligent inquiry be found, then the like offer shall be made to the person or to the several persons whose lands shall immediately adjoin the lands so proposed to be sold, such persons being capable of entering into a contract for the purchase of such lands;

And where more than one such person shall be entitled to such right of pre-emption such offer shall be made to such persons in succession, one after another, in such order as the promoters of the undertaking shall think fit.

Right of pre-emption to be claimed within 6 weeks.

129. If any such persons be desirous of purchasing such lands, then within 6 weeks after such offer of sale they shall signify their desire in that behalf to the promotors of the undertaking, or if they decline such offer, or if for 6 weeks they neglect to signify their desire to purchase such lands, the right of pre-emption of every such person so declining or neglecting in respect of the lands included in such offer shall cease;

And a declaration in writing made before a Justice by some person not interested in the matter in question, stating that such offer was made and was refused, or not accepted within 6 weeks from the time of making the same, or that the person or all the persons entitled to the right of pre-emption were out of the country, or could not after diligent inquiry be found, or were not capable of entering into a contract for the purchase of such lands, shall in all Courts be sufficient evidence of the facts therein stated.

Differences as to price to be settled by arbitration.

130. If any person entitled to such pre-emption be desirous of purchasing any such lands, and such person and the promoters of the undertaking do not agree as to the price thereof, then such price shall be ascertained by arbitration, and the costs of such arbitration shall be in the discretion of the arbitrators.

Lands to be conveyed to the purchasers.

131. Upon payment or tender to the promoters of the undertaking of the purchase money so agreed upon or determined as aforesaid they shall convey such lands to the purchasers thereof by deed under the common seal of the promoters of the undertaking, if they be a corporation, or if not a corporation under the hands and seals of the promoters of the undertaking, or any 2 of the directors or managers thereof acting by the authority of the body;

And a deed so executed shall be effectual to vest the lands comprised therein in the purchaser of such lands for the estate which shall so have been purchased by him;

And a receipt under such common seal, or under the hands of 2 of the directors or managers of the undertaking as aforesaid, shall be a sufficient discharge to the purchaser of any such lands for the purchase money in such receipt expressed to be received.

Effect of the word "grant" in conveyances.

132. In every conveyance of lands to be made by the promoters of the undertaking under this or the Special Act the word "grant" shall operate as express covenants by the promoters of the undertaking, for themselves and their successors, or for themselves, their heirs, executors, administrators, and assigns as the case may be, with the respective grantees therein named, and the successors, heirs, executors, administrators, and assigns of such grantees, according to the quality or nature of such grants, and of the estate or interest therein expressed to be thereby conveyed, as follows, except so far as the same shall be restrained or limited by express words contained in any such conveyance; (that is to say,)

A convenant that, notwithstanding any act or default done by the promoters of the undertaking, they were at the time of the execution of such conveyance seised or possessed of the lands or premises thereby granted for an indefeasible estate of inheritance in fee simple, free from all incumbrances done or occasioned by them, or otherwise for such estate or interest as therein expressed to be thereby granted, free from incumbrances done or occasioned by them:

A convenant that the grantee of such lands, his heirs, successors, executors, administrators, and assigns, (as the case may be,) shall quietly enjoy the same against the promoters of the undertaking, and their successors, and all other persons claiming under them, and be indemnified and saved harmless by the promoters of the undertaking and their successors from all incumbrances created by the promoters of the undertaking:

A covenant for further assurance of such lands, at the expense of such grantee, his heirs, successors, executors, administrators, or assigns, (as the case may be,) by the promoters of the undertaking, or their successors, and all other persons claiming under them:

And all such grantees, and their several successors, heirs, executors, administrators, and assigns respectively, according to their respective quality or nature, and the estate or interest in such conveyance expressed to be conveyed, may in all actions brought by them, assign breaches of covenants, as they might do if such covenants were expressly inserted in such conveyances.

Land tax and poor's rate to be made good.

133. If the promoters of the undertaking become possessed by virtue of this or the Special Act, or any Act incorporated therewith, of any lands charged with the land tax, or liable to be assessed to the poor's rate, they shall from time to time, until the works shall be completed and assessed to such land tax or poor's rate, be liable to make good the deficiency in the several assessments for land tax and poor's rate by reason of such lands having been taken or used for the purposes of the works, and such deficiency shall be computed according to the rental at which such lands, with any building thereon, were valued or rated at the time of the passing of the Special Act;

And on demand of such deficiency the promoters of the undertaking, or their treasurer, shall pay all such deficiencies to the collector of the said assessments respectively;

Nevertheless, if at any time the promoters of the undertaking think fit to redeem such land tax, they may do so in accordance with the powers in that behalf given by the Acts for the redemption of the land tax.

Service of notices upon company.

134. Any summons or notice, or any writ or other proceeding at law or in equity, requiring to be served upon the promoters of the undertaking, may be served by the same being left at or transmitted through the post directed to the principal office of the promoters of the undertaking, or one of the principal offices where there shall be more than one, or being given or transmitted

hrough the post directed to the secretary, or in case there be no secretary the solicitor of the said promoters.

Tender of amends.

135. If any party shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the Special Act, or any Act incorporated therewith, or by virtue of any power or authority thereby given, and if, before Action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action ;

And if no such tender shall have been made it shall be lawful for the defendant, by leave of the Court where such Action shall be pending, at any time before issue joined, to pay into Court such sum of money as he shall think fit and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

Recovery of penalties.

And with respect to the recovery of forfeitures, penalties, and costs, be it enacted as follows :

Penalties to be recovered summarily.

136. Every penalty or forfeiture imposed by this or the Special Act, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before 2 Justices ;

And on complaint being made to any Justice he shall issue a summons requiring the party complained against to appear before 2 Justices at a time and place to be named in such summons ;

And every such summons shall be served on the party offending either in person or by leaving the same with some inmate at his usual place of abode ;

And upon the appearance of the party complained against, or in his absence, after proof of the due service of such summons, it shall be lawful for any 2 Justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them ;

And upon proof of the offence, either by the confession of the party complained against, or upon the oath of one credible witness or more, it shall be lawful for such Justices to convict the offender, and upon such conviction to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction as such Justices shall think fit.

Penalties to be levied by distress.

137. If, forthwith upon any such adjudication as aforesaid, the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress, and such Justices or either of them shall issue their or his warrant of distress accordingly.

Distress how to be levied.

138. Where in this or the Special Act, or any Act incorporated therewith, any sum of money, whether in the nature of penalty, costs, or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same ;

And the overplus arising from the sale of such goods and chattels, after satisfying such sum of money and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Application of penalties.

139. The Justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed, to be applied in aid of the poor's rate of such parish . . . . . .

Distress against the Treasurer.

140. If any such sum shall be payable by the promoters of the undertaking, and if sufficient goods of the said promoters cannot be found whereon to levy the same, it may, if the amount thereof do not exceed £20, be recovered by distress of the goods of the treasurer of the said promoters, and the Justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly ;

But no such distress shall issue against the goods of such treasurer unless 7 days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer or left at his residence ;

And if such treasurer pay any money under such distress as aforesaid he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the promoters of the undertaking coming into his custody or control, or he may sue them for the same.

Distress not unlawful for want of form.

141. No distress levied by virtue of this or the Special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an Action upon the case.

Penalties to be sued for within 6 months.

142. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the Special Act, or any Act incorporated therewith, for any offence made cognizable before a Justice, unless the complaint respecting such offence shall have been made before such Justice within 6 months next after the commission of such offence.

Penalty on witnesses making default.

143. It shall be lawful for any Justice to summon any person to appear before him as a witness in any matter in which such Justice shall have jurisdiction under the provisions of this or the Special Act at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter ;

And if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such Justice, every such person shall forfeit a sum not exceeding £5 for every such offence.

Form of conviction.

144. The Justices before whom any person shall be convicted of any offence against this or the Special Act, or any Act incorporated therewith, may cause the conviction to be drawn up according to the form in the Schedule (C.) to this Act annexed.

Proceedings not to be quashed for want of form.

145. No proceeding in pursuance of this or the Special Act, or any Act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by *Certiorari* or otherwise into any of the Superior Courts.

Parties may appeal to Quarter Sessions on giving security.

146. If any party shall feel aggrieved by any determination or adjudication of any Justice with respect to any penalty or forfeiture under the provisions of this or the Special Act, or any Act incorporated therewith, such party may appeal to the General Quarter Sessions for the county or place in which the cause of appeal shall have arisen;

But no such appeal shall be entertained unless it be made within 4 months next after the making of such determination or adjudication, nor unless 10 days notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognisances, with 2 sufficient sureties, before a Justice, conditioned duly to prosecute such appeal, and to abide the Order of the Court thereon.

Court to make such Order as they think reasonable.

147. At the Quarter Sessions for which such notice shall be given the Court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following Sessions;

And upon the hearing of such appeal the Court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable;

And they may make such Order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Receiver of Metropolitan Police District to receive penalties within his district.

148. Provided always, and be it enacted, that notwithstanding anything herein or in the Special Act, or any Act incorporated therewith, contained, every penalty or forfeiture imposed by this or the Special Act, or any Act incorporated therewith, or by any Bye-law in pursuance thereof, in respect of any offence which shall take place within the Metropolitan Police District, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the Metropolitan Police District, and shall be applied in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied by an Act passed in the 3rd Year of the Reign of Her present Majesty, intituled "An Act for regulating the Police Courts in the Metropolis," and every Order or conviction of any of the Police Magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal and upon the same terms as is provided in respect of any Order or conviction of any of the said Police Magistrates by the said last-mentioned Act;

2 & 3 Vict., 71.

And every Magistrate by whom any Order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expenses as he or they would have had or been entitled to in case the Order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned Act.

Persons giving false evidence liable to penalties of perjury.

149. Any person who upon any examination upon oath under the provisions of this or the Special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

Access to Special Act.

And with respect to the provision to be made for affording access to the Special Act by all parties interested, be it enacted as follows:

Copies of Special Act to be kept and deposited, and allowed to be inspected.

150. The company shall, at all times after the expiration of 6 months after the passing of the Special Act, keep in their principal office of business a copy of the Special Act, printed by the printers to Her Majesty, or some of them;

And where the undertaking shall be a railway, canal, or other like undertaking, the works of which shall not be confined to one town or place, shall also within the space of such 6 months deposit in the office of each of the Clerks of the Peace of the several counties into which the works shall extend a copy of such Special Act so printed as aforesaid;

And the said Clerks of the Peace shall receive, and they and the company respectively shall retain, the said copies of the Special Act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an Act passed in the 1st Year of the Reign of Her present Majesty, intituled "An Act to compel Clerks of the Peace for counties and other persons to take the custody of such documents as shall be directed to be deposited with them under the standing Orders of either House of Parliament."

7 Will. IV. & 1 Vict., 83.

Penalty on failure to keep or deposit.

151. If the company shall fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the Special Act, they shall forfeit £20 for every such offence, and also £5 for every day afterwards during which such copy shall be not so kept or deposited.

Act not to extend to Scotland.

152. And be it enacted, that this Act shall not extend to Scotland.

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SCHEDULES REFERRED TO IN THE FOREGOING ACT.

SCHEDULE (A.)

Form of Conveyance.

I of in consideration of the sum of paid to me [*or, as the case may be,*] into the Bank of England [*or* Bank of Ireland], in the name and with the privity of the Accountant General of the Court of Chancery, *ex parte* "The promoters of the undertaking" [*naming them*] *or* to *A.B.* of and *C.D.* of 2 trustees appointed to receive the same], pursuant to the [*here name the Special Act*], by the [*here name the company or other promoters of the undertaking*], incorporated [*or* constituted] by the said Act, do hereby convey to the said company [*or other description*], their successors and assigns, all [*describing the premises to be conveyed*], together with all ways, rights, and appurtenances thereto belonging, and all such estate, right, title, and interest in and to the same as I am or shall become seised or possessed of, or am by the said Act empowered to convey, to hold the premises to the said company [*or other description*], their successors and assigns, for ever, according to the true intent and meaning of the said Act. In witness whereof I have hereunto set my hand and seal, the day of in the year of our Lord .

SCHEDULE (B.)

Form of Conveyance on Chief Rent.

I of in consideration of the rent charge to be paid to me, my heirs and assigns, as hereinafter mentioned, by "The promoters of the undertaking" [*naming them*], incorporated [*or* constituted] by virtue of the [*here name the Special Act*], do hereby convey to the said company [*or other description*], their successors and assigns, all [*describing the premises to be conveyed*], together with all ways, rights, and appurtenances thereunto belonging, and all my estate, right, title, and interest in and to the same and every part thereof, to hold the said premises to the said company [*or other description*], their successors and assigns, for ever, according to the true intent and meaning of the said Act, they the said company [*or other description*], their successors and assigns, yielding and paying unto me, my heirs and assigns, one clear yearly rent of by equal quarterly [*or* half-yearly, *as agreed upon,*] portions henceforth, on the [*stating the days*], clear of all taxes and deductions. In witness whereof I hereunto set my hand and seal, the day of in the year of our Lord .

SCHEDULE (C.)

Form of Conviction.

To wit.

BE it remembered, That on the day of in the year of our Lord *A.B.* is convicted before us *C., D.,* 2 of Her Majesty's Justices of the Peace for the county of [*here describe the offence generally, and the time and place when and where committed*], contrary to the [*here name the Special Act*]. Given under our hands and seals, the day and year first above written. *C., D.*

8 VICT., c. 20.

Revised Statutes. vol. ix., p. 703.

An Act for consolidating in one Act certain Provisions usually inserted in Acts authorising the Making of Railways.[a] *(8th May, 1845.)*

* * * * * * *

Recovery of Damages and Penalties.

Provision for damages not otherwise provided for.

AND with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to Justices, be it enacted as follows:

140. In all cases where any damages, costs or expenses are by this or the Special Act, or any Act incorporated therewith, directed to be paid, and the method of ascertaining the amount, or enforcing the payment thereof, is not provided for, such amount, in case of dispute, shall be ascertained and determined by 2 Justices;

(a) The sections here given are incorporated by the "Gasworks Clauses Act, 1847," (10 Vict., 15, § 40), and by the "Waterworks Clauses Act, 1847," (10 Vict., 17, § 85).

And if the amount so ascertained be not paid, by the company or other party liable to pay the same, within 7 days after demand, the amount may be recovered by distress of the goods of the company or other party liable as aforesaid; and the Justices by whom the same shall have been ordered to be paid, or either of them, or any other Justice, on application, shall issue their or his warrant accordingly.

Distress against the Treasurer.

141. If sufficient goods of the company cannot be found whereon to levy any such damages, costs and expenses payable by the company, the same may, if the amount thereof do not exceed £20, be recovered by distress of the goods of the treasurer of the company; and the Justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly;

But no such distress shall issue against the goods of such treasurer unless 7 days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid, he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the company coming into his custody, or he may sue the company for the same.

Method of proceeding before Justices in questions of damages, &c.

142. Where, in this or the Special Act, any question of compensation, expenses, charges or damages, or other matter, is referred to the determination of any one Justice or more, it shall be lawful for any Justice, upon the application of either party, to summon the other party to appear before one Justice, or before 2 Justices, as the case may require, at a time and place to be named in such summons;

And upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one Justice, or such 2 Justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties, or any of them, and their witnesses, on oath; and the costs of every such inquiry shall be in the discretion of such Justices, and they shall determine the amount thereof.

Publication of penalties.

143. The company shall publish the short particulars of the several offences for which any penalty is imposed by this or the Special Act, or by any bye-law of the company affecting other persons than the shareholders, officers or servants of the company, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper, and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the company, and where any such penalties are of local application, shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same, or any part thereof, is obliterated or destroyed;

And no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required.

Penalty for defacing boards used for such publication.

144. If any person pull down or injure any board put up or affixed as required by this or the Special Act for the purpose of publishing any bye-law or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding £5, and shall defray the expenses attending the restoration of such board.

Penalties to be summarily recovered before 2 Justices

145. Every penalty or forfeiture imposed by this or the Special Act, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before 2 Justices;

And, on complaint being made to any Justice, he shall issue a summons requiring the party complained against to appear before 2 Justices at a time and place to be named in such summons, and every such summons shall be served on the party offending, either in person or by leaving the same with some inmate at his usual place of abode;

And upon the appearance of the party complained against, or, in his absence, after proof of the due service of such summons, it shall be lawful for any 2 Justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them;

And, upon proof of the offence, either by the confession of the party complained against, or upon the oath of one credible witness or more, it shall be lawful for such Justices to convict the offender, and, upon such conviction, to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction as such Justices shall think fit.

Penalties to be levied by distress.

146. If forthwith, upon any such adjudication as aforesaid, the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress, and such Justices, or either of them, shall issue their or his warrant of distress accordingly.

Imprisonment in default of distress.

147. It shall be lawful for any such Justice to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture and costs, unless the offender give sufficient security, by way of recognisance or otherwise, to the satisfaction of the Justice, for his appearance before him on the day appointed for such return, such day not being more than 8 days from the time of taking such security;

But if, before issuing such warrant of distress, it shall appear to the Justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Justice whereon to levy such penalty or forfeiture and costs, he may, if he thinks fit, refrain from issuing such warrant of distress;

And in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Justice, then such Justice shall, by warrant, cause such offender to be committed to goal, there to remain without bail for any term not exceeding 3 months, unless such penalty or forfeiture and costs be sooner paid and satisfied.

Distress, how to be levied.

148. Where, in this or the Special Act, or any Act incorporated therewith, any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of

money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress not unlawful for want of form.

149. No distress levied by virtue of this or the Special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an Action upon the case.

Application of penalties.

150. The Justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the Overseers of the poor of the parish in which the offence shall have been committed, to be applied in aid of the poor's rate of such parish; or, if the place wherein the offence shall have been committed shall be extra-parochial, then such Justices shall direct such remainder to be applied in aid of the poor's rate of such extra-parochial place, or, if there shall not be any poor's rate therein, in aid of the poor's rate of any adjoining parish or district.

Penalties to be sued for within 6 months.

151. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the Special Act, or any Act incorporated therewith, for any offence made cognisable before a Justice, unless the complaint respecting such offence shall have been made before such Justice within 6 months next after the commission of such offence.

Damage to be made good in addition to penalty.

152. If, through any act, neglect or default on account whereof any person shall have incurred any penalty imposed by this or the Special Act, any damage to the property of the company shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty;

And the amount of such damages shall, in case of dispute, be determined by the Justices by whom the party incurring such penalty shall have been convicted; and on non-payment of such damages, on demand, the same shall be levied by distress, and such Justices, or one of them, shall issue their or his warrant accordingly.

Penalty on witnesses making default.

153. It shall be lawful for any Justice to summon any person to appear before him as a witness in any matter in which such Justice shall have jurisdiction under the provisions of this or the Special Act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter;

And if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such Justice, every such person shall forfeit a sum not exceeding £5 for every such offence.

Transient offenders.

154. It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the Special Act, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient despatch, before some Justice, without any warrant or other authority than this or the Special Act; and such Justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Form of conviction.

155. The Justices before whom any person shall be convicted of any offence against this or the Special Act, or any Act incorporated therewith, may cause the conviction to be drawn up according to the form in the Schedule to this Act annexed.

Proceedings not to be quashed for want of form, &c.

156. No proceeding in pursuance of this or the Special Act, or any Act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by *Certiorari* or otherwise into any of the Superior Courts.

Parties allowed to appeal to Quarter Sessions on giving security.

157. If any party shall feel aggrieved by any determination or adjudication of any Justice with respect to any penalty or forfeiture under the provisions of this or the Special Act, or any Act incorporated therewith, such party may appeal to the General Quarter Sessions for the County or place in which the cause of appeal shall have arisen;

But no such appeal shall be entertained unless it be made within 4 months next after the making of such determination or adjudication, nor unless 10 days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith, after such notice, enter into recognizances, with 2 sufficient sureties, before a Justice, conditioned duly to prosecute such appeal, and to abide the Order of the Court thereon.

Court to make such order as they think reasonable.

158. At the Quarter Sessions for which such notice shall be given, the Court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following Sessions;

And upon the hearing of such appeal the Court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

[§ 159 relates to the Metropolitan Police District only.]

Persons giving false evidence liable to penalties of perjury.

160. And be it enacted, That every person who, upon any examination upon oath, under the provisions of this or the Special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

9 & 10 VICT., c. 74.

An Act to encourage the Establishment of public Baths and Wash-houses.[a] *(26th August, 1846.)*

Revised Statutes, vol. ix., p. 1280.

WHEREAS it is desirable for the health, comfort, and welfare of the inhabitants of towns and populous districts to encourage the establishment therein of public Baths and Wash-houses and open Bathing Places : Be it enacted, &c.,

Act may be adopted in certain boroughs and in parishes.

1. This Act may be adopted for any incorporated borough in England which is regulated under an Act passed in the 6th year of the reign of His late Majesty, to provide for the regulation of Municipal Corporations, or any charter granted in pursuance of the said Act, or any Act passed for the amendment thereof, and also, with the approval of [*one of Her Majesty's Principal Secretaries of State*],[b] for any parish in England not within any such incorporated borough.

Interpretation.

2. In this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction ; that is to say,

* * * * * * *

"Borough" shall mean city, borough, port, cinque port, or town corporate :

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"Churchwarden" shall mean also chapelwardens, or other persons discharging the duties of churchwardens.

"Overseers" shall mean also any persons authorised and required to make and collect, or cause to be collected, the rate for the relief of the poor of the parish, and acting instead of Overseers of the poor :

"Vestry" shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there is a select vestry elected under an Act passed in the 59th year of the reign of King George III. intituled "An Act to amend the Laws for the relief of the poor" or elected under an Act passed in the 2nd year of the reign of His late Majesty, intituled "An Act for the better regulation of vestries, and for the appointment of auditors of accounts in certain parishes of England and Wales," or elected under the provisions of any local Act of Parliament for the government of any parish by vestries, in which parishes it shall mean such select vestry :

59 Geo. III., 12.

1 & 2 Will. IV., 60.

"Commissioners" shall mean the commissioners appointed in accordance with this Act for any parish, and for the time being in office and acting as such commissioners :

"Clerk" shall mean, as regards an incorporated borough, the Town Clerk of such borough ; and as regards a parish, the Clerk appointed pursuant to this Act by the commissioners :

"Justice" shall mean Justice of the Peace for the county, riding, division, liberty, borough, or place, where the matter requiring the cognizance of Justices shall arise :

"Lands" shall mean lands, tenements, and hereditaments, of whatsoever nature or tenure ;

Words importing the masculine gender shall include the feminine :

Words of the plural number shall include the singular, and words of the singular number shall include the plural.

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The income arising from the Baths and Wash-houses and open bathing places in any borough shall be paid to the credit of the borough fund thereof, and the Council shall keep distinct accounts of their receipts, payments, credits, and liabilities, with reference to the execution of this Act, to be called "The Public Baths and Wash-houses Account."

Expenses to be charged on borough fund and income carried to same.

5. Upon the requisition in writing of 10 or more ratepayers of any such parish as aforesaid, not being within any such incorporated borough, the Churchwardens or other persons to whom it belongs to convene meetings of the vestry in such parish shall convene a meeting of the vestry for the special purpose of determining whether this Act shall be adopted for the parish, after public notice of such vestry, and the place and hour of holding the same, and the special purpose thereof, given in the usual manner in which notice of the meetings of the vestry is given at least 7 days before the day to be appointed for holding such vestry ;

Adoption by parishes.

And if thereupon it shall be resolved by the vestry that this Act ought to be adopted for the parish, a copy of such resolution extracted from the minutes of the vestry, and signed by the chairman, shall be sent to [*one of Her Majesty's Principal Secretaries of State*[b]] for *his* approval, and as soon as such approval shall have been signified in writing under the hand of [*any such Secretary of State*,] such of the provisions of this Act as are applicable in that behalf shall thenceforth take effect and come into operation in the parish :

(*a*) Amended by 10 & 11 Vict., 61 (*post*). (*b*) Now the Local Government Board.

Provided always, that no such resolution of the vestry shall be deemed to be carried unless at least two-thirds of the number of votes given on the question according to the usual manner of voting at such vestry shall have been given for such resolution.

Commissioners for parishes.

6. In such case the vestry shall appoint not less than 3 nor more than 7 persons, being ratepayers of the parish, Commissioners for carrying this Act into execution in the parish, of whom one-third, or as nearly as may be one-third (to be determined among themselves) shall go out of office yearly, but shall be eligible for immediate re-appointment.

Resignation of Commissioners.

7. Any commissioner may at any time resign his office as a commissioner on giving 7 days notice in writing of his intention to resign to the clerk, and also to the Churchwardens.

Filling up of vacancies.

8. Any vacancies in the commissionership may be filled up by the vestry when and as the vestry shall think fit.

Meetings.

9. The commissioners shall meet at least once in every calendar month at their office, or some other convenient place previously publicly notified.

Special meetings.

10. The commissioners may meet at such other time as at any previous meeting shall be determined upon, and it shall be at all times competent for any one commissioner, by writing under his hand, to summon, with at least 48 hours notice, the commissioners for any special purpose therein named, and to meet at such times as shall be therein named.

Quorum.

11. At all meetings of the commissioners any number not less than one-third of the whole number when more than 3 commissioners shall have been appointed, and when only 3 commissioners shall have been appointed then any number not less than 2 commissioners, shall be a sufficient number for transacting business, and for exercising all the powers of the commissioners.

Officers, &c.

12. The commissioners shall appoint, and may remove at pleasure, a clerk and such other officers and servants as shall be necessary for effecting the purposes of this Act, and, with the approval of the vestry, may appoint reasonable salaries, wages, and allowances for such clerk, officers, and servants, and, when necessary, may hire and rent a sufficient office for holding their meetings and transacting their business, and may agree for and pay a reasonable rent for such office.

Minutes.

13. All Orders and proceedings of the commissioners shall be entered in books, to be kept by them for that purpose, and shall be signed by the commissioners, or any 2 of them; and all such Orders and proceedings so entered, and purporting to be so signed, shall be deemed to be original Orders and proceedings; and such books may be produced and read as evidence of all such Orders and proceedings upon any appeal, trial, information, or other proceeding, civil or criminal, and in any Court of Law or Equity whatsoever.

Accounts.

14. The Commissioners shall provide and keep books in which shall be entered true and regular accounts of all sums of money received and paid for or on account of the purposes of this Act in the parish, and of all liabilities incurred by them for such purposes, and of the several purposes for which such sums of money shall have been paid and such liabilities shall have been incurred;

And such books shall at all reasonable times be open to the examination of every commissioner, churchwarden, overseer, and ratepayer, without fee or reward, and they respectively may take copies of or extracts from such books, or any part thereof, without paying for the same;

Penalty for refusing inspection.

And in case the commissioners, or any of them, or any of their officers or servants having the custody of the said books, being thereunto reasonably requested, shall refuse to permit or shall not permit any churchwarden, overseer, or ratepayer to examine the same, or take any such copy or extract, every commissioner, officer, or servant so offending shall for every such offence forfeit any sum not exceeding £5.

Auditors.

15. The vestry shall yearly appoint 2 persons, not being commissioners, to be auditors of the accounts of the commissioners, and at such time in the month of March in every year after the adoption of this Act for the parish as the vestry shall appoint the commissioners shall produce to the auditors their accounts, with sufficient vouchers for all moneys received and paid, and the auditors shall examine such accounts and vouchers, and report thereon to the vestry.(*a*)

Expenses in parishes to be borne by poor rate.

16. The expenses of carrying this Act into execution in any parish not within any such incorporated borough, to such amount as shall be from time to time sanctioned by the vestry, shall be chargeable upon and paid out of the monies to be raised or applicable for the relief of the poor of the parish.(*b*)

Overseers to pay expenses out of poor rate.

17. For defraying the expenses which shall have been or shall be incurred in carrying this Act into execution in the parish the vestry may and shall from time to time order the overseers to levy with and as part of the Rate for the relief of the poor of the parish such sums as the vestry shall deem necessary, and the amount thereof shall accordingly be assessed, levied, paid, and recovered in like manner, and with the like powers and remedies in all respects, as such Rate, and shall be paid by the overseers, according to the order of the vestry, to such person as shall be appointed by the commissioners to receive the same, and his receipt shall be a sufficient discharge to the overseers for the same, and shall be allowed accordingly in passing their accounts.

Monies raised, and income, to be applied towards expenses.

18. The money raised for defraying the expenses of carrying this Act into execution, and the income arising from the baths and wash-houses and open bathing places in the parish, shall be applied by the commissioners in or toward defraying the expenses of carrying this Act into execution in the parish;

And whenever, after repayment of all monies borrowed for the purpose of carrying this Act

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(*a*) In Local Board Districts this method of audit seems superseded.

(*b*) Out of the General District Rate in Local Board Districts (see the "Public Health Act 1875," 38 & 39 Vict., 55, § 207).

into execution in the parish, and the interest thereof, and after satisfying all the liabilities of the commissioners with reference to the execution of this Act in the parish, and providing such a balance as shall be deemed by the commissioners sufficient to meet their probable liabilities during the then next year, there shall be at the time of holding the meeting of the vestry at which the yearly report of the auditors shall be produced any surplus money at the disposal of the commissioners, they shall pay the same to the overseers in aid of the Rate for the relief of the poor of the parish.(a)

2 or more parishes may join.

19. The vestries of any 2 or more neighbouring parishes which shall have respectively adopted this Act may concur in carrying this Act into execution in such parishes in such manner not inconsistent with the provisions of this Act, and for such time as they shall mutually agree;

And for that purpose it may, with the approval of [*such Secretary of State* (b)] be agreed on between such vestries that any public baths and wash-houses and open bathing places shall be erected and made in any one of such parishes, to be vested in the commissioners thereof, and that the expenses of carrying this Act into execution with reference to the same shall be borne by such parishes in such proportions as such vestries shall mutually agree, and the proportion for each of such parishes of such expenses shall be chargeable upon and paid out of the monies to be raised for the relief of the poor of the same respective parish accordingly;

And, according and subject to the terms which shall have been so agreed on, the commissioners appointed for each of such parishes shall, in the management of the said baths and wash-houses and open bathing places, form one body of commissioners, and shall act accordingly in the execution of this Act, and the accounts and vouchers of such commissioners shall be examined and reported on by the auditors of each of such parishes;

And the surplus money at the disposal as aforesaid of such commissioners shall be paid to the Overseers of such parishes respectively in the same proportions as those in which such parishes shall be liable to such expenses.

Incorporation of Commissioners.

20. And for the more easy execution of the purposes of this Act, the commissioners of every such parish shall be a body corporate with perpetual succession, which shall not be deemed to be interrupted by any partial or total vacancy from time to time in their office, by the name of "The Commissioners for public Baths and Wash-houses in the parish of ( ) in the county of ( )," and by that name may sue and be sued in all Courts, and before all Justices and others, and may have and use a common seal, and by that name may take, hold, and convey any lands vested in them for the purposes of this Act.

Councils, &c., may borrow money, with the approval of the Local Government Board.

21.(c) For carrying this Act into execution in any borough or parish respectively, the Council, with the approval of [*the Commissioners of Her Majesty's Treasury* (b)] and the commissioners, with the sanction of the vestry, and also with the approval of [*the Commissioners of Her Majesty's Treasury*], may from time to time borrow at interest, on the security of a mortgage, as the case may be, of the borough fund or of the Rates for the relief of the poor of the parish, the money which may be by them respectively required, and shall apply the monies so borrowed accordingly.

Public Works Loan Commissioners may advance money.

22. The commissioners for carrying into execution an Act passed in the second session of the 5th year of the reign of Her Majesty, intituled "An Act to authorise the advance of money out of the Consolidated Fund to a limited amount for carrying on Public Works and Fisheries and employment of the Poor, and to amend the Acts authorising the issue of Exchequer Bills for the like purposes," (d) may from time to time make to the . . . . . commissioners of any such parish respectively, for the purposes of this Act, any loan under the provisions of the recited Act or the several Acts therein recited or referred to, upon security of . . . . . the Rates for the relief of the poor of the parish . . . . . .

8 Vict., 16, incorporated for certain purposes.

23. The provisions of the "Companies Clauses Consolidation Act, 1845." with respect to the borrowing of money by any company on mortgage, and the provisions of the same Act with respect to the accountability of the officers of the company, and the provisions of the same Act with respect to the making of bye-laws, subject to the provision hereinafter contained, and the provisions of the same Act with respect to the recovery of damages not specially provided for, and penalties so far as such provisions may respectively be applicable to the purposes of this Act, shall be respectively incorporated with this Act;

And the expressions in such provisions applicable to the company and the directors shall apply as regards a borough to the Council, and as regards a parish to the commissioners;

And all deeds and writings which under such provisions are required or directed to be made or executed under the common seal of the company shall in the application of such provisions to this Act be deemed to be required or directed to be made or executed as regards a borough under the common seal of the mayor, aldermen and burgesses, and as regards a parish under the common seal of the commissioners;

And so much of such provisions as are applicable to the "secretary of the company" shall apply to the clerk;

And in such of the said provisions as relate to the inspection of accounts as regards a borough the burgesses, and as regards a parish the ratepayers, shall have the privileges of shareholders.

Appropriation or purchase of lands.

24. In any such borough the Council, with the approval of the Commissioners of Her Majesty's Treasury, may from time to time appropriate for the purposes of this Act in the borough any lands vested in the mayor, aldermen and burgesses;

And in any such parish the commissioners appointed under this Act, with the approval of the vestry and of the Guardians of the poor of the parish (if any), and of the [*Poor Law Commissioners for England and Wales* (b)] may from time to time appropriate for the purposes of

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(a) To the District Fund in Local Board Districts.

(b) Now the Local Government Board.

(c) *Derby Municipal Estates, In re.*

(d) Since repealed. See now the "Public Works Loans Act, 1875," (38 & 39 Vict., 89).

this Act in the parish any lands vested in such Guardians, or in the Churchwardens or in the Churchwardens and Overseers of the parish, or in any feoffees, trustees, or others, for the general benefit of the parish;

And in any such parish the commissioners, with the approval of the vestry, and in any such borough the Council may from time to time contract for the purchasing or renting of any lands necessary for the purposes of this Act, and the property therein shall be vested in the mayor, aldermen and burgesses in the case of a borough, or in the commissioners in the case of a parish.

Powers to erect, &c., Baths, Wash-houses and Bathing Places.

25. The Council and commissioners respectively may from time to time on any lands so appropriated, purchased, or rented, or contracted so to be respectively, erect any buildings suitable for public baths and wash-houses, and as to such wash-houses either with or without open drying grounds, and make any open bathing places, and convert any buildings into public baths and wash-houses, and may from time to time alter, enlarge, repair, and improve the same respectively, and fit up, furnish, and supply the same respectively with all requisite furniture, fittings, and conveniences.

Contracts.

26. The Council and commissioners respectively may from time to time enter into any contract with any persons or companies for building and making, and for altering, enlarging, repairing and improving such public baths and wash-houses and open bathing places, and for supplying the same respectively with water, and for lighting the same respectively, and for fitting up the same respectively, and for furnishing any materials and things, and for executing and doing any other works and things necessary for the purposes of this Act; which contracts respectively shall specify the several works and things to be executed, furnished and done, and the prices to be paid for the same, and the times when the works and things are to be executed, furnished and done, and the penalties to be suffered in cases of non-performance; and all such contracts, or true copies thereof, shall be entered in books to be kept for that purpose:

Provided always that no contract above the value or sum of £100 shall be entered into by the Council or the commissioners for the purposes of this Act, unless previous to the making thereof 14 days' notice shall be given in one or more of the public newspapers published in the county in which the borough or parish shall be situated expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered to the Council or commissioners at a certain time and place in such notice to be mentioned; but it shall not be incumbent on the Council or commissioners to contract with the person offering the lowest price.

Purchase of existing Baths, &c.

27.(a) The Council of any such borough, and the commissioners, with the approval of the vestry of any such parish, may, if they shall think fit, contract for the purchase or lease of any baths and wash-houses already or hereafter to be built and provided in any such borough or parish, and appropriate the same to the purposes of this Act, with such additions or alterations as they shall respectively deem necessary; and the trustees of any public baths and wash-houses which have been already or may hereafter be built or provided in any such borough or parish by private subscriptions or otherwise may, with the consent of the Council of any such borough, or with the consent of the commissioners, and approval of the vestry of any such parish, and with the consent of a majority of the committee or other persons by whom they were appointed trustees, sell or lease the said baths and wash-houses to the said Council or commissioners respectively, or make over to them the management of such baths and wash-houses; and in all such cases the baths and wash-houses so purchased or leased, or of which the management has been so made over, shall be deemed to be within the provisions of this Act, as fully as if they had been built or provided by the said Council or commissioners; and the property therein shall be vested in the mayor, aldermen and burgesses in the case of a borough, or in the commissioners in the case of a parish.

Supply of water and gas.

28. Any commissioners of waterworks, trustees of waterworks, water companies, canal companies, gas companies, and other Corporations, bodies, and persons having the management of any waterworks, canals, reservoirs, wells, springs, and streams of water, and gas works respectively, may in their discretion grant and furnish supplies of water or gas for such public baths and wash-houses and open bathing places either without charge or on such other favourable terms as they shall think fit.

Councillors, &c., not to be personally liable.

29. Nothing in this Act contained shall render any member of the Council of any borough, or any commissioner, personally, (b) or any of their lands, goods, chattels, or monies (other than such lands, goods, chattels, or monies as may be vested in or under the management or control of the Council or commissioners respectively in pursuance of this Act), liable to the payment of any sum of money as or by way of compensation or satisfaction for or in respect of anything done or suffered in due pursuance of this Act.

Appeal against Orders of Councils, &c.
8 Vict., 16.

30. Every person who shall feel aggrieved by any bye-law, order, direction, or appointment of or by the Council or commissioners shall have the like power of appeal to the General Quarter Sessions as under the provisions of the "Companies Clauses Consolidation Act, 1845," incorporated with this Act, he might have if feeling aggrieved by any determination of any Justice with respect to any penalty.

Sale and exchange of lands.

31. The Council, with the approval of the Commissioners of Her Majesty's Treasury, and the commissioners appointed under this Act, with the approval of the vestry, and of the Commissioners of Her Majesty's Treasury respectively, may from time to time make sale and dispose of any lands vested in the mayor, aldermen, and burgesses, or in the commissioners respectively for the purposes of this Act, and apply the proceeds in or towards the purchase of other lands better adapted for such purposes, and may, with the like approval, exchange any lands so vested, and either with or without paying or receiving any money for equality of exchange, for any other lands better

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(a) *Mulholland* v. *Belfast.* (b) See *Cowley* v. *Sunderland.*

adapted for such purposes, and the mayor, aldermen, and burgesses, or the commissioners, may convey the lands so sold or exchanged accordingly.

Sale of Baths, &c., considered too expensive.

32. Whenever any public baths or wash-houses or open bathing places which shall have been for 7 years or upwards established under the authority of this Act shall be determined by the Council or by the vestry, in accordance with a previous recommendation of the commissioners, to be unnecessary or too expensive to be kept up, the Council or commissioners, with the approval of the Commissioners of Her Majesty's Treasury, may sell the same for the best price that can reasonably be obtained for the same, and the mayor, aldermen, and burgesses, or the commissioners, shall convey the same accordingly; and the purchase money shall be paid to such person as the Council or commissioners shall appoint, and his receipt shall be a sufficient discharge for the same; and the net proceeds of such sale shall be paid to the credit of the borough fund, or of the Rate for the relief of the poor of the parish.(a)

Management.

33. The general management, regulation, and control of the public baths and wash-houses and open bathing places established under this Act, shall, subject to the provisions of this Act, be as to any borough vested in and exercised by the Council, and as to any parish vested in and exercised by the commissioners.(b)

Bye-laws.

34. The bye-laws which the Council and commissioners respectively may from time to time make, alter, repeal, and enforce shall include such bye-laws for the management, use, and regulation of the public baths and wash-houses and open bathing places, and of the persons resorting thereto respectively, and for determining from time to time the charges for the use of such baths and wash-houses and open bathing places respectively, as the Council and commissioners respectively shall think fit, and they respectively may appoint any penalty not exceeding £5 for any and every breach, whether by their officers or servants, or by other persons, of any bye-law made by them respectively; and such bye-laws shall make sufficient provision for the several purposes respectively expressed in the Schedule (A.) to this Act;

Provided always, that no bye-law made under the authority of this Act shall be of any legal force until the same shall have received the approval of [*one of Her Majesty's Principal Secretaries of State.*(c)]

Bye-laws to be hung up.

35. A printed copy or sufficient abstract of the bye-laws relating to the use of the baths and open bathing places respectively shall be put up in every bath room and open bathing place respectively; and a printed copy or sufficient abstract of the bye-laws relating to the use of the wash-houses shall be put up in some convenient place near every washing tub or trough, or every pair of washing tubs or troughs, in every wash-house.

Baths for labouring classes.

36. The number of baths for the labouring classes in any building or buildings under the management of the same Council or commissioners shall not be less than twice the number of the baths of any higher class if but one, or of all the baths of any higher classes if more than one, in the same building or buildings.

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Recovery of charges.

38. For the recovery of the charges at such wash-houses the officers, servants, and others having the management thereof may detain the clothes brought to be washed or other goods and chattels of any person refusing to pay the charge to which such person may be liable, or any part thereof, till full payment thereof be made, and in case such payment be not made within 7 days may sell such clothes, goods, and chattels, or any of them, returning the surplus proceeds of such sale, after deducting the unpaid charge and the expenses of such detention and sale, and the unsold articles, if any, on demand, to such person.

Penalty for taking fees beyond salaries, or being interested in contracts.

39. If any clerk or other officer, or any servant who shall be in anywise employed by any Council or commissioners in pursuance of this Act, shall exact or accept any fee or reward whatsoever for or on account of anything done or forborne or to be done or forborne in pursuance of this Act, or on any account whatsoever relative to putting this Act into execution, other than such salaries, wages, or allowances as shall have been appointed by the Council or commissioners, or shall in anywise be concerned or interested in any bargain or contract made by the Council or commissioners for or on account of anything done or forborne or to be done or forborne in pursuance of this Act, or on any account whatsoever relative to the putting of this Act into execution, or if any person during the time he holds the office of member of the Council or commissioner shall exact or accept any such fee or reward, or shall accept or hold any office or place of trust created by virtue of this Act, or be concerned directly or indirectly in any such bargain or contract, every such person so offending shall be incapable of ever serving or being employed under this Act, and shall for every such offence also forfeit the sum of £50.

Penalties.

40. Such part of any penalty recovered under this Act as shall not be awarded to the informer shall be paid to the credit as regards a borough of the borough fund, and as regards a parish of the Rate for the relief of the poor thereof.(a)

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(a) To the District Fund in Local Board Districts.
(b) This will be the Local Board in Local Board Districts.
(c) Now the Local Government Board.

SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.)

Bye-laws to be made in all Cases.

For securing that the baths and wash-houses and open bathing places shall be under the due management and control of the officers, servants, or others appointed or employed in that behalf by the Council or commissioners.

For securing adequate privacy to persons using the baths and wash-houses and open bathing places, and security against accidents to persons using the open bathing places.

For securing that men and boys above 8 years old shall bathe separately from women and girls and children under 8 years old.

For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour, and nuisances.

For determining the duties of the officers, servants, and others appointed by the Council or commissioners.

In parishes. For regulating the procedure of the commissioners.

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10 VICT., c. 14.

Revised Statutes, vol. x., p. 8.

An Act for consolidating in one Act certain Provisions usually contained in Acts for constructing or regulating Markets and Fairs.[a]

(23rd April, 1847.)

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Interpretation.

AND with respect to the construction of this Act, and any Act incorporated therewith, be it enacted as follows:

"Special Act:"

2. The expression "the Special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed authorising the construction or regulation of a market or fair, and with which this Act shall be incorporated; and the word "prescribed" used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the Special Act, and the sentence in which such word occurs shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the Special Act" had been used; and the expression "the lands" shall mean the lands which shall by the Special Act be authorised to be taken or used for the purposes thereof; and the expression "the undertaking" shall mean the market or fair, and the works connected therewith, by the Special Act authorised to be constructed or regulated; and the expression "the undertakers" shall mean the persons authorised by the Special Act to construct or regulate the market or fair.

"prescribed:"

"the Lands:"

"the Undertaking:"

"Undertakers."

Interpretations in this and the Special Act:

3. The following words and expressions in both this and the Special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is say),

Number:

Words importing the singular number shall include the plural number, and words importing the plural number shall include also the singular number:

Gender:

Words importing the masculine gender shall include females:

"Person:"

The word "person" shall include a Corporation, whether aggregate or sole:

"Lands:"

The word "lands" shall include messuages, lands, tenements, and hereditaments or heritages of any tenure:

"Lease:"

The word "lease" shall include a missive of and an agreement for a lease:

(a) The sections here given are incorporated by the "Public Health Act, 1875," (38 & 39 Vict., 55, § 167.)

The expression "the market or fair" shall mean the market or fair, and the works connected therewith, by the Special Act authorised to be constructed or regulated : "the Market or Fair :"

The word "cart" shall include waggon, and also any carriage used wholly or chiefly for the conveyance of goods : "Cart :"

The word "driver" shall include the carter or other person having the care of any cart : "Driver :"

The word "cattle" shall include horse, ass, mule, ram, ewe, wether, lamb, goat, kid, or swine : "Cattle :"

The expression "the collector" shall mean the person appointed by the undertakers to collect the stallages, rents, or tolls authorised by the Special Act, and shall include the assistants of the collector : "Collector :"

The word "month" shall mean calendar month : "Month :"

The expression "Superior Courts," when the matter submitted to the cognisance of the Court arises in England . . . . . shall mean Her Majesty's Superior Courts of Record at Westminster . . . . . and shall include the Court of Common Pleas of the County Palatine of Lancaster, and the Court of Pleas of the Country of Durham . . . . . "Superior Courts :"

The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath : "Oath :"

The word "county" shall include riding or other division of a county having a separate commission of the peace . . . . . and it shall also include county of a city or county of a town : "County :"

The word "Justice" shall mean Justice of the Peace acting for the place where the matter requiring the cognisance of any such Justice arises ; and if such matter arise in respect of lands situated not wholly in any one jurisdiction shall mean a Justice acting for the place where any part of such lands shall be situated ; and where any matter is authorised or required to be done by 2 Justices, the expression "2 Justices" shall be understood to mean 2 or more Justices assembled and acting together. "Justice :" "2 Justices :"

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The expression "Quarter Sessions" shall mean Quarter Sessions as defined in the Special Act ; and if such expression be not there defined it shall mean the General or Quarter Sessions of the Peace which shall be held at the place nearest to the market or fair, or the principal office thereof, for the county or place in which the market or fair is situate, or for some division of such county having a separate commission of the peace. "Quarter Sessions."

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Holding of markets, &c.

And with respect to the holding of the market or fair, and the protection thereof, be it enacted as follows :

Notice before opening of Market, &c.

12. Before the market or fair shall be opened for public use the undertakers shall give not less than 10 days' notice of the time when the same will be opened, and such notice shall be given by the publication thereof in some newspaper circulating within the limits of the Special Act, and by printed handbills posted on some conspicuous place within those limits.

Sales elsewhere than in Markets prohibited.

13.(a) After the market place is opened for public use every person other than a licensed hawker who shall sell or expose for sale in any place within the prescribed limits, except in his own dwelling place or shop, any articles in respect of which tolls are by the Special Act authorised to be taken in the market, shall for every such offence be liable to a penalty not exceeding 40*s*.

Market days.

14. After the market place or place for fairs is opened for public use the undertakers shall hold markets and fairs therein on the prescribed days (if any) and on such other days as the undertakers shall appoint from time to time by any bye-law to be made in pursuance of this or the Special Act.

Unwholesome meat, &c.

15. Every person who shall sell or expose for sale any unwholesome meat or provisions in the market or fair shall be liable to a penalty not exceeding £5 for every such offence ;

And any Inspector of provisions appointed by the undertakers may seize such unwholesome meat or provisions, and carry the same before a Justice, and thereupon such proceedings shall be had as are hereinafter directed to be had in the case of any cattle or carcase seized in any slaughter-house and carried before a Justice ;

And every person who shall obstruct or hinder the Inspector of provisions from seizing or carrying away such unwholesome meat or provisions shall be liable to a penalty not exceeding £5 for every such offence.

Obstructing Market, &c., Keeper.

16. Every person who shall assault or obstruct any person appointed by the undertakers to superintend the market or fair, or to keep order therein, whilst in the execution of his duty, shall for every such offence be liable to a penalty not exceeding 40*s*.

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Weighing of goods and carts.

And with respect to weighing goods and carts, be it enacted as follows :

Weights and measures.

21. The undertakers shall provide sufficient and proper weighing houses or places for weighing or measuring the commodities sold in the market or fair, and shall keep therein proper weights, scales, and measures, according to the standard weights and measures for the time being for weighing such commodities as aforesaid, and shall appoint proper persons to attend to the weighing or measuring such commodities at all times during which the market or fair is holden.

Weighing.

22. Every person selling or offering for sale any articles in the market or fair shall, if required so to do by the buyer, cause the same to be weighed or measured by the weights and scales or measures provided by the undertakers ;

(a) *Ashworth* v. *Heyworth* ; *Black* v. *Sackett* ; *Bourne* v. *Lowndes* ; *Brecon* v. *Edwards* ; *Carter* v. *Parkhouse* ; *Caswell* v. *Cook* ; *Fearon* v. *Mitchell* ; *Hooper* v. *Kenshole* ; *Howard* v. *Lupton* ; *Llandaff & Canton* v. *Lyndon* ; *McHole* v. *Davies* ; *Newtonards* v. *Woods* ; *Pope* v. *Whalley* ; *Wiltshire* v. *Baker* ; *Wiltshire* v. *Willett*.

And any such person who shall refuse, on demand, to cause such articles to be weighed or measured in manner aforesaid, shall be liable to a penalty not exceeding 40*s*.

Refusing to weigh.

23. Every person appointed by the undertakers to weigh or measure any articles sold in the market or fair who shall refuse or neglect to weigh or measure the same when required shall be liable to a penalty not exceeding 40*s*.

Machines for weighing carts laden.

24. The undertakers shall provide sufficient and proper buildings or places for weighing carts in which goods are brought for sale within the market or fair or the prescribed limits, and shall keep therein machines and weights proper for that purpose, and shall from time to time appoint a person in every such building or place to afford the use of such machines to the public by weighing such carts, with or without their loading, as may be required.

Carts to be weighed on request.

25. The driver of every such cart shall, at the request of the buyer or seller of such goods, or his agent, take such cart, with or without the loading thereof, to the nearest of the said weighing machines, and shall permit the same to be weighed ;

And if such cart be weighed with its load thereupon the driver shall, if required, take such cart after its load has been discharged to the weighing machine nearest to such place of discharge, and permit it to be re-weighed without such load ; and if any such driver shall for the purposes aforesaid be required to take such cart a greater distance than half a mile, including the going to and returning from such machines respectively, the owner of the cart shall be paid for every horse which shall be used in drawing such cart 2*d*. for the first half mile, and a like sum for every additional half mile ;

And such payment shall be made by the person requiring such cart to be weighed as aforesaid before the driver thereof shall be obliged to take it aforesaid for the purpose of having it weighed.

Refusing to take carts to be weighed, &c.

26. The driver of any such cart who shall not, upon being so requested as aforesaid, and having such payment made or tendered as aforesaid, take the same to such weighing machine as hereinbefore directed, or who shall refuse to assist in the weighing of the same, shall forfeit to the person requiring such cart to be weighed a sum not exceeding 20*s*.

Frauds by drivers, &c.

27. Every driver of any such cart weighed at any weighing machine to be provided in pursuance of this or the Special Act who shall commit any of the following offences shall be liable to a penalty not exceeding £5 for each offence ; (that is to say,)

If he at the time of weighing any such cart knowingly have anything in or about the same other than the proper loading thereof :

If he alter any ticket denoting the weight of any such cart or the loading of the same :

If he make or use, or be privy to making or using, any ticket falsely stating the weight of any such cart or the loading thereof :

If he, after the weighing of any such cart with the loading thereof, remove any part of such loading, and afterwards dispose of or attempt to dispose of or represent the residue of such loading as being the full loading denoted by such ticket :

If he, between the time when the cart and the loading thereof have been so weighed and the time when such cart is weighed without such loading, change the wheels of such cart, or make any other change upon it after being required to allow such cart to be weighed without the loading thereof :

If he be guilty of any other fraudulent contrivance to misrepresent the weight of any such cart or of the loading thereof.

Frauds by buyers or sellers.

28. If the buyer or seller of any goods brought in any cart for sale within the market or fair, and which shall be required to be weighed as aforesaid, shall do anything to such cart or its loading whereby the true weight thereof respectively shall be altered before such weighing, he shall for every such offence be liable to a penalty not exceeding £5.

Frauds by machine keeper.

29. The person for the time being appointed to keep any weighing machine provided in pursuance of this or the Special Act shall be liable to a penalty not exceeding £5 in any of the following cases ; (that is to say,)

If he wilfully neglect, on application, duly to weigh any cart, with or without its loading, as the case may be, that is brought to the machine kept by him to be weighed :

If he do not fairly weigh every such cart, with or without loading, as the case may be :

If he do not deliver to the buyer or seller of any such loading, or to any person interested therein, on application, a ticket or account specifying the true weight of such cart, with or without such loading, as may be required :

If he give to the driver of any such cart a false ticket or account of the weight of such cart, with or without the loading thereof :

If he weigh any cart, with or without its loading, knowing that anything had been done to such cart or to the loading thereof to alter the true weight thereof respectively :

If he knowingly assist in or connive at any fraud concerning the weighing of any cart or the loading thereof, or make or connive at making any false representation of the weight of the same respectively.

Frauds by other parties.

30. Every person who shall knowingly act or assist in committing any fraud respecting the weighing or weight of any cart, or the loading thereof, in pursuance of this or the Special Act shall for every such offence be liable to a penalty not exceeding £5.

Tolls.

And with respect to the stallages, rents, and tolls[a] to be taken by the undertakers, be it enacted as follows :

Demand of tolls, &c.

31. Unless it be otherwise provided by the Special Act, the undertakers shall not demand or receive any stallage, rent, or toll until the market place or place for a fair or slaughter-house in respect of the use of which the same shall be demanded shall be completed and fit for the use of the persons resorting thereunto.

(*a*) Tolls to be levied by a Local Board must be sanctioned by the Local Government Board.

Evidence that Market, &c., is completed.

32. A certificate under the hand of any 2 Justices shall be conclusive evidence that the same is completed and fit for public use as aforesaid; and any such Justices shall sign such certificate on proof being adduced to them that the market place or place for a fair or slaughter-house is so completed and fit for public use.

Stallages, &c.

33.(a) The several stallages, rents, or tolls payable in respect of the market or fair or slaughter-house shall be paid from time to time, on demand, to the undertakers or the collector, or other person authorsied by the undertakers to receive the same.

Tolls to be prepaid.

34. The tolls payable in respect of weighing or measuring marketable commodities, or carts with or without goods, shall be paid to the person authorised by the undertakers to weigh or measure the same by the persons bringing such marketable commodities or carts to be weighed or measured, before the same are weighed or measured.

Toll for cattle.

35. The tolls in respect of cattle brought to the market for sale shall become due as soon as the cattle in respect whereof they are demandable are brought into the market place, and before the cattle are put into any pen, or tied up in such market place; and if the cattle be not removed within one hour after the close of the market another toll shall become due in respect of the cattle so omitted to be removed.

Stallages, &c., may be varied.

36. The undertakers may from time to time change the stallages, rents, and tolls to be taken in respect of the market or fair, or for the slaughter-houses, or for weighing and measuring, provided that the stallages, rents, and tolls in no case exceed the amounts authorised by the Special Act.

Excessive tolls.

37. Every person who shall demand or receive a greater toll than that authorised to be taken under the provisions of this or the Special Act shall for every such offence be liable to a penalty not exceeding 40*s*.

Recovery of tolls.

38.(b) If any person liable to the payment of any stallage, rent, or toll authorised by this or the Special Act to be taken do not pay the same when demanded, the undertakers or their lessee, or any person authorised by the undertakers or their lessee to collect the same, may levy the same in England . . . . . by distress . . . . . of all or any of the cattle or other articles in respect of which such stallage, rent, or toll is payable, or of any other cattle or other articles in the market belonging to the person liable to pay such stallage, rent, or toll, or under his charge, or such tolls may be recovered in any Court having competent jurisdiction.

Disputes.

39. If any dispute arise concerning any such stallage, rent, or toll, such dispute shall be determined in England . . . . . by a Justice . . . . . and such Justice . . . . . shall, on application made to him, determine the same, and make such Order therein, and award such costs to either party, as to him shall seem proper;

And in default of payment, on demand, of the money which shall be so awarded, and of the costs, the same shall be forthwith levied in England . . . . . by distress . . . . . and the Justice . . . . . shall issue his warrant accordingly.

Obstructing Collector.

40. Every person who shall assault or obstruct any person authorised to collect any stallage, rent, or toll authorised by this or the Special Act, shall for every such offence be liable to a penalty not exceeding 40*s*.

List of tolls, &c., to be set up.

41. The undertakers or their lessee shall from time to time cause to be painted on boards, or to be printed and attached to boards, in large and legible characters, a list of the several stallages, rents, and tolls from time to time payable under this and the Special Act, and shall cause a board containing such list to be conspicuously set up and continued in the market or fair, and in each weighing house and slaughter-house provided by the undertakers, to which each such list shall relate, and no stallage, rent or toll shall be payable during the time such list is not so set up, or for anything not specified therein:

Provided always, that if such list shall be destroyed, injured or obliterated, the stallages, rents, and tolls shall continue to be payable during such time as shall be reasonably required for the restoration of such list, in the same manner as if such list had continued in the state required by this Act.

Bye-laws.

And with respect to the bye-laws to be made by the undertakers, be it enacted as follows:

Purposes for which bye-laws may be made.

42.(c) The undertakers may from time to time make such bye-laws as they think fit for all or any of the following purposes; (that is to say,)

For regulating the use of the market place and fair, and the buildings, stalls, pens, and standings therein, and for preventing nuisances or obstructions therein, or in the immediate approaches thereto:

For fixing the days, and the hours during each day, on which the market or fair shall be held:

For inspection of the slaughter-houses and for keeping the same in a cleanly and proper state, and for removing filth and refuse at least once in every 24 hours, and for requiring that they be provided with a sufficient supply of water, and preventing the exercise of cruelty therein:

For regulating the carriers resorting to the market or fair, and fixing the rates for carrying articles carried therefrom within the limits of the Special Act:

For regulating the use of the weighing machines provided by the undertakers, and for preventing the use of false or defective weights, scales, or measures:

For preventing the sale or exposure for sale of unwholesome provisions in the market or fair:

And the undertakers may from time to time, as they shall think fit, repeal or alter any such bye-laws;

Provided always, that such bye-laws shall not be repugnant to the Laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the Special Act, or of any Act incorporated therewith;

(a) *Hill* v. *Smith*; *Wells* v. *Miles*. (b) *Carter* v. *Parkhouse*.
(c) *Savage* v. *Brook*; *Wortley* v. *Nottingham*.

And such bye-laws shall be reduced to writing under the common seal of the undertakers if they be a body corporate, or the hands and seals of 2 of the undertakers if they be not a body corporate, and, if affecting other persons than the officers and servants of the undertakers, shall be printed and published as herein provided.

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10 VICT., c. 15.

Revised Statutes, vol. x., p. 20.

An Act for consolidating in One Act certain Provisions usually contained in Acts authorising the making of Gasworks for supplying Towns with Gas.[a] *(23rd April, 1847.)*

WHEREAS it is expedient to comprise in one General Act sundry provisions usually contained in Acts of Parliament authorising the construction of gasworks for supplying towns with gas, and that as well for avoiding the necessity of repeating such provisions in each of the several Acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves: Be it enacted, &c.,

Extent of Act.

1. This Act shall extend only to such gasworks as shall be authorised by any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith, and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

Interpretations in this Act:

And with respect to the construction of this Act and any Act incorporated therewith, be it enacted as follows:

"Special Act:" "prescribed:"

2. The expression "the Special Act," used in this Act, shall be construed to mean any Act which shall be hereafter passed authorising the construction of gasworks, and with which this Act shall be so incorporated as aforesaid; and the word "prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the Special Act, and the sentence in which such word occurs shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the Special Act," had been used; and the expression "the lands" shall mean the lands which shall by the Special Act be authorised to be taken or used for the purposes thereof; and the expression "the undertaking" shall mean the gasworks and the works connected therewith by the Special Act authorised to be constructed; and the expression "the undertakers" shall mean the persons by the Special Act authorised to construct the gasworks.

"the Lands:" "the Undertaking:" "the Undertakers:"

Interpretations in this and the Special Act:

3. The following words and expressions in both this and the Special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Number: Words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number:

Gender: Words importing the masculine gender shall include females:

"Person:" The word "person" shall include Corporation, whether aggregate or sole:

"Lands:" The word "lands" shall include messuages, lands, tenements, and hereditaments or heritages of any tenure:

"Street:" The word "street" shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place within the limits of the Special Act:

"the Gasworks:" The expression "the gasworks" shall mean the gasworks and the works connected therewith by the Special Act authorised to be constructed:

"Gas Rate:" The expression "gas rate" shall include any rent, reward, or payment to be made to the undertakers for a supply of gas:

"Month:" The word "month" shall mean calendar month:

"Superior Courts:" The expression "Superior Courts," where the matter submitted to the cognisance of the Superior Courts arises in England . . . . . shall mean Her Majesty's Superior Courts of Record at Westminster . . . . . and shall include the Court of Common Pleas of the County Palatine of Lancaster and the Court of Pleas of the County of Durham . . . . . :

(*a*) This Act, which is amended by the "Gas Works Clauses Act, 1871," (34 & 35 Vict., 41), is incorporated by the "Gas and Water Facilities Act, 1870," (33 & 34 Vict., 70, § 10).

The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath : "Oath :"

The word "county" shall include riding or other division of a county having a separate Commission of the Peace . . . . . and shall also include county of a city or county of a town : "County :"

The word "Justice" shall mean Justice of the Peace acting for the place where the matter requiring the cognisance of any such Justice arises ; and where any matter shall be authorised or required to be done by 2 Justices, the expression "2 Justices" shall be understood to mean 2 or more Justices met and acting together : "Justice :" "2 Justices :"

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The expression "Quarter Sessions" shall mean Quarter Sessions as defined in the Special Act ; and if such expression be not there defined it shall mean the Court of General or Quarter Sessions of the Peace which shall be held at the place nearest to the gasworks, or the principal office thereof, for the county or place in which the gasworks are situate, or for some division of such county having a separate Commission of the Peace. "Quarter Sessions :"

And with respect to citing this Act or any part thereof, be it enacted as follows : *Citing the Act.*

4. In citing this Act in other Acts of Parliament and in legal instruments it shall be enough to use the expression "The Gasworks Clauses Act, 1847." Short title.

5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act, and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act ; and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates. Form in which portions of Act may be incorporated.

And with respect to the breaking up of streets for the purpose of laying pipes, be it enacted as follows : *Laying of pipes.*

6.(a) The undertakers, under such superintendence as is hereafter specified, may open and break up the soil and pavement of the several streets and bridges within the limits of the Special Act, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes, conduits, service pipes, and other works, and from time to time, repair, alter, or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the gas, and for the purposes aforesaid may remove and use all earth and materials in and under such streets and bridges, and they may in such streets erect any pillars, lamps, and other works, and do all other acts which the undertakers shall from time to time deem necessary for supplying gas to the inhabitants of the district included within the said limits, doing as little damage as may be in the execution of the powers hereby or by the Special Act granted, and making compensation for any damage which may be done in the execution of such powers. Power to break up streets, &c., and to open drains.

7. Provided always, That nothing herein shall authorise or empower the undertakers to lay down or place any pipe or other works into, through, or against any building, or in any land, not dedicated to public use, without the consent of the owners and occupiers thereof ; Not to enter on private land without consent

Except that the undertakers may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this or the Special Act or any other Act of Parliament, and may repair or alter any pipe so laid down.

8. Before the undertakers proceed to open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the persons under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of their intention to open or break up the same, not less than 3 clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen. Notice to be served before breaking up streets, &c.

9. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by 2 Justices ; Streets or drains not to be broken up except under superintendence.

And such Justices may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the undertakers to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain ;

Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the undertakers' intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the undertakers may perform the work specified in such notice without the superintendence of such persons or their officer. Proviso.

10. When the undertakers open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned Streets, &c., broken up to be reinstated.

(a) *Thompson* v. *Sunderland Gas Co.*

thereby, and shall at all times whilst any such road or pavement shall be so opened or broken up cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such road or pavement where the same shall be opened or broken up, every night during which the same shall be continued open or broken up, and shall keep the road or pavement which has been so broken up in good repair for 3 months after replacing and making good the same, and for such further time, if any, not being more than 12 months in the whole, as the soil so broken up shall continue to subside.

Delays in reinstating streets, &c.

11. If the undertakers open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid when so required, except in the cases in which the undertakers are hereby authorised to perform such works without any superintendence or notice, or if the undertakers make any delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of 3 months next after the same is made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made, a sum not exceeding £5 for every such offence, and they shall forfeit an additional sum of £5 for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of delay other parties may reinstate.

12. If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the undertakers;

And such expenses may be recovered in the same manner as damages are recoverable under this or the Special Act.

Supply of gas.

And with respect to the supply of gas, and the recovery of the rent to be paid for the same, be it enacted as follows:

Contracts for lighting streets, &c.

13. The undertakers may from time to time enter into any contract with any person for lighting or supplying with gas any public or private building, or for providing any person with pipes, burners, meters, and lamps, and for the repair thereof;

And may also from time to time enter into any contract with the commissioners, trustees, or other persons having the control of the streets within the limits of the Special Act for lighting the same or any of them with gas, and for providing such commissioners, trustees, or persons with lamps, lamp posts, burners, and pipes for such purpose, and for the repairs thereof, in such manner and upon such terms as shall be agreed upon between the undertakers and the said commissioners, trustees, or other persons.

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Recovery of gas rents.

16.(a) If any person supplied with gas by virtue of this or the Special Act neglect to pay the rent due for the same to the undertakers, the undertakers may stop the gas from entering the premises of such person, by cutting off the service pipe, or by such means as the undertakers shall think fit . . . . . .

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Undue use of gas.

And with respect to waste or misuse of the gas, or injury to the pipes and other works, be it enacted as follows:

Fraudulently using gas.

18. Every person who shall lay or cause to be laid any pipe to communicate with any pipe, belonging to the undertakers without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in case the gas supplied by the undertakers is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the undertakers, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or who shall otherwise improperly use or burn such gas, or shall supply any other person with any part of the gas supplied to him by the undertakers, shall forfeit to the undertakers the sum of £5 for every such offence, and also the sum of 40*s.* for every day such pipe shall so remain, or such works or burner shall be so used, or such excess be so committed or continued, or such supply furnished;

And the undertakers may take off the gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into.

Wilfully damaging pipes.

19. Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, plug, lamp, or other work of the undertakers for supplying gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas supplied by the undertakers, shall for each such offence forfeit to the undertakers any sum not exceeding £5, in addition to the amount of the damage done.

Accidentally damaging pipes.

20. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the undertakers, or under their control, shall pay such sum of money by way of satisfaction to the undertakers for the damage done, not exceeding £5, as any 2 Justices or the Sheriff shall think reasonable.

Nuisance from gas.

And with respect to the provision for guarding against fouling water, or other nuisance from the gas, be it enacted as follows:

Pollution of waters.

21. If the undertakers shall at any time cause or suffer to be brought or to flow into any stream, reservoir, or aqueduct, pond or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying gas, or shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream,

(a) *Commercial Gas Co.* v. *Scott; Hill, Ex parte.*

reservoir, aqueduct, pond, or place for water shall be fouled, the undertakers shall forfeit for every such offence the sum of £200.

Penalty to be sued for within 6 months.

22. The said penalty of £200 shall be recovered, with full costs of suit, in any of the Superior Courts by the person into whose water such washing or other substance shall be conveyed or shall flow, or whose water shall be fouled by any such act as aforesaid :

But such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within 6 months after it shall have ceased.

Continuing daily penalty.

23. In addition to the said penalty of £200 (and whether such penalty shall have been recovered or not) the undertakers shall forfeit the sum of £20 (to be recovered in the like manner) for each day during which such washing or other substance shall be brought or shall flow as aforesaid, or the act by which such water shall be fouled shall continue after the expiration of 24 hours from the time when notice of the offence shall have been served on the undertakers by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby, and such penalty shall be paid to such last-mentioned person.

Escape of gas.

24. Whenever any gas shall escape from any pipe laid down or set up by or belonging to the undertakers, they shall, immediately after receiving notice thereof in writing, prevent such gas from escaping ;

And in case the undertakers shall not within 24 hours next after service of such notice effectually prevent the gas from escaping, and wholly remove the cause of complaint, they shall for every such offence forfeit the sum of £5 for each day during which the gas shall be suffered to escape after the expiration of 24 hours from the service of such notice.

Contamination of water by gas.

25. Whenever any water within the limits of the Special Act shall be fouled by the gas of the undertakers, they shall forfeit to the person whose water shall be so fouled for every such offence a sum not exceeding £20, and a further sum not exceeding £10 for each day during which the offence shall continue after the expiration of 24 hours from the service of notice of such offence.

Examination of gas pipes.

26. For the purpose of ascertaining whether such water be fouled by the gas of the undertakers the person to whom the water supposed to be fouled shall belong may dig up the ground and examine the pipes, conduits, and works of the undertakers ;

Provided that such person, before proceeding so to dig and examine, shall give 24 hours notice in writing to the undertakers of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement, or place were such digging is to take place ;

And they shall be subject to the like obligation of reinstating the said road and pavement, and the same penalties for delay or any nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the undertakers for the purpose of laying their pipes.

Expenses to abide result.

27. If, upon any such examination, it appear that such water has been fouled by any gas belonging to the undertakers, the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the undertakers ;

But if upon such examination it appear that the water has not been fouled by the gas of the undertakers, the person causing such examination to be made shall pay all such expenses, and shall also make good to the undertakers any injury which may be occasioned to their works by such examination.

How expenses to be ascertained.

28. The amount of the expenses of every such examination and repair, and of any injury done to the undertakers, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the same manner as damages for the ascertaining and recovery whereof no special provision is made are to be ascertained and recovered.

Indictment for nuisance.

29.(a) Nothing in this or the Special Act contained shall prevent the undertakers from being liable to an indictment for nuisance, or to any other legal proceeding to which they may be liable, in consequence of making or supplying gas.

Profits of the Company.

And with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit, be it enacted as follows :

Profits limited.

30. The profits of the undertaking to be divided amongst the undertakers in any year shall not exceed the prescribed rate, or where no rate is prescribed they shall not exceed the rate of £10 in the £100 by the year on the paid-up capital in the undertaking, which in such case shall be deemed the prescribed rate, unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said yearly rate.

If profits exceed limit, excess to form a reserve fund.

31. If the clear profits of the undertaking in any year amount to a larger sum than is sufficient, after making up the deficiency in the divisions of any previous year as aforesaid, to make a dividend at the prescribed rate, the excess beyond the sum necessary for such purpose shall from time to time be invested in Government or other securities ;

And the dividends and interest arising from such securities shall also be invested in the same or like securities, in order that the same may accumulate at compound interest until the fund so formed amounts to the prescribed sum, or if no sum be prescribed a sum equal to one-tenth of the nominal capital of the undertakers, which sum shall form a reserved fund to answer any deficiency which may at any time happen in the amount of divisible profits, or to meet any extraordinary claim or demand which may at any time arise against the undertakers ;

And if such fund be at any time reduced, it may thereafter be again restored to the said sum, and so from time to time as often as such reduction shall happen.

Reserve fund.

32. Provided always, that no sum of money shall be taken from the said fund for the purpose of meeting any extraordinary claim, unless it be first certified in England . . . . . by 2

(a) *A.-G.* v. *Gas-light and Coke Co.*

Justices . . . . . that the sum so proposed to be taken is required for the purpose of meeting an extraordinary claim within the meaning of this or the Special Act.

When fund amounts to prescribed sum.

33. When such fund shall, by accumulation or otherwise, amount to the prescribed sum, or one-tenth of the nominal capital of the company, as the case may be, the interest and dividends thereon shall no longer be invested, but shall be applied to any of the general purposes of the undertaking to which the profits thereof are applicable.

If profits are less than the prescribed rate.

34. If in any year the profits of the undertaking divisible amongst the undertakers shall not amount to the prescribed rate, such a sum may be taken from the reserved fund as, with the actual divisible profits of such year, will enable the undertakers to make a dividend of the amount aforesaid, and so from time to time as often as the occasion shall require.

If profits are more than the prescribed amount, a reduction to be made in the price of gas.

35. In England . . . . . the Court of Quarter Sessions . . . . . may, on the petition of any 2 gas ratepayers within the limits of the Special Act, nominate and appoint some accountant or other competent person, not being a proprietor of any gasworks, to examine and ascertain, at the expense of the undertakers (the amount of such expense to be determined by the said Court) . . . . . the actual state and condition of the concerns of the undertakers, and to make report thereof to the said Court at the then present or some following Sessions . . . . . .

And the said Court . . . . . may examine any witnesses upon oath touching the truth of the said accounts and the matters therein referred to;

And if it thereupon appear to the said Court . . . . . that the profits of the undertakers for the preceding year have exceeded the prescribed rate, the undertakers shall, in case the whole of the said reserved fund has been and then remains invested as aforesaid, and in case dividends to the amount hereinbefore limited have been paid, make such a rateable reduction in the rate for gas to be furnished by them as in the judgment of the said Court . . . . . shall be proper, but so as such rates, when reduced, shall ensure to the undertakers (regard being had to the amount of profit before received) a profit as near as may be to the prescribed rate.

Costs of groundless petition.

36. Provided always, that if, in the case of any petition so presented, it appear to the said Court . . . . . that there was no sufficient ground for presenting the same, the said Court . . . . . may, if they or he think fit, order the petitioner to pay the whole or any part of the costs of or incident to such petition (the amount thereof to be determined by the said Court) . . . . . and the costs so ordered to be paid shall be recoverable in the same way as damages are recoverable under this or the Special Act.

Refusal to produce books, &c.

37. If the undertakers shall, for 7 days after being required to produce to the said Court, or to the said accountant or other person as aforesaid, any books of account or other books, bills, receipts, vouchers, or papers relating to the pecuniary affairs of the undertakers, refuse or neglect to produce such books, bills, receipts, vouchers, or papers, they shall forfeit the sum of £100 for every such refusal or wilful neglect, and the further sum of £10 for every day such refusal or wilful neglect shall continue after the expiration of the said 7 days, such respective penalties to be recovered by any person who will sue for the same, with full costs of suit, in any of the Superior Courts.

Annual account to be made up, and to be open to inspection.

38. And with respect to the yearly receipt and expenditure of the undertakers, be it enacted, That the undertakers shall, in each year after they have begun to supply gas under the provisions of this or the Special Act, cause an account in abstract to be prepared of the total receipts and expenditure of all rents or funds levied under the powers of this or the Special Act for the year preceding, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account duly audited and certified by the chairman of the undertakers, and also by the auditors thereof, if any;

And a copy of such annual account, if the gasworks be situated in England . . . . . shall be transmitted free of charge to the Clerk of the Peace for the county in which the gasworks are situate . . . . . and such transmission shall be made on or before the 31st day of January in each year, under a penalty of £20 for each default;

And the copy of such account so sent to the said Clerk of the Peace . . . . . shall be kept by him, and shall be open to inspection by all persons at all seasonable hours, on payment of 1*s.* for each inspection.

Tender of amends.

39. And with respect to tender of amends, be it enacted,

If any person shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the Special Act, or any Act incorporated therewith, or by virtue of any power or authority thereby given, and if before Action brought in respect thereof, such person make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such Action;

And if no such tender have been made the defendant may, by leave of the Court where such Action is pending, at any time before issue joined, pay into Court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

Recovery of damages and penalties.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to Justices or to the Sheriff, be it enacted as follows:

8 Vict., 20, 140—60, as to damages, &c., incorporated.

40. If the gasworks be in England . . . . . the clauses of the "Railways Clauses Consolidation Act, 1845," with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to Justices, shall be incorporated with this and the Special Act; and such clauses shall apply to the gasworks and to the undertakers respectively, and shall be construed as if the word "undertakers" had been inserted therein instead of the word "company."

[§ 41 is repealed by the "Statute Law Revision Act, 1875."]

Justices.

42. All things herein, or in the Special Act or any Act incorporated therewith, authorised or required to be done by 2 Justices, may and shall be done in England . . . . . by any one magistrate having by law authority to act alone for any purpose with the powers of 2 or more Justices.

[§ 43 relates to the Metropolitan Police District only.]

False evidence.

44. Every person who, upon any examination upon oath under the provisions of this or the Special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

Access to Special Act.

And with respect to access to the Special Act, be it enacted as follows :

Copies of Special Act to be kept and be open to inspection.

45. The undertakers shall at all times, after the expiration of 6 months after the passing of the Special Act, keep in their principal office of business a copy of the Special Act, printed by the printers to Her Majesty, or some of them, and shall also, within the space of such 6 months, deposit in the office of the Clerk of the Peace in England . . . . . of the county in which the undertaking is situated, a copy of such Special Act so printed as aforesaid ;

And the said Clerk of the Peace . . . . . shall receive, and they and the undertakers respectively shall keep, the said copies of the Special Act, and shall permit all persons interested to inspect the same and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an Act passed in the 1st year of the reign of Her present Majesty, intituled "An Act to compel Clerks of the Peace for counties, and other persons, to take the custody of such documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

7 Will. IV., & 1 Vict., 83.

Failure to deposit copies.

46. If the undertakers fail to keep or deposit as hereinbefore mentioned any of the said copies of the Special Act, they shall forfeit £20 for every such offence, and also £5 for every day afterwards during which such copy shall be not so kept or deposited.

[§ 47 relates to the Metropolis and 10 miles round only.]

Rights of the Crown.

48. And be it enacted, That nothing in this or the Special Act shall be deemed to extend to or affect any Act of Parliament relating to Her Majesty's Duties of Customs or Excise, or any other revenue of the Crown, or to extend to or affect any claim of Her Majesty in right of her Crown or otherwise howsoever, or any proceedings at Law or in Equity, by or on behalf of Her Majesty, in any part of the United Kingdom of Great Britain and Ireland.

Future General Acts.

49. And be it enacted, That nothing herein or in the Special Act contained shall be deemed to exempt the undertakers from any general Act relating to gasworks, or any Act for improving the sanitary condition of towns and populous districts, which may be passed in the same Session in which the Special Act is passed, or any future Session of Parliament.

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10 VICT., c. 16.

An Act for consolidating in one Act certain Provisions usually contained in Acts with respect to the Constitution and Regulation of Bodies of Commissioners appointed for carrying on Undertakings of a Public nature.[a]

Revised Statutes, vol. x., p. 48.

(23rd April, 1847.)

AND with respect to the mortgages to be executed by the commissioners, be it enacted as follows :

Form of mortgage.

75. Every mortgage or assignation in security of Rates or their property authorised to be made under the provisions of this or the Special Act shall be by deed duly stamped, in which the consideration shall be truly stated ;

And every such deed shall be under the common seal of the commissioners if they be a body corporate, or if they be not a body corporate, shall be executed by the commissioners, or any 5 of them, and may be according to the form in the Schedule (B) to this Act annexed, or to the like effect ;

(*a*) The sections here given are incorporated by the "Tramways Act, 1870," (33 & 34 Vict., 78, § 20).

And the respective mortgagees or assignees in security shall be entitled one with another to their respective proportions of the Rates and assessments or other property comprised in such mortgages or assignations respectively, according to the respective sums in such mortgages or assignations mentioned to be advanced by such mortgagees or assignees respectively, and to be repaid the sums so advanced, with interest, without any preference one above another by reason of the priority of advancing such moneys, or of the dates of any such mortgages or assignations respectively;

Register of mortgages.

76. A register of mortgages or assignations in security shall be kept by the clerk to the commissioners, and where by the Special Act the commissioners are authorised or required to raise separate sums on separate Rates or other property, a separate register shall be kept for each class of mortgages or assignations in security, and within 14 days after the date of any mortgage or assignation in security an entry or memorial of the number and date thereof, and of the names of the parties thereto, with their proper additions, shall be made in the proper register, and every such register may be perused at all reasonable times by any person interested in any such mortgage or assignation in security without fee or reward.

Transfers of mortgages.

77. Any person entitled to any such mortgage or assignation may transfer his right and interest therein to any other person; and every such transfer shall be by deed duly stamped, wherein the consideration shall be duly stated; and every such transfer may be according to the form in the Schedule (C) to this Act annexed, or to the like effect.

Register of transfers.

78. Within 30 days after the date of every such transfer, if executed within the United Kingdom, or otherwise within 30 days after the arrival thereof in the United Kingdom, it shall be produced to the clerk to the commissioners, and thereupon such clerk shall cause an entry or memorial thereof to be made, in the same manner as in the case of the original mortgage or assignation in security, and for such entry the clerk may demand a sum not exceeding 5*s.*;

And after such entry every such transfer shall entitle the tranferee, his executors, administrators, or assigns, to the full benefit of the original mortgage or assignation in security, and the principal and interest thereby secured; and such transferee may in like manner assign or transfer the same again, *toties quoties;* and it shall not be in the power of any person, except the person to whom the same shall have been last transferred, his executors, administrators, or assigns, to make void, release or discharge the mortgage or assignation so transferred, or any money thereby secured.

Interest.

79. Unless otherwise provided by any mortgage or assignation in security, the interest of the money borrowed thereupon shall be paid half-yearly to the several parties entitled thereto.

Power to borrow money at a lower rate, to pay off securities at a higher rate.

80. If the commissioners can at any time borrow or take up any sum of money at a lower rate of interest than any securities given by them and then be in force shall bear, they may borrow such sum at such lower rate as aforesaid, in order to pay off and discharge such securities bearing such higher rate of interest, and may charge the Rates and other property which they may be authorised to mortgage or assign in security under this or the Special Act, or any part thereof, with payment of such sum and such lower rate of interest, in such manner and subject to such regulations as are herein contained with respect to other moneys borrowed on mortgage or assignation in security.

Repayment of money at a time and place agreed upon.

81. The commissioners may, if they think proper, fix a period for the repayment of all the principal moneys borrowed under the provisions of this or the Special Act, with the interest thereof, and in such case the commissioners shall cause such period to be inserted in the mortgage deed or assignation in security;

And upon the expiration of such period the principal sum, together with the arrears of interest thereon, shall, on demand, be paid to the party entitled to receive such principal money and interest, and if no other place of payment be inserted in such deed, such principal and interest shall be payable at the office of the commissioners.

Repayment of money when no time and place has been agreed upon.

82. If no time be fixed in the mortgage deed or assignation in security for the repayment of the money so borrowed, the party entitled to receive such money may, at the expiration or at any time after the expiration of 12 months from the date of such deed, demand payment of the principal money thereby secured, with all arrears of interest, upon giving 6 months' previous notice for that purpose, and in the like case the commissioners may at any time pay off the money borrowed, on giving the like notice;

And every such notice shall be in writing or print, or both, and if given by a mortgagee or creditor, shall be delivered to the clerk or left at the office of the commissioners, and if given by the commissioners, shall be given either personally to such mortgagee or creditor, or left at his residence, or if such mortgagee or creditor be unknown to the commissioners, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the *London Gazette* if the office of the commissioners is in England . . . . . .

Interest to cease on expiration of notice to pay off.

83. If the commissioners shall have given notice of their intention to pay off any such mortgage or assignation in security at a time when the same may lawfully be paid off by them, then at the expiration of such notice all further interest shall cease to be payable thereon, unless, on demand of payment made pursuant to such notice or at any time thereafter, the commissioners fail to pay the principal and interest due at the expiration of such notice on such mortgage or assignation in security.

Moneys borrowed to be paid off in a limited period.

84. In order to discharge the principal money borrowed as aforesaid on security of any of the rates, the commissioners shall every year appropriate and set apart out of such rates respectively a sum equal to the prescribed part, and if no part be prescribed, one-twentieth part of the sums so borrowed respectively, as a sinking fund to be applied in paying off the respective principal moneys so borrowed, and shall from time to time cause such sinking fund to be invested in the purchase of Exchequer Bills or other Government Securities . . . . . and to be increased by accumulation in the way of compound interest or otherwise until the same respectively shall be of sufficient amount to pay off the principal debts respectively to which such sinking fund

shall be applicable, or some part thereof, which the commissioners shall think ought then to be paid off, at which time the same shall be so applied in paying off the same in manner hereinafter mentioned.

Mode of paying off.

85. Whenever the commissioners shall be enabled to pay off one or more of the mortgages or assignations in security which shall be then payable, and shall not be able to pay off the whole of the same class, they shall decide the order in which they shall be paid off by lot among the class to which such one or more of the mortgages or assignations in security belong, and shall cause a notice, signed by their clerk, to be given to the persons entitled to the money to be paid off, pursuant to such lot, and such notice shall express the principal sum proposed to be paid off, and that the same will be paid, together with the interest due thereon, at a place to be specified, at the expiration of 6 months from the date of giving such notice.

Arrears of interest; receiver.

86. Where by the Special Act the mortgagees or assignees in security of the commissioners are empowered to enforce the payment of the arrears of interest, or the arrears of principal and interest, due to them, by the appointment of a receiver, then, if within 30 days after the interest accruing upon any such mortgage or assignation in security has become payable, and, after demand thereof in writing, the same be not paid, the mortgagee or assignee in security may, without prejudice to his right to sue for the interest so in arrear in any of the Superior Courts, require the appointment of a receiver, by an application to be made as hereinafter provided;

Arrears of principal and interest.

And if within 6 months after the principal money owing upon any such mortgage or assignation in security has become payable, and after demand thereof in writing, the same be not paid, together with all interest due in respect thereof, the mortgagee or assignee in security, without prejudice to his right to sue for such principal money, together with all arrears of interest, in any of the Superior Courts, may, if his debt amount to the prescribed sum alone, or if his debt do not amount to the prescribed sum, he may in conjunction with other mortgagees or assignees in security, whose debts being so in arrear, after demand as aforesaid, together with his amount to the prescribed sum, require the appointment of a receiver, by an application to be made as hereinafter provided.

Appointment of receiver.

87. Every application for a receiver in the cases aforesaid shall in England . . . . . be made to 2 Justices . . . . . and on any such application such Justices . . . . . may, by order in writing, after hearing the parties, appoint some person to receive the whole or a competent part of the rates or sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest or until such principal and interest as the case may be, together with all costs, including the charges of receiving the rates or sums aforesaid, be fully paid;

And upon such appointment being made, all such rates and sums of money as aforesaid, or such part thereof as may be ordered by the said Justices . . . . . shall be paid to the person so to be appointed, and the money so paid shall be so much money received by or to the use of the party to whom such interest, or such principal and interest, as the case may be, shall be then due, and on whose behalf such receiver shall have been appointed, and after such interest and costs, or such principal, interest, and costs, has been so received, the power of such receiver shall cease.

Inspection of account books.

88. The books of account of the commissioners shall be open at all seasonable times to the inspection of the respective mortgagees or assignees in security of the commissioners, with liberty to take extracts therefrom without fee or award.

SCHEDULES TO WHICH THE FOREGOING ACT REFERS.

SCHEDULE (B.) [§ 75.]

Form of Mortgage.

By virtue of [*here name the Special Act*], we [*here name the corporation if the commissioners be incorporated, or, if not incorporated,* 5 of the commissioners,] appointed in pursuance of the said Act, in consideration of the sum of paid to the treasurer, to the said commissioners by *A.B.* of for the purposes of the said Act, do grant and assign unto the said *A.B.*, his executors, administrators, and assigns, such proportion of the rates, rents, profits, and other monies arising or accruing by virtue of the said Act from [*here describe the rates or other property proposed to be mortgaged*] as the said sum of doth or shall bear to the whole sum which is or shall be borrowed upon the credit of the said rates, rents, profits, or monies, to hold to the said *A.B.*, his executors, administrators, and assigns, from this day until the said sum of with interest at per centum per annum for the same, shall be fully paid and satisfied (the principal sum to be repaid at the end of years from the date hereof [*in case any period be agreed upon for that purpose*]). Given under our corporate seal [*or*, in witness whereof we have hereunto set our hands and seals, *as the case may be*], this day of one thousand eight hundred and

SCHEDULE (C.) [§ 77.]

Form of Transfer of Mortgage.

I *A.B.* of in consideration of the sum of paid to me by *C.D.* of do hereby transfer to the said *C.D.*, his executors, administrators, and assigns, a certain mortgage, number made by "the commissioners for executing the [*here name the Special Act*] to bearing date the day of for securing the sum of and interest [*or, if such transfer be by endorsement*, the within security], and all my right, estate, and interest in and to the money thereby secured, and in and to the rates, rents, profits or other monies thereby assigned. In witness whereof I have hereunto set my hand and seal this day of one thousand eight hundred and

10 VICT., c. 17.

Revised Statutes, vol. x., p. 57.

An Act for consolidating in one Act certain Provisions usually contained in Acts authorising the making of Waterworks for supplying Towns with Water.[a] *(23rd April, 1847.)*

WHEREAS it is expedient to comprise in one Act sundry provisions usually contained in Acts of Parliament authorising the construction of waterworks for supplying towns with water, and that as well for avoiding the necessity of repeating such provisions in each of the several Acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves: Be it enacted, &c.

Extent of Act. This Act shall extend only to such waterworks as shall be authorised by any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith;

And all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

Interpretations in this Act: And with respect to the construction of this Act and any Act incorporated therewith, be it enacted as follows:

"Special Act:" 2. The expression "the Special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed authorising the construction of waterworks, and with which this Act shall be incorporated;

"prescribed:" And the word "prescribed" used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the Special Act, and the sentence in which such word occurs shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the Special Act" had been used;

"the Lands and Streams:" And the expression "the lands and streams" shall mean the lands and streams of water which shall by the Special Act be authorised to be taken or used for the purposes thereof;

"the Undertaking:" And the expression "the undertaking" shall mean the waterworks, and the works connected therewith, by the Special Act authorised to be constructed;

"the Undertakers:" And the expression "the undertakers" shall mean the persons by the Special Act authorised to construct the waterworks.

Interpretations in this and the Special Act: 3. The following words and expressions, in both this and the Special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is say,)

Number: Words importing the singular number shall include the plural number, and words importing the plural number only shall include also the singular number:

Gender: Words importing the masculine gender shall include females:

"Person:" The word "person" shall include a Corporation, whether aggregate or sole:

"Lands:" The word "lands" shall include messuages, lands, tenements, and hereditaments or heritages of any tenure:

"Streams:" The word "streams" shall include springs, brooks, rivers, and other running waters:

"Street:" The word "street" shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place within the limits of the Special Act:

"the Waterworks:" The expression "the waterworks" shall mean the waterworks, and the works connected therewith, by the Special Act authorised to be constructed:

"Water Rate:" The expression "water rate" shall include any rent, reward, or payment to be made to the undertakers for a supply of water:

"Month:" The word "month" shall mean calendar month:

"Superior Courts:" The expression "Superior Courts," when the matter submitted to the cognisance of the Court arises in England or Ireland, shall mean Her Majesty's Superior Courts of Record at Westminster or Dublin, as the case may require, and shall include the Court of Common Pleas of the County Palatine of Lancaster, and the Court of Pleas of the County of Durham . . . . . .

"Oaths:" The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath:

(*a*) The whole Act is incorporated by the "Gas and Waterworks Facilities Act, 1870," (33 & 34 Vict., 70, § 10): and §§ 28—34; and 44—74 by the "Public Health Act, 1875," (38 & 39 Vict., 55, § 57).

"County:" The word "county" shall include riding or other division of a county having a separate commission of the peace . . . . . and it shall also include county of a city or county of a town:

"Justice:" The word "Justice" shall mean Justice of the Peace acting for the place where the matter requiring the cognisance of any such Justice arises; and if such matter arise in respect of lands or streams situated not wholly in one jurisdiction shall mean a Justice acting for the county or place where any part of such lands or streams shall be situated:

"2 Justices:" And where any matter is authorised or required to be done by 2 Justices, the expression "2 Justices" shall be understood to mean 2 or more Justices met and acting together.

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"Quarter Sessions:" The expression "Quarter Sessions" shall mean Quarter Sessions as defined in the Special Act, and if such expression be not there defined it shall mean the Court of General or Quarter Sessions of the Peace which shall be held at the place nearest to the waterworks, or the principal office thereof, for the county or place in which the waterworks, or the principal office thereof, is situate, or for some division of such county having a separate commission of the peace:

"Town Commissioners:" The expression "the town commissioners" shall mean the parties defined under that title in the Special Act, and where no such parties shall be there defined shall mean the commissioners, trustees, or other parties having the control or management of the streets under any Act for paving or improving the town or district to be supplied with water under the Special Act:

"Inspector." The word "inspector" shall mean an officer appointed under any Local Act relating to the town or district supplied with water under the Special Act for the purpose of inspecting or superintending works connected with the paving, drainage, or supply of water of such town or district, or an officer appointed under any General Act for executing the like duties with respect to such town or district together with other towns or districts.

Citing the Act. And with respect to citing this Act or any part thereof, be it enacted as follows:

Short title. 4. In citing this Act in other Acts of Parliament, and in legal instruments, it shall be enough to use the expression the "Waterworks Clauses Act, 1847."

Form in which portions of this Act may be incorporated. 5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act, and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

Construction of waterworks. And with respect to the construction of the waterworks, be it enacted as follows:

Construction of waterworks to be subject to this Act and "Lands Clauses Acts, 1845." 6. Where by the Special Act the undertakers shall be empowered, for the purpose of constructing or supplying waterworks, to take or use any lands or streams otherwise than with the consent of the owners and occupiers thereof, they shall, in exercising the power so given to them, be subject to the provisions and restrictions contained in this Act, and if the waterworks be situated in England . . . . . to the provisions and restrictions contained in the "Lands Clauses Consolidation Act, 1845," . . . . . and shall make to the owners and occupiers of and all other parties interested in any lands or streams taken or used for the purposes of the Special Act, or injuriously affected by the construction or maintenance of the works thereby authorised, or otherwise by the execution of the powers thereby conferred, full compensation for the value of the lands and streams so taken or used, and for all damage sustained by such owners, occupiers, and other persons, by reason of the exercise, as to such lands and streams, of the powers vested in the undertakers by this or the Special Act, or any Act incorporated therewith;

And, except where otherwise provided by this or the Special Act, the amount of such compensation shall be determined in the manner provided by the said "Lands Clauses Consolidation Acts" respectively for determining questions of compensation with regard to lands purchased or taken under the provisions thereof, and all the provisions of the said last-mentioned Acts respectively shall be applicable to determine the amount of any such compensation, and to enforce payment or other satisfaction thereof.

Errors in plans, &c., may be corrected by Justices, &c. 7. If any omission, mis-statement, or wrong description shall have been made of any lands or streams, or of the owners, lessees, or occupiers of any lands or streams, described on the plans or Books of Reference deposited in compliance with the Standing Orders of either House of Parliament, or in the schedule to the Special Act, the undertakers, after giving 10 days' notice to the owners, lessees, and occupiers of the lands and streams affected by such proposed correction, may apply, in England . . . . . to 2 Justices . . . . . for the correction thereof;

And if it appear to such Justices or Sheriff that such omission, mis-statement, or wrong description arose from mistake, they or he shall certify the same accordingly, and shall in such certificate state the particulars of any such omission, mis-statement, or wrong description; and such certificate, with the other documents to which it relates, shall be deposited, in England . . . . . with the Clerk of the Peace . . . . . of the several counties in which the lands or streams affected thereby are situated . . . . . and such certificate shall be kept by such Clerks of the Peace, ... Certificate, &c., to be deposited.

And thereupon such plan, book of reference, or schedule shall be deemed to be corrected according to such certificate;

And the undertakers may make the works in accordance with such certificate, as if such omission, mis-statement, or wrong description had not been made.

Works not to be proceeded with until plans of alterations authorised have been deposited.

8.(a) The undertakers shall not begin to execute the waterworks unless they shall have previously deposited with the Clerk of the Peace in England . . . . . of every county . . . . . in which the waterworks shall be situated, a plan and section of all such alterations from the original plan and section (if any) as shall have been approved of by Parliament, on the same scale and containing the same particulars as the original plan and section of the waterworks, and shall also have deposited with the parish clerks of the several parishes in England, in which such alterations shall have been authorised to be made, copies or extracts of or from such plans and sections as shall relate to such parishes respectively.

Clerks of the Peace, &c., to receive plans of alterations, &c.

9. The said Clerks of the Peace, Sheriff clerks, and Town Clerks, parish clerks, clerks of unions, and schoolmasters shall receive the said plans and sections of alterations, and copies and extracts thereof respectively, and shall keep the same, as well as the said original plans and sections, and shall allow all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, in the like manner and upon the like terms, and under the like penalty for default, as is provided in the case of the original plans and sections by an Act passed in the 1st year of the reign of Her Majesty, intituled "An Act to compel Clerks of the Peace for counties, and other persons, to take the custody of such documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

7 Will. iv. & 1 Vict., 83.

Evidence of plans and alterations.

10. Copies of the said plans and books of reference, or of any alteration or correction thereof, or extracts therefrom, certified by any such Clerk of the Peace . . . . . which certificate such Clerk shall give to all parties interested, when required, shall be received in all Courts of Justice or elsewhere as evidence of the contents thereof.

Limits of deviation.

11. The undertakers in constructing the waterworks shall not deviate from the line of the works laid down in the said plan more than the prescribed number of yards, and where no number of yards is prescribed not more than 10 yards, nor in any case to any greater extent than the line of lateral deviation described in the said plans with respect to such works, nor take nor use, for the purpose of such deviation, the lands of any persons not mentioned in the Books of Reference without his previous consent in writing, unless the name of such person shall have been omitted by mistake, and the fact that such omission happened from mistake shall have been certified in manner hereinbefore provided.

Undertakers, subject to this and Special Act, may execute the works.

12.(b) Subject to the provisions and restrictions in this and the Special Act, and any Act incorporated therewith, the undertakers may execute any of the following works for constructing the waterworks; (that is to say,)

They may enter upon any lands and other places described on the said plans and in the said Books of Reference, and take levels of the same, and set out such parts thereof as they shall think necessary, and dig and break up the soil of such lands, and trench and sough the same, and remove or use all earth, stone, mines, minerals, trees, or other things dug or gotten out of the same:

They may from time to time sink such wells or shafts, and make maintain, alter, or discontinue such reservoirs, waterworks, cisterns, tanks, aqueducts, drains, cuts, sluices, pipes, culverts, engines, and other works, and erect such buildings, upon the lands and streams authorised to be taken by them, as they shall think proper, for supplying the inhabitants of the town or district within the prescribed limits with water:

They may from time to time divert and impound the water from the streams mentioned for that purpose in the Special Act, or the said plans or Books of Reference, and alter the course of any such streams, not being navigable, and also take such waters as may be found in and under or on the lands to be taken for constructing the works.

Compensation for damages.

Provided always, that in the exercise of the said powers the undertakers shall do as little damage as can be, and in all cases where it can be done shall provide other watering places, drains, and channels for the use of adjoining lands, in place of any such as shall be taken away or interrupted by them, and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers.

Obstructing construction of works.

13. Every person who shall wilfully obstruct any person acting under the authority of the undertakers in setting out the line of the works, or pull up or remove any poles or stakes driven into the ground for the purpose of setting out the line of such works, or deface or destroy any works made for the same purpose, shall be liable to a penalty not exceeding £5 for every such offence.

Illegally diverting water.

14. After the streams or supplies of water hereby or by the Special Act authorised to be taken by the undertakers shall have been so taken, every person who shall illegally divert or take the waters supplying or flowing into the streams so taken, or any part thereof, or who shall do any unlawful act whereby the said streams or supplies of water may be drawn off or diminished in quantity, and who shall not immediately repair the injury done by him, on being required so to do by the undertakers, so as to restore the said waters to the state in which they were before such act, shall forfeit to the Undertakers any sum which shall be awarded in England . . . . . by 2 Justices . . . . . not exceeding £5 for every day during which the said supply of water shall be diverted or diminished by reason of any act done by or by the authority of such person, and any sum so forfeited shall be in addition to the sum which he may be lawfully adjudged liable to pay to the undertakers for any damage which they may sustain by reason of their supply of water being diminished:

And the payment of the sum so forfeited shall not bar or affect the right of the undertakers to bring or raise an Action at law against such person for the damage so committed.

Reservation of rights.

15. Provided always, that nothing herein contained shall prevent the owners and occupiers for the time being of lands through or by which such streams shall flow from using the waters thereof in such manner and to such extent as they might have done before the passing of the

(a) *Bush* v. *Trowbridge Waterworks Co.* (b) *New River Co.* v. *Johnson.*

Special Act, unless they shall have received compensation in respect of their right of so using such water.

Accommodation works.

And with respect to the construction of works for the accommodation of lands adjoining the waterworks, be it enacted as follows ;

Differences as to accommodation works to be settled by Justices.

16. Where by the Special Act the undertakers shall be required to erect any works for making good the interruption caused to any lands adjoining or near the waterworks, or otherwise, for the accommodation of such lands, then, if any difference shall arise respecting the construction of any such accommodation works, or the kind or size or sufficiency thereof, or respecting the maintenance thereof, the same shall be determined, in England . . . . . by 2 Justices . . . . . and such Justices or Sheriff shall also appoint the time within which such accommodation works shall be begun and finished by the undertakers.

Failure to execute such works.

17. If the undertakers shall, for 14 days next after the time appointed by such Justices or Sheriff for the beginning of any such accommodation works, fail to begin such works, or, having begun such works, fail diligently to execute the same in a sufficient manner, the person aggrieved by such failure may execute such works or repairs ;

And the reasonable expenses thereof shall, on demand, be repaid by the undertakers to the person by whom the same shall so have been executed ;

And if there be any dispute about the amount or nature of such expenses, the same shall be settled in England . . . . . by 2 Justices . . . . . .

Mines.

And with respect to mines, be it enacted as follows :

Undertakers not entitled to mines unless purchased.

18. The undertakers shall not be entitled to any mines of coal, ironstone, slate, or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the waterworks, unless the same shall have been expressly purchased, and all such mines, excepting as aforesaid, shall be deemed to be excepted out of the conveyance of such lands, unless they shall have been expressly named therein and conveyed thereby.

Plan of underground works.

19. The undertakers shall from time to time within 6 months from the time at which any pipes, conduits, or underground works shall have been laid down or formed by them, cause a survey and map to be made of the district within which any such pipes or underground works shall be laid, on a scale not less than one foot to a mile, and shall cause to be marked thereon the course and situation of all existing pipes or conduits for the collection, passage, or distribution of water, and underground works belonging to them, in order to show all such underground works within the said district, and shall, within 6 months from the making of any alterations or additions, cause the said map to be from time to time corrected, and such additions made thereto as may show the line and situation of all such pipes, conduits, and underground works as may be laid down or formed by them from time to time after the passing of the Special Act ;

And such map and plan, or a copy thereof, with the date expressed thereon of the last time when the same shall have been so corrected as aforesaid, shall be kept in the office of the undertakers, and shall be open to the inspection of all persons interested in the same within the said district.

Copies of such plan to be deposited.

20. The undertakers shall from time to time within three months from the time at which any such map or plan, or any such correction thereof or addition thereto, shall have been made as aforesaid, deposit with the Clerks of the Peace in England . . . . . of every county . . . . . in which such district or any part thereof may be situate, and also with the parish clerks of the several parishes in England . . . . . in which such underground works shall be situate, copies of the said map or plan, with all such particulars and all such corrections and additions as aforesaid, so far as relates to such counties, burghs, and parishes respectively.

Clerks of the Peace, &c., to receive copies of the map, &c.

21. The said Clerks of the Peace, Sheriff Clerks, and Town Clerks, parish clerks, clerks of the union, and schoolmasters shall receive the said copies of the said map and plan respectively, and shall keep the same, and shall allow all persons interested to inspect the same, and take copies or extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for default as is provided in the case of maps and plans deposited under an Act passed in the 1st Year of the Reign of Her Majesty, intituled "An Act to compel Clerks of the Peace for counties, and other persons, to take the custody of such documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.

7 Will. IV. & 1 Vict., 83.

Working of mines near the works.

22. Except where otherwise provided for by agreement between the undertakers and other parties, if the owner, lessee, or occupier of any mines or minerals lying under the reservoirs or buildings belonging to the undertakers, or under any of their pipes or works which shall be under ground, and shall be described in the map or plan which shall be so kept and deposited as hereinbefore mentioned, or within the prescribed distance, if any, and if no distance be prescribed within 40 yards therefrom, be desirous of working the same, such owner, lessee, or occupier shall give the undertakers notice in writing of his intention so to do 30 days before the commencement of working ;

Taking of mines.

And upon the receipt of such notice it shall be lawful for the undertakers to cause such mines to be inspected by any person appointed by them for the purpose, and if it appear to the undertakers that the working of such mines or minerals is likely to damage the said works, and if they be willing to make compensation for such mines to such owner, lessee, or occupier thereof, then he shall not work the same ;

And if the undertakers and such owner do not agree as to the amount of such compensation the same shall be settled as in other cases of disputed compensation.

Working of mines by owners.

23. If before the expiration of such 30 days the undertakers do not state their willingness to treat with such owner, lessee, or occupier for the payment of such compensation, it shall be lawful for him to work the said mines, and to drain the same, by means of engines or otherwise, as if this Act and the Special Act had not been passed, so that no wilful damage be done to the said works, and so that the said mines be not worked in an unusual manner ;

And if any damage or obstruction be occasioned to the works of the undertakers by the working of such mines in an unusual manner, the same shall be forthwith repaired or removed (as the case may require), and such damage made good, by the owner, lessee, or occupier of such mines or minerals, and at his own expense ;

And if such repair or removal be not forthwith done, or, if the undertakers shall so think fit, without waiting for the same to be done by such owner, lessee, or occupier, it shall be lawful for the undertakers to execute the same, and recover from such owner, lessee, or occupier the expense occasioned thereby by Action in any of the Superior Courts.

Mining communications.

24. If the working of any such mines under the said works of the undertakers or within the above-mentioned distance therefrom be prevented as aforesaid by reason of apprehended injury to such works, it shall be lawful for the respective owners, lessees, and occupiers of such mines to cut and make such and so many airways, headways, gateways, or water levels through the mines, measures, or strata, the working whereof shall be so prevented, as may be requisite to enable them to ventilate, drain and work any mines or minerals on each or either side thereof, but no such airway, headway, gateway, or water level shall be of greater dimensions or sections than the prescribed dimensions or sections, and where no dimensions are prescribed 8 feet wide and 8 feet high, nor shall the same be cut or made upon any part of the said works so as to injure the same.

Compensation to owner, &c., of mines for expenses incurred.

25. Except where otherwise provided for by agreement, the undertakers shall from time to time pay to the owner, lessee, or occupier of any mines of coal, ironstone, and other minerals, extending so as to lie on both sides of any reservoirs, buildings, pipes, conduits, or other works, all such additional expenses and losses as shall be incurred by such owner, lessee, or occupier by reason of the severance of the lands over such mines or minerals by such reservoirs or other works, or of the continuous working of such mines or minerals being interrupted as aforesaid, or by reason of the same being worked under the restrictions contained in this or the Special Act, and for any mines or minerals not purchased by the undertakers which cannot be obtained by reason of making and maintaining the said works, or by reason of such apprehended injury from the working thereof as aforesaid ;

Disputes to be settled by arbitration. 8 Vict., 18, &c.

And if any dispute or question shall arise between the undertakers and such owner, lessee, or occupier as aforesaid, touching the price of such minerals, the same shall be settled by arbitration in such manner as is provided by the "Lands Clauses Consolidation Act" if the undertaking shall be situate in England . . . . . .

Power to enter and inspect mines.

26. For better ascertaining whether any such mines are being worked or have been worked so as to damage the said works, it shall be lawful for the undertakers, after giving 24 hours' notice in writing, to enter upon any lands through or near which the said works are situate, and wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith, and for that purpose it shall be lawful for them to make use of any apparatus or machinery belonging to the owner, lessee, or occupier of such mines, and to use all necessary means for discovering the distance from the said works to the parts of such mines which are being worked or about to be worked.

Undertakers liable to actions for injury done.

27. Nothing in this or the Special Act shall prevent the undertakers from being liable to any Action or other legal proceeding to which they would have been liable for any damage or injury done or occasioned to any mines by means or in consequence of the waterworks, in case the same had not been constructed or maintained by virtue of this Act or the Special Act.

Laying of pipes.

And with respect to the breaking up of streets for the purpose of laying pipes, be it enacted as follows :

Power to break up streets, &c., and to open drains.

28.(a) The undertakers, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges within the limits of the Special Act, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes, conduits, service pipes, and other works and engines, and from time to time repair, alter, or remove the same, and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges, and do all other acts which the undertakers shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits, doing as little damage as can be in the execution of the powers hereby or by the Special Act granted, and making compensation for any damage which may be done in the execution of such powers.

Not to enter on private land without consent.

29. Provided always, That nothing herein contained shall authorise or empower the undertakers to lay down or place any pipe, conduit, service pipe, or other work in any land not dedicated to public use without the consent of the owners and occupiers thereof, except that the undertakers at any time may enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this or the Special Act, or any other Act of Parliament, and may repair or alter any pipe so laid down.

Notice to be served before breaking up streets, &c.

30. Before the undertakers open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the persons under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of their intention to open or break up the same, not less than 3 clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

Streets, &c., not to be broken up except under superintendence of persons having control.

31.(b) No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by 2 Justices ;

(a) See *Thompson* v. *Sunderland Gas Co.* for a decision on a section (§ 6) in the "Gasworks Clauses Act, 1847," resembling this.

(b) *Edgeware H.B.* v. *Colne Valley Water Co.*

And such Justices may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the undertakers to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain :

Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the intention of the undertakers as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the undertakers may perform the work specified in such notice without the superintendence of such persons or their officer. Proviso.

Streets, &c., broken up to be reinstated without delay.

32. When the undertakers open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times whilst any such road or pavement shall be so opened or broken up cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and kept there against, every night during which such road or pavement shall be continued open or broken up, and shall, after replacing and making good the road or pavement which shall have been so broken up, keep the same in good repair for 3 months thereafter, and such further time, if any, not being more than 12 months in the whole, as the soil so broken up shall continue to subside.

Penalty for delay in reinstating streets, &c.

33. If the undertakers open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the undertakers are authorised to perform such works without any superintendence or notice, or if the undertakers make any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of 6 months next after the same is made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made a sum not exceeding £5 for every such offence, and an additional sum of £5 for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of delay, other parties may reinstate, and recover expenses.

34. If any such delay or omission as aforesaid shall take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the undertakers, and such expenses may be recovered in the same way as damages are recoverable under this and the Special Act.

Supply of water.

And with respect to the supply of water to be furnished by the undertakers, be it enacted as follows :

Supply to be constant and kept for domestic purposes at high pressure.

35. The undertakers shall provide and keep in the pipes to be laid down by them a supply of pure and wholesome water, sufficient for the domestic use of all the inhabitants of the town or district within the limits of the Special Act, who, as hereinafter provided, shall be entitled to demand a supply, and shall be willing to pay water Rate for the same ;

And such supply shall be constantly laid on at such a pressure as will make the water reach the top storey of the highest houses within the said limits, unless it be provided by the Special Act that the water to be supplied by the undertakers need not be constantly laid on under pressure ;

And the undertakers shall cause pipes to be laid down and water to be brought to every part of the town or district within the limits of the Special Act whereunto they shall be required by so many owners or occupiers of houses in that part of the town or district, as that the aggregate amount of water Rate payable by them annually at the rates specified in the Special Act shall be not less than one-tenth part of the expense of providing and laying down such pipes ;

Provided that no such requisition shall be binding on the undertakers unless such owners or occupiers shall severally execute an agreement binding themselves to take such supply of water for 3 successive years at least.

Neglect to lay pipes for domestic supply

36. If, for 28 days after demand in writing made to the undertakers, and tender made of an agreement signed by such number of owners or occupiers as aforesaid to take and pay for a supply of water for 3 years or more, the undertakers shall refuse or neglect to lay down pipes in the manner hereinbefore directed, and to provide such supply of water as aforesaid, or as provided by the Special Act, they shall forfeit to each of such owners and occupiers the amount of Rate which he would be liable to pay under such agreement, and also the further sum of 40*s.* for every day during which they shall refuse or neglect to lay down such pipes or to provide such supply of water :

Provided always, that the undertakers shall not be liable to any penalty for not supplying water if the want of such supply shall arise from frost, unusual drought or other unavoidable cause or accident. Proviso.

Supply of water for sewers, &c., and other public purposes.

37. In all the pipes to which any fireplug shall be fixed the undertakers shall provide and keep constantly laid on, unless prevented by frost, unusual drought, or other unavoidable accident, or during necessary repairs, a sufficient supply of water for the following purposes ; (that is to say,)

For cleansing the sewers and drains, for cleansing and watering the streets, and for supplying any public pumps, baths, or wash-houses that may be established for the free use of the inhabitants, or paid for out of any Poor Rates or Borough Rates levied within the limits of the Special Act ;

And such supply shall be provided at such rates, in such quantities, and upon such terms and conditions as may be agreed upon by the Town Commissioners and the undertakers, or, in case of disagreement, as shall be settled, in England . . . . . by 2 Justices . . . . . until in either case an inspector shall have been appointed, and after the appointment of such inspector by the inspector so appointed.

Fireplugs.

Fireplugs to be fixed.

38. The undertakers, at the request of the Town Commissioners, shall fix proper fireplugs in the main and other pipes belonging to them, at such convenient distances, not being more than the prescribed distance, or if no distance be prescribed not more than 100 yards from each other, and at such places as may be most proper and convenient for the supply of water for extinguishing any fire which may break out within the limits of the Special Act;

And in case of any difference of opinion as to the proper position or number of such fireplugs, it shall be settled by such inspector as aforesaid, when appointed, and in the meantime by 2 Justices in England . . . . . .

Repair of fireplugs and keys thereof.

39. The undertakers shall from time to time renew and keep in effective order every such fireplug; and as soon as any such fireplug is completed they shall deposit a key thereof at each place within the limits of the Special Act where any public fire engine is kept, and in such other places as may be appointed by the Town Commissioners,

And shall put up a public notice in some conspicuous place in each street in which such fireplug is situated, showing its situation, which notice the undertakers may put up on any house or building in such street.

Expense of fireplugs.

40. The cost of such fireplugs, and the expense of fixing, placing, and maintaining the same in repair, and of providing such keys as aforesaid, shall be defrayed by the Town Commissioners.

Fireplugs near manufactories, at request, &c., of owners.

41. The undertakers shall, at the request and expense of the owner or occupier of any work or manufactory situated in any street in which there shall be a pipe of the undertakers, place and maintain in effective order a fireplug (to be used only for extinguishing fires) as near as conveniently may be to such work or manufactory.

Pipes to be kept charged: water may be taken for fires.

42.(a) The undertakers shall at all times keep charged with water, under such pressure as aforesaid, all their pipes to which fireplugs shall be fixed, unless prevented by frost, unusual drought, or other unavoidable cause or accident, or during necessary repairs, and shall allow all persons at all times to take and use such water for extinguishing fire, without making compensation for the same.

Penalty for refusal to fix, &c., fireplugs; failure of supply.

43. If, except when prevented as aforesaid, the undertakers neglect or refuse to fix, maintain, or repair such fireplugs, or to furnish to the town commissioners a sufficient supply of water for the public purposes aforesaid, upon such terms as shall have been agreed on or settled as aforesaid, or if, except as aforesaid, they neglect to keep their pipes charged under such pressure as aforesaid, or neglect or refuse to furnish to any owner or occupier entitled under this or the Special Act to receive a supply of water during any part of the time for which the Rates for such supply have been paid or tendered, they shall be liable to a penalty of £10, and shall also forfeit to the town commissioners, and to every person having paid or tendered the Rate, the sum of 40*s.* for every day during which such refusal or neglect shall continue after notice in writing shall have been given to the undertakers of the want of supply.

Pipes to be laid by the undertakers.

And with respect to the communication pipes to be laid by the undertakers, be it enacted as follows:(b)

Undertakers to lay communication pipes on request.

44. The undertakers shall, upon the request of the owner of any dwelling house in any street in which pipes shall have been laid down by them, the annual value of which house shall not exceed £10, or upon request of the occupier, *with the consent in writing of the owner or reputed owner of any such house, or of the agent of such owner*,(c) and upon payment or tender of the proportion of water Rate in respect of such house by this or the Special Act made payable in advance, lay down communication pipes and other necessary works for the supply of such house with water for domestic or other purposes,(d) and shall keep the same in repair, and thereupon the occupier of such house shall be entitled to have a sufficient supply of water for his domestic purposes from the undertakers;

And the undertakers may charge for such pipes and works, in addition to the water Rate, such reasonable annual rent as shall be agreed upon, or in case of dispute, as shall be settled by such inspector as aforesaid, when appointed, and in the meantime as shall in England . . . . . be settled by 2 Justices;

And such rent shall be chargeable on and recoverable from the occupier, or, in his default, from the owner of such house, at the same times and in the same manner as water Rates;

And such pipes and other works shall not be subject to distress or to the landlord's hypothec for rent, nor to be taken in execution under any process of a Court of Law or Equity, or under any fiat or sequestration in bankruptcy, against such occupier or against such owner, unless he shall have become the proprietor of the said pipes and works under the provisions hereinafter contained.

Penalty for refusal to lay communication pipes.

45. If upon such request and consent, and upon tender or payment of such proportion of Rate as aforesaid, the undertakers for 7 days neglect or refuse to lay down such communication pipes or other works, they shall be liable to forfeit to the person so making such request the sum of £5, and a further sum of 40*s.* for every day during which such refusal or neglect shall continue after 7 days from the making of such request and tender as aforesaid.

(a) *Atkinson* v. *Newcastle & Gateshead Waterworks Co.*

(b) The 10 sections which follow only apply in cases where the Local Authority lays pipes for the supply of water, ("Public Health Act, 1875," § 57.)

(c) The words in italic are to be deemed omitted when this Act is made use of in connection with the "Public Health Act, 1875," § 57.

(d) The expression "domestic purposes" is negatively defined in 26 & 27 Vict., 93, § 12, *post.*

Undertakers at liberty to remove pipes, and recover expenses.

46. If the occupier for the time being of the house in which any such communication pipes or other works and engines shall have been laid down by the undertakers refuse to pay for a supply of water, or if such house be unoccupied for 12 months, the undertakers may demand from the owner thereof payment of the amount of the principal money invested by them in providing and laying down such communication pipes and other works and engines ;

And if such owner, after 10 days' notice given to him by the undertakers, neglect or refuse to pay such principal money, the undertakers may enter the house and remove such pipes and other works ;

And the balance of such principal money, after deducting the value of such pipes and other works, with all arrear of rent for such pipes and works, shall, in default of payment, be recovered, with the costs incurred, from the owner or from the occupier for the time being in the same manner as water Rates are directed by this or the Special Act to be recovered :

Proviso.

Provided always, that no greater sum shall be recovered from any such occupier than the amount of rent for the time being owing by him ; unless he refuse to discover the amount of rent owing by him ; and that every such occupier shall be entitled to deduct from the amount of rent payable by him the sum so recovered from him, or which he shall have paid, on demand.

Owner at liberty to purchase pipes.

47. The owner or reputed owner of any house where any such communication pipes or other works shall have been laid down by the undertakers may at any time pay off the amount then due to the undertakers in respect of the cost of providing and laying down such pipes and works, and all rent to that time due in respect thereof, and thereupon such pipes and works shall become the property of such owner, and all further rent in respect thereof shall cease to accrue to the undertakers.

Pipes to be laid by the inhabitants.

And with respect to the communication pipes to be laid by the inhabitants, be it enacted as follows :

Power to inhabitants to lay service pipes.

48. Any owner or occupier of any dwelling house or part of a dwelling house within the limits of the Special Act who shall wish to have water from the waterworks of the undertakers brought into his premises, and who shall have paid or tendered to the undertakers the portion of water Rate in respect of such premises, by this or the Special Act directed to be paid in advance, may open the ground between the pipes of the undertakers and his premises, having first obtained the consent of the owners and occupiers of such ground, and lay any leaden or other pipes from such premises, to communicate with the pipes of the undertakers, such pipes to be of a strength and material to be approved of by the undertakers, or, in case of dispute, to be settled in England . . . . . by 2 Justices . . . . . or in either case by the inspector to be appointed as aforesaid ;

Provided always, that every such owner or occupier shall, before he begins to lay any such pipe, give to the undertakers 14 days' notice of his intention to do so.

Communication pipes.

49. Before any pipe is made to communicate with the pipes of the undertakers, the person intending to lay such pipe shall give 2 days' notice to the undertakers of the day and hour when such pipe is intended to be made to communicate with the pipes of the undertakers ;

And every such pipe shall be so made to communicate under the superintendence and according to the directions of the surveyor or other officer appointed for that purpose by the undertakers, unless such surveyor or officer fail to attend at the time mentioned in the said notice ;

Disputes as to pipes.

And in case of any dispute as to the manner in which such pipe shall be so made to communicate, it shall in England . . . . . be settled by 2 Justices . . . . . or in either case by the inspector to be appointed as aforesaid.(a)

Bore of service pipes.

50. The bore of any such pipe as last aforesaid shall not exceed the prescribed limits, and where no limit shall be prescribed it shall not exceed half an inch, except with the consent of the undertakers.

Removal of service pipes.

51. Any person who shall have laid down any pipe or other works, or who shall have become the proprietor thereof, may remove the same, after having first given 6 days' notice in writing to the undertakers of his intention so to do, and of the time of such proposed removal ;

And every such person shall make compensation to the undertakers for any injury or damage to their pipes or works which may be caused by such removal ;

And every person who shall remove any such pipe or other works without giving such notice as aforesaid shall forfeit to the undertakers a sum not exceeding £5, over and above the damage which he may be found liable to pay in any Action at law, at the suit of the undertakers, for the damage done to their pipes or works.

Power to inhabitants to break up pavements.

52.(b) Any such owner or occupier may open or break up so much of the pavement of any street as shall be between the pipe of the undertakers and his house, building, or premises, and any sewer or drain therein, for any such purpose as aforesaid, doing as little damage as may be, and making compensation for any damage done in the execution of any such work :

Provided always, that every such owner or occupier desiring to break up the pavement of any street, or any sewer or drain therein, shall be subject to the same necessity of giving previous notice, and shall be subject to the same control, restriction, and obligations in and during the time of breaking up the same, and also reinstating the same, and to the same penalties for any delay in regard thereto, as the undertakers are subject to by virtue of this or the Special Act.

10 Vict., 17, 28—34 (*ante*).

Owners, &c., entitled to demand water for domestic purposes.

53. Every owner and occupier of any dwelling house or part of a dwelling house within the limits of the Special Act shall, when he has laid such communication pipes as aforesaid, and paid or tendered the water Rate payable in respect thereof, according to the provisions of this and the

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(a) This section is controlled by § 57 of the "Public Health Act, 1875," so far that a dispute must be settled by a Court of Summary Jurisdiction to the exclusion of an inspector. A "Court of Summary Jurisdiction" is defined in the "Public Health Act, 1875," § 4.

(b) *Glover* v. *East London Water Co.* See also the "Public Health Act, 1875," § 149.

Special Act, be entitled to demand and receive from the undertakers a sufficient supply of water for his domestic purposes.(a)

Protection of water.

And with respect to waste or misuse of the water supplied by the undertakers, be it enacted as follows :

Persons using water to provide cisterns and cocks.

54. If by the Special Act it be provided that the water to be supplied by the undertakers need not be constantly laid on under pressure, every person supplied with water shall, when required by the undertakers, provide a proper cistern to hold the water with which he shall be so supplied, with a ball and stop cock, in the pipe bringing the water from the works of the undertakers to such cistern, and shall keep such cistern, ball and stop cock in good repair, so as effectually to prevent the water from running to waste ;

And in case any such person shall, when required by the undertakers, neglect to provide such cistern, ball or stop cock, or to keep the same in good repair, the undertakers may cut off the pipe or turn off the water from the premises of such person until such cistern and ball and stop cock shall be provided or repaired, as the case may require.

Penalty for suffering cistern, &c., to be out of repair.

55.(b) Every person supplied with water by the undertakers who shall suffer any such cistern, pipe, ball or stop cock to be out of repair, so that the water supplied to him by the undertakers shall be wasted, shall forfeit to the undertakers for every such offence a sum not exceeding £5.

Undertakers may repair cisterns, &c.

56. The undertakers may repair any such cistern, pipe, ball or stop cock, so as to prevent any such waste of water, and the expenses of such repair shall be repaid to them by the person so allowing the same to be out of repair, and may be received [*sic*] as damages.

Power to surveyor of undertakers to enter houses to inspect, &c.

57. The surveyor, or any other person acting under the authority of the undertakers, may, between the hours of 9 of the clock in the forenoon and 4 of the clock in the afternoon, enter into any house or premises supplied with water by virtue of this or the Special Act, in order to examine if there be any waste or misuse of such water ;

And if such surveyor or other person at any such time be refused admittance into such dwelling house or premises for the purpose aforesaid, or be prevented from making such examination as aforesaid, the undertakers may turn off the water supplied by them from such house or other premises.

Allowing persons to use water.

58. Every owner or occupier of any tenement supplied with water under this or the Special Act who shall supply to any other person or wilfully permit him to take any such water from any cistern or pipe in such tenement, unless for the purpose of extinguishing any fire, or unless he be a person supplied with water by the undertakers, and the pipes belonging to him be, without his default, out of repair, shall forfeit to the undertakers for every such offence a sum not exceeding £5.

Taking water without agreement.

59.(c) Every person who, not having agreed to be supplied with water by the undertakers, shall take any water from any reservoir, watercourse, or conduit belonging to the undertakers, or any pipe leading to any such reservoir, watercourse, or conduit, or from any cistern or other like place containing water belonging to the undertakers, other than such as may have been provided for the gratuitous use of the public, shall forfeit to the undertakers for every such offence a sum not exceeding £10.

Destroying valves, &c.

60. Every person who shall wilfully or carelessly break, injure, or open any lock, cock, valve, pipe, work, or engine belonging to the undertakers, or shall flush or draw off the water from the reservoirs or other works of the undertakers, or shall do any other wilful act whereby such water shall be wasted, shall forfeit to the undertakers for every such offence a sum not exceeding £5.

Fouling the water.

And with respect to the provision for guarding against fouling the water of the undertakers, be it enacted as follows :

Causing the water of the undertakers to be fouled, &c.

61. Every person who shall commit any of the offences next hereinafter enumerated shall for every such offence forfeit to the undertakers a sum not exceeding £5 ; (that is to say,)

Every person who shall bathe in any stream, reservoir, aqueduct, or other waterworks belonging to the undertakers, or wash, throw, or cause to enter therein any dog or other animal :

Every person who shall throw any rubbish, dirt, filth, or other noisome thing into any such stream, reservoir, aqueduct, or other waterworks as aforesaid, or wash or cleanse therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing :

Every person who shall cause the water of any sink, sewer, or drain, steam engine, boiler, or other filthy water belonging to him or under his control, to run or be brought into any stream, reservoir, aqueduct, or other waterworks belonging to the undertakers, or shall do any other Act whereby the water of the undertakers shall be fouled :

And every such person shall forfeit a further sum of 20*s.* for each day (if more than one) that such last-mentioned offence shall be continued.

Fouling of water by gas refuse.

62. Every person making or supplying gas within the limits of the Special Act who shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, or waterworks belonging to the undertakers, or into any drain communicating therewith, any washing or other substance which shall be produced in making or supplying gas, or who shall wilfully do any Act connected with the making or supplying of gas whereby the water in any such stream, reservoir, aqueduct, or waterworks shall be fouled shall forfeit to the undertakers for every such offence the sum of £200 ;

And such penalty shall be recovered, with full costs of suit, in any of the Superior Courts ; but such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within 6 months after it has ceased.

(*a*) See note to § 44, *ante*.

(*b*) By the "Statute Law Revision Act, 1875," § § 55—9 are repealed so far as they relate to Special Acts with which 26 & 27 Vict., 93, is incorporated. The penalty prescribed in this Section may be recovered under the "Public Health Act, 1875," § 251 *et seq*.

(*c*) See note to § 55 *ante*. *Hildreth* v. *Adamson*.

Daily continuing penalty.

63. In addition to the said penalty of £200, and whether such penalty have been recovered or not, the person making or supplying gas as aforesaid shall forfeit to the undertakers the sum of £20, to be recovered in like manner, for each day during which such washing or substance shall be brought or shall flow as aforesaid, or during which the Act shall continue by which such water is fouled, after the expiration in either case of 24 hours from the time when notice of the offence has been served on such person by the undertakers.

Fouling of water by gas makers.

64. Whenever the water supplied by the undertakers shall be fouled by the gas of any person making or supplying gas within the limits of the Special Act, such person shall forfeit to the undertakers for every such offence a sum not exceeding £20, and a further sum not exceeding £10 for each day during which the offence shall continue after the expiration of 24 hours from the service of notice of such offence.

Power to examine gas pipes.

65. For the purpose of ascertaining whether the water of the undertakers be fouled by the gas of any person making or supplying gas within the limits of the Special Act, the undertakers may dig up the ground, and examine the pipes, conduits, and works of the persons making or supplying gas;

Provided that before proceeding so to dig and examine, the undertakers shall give 24 hours notice in writing to the person so making or supplying gas of the time at which such digging and examination is intended to take place, and they shall give the like notice to the persons having the control or management of the pavements orplace where such digging shall take place, and they shall be subject to the like obligation of reinstating the road and pavement, and to the same penalties for delay, or any nonfeasance or misfeasance therein, as hereinbefore provided with respect to roads and pavements broken up by them for laying their pipes.

Expenses to abide the result of the examination.

66. If upon such examination it appear that such water has been fouled by any gas belonging to such person, the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the person making or supplying gas;

But if upon such examination it appear that the water has not been fouled by the gas of such person, then the undertakers shall pay all the expenses of the examination and repair, and also make good to the said person any injury which may be occasioned to his works by such examination.

How expenses to be ascertained.

67. The amount of the expenses of every such examination and repair, and any injury done to the undertakers, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the same manner as damages for the ascertaining and recovery whereof no special provision is made are directed to be ascertained and recovered.

Water rates.

And with respect to the payment and recovery of the Water Rates, be it enacted as follows: (a)

Rates payable according to the annual value.

68.(b) The Water Rates, except as hereinafter and in the Special Act mentioned, shall be paid by and be recoverable from the person requiring, receiving, or using the supply of water, and shall be payable according to the annual value of the tenement supplied with water, and if any dispute arise as to such value the same shall be determined by 2 Justices.

Where several houses supplied by one pipe.

69. When several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe, the several owners or occupiers of such houses or parts of houses shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the undertakers by a separate pipe.

Rates to be paid quarterly.

70. The rates shall be paid in advance by equal quarterly payments, in England . . . . . at Christmas Day, Lady Day, Midsummer Day, and Michaelmas Day . . . . . and the first payment shall be made at the time when the pipe by which the water is supplied is made to communicate with the pipes of the undertakers, or at the time when the agreement to take water from the undertakers is made.

Payments for broken quarters

71. The occupier of any dwelling house or part of a dwelling house liable to the payment of any Water Rate, who shall give notice of his intention to discontinue the use of the water supplied by the undertakers, or who shall remove from his dwelling between any 2 quarterly days of payment, shall pay the Water Rate in respect of such dwelling house or part of a dwelling house for the quarter ending on the quarterly day of payment next after his quitting the same or giving such notice.

Owners of houses not exceeding £10 rent liable.

72. The owners of all dwelling houses or parts of dwelling houses occupied as separate tenements, the annual value of which houses or tenements shall not exceed the sum of £10, shall be liable to the payment of the Rates instead of the occupiers thereof;

And the powers and provisions herein or in the Special Act contained for the recovery of Rates from occupiers shall be construed to apply to the owners of such houses and tenements;

And the person receiving the rents of any such house or tenement as aforesaid from the occupier thereof, on his own account, or as agent or receiver for any person interested therein, shall be deemed the owner of such house or tenement.

Tenants under existing leases.

73. Provided always, that when any owner shall pay any such Rate in respect of any such dwelling house or part of a dwelling house which shall be in the occupation of any tenant under any lease or agreement made prior to the passing of the Special Act, such tenant shall repay to the owner all sums which shall be so by him paid during the continuance of such lease, unless it have been agreed that the owner shall pay the water Rates in respect of such dwelling house or part of a dwelling house;

And every such sum of money payable by the tenant to the owner, under the provision hereinbefore contained, may be recovered if the same be not paid upon demand, as arrears of rent could be recovered from the occupier by the said owner.

(a) These provisions are enlarged by the "Waterworks Clauses Act, 1863," (26 & 27 Vict., 93, § 21.)
(b) *New River Co.* v. *Mather.*

Recovery of rates.

74.(a) If any person supplied with water by the undertakers, or liable as herein or in the Special Act provided to pay the water Rate, neglect to pay such water Rate at any of the said times of payment thereof, the undertakers may stop the water from flowing into the premises in respect of which such Rate is payable, by cutting off the pipe to such premises, or by such means as the undertakers shall think fit, and may recover the Rate due from such person, if less than £20, with the expenses of cutting off the water and costs of recovering the Rate, in the same manner as any damages for the recovery of which no special provision is made are recoverable by this or the Special Act;

Or if the Rate so due amount to £20 or upwards, the undertakers may recover the same, with the expenses of cutting off the water, by Action, in any Court of competent jurisdiction.

Profits of the undertakers.

And with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit, be it enacted as follows:

Profits of the company to be limited.

75. The profits of the undertaking to be divided among the undertakers in any year shall not exceed the prescribed rate, or where no rate is prescribed they shall not exceed the rate of £10 in the £100 by the year on the paid-up capital in the undertaking, which in such case shall be deemed the prescribed rate, unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said yearly rate.

If profits exceed the amount limited excess to form a reserve fund.

76. If the clear profits of the undertaking in any year amount to a larger sum than is sufficient, after making up the deficiency in the dividends of any previous year as aforesaid, to make a dividend at the prescribed rate, the excess beyond the sum necessary for such purpose shall from time to time be invested in Government or other securities, and the dividends and interest arising from such securities shall also be invested in the same or like securities, in order that the same may accumulate at compound interest until the fund so formed amounts to the prescribed sum, or if no sum be prescribed to a sum equal to one-tenth part of the nominal capital of the undertakers, which sum shall form a reserved fund to answer any deficiency which may at any time happen in the amount of divisible profits, or to meet any extraordinary claim or demand which may at any time arise against the undertakers;

And if such fund be at any time reduced, it may thereafter be again restored to the said sum, and so from time to time as often as such reduction shall happen.

Reserve fund and to meet extraordinary claims.

77. Provided always, that no sum of money shall be taken from the said fund for the purpose of meeting any extraordinary claim, unless it be first certified in England . . . . . by 2 Justices . . . . . that the sum so proposed to be taken is required for the purpose of meeting any extraordinary claim within the meaning of this or the Special Act.

When fund amounts to prescribed sum, interest to be applied to undertaking.

78. When such fund shall, by accumulation or otherwise, amount to the prescribed sum, or one-tenth part of the nominal capital, as the case may be, the interest and dividends thereon shall no longer be invested, but shall be applied to any of the general purposes of the undertaking to which the profits thereof are applicable.

If profits are less than the prescribed rate reserve fund may be drawn upon.

79. If in any year the profits of the undertaking divisible amongst the undertakers shall not amount to the prescribed rate, such a sum may be taken from the reserved fund as, with the actual divisible profits of such year, will enable the undertakers to make a dividend of the amount aforesaid, and so from time to time as often as the occasion shall require.

If profits are more than the amount prescribed price of water to be reduced.

80. In England . . . . . the Court of Quarter Sessions . . . . . of such county may, on the petition of any 2 Water Rate payers within the limits of the Special Act, appoint some accountant or other competent person, not being a proprietor of any waterworks, to examine and ascertain, at the expense of the undertakers, the actual state and condition of the concerns of the undertakers, and make report thereof to the said Court at the then present or some following Sessions, or to the Sheriff (the amount of such expense to be determined by the said Court . . . . .), and the said Court . . . . . may examine any witnesses upon oath touching the truth of the said accounts and the matters therein referred to;

And if it thereupon appear to the said Court . . . . . that the profits of the undertakers for the preceding year have exceeded the prescribed rate, the undertakers shall, in case the whole of the said reserved fund has been and then remains invested as aforesaid, and in case dividends to the amount hereinbefore limited have been paid, make such a rateable reduction in the Rates for water to be furnished by them as in the judgment of the said Court . . . . . shall be proper, but so as such Rates, when reduced, shall ensure to the undertakers, regard being had to the amount of profit before received, a profit as near as may be to the prescribed rate.

Court may order petitioner to pay costs of groundless petition.

81. Provided always, that if, in the case of any petition so presented, it appear to the said Court . . . . . that there was no sufficient ground for presenting the same, the said Court . . . . . may, if they or he think fit, order the petitioner to pay the whole or any part of the costs of or incident to such petition (the amount thereof to be determined by the said Court) . . . . . and the costs so ordered to be paid shall be recoverable in the same way as damages are recoverable under this or the Special Act.

Penalty on undertakers refusing to produce books, &c.

82. If the undertakers shall, for 7 days after being required to produce to the said Court . . . . . or to the said accountant or other person as aforesaid, any books of account or other books, bills, receipts, vouchers, or papers relating to their pecuniary affairs, refuse or neglect to produce such books, bills, receipts, vouchers, or papers, they shall forfeit the sum of £100 for every such refusal or wilful neglect, and the further sum of £10 for every day during which such refusal or wilful neglect shall continue after the expiration of the said 7 days, such respective penalties to be recovered by any person who will sue for the same, with full costs of suit, in any of the Superior Courts.

Annual account to be sent to the Clerk of the Peace, and to be open to inspection.

83. And with respect to the yearly receipt and expenditure of the undertakers, be it enacted, That the undertakers shall, in each year after they have begun to supply water under this or the

(a) *Sheffield Water-works* v. *Wilkinson*; see also the "Waterworks Clauses Act, 1863," (26 & 27 Vict., 93, § 21.)

Special Act, cause an account in abstract to be prepared of the whole receipt and expenditure of all Rates or other monies levied under the powers of this or the Special Act for the year preceding, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the chairman of the undertakers, and also by the auditors thereof, if any;

And a copy of such annual account shall be sent free of charge to the Clerk of the Peace for the county in which the waterworks are situated if the waterworks are situated in England . . . . . on or before the 31st day of January in each year, under a penalty of £20 for each default;

And the copy of such account so sent to the said Clerk shall be kept by him, and shall be open to inspection by all persons at all seasonable hours, on payment of 1*s.* for each inspection.

Tender of amends.

84. And with respect to tender of amends, be it enacted, That if any person shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the Special Act, or any Act incorporated therewith, or by virtue of any power or authority thereby given, and if before Action brought in respect thereof, such person make tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such Action;

And if no such tender have been made the defendant may, by leave of the Court where such Action is pending, at any time before issue joined, pay into Court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

Recovery of damages and penalties.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to Justices or to the Sheriff, be it enacted as follows:

8 Vict., 20, partly incorporated.

85. If the waterworks be in England . . . . . the clauses of the "Railways Clauses Consolidation Act, 1845," with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to Justices, shall be incorporated with this and the Special Act . . . . . and such clauses shall apply to the waterworks and to the undertakers respectively, and shall be construed as if the word "undertakers" had been inserted therein instead of the word "company."

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Powers of Justices.

87. All things herein, or in the Special Act or any Act incorporated therewith, authorised or required to be done by 2 Justices, may and shall be done in England . . . . . by any one magistrate having by law authority to act alone for any purpose with the powers of 2 or more Justices.

[§ 88 relates to the Metropolitan Police District only.]

Persons giving false evidence.

89. Every person who, upon any examination upon oath under the provisions of this or the Special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

Access to Special Act.

And with respect to access to the Special Act, be it enacted as follows:

Copies of Special Act to be kept by undertakers in their office, and deposited with the Clerks of the Peace, &c., and be open to inspection.

90. The undertakers shall at all times, after the expiration of 6 months after the passing of the Special Act, keep in their principal office of business a copy of the Special Act, printed by the printers to Her Majesty, or some of them, and shall also, within the space of such 6 months, deposit in the office of the Clerk of the Peace in England . . . . . of the county in which the undertaking is situated, a copy of such Special Act so printed as aforesaid;

And the said Clerk of the Peace . . . . . shall receive, and they and the undertakers respectively shall keep, the said copies of the Special Act, and shall allow all persons interested therein to inspect the same and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an Act passed in the 1st year of the reign of Her Majesty, intituled "An Act to compel Clerks of the Peace for counties, and other persons, to take the custody of such documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

7 Will. IV. & 1 Vict., 83.

Penalty on undertakers failing to keep or deposit copies.

91. If the undertakers fail to keep or deposit any of the said copies of the Special Act, as hereinbefore mentioned, they shall forfeit £20 for every such offence, and also £5 for every day afterwards during which such copy shall be not so kept or deposited.

[§ 92 relates to the Metropolis and 10 miles round only.]

Undertakers not exempt from future General Acts.

93. And be it enacted, That nothing herein or in the Special Act contained shall be deemed to exempt the undertakers from any general Act relating to waterworks, or any Act for improving the sanitary condition of towns and populous districts, which may be passed in the same Session of Parliament in which the Special Act is passed, or any future Session of Parliament.

10 & 11 VICT., c. 34.

Revised Statutes, vol. x., p. 142.

An Act for consolidating in one Act certain Provisions usually contained in Acts for paving, draining, cleansing, lighting and improving Towns.[a] *(21st June, 1847.)*

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Interpretations in this and the Special Act.

THE following words and expressions in both this and the Special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction [b] (that is to say,)

"Street:" The word "street" shall extend to and include any road, square, court, alley, and thoroughfare within the limits of the Special Act;[c]

"County:" The word "county" shall include riding or other division of a county having a separate Commission of the Peace, and shall also include county of a city or county of a town:

"Owner:" The word "owner" used with reference to any lands or buildings in respect of which any work is required to be done, or any Rate to be paid under this or the Special Act, shall mean the person for the time being entitled to receive, or who, if such lands or buildings were let to a tenant at rack rent, would be entitled to receive the rack rent from the occupier thereof:

"Cattle:" The word "cattle" shall include horses, asses, mules, sheep, goats and swine.

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Naming streets.

And with respect to naming the streets and numbering the houses, be it enacted as follows:

Houses to be numbered and streets named.

64. The Commissioners shall from time to time cause the houses and buildings in all or any of the streets to be marked with numbers as they think fit, and shall cause to be put up or painted on a conspicuous part of some house, building, or place at or near each end, corner, or entrance of every such street, the name by which such street is to be known:

And every person who destroys, pulls down, or defaces any such number or name, or puts up any number or name different from the number or name put up by the Commissioners, shall be liable to a penalty not exceeding 40*s.* for every such offence.

Renewal of numbers.

65. The occupiers of houses and other buildings in the streets shall mark their houses with such numbers as the Commissioners approve of,[d] and shall renew such numbers as often as they become obliterated or defaced:

And every such occupier who fails, within one week after notice for that purpose from the commissioners, to mark his house with a number approved of by the Commissioners, or to renew such number when obliterated, shall be liable to a penalty not exceeding 40*s.*, and the Commissioners shall cause such numbers to be marked or to be renewed, as the case may require, and the expense thereof shall be repaid to them by such occupier, and shall be recoverable as damages.

Improving streets.

And with respect to improving the line of the streets, and removing obstructions, be it enacted as follows:

Houses may be set forward.

66. The commissioners may allow, upon such terms as they think fit, any building within the limits of the Special Act to be set forward, for improving the line of the street in which such building, or any building adjacent thereto, is situated.

Commissioners may purchase houses, &c., for improvements.

67. The commissioners may agree with the owners of any lands within the limits of the Special Act for the absolute purchase thereof, for the purpose of widening, enlarging, or otherwise improving any of the streets, and they shall resell any parts of the lands so purchased which shall not be wanted for the enlargement of the street.

(*a*) The Sections here given are incorporated by the "Public Health Act, 1875," (38 & 39 Vict., 55, § 160).

(*b*) The following words are also defined in the Act, namely: "Number," "gender," "person," "lands," "month," "oath," "Superior Court," "Justice," "2 Justices," "Quarter Sessions," and the definitions for the most part correspond with those in the "Public Health Act, 1875," (38 & 39 Vict., 55, § 4), and in the 13 & 14 Vict., 21.

(*c*) See the "Public Health Act, 1875," (38 & 39 Vict., 55, § 316), as to the meaning of "limits of the Special Act," and of "Special Act."

(*d*) *Daw* v. *Metropolitan B.W.*

Houses may be set back.

68.(a) When any house or building, any part of which projects beyond the regular line of the street, or beyond the front of the house or building on either side thereof, has been taken down in order to be rebuilt or altered, the commissioners may require the same to be set backwards to or toward the line of the street, or the line of the adjoining houses or buildings, in such manner as the commissioners direct, for the improvement of such street:

Provided always, that the commissioners shall make full compensation to the owner of any such house or building for any damage he thereby sustains.

Future projections from houses, &c., to be removed on notice.

69.(b) The commissioners may give notice to the occupier of any house or building to remove or alter any porch, shed, projecting window, step, cellar, cellar door or window, sign, sign-post, sign-iron, show-board, window-shutter, wall, gate, or fence, or any other obstruction or projection erected or placed after the passing of the Special Act, against or in front of any house or building within the limits of the Special Act, and which is an obstruction to the safe and convenient passage along any street:

And such occupier shall, within 14 days after the service of such notice upon him, remove such obstruction, or alter the same in such manner as shall have been directed by the commissioners, and in default thereof shall be liable to a penalty not exceeding 40*s*.

And the commissioners in such case may remove such obstruction or projection, and the expense of such removal shall be paid by the occupier so making default, and shall be recoverable as damages:

Provided always, that, except in the case in which such obstructions or projections were made or put up by the occupier, such occupier shall be entitled to deduct the expense of removing the same from the rent payable by him to the owner of the house or building.

Commissioners may cause existing projections to be removed; compensation.

70.(b) If any such obstructions or projections were erected or placed against or in front of any house or building in any such street before the passing of the Special Act, the commissioners may cause the same to be removed or altered as they think fit:

Provided that they give notice of such intended removal or alteration to the occupier of the house or building against or in front of which such obstruction or projection shall be 30 days before such alteration or removal is begun, and, if such obstructions or projections shall have been lawfully made, they shall make reasonable compensation to every person who suffers damage by such removal or alteration.

Doors in future to open inwards.

71.(b) All doors, gates, and bars put up after the passing of the Special Act within the limits thereof, and which open upon any street, shall be hung or placed so as not to open outwards, except when, in the case of public buildings, the commissioners allow such doors, gates, or bars to be otherwise hung or placed:

And if (except as aforesaid) any such door, gate, or bar be hung or placed so as to open outwards on any street, the occupier of such house, building, yard, or land shall, within 8 days after notice from the commissioners to that effect, cause the same to be altered so as not to open outwards:

And in case he neglect so to do, the commissioners may make such alteration, and the expenses of such alteration shall be paid to the commissioners by such occupier, and shall be recoverable from him as damages and he shall, in addition, be liable to a penalty not exceeding 40*s*.

Doors opening outwards may be altered.

72. If any such door, gate, or bar was before the passing of the Special Act hung so as to open outwards upon any street, the commissioners may alter the same, so that no part thereof when open shall project over any public way.

Coverings for cellar doors.

73.(b) When any opening is made in any pavement or footpath within the limits of the Special Act, as an entrance into any vault or cellar, a door or covering shall be made by the occupier of such vault or cellar, of iron or such other materials, and in such manner as the commissioners direct, and such door or covering shall from time to time be kept in good repair by the occupier of such vault or cellar:

Penalty for neglect.

And if such occupier do not within a reasonable time make such door or covering, or if he make any such door or covering contrary to the directions of the commissioners, or if he do not keep the same when properly made in good repair, he shall for every such offence be liable to a penalty not exceeding £5.

Waterspouts to be affixed.

74.(b) The occupier of every house or building in, adjoining or near to any street shall, within 7 days next after service of an Order of the commissioners for that purpose, put up and keep in good condition a shoot or trough of the whole length of such house or building, and shall connect the same either with a similar shoot on the adjoining house, or with a pipe or trunk to be fixed to the front or side of such building from the roof to the ground, to carry the water from the roof thereof, in such manner that the water from such house, or any portico or projection therefrom, shall not fall upon the persons passing along the street, or flow over the footpath:

And in default of compliance with any such Order within the period aforesaid, such occupier shall be liable to a penalty not exceeding 40*s*. for every day that he shall so make default.

Ruinous or dangerous buildings.

And with respect to ruinous or dangerous buildings,(c) be it enacted as follows:

Ruinous buildings to be taken down or secured.

75. If any building, or wall, or anything affixed thereon, within the limits of the Special Act, be deemed by the Surveyor of the commissioners to be in a ruinous state, and dangerous to passengers or to the occupiers of the neighbouring buildings, such surveyor shall immediately

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(*a*) § 155 of the "Public Health Act, 1875," is in very much the same terms as this Section: see the cases cited there. *(post)*.

(*b*) The Notices and Directions and Orders mentioned in these Sections may at the option of an Urban Authority be served on owners instead of on occupiers, or on owners as well as on occupiers, and the costs recovered accordingly. ("Public Health Act, 1875," 38 & 39 Vict., 55, § 160.)

(*c*) *Cheetham* v. *Manchester*; *Labalmondiere* v. *Addison*; *Labalmondiere* v. *Frost*; *Mourilyan* v. *Labalmondiere*; *Reg.* v. *Lee*; *Reg.* v. *Watts*; *Todd* v. *Flight*.

cause a proper hoard or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner of such building or wall, if he be known and resident within the said limits, and shall also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof, if any, requiring such owner or occupier forthwith to take down, secure, or repair such building, wall, or other thing, as the case shall require :

If owner, &c., neglect to repair, Commissioners may do so, charging owner, &c.

And if such owner or occupier do not begin to repair, take down, or secure such building, wall, or other thing within the space of 3 days after any such notice has been so given or put up as aforesaid, and complete such repairs, or taking down or securing, as speedily as the nature of the case will admit, the said surveyor may make complaint thereof before 2 Justices, and it shall be lawful for such Justices to order the owner, or in his default the occupier (if any), of such building, wall, or other thing, to take down, rebuild, repair, or otherwise secure, to the satisfaction of such surveyor, the same or such part thereof as appears to them to be in a dangerous state, within a time to be fixed by such Justices ; and in case the same be not taken down, repaired, rebuilt, or otherwise secured within the time so limited, or if no owner or occupier can be found on whom to serve such order, the commissioners shall, with all convenient speed, cause all or so much of such building, wall, or other thing as shall be in a ruinous condition, and dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured in such manner as shall be requisite :

And all the expenses of putting up every such fence, and of taking down, repairing, rebuilding, or securing such building, wall, or other thing, shall be paid by the owner thereof.(a)

Expenses to be levied on owner.

76. If such owner can be found within the limits of the Special Act, and if, on demand of the expenses aforesaid, he neglect or refuse to pay the same, then such expenses may be levied by distress, and any Justice may issue his warrant accordingly.

If owner cannot be found, or distress be had.

77. If such owner cannot be found within the said limits, or sufficient distress of his goods and chattels within the said limits cannot be made, the commissioners, after giving 28 days' notice of their intention to do so, by posting a printed or written notice in a conspicuous place on such building or on the land whereon such building stood, may take such building or land, provided that such expenses be not paid or tendered to them within the said 28 days, making compensation(b) to the owner of such building or land in the manner provided by the "Lands Clauses Consolidation Act, 1845," in the case of lands taken otherwise than with the consent of the owners and occupiers thereof, and the commissioners shall be entitled to deduct out of such compensation the amount of the expenses aforesaid, and may thereupon sell or otherwise dispose of the said building or land for the purposes of this Act.

8 Vict., 18, 21—68.

Commissioners may sell materials, restoring overplus arising from the sale.

78. If any such house or building as aforesaid, or any part of the same be pulled down by virtue of the powers aforesaid, the commissioners may sell the materials thereof, or so much of the same as shall be pulled down, and apply the proceeds of such sale in payment of the expenses incurred in respect of such house or building ; and the commissioners shall restore any overplus arising from such sale to the owner of such house or building on demand :

Nevertheless, the commissioners, although they sell such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale as are hereinbefore given to them for compelling the payment of the whole of the said expenses.

Precautions during repairs.

And with respect to precautions during the construction and repair of the sewers, streets, and houses, be it enacted as follows :

Bars and lights to be erected in streets during repairs, &c.

79. The commissioners shall, during the construction or repair of any of the streets vested in them, and during the construction or repair of any sewers or drains, take proper precaution for guarding against accident, by shoring-up and protecting the adjoining houses, and shall cause such bars or chains to be fixed across or in any of the streets, to prevent the passage of carriages and horses while such works are carried on, as to them shall seem proper :

And the commissioners shall cause any sewer or drain or other works, during the construction or repair thereof by them, to be lighted and guarded during the night so as to prevent accidents ;

And every person who takes down, alters, or removes any of the said bars or chains, or extinguishes any light, without the authority or consent of the commissioners, shall for every such offence be liable to a penalty not exceeding £5.

Hoards to be set up during repairs.

80.(c) Every person intending to build or take down any building within the limits of the Special Act, or to cause the same to be so done, or to alter or repair the outward part of any such building, or to cause the same to be so done, where any street or footway will be obstructed or rendered inconvenient by means of such work, shall, before beginning the same, cause sufficient hoards or fences to be put up, in order to separate the building where such works are being carried on from the street, with a convenient platform and handrail, if there be room enough, to serve as a footway for passengers, outside of such hoard or fence, and shall continue such hoard or fence, with such platform and handrail as aforesaid, standing and in good condition to the satisfaction of the commissioners, during such time as the public safety or convenience requires, and shall in all cases in which it is necessary, in order to prevent accidents, cause the same to be sufficiently lighted during the night :

And every such person who fails to put up such fence or hoard, or platform with such handrail as aforesaid, or to continue the same respectively standing and in good condition as aforesaid,

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(a) *Debenham* v. *Metropolitan B. W.*

(b) The case of *Rayner, Ex parte* seems to show that the arbitration provisions of the "Lands Clauses Act, 1845," (*i.e.* § § 16—68, *ante*,) and not those of the "Public Health Act, 1875," (*i.e.* § § 179—80, *post*,) are to be resorted to in such cases as that mentioned here.

(c) It is implied, however, in § § 144 and 149 of the "Public Health Act, 1875," that the premission of the Urban Authority is required before any hoarding for the purposes of the Section is erected.

during the time aforesaid, or who does not, while the said hoard or fence is standing, keep the same sufficiently lighted in the night, or who does not remove the same when directed by the commissioners, within a reasonable time afterwards, shall for every such offence be liable to a penalty not exceeding £5, and a further penalty not exceeding 40*s.* for every day while such default is continued.

Neglect to light deposits of materials or excavations.

81. When any building materials, rubbish, or other things are laid, or any hole made, in any of the streets, whether the same be done by order of the commissioners or not, the person causing such materials or other things to be so laid, or such hole to be made, shall, at his own expense, cause a sufficient light to be fixed in a proper place upon or near the same, and continue such light every night from sun-setting to sun-rising, while such materials or hole remain ;

And such person shall, at his own expense, cause such materials or other things and such hole to be sufficiently fenced and enclosed until such materials or other things are removed or the hole filled up or otherwise made secure ; and every such person who fails so to light, fence, or enclose such materials, or other things, or such hole, shall for every such offence be liable to a penalty not exceeding £5, and a further penalty not exceeding 40*s.* for every day while such default is continued.

Continuing deposits of materials or excavations an unreasonable time.

82. In no case shall any such building materials or other things or such hole be allowed to remain for an unnecessary time, under a penalty not exceeding £5 to be paid for every such offence by the person who causes such materials or other things to be laid or such hole to be made, and a further penalty not exceeding 40*s.* for every day during which such offence is continued after the conviction for such offence ;

And in any such case the proof that the time has not exceeded the necessary time shall be upon the person so causing such materials or other things to be laid, or causing such hole to be made.

Dangerous places to be repaired or enclosed.

83.(a) If any building or hole or any other place near any street be, for want of sufficient repair, protection, or enclosure, dangerous to the passengers along such street, the commissioners shall cause the same to be repaired, protected, or enclosed, so as to prevent danger therefrom ;

And the expenses of such repair, protection, or enclosure shall be repaid to the commissioners, by the owner of the premises so repaired, protected, or enclosed, and shall be recoverable from him as damages.

* * * * * * *

And with respect to slaughter-houses, be it enacted as follows :

Commissioners may license slaughter-houses, &c.

125. The commissioners may license such slaughter-houses and knackers'-yards as they from time to time think proper for slaughtering cattle within the limits of the Special Act.

No new slaughter-houses in future to be erected without a license.

126. No place shall be used or occupied as a slaughter-house or knackers'-yard within the said limits which was not in such use and occupation at the time of the passing of the Special Act, and has so continued ever since, unless and until a license for the erection thereof, or for the use and occupation thereof as a slaughter-house or knacker's-yard, have been obtained from the commissioners ;

And every person who, without having first obtained such license as aforesaid, uses as a slaughter-house or knacker's-yard any place within the said limits not used as such at the passing of the Special Act, and so continued to be used ever since, shall for each offence be liable to a penalty not exceeding £5, and a like penalty for every day after the conviction for such offence upon which the said offence is continued.

Existing slaughter-houses, &c., to be registered.

127. Every place within the limits of the Special Act which shall be used as a slaughter-house or knacker's-yard shall, within 3 months after the passing of such Act, be registered by the owner or occupier thereof at the office of the commissioners, and on application to the commissioners for that purpose the commissioners shall cause every such slaughter-house or knacker's-yard to be registered in a book to be kept by them for that purpose ;

And every person who after the expiration of the said 3 months, and after one weeks' notice of this provision from the commissioners, uses or suffers to be used any such place as a slaughter-house or knacker's-yard, without its being so registered, shall be liable to a penalty not exceeding £5 for such offence, and a penalty not exceeding 10*s.* for every day after the first day during which such place shall be used as a slaughter-house or knacker's-yard without having been so registered.

Commissioners may make bye-laws for regulation of slaughter-houses, &c.

128. The commissioners shall from time to time, by bye-laws to be made and confirmed *in the manner hereinafter provided*,(b) make regulations for the licensing, registering and inspection of the said slaughter-houses and knackers'-yards and preventing cruelty therein, and for keeping the same in a cleanly and proper state, and for removing filth at least once in every 24 hours, and requiring them to be provided with a sufficient supply of water, and they may impose pecuniary penalties on persons breaking such bye-laws ;

Provided that no such penalty exceed for any one offence the sum of £5, and in the case of a continuing nuisance the sum of 10*s.* for every day during which such nuisance shall be continued after the conviction for the first offence.

Justices may suspend license of slaughter-houses, &c., in addition to penalty imposed.

129. The Justices before whom any person is convicted of killing or dressing any cattle contrary to the provisions of this or the Special Act, or of the non-observance of any of the bye-laws or regulations made by virtue of this or the Special Act, in addition to the penalty imposed on such person under the authority of this or the Special Act, may suspend for any period not exceeding 2 months the license granted to such person under this or the Special Act, or in case such person be the owner or proprietor of any registered slaughter-house or knacker's-yard, may forbid for any period not exceeding 2 months the slaughtering of cattle therein ;

(a) *Wilson* v. *Halifax*. (b) See now the "Public Health Act, 1875," (38 & 39 Vict., 55, § 184.)

And such Justices, upon the conviction of any person for a second or other subsequent like offence, may, in addition to the penalty imposed under the authority of this or the Special Act, declare the license granted under this or the Special Act revoked, or if such person be the owner or proprietor of any registered slaughter-house, may forbid absolutely the slaughtering of cattle therein:

And whenever the license of any such person is revoked as aforesaid, or whenever the slaughtering of cattle in any registered slaughter-house or knacker's-yard is absolutely forbidden as aforesaid, the commissioners may refuse to grant any license whatever to the person whose license has been so revoked, or on account of whose default the slaughtering of cattle in any registered slaughter-house has been forbidden.

Penalty for slaughtering cattle during suspension of license, &c.

130. Every person who during the period for which any such license is suspended, or after the same is revoked as aforesaid, slaughters cattle in the slaughter-house or knacker's-yard to which such license relates, or otherwise uses such slaughter-house or knacker's-yard, or allows the same to be used as a slaughter-house or knacker's-yard, and every person who during the period that the slaughtering of cattle in any such registered slaughter-house or knacker's-yard is forbidden as aforesaid, or after such slaughtering has been absolutely forbidden therein, slaughters any cattle in any such registered slaughter-house, shall be liable to a penalty not exceeding £5 for such offence, and a further penalty of £5 for every day on which any such offence is committed after the conviction for the first offence.

Officers may enter and inspect slaughter-houses, &c.

131.(b) The Inspector of Nuisances, the Officer of Health, or other officer appointed by the commissioners for that purpose, may at all reasonable times, with or without assistants, enter into and inspect any building or place whatsoever within the said limits kept or used for the sale of butchers' meat, or for slaughtering cattle, and examine whether any cattle, or the carcase of any such cattle, is deposited there;

And in case such officer shall find any cattle, or the carcase, or part of the carcase of any beast, which appears unfit for the food of man, he may seize and carry the same before a Justice, and such Justice shall forthwith order the same to be further inspected and examined by competent persons;

And in case upon such inspection and examination such cattle, carcase, or part of a carcase, be found to be unfit for the food of man, such Justice shall order the same to be immediately destroyed or otherwise disposed of in such way as to prevent the same being exposed for sale or used for the food of man;

And such Justice may adjudge the person to whom such cattle, carcase, or part of a carcase, belongs, or in whose custody the same is found, to pay a penalty not exceeding £10 for every such animal, or carcase, or part of a carcase, so found;

And the owner or occupier of any building or place kept or used for the sale of butchers' meat, or for slaughtering cattle, and every other person who obstructs or hinders such inspector or other officer from entering into and inspecting the same, and examining, seizing, or carrying away any such animal, or carcase, or part of a carcase, so appearing to be unfit for the food of man, shall be liable to a penalty not exceeding £5 for each offence.

(*a*) *Antony* v. *Brecon Markets Co.*; *Brighton L.B.H.* v. *Stenning*; *Elias* v. *Nightingale*; *Hanman* v. *Adkins*; *Howarth* v. *Manchester*; *Hughes* v. *Treve*; *Liverpool New Cattle Market Co.* v. *Hodson*; *Reg.* v. *Heyworth*.

(*b*) On this section V. Fitzgerald comments as follows:—"This section is very like §§ 116—118 of the principal Act, ["Public Health Act, 1875"]; it differs in applying only to the case of meat and in providing a smaller penalty. Here the Justice before whom suspected meat is brought is to have the same examined by competent persons, while in the principal Act no provision is made as to the means by which the Justice is to ascertain whether the meat is bad or not. By the principal Act the prosecutor must be the Medical Officer of Health or Inspector of Nuisances, while this section allows the commissioners, *e.g.*, Local Authority, to appoint any officer (who probably would be a police constable) to carry out its provisions."—*Public Health*. (p. 202.)

10 & 11 VICT., c. 61.

An Act to amend the Act for the Establishment of public Baths and Wash-houses.

(2nd July, 1847.)

Revised Statutes, vol. x., p. 207.

WHEREAS an Act was passed in the last Session of Parliament, intituled "An Act to encourage the establishment of public Baths and Wash-houses:" and whereas it is expedient to afford additional facilities for the establishment of public baths and wash-houses and open bathing places: be it enacted, &c. 9 & 10 Vict., 74.

Two Acts to be as one.

1. The recited Act, as amended by this Act, and this Act, shall be construed and be carried into execution as one Act.

Interpretation.

2. The following words and expressions in the recited Act shall have in the said Act and this Act the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

"Parish" shall mean not only every place having separate overseers of the poor and separately maintaining its own poor, but also every place maintaining its own poor and having a vestry: (a)

"Ratepayer" shall mean all persons for the time being assessed to and paying Rates for the relief of the poor of the parish:

"Vestry" shall mean not only a vestry as defined in the said Act, but also any body of persons, by whatever name distinguished, acting by virtue of any Act of Parliament, prescription, custom, or otherwise as or instead of a vestry or select vestry.

Informalities in appointment of Commissioners.

3. . . . . all Acts and proceedings of any person in possession of the office of such Commissioner, and acting in good faith as such Commissioner, whether appointed before or after the passing of this Act, shall, notwithstanding his disqualification or want of qualification for or any defect or irregularity in or in any way concerning his appointment to such office, be as valid and effectual as if he were duly qualified, or there had not been any such defect or irregularity.

Incorporation of 8 Vict., 18.

4. The "Lands Clauses Consolidation Act, 1845," shall be incorporated with the recited Act and this Act: provided always, that the Council and Commissioners respectively shall not purchase or take any lands otherwise than by agreement.

Accommodation for labouring classes.

5. The number of washing tubs or troughs for the labouring classes in any building or buildings under the management of the same Council or commissioners shall not be less than twice the number of the washing tubs or troughs of any higher class, if but one, or of all the higher classes if more than one, in the same building or buildings.

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Charges not to exceed those in Schedule.

7. The Council and the Commissioners respectively may from time to time make such reasonable charges for the use of the baths and wash-houses and open bathing places provided under the recited Act and this Act respectively as they think fit, not exceeding the charges mentioned in the schedule annexed to this Act.

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SCHEDULE TO WHICH THIS ACT REFERS.

Charges for the Baths and Wash-houses and open Bathing Places.

1. BATHS FOR THE LABOURING CLASSES.

Every bath to be supplied with clean water for every person bathing alone, or for several children bathing together, and in either case with one clean towel for every bather.

For one person above 8 years old:

Cold bath, or cold shower bath, any sum not exceeding	One Penny.
Warm bath, or warm shower bath, or vapour bath, any sum not exceeding ...	Twopence.

For several children, not above 8 years old, nor exceeding 4, bathing together:

Cold bath, or cold shower baths, any sum not exceeding	Twopence.
Warm bath, or warm shower bath, or vapour bath, any sum not exceeding ...	Fourpence.

2. BATHS OF ANY HIGHER CLASS.

Such charges as the Council and the Commissioners respectively think fit, not exceeding in any case 3 times the charges above mentioned for the several kinds of baths for the labouring classes.

(a) See also the general definition of "Parish" in the "Poor Law Amendment Act, 1866," 29 & 30 Vict., 113, § 18.

3. Wash-houses for the Labouring Classes.

Every wash-house to be supplied with conveniences for washing and drying clothes and other articles :

For the use by one person of one washing tub or trough, and of a copper or boiler (if any), or, where one of the washing tubs or troughs shall be used as a copper or boiler, for the use of one pair of washing tubs or troughs, and for the use of the conveniences for drying :

For one hour only in any one day, any sum not exceeding... ... ... One Penny.

For 2 hours together, in any one day, any sum not exceeding ... ... Threepence.

Any time over the hour or 2 hours respectively, if not exceeding 5 minutes, not to be reckoned.

For 2 hours not together, or for more than 2 hours, in any one day, such charges as the Council and the Commissioners respectively think fit.

For the use of the washing conveniences alone, or of the drying conveniences alone, such charges as the Council and the Commissioners respectively think fit, but not exceeding in either case the charges for the use for the same time of both the washing and the drying conveniences.

4. Wash-houses of any higher Class.

Such charges as the Council and the commissioners respectively think fit.

5. Open Bathing Places.

Where several persons bathe in the same water, for one person one halfpenny.

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10 & 11 VICT., c. 65.

Revised Statutes, vol. x., p. 216.

An Act for consolidating in One Act certain Provisions usually contained in Acts authorising the making of Cemeteries.[a] *(9th July, 1847.)*

WHEREAS it is expedient to comprise in one Act sundry provisions usually contained in Acts of Parliament authorising the making of cemeteries, and that as well for avoiding the necessity of repeating such provisions in each of the several Acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves : Be it enacted, &c.:

Extent of Act. This Act shall extend only to such cemeteries as shall be authorised by any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith ; and all the clauses of this Act, save so far as they shall be expressly varied or excepted in any such Act, shall apply to the cemetery authorised thereby, so far as they are applicable to such cemetery, and shall, with the clauses of every other Act incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

Interpretation. And with respect to the construction of this Act and any Act incorporated therewith, be it enacted as follows :

"Special Act :" 2. The expression "the Special Act,"[b] used in this Act, shall be construed to mean any Act which shall be hereafter passed authorising the making of a cemetery, and with which this Act shall be incorporated ;

"prescribed :" And the word "prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the Special Act ;

And the sentence in which such word occurs shall be construed as if instead of the word "prescribed," the expression "prescribed for that purpose in the Special Act" had been used ;

"Lands :" And the expression "the lands" shall mean the lands which shall by the Special Act be authorised to be taken or used for the purposes thereof ;

"Company :" And the expression "the company" shall mean the persons by the Special Act authorised to construct the cemetery.

(*a*) Many of the provisions of this Act are now in some degree affected and controlled by the "Burials Act, 1880," (43 & 44 Vict., 41), but it has not been thought necessary for the purposes of this volume to enter into full particulars.

(*b*) See the "Public Health Act, 1875," (38 & 39 Vict., 55, § 316.)

Interpretation.

3. The following words and expressions in both this and the Special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them,(a) unless there be something in the subject or context repugnant to such construction; (that is to say,)

Number:

Words importing the singular number shall include the plural number, and words importing the plural number only shall include also the singular number:

Gender:

Words importing the masculine gender shall include females:

"Person:"

The word "person" shall include a Corporation, whether aggregate or sole:

"Lands:"

The word "lands" shall include messuages, lands, and hereditaments of any tenure:

"The Cemetery:"

The expression "the cemetery" shall mean the cemetery or burial ground, and the works connected therewith, by the Special Act authorised to be constructed:

"Month:"

The word "month" shall mean calendar month:

"Superior Courts:"

The expression "Superior Courts" shall mean Her Majesty's Superior Courts at Westminster . . . . . and shall include the Court of Common Pleas of the County Palatine of Lancaster and the Court of Pleas of the County of Durham:

"Oath:"

The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath:

"Established Church:"

The expression "Established Church" shall meanthe United Church of England and Ireland as by law established:

"County:"

The word "county" shall include any riding or other division of a county having a separate Commission of the Peace, and shall also include the county of a city or county of a town:

"Justice:"

The word "Justice" shall mean Justice of the Peace acting for the place where the matter requiring the cognisance of any such Justice arises, and if such matter arise in respect of lands situated not wholly in one jurisdiction shall mean a Justice acting for the place where any part of such lands shall be situated;

"2 Justices:"

And where any matter is authorised or required to be done by 2 Justices, the expression "2 Justices" shall be understood to mean 2 or more Justices met and acting together:

"Quarter Sessions:"

The expression "Quarter Sessions" shall mean the Quarter Sessions as defined by the Special Act, or if such expression be not therein defined it shall mean the General or Quarter Sessions of the Peace which shall be held at the place nearest the cemetery for the county or place in which the cemetery or some part thereof is situated, or for some division of such county having a separate Commission of the Peace.

Citing the Act.

And with respect to citing this Act or any part thereof, be it enacted as follows:

Short title.

4. In citing this Act in other Acts of Parliament and in legal instruments, it shall be sufficient to use the expression the "Cemeteries Clauses Act, 1847."

[§ 5 is omitted because it has nothing to do with Sanitary Authorities.]

Making of Cemetery.

And with respect to the making of the cemetery, be it enacted as follows:

Construction of cemetery to be subject to the provisions of this and the "Lands Clauses Act, 1845," 8 Vict., 18.

6. Where by the Special Act the company shall be empowered, for the purpose of making the cemetery, to take or use any lands otherwise than with the consent of the owners and occupiers thereof, they shall, in exercising the power so given to them, be subject to the provisions and restrictions contained in this Act and the "Lands Clauses Consolidation Act, 1845,(b) and shall make to the owners and occupiers of and all other parties interested in any lands taken or used for the purposes of the Special Act, or injuriously affected by the construction of the works thereby authorised, full compensation for the value of the lands so taken or used, and for all damage sustained by such owners, occupiers, or other parties, by reason of the exercise, as regards such lands, of the powers vested in the company by this or the Special Act, or any Act incorporated therewith,

And, except where otherwise provided by this or the Special Act, the amount of such compensation shall be determined in the manner provided by the "Lands Clauses Consolidation Act, 1845," for determining questions of compensation with regard to lands purchased or taken under the provisions thereof, and all the provisions of the last-mentioned Act shall be applicable to determine the amount of such compensation, and to enforce payment or other satisfaction thereof.

Errors and omissions to be corrected by Justices.

7. If any omission, mis-statement, or wrong description shall have been made of any lands, or of the owners, lessees, or occupiers of any lands described in the Special Act or the schedule thereto, the company, after giving 10 days notice to the owners of the lands affected by such proposed correction, may apply to 2 Justices for the correction thereof, and if it appear to such Justices that such omission, mis-statement, or wrong description arose from mistake, they shall certify the same accordingly, and shall in such certificate state the particulars of any such omission, mis-statement, or wrong description;

Certificate to be deposited.

And such certificate shall be deposited with the Clerk of the Peace of the county in which the lands affected thereby shall be situated, and thereupon the Special Act or schedule shall be deemed to be corrected according to such certificate, and the company may take the lands according to such certificate as if such omission, mis-statement, or wrong description had not been made.

Copies of plans, &c., to be evidence.

8. Copies of any alteration or correction of the Special Act, or the schedule thereto, or of any extract therefrom, certified by any such Clerk of the Peace in whose custody such alteration or correction may be, which certificate such Clerk of the Peace shall give to all parties interested, when required, shall be received in all Courts of Justice or elsewhere as evidence of the contents thereof.

Company not to dispose of land consecrated or used.

9. The company shall not sell or dispose of any land which shall have been consecrated or used for the burial of the dead, or make use of such land for any purpose except such as shall be authorised by this or the Special Act, or any Act incorporated therewith.

(a) These definitions must be considered to be controlled by those given in the "Public Health Act, 1875," (38 & 39 Vict., 55, § 4.)

(b) And subject also to those of the "Public Health Act, 1875," (38 & 39 Vict., 55, § 176.)

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Limit of distance for cemetery.

10. No part of the cemetery shall be constructed nearer to any dwelling house than the prescribed distance, or, if no distance be prescribed, 200 yards,(a) except with the consent in writing of the owner, lessee, and occupier of such house.

Company may build chapels.

11. The company upon any land which by the Special Act they are authorised to use for the purposes of the cemetery may build such chapels for the performance of the Burial Service as they think fit, and may lay out and embellish the grounds of the cemetery as they think fit.

Company may make roads.

12. The company upon any land purchased by them under this or the Special Act, or any Act incorporated therewith, may make any new roads to the cemetery, or widen or improve any existing roads thereto which they think fit.

No road to be widened without consent.

13. Provided always, that the company shall not widen or improve any existing road without the consent of the owner thereof if the road be private, or, if the road be public, without the consent of the persons in whom the management of the road is vested by law.

Owners may agree for improving roads.

14. The company and the owners or persons having the management of any such road as aforesaid may enter into such agreements as they think fit, for enabling the company to widen or improve any such road, and for maintaining the same.

Cemetery to be fenced.

15. Every part of the cemetery shall be inclosed by walls or other sufficient fences of the prescribed materials and dimensions, and if no materials or dimensions be prescribed by substantial walls or iron railings of the height of 8 feet at least.

Cemetery to be kept in repair.

16. The company shall keep the cemetery and the buildings and fences thereof in complete repair, and in good order and condition, out of the monies to be received by them by virtue of this and the Special Act.(b)

Company to make compensation for damages.

17. Provided always, that in the exercise of the powers by this and the Special Act granted to the company they shall do as little damage as can be, and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers.

Prevention of Nuisances.

And with respect to preventing nuisance from the cemetery, be it enacted as follows:

Power to make drains for cemetery.

18. The company shall make all necessary and proper sewers and drains in and about the cemetery, for draining and keeping the same dry, and they may from time to time, as occasion requires, cause any such sewer or drain to open into any existing sewer, with the consent in writing of the persons having the management of such sewer, and with the consent(c) in writing of the persons having the management of the street or road, and of the owners and occupiers of the lands through which such opening is made, doing as little damage as possible to the road or ground wherein such sewer or drain may be made, and restoring it to the same or as good condition as it was in before being disturbed.

10 Vict., 17, 28—34, incorporated.

19. When any street or road or sewer shall be opened, with such consent as aforesaid, the clauses of the "Waterworks Clauses Act, 1847," with respect to breaking up streets for the purpose of laying pipes, so far as the same are consistent with this Act and applicable thereto, shall be incorporated with this Act, and shall apply to the company, and to any ground broken by them for making any such sewer or drain as aforesaid to open into any existing sewer.

Penalty for allowing water to be fouled.

20.(d) If the company at any time cause or suffer to be brought or to flow into any stream, canal, reservoir, aqueduct, pond, or watering place, any offensive matter from the cemetery, whereby the water therein shall be fouled, they shall forfeit for every such offence the sum of £50.

Penalty to be sued for within 6 months.

21. The said penalty, with full costs of suit, may be recovered by any person having right to use the water fouled by such offensive matter, in any of the Superior Courts, by Action of debt or on the case:

Provided always, that the said penalty shall not be recoverable unless the same be sued for during the continuance of the offence, or within 6 months after it has ceased.

Daily penalty during continuance of offence.

22. In addition to the said penalty of £50 (and whether such penalty is recovered or not), any person having right to use the water fouled by such offensive matter may sue the company in an Action on the case in any Court of competent jurisdiction for any damage specially sustained by him by reason of the water being so fouled;

Or if no special damage be alleged, for the sum of £10 for each day during which such offensive matter is brought or flows as aforesaid after the expiration of 24 hours from the time when notice of the offence is served on the company by such person.

Burials.

And with respect to burials in the cemetery, be it enacted as follows:

A part of cemetery to be consecrated.

23. The Bishop of the Diocese in which the cemetery is situated may, on the application of the company, consecrate any portion of the cemetery set apart for the burial of the dead according to the rites of the Established Church, if he be satisfied with the title of the company to such portion, and thinks fit to consecrate such portion;

And the part which is so consecrated shall be used only for burials according to the rites of the Established Church.

(a) This was the distance originally prescribed by the "Burial Act, 1852," (15 & 16 Vict., 85, § 25); but it was reduced to 100 yards by the "Burials Acts, 1854, 1855," (17 & 18 Vict., 87, § 12 : 18 & 19 Vict., 128, § 9). Notwithstanding the case of *Greenwood* v. *Wadsworth*, this alteration cannot, however, in any way be brought to bear on the "Cemeteries Clauses Act." Moreover, the prohibition here is much wider; it extends to the very *construction* of a cemetery, whereas under the "Burials Acts" the prohibition is only as to *user*; the cemetery land may under those Acts come actually up to a dwelling-house provided such land be not used for interments.

(b) *I.e.*, out of Burial Fees levied under this Act, aided by the Rates leviable under the "Public Health Act, 1875," (38 & 39 Vict., 55, §§ 207 and 229.)

(c) This must be read with § 16 of the "Public Health Act, 1875."

(d) See also §§ 68—70 of the "Public Health Act, 1875."

Consecrated ground to be defined.

24. The company shall define by suitable marks the consecrated and unconsecrated portions of the cemetery.

Chapel to be constructed.

25. The company shall build, within the consecrated part of the cemetery, and according to a plan approved of by the Bishop of the Diocese, a chapel for the performance of the Burial Service according to the rites of the Established Church.

Bodies not to be removed without authority.

26. No body buried in the consecrated part of the cemetery shall be removed from its place of burial without the like authority as is by law required for the removal of any body buried in the churchyard belonging to a parish church.

Chaplain to be appointed.

27. The company shall from time to time, with the approval of the Bishop of the Diocese in which the cemetery is situated, appoint[a] a clerk in Holy Orders of the Established Church to officiate as Chaplain in the consecrated part of the cemetery;

And such Chaplain shall be licensed by and be subject to the jurisdiction of the said Bishop, and the said Bishop shall have power to revoke any such licence, and to remove such Chaplain, for any cause which appears to him reasonable.

Chaplain to perform service.

28. The Chaplain shall, when required, unless prevented by sickness or other reasonable cause, perform the Burial Service over all bodies brought to be buried in the consecrated part of the cemetery which are entitled to be buried in consecrated ground according to the rites and usage of the Established Church.

Other clergymen may officiate.

29. Any clerk in Holy Orders of the Established Church, not being prohibited by the Bishop, nor under ecclesiastical censure, at the request of the executor of the will of any deceased person or any other person having the charge of the burial of the body of any deceased person, and with the consent of the Chaplain for the time being of the cemetery, or if there be no Chaplain with the consent of the Bishop, may perform the said Burial Service over such body in the consecrated part of the cemetery.

Company to pay the Chaplain a stipend approved by the Bishop.

30. The company, out of the monies[b] to be received by virtue of this and the Special Act, shall allow to the Chaplain of the cemetery for the time being such a stipend as is approved of by the Bishop of the Diocese in which the cemetery is situated, which shall be payable, by equal moieties, on the 25th day of March and the 29th day of September in each year.

And if any Chaplain die, resign, or be removed or appointed, in the interval between the half-yearly days of payment, the company shall pay to him, or his executors or administrators, a part only of the half-yearly payment of the stipend proportioned to the time during which he shall have been the Chaplain since the last preceding day of payment.

Stipend to be recovered by Action.

31. If the stipend of the said Chaplain, or any part thereof, be not paid to the Chaplain entitled to receive the same, or to the executors or administrators of a deceased Chaplain, for the space of 30 days next after any of the days of payment whereon the same ought to be paid, such Chaplain, or his executors or administrators, may recover the same, with full costs of suit, against the company, by Action of debt or upon the case in any Court of competent jurisdiction.

Burials in the consecrated portion to be registered.

32. All burials in the consecrated part of the cemetery shall be registered in register books to be provided by the company, and kept for that purpose by the Chaplain, according to the laws in force[c] by which registers are required to be kept by the rectors, vicars, or curates of parishes or ecclesiastical districts in England;

And such register books, or copies or extracts therefrom, shall be received in all Courts in evidence of such burials;

And copies or transcripts thereof shall be from time to time sent to the Registrar of the Ecclesiastical Court of the Bishop of the Diocese in which the cemetery is situated, to be kept with the copies of the other register books of the parishes within his diocese.

Registers subject to regulations of 6 & 7 Will. IV., 86, 32—8, as to searches, &c.

33. The said register books, so far as respects searches to be made therein, and copies and extracts to be taken therefrom, shall be subject to the same regulations as are provided by an Act passed in the 7th Year of the Reign of His late Majesty, intituled "An Act for registering Births, Deaths, and Marriages in England," so far as such regulations relate to register books of burials kept by any rector, vicar, or curate.

Clerk for consecrated part.

34. The company may, with the consent of the Chaplain for the time being, from time to time appoint a clerk to assist in performing the service for burials in the consecrated part of the cemetery, and allow to such clerk such stipend as they think proper out of the monies to be received by virtue of this and the Special Act, and they may remove such clerk at their pleasure.

As to burial of persons not members of the Church.

35. The company may set apart the whole or a portion of that part of the cemetery which is not set apart for burials according to the rites of the Established Church as a place of burial for the bodies of persons not being members of the Established Church, and may allow such bodies to be buried therein, under such regulations as the company appoint.

Any Burial Service to be performed in Dissenting Chapel.

36. The company may allow, in any chapel built within the unconsecrated part of the cemetery, a burial service to be performed according to the rites of any church or congregation other than the Established Church, by any minister of such other church or congregation duly authorised by law to officiate in such church or congregation, or recognised as such by the religious community or society to which he belongs.

Gravediggers, &c.

37. The company may appoint gravediggers and other servants necessary for the care and use of the cemetery, and may pay them such wages and allowances as they think fit out of the monies to be received by virtue of this and the Special Act, and may remove them or any of them at their pleasure.

(*a*) As to the incidents of this appointment see Part I., Chap. III., (*ante.*) Perhaps the appointment had better be under seal to avoid difficulties in the recovery of the stipend.

(*b*) See note to § 16 (*ante.*)

(*c*) These must be looked for in Books on the Registration of Births and Deaths. *E.g. The Law Concerning Registration*, by A. J. Flaxman, 1875.

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Regulations for ensuring decency.

38. The company shall make regulations for ensuring that all burials within the cemetery are conducted in a decent and solemn manner.

No burials close to chapels.

39. No body shall be buried in any vault under any chapel of the cemetery, or within 15 feet of the outer wall of any such chapel.

Exclusive rights of burial.

And with respect to exclusive rights of burial, and monumental inscriptions, in the cemetery, be it enacted as follows :

Exclusive burial. Monumental inscriptions.

40. The company may set apart such parts of the cemetery as they think fit for the purpose of granting exclusive rights of burial therein, and they may sell, either in perpetuity or for a limited time, and subject to such conditions as they think fit, the exclusive right of burial in any parts of the cemetery so set apart, or the right of one or more burials therein ;

And they may sell the right of placing any monument or gravestone in the cemetery, or any tablet or monumental inscription on the walls of any chapel or other building within the cemetery.(a)

Plan and Book of Reference to be kept, open to inspection.

41. The company shall cause a plan of the cemetery to be made upon a scale sufficiently large to show the situation of every burial place in all the parts of the cemetery so set apart, and in which an exclusive right of burial has been granted ;

And all such burial places shall be numbered, and such numbers shall be entered in a book to be kept for that purpose, and such book shall contain the names and descriptions of the several persons to whom the exclusive right of burial in any such place of burial has been granted by the company.

And no place of burial, with exclusive right of burial therein, shall be made in the cemetery without the same being marked out in such plan, and a corresponding entry made in the said book, and the said plan and book shall be kept by the clerk of the company.

Grant of burial in vault, &c., to be according to Schedule.

42. The grant of the exclusive right of burial in any part of the cemetery, either in perpetuity or for a limited time, and of the right of one or more burials therein, or of placing therein any monument, tablet, or gravestone, may be made in the form in the schedule to this Act annexed, (b) or to the like effect, and where the company are not incorporated it may be executed by the company or any 2 or more of them.

Register of grants to be kept.

43. A register of all such grants shall be kept by the clerk to the company, and within 14 days after the date of any such grant an entry or memorial of the date thereof and of the parties thereto, and also of the consideration for such grant, and also a proper description of the ground described in such grant, so as the situation thereof may be ascertained, shall be made by the said clerk in such register ;

And such clerk shall be entitled to demand such sum as the company think fit, not exceeding the prescribed sum, or if no sum be prescribed 2*s*. 6*d*. for every such entry or memorial ;

And the said register may be perused at all reasonable times by any grantee or assignee of any right conveyed in any such grant, upon payment of the prescribed sum, or if no sum be prescribed the sum of 1*s*., to the clerk of the company.

Rights of burial, &c., may be assigned or be bequeathed.

44. The exclusive right of burial in any such place of burial shall, whether granted in perpetuity or for a limited time, be considered as the personal estate of the grantee, and may be assigned in his lifetime or bequeathed by his will.

Form of assignment.

45. Every such assignment made in the lifetime of the assignor shall be by deed duly stamped, in which the consideration shall be duly set forth, and may be in the form in the schedule to this Act annexed, or to the like effect.

Assignments to be registered.

46. Every such assignment shall, within 6 months after the execution thereof, if executed in Great Britain or Ireland, or within 6 months after the arrival thereof in Great Britain or Ireland, if executed elsewhere, be produced to the clerk of the company, and an entry or memorial of such assignment shall be made in the register by the clerk of the company, in the same manner as that of the original grant ;

And until such entry or memorial no right of burial shall be acquired under any such memorial ;

And for every such entry or memorial the clerk shall be entitled to demand such sum as the company think fit, not exceeding the prescribed sum, or if no sum be prescribed 2*s*. 6*d*.

Probates of wills to be registered.

47. An entry or memorial of the probate of every will by which the exclusive right of burial within the cemetery is bequeathed, and in case there be any specific disposition of such exclusive right of burial in the said will an entry of such disposition, shall, within 6 months after the probate of such will, be made in the said register, in the same manner as that of the original grant, and until such entry no right of exclusive burial shall be acquired under such will ; and for every such entry or memorial the clerk of the company shall be entitled to demand such sum as the company think fit, not exceeding the prescribed sum, or if no sum be prescribed 2*s*. 6*d*.

Vaults to be kept exclusive.

48(c) No body shall be buried in any place wherein the exclusive right of burial shall have been granted by the company, except with the consent of the owner for the time being of such exclusive right of burial.

Limitation on effect of grant.

49. No such grant as aforesaid shall give the right to bury within the consecrated part of the cemetery the body of any person not entitled to be buried in consecrated ground according to the rites and usage of the Established Church, or to place any monument, gravestone, tablet, or monumental inscription respecting any such body within the consecrated part of the cemetery.

Monuments improperly erected.

50. The company may take down and remove any gravestone, monument, tablet, or monumental inscription which shall have been placed within the cemetery without their authority.

(a) *Ashby* v. *Harris*, 37 L.J., M.C., 164 : L.R., 3 C.P., 523 : 18 L.T., 719. *Spooner* v. *Brewster*, 3 Bing., 136.

(b) In the present case where the grantor will be a Sanitary Authority the grant *must* be by deed under seal, (see 38 & 39 Vict., 55, § 11.)

(c) *Matthews* v. *Jeffery*, 50 L.J., Ex., 164 : L.R., 6 Ex.D., 290 : 43 L.T., 796.

51. The Bishop of the Diocese in which the cemetery is situated, and all persons acting under his authority, shall have the same right and power to object to the placing, and to and [*sic*] procure the removal of any monumental inscription within the consecrated part of the cemetery as he by law has to object to or procure the removal of any monumental inscription in any church or chapel of the Established Church, or the burial ground belonging to such church or chapel, or any other consecrated ground.

Bishop may object to inscriptions in consecrated part.

And with respect to payments to incumbents of parishes or ecclesiastical districts, and to parish clerks, be it enacted as follows :

Payments to Incumbents of parishes.

52. The company shall, on the burial of every body within the consecrated part of the cemetery, pay to the incumbent for the time being of the parish or ecclesiastical district from which such body shall have been removed for burial such sums, if any, as shall be prescribed for that purpose in the Special Act.

Payments to Incumbents of parishes from which bodies are brought.

53. For ascertaining the amount of the payments, if any, to be made to the incumbents of the several parishes or districts aforesaid, the company shall cause books to be kept, and entries to be made therein of the names of all persons whose bodies are buried within the consecrated part of the cemetery, and the names of the parishes or districts from which such bodies respectively have been removed, and the manner of their burial within the cemetery (distinguishing whether in a place of exclusive burial or otherwise), with the date of such burial ;

Company to keep account of interments.

And such books shall be at all reasonable times open to the inspection of the incumbents for the time being of the said several parishes or districts, or any person employed by them, without fee or reward.

54. The company shall on the 25th day of March and 29th day of September in each year, or within one month after each of the said days, deliver to the person who is the incumbent of any parish or ecclesiastical district on that day, or to his executors or administrators, on demand made within the said month, an account of the sums, if any, payable in respect of bodies removed for burial within the consecrated part of the cemetery as aforesaid from such parish or ecclesiastical district during the half-year next preceding the said 25th day of March or 29th day of September, as the case may be.

Account of payments due to Incumbents to be rendered half-yearly.

55. The sums payable by virtue of the Special Act shall be paid half-yearly on the 25th day of March and the 29th day of September, or within one month afterwards, to the persons who are the incumbents of the parishes or ecclesiastical districts in respect of which the same are payable on such 25th day of March and 29th day of September respectively, or the executors or administrators of such incumbents ; (that is to say,)

Fees to be paid to Incumbents half-yearly.

Such sums as accrue between the 29th day of September and the 25th day of March following shall be paid to the person who is the incumbent on the 25th day of March, and such sums as accrue between the 25th day of March and the 29th day of September following shall be paid to the person who is the incumbent on the 29th day of September.

And if any such sums be not paid to the party entitled to receive the same within the period hereinbefore limited for the payment thereof, such party may recover the same, with full costs, by Action of debt or on the case, in any Court having competent jurisdiction.

56. If any incumbent of any parish or district in respect of which sums are payable by the company by virtue of the Special Act ceases to be incumbent, by cession, death, or otherwise, between the said two half-yearly days of payment, such incumbent shall be entitled to receive so much of the sum payable at the half-yearly day which happens next after he ceases to be incumbent as has accrued from the last preceding half-yearly day, or from the time when such incumbent became first entitled to receive the fruits of his living, as the case may require, up to the day at which he ceased to be incumbent,

Payment to be made to the Incumbent for the time being, who is to account to predecessor.

And the incumbent of any parish or district who receives from the company any sum to a part of which any preceding incumbent is entitled under the provisions herein contained shall pay such part to him, his executors or administrators, accordingly ;

And the company shall not be answerable to any person, other than the actual incumbent for the time being, for the payment of any sums by virtue of this or the Special Act.

57. The company shall, on the burial of every body within the consecrated part of the cemetery, except where the body is buried at the expense of any parish or ecclesiastical district, or union of parishes for the relief of the poor, pay to the parish clerk of the parish or ecclesiastical district from which such body has been removed for burial, if he held the office of parish clerk of such parish or ecclesiastical district at the time of the passing of the Special Act, but not otherwise, such sum, if any, as shall be prescribed for that purpose in the Special Act.

Company to pay Parish Clerks compensation.

And with respect to the protection of the cemetery, be it enacted as follows :

Protection of cemetery.

58. Every person who shall wilfully destroy or injure any building, wall, or fence belonging to the cemetery, or destroy or injure any tree or plant therein, or who shall daub or disfigure any wall thereof, or put up any bill therein or on any wall thereof, or wilfully destroy, injure, or deface any monument, tablet, inscription, or gravestone within the cemetery, or do any other wilful damage therein, shall forfeit to the company for every such offence a sum not exceeding £5.

Penalty for damaging cemetery.

59.(*a*) Every person who shall play at any game or sport, or discharge fire-arms, save at a military funeral, in the cemetery, or who shall wilfully and unlawfully disturb any persons assembled in the cemetery for the purpose of burying any body therein, or who shall commit any nuisance within the cemetery, shall forfeit to the company for every such offence a sum not exceeding £5.

Penalty on persons committing nuisances in cemetery.

(*a*) See also the "Burials Act, 1880," (43 & 44 Vict., 41, § 7.)

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Annual account to be made up, and a copy transmitted to the Clerk of the Peace, &c., and be open to inspection.

60.(a) And with respect to the accounts to be kept by the company, be it enacted, that the company shall every year cause an account to be prepared, showing the total receipt and expenditure of all monies levied by virtue of this or the Special Act for the year ending on the 31st day of December or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, certified by the chairman of the company, and duly audited, and shall send a copy of the said account, free of charge, to the Clerk of the Peace for the county in which the cemetery is situated, on or before the expiration of one month from the day on which such accounts end, which last-mentioned account shall be open to the inspection of the public at all reasonable hours, on payment of the sum of 1*s.* for every such inspection;

And if the company omit to prepare or send such account as aforesaid, they shall forfeit for every such omission the sum of £20.

Tender of amends.

61. And with respect to the tender of amends, be it enacted, that if any person shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the Special Act, or any Act incorporated therewith, or by virtue of any power or authority thereby given, and if, before Action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such Action;

And if no such tender have been made, the defendant, by leave of the Court where such Action is pending, may at any time before issue joined pay into Court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

Recovery of damages and penalties.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to Justices, be it enacted as follows:

8 Vict., 20, 140—9, 151—60, incorporated as to damages, &c.

62.(b) The clauses of the "Railways Clauses Consolidation Act, 1845," with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to Justices, shall be incorporated with this and the Special Act; and such clauses shall apply to the cemetery and to the company respectively.

[§ 63 is repealed by the "Statute Law Revision Act, 1875," Sched.]

Powers of Justices.

64. All things herein or in the Special Act, or any Act incorporated therewith, authorised or required to be done by 2 Justices may and shall be done by any one Magistrates having by Law Authority to act alone for any purpose with the powers of 2 or more Justices.

Persons giving false evidence punishable.

65. Every person who, upon any examination upon oath under the provisions of this or the Special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

Access to Special Act.

And with respect to affording access to the Special Act, be it enacted as follows:

Copies of Special Act to be kept at office of Company, and deposited with the Clerk of the Peace, and be open to inspection.

7 Will. IV. & 1 Vict., 83.

66. The company shall, at all times after the expiration of 6 months after the passing of the Special Act, keep in their principal office of business a copy of the Special Act, printed by the printers to Her Majesty, or some of them, and shall also, within the space of such 6 months, deposit in the office of the Clerk of the Peace of the county in which the cemetery is situated a copy of such Special Act so printed as aforesaid;

And the said Clerk of the Peace shall receive and he and the company respectively shall keep the said copies of the Special Act, and shall allow all persons interested therein to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an Act passed in the 1st Year of the Reign of Her Majesty, intituled "An Act to compel Clerks of the Peace for counties and other persons to take the custody of such documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

Penalty on failing to deposit copies.

67. If the company fail to keep or deposit any of the said copies of the Special Act as hereinbefore mentioned they shall forfeit £20 for every such offence, and also £5 for every day afterwards during which such copy shall be not so kept or deposited.

Company not exempt from future General Act.

68. And be it enacted, that nothing herein contained shall be deemed to exempt the company from any General Act relating to burials in towns or populous places which may be passed in the same Session of Parliament in which the Special Act is passed, or any future Session of Parliament.

* * * * * * *

(a) This section must be deemed to be controlled by the general Law relating to the audit of the accounts of Sanitary Authorities (See Part I., Chap. V., "Audit of Accounts," *ante*.)

(b) This section must be deemed to be superseded by the analogous Sections of the "Public Health Act, 1875," (38 & 39 Vict., 55, §§ 251—65.)

SCHEDULES TO WHICH THE FOREGOING ACT REFERS.

Form of Grant of Right of Burial.

By virtue of [*here name the Special Act*] we [*here state the name or description of the company*], in consideration of the sum of to us paid by of do hereby grant unto the said the exclusive right of burial [*or* the right of burying bodies, *as the case may be*] [*or* the right of placing a monument, tablet, or gravestone] in [*here describe the ground intended for the exclusive burial, or for placing a monument, tablet, or gravestone, as the case may be, so as to identify the same, and if a place of exclusive burial, add*, "numbered on the plan of the cemetery made in pursuance of the said Act"], to hold the same to the said in perpetuity [*or the period agreed upon*] for the purpose of burial [*or as the case may be*].

Given under our common seal [*or* under our hands and seals, *as the case may be*], this day of in the year of our Lord .

Form of Assignment of Right of Burial.

I, *A. B.*, of in consideration of the sum of paid to me by *C. D.*, of do hereby assign unto the said *C. D.* the exclusive right of burial in [*here describe the place*], and numbered on the plan of the cemetery made in pursuance of the said Act, which was granted to me [*or* unto *A. B.*, of] in perpetuity [*or as the case may be*] by [*here state the name of the company*] by a deed of grant bearing date the day of and all my estate, title, and interest therein, to hold the same unto the said *C. D.* in perpetuity [*or, as the case may be*, for the remainder of the period for which the same was granted by the said company], subject to the conditions on which I held the same immediately before the execution hereof.

Witness my hand and seal this day of .

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10 & 11 VICT., c. 69.

An Act for the more effectual Taxation of Costs on Private Bills in the House of Commons.

(22nd July, 1847.)

Revised Statutes, vol. x., p. 229.

WHEREAS an Act was passed in the 6th year of the Reign of His late Majesty King George IV., intituled "An Act to establish a taxation of costs on Private Bills in the House of Commons, and to prohibit the sale of certain offices under the Serjeant at Arms attending the House of Commons:" And whereas it is expedient to repeal the same, and to make more effectual provision for taxing the costs and expenses to be charged by Parliamentary agents, attorneys, solicitors, and others in future Sessions of Parliament in respect of Bills subject to the payment of fees in Parliament, commonly called Private Bills, and to be incurred in complying with the Standing Orders of the House of Commons relative to such Bills, and in preparing, bringing in, and carrying the same through, or in opposing the same in, the House of Commons: Be it enacted, &c.(a) 6 Geo. IV., 123.

Parliamentary agent, attorney, or solicitor not to sue for costs until one month after delivery of his bill.

2. No Parliamentary agent, attorney, or solicitor, nor any executor, administrator, or assignee of any Parliamentary agent, attorney, or solicitor, shall commence or maintain any Action or suit for the recovery of any costs, charges, or expenses in respect of any proceedings in the House of Commons in any future Session of Parliament relating to any petition for a private Bill, or private Bill, or in respect of complying with the Standing Orders of the said House relative thereto, or in preparing, bringing in, and carrying the same through, or opposing the same in, the House of Commons, until the expiration of one month after such Parliamentary agent, attorney, or solicitor, or executor, administrator, or assignee of such Parliamentary agent, attorney, or solicitor, has

(a) Words omitted after this sentence repealed by the "Statute Law Revision Act, 1875," (Sched.)

delivered unto the party to be charged therewith, or sent by post to or left for him at his counting-house, office of business, dwelling-house, or last known place of abode, a bill of such costs, charges, and expenses, and which bill shall either be subscribed with the proper hand of such Parliamentary agent, attorney, or solicitor, or in the case of a partnership by any of the partners, either with his own name or with the name of such partnership, or of the executor, administrator, or assignee of such Parliamentary agent, attorney, or solicitor, or be enclosed in or accompanied by a letter subscribed in like manner referring to such bill:

Evidence of delivery of bill.

Provided always, that it shall not in any case be necessary, in the first instance, for such Parliamentary agent, attorney, or solicitor, or the executor, administrator, or assignee of such Parliamentary agent, attorney, or solicitor, in proving a compliance with this Act to prove the contents of the bill delivered, sent, or left by him, but it shall be sufficient to prove that a bill of costs, charges, and expenses subscribed in manner aforesaid, or inclosed in or accompanied by such letter as aforesaid, was delivered, sent, or left in manner aforesaid; but nevertheless it shall be competent for the other party to show that the bill so delivered, sent, or left was not such a bill as constituted a *bonâ fide*, compliance with this Act:

Power to Judge to authorise Action before expiration of one month.

Provided also, that it shall be lawful for any Judge of the Superior Courts of Law or Equity in England . . . . . to authorise a Parliamentary agent, attorney, or solicitor to commence an Action or suit for the recovery of his costs, charges, and expenses against the party chargeable therewith, although one month has not expired from the delivery of a bill as aforesaid, on proof to the satisfaction of the said Judge that there is probable cause for believing that such party is about to quit that part of the United kingdom in which such Judge hath jurisdiction.

Taxing Officer to be appointed.

3. The Speaker of the House of Commons shall appoint a fit person to be the taxing officer of the House of Commons, and every person so appointed shall hold his office during the pleasure of the Speaker, and shall execute the duties of his office conformably to such directions as he may from time to time receive from the Speaker.

Speaker to prepare list of charges.

4. The Speaker may from time to time prepare a list of such charges as it shall appear to him that, after the present Session of Parliament, Parliamentary agents, attorneys, solicitors, and others may justly make with reference to the several matters comprised in such list;

And the several charges therein specified shall be the utmost charges thenceforth to be allowed upon the taxation of any such bill of costs, charges and expenses in respect of the several matters therein specified:

Provided always, that the said taxing officer may allow all fair and reasonable costs, charges, and expenses in respect of any matters not included in such list.

Taxing Officer empowered to examine on oath.

5. For the purpose of any such taxation the said taxing officer may examine upon oath any party to such taxation, and any witnesses who may be examined in relation thereto, and may receive affidavits, sworn before him or before any Master or Master Extraordinary of the High Court of Chancery, relative to such costs, charges, or expenses; and any person who on such examination on oath, or in any such affidavit, shall wilfully or corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

Taxing Officer empowered to call for books.

6. The said taxing officer shall be empowered to call for the production of any books or writings in the hands of any party to such taxation relating to the matters of such taxation:

Provided always, that nothing herein contained shall be construed to authorise such taxing officer to determine the amount of fees which may have been payable to the House of Commons in respect of the proceedings upon any private Bill.

Taxing Officer to take fees allowed by House of Commons.

Application of fees.

7. It shall be lawful for the said taxing officer to demand and receive for any such taxation such fees as the House of Commons may from time to time by any Standing Order authorise and direct, and to charge the said fees, and also to award costs of such taxation against either party to such taxation, or in such proportion against each party as he may think fit, and he shall pay and apply the fees so received by him in such manner as shall be directed by any such Standing Order as aforesaid.

On application of party chargeable, or on application of Parliamentary agent, attorney, or solicitor, the Taxing Officer to tax the bill.

8. If any person upon whom any demand shall be made by any Parliamentary agent, attorney, or solicitor, or executor, administrator, or assignee of such Parliamentary agent, attorney, or solicitor, or other person, for any costs, charges, or expenses in respect of any proceedings in the House of Commons in any future Session of Parliament relating to any petition for a private Bill, or private Bill, or in respect of complying with the Standing Orders of the said House relative thereto, or in preparing, bringing in, or carrying the same through, or in opposing the same in the House of Commons, or if any Parliamentary agent, attorney, or solicitor, or the executor, administrator, or assignee of such Parliamentary agent, attorney, or solicitor, or other person, who shall be aggrieved by the non-payment of any costs, charges, and expenses incurred or charged by him in respect of any such proceedings as aforesaid, shall make application to the said taxing officer at his office for the taxation of such costs, charges, and expenses, the said taxing officer, on receiving a true copy of the bill of such costs, charges, and expenses which shall have been duly delivered as aforesaid to the party charged therewith, shall in due course proceed to tax and settle the same;

And upon every such taxation, if either the Parliamentary agent, attorney, or solicitor, or the executor, administrator, or assignee of such Parliamentary agent, attorney, or solicitor, or other person, by whom such demand shall be made as aforesaid, or the party charged with such bill of costs, charges and expenses, having due notice, shall refuse or neglect to attend such taxation, the said taxing officer may proceed to tax and settle such bill and demand *ex parte*;

And if pending such taxation any Action or other proceeding shall be commenced for the recovery of such bill of costs, charges, and expenses, the Court or Judge before whom the same shall be brought shall stay all proceedings thereon until the amount of such bill shall have been duly certified by the Speaker as hereinafter provided:

No application to be entertained by Taxing Officer after verdict.

Provided always, that no such application shall be entertained by the said taxing officer if made by the party charged with such bill after a verdict shall have been obtained or a writ of inquiry

executed in any Action for the recovery of the demand of any such Parliamentary agent, attorney, or solicitor, or the executor, administrator, or assignee of such Parliamentary agent, attorney, or solicitor, or other person, or after the expiration of 6 months after such bill shall have been delivered, sent, or left as aforesaid:

Provided also, that if any such application shall be made after the expiration of 6 months as aforesaid, it shall be lawful for the Speaker, if he shall so think fit, on receiving a report of special circumstances from the said taxing officer, to direct such bill to be taxed.

Taxing Officer to report to Speaker.

9. The said taxing officer shall, if required by either party, report his taxation to the Speaker, and in such report shall state the amount fairly chargeable in respect of such costs, charges, and expenses, together with the amount of costs and fees payable in respect of such taxation as aforesaid;

Either party may deposit a memorial.

And within 21 clear days after any such report shall have been made either party may deposit in the office of the said taxing officer a memorial, addressed to the Speaker, complaining of such report, or any part thereof, and the Speaker may, if he shall so think fit, refer the same, together with such report, to the said taxing officer, and may require a further report in relation thereto, and on receiving such further report may direct the said taxing officer, if necessary, to amend his report;

If no memorial deposited Speaker may issue certificate of amount due.

And if no such memorial be deposited as aforesaid, or so soon as the matters complained of in any such memorial shall have been finally disposed of, the Speaker shall, upon application made to him, deliver to the party concerned therein, and requiring the same, a certificate of the amount so ascertained, which certificate shall be binding and conclusive on the parties as to the matters comprised in such taxation, and as to the amount of such costs, charges and expenses, and of the costs and fees payable in respect of such taxation, in all proceedings at Law or in Equity or otherwise;

Certificate to have the effect of a warrant to confess judgment.

And in any Action or other proceeding brought for the recovery of the amount so certified such certificate shall have the effect of a warrant of attorney to confess judgment;

And the Court in which such Action shall be commenced, or any Judge thereof, shall, on production of such certificate, order judgment to be entered up for the sum specified in such certificate in like manner as if the defendant in any such Action had signed a warrant to confess judgment in such Action to that amount;

Provided always, that if such defendant shall have pleaded that he is not liable to the payment of such costs, charges, and expenses, such certificate shall be conclusive only as to the amount thereof which shall be payable by such defendant in case the plaintiff shall in such Action recover the same.

Construction of certain words in Act.

10. In the construction of this Act the word "month" shall be taken to mean a calendar month;

And every word importing the singular number only shall extend and be applied to several persons, matters, or things as well as one person, matter, or thing;

And every word importing the plural number shall extend and be applied to one person, matter, or thing as well as several persons, matters, or things;

And every word importing the masculine gender only shall extend and be applied to a female as well as a male;

And the word "person" shall extend to any body politic, corporate, or collegiate, municipal, civil, or ecclesiastical, aggregate or sole, as well as an individual;

And the word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other person allowed by law to make a declaration instead of taking an oath;

Unless in any of the cases aforesaid it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Form of citing Act.

11. In citing this Act in other Acts of Parliament, and in legal and other instruments, it shall be sufficient to use the expression The "House of Commons Costs Taxation Act, 1847."

* * * * * * *

10 & 11 VICT., c. 89.

Revised Statutes, vol. x., p. 249.

An Act for consolidating in one Act certain Provisions usually contained in Acts for regulating the Police of Towns.[a] *(22nd July, 1847.)*

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Interpretations in this Special Act.

THE following words[b] and expressions in both this and the Special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say,)

"Lands:" The word "lands" shall include messuages, lands, tenements, and hereditaments of any tenure:

"Street:" The word "street" shall extend to and include any road, square, court, alley, and thoroughfare or public passage within the limits of the Special Act:

"County:" The word "county" shall include riding or other division of a county having a separate Commission of the Peace, and shall also include county of a city or county of a town:

"Cattle:" The word "cattle" shall include horses, asses, mules, sheep, goats and swine.

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Obstructions and Nuisances.

With respect to obstructions and nuisances in the streets, be it enacted as follows:

Obstructions in the streets during processions, &c.

21.[c] The commissioners may from time to time make orders for the route to be observed by all carts, carriages, horses, and persons, and for preventing obstruction of the streets within the limits of the Special Act, in all times of public processions, rejoicings, or illuminations, and in any case when the streets are thronged or liable to be obstructed, and may also give directions to the constables for keeping order and preventing any obstruction of the streets in the neighbourhood of theatres and other places of public resort, and every wilful breach of any such order shall be deemed a separate offence against this Act, and every person committing any such offence shall be liable to a penalty not exceeding 40*s.*

Route of stage-carriages, &c., during divine service.

22. On application to the commissioners by the minister or churchwardens or chapelwardens of any church, chapel, or other place of public worship within the limits of the Special Act, the commissioners may make orders for regulating the route by which persons shall drive any cart or carriage, or cattle, or the manner in which they shall drive them, in the neighbourhood of such places of worship, during the hours of divine service on Sunday, Christmas Day, Good Friday, or any day appointed for a public fast or thanksgiving, and any orders so made shall be printed and put up on or near the church, chapel, or place of public worship to which the same refer, and in some conspicuous places near and leading thereto, and elsewhere as the commissioners direct, and every wilful breach of any such order shall be deemed a separate offence against this Act, and every person committing any such offence shall be liable to a penalty not exceeding 40*s.*

Deviating from route by order.

23. No proprietor of any stage-carriage duly licensed to carry passengers for hire shall be liable to any penalty for any deviation from the route or line of route specified in his license, which the driver of such stage-carriage makes in consequence of any regulation or direction made or given by the commissioners.

Stray cattle may be impounded.

24.[d] If any cattle be at any time found at large in any street within the limits of the Special Act, without any person having the charge thereof, any constable or officer of police, or any person residing within the limits of the Special Act, may seize and impound such cattle in any common pound within the said limits, or in such other place as the commissioners appoint for that purpose, and may detain the same therein until the owner thereof pay to the commissioners a penalty not exceeding 40*s.*, besides the reasonable expenses of impounding and keeping such cattle.

Sale of stray cattle.

25. If the said penalty and expenses be not paid within 3 days after such impounding, the pound-keeper, or other person appointed by the commissioners for that purpose, may proceed to sell or cause to be sold any such cattle;

But previous to such sale 7 days' notice thereof shall be given to or left at the dwelling-house or place of abode of the owner of such cattle, if he be known, or if not, then notice of such intended sale shall be given by advertisement to be inserted 7 days before such sale in some newspaper published or circulated within the limits of the Special Act;

And the money arising from such sale, after deducting the said sums and the expenses aforesaid, and all other expenses attending the impounding, advertising, keeping, and sale of any such

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(*a*) The Sections here given are incorporated by the "Public Health Act, 1875," (38 & 39 Vict., 55, § 171).

(*b*) The following words are also defined in the Act, namely: "Number," "gender," "person," "month," "Superior Courts," "oath," "Justice," "2 Justices," "Quarter Sessions," and the definitions for the most part correspond with those in the "Public Health Act, 1875," (38 & 39 Vict., 55, § 4), and the 13 & 14 Vict., 21.

(*c*) *Fox* v. *Palmer*.

(*d*) *Dargan* v. *Davies*.

cattle so impounded, shall be paid to the commissioners, and shall be by them paid, on demand, to the owner of the cattle so sold.

Pound-breach.

26. Every person who releases or attempts to release any cattle from any pound or place where the same are impounded under the authority of this or the Special Act, or who pulls down, damages, or destroys the same pound or place, or any part thereof, with intent to procure the unlawful release of such cattle, shall, upon conviction of such offence before any 2 Justices, be committed by them to some common gaol or house of correction for any time not exceeding 3 months.

Pound.

27.(a) The commissioners may purchase a piece of land within the limits of the Special Act for the purpose of a pound for stray animals, and may erect a pound thereon, and such pound when made shall be kept in repair by the commissioners.

Enumeration of offences.

28. Every person who in any street, to the obstruction,(b) annoyance, or danger of the residents or passengers, commits any of the following offences, shall be liable to a penalty not exceeding 40*s.* for each offence, or in the discretion of the Justice before whom he is convicted, may be committed to prison there to remain for a period not exceeding 14 days ; . . . . . (that is to say,)

Every person who exposes for show, hire, or sale (except in a market or market-place or fair lawfully appointed for that purpose) any horse or other animal, or exhibits in a caravan or otherwise any show or public entertainment, or shoes, bleeds, or farries any horse or animal (except in cases of accident), or cleans, dresses, exercises, trains, or breaks, or turns loose (c) any horse or animal, or makes or repairs any part of any cart or carriage (except in cases of accident where repair on the spot is necessary) :

Every person who suffers to be at large any unmuzzled ferocious dog, or sets on or urges any dog or other animal to attack, worry, or put in fear any person or animal :

Every owner of any dog who suffers such dog to go at large, knowing or having reasonable ground for believing it to be in a rabid state, or to have been bitten by any dog or other animal in a rabid state :

Every person who, after public notice given by any Justice directing dogs to be confined on account of suspicion of canine madness, suffers any dog to be at large during the time specified in such notice :

Every person who slaughters or dresses any cattle, or any part thereof, except in the case of any cattle over-driven which may have met with any accident, and which for the public safety or other reasonable cause ought to be killed on the spot :

Every person having the care of any waggon, cart, or carriage, who rides on the shafts thereof or who without having reins, and holding the same, rides upon such waggon, cart, or carriage, or on any animal drawing the same, or who is at such a distance from such waggon, cart, or carriage, as not to have due control over every animal drawing the same, or who does not, in meeting any other carriage, keep his waggon, cart, or carriage to the left or near side, or who in passing any other carriage does not keep his waggon, cart, or carriage on the right or off side of the road (except in cases of actual necessity, or some sufficient reason for deviation) or who, by obstructing the street, wilfully prevents any person or carriage from passing him, or any waggon, cart, or carriage under his care :

Every person who at one time drives more than 2 carts or waggons, and every person driving 2 carts or waggons who has not the halter of the horse in the last cart or waggon securely fastened to the back of the first cart or waggon, or has such halter of a greater length from such fastening to the horse's head than 4 feet :

Every person who rides or drives furiously any horse or carriage, or drives furiously any cattle :

Every person who causes any public carriage, sledge, truck, or barrow, with or without horses, or any beast of burden, to stand longer than is necessary for loading or unloading goods, (d) or for taking up or setting down passengers (except hackney carriages, and horses and other beasts of draught or burden, standing for hire in any place appointed for that purpose by the commissioners or other lawful authority), and every person who, by means of any cart, carriage, sledge, truck, or barrow, or any animal or other means, wilfully interrupts any public crossing, or wilfully causes any obstruction in any public footpath or other public thoroughfare : (e)

Every person who causes any tree or timber or iron beam to be drawn in or upon any carriage, without having sufficient means of safely guiding the same :

Every person who leads or rides any horse or other animal, or draws or drives any cart or carriage, sledge, truck, or barrow, upon any footway of any street, or fastens any horse or other animal so that it stands across or upon any footway :

Every person who places or leaves any furniture, goods, wares, or merchandise, or any cask, tub, basket, pail, or bucket, or places or uses any standing-place, stool, bench, stall, or show-board on any footway, or who places any blind, shade, covering, awning, or other projection over or along any such footway, unless such blind, shade, covering, awning, or other projection is 8 feet in height at least in every part thereof from the ground :

Every person who places, hangs up, or otherwise exposes to sale any goods, wares, merchandise, matter, or thing whatsoever, so that the same project into or over any footway, or beyond the line of any house, shop, or building, at which the same are so exposed, so as to obstruct or incommode the passage of any person over or along such footway : (f)

(a) *Bignell* v. *Clarke.*

(b) Much light will be thrown on many parts of this long and important Section by referring to the Cases on Obstructions of Highways in my *Law relating to Highways and Bridges.* See especially pp. 115—22.

(c) *Laurence* v. *King*, 37 L.J.M.C., 78 : L.R., 3 Q.B., 345 : 9 B. & S., 325 : 18 L.T., 356 ; *Sherborne* v. *Wells*, 32 L.J.M.C., 179 : 3 B. & S., 784 : 8 L.T., 274 ; *Morris* v. *Jeffries*, 35 L.J.M.C., 143 : L.R., 1 Q.B., 261 : 13 L.T., 629.

(d) *Rex* v. *Jones*, 3 Camp., 229 ; *Rex* v. *Russell*, 6 East, 427 : 2 Smith, 424.

(e) *Rex* v. *Cross* ; *Ball* v. *Ward.*

(f) *Read* v. *Perrett.*

Every person who rolls or carries any cask, tub, hoop, or wheel, or any ladder, plank, pole, timber, or log of wood, upon any footway, except for the purpose of loading or unloading any cart or carriage, or of crossing the footway:

Every person who places any line, cord, or pole across any street, or hangs or places any clothes thereon:

Every common prostitute or nightwalker loitering and importuning passengers for the purpose of prostitution:

Every person who wilfully and indecently exposes his person:

Every person who publicly offers for sale or distribution, or exhibits to public view any profane, indecent, or obscene book, paper, print, drawing, painting, or representation; or sings any profane or obscene song or ballad, or uses any profane or obscene language:

Every person who wantonly discharges any firearm, or throws or discharges any stone or other missile, or makes any bonfire, or throws or sets fire to any firework:

Every person who wilfully and wantonly disturbs any inhabitant, by pulling or ringing any door-bell,(a) or knocking at any door, and who wilfully or unlawfully extinguishes the light of any lamp:

Every person who flies any kite, or who makes or uses any slide upon ice or snow:

Every person who cleanses, hoops, fires, washes, or scalds any cask or tub, or hews, saws, bores, or cuts any timber or stone, or slacks, sifts, or screens any lime:

Every person who throws or lays down any stones, coals, slate, shells,(b) lime, bricks, timber, iron or other materials (except building materials, so enclosed as to prevent mischief to passengers):

Every person who beats or shakes any carpet, rug, or mat (except door-mats, beaten or shaken before the hour of 8 in the morning):

Every person who fixes or places any flower-pot or box, or other heavy article, in any upper window, without sufficiently guarding the same against being blown down:

Every person who throws from the roof or any part of any house or other building any slate, brick, wood, rubbish or other thing, except snow thrown so as not to fall on any passenger:

Every occupier of any house or other building or other person who orders or permits any person in his service to stand on the sill of any window, in order to clean, paint, or perform any other operation upon the outside of such window, or upon any house or other building within the said limits, unless such window be in the sunk or basement storey:

Every person who leaves open any vault or cellar, or the entrance from any street to any cellar or room underground, without a sufficient fence or handrail, or leaves defective the door, window, or other covering of any vault or cellar, or who does not sufficiently fence any area, pit, or sewer left open, or who leaves such open area, pit, or sewer without a sufficient light after sunset, to warn and prevent persons from falling thereinto:(c)

Every person who throws or lays any dirt, litter, or ashes, or nightsoil, or any carrion, fish, offal, or rubbish on any street, or causes any offensive matter to run from any manufactory, brewery, slaughter-house, butchers' shop, or dung-hill into any street:

Provided always, that it shall not be deemed an offence to lay sand or other materials in any street in time of frost to prevent accidents, or litter or other suitable materials to prevent the freezing of water in pipes, or in case of sickness to prevent noise, if the party laying any such things causes them to be removed as soon as the occasion for them ceases:

Every person who keeps any pigsty to the front of any street, not being shut out from such street by a sufficient wall or fence, or who keeps any swine in or near any street, so as to be a common nuisance.(d)

Drunken persons, &c.

29.(e) Every person drunk in any street, and guilty of any riotous or indecent behaviour therein, and also every person guilty of any violent or indecent behaviour in any police office or any police station-house within the limits of the Special Act, shall be liable to a penalty not exceeding 40*s.* for every such offence, or, in the discretion of the Justice before whom he is convicted, to imprisonment for a period not exceeding 7 days.

Fires.

And with respect to fires, be it enacted as follows:

Setting chimneys on fire.

30. Every person who wilfully sets or causes to be set on fire any chimney within the limits of the Special Act shall be liable to a penalty not exceeding £5:

Provided always, that nothing herein contained shall exempt the person so setting or causing to be set on fire any chimney from liability to be indicted for felony.

Allowing chimneys to catch fire.

31. If any chimney accidently catch or be on fire within the said limits, the person occupying or using the premises in which such chimney is situated shall be liable to a penalty not exceeding 10*s.*:

Provided always, that such forfeiture shall not be incurred if such person prove to the satisfaction of the Justice before whom the case is heard that such fire was in nowise owing to omission, neglect, or carelessness of himself or servant.

Fire engines and firemen may be provided.

32.(f) The commissioners may purchase or provide such engines for extinguishing fire, and such water-buckets, pipes, and other appurtenances for such engines, and such fire-escapes and other implements for safety or use in case of fire, and may purchase, keep, or hire such horses for drawing such engines, as they think fit, and may build, provide, or hire places for keeping such engines with their appurtenances, and may employ a proper number of persons to act as firemen, and may make such rules for their regulation as they think proper, and give such firemen and other persons such salaries and such rewards for their exertions in cases of fire as they think fit.

(a) *Clarke* v. *Higgins*; *Home* v. *Grimble*, Carr. & M., 17.

(b) *Danvers* v. *Morgan*, 1 Jur. (N.S.), 105.

(c) See the "Towns Improvement Clauses Act, 1847," (10 & 11 Vict., 34, § § 71 and 73 *ante*.)

(d) See the "Public Health Act, 1875," § 91 (3); and *Digby* v. *West-Ham*; *Reg.* v. *Wigg*; *Wanstead L.B.* v. *Wooster*.

(e) *Martin* v. *Pridgeon*.

(f) *Drighlington L.B.H.* v. *Bower*.

Fire-police may go beyond the limits.

33.(a) The commissioners may send such engines, with their appurtenances, and the said firemen, beyond the limits of the Special Act, for extinguishing fire in the neighbourhood of the said limits;

And the owner of the lands or buildings where such fire shall have happened shall in such case defray the actual expense which may be thereby incurred, and shall also pay to the commissioners a reasonable charge for the use of such engines, with their appurtenances, and for the attendance of such firemen;

And in case of any difference between the commissioners and the owner of the said lands or buildings, the amount of the said expenses and charge, as well as the propriety of sending the said engines and firemen as aforesaid for extinguishing such fire (if the propriety thereof be disputed), shall be determined by 2 Justices, whose decision shall be final; and the amount of the said expenses and charge shall be recovered by the commissioners as damages.

Places of public resort.

And with respect to places of public resort, be it enacted as follows:

Victuallers harbouring constables on duty.

34.(b) Every victualler or keeper of any public-house, or person licensed to sell wine, spirits, beer, cider, or other fermented or distilled liquors by retail, to be drunk or consumed on the premises, within the limits of the Special Act, who knowingly harbours or entertains or suffers to remain in his public-house or place wherein he carries on his business, any constable during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance or restoring order, shall for every such offence be liable to a penalty not exceeding 20*s.*

Coffee-shop keepers harbouring disorderly persons.

35. Every person keeping any house, shop, room, or other place of public resort within the limits of the Special Act, for the sale or consumption of refreshments of any kind, who knowingly suffers common prostitutes or reputed thieves to assemble at and continue in his premises, shall for every such offence be liable to a penalty not exceeding £5.

Places for bear-baiting, cock-fighting, &c.

36.(c) Every person who within the limits of the Special Act keeps or uses or acts in the management of any house, room, pit, or other place for the purpose of fighting, baiting, or worrying any animals, shall be liable to a penalty of not more than £5, or, in the discretion of the Justices before whom he is convicted, to imprisonment, with or without hard labour, for a time not exceeding one month;

And the commissioners may, by order in writing, authorise the superintendent constable, with such constables as he thinks necessary, to enter any premises kept or used for any of the purposes aforesaid, and take into custody all persons found therein without lawful excuse, and every person so found shall be liable to a penalty not exceeding 5*s.*;

And a conviction for this offence shall not exempt the owner, keeper, or manager of any such house, room, pit, or place from any penal consequence to which he is liable for the nuisance thereby occasioned.

Hackney Carriages.

And with respect to hackney carriages, be it enacted as follows:

Hackney carriages to be licensed.

37.(d) The commissioners may from time to time license to ply for hire within the prescribed distance, or if no distance is prescribed, within 5 miles from the General Post-Office of the city, town, or place to which the Special Act refers (which in that case shall be deemed the prescribed distance),(e) such number of hackney coaches or carriages of any kind or description adapted to the carriage of persons as they think fit.

What to be hackney carriages.

38.(f) Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance, and every carriage standing upon any street within the prescribed distance, having thereon any numbered plate required by this or the Special Act to be fixed upon a hackney carriage, or having thereon any plate resembling or intending to resemble any such plate as aforesaid, shall be deemed to be a hackney carriage within the meaning of this Act:

And in all proceedings at law or otherwise, the term "hackney carriage" shall be sufficient to describe any such carriage:

Provided always, that no stage coach used for the purpose of standing or plying for passengers to be carried for hire at separate fares, and duly licensed for that purpose, and having thereon the proper numbered plates required by law to be placed on such stage coaches, shall be deemed to be a hackney carriage within the meaning of this Act.

Fee for license.

39. For every such license there shall be paid to the Clerk of the Commissioners, or other person appointed by them to receive the same, such sum as the commissioners direct, not exceeding 5*s.*

Persons applying for license to sign a requisition.

40. Before any such license is granted, a requisition for the same, in such form as the commissioners from time to time provide for that purpose, shall be made and signed by the proprietor or one of the proprietors of the hackney carriage in respect of which such license is applied for, and in every such requisition shall be truly stated the name and surname and place of abode of the person applying for such license, and of every proprietor or part proprietor of such carriage, or person concerned, either solely or in partnership with any other person, in the keeping, employing, or letting to hire of such carriage;

And any person who, on applying for such license, states in such requisition the name of any person who is not a proprietor or part proprietor of such carriage, or who is not concerned as aforesaid in the keeping, employing, or letting to hire of such carriage, and also any person who wilfully omits to specify truly in such requisition as aforesaid the name of any person who is a

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(a) *Lewis* v. *Arnold.*

(b) In regard to this and the following Section reference should be made to books on the Licensing Laws.

(c) *Clarke* v. *Hague*, 29 L.J.M.C., 105: 2 E. & E., 281: 2 L.T., 85; *Morley* v. *Greenhalgh*, 32 L.J., M.C., 93: 3 B. & S., 374: 7 L.T., 624.

(d) *Buckle* v. *Wrightson.*

(e) Within the "prescribed distance" means within the District (Urban). See the "Public Health Act, 1875," § 171.

(f) *Cousins* v. *Stockbridge.*

proprietor or part proprietor of such carriage, or who is concerned as aforesaid in the keeping, employing, or letting to hire of such carriage, shall be liable to a penalty not exceeding £10.

What shall be specified in license.

41. In every license shall be specified the name and surname and place of abode of every person who is a proprietor or part proprietor of the hackney carriage in respect of which such license is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing, or letting to hire of any such carriage, and also the number of such license, which shall correspond with the number to be painted or marked on the plates to be fixed on such carriage, together with such other particulars as the commissioners think fit.

License to be registered.

42. Every license shall be made out by the clerk of the commissioners, and duly entered in a book to be provided by him for that purpose, and in such book shall be contained columns or places for entries to be made of every offence committed by any proprietor or driver or person attending such carriage, and any person may at any reasonable time inspect such book without fee or reward.

License to be for one year.

43. Every license so to be granted shall be under the common seal of the commissioners, if incorporated, or if not incorporated, shall be signed by 2 or more of the commissioners, and shall not include more than one carriage so licensed, and shall be in force for one year only from the day of the date of such license, or until the next general licensing meeting, in case any general licensing day be appointed by the commissioners.

Notice to be given by proprietors of change of abode.

44. So often as any person named in any such license as the proprietor or one of the proprietors, or as being concerned either solely or in partnership with any person in the keeping, employing, or letting to hire of any such carriage, changes his place of abode, he shall, within 7 days next after such change, give notice thereof in writing signed by him to the commissioners, specifying in such notice his new place of abode;

And he shall at the same time produce such license at the office of the commissioners, who shall, by their clerk or some other officer, endorse thereon and sign a memorandum specifying the particulars of such change;

And any person named in any such license as aforesaid as the proprietor or one of the proprietors of any hackney carriage, or as being concerned as aforesaid, who changes his place of abode, and neglects or wilfully omits to give notice of such change, or to produce such license in order that such memorandum aforesaid may be endorsed thereon, within the time and in the manner limited and directed by this or the Special Act, shall be liable to a penalty not exceeding 40*s*.

Plying for hire without a license.

45.(a) If the proprietor or part proprietor of any carriage, or any person so concerned as aforesaid, permits the same to be used as a hackney carriage plying for hire within the prescribed distance, without having obtained a license as aforesaid for such carriage, or during the time that such license is suspended as hereinafter provided, or if any person be found driving, standing, or plying for hire with any carriage within the prescribed distance for which such license as aforesaid has not been previously obtained, or without having the number of such carriage corresponding with the number of the license openly displayed on such carriage, every such person so offending shall for every such offence be liable to a penalty not exceeding 40*s*.

Drivers not to act without obtaining a license.

46. No person shall act as driver of any hackney carriage licensed in pursuance of this or the Special Act to ply for hire within the prescribed distance without first obtaining a license from the commissioners, which license shall be registered by the clerk to the commissioners, and a fee of 1*s*. shall be paid for the same;

And every such license shall be in force until the same is revoked, except during the time that the same may be suspended as after mentioned.

Drivers acting without license.

47. If any person acts as such driver as aforesaid without having obtained such license, or during the time that his license is suspended, or if he lend or part with his license except to the proprietor of the hackney carriage, or if the proprietor of any such hackney carriage employ any person as the driver thereof who has not obtained such license, or during the time that his license is suspended as hereinafter provided, every such driver and every such proprietor shall for every such offence respectively be liable to a penalty not exceeding 20*s*.

Proprietor to retain license of drivers, and to produce the same.

48.(b) In every case in which the proprietor of any such hackney carriage permits or employs any licensed person to act as the driver thereof, such proprietor shall cause to be delivered to him, and shall retain in his possession, the license of such driver while such driver remains in his employ;

And in all cases of complaint, where the proprietor of a hackney carriage is summoned to attend before a Justice, or to produce the driver, the proprietor so summoned shall also produce the license of such driver, if he be then in his employ;

Justices may endorse convictions.

And if any driver complained of be adjudged guilty of the offence alleged against him, such Justice shall make an endorsement upon the license of such driver, stating the nature of the offence and the amount of the penalty inflicted;

Neglect of proprietors.

And if any such proprietor neglect to have delivered to him, and to retain in his possession, the license of any driver while such driver remains in his employ, or if he refuse or neglect to produce such license as aforesaid, such proprietor shall for every such offence be liable to a penalty not exceeding 40*s*.

Propriotor to return license to drivers quitting service if they behave well; if otherwise proprietors to summon them.

49. When any driver leaves the service of the proprietor by whom he is employed without having been guilty of any misconduct, such proprietor shall forthwith return to such driver the license belonging to him;

But if such driver have been guilty of any misconduct, the proprietor shall not return his license, but shall give him notice of the complaint which he intends to prefer against him, and shall forthwith summon such driver to appear before any Justice to answer the said complaint;

(*a*) *Bateson* v. *Oddy*; *Case* v. *Storey*; *Curtis* v. *Embrey*; *Foinett* v. *Clarke*; *Foulger* v. *Steadman*; *Marks* v. *Ford*; *Sims* v. *Matlock Bath L.B.*; *Skinner* v. *Usher*.

(*b*) *Hurrell* v. *Ellis*, 15 L.J., C.P., 18 : 2 C. B., 295. *Rogers* v. *Macnamara*.

And such Justice, having the necessary parties before him, shall inquire into and determine the matter of complaint;

And if upon inquiry it appear that the license of such driver has been improperly withheld, such Justice shall direct the immediate re-delivery of such license, and award such sum of money as he thinks proper to be paid by such proprietor to such driver by way of compensation.

Compensation for license improperly withheld.

50. The commissioners may, upon the conviction for the second time of the proprietor or driver of any such hackney carriage for any offence under the provisions of this or the Special Act with respect to hackney carriages, or any bye-law made in pursuance thereof, suspend or revoke, as they deem right, the license of any such proprietor or driver.

Licenses to be suspended or revoked.

51. No hackney carriage shall be used or employed or let to hire, or shall stand or ply for hire, within the prescribed distance, unless the number of persons to be carried by such hackney carriage, in words at length, and in form following, (that is to say,) "To carry persons," be painted on a plate placed on some conspicuous place on the outside of such carriage, and in legible letters, so as to be clearly distinguishable from the colour of the ground whereon the same are painted, one inch in length, and of a proportionate breadth;

Number of persons to be carried to be painted on hackney carriage.

And the driver of any such hackney carriage shall not be required to carry in or by such hackney carriage a greater number of persons than the number painted thereon.

52. If the proprietor of any hackney carriage permit the same to be used, employed, or let to hire, or if any person stand or ply for hire with such carriage, without having the number of persons to be carried thereby painted and exhibited in manner aforesaid, or if the driver of any such hackney carriage refuse, when required by the hirer thereof, to carry in or by such hackney carriage the number of persons painted thereon, or any less number, every proprietor or driver so offending shall be liable to a penalty not exceeding 40*s*.

Neglect or refusal to carry prescribed number.

53. Any driver of a hackney carriage standing at any of the stands for hackney carriages appointed by the commissioners, or in any street, who refuses or neglects, without reasonable excuse, to drive such carriage to any place within the prescribed distance, or the distance to be appointed by any bye-law of the commissioners, not exceeding the prescribed distance to which he is directed to drive by the person hiring or wishing to hire such carriage, shall for every such offence be liable to a penalty not exceeding 40*s*.

Driver refusing to drive.

54. If the proprietor or driver of any such hackney carriage, or if any other person on his behalf, agree beforehand with any person hiring such hackney carriage to take for any job a sum less than the fare allowed by this or the Special Act, or any bye-law made thereunder, such proprietor or driver shall be liable to a penalty not exceeding 40*s*. if he exact or demand for such job more than the fare so agreed upon.

Demanding more than sum agreed for, though less than legal fare.

55. No agreement whatever[a] made with the driver or with any person having or pretending to have the care of any such hackney carriage, for the payment of more than the fare allowed by any bye-law made under this or the Special Act, shall be binding on the person making the same;

Agreement to pay more than the legal fare not binding, and overplus may be recovered.

And any such person may, notwithstanding such agreement, refuse, on discharging such hackney carriage, to pay any sum beyond the fare allowed as aforesaid;

And if any person actually pay to the driver of any such hackney carriage, whether in pursuance of any such agreement or otherwise, any sum exceeding the fare to which such driver was entitled, the person paying the same shall be entitled, on complaint made against such driver before any Justice of the Peace, to recover back the sum paid beyond the proper fare, and moreover such driver shall be liable to a penalty for such exaction not exceeding the sum of 40*s*.;

And in default of the repayment by such driver of such excess of fare, or of payment of the said penalty, such Justice shall forthwith commit such driver to prison, there to remain for any time not exceeding one month, unless the said excess of fare and the said penalty be sooner paid.

56. If the proprietor or driver of any such hackney carriage, or if any other person on his behalf, agree with any person to carry in or by such hackney carriage persons not exceeding in number the number so painted on such carriage as aforesaid, for a distance to be in the discretion of such proprietor or driver, and for a sum agreed upon, such proprietor or driver shall be liable to a penalty not exceeding 40*s*. if the distance which he carries such persons be under that to which they were entitled to be carried for the sum so agreed upon according to the fare allowed by this or the Special Act, or any bye-law made in pursuance thereof.

Driver to carry according to agreement.

57. When any hackney carriage is hired and taken to any place and the driver thereof is required by the hirer there to wait with such hackney carriage, such driver may demand and receive from such hirer his fare for driving to such place, and also a sum equal to the fare of such carriage for the period, as a deposit over and above such fare, during which he is required to wait as aforesaid, or if no fare for time be fixed by the bye-laws, the sum of 1*s*. 6*d*. for every half-hour during which he is so required to wait, which deposit shall be accounted for by such driver when such hackney carriage is finally discharged by such hirer;

Deposit for carriage waiting.

And if any such driver who has received any such deposit as aforesaid refuses to wait as aforesaid, or goes away or permits such hackney carriage to be driven or taken away without the consent of such hirer before the expiration of the time for which such deposit was made or if such driver, on the final discharge of such hackney carriage, refuse duly to account for such deposit, every such driver so offending shall be liable to a penalty not exceeding 40*s*.

Driver refusing to wait or account for deposit.

58. Every proprietor or driver of any such hackney carriage who is convicted of taking as a fare a greater sum than is authorised by any bye-law made under this or the Special Act, shall be liable to a penalty not exceeding 40*s*., and such penalty may be recovered before one Justice;

Overcharge to be included in conviction, and returned to aggrieved party

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(*a*) This language seems sufficiently precise to invalidate even an agreement made on the private premises of the owner of a hackney carriage. See the observations of Bramwell, B. in *Case* v. *Storey*.

And in the conviction of such proprietor or driver, an Order may be included for payment of the sum so overcharged, over and above the penalty and costs;

And such overcharge shall be returned to the party aggrieved whose evidence shall be admissible in proof of the said offence.

Permitting persons to ride without consent of hirer.

59. Any proprietor or driver of any such hackney carriage which is hired who permits or suffers any person to be carried in or upon or about such hackney carriage during such hire, without the express consent of the person hiring the same, shall be liable to a penalty not exceeding 20*s*.

No person to drive without consent of proprietor.

60. No person authorised by the proprietor of any hackney carriage to act as driver of such carriage shall suffer any other person to act as driver of such carriage without the consent of the proprietor thereof;

And no person, whether licensed or not, shall act as driver of any such carriage without the consent of the proprietor;

And any person so suffering another person to act as driver, and any person so acting as driver without such consent as aforesaid, shall be liable to a penalty not exceeding 40*s*. for every such offence.

Drivers misbehaving.

61. If the driver or any other person having or pretending to have the care of any such hackney carriage be intoxicated while driving, or if any such driver or other person by wanton and furious driving, or by any other wilful misconduct, injure or endanger any person in his life, limbs, or property, he shall be liable to a penalty not exceeding £5, and in default of payment thereof the Justice before whom he is convicted of such offence may commit him to prison, there to remain for any time not exceeding 2 months.

Leaving carriages unattended at places of resort.

62. If the driver of any such hackney carriage leave it in any street or at any place of public resort or entertainment, whether it be hired or not, without some one proper to take care of it, any constable may drive away such hackney carriage, and deposit it, and the horse or horses harnessed thereto, at some neighbouring livery stable or other place of safe custody;

And such driver shall be liable to a penalty not exceeding 20*s*. for such offence;

And in default of payment of the said penalty upon conviction, and of the expenses of taking and keeping the said hackney carriage and horse or horses, the same, together with the harness belonging thereto, or any of them, shall be sold by order of the Justice before whom such conviction is made;

And after deducting from the produce of such sale the amount of the said penalty, and of all costs and expenses, as well of the proceedings before such Justice as of the taking, keeping, and sale of the said hackney carriage, and of the said horse or horses and harness, the surplus (if any) of the said produce shall be paid to the proprietor of such hackney carriage.

Damage done by driver recoverable from proprietor.

63.[a] In every case in which any hurt or damage has been caused to any person or property as aforesaid by the driver of any carriage let to hire, the Justice before whom such driver has been convicted may direct that the proprietor of such carriage shall pay such a sum not exceeding £5 as appears to the Justice a reasonable compensation for such hurt or damage;

And every proprietor who pays any such compensation as aforesaid may recover the same from the driver, and such compensation shall be recoverable from such proprietor, and by him from such driver, as damages.

Improperly standing with carriage; obstructing any other driver.

64. Any driver of any hackney carriage who suffers the same to stand for hire across any street or alongside of any other hackney carriage, or who refuses to give way, if he conveniently can, to any other carriage, or who obstructs or hinders the driver of any other carriage in taking up or setting down any person into or from such other carriage, or who wrongfully in a forcible manner prevents or endeavours to prevent the driver of any other hackney carriage from being hired, shall be liable to a penalty not exceeding 20*s*.

Compensation to drivers for loss of time in answering complaints not substantiated.

65. If the driver of any such hackney carriage be summoned or brought before any Justice to answer any complaint or information touching or concerning any offence alleged to have been committed by such driver against the provisions of this or the Special Act, or any bye-law made thereunder, and such complaint or information be afterwards withdrawn or quashed or dismissed, or if such driver be acquitted of the offence charged against him, the said Justice, if he think fit, may order the complainant or informant to pay to the said driver such compensation for his loss of time in attending the said Justice touching or concerning such complaint or information as to the said Justice seems reasonable;

And in default of payment of such compensation the said Justice may commit such complainant or informant to prison for any time not exceeding one month, unless the same shall be sooner paid.

Refusing to pay the fare.

66. If any person refuse to pay, on demand, to any proprietor or driver of any hackney carriage the fare allowed by this or the Special Act, or any bye-law made thereunder, such fare may, together with costs, be recovered before one Justice as a penalty.

Damaging carriage.

67. Any person using any hackney carriage plying under a license granted by virtue of this or the Special Act. who wilfully injures the same, shall for every such offence be liable to a penalty not exceeding £5, and shall also pay to the proprietor of such hackney carriage reasonable satisfaction for the damage sustained by the same;

And such satisfaction shall be ascertained by the Justices before whom the conviction takes place, and shall be recovered by the same means as the penalty.

Bye-laws.

68. The commissioners may from time to time (subject to the restrictions of this and the Special Act) make bye-laws for all or any of the purposes following; (that is to say,)

For regulating the conduct of the proprietors and drivers of hackney carriages plying within the prescribed distance in their several employments, and determining whether such drivers shall wear any and what badges, and for regulating the hours within which they may exercise their calling:

(*a*) *Powles* v. *Hider*; *Wright* v. *London General Omnibus Co.* 46 L.J., Q.B., 429: L.R., 2 Q.B.D., 271 : 36 L.T., 590.

For regulating the manner in which the number of each carriage, corresponding with the number of its license, shall be displayed :

For regulating the number of persons to be carried by such hackney carriages, and in what manner such number is to be shown on such carriage, and what number of horses or other animals is to draw the same, and the placing of checkstrings to the carriages, and the holding of the same by the driver, and how such hackney carriages are to be furnished or provided ; (a)

For fixing the stands (b) of such hackney carriages and the distance to which they may be compelled to take passengers, not exceeding the prescribed distance :

For fixing the rates or fares, as well for time as distance, to be paid for such hackney carriages within the prescribed distance, and for securing the due publication of such fares :

For securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof.

And with respect to public bathing, be it enacted as follows : *Bathing.*

69.(c) Where any part of the sea-shore or strand of any river used as a public bathing place is within the limits of the Special Act, the commissioners may make bye-laws for the following purposes ; (that is to say,) Bathing machines.

For fixing the stands of bathing machines on the sea-shore or strand, and the limits within which persons of each sex shall be set down for bathing, and within which persons shall bathe :

For preventing any indecent exposure of the persons of the bathers :

For regulating the manner in which the bathing machines shall be used, and the charges to be made for the same :

For regulating the distance at which boats and vessels let to hire for the purpose of sailing or rowing for pleasure shall be kept from persons bathing within the prescribed limits.

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21 & 22 VICT., c. 97.

An Act for vesting in the Privy Council(d) certain Powers for the Protection of the Public Health. (2nd August, 1858.)

Revised Statutes, vol. xiii., p. 403.

WHEREAS under an Act of the last Session of Parliament, chapter 38, the General Board of Health stands continued only until the 1st day of September, 1858 : And whereas it is expedient to vest in the *Privy Council* certain powers now vested in the said *General Board of Health*, and certain other powers for the Protection of the Public Health : Be it therefore enacted, &c. 20 & 21 Vict., 38.

1. In addition to the powers vested in *Her Majesty's Most Honourable Privy Council*(d) for the protection of the public health, all powers now vested in the *General Board of Health* under the "Diseases Prevention Act, 1855,"(e) shall, upon the discontinuance of the said Board, be vested in the said *Privy Council*,(d) and the provisions of the said Act having reference to the *General Board of Health* and the regulations and directions issued by them, except section 13, shall be construed as referring to such *Privy Council*(d) and the regulations and directions issued by them. Powers of General Board of Health under 18 & 19 Vict., 116, added to those of the Privy Council (d).

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3.(f) The *Privy Council* may from time to time cause to be made such inquiries as they see fit in relation to any matters concerning the public health in any place or places, and to the observance of the regulations and directions issued by them under this Act. *Privy Council may direct inquiries.*

4.(g) The powers of appointing and removing a medical officer, vested in the General Board of Health under the "General Board of Health Continuance Act, 1855," shall, upon the discontinuance of that Board, be vested in the Privy Council . . . . . *Privy Council to appoint medical officer, &c.*

(a) *Bocking* v. *Jones.*

(b) *Rex* v. *Rawlinson ; Blackpool* v. *Bennett.*

(c) *Blundell* v. *Catterall ; Mace* v. *Philcox ; Reg.* v. *Read ; Rex* v. *Crunden.*

(d) Now the Local Government Board, (34 & 35 Vict., 70.)

(e) Repealed by the "Public Health Act, 1875." (Sched. V., Part I.)

(f) This Section is reproduced almost in the same words in the "Public Health Act, 1875." (See § 293.)

(g) § 4 is repealed, so far as relates to the salary of the medical officer, by the "Statute Law Revision Act, 1875 ;" ditto, 1878.

And the Privy Council may also from time to time employ such other persons as they deem necessary for the purposes of this Act; and there shall be paid to the Medical Officer such salary not exceeding £1500 *per annum*, and to such other persons such remuneration and allowances, as the Commissioners of Her Majesty's Treasury may direct; and such salary, remuneration, and allowances shall be paid out of such monies as shall be provided by Parliament.

Medical officer to report annually.

5. The Medical Officer shall from time to time report to the *Privy Council* in relation to any matters concerning the public health or such matters as may be referred to him for that purpose, and shall, in or before the month of March in each year, report to the *Privy Council* the proceedings had and taken under this Act during the preceding year ending on the 31st day of December.

Reports to be laid before Parliament.

6. The annual report made by the Medical Officer as aforesaid shall be laid before both Houses of Parliament within 14 days after the making thereof, if Parliament be sitting, and if not, then within 14 days after the next meeting of Parliament, together with all other reports made by him under this Act, during the period to which such annual report relates.

Making and authentication of Orders, &c,

7.(a) All powers vested in the Privy Council by this Act may be exercised by any 3 or more of the Lords and others of the Privy Council, the Vice-President of the Committee of the said Privy Council on Education being one of them, and all Orders, regulations, directions, and Acts of the Privy Council under this Act shall be sufficiently made and signified by a written or printed document, signed by one of the Clerks of the Privy Council, or such officer as may be appointed by the Privy Council in this behalf; and all Orders, regulations, directions, and Acts made or signified by any written or printed document purporting to be so signed shall be deemed to have been duly made, issued, and done by the Privy Council, and every such document shall be received in evidence in all Courts and before all Justices and others without proof of the authority or signature of such clerk or other officer, or other proof whatsoever, until it be shown that such document was not duly signed by the authority of Privy Council.

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Short title.

9. This Act may be cited as the "Public Health Act, 1858" . . . . . .

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23 VICT., c. 16.

Revised Statutes, vol. xiii., p. 578.

An Act to make further Provision concerning Mortgages and other dispositions of property belonging to Municipal Corporations in England and Ireland. *(15th May, 1860.)*

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Power of Local Boards in boroughs.

12. Where in any borough subject to the provisions of the Act passed in the session holden in the 5th and 6th years of the reign of His late Majesty King William IV., c. 76, and intituled "An Act to provide for the regulation of municipal corporations in England and Wales," a surplus is standing to the credit of the borough fund arising from the rents and profits of the property of the corporation, and not from a borough rate, and such borough is a district within the meaning of the "Public Health Act, 1848," the corporation, acting as the Local Board of Health of such borough, may, with the consent of such corporation, apply such surplus in payment of any expenses that have been previously to the passing of this Act or may hereafter be incurred by them acting as the Local Board of Health of such borough in the improvement of the borough or of any part thereof, by drainage, enlargement of streets, or otherwise, in pursuance of the "Public Health Act, 1848," and the "Local Government Act, 1858," or of one of such Acts.(b)

Local Acts.

13. Provided always, that nothing in this Act shall repeal, abridge, or affect any power or authority of any body corporate, or the Council of any borough, under any local Act of Parliament relating to such body corporate or borough.

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(a) This Section may be deemed to be superseded by 34 & 35 Vict, 70. (Lumley.)

(b) Repealed and re-enacted in the "Public Health Act, 1875," (38 & 39 Vict., 55.)

23 & 24 VICT., c. 51.

An Act to provide for an Annual Return of Rates, Taxes, Tolls, and Dues levied for Local purposes in England.[a] *(23rd July, 1860.)*

Revised Statutes, vol. xiii., p. 613.

WHEREAS Rates, taxes, tolls, and dues to a large amount are levied for purposes of local Government and improvements in England, and it is proper that Parliament should be informed annually of all sums so levied, and the expenditure thereof, but in many cases no sufficient provision has been made for that purpose: Be it therefore enacted, &c.

Clerks of bodies levying rates, &c., to make returns.

1. The Clerk to any Corporation, Justices, Commissioners, District or other Board, Vestry, inspectors, trustees, or other body or persons authorised to levy or to order to be levied any of the Rates, taxes, tolls, or dues mentioned in the Schedule to this Act, or any other compulsory Rates, taxes, tolls, or dues in England (other than such as are levied for the Public Revenue of the United Kingdom,) shall make a return of the sums levied or received by or in respect of such Rates, taxes, tolls, and dues, and of the expenditure thereof, to *one of Her Majesty's Principal Secretaries of State* in the month of June in every year . . . . . .

Returns to be made for the latest year for which accounts are made up.

2. Such return shall be made for the latest period of 12 months preceding the month of June in each year for which the accounts of the Corporation, Justices, Commissioners, Board, inspectors, trustees, or other body or persons, shall be made up, and shall show the amounts levied and expended respectively, with such other particulars and in such form as shall from time to time be ordered by such *Secretary of State*.

Who are to make returns in certain cases.

3. Where no Clerk is appointed or acting, the Treasurer or other officer keeping the accounts of the receipts and expenditure of the Corporation, Justices, Commissioners, Board, Vestry, inspectors, trustees, or other body or persons by whom any Rates, taxes, tolls, or dues hereinbefore mentioned are levied or ordered to be levied shall make the returns in relation thereto;

And where any such Rates, taxes, tolls, or dues are levied and expended or to be accounted for by Churchwardens, Chapelwardens, or any officers or persons not authorised to act as a Board, such returns as hereinbefore mentioned in respect of such Rates, taxes, tolls, or dues, and the expenditure thereof, shall be made by such Churchwardens, Chapelwardens, or other officers or persons, and they shall be severally liable in respect of any neglect to make the same.

Penalty for default.

4. Any Clerk, Treasurer, Churchwarden, officer, or other person required as aforesaid to make such return who neglects so to do in the month of June in any year shall be liable to a penalty not exceeding £20 for every such offence, to be recoverable on summary conviction thereof before 2 Justices.

Saving for returns already required.

5. Where any annual return is now by law required to be made to the *Secretary of State*, or to any public department, under any Act of Parliament, this Act shall not render necessary any further or other return in respect of the same matters;

Provided always, that the said *Secretary of State* may, by *his* Order published in the *London Gazette*, direct that all or any of such returns now required as aforesaid shall in future be made under this Act, and shall be subject to the provisions and penalties thereof.

Abstracts to be laid before Parliament.

6. The said *Secretary of State* shall every year cause the returns transmitted to him under this Act to be abstracted, and the abstract thereof to be laid before both Houses of Parliament.

Poor rate returns.

7. This Act shall not extend to the Rates levied for the relief of the Poor, or the expenditure thereof, but the returns thereof shall continue to be made to the *Poor Law Board*, as by the Orders of such Board shall from time to time be directed.

Saving for Joint Stock Companies, &c.

8. This Act shall not extend to any tolls or dues taken by any railway, canal, or joint stock company as profits of their undertaking, or to any tolls or dues taken by prescription or otherwise as private property.

SCHEDULE.

Church Rates and Chapel Rates; whether made by the Common Law or under the Church Building Acts, or under any other Act of Parliament.

Sewers Rates and "General Sewers Tax," and all Rates, scots, and taxes levied by Courts of Commissioners of Sewers; whether levied under the Acts of the 3 & 4 Will. IV., c. 22, and 4 & 5 Vict., 45, or under any other Act of Parliament, or by charter, usage, or custom.

Rates under the Act for the lighting and watching of parishes, 3 & 4 Will. IV., c. 90.

(*a*) Amended by the "Local Taxation Returns Act, 1877," (40 & 41 Vict., 66.) The amendments are chiefly directed to the substitution of the Local Government Board for the Secretary of State.

A.D. 1860.

Rates levied by Improvement Commissioners or other Commissioners, or by any trustees or corporation acting under any local Act for the paving, draining, cleansing, or watching, improvement or regulation of any town or district.

Rates levied by or under the Order of any Vestry or District Board, under the Act 18 & 19 Vict., c. 120, for the better local management of the Metropolis.

Tolls and dues levied under the authority of Parliament in respect of markets, bridges, or harbours.

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23 & 24 VICT., c. 106.

Revised Statutes, vol. xiii., p. 724.

An Act to amend the "Lands Clauses Consolidation Acts (1845)" in regard to Sales and Compensation for Land by way of a Rentcharge, Annual Feu Duty or Ground Annual, and to enable Her Majesty's Principal Secretary of State for the War Department to avail himself of the Powers and Provisions contained in the same Acts. *(20th August, 1860.)*

8 Vict., 18.

WHEREAS it is expedient to extend the provisions of the "Lands Clauses Consolidation Acts, 1845," in regard to sales of land, or compensation for damages, in consideration of an annual rentcharge, annual feu duty or ground annual . . . . . Be it enacted, &c.

§§ 10 and 11 of recited Act extended.

2. The power to sell and convey lands in consideration of an annual rentcharge provided by the 10th Section of the said Act, and the power to recover such rentcharge provided by the 11th Section of the said Act, are hereby extended to all cases of sale and purchase or compensation under the said Act where the parties interested in such sale or entitled to such compensation are under any disability or incapacity, and have no power to sell or convey such lands, or to receive such compensation, except under the provisions of the said Act.

[§ 3 relates to Scotland only.]

Amount of Rentcharge to be settled in manner directed in § 9 of recited Act.

4. In every case of such sale or compensation by any parties other than parties seised in fee or entitled to dispose absolutely of the lands so sold or damaged, the amount of such rentcharge, annual feu duty or ground annual, hereinbefore mentioned, shall be settled in the manner directed in the 9th section of each of the said Acts respectively:

Provided, that the amount of such annual rentcharge, annual feu duty or ground annual, shall in no case be less than one-fourth part greater than the net annual rent received by the parties beneficially interested in such lands upon an average of the last 7 years;

And that a charge of 5 per cent. on the gross sum estimated or fixed as aforesaid, by way of compensation for any damage that may be done to the said lands, shall in all such cases be added to and shall form a part of the said rentcharge, annual feu duty or ground annual;

And that no fine, foregift, grassum, premium, or other consideration in the nature thereof, shall be paid or taken in respect of the lands so sold or damaged, other than the annual rentcharge, annual feu duty or ground annual made payable for such lands;

Provided also, that such rentcharge shall be and remain upon and for the same uses, trusts, and purposes as those upon which the rents and profits of the land so conveyed stood settled or assured at or immediately before the conveyance thereof, and shall be a first charge on the tolls and rates, if any, payable under the Special Act.

If lands purchased by way of Rentcharge, borrowing powers to be reduced proportionally.

5. In case the promoters of the undertaking shall be empowered, by any Act or Acts relating thereto, to be passed after the passing of this Act, to borrow money to an amount not exceeding a prescribed sum, then in the event of the promoters of the undertaking agreeing at any time after the passing of this Act with any person under the powers of this Act and of either of the Acts hereinbefore mentioned, or of either of the said Acts, only for the purchase of any lands in consideration of the payment of a rentcharge, annual feu duty or ground annual, the powers of the promoters of the undertaking for borrowing money shall be reduced by an amount equal to 20 years purchase of any rentcharge, annual feu duty or ground annual, so for the time being payable.

A.D. 1860.

6. The clauses contained in the "Lands Clauses Consolidation Act, 1845," relating to the purchase of lands by agreement, and to agreements for sale, and conveyances, sales, and releases of any lands or hereditaments, or any estate or interest therein, by parties under disability, shall extend and be applicable to all purchases of land and hereditaments for public purposes which shall be hereafter made by the council of any city or borough, with the sanction of the commissioners of Her Majesty's treasury, under the powers for that purpose contained in the "Municipal Corporation Mortgages, &c., Act, 1860." Certain clauses in 8 Vict., **18**, extended. 23 Vict., **16**.

[§ 7 confers powers on the Secretary of State for War only.]

8. This Act shall be read and construed as part of the said "Lands Clauses Consolidation Act, 1845," or of the "Lands Clauses Consolidation (Scotland) Act, 1845," in all matters in which it relates to the said Acts respectively; This Act and 8 & 9 Vict., **18** and **19**, to be construed together.

And in citing this Act in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression of the "Lands Clauses Consolidation Acts Amendment Act, 1860."

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26 & 27 VICT., c. 93.

An Act for consolidating in one Act certain Provisions frequently inserted in Acts relating to Waterworks.[a] *(28th July, 1863.)*

Revised Statutes, vol. xiv., p. 711.

WHEREAS the "Waterworks Clauses Act, 1847," was passed in order to comprise in one Act sundry provisions which were at the time of the passing of that Act usually introduced into Acts of Parliament authorising the construction of certain waterworks: And whereas sundry provisions of the like nature, but not comprised in the said Act, are now frequently introduced into Acts of Parliament relating to waterworks, and it is expedient to comprise such last-mentioned provisions also in one Act, and that as well for the purpose of avoiding the necessity of repeating such provisions in Special Acts relating to waterworks, as for insuring greater uniformity in the provisions themselves: Be it therefore enacted, &c., 10 Vict., **17**.

Preliminary.

1. This Act may be cited as the "Waterworks Clauses Act, 1863;" and the "Waterworks Clauses Act, 1847," and this Act may be cited together as the "Waterworks Clauses Acts, 1847 and 1863." Short title.

2. This Act shall apply to any waterworks to which any Special Act hereafter passed and incorporating this Act relates; and every such Special Act is hereinafter referred to as "The Special Act." Application of Act and interpretation.

Terms used in this Act have the same meanings as the same terms have when used in the "Waterworks Clauses Act, 1847."

The provisions respecting the recovery of penalties contained in the last-mentioned Act shall be incorporated with this Act.

Security of Reservoirs.

And with respect to the security of the reservoirs constructed by the undertakers, be it enacted as follows:

3. Whenever any person interested complains to 2 Justices that any reservoir constructed by the undertakers is in a dangerous state, such Justices shall forthwith make inquiry into the truth of the complaint; Power for Justices to inquire as to danger of reservoir.

Or 2 Justices, on their own view, and without complaint by any person, may proceed under the present provisions as if a complaint had been so made to them.

4. If, on any such inquiry, the Justices are satisfied that the complaint is well founded, and that the reservoir is in a dangerous state and that the danger is so imminent as not to admit of delay in removing the cause of complaint, they shall order such person as they think fit to enter on the property of the undertakers, and to lower the water in the reservior, and to execute and do all such works and things as the Justices think requisite and proper for removing the cause of complaint. Order of Justices for immediate repair.

(*a*) The whole Act is incorporated by the "Public Health Act, 1875," (38 & 39 Vict., 55, § 57.)

Order of Justices for repair generally.

5. If, on any such inquiry, the Justices are satisfied that there is good cause of complaint, but are not satisfied that the reservoir is in such an imminently dangerous state as not to admit of delay in removing the cause of complaint, they shall issue their summons to the undertakers to answer the complaint;

And upon hearing the parties, the Justices may, or upon default of appearance of the undertakers, then in their absence, the Justices shall order the undertakers, within such period as the Justices think reasonable and specify in the Order, to lower the water in the reservoir, and to execute and do all such works and things as the Justices think requisite and proper for removing the cause of complaint;

Failure to repair.

If the undertakers fail to execute or do within that period any such work or thing, the Justices who made the Order, or any other 2 Justices, on being satisfied of such failure, may either order such persons as the Justices think fit to enter on the property of the undertakers, and to lower the water in the reservoir, and to execute and do all such works and things as the Justices think requisite and proper for removing the cause of complaint;

Or may, if they think fit, by Order impose on the undertakers a penalty, not exceeding £10, for every day during which such failure continues after the making of the Order imposing the penalty.

Form of Order

6. Any Order of Justices made in any of the cases aforesaid shall be in writing under their hands, and may be in the form set forth in the Schedule to this Act, with such variations as circumstances require.

Persons acting under Order not trespassers.

7. Any person acting under and in pursuance of any such Order shall not be deemed a trespasser;

And if any person wilfully obstructs any person lawfully acting in obedience to any such Order, or wilfully does or instigates, or suffers to be done, anything in contravention thereof, he shall for every such offence be liable to a penalty not exceeding £50.

Order of payment of costs, &c.

8. The Justices may order all or such part as they think fit, of the costs of and incident to the applying for and obtaining of any such Order to be paid by the undertakers, and also all, or such part as the Justices think fit, of the expenses of the works and things executed and done in pursuance of any such Order by any person other than the undertakers, to be paid by the undertakers to such person as the Justices appoint.

If the Justices before whom the complaint is made think that there is no sufficient ground for the complaint, they may, if they think may, order the complainant to pay to the undertakers the whole or any part of their costs of or incident to the complaint.

Appeal against Order.

8 Vict., 20, 107—8.

9.(a) If the undertakers consider themselves aggrieved by any Order or determination of Justices under the present provisions, they may in like manner and subject to the like conditions as by the "Railways Clauses Consolidation Act, 1845," are provided in the case of appeals in respect of penalties, appeal to the Court of General or Quarter Sessions for the county or place where the cause of appeal arises;

And that Court may, on the hearing of the appeal, either affirm or quash the Order or determination, or make such other Order in the premises as may seem fit, and may make such Order as to the costs, both of the original proceedings and of the appeal, as may seem fit; but the Order or determination appealed against shall, pending the appeal, continue in force.

Undertakers not responsible for consequences of Order.

10. Notwithstanding anything in the Special Act contained, the undertakers shall not be liable to pay any damages, penalties, costs, charges, or expenses for or in respect of, or be answerable or accountable for, any diminution or cessation of the supply of water, or any other breach or non-performance of their or any of their duties, liabilities, or obligations under the Special Act, that may be occasioned by or result from the execution of any such Order.

Application of Act.

11. The present provisions with respect to the security of reservoirs shall apply to England . . . . . .

Supply of Water.

And with respect to the supply of water to be furnished by the undertakers, be it enacted as follows:

Supply for non-domestic purposes.

12. A supply of water for domestic purposes shall not include a supply of water for cattle, or for horses, or for washing carriages where such horses or carriages are kept for sale or hire or by a common carrier, or a supply for any trade, manufacture, or business, or for watering gardens, or for fountains, or for any ornamental purpose.

Failure to supply for non-domestic purposes.

13. Where the undertakers are authorised by the Special Act to supply water for other than domestic purposes, they shall not be liable, in the absence of express stipulation, under any agreement for the supply of water for other than domestic purposes, to any penalty or damages for not supplying such water, if the want of such supply arises from frost, unusual drought, or other unavoidable cause or accident.

(*a*) On this section V. Fitzgerald comments as follows:—"The appeal here given is regulated by 8 & 9 Vict., 20, §§ 107, 108, the provisions of which are not quite the same as those of the 'Public Health Act, 1875,' § 269. The 'Railway Clauses Act' fixes a minimum below which no appeal is to be allowed, and fixes 4 months as the period within which notice of appeal may be given. It may be some day interesting to see whether the provisions of the 'Public Health Act' are held to override those of the 'Railway Clauses Act' or not. If not, then it will follow that Local Authorities in their capacity as undertakers of waterworks will have a longer time within which to appeal against any Order, &c., made against them than they have in any other capacity, or than anyone else has under the 'Public Health Act.'"—(*Public Health*, p. 62.)

Meters.

14. Where the undertakers are authorised by the Special Act to supply water by measure, they may let for hire to any consumer of water so supplied any meter or instrument for measuring the quantity of water supplied and consumed, and any pipes and apparatus for the conveyance, reception, or storage of the water, for such remuneration in money as may be agreed upon between them and the consumer, which shall be recoverable in the same manner as Rates due to the undertakers for water;

And the meters, instruments, pipes, and apparatus shall not be subject to distress *or to the landlord's hypothec* for rent of the premises where the same are used, or be attached or taken in execution under any process of any Court of Law or Equity, or under or in pursuance of any adjudication or order in bankruptcy, or other legal proceeding against or affecting the consumer of the water or the occupier of the premises, or other the person in whose possession the meters, instruments, pipes, and apparatus may be.

Examination, &c., of meters, &c.

15. The officers of the undertakers may enter any house, building, or lands to, through, or into which water is supplied by them by measure, in order to inspect the meters, instruments, pipes, and apparatus for the measuring, conveyance, reception, or storage of water, or for the purpose of ascertaining the quantity of water supplied or consumed, and may from time to time enter any house, building, or lands, for the purpose of removing any meter, instrument, pipe, or apparatus, the property of the undertakers;

And if any person hinders any such officer from entering or making such inspection, or effecting such removal, he shall for every such offence be liable to a penalty not exceeding £5; but, except with the consent of a Justice or the Sheriff, this power of entry shall be exercised only between the hours of 10 in the forenoon and 4 in the afternoon.

Protection of Water.

And with respect to the waste or misuse of the water supplied by or belonging to the undertakers, be it enacted as follows:

Power to cut off water.

16. If any person supplied with water by the undertakers wrongfully does or causes or permits to be done anything in contravention of any of the provisions of the Special Act, or wrongfully fails to do anything which, under any of those provisions, ought to be done for the prevention of the waste, misuse, undue consumption, or contamination of the water of the undertakers, they may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied by them to him, or for his use, and may cease to supply him with water, so long as the cause of injury remains or is not remedied.

Waste, &c., of water.

17. If any person supplied with water by the undertakers wilfully or negligently causes or suffers any pipe, valve, cock, cistern, bath, soil-pan, watercloset, or other apparatus or receptacle to be out of repair, or to be used or contrived as that the water supplied to him by the undertakers is or is likely to be wasted, misused, unduly consumed, or contaminated, or so as to occasion or allow the return of foul air, or other noisome or impure matter, into any pipe belonging to or connected with the pipes of the undertakers, he shall for every such offence be liable to a penalty not exceeding £5.

Misuse of water.

18. If any person—

First, not having from the undertakers a supply of water for other than domestic purposes, uses, for other than domestic purposes, any water supplied to him by the undertakers; or

Secondly, having from the undertakers a supply of water for any other than domestic purposes, uses, for any purposes other than those for which he is entitled to use the same, any water supplied to him by the undertakers,—

he shall for every such offence be liable to a penalty, not exceeding 40*s.* without prejudice to the right of the undertakers to recover from him the value of the water misused.

Alteration of pipes.

19. It shall not be lawful for the owner or occupier of any premises supplied with water by the undertakers, or any consumer of the water of the undertakers, or any other person, to affix or cause or permit to be affixed any pipe or apparatus to a pipe belonging to the undertakers, or to a communication or service pipe belonging to or used by such owner, occupier, consumer, or other person, or to make any alteration in any such communication or service pipe, or in any apparatus connected therewith, without the consent in every such case of the undertakers;

And if any person acts in any respect in contravention of the provisions of the present Section, he shall for every such offence be liable to a penalty not exceeding £5, without prejudice to the right of the undertakers to recover damages from him in respect of any injury done to their property, and without prejudice to their right to recover from him the value of any water wasted, misused, or unduly consumed.

Wrongful use of water.

20. If any person, not being supplied with water by the undertakers, wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe belonging to the undertakers, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any cistern or other like place containing water belonging to the undertakers, or supplied by them for the use of any consumer of the water of the undertakers, he shall for every such offence be liable to a penalty not exceeding £5.

Recovery of Rates.

And with respect to the recovery of Water Rates and other money, be it enacted as follows:

Recovery of rates.

21. If any person refuses or neglects to pay to the undertakers any Rate or sum due to them under the Special Act, they may recover the same, with costs, in any Court of competent jurisdiction; and their remedy under the present Section shall be in addition to their other remedies for the recovery thereof.

SCHEDULE.

Form of Order of Justices.

To *A. B.* of &c.

We the undersigned, 2 of Her Majesty's Justices of the Peace acting for the [county] of do hereby order and direct you [and such person and persons as you may require to aid and assist you herein,] forthwith to lower the water in the [*here describe the reservoir and the extent to which the water is to be lowered,*] and to do all such works and things as are requisite to repair and make secure the said reservoir [and you shall do as little injury as possible to the property of the and for acting as you are hereby directed this shall be your sufficient warrant].

Given under our hands this day of One thousand eight hundred and .

A. B.
C. D.

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26 & 27 VICT., c. 97.

Revised Statutes, vol. xiv., p. 718.

An Act to enable Cities, Towns, and Boroughs of 25,000 Inhabitants and upwards to appoint Stipendiary Magistrates. (28th July 1863.)

WHEREAS the execution of the office of Justice of the Peace within populous cities and places in England and Wales has become difficult and burdensome, the great and increasing extent of the populations therein, and the difficult and important legal questions that arise under various public and local Acts, creating unreasonable demands upon the time of Justices: And whereas there is reason to believe that such cities and places would secure the services of Stipendiary Magistrates for the more speedy and effectual execution of the said office, the better protection of the persons and properties of the inhabitants, and the advantage of the public, if provision were made by authority of Parliament for the appointment of such Magistrates: Be it therefore enacted, &c.

Short title.

1. This Act may be cited as the "Stipendiary Magistrates Act, 1863."

Interpretation of terms.

2. In the construction of this Act the following words and expressions shall have the meanings hereby assigned to them, unless they be repugnant to or inconsistent with the context or subject matter in connection with which they are used; that is to say,

The words "city" or "place" shall mean any city or place, not a municipal corporation, wherein the Public Health Act, Local Government Act, or Local Improvement Act is or shall be in operation, and shall comprise the whole area to which the Public Health Act, Local Government Act, or Local Improvement Act shall extend, provided there is a population within such area of 25,000 persons; and provided such place is not included in any district for which a Stipendiary Magistrate is acting by virtue of any Act of Parliament:

The expression "Local Board" shall mean the Board appointed under any of such Acts:

The word "county" shall mean county, riding, parts, liberty, or division:

The word "jurisdiction" shall include the entire area of a city or place to which any of such Acts shall extends:

This Act shall not extend to the city of London, or to any city or place which is now incorporated or shall be incorporated under the provisions of the 5th and 6th William IV., chapter 66, intituled "An Act for the Regulation of Municipal Corporations in England and Wales."

Power to Local Board to make a bye-law as to salary on which Crown may appoint a Justice.

3. If any Local Board of any city or place shall, by a majority of not less than two-thirds of the number of such Board, think it expedient that a Stipendiary Magistrate should be appointed to execute the office of a Justice of the Peace within any city or place, such Local Board is hereby empowered, by a like majority, to make a bye-law or minute fixing the amount of the salary which he is to receive in that behalf, subject to the approval of one of Her Majesty's Principal Secretaries of State, and such bye-law or minute shall be transmitted to one of Her Majesty's Principal Secretaries of State, and it shall be lawful thereupon for Her Majesty, if she shall think fit, to appoint a fit person, being a barrister-at-law of not less than 5 years standing, to be, during Her Majesty's pleasure, Police Magistrate and a Justice of the Peace for such city or place, and to order that such sum shall be paid quarterly out of the Local Improvement Rate of such city or place as will be sufficient to pay such yearly salary to the said Justice so assigned as aforesaid, not exceeding in the whole the salary mentioned in such bye-law or minute so approved as aforesaid, clear of all fees or deductions, as to Her Majesty shall seem fit;

And the Treasurer of such Local Board shall pay to the Justice so assigned as aforesaid, out of the Local Improvement Rates, the salary so directed to be paid, by 4 equal quarterly payments,

and in the same proportion up to the time of the death of such Justice or his ceasing to act under such assignment as aforesaid ;

Provided that in every case of vacancy of the office of Police Magistrate in any city or place aforesaid no new appointment of Police Magistrate in such city or place shall be made until the Local Board, in manner hereinbefore referred to, shall again make application to *One of Her Majesty's Principal Secretaries of State* in that behalf, and as in the case of the first appointment of a Police Magistrate in such city or place.

Local Board to provide and furnish a police office.

4. The Local Board are hereby authorised and required to provide and furnish a fit and suitable office, to be called the police office of the city or place for the purpose of transacting the business of the Justices of such city or place, and to pay from time to time, out of the Local Improvement Rates, such sums as may be necessary for providing, upholding, and furnishing, and for the necessary expenses of such police office, provided that no room in any house licensed as a victualling house or alehouse shall be used for the purposes of any such police office.

Justice need not be qualified by estate.

18 Geo. II., 20 : 38 & 39 Vict., 54.

5. Any person assigned to keep the peace within any city or place under the provisions of this Act shall during the continuance of such assignment execute the duties of a Justice of the Peace in and for the city and place for which he shall have been so assigned, although he may not have such qualification by estate as is required by law in the case of other persons being Justices of the Peace for a county, provided that such person be not disqualified by law to act as a Justice of the Peace for any other cause or upon any other account than in respect of estate, and shall sit and act as a Justice of the Peace within such jurisdiction as aforesaid on all matters where one or more Justices are by law now required either alone or together with any other Justice or Justices of the Peace of the city or place wherein his jurisdiction is situate ;

And that every summons for the appearance of any person, or warrant to compel such appearance, or warrant for the apprehension of any person charged with any offence, or search warrant issued by any Justice of the Peace acting in and for any city or place in any matter within his jurisdiction, may be respectively served and executed within any county in which the said city or place shall be situate, or within any distance not exceeding 7 miles from such city or place, and within such limits as aforesaid, shall have the same force and effect as if the same had been originally issued or subsequently endorsed by a Justice of the Peace having jurisdiction in the place where the same shall be served or executed, any law, statute, charter, or usage to the contrary notwithstanding ;

And every such summons and warrant shall and may be lawfully served or executed within such limits as aforesaid by the constable or special constable to whom the same shall be directed :

Such Justice not to sit in Courts of gaol delivery.

Provided nevertheless, that no such person, by virtue of such assignment, shall act as a Justice of the Peace at any court of gaol delivery, or General or Quarter Sessions, or in making or levying any County Rate or Rate in the nature of a County Rate.

Power to Magistrate to appoint a clerk, being an attorney.

6. It shall be lawful for such Magistrate and he is hereby required to appoint one fit and proper person, being an Attorney-at-Law, in actual practice as a clerk, to be removable at his pleasure, and as often as there shall be a vacancy in the said office of clerk to the Magistrate by death, resignation, removal, or otherwise ;

And such clerk shall attend (except when prevented by illness or some other sufficient cause, to be allowed by such Magistrate, who shall appoint a temporary deputy,) at all official meetings and do all such work and transact all such business as is usually done and transacted by Justices clerks ;

And he and his successors shall be paid such yearly salary as the Local Board shall appoint, subject to an appeal to the Secretary of State, who is hereby empowered finally to determine the amount of the said salary, for his time, trouble, attendance, and expenses in the execution of his said office, by the Local Board, in 4 quarterly payments, as hereinbefore directed with reference to the payment of the salary of the said Magistrate ;

Clerk disqualified from acting as attorney in certain cases.

But he shall not be concerned, either by himself or partner, in any matter before the said Magistrate, or arising out of or consequent thereupon in any other Court, on pain of dismissal.

Fees.

Such Clerk shall receive and take all such fees as are authorised to be taken by the Clerks to the Justices acting for the county within which the said city or place is locally situate :

Power to remit fees and award costs.

Provided that a copy of the table of fees shall be affixed in the public office of every Magistrate appointed under this Act, who may remit any fees, in part or in whole, for reasonable cause, and award such costs as to him shall seem meet to be paid to or by either of the parties to any charge or complaint, whether or not a warrant or summons shall have issued.

Fees.

7. Such Clerk shall pay over all fees to the treasurer of the Local Board once every quarter of a year, and shall keep accounts of them in writing, and shall at the same time render to the Local Board an account thereof.

All such fees, together with all fines, penalties, and forfeitures hereinafter referred to, shall be carried by the Treasurer to the credit of the Local Improvement Rate ;

Power to Local Board to make Rates for payment of magistrate, &c.

Provided that it shall be lawful for the Local Board, if it should become necessary so to do, from time to time to make a Rate or assessment not exceeding 1*d.* in the pound in any one year upon all property rateable to the Improvement Rate within such city or place for the purpose of raising as much money as, together with the said fees, fines, penalties, and forfeitures, shall be sufficient to pay the salaries of the Magistrate and his Clerk, the rent and all other expenses of the offices, and of law or other books, printing and stationery, and of all other charges and expenses connected with or incidental to the duties of the Magistrate or his Clerk, such Rate or assessment to be made, levied, and enforced either with and as part of such Improvement Rate or to be separately assessed, levied, and enforced, and with the same powers and in the same manner as the Improvement Rate.

Application of fine and penalties.

All fines, penalties, and forfeitures imposed by such Magistrate, save and except those made payable to the informer who shall sue for the same, or any party aggrieved, and those recoverable under any Act relating to the Customs, Excise, or Post Office, or to trade or navigation, or any branch of Her Majesty's Revenue, shall be recovered for and adjudged to be paid to the said

A.D. 1863.

Treasurer of the said Local Board, and shall be by him carried to the credit of the Improvement Rate, and be applied as part thereof :

Penalties appropriated under local Acts.

Provided that, if under any Local Watch Act such fines, penalties, and forfeitures shall have been already appropriated, the same shall be applied as directed by such Local Act, anything herein contained to the contrary notwithstanding.

A.D. 1867. [30 & 31 Vict.] *Justices of the Peace Disqualification.* [C. **115.**]



30 & 31 VICT., c. 115.

Revised Statutes, vol. xv., p. 578.
Law Reports Statutes, vol. ii., p. 1217.

An Act to remove Disqualifications of Justices of the Peace in certain Cases.

(20th August, 1867.)

IN order that Justices of the Peace may act in the execution of Acts in some cases in which they now are incapable of so acting : Be it enacted, &c.

Short title.

1. This Act may for all purposes be cited as "Justices of the Peace Act, 1867."

Justices may act in cases specified.

2. A Justice of the Peace shall not be incapable of acting as a Justice at any Petty or Special or General or Quarter Sessions on the trial of an offence arising under an Act to be put in execution by a Municipal Corporation, or a Local Board of Health, or Improvement Commissioners, or Trustees, or any other Local Authority, by reason only of—

(a) His being as one of several ratepayers, or as one of any other class of persons liable in common with the others to contribute to or to be benefited by any fund to the account of which the penalty payable in respect of such offence is directed to be carried or of which it will form part, or to contribute to any Rate or expenses in diminution of which such penalty will go.

A.D. 1869. [32 & 33 Vict.] *Lands Clauses Amendment.* [C. **18.**]



32 & 33 VICT., c. 18.

Law Reports Statutes, vol. iv., p. 167.

An Act to amend the Lands Clauses Consolidation Act.

(24th June, 1869.)

WHEREAS it is expedient that the provisions contained in the "Lands Clauses Consolidation Act, 1845," should be amended : Be it thereby enacted, &c.

Costs of arbitration may be settled by a Master of Superior Courts.

1.(a) Where in England, under the "Lands Clauses Consolidation Act, 1845," or any Act incorporating the same, any question of disputed compensation is determined by arbitration, the costs of and incidental to the arbitration and award shall, if either party so requires, be taxed and settled as between the parties by any one of the Taxing Masters of the Superior Courts of Law ;

And such fees may be taken in respect of the taxation as may be fixed in pursuance of the enactments relating to the fees to be demanded and taken in the offices of such Masters, and all those enactments, including the enactments relating to the taking of fees by means of stamps, shall extend to the fees in respect of the said taxation.

Repeal of 31 & 32 Vict., 119, 33.

2. Section 33 of the "Regulation of Railways Act, 1868," is hereby repealed, and any proceedings commenced in pursuance of that Section may be continued under this Act as if they had been commenced under it.

[§ 3 relates to lands in Westminster only.]

Short title. Construction of Acts.

4. This Act may be cited as the "Lands Clauses Consolidation Act, 1869," and shall be construed as one with the "Lands Clauses Consolidation Act, 1845," and the "Lands Clauses Consolidation Acts Amendment Act, 1860," and these Acts and this Act may be cited together as the "Lands Clauses Consolidation Acts, 1845, 1860, and 1869."

(a) *Wombwell* v. *Barnsley.*

33 & 34 VICT., c. 70.

An Act to facilitate in certain cases the obtaining of powers for the construction of Gas and Water Works and for the supply of Gas and Water.[a] *(9th August, 1870.)*

Law Reports Statutes, vol. v., p. 356.

BE it enacted, &c.,

Preliminary.

Short title. 1. This Act may be cited for all purposes as the "Gas and Waterworks Facilities Act, 1870."

Interpretation 2. For the purposes of this Act the terms hereinafter mentioned shall have the meanings hereinafter assigned to them; that is to say:

The term "Local Authority" shall mean the bodies of persons named in the table in the Schedule (A) to this Act annexed:

The term "road" shall mean any carriageway being a public highway, and any bridge forming part of the same:

The term "road Authority" shall mean any Local Authority, Board, Town Council, body corporate, Commissioners, Trustees, Vestry, or other body or persons in whom a road as defined by this Act is vested, or who have the power to maintain or repair such road:

The term "district," in relation to a Local Authority, shall mean the area within the jurisdiction of such Local Authority:

The term the "Lands Clauses Acts" means, so far as the Provisional Order in which that term is used relates to England . . . . . the "Lands Clauses Consolidation Act, 1845," . . . . . together with, in each case, the "Lands Clauses Consolidation Acts Amendment Act, 1860."

Description of Cases within this Act.

Act to apply to certain cases. 3. This Act shall apply where powers are required for all or any of the purposes following:—

(1.) To construct or to maintain and continue gasworks and works connected therewith, or to manufacture and supply gas in any district within which there is not an existing company, corporation, body of commissioners, or person empowered by Act of Parliament to construct such works or to manufacture and supply gas:

(2.) To construct or to maintain and continue waterworks and works connected therewith, or to supply water in any district within which there is not an existing company, corporation, body of commissioners, or person empowered by Act of Parliament to construct such works and to supply water:

(3.) To raise additional capital necessary for any of the purposes aforesaid:

(4.) To enable two or more companies or persons duly authorised to supply gas or water in any district or in adjoining districts to enter into agreements jointly to furnish such supply, or to amalgamate their undertakings:

(5.) To authorise two or more companies or persons supplying gas or water in any district or in adjoining districts to manufacture and supply gas or to supply water, and to enter into agreements jointly to furnish such supply and to amalgamate their undertakings.

and such purposes, or any one or more of them, as the case may be, shall, for the purposes of this Act, be deemed to be included in the term "gas undertaking" or "water undertaking," according as the same relate to the supply of gas or water; provided that any gas or water company empowered as aforesaid may apply for and avail themselves of the facilities of this Act within their own districts respectively.

Provisional Orders authorising Gas and Water Undertakings.

By whom Provisional Orders may be obtained. 4. Provisional Orders authorising any gas undertaking or water undertaking under the authority of this Act may be obtained in any district by any company, companies, or person; and in the construction of this Act the term "the undertakers" shall be deemed to include any such company, companies, or person.

Where the undertakers require powers for the purpose of constructing gasworks or waterworks, or works connected therewith within any district, the consent of the Local Authority of such district shall be necessary before any Provisional Order can be obtained;

And where in such district there is a road Authority distinct from the Local Authority, the consent of such road Authority shall also be necessary in any case where power is sought to break up any road of such road Authority, before any Provisional Order can be obtained, unless the Board

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(*a*) Extended and amended by the Act 36 & 37 Vict., 89 (*post*). This Act is available to Urban Authorities so far as regards the supply of gas, (See the "Public Health Act, 1875," § 161.)

of Trade in any case in which the consent of the Local Authority or road Authority is refused are of opinion, after inquiry, that, having regard to all the circumstances of the case, such consent ought to be dispensed with, and in such case they shall make a special report, stating the grounds upon which they have dispensed with such consent.

Notices and deposit of documents.

5. The undertakers intending to make an application for a Provisional Order in pursuance of this Act shall proceed as follows :

(1.) On or before the 1st of November next before their application they shall give notice in writing of their intention to make the same to every company, corporation, or person (if any) supplying gas (if the proposed application relates to gasworks) or water (if the proposed application relates to waterworks) within the district to which the proposed application refers :

(2.) In the months of October and November next before their application, or in one of those months, they shall publish notice of their intention to make such application by advertisement, according to the regulations contained in Part I. of the Schedule (B) to this Act ; and where it is proposed to abstract water from any stream for any waterwork, they shall give notice in writing of their intention to make such application to the owners or reputed owners, lessees or reputed lessees, and occupiers of all mills and manufactories or other works using the waters of such stream for a distance of 20 miles below the point at which such water is intended to be abstracted, such distance to be measured along the course of such stream, unless such waters shall within a less distance than 20 miles fall into or unite with any navigable stream, and then only to the owners or reputed owners, lessees or reputed lessees, and occupiers of such mills and manufactories as aforesaid which shall be situate between the point at which such water is proposed to be abstracted and the point at which such water shall fall into or unite with such navigable stream ; and such notice shall state the name (if any) by which the stream is known at the point at which such water shall be immediately abstracted, and also the parish in which such point is situate, and the time and place of deposit of the plans and sections required by this Act to be deposited :

(3.) On or before the 30th day of the same month of November they shall deposit the documents described in Part II. of the same Schedule, according to the regulations therein contained :

(4.) On or before the 23rd day of December in the same year they shall deposit the documents described in Part III. of the same Schedule, according to the regulations therein contained.

All maps, plans, and documents required by this Act to be deposited for the purposes of any Provisional Order may be deposited with the persons and in the manner directed by the Act of the Session of Parliament held in the 7th Year of the Reign of His late Majesty King William IV. and the 1st Year of Her present Majesty, intituled "An Act to compel Clerks of the Peace for counties and other persons to take the custody of such documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament :" and all the provisions of that Act shall apply accordingly.

7 Will. IV., and 1 Vict., 83.

Power of Board of Trade.

6. The Board of Trade shall consider the application, and also any objection thereto that may be lodged with them on or before such day as they from time to time appoint, and shall determine whether or not the undertakers may proceed with the application.

Board of Trade provisional Order.

7. Where it appears to the Board of Trade expedient and proper that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, and it has been proved to their satisfaction that all the requisitions of § 5 of this Act have been in all respects complied with, the Board of Trade may settle and make a Provisional Order accordingly.

Every such Provisional Order if it relates to gasworks shall expressly restrict the undertakers from manufacturing gas or any residual products arising in the manufacture of gas on any land except such as is specified in that behalf in the Order ;

And shall also expressly restrict them from storing gas on any land except such as is specified in that behalf in the Order within 300 yards from any dwelling-house existing at the time when the undertakers propose to store gas on such land, without the consent in writing of the owner, lessee, and occupier of such dwelling-house.

Contents of Order.

Every such Provisional Order shall contain such other provisions as, according to the nature of the application and the facts and circumstances of each case, the Board of Trade thinks fit to submit to Parliament for confirmation in manner provided by this Act ;

But so that any such Provisional Order shall not contain any provision for empowering the undertakers or any other person to acquire lands otherwise than by agreement, or to acquire any lands, even by agreement, except to an extent therein limited.

Costs of Order.

The costs of and connected with the preparation and making of each Provisional Order shall be paid by the undertakers, and the Board of Trade may require the undertakers to give security for such costs before they proceed with the Provisional Order.

Publication of Order.

8. When a Provisional Order has been made as aforesaid and delivered to the undertakers, the undertakers shall forthwith deposit and publish the same by advertisement according to the regulations contained in Part IV. of the Schedule (B) to this Act.

Confirmation of Order by Parliament.

9. On proof to the satisfaction of the Board of Trade of the completion of such publication as aforesaid, the Board of Trade shall, as soon as they conveniently can after the expiration of 7 days from the completion of such publication in relation to any Provisional Order which shall have been published as aforesaid, not later than the 25th of April in any year procure a Bill to be introduced into either House of Parliament for an Act to confirm the Provisional Order, which shall be set out at length in the Schedule to the Bill ; but until confirmation by Act of Parliament a Provisional Order under this Act shall not have any operation.

If while any such Bill is pending in either House of Parliament a petition is presented against any Provisional Order comprised therein, the Bill, so far as it relates to the Order petitioned against, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of a Bill for a Special Act.

The Act of Parliament confirming any Provisional Order under this Act shall be deemed a public General Act.

Incorporation of general Acts.

10. The provisions of the "Lands Clauses Acts," shall be incorporated with every Provisional Order under this Act, save where the same are expressly varied or excepted by any such Provisional Order, and except as to the following provisions, namely,—

(1.) With respect to the purchase and taking of lands otherwise than by agreement:

(2.) With respect to the entry upon lands by the promoters of the undertaking.

10 Vict., 15.

Where a Provisional Order authorises a gas undertaking the provisions of the "Gasworks Clauses Act, 1847," shall be incorporated with such Provisional Order, save where the same are thereby expressly varied or excepted.

10 Vict., 17: 26 & 27 Vict., 93.

Where a Provisional Order authorises a water undertaking the provisions of the "Waterworks Clauses Act, 1847," and of the "Waterworks Clauses Act, 1863," shall be incorporated with such Provisional Order, save where the same are thereby expressly varied or excepted.

For the purposes of such incorporation a Provisional Order under this Act shall be deemed the Special Act.

Cesser of powers.

11. If any undertakers empowered by any Provisional Order under this Act to make works do not, within 3 years from the date of such Provisional Order, or within any shorter period prescribed therein, complete the works; or

If within one year from the date of the Provisional Order, or within such shorter time as is prescribed in the provisional Order, the works are not substantially commenced; or,

If the works are commenced, but whilst the powers to carry them on exist are suspended without a reason sufficient in the opinion of the Board of Trade to warrant such suspension;

the powers given by the Provisional Order to the undertakers for executing such works, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the same as is then completed, unless the time be prolonged by the special direction of the Board of Trade.

A statement in writing by the Board of Trade to the effect that such works have not been completed, or that the works have not been substantially commenced, or that they have been suspended without sufficient reason, shall be conclusive evidence for the purposes of this Section of such non-completion, non-commencement, or suspension.

Gas rents and water rents.

12. The undertakers empowered by any Provisional Order under this Act may demand and take, in respect of gas or water supplied by them under the authority of such Provisional Order, rents and rates respectively not exceeding the sums specified in such Provisional Order, subject and according to the regulations therein specified.

Provisions of general Act to apply.

13. Nothing in any Provisional Order, or Act confirming the same, shall exempt the undertaking, or the company, corporation, or person to whom it belongs, from the provisions of any general Act of Parliament relating to gasworks or waterworks passed after the passing of this Act, or from any revision or alteration under the authority of Parliament of the maximum rents and rates allowed to be taken under the Provisional Order.

Board of Trade may be replaced by another Department.

14. For the purpose of carrying into effect the provisions of this Act, it shall be lawful for Her Majesty at any time after the passing of this Act, by Order in Council, to substitute for the Board of Trade any other department of Her Majesty's Government, and from and after such time as may be specified for the purpose in any such Order, or if no time be specified therein from and after the date of such Order, all matters to be done in pursuance of this Act by or in connection with the Board of Trade shall be done by or in connection with such substituted department.

Metropolis. 18 & 19 Vict., 120.

15. This Act shall not apply to any place within the Metropolis, as the same is defined in the "Metropolis Management Act, 1855."

SCHEDULE A.

Districts of Local Authorities.	Description of Local Authority of District set opposite its Name.
England and Wales.	
Boroughs (1) - - - - - -	The Mayor, Aldermen, and Burgesses acting by the Council.
Any place other than a Borough, and under the jurisdiction of Commissioners, Trustees, or other persons intrusted by any Local Act with powers of improving, cleansing, or paving any town.	The Commissioners, Trustees, or other persons intrusted by the Local Act with powers of improving, cleansing, or paving the town.
Any place not included in the above descriptions, and within the jurisdiction of Local Board constituted in pursuance of the "Public Health Act, 1848," and the "Local Government Act, 1858," or one of such Acts.	The Local Board.
Any place or parish not within the above descriptions, and in which a Rate is levied for the maintenance of the poor.	The Vestry, Select Vestry, or other body of persons acting by virtue of any Act of Parliament, prescription, custom, or otherwise, as or instead of a Vestry or Select Vestry.
* * * * * * *	

(1) "Borough" shall mean any place for the time being subject to an Act passed in the session holden in the 5th and 6th Years of the reign of King William IV., c. 76, intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales."

SCHEDULE B.

Provisional Orders.

Part I.

Advertisement in October or November of intended application.

(1.) Every advertisement is to contain the following particulars:

1. The objects of the intended application.

2. A general description of the nature of the proposed new works, if any.
3. The names of the townlands, parishes, townships, and extra-parochial places in which the proposed new works, if any, will be made.
4. The times and places at which the deposit under Part II. of this Schedule will be made.
5. An office, either in London or at the place to which the intended application relates, at which printed copies of the draft Provisional Order, when deposited, and of the Provisional Order, when made, will be obtainable as hereinafter provided.

(2.) The whole notice is to be included in one advertisement, which is to be headed with a short title descriptive of the undertaking.

(3.) The advertisement is to be inserted once at least in each of 2 successive weeks in some one and the same newspaper published in the district affected by the proposed undertaking, where the proposed works (if any) will be made; or if there be no such newspaper, then in some one and the same newspaper published in the county in which every such district, or some part thereof, is situate; or if there be none, then in some one and the same newspaper published in some adjoining or neighbouring county.

(4). The advertisement is also, in every case, to be inserted once at least in the *London Gazette* . . . . . .

PART II.

Deposit on or before 30th November.

(1.) The undertakers are to deposit—

1. A copy of the advertisement published by them.
2. If the application relates to gas, a map showing the land proposed to be used for the manufacture of gas, or of residual products arising in the manufacture of gas.
3. A proper plan and section of the proposed new works, if any, such plan and section to be prepared according to such regulations as may from time to time be made by the Board of Trade in that behalf.

(2.) The documents aforesaid are to be deposited for public inspection—

In England . . . . . in the office of the Clerk of the Peace for every county, riding, or division . . . . . which will be affected by the proposed undertaking, or in which any proposed new work will be made.

(3.) The documents aforesaid are also to be deposited at the office of the Board of Trade.

PART III.

Deposit on or before 23rd December.

(1.) The undertakers are to deposit at the office of the Board of Trade.

1. A memorial signed by the undertakers, headed with a short title descriptive of the undertaking (corresponding with that at the head of the advertisement), addressed to the Board of Trade, and praying for a Provisional Order.
2. A printed draft of the Provisional Order as proposed by the undertakers, with any schedule referred to therein.
3. An estimate of the expense of the proposed new works, if any, signed by the persons making the same.

(2.) They are also to deposit a sufficient number of such printed copies at the office named in that behalf in the advertisement; such copies to be there furnished to all persons applying for them at the price of no more than 1*s.* each.

(3.) The memorial of the undertakers (to be written on foolscap paper, bookwise, with quarter margin) is to be in the following form, with such variations as circumstances require :—

[*Short title of undertaking.*]

To the Board of Trade,

The memorial of the undertakers of [*short title of undertaking*] :

Showeth as follows :

1. Your memorialists have published, in accordance with the requirements of the "Gas and Waterworks Facilities Act, 1870," the following advertisement :

[*Here advertisement to be set out verbatim.*]

2. Your memorialists have also deposited, in accordance with the requirements of the said Act, copies of the said advertisement and [*Here state deposit of the several matters required by Act.*]

Your memorialists, therefore, pray that a Provisional Order may be made in the terms of the draft proposed by your memorialists, or in such other terms as may seem meet.

A.B.,
C.D.,
Undertakers.

PART IV.

Deposit and advertisement of Provisional Order when made.

(1.) The undertakers are to deposit printed copies of the Provisional Order, when settled and made, for public inspection in the offices of Clerks of the Peace and Sheriff Clerks, where the documents required to be deposited by them under Part II. of this Schedule were deposited.

(2.) They are also to deposit a sufficient number of such printed copies at the office named in that behalf in the advertisement, such copies to be there furnished to all persons applying for them at the price of each.

(3.) They are also to publish the Provisional Order as an advertisement once in the local newspaper in which the original advertisement of the intended application was published.

33 & 34 VICT., c. 78.

An Act to facilitate the construction and to regulate the working of Tramways.

(9th August, 1870.)

Law Reports Statutes, vol. v., p. 490.

BE it enacted, &c.,

Preliminary.

1. This Act may be cited for all purposes as the "Tramways Act, 1870." — Short title.

2. This Act shall not extend to Ireland. — Limitation.

3. For the purposes of this Act the terms hereinafter mentioned shall have the meanings hereinafter assigned to them; that is to say, — Interpretation.

The terms "Local Authority" and "Local Rate" shall mean respectively the bodies of persons and Rate named in the table in Part I. of the Schedule (A) to this Act annexed:

The term "road" shall mean any carriageway being a public highway, and the carriageway of any bridge forming part of or leading to the same:

The term "Road Authority" shall mean . . . . . any Local Authority, Board, Town Council, body corporate, commissioners, trustees, vestry, or other body or persons in whom a road as defined by this Act is vested, or who have the power to maintain or repair such road:

The term "district" in relation to a Local Authority or Road Authority, shall mean the area within the jurisdiction of such Local Authority or Road Authority:

The term "prescribed" shall mean prescribed by any rules made in pursuance of this Act:

The term "The Lands Clauses Acts" means, so far as the Provisional Order in which that term is used relates to England, "The Lands Clauses Consolidation Act, 1845;" . . . . . together with, in each case, "The Lands Clauses Consolidation Acts Amendment Act, 1860:"

The term "2 Justices" shall, in addition to its ordinary signification, mean one Stipendiary or Police Magistrate acting in any police court for the district.

PART I.

Provisional Orders authorising the Construction of Tramways.

4. Provisional Orders authorising the construction of tramways in any district may be obtained by— — By whom Provisional Orders may be obtained.

(1.) The Local Authority of such district; or by

(2.) Any person, persons, corporation, or company, with the consent of the Local Authority of such district, or of the Road Authority of such district where such district is or forms part of a highway district formed under the provisions of the "Highway Acts:"

And any such Local Authority, person, persons, corporation, or company shall be deemed to be promoters of a tramway, and are in this Act referred to as "the promoters."

Application for a Provisional Order shall not be made by any Local Authority until such application shall be approved in the manner prescribed in Part III. of the Schedule (A) to this Act annexed.

Where in any district there is a Road Authority distinct from the Local Authority the consent of such Road Authority shall also be necessary in any case where power is sought to break up any road subject to the jurisdiction of such Road Authority, before any Provisional Order can be obtained.

5. Where it is proposed to lay down a tramway in 2 or more districts, and any Local or Road Authority having jurisdiction in any of such districts does not consent thereto, the Board of Trade may, nevertheless, make a Provisional Order authorising the construction of such tramway if they are satisfied, after inquiry, that two-thirds of the length of such tramway is proposed to be laid in a district or in districts the Local and Road Authority or the Local and Road Authorities of which district or districts do consent thereto; and in such case they shall make a special report stating the grounds upon which they have made such Order. — Consent of local or road authority not indispensable.

6. The promoters intending to make an application for a Provisional Order shall proceed as follows:— — Notices and deposit of documents.

(1.) In the months of October and November next before their application, or in one of those months, they shall publish notice of their intention to make such application by advertisement; and they shall, on or before the 15th day of the following month of December, serve notice of such intention, in accordance with the Standing Orders (if any) of both Houses of Parliament for the time being in force with respect to Bills for the construction of tramways:

(2.) On or before the 30th day of the same month of November they shall deposit the documents described in Part II. of the same Schedule, according to the regulations therein contained:

(3.) On or before the 23rd day of December in the same year they shall deposit the documents described in Part III. of the same Schedule, according to the regulations therein contained :

All maps, plans, and documents, required by this Act to be deposited for the purposes of any Provisional Order may be deposited with the persons and in the manner directed by the Act of the session of Parliament held in the 7th Year of the reign of His late Majesty King William IV. and the 1st Year of Her present Majesty, intituled "An Act to compel Clerks of the Peace for counties and other persons to take the custody of such documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament;" and all the provisions of that Act shall apply accordingly.(a)

7 Will. IV., and 1 Vict., 83.

Power of Board of Trade.

7. The Board of Trade shall consider the application, and may, if they think fit, direct an inquiry in the district to which the same relates, or may otherwise inquire as to the propriety of proceeding upon such application, and they shall consider any objection thereto that may be lodged with them on or before such day as they from time to time appoint, and shall determine whether or not the promoters may proceed with the application.

Board of Trade Provisional Order.

8. Where it appears to the Board of Trade expedient and proper that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, the Board of Trade may settle and make a Provisional Order accordingly.

Contents of Order.

Every such Provisional Order shall empower the promoters therein specified to make the tramway upon the gauge and in manner therein described, and shall contain such provisions as (subject to the requirements of this Act) the Board of Trade, according to the nature of the application and the facts and circumstances of each case, think fit to submit to Parliament for confirmation in manner provided by this Act ;

But so that any such Provisional Order shall not contain any provision for empowering the promoters or any other person to acquire lands otherwise than by agreement, or to acquire any lands, even by agreement, except to an extent therein limited, or to construct a tramway elsewhere than along or across a road, or upon land taken by agreement.

Construction of tramways in towns.

9.(b) Every tramway in a town which is hereafter authorised by Provisional Order shall be constructed and maintained as nearly as may be in the middle of the road ;

And no tramway shall be authorised by any Provisional Order to be so laid that for a distance of 30 feet or upwards a less space than 9 feet and 6 inches shall intervene between the outside of the footpath on either side of the road and the nearest rail of the tramway if one-third of the owners or one-third of the occupiers of the houses, shops, or warehouses abutting upon the part of the road where such less space shall intervene as aforesaid shall in the prescribed manner and at the prescribed time express their dissent from any tramway being so laid.

Nature of traffic and tolls to be specified in Order.

10. Every such Provisional Order shall specify the nature of the traffic for which such tramway is to be used, and the tolls and charges which may be demanded and taken by the promoters in respect of the same, and shall contain such regulations relating to such traffic and such tolls and charges as the Board of Trade shall deem necessary and proper.

Costs of Order.

11.(c) The costs of and connected with the preparation and making of each Provisional Order shall be paid by the promoters, and the Board of Trade may require the promoters to give security for such costs before they proceed with the Provisional Order.

Promoters to deposit in bank £4 per cent. on estimate.

12. After a Provisional Order is ready, and before the same is delivered by the Board of Trade, the promoters, unless they are a Local Authority, shall within the prescribed time and in the prescribed manner, and subject to the prescribed conditions as to interest, repayment, or forfeiture, pay, as a deposit, into the prescribed bank, the sum of money prescribed, which shall not be less than £4 per centum on the amount of the estimate by the promoters of the expense of the construction of the tramway, or deposit in such bank any security of the prescribed nature the then value of which is not less than such sum of money.

Publication of Order.

13. When a Provisional Order has been made as aforesaid and delivered to the promoters, the promoters shall forthwith publish the same by deposit and advertisement, according to the regulations contained in Part IV. of the Schedule (B) to this Act.

Confirmation of Order by Parliament.

14. On proof to the satisfaction of the Board of Trade of the completion of such publication as aforesaid, the Board of Trade shall, as soon as they conveniently can after the expiration of 7 days from the completion of such publication, procure a Bill to be introduced into either House of Parliament in relation to any Provisional Order which shall have been published as aforesaid not later than the 25th of April in any year, for an Act to confirm the Provisional Order, which shall be set out at length in the Schedule to the Bill ;

And until confirmation, with or without amendment, by Act of Parliament, a Provisional Order under this Act shall not have any operation.

If while any such Bill is pending in either House of Parliament a petition is presented against any Provisional Order comprised therein, the Bill, so far as it relates to the Order petitioned against, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of a Bill for a Special Act.

The Act of Parliament confirming a Provisional Order under this Act shall be deemed a Public General Act.

Incorporation of general Acts

15. The provisions of the "Lands Clauses Acts" shall be incorporated with every Provisional Order under this Act, save where the same are expressly varied or excepted by any such Provisional Order, and except as to the following provisions, namely :—

8 Vict., 18, 16—68 ; 84—92.

(1.) With respect to the purchase and taking of lands otherwise than by agreement :
(2.) With respect to the entry upon lands by the promoters of the undertaking.

(a) *Edinburgh Street Tramways Co.* v. *Black.*
(b) *Challenger* v. *Bristol.*
(c) *Morley, In re.*

For the purposes of such incorporation a Provisional Order under this Act shall be deemed the Special Act.

Power of Board of Trade to revoke, &c., an Order.

16. The Board of Trade on the application of any promoters empowered by a Provisional Order may from time to time revoke, amend, extend, or vary such Provisional Order by a further Provisional Order.

Every application for such further Provisional Order shall be made in like manner and subject to the like conditions as the application for the former Provisional Order.

Every such further Provisional Order shall be made and confirmed in like manner in every respect as the former Provisional Order, and until such confirmation such further Provisional Order shall not have any operation.

Power to authorise joint work.

17. Subject and according to the provisions of this Act, the Board of Trade may, on a joint application, or on 2 or more separate applications, settle and make a Provisional Order empowering 2 or more Local Authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and jointly or separately to own the whole or parts thereof; and all the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of such tramway as last aforesaid; and the form of the Provisional Order may be adapted to the circumstances of the case.

Cesser of powers at expiration of prescribed time.

18. If the promoters, empowered by any Provisional Order under this Act to make a tramway, do not, within 2 years from the date of the same, or within any shorter period prescribed therein, complete the tramway and open it for public traffic; or,

If within one year from the date of the Provisional Order, or within such shorter time as is prescribed in the same, the works are not substantially commenced; or,

If the works having been commenced are suspended without a reason sufficient in the opinion of the Board of Trade to warrant such suspension;

the powers given by the Provisional Order to the promoters for constructing such tramway executing such works, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the same as is then completed, unless the time be prolonged by the special direction of the Board of Trade;

And as to so much of the same as is then completed the Board of Trade may allow the said powers to continue and to be exercised if they shall think fit, but failing such permission the same shall cease to be exercised, and where such permission is withheld then so much of the said tramway as is then completed shall be deemed to be a tramway to which all the provisions of this Act relating to the discontinuance of tramways after proof of such discontinuance shall apply, and may be dealt with accordingly.

A notice purporting to be published by the Board of Trade in the *London Gazette* . . . . . to the effect that a tramway has not been completed and opened for public traffic, or that the works have not been substantially commenced, or that they have been suspended without sufficient reason, shall be conclusive evidence for the purposes of this Section of such non-completion, non-commencement, or suspension.

Local Authority may lease or take tolls.

19. When a tramway has been completed under the authority of a Provisional Order by any Local Authority, or where any Local Authority has under the provisions of this Act acquired possession of any tramway, such Authority may, with the consent of the Board of Trade, and subject to the provisions of this Act, by lease, to be approved of by the Board of Trade, demise to any person, persons, corporation, or company the right of user by such person, persons, corporation, or company of the tramway, and of demanding and taking in respect of the same the tolls and charges authorised;

Or such Authority may leave such tramway open to be used by the public, and may in respect of such user demand and take the tolls and charges authorised;

But nothing in this Act contained shall authorise any Local Authority to place or run carriages upon such tramway, and to demand and take tolls and charges in respect of the use of such carriages.

Notice of the intention to make such lease shall be published by the Local Authority by advertisement, and a copy of such lease shall be deposited according to the regulations contained in Part I. of the Schedule (C) to this Act annexed;

And unless such notice is given, and such copy deposited, such lease shall not be approved of by the Board of Trade.

Every such lease shall be made for a term or for terms not exceeding in the whole 21 years.

On the determination of any lease made under this Act, the Local Authority may from time to time, with the consent of the Board of Trade, by lease, demise such rights for such further term or terms, not exceeding in any case 21 years, as the said Board may approve.

Every such lease shall imply a condition of re-entry if at any time after the making of the same the lessees discontinue the working of the tramway leased, or of any part thereof, for the space of 3 calendar months (such discontinuance not being occasioned by circumstances beyond the control of such lessees, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control).

The person, persons, corporation, or company to whom any such lease may be made are in this Act referred to as "lessees."

How expenses to be defrayed.

20. Where the Local Authority in any district are the promoters of any tramway, they shall pay all expenses incurred by them in applying for and obtaining a Provisional Order, and carrying into effect the purposes of such Provisional Order, out of the local Rate, and any such expenses shall be deemed to be purposes for which such local Rate may be made, and to which the same may be applied.

Where the local Rate is limited by law to a certain amount, and is by reason of such limitation insufficient for the payment of such expenses, the Board of Trade may, by the Provisional Order, extend the limit of such local Rate to such amount as they shall think fit, and prescribe for the payment of such expenses.

Such Local Authority may, for the purposes of such Provisional Order, borrow and take up at interest, on the credit of such local Rate, any sums of money necessary for defraying any such expenses;

And for the purpose of securing the repayment of any sums so borrowed, together with such interest as aforesaid, such Local Authority may mortgage to the persons by or on behalf of whom such sums are advanced such local Rate; but the exercise of the above-mentioned power shall be subject to the following regulations:

(1.) The money so borrowed shall not exceed such sum as may be sanctioned by the Board of Trade:

(2.) The money may be borrowed for such time, not exceeding 30 years, as such Local Authority, with the sanction of the Board of Trade, shall determine; and, subject as aforesaid to the repayment within 30 years, such Local Authority may either pay off the moneys so borrowed by equal annual instalments, or they may in every year set apart as a sinking fund, and accumulate in the way of compound interest by investing the same in the purchase of Exchequer Bills or other Government securities, such sum as will be sufficient to pay off the money so borrowed, or a part thereof, at such times as the Local Authority may determine.

10 Vict., 16, §§ 75—88.

The provisions of the "Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners, shall apply to any mortgage executed under the foregoing provisions of this Section, and for the purposes of such application the said provisions shall be incorporated with this Act.

For the purposes of such incorporation, the terms the "Special Act," and the "commissioners," shall be construed to mean respectively a Provisional Order under this Act, and the Local Authority.

Such Local Authority shall keep separate accounts of all moneys paid by them in applying for, obtaining, and carrying into effect any such Provisional Order, and in the repayment of moneys borrowed, and of all moneys received by them by way of rent or tolls in respect of the tramway authorised thereby.

When, after payment of all charges incurred under the authority of this Act, and necessary for giving effect to such Provisional Order, there shall be remaining in the hands of such Local Authority any of the moneys received by them by way of rent or tolls in respect of the tramway authorised by such Provisional Order, such money shall be applied by them to the purposes for which the local Rate may be by them applied.

[§ 21 relates to the Metropolis only.]

Part II.

Construction of Tramways.

As to incorporation of parts of this Act with Provisional Order and Special Acts.

22. Part II. and Part III. of this Act shall apply to every tramway which is hereafter authorised by any Provisional Order or Act of Parliament, and shall be incorporated with such Provisional Order or Act, and all the said provisions of this Act, save so far as they shall be expressly varied or excepted by any such Provisional Order or Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, with the provisions of every other Act or part of any Act which shall be incorporated therewith, form part of the said Provisional Order or Act, and be construed therewith as forming one Provisional Order or Act, as the case may be.

"Special Act."

23. In Part II. and Part III. of this Act, the term "Special Act" shall be construed to mean any Act of Parliament which shall be hereafter passed or any Provisional Order authorising the construction of a tramway, and with which the said parts of this Act shall be incorporated as aforesaid:

"Promoters."

24. The term the "promoters" shall mean any person, persons, corporation, company, or Local Authority authorised by Special Act to construct a tramway.

Mode of formation of tramways.

25. Every tramway which is hereafter authorised by Special Act shall be constructed on such gauge as may be prescribed by such Special Act, and if no gauge is thereby prescribed, on such gauge as will admit of the use upon such tramways of carriages constructed for use upon railways of a gauge of 4ft. 8½in., and shall be laid and maintained in such manner that the uppermost surface of the rail shall be on a level with the surface of the road, and shall not be opened for public traffic until the same has been inspected and certified to be fit for such traffic, in the prescribed manner.

Power to break up streets, &c.

26. The promoters from time to time, for the purpose of making, forming, laying down, maintaining, and renewing any tramway duly authorised, or any part or parts thereof respectively, may open and break up any road, subject to the following regulations:

(1.) They shall give to the road Authority notice of their intention, specifying the time at which they will begin to do so, and the portion of road proposed to be opened or broken up, such notice to be given 7 days at least before the commencement of the work:

(2.) They shall not open, or break up, or alter the level of any road, except under the superintendence [a] and to the reasonable satisfaction of the road Authority, unless that Authority refuses or neglects to give superintendence at the time specified in the notice, or discontinues the same during the work:

(3.) They shall pay all reasonable expenses to which the road Authority is put on account of such superintendence:

(4.) They shall not, without the consent of the road Authority, open or break up at any one time a greater length than 100 yards of any road which does not exceed a quarter of a mile in length, and in the case of any road exceeding a quarter of a mile in length the promoters

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(a) *St. Luke's Vestry* v. *North Metropolitan Tramways Co.*

shall leave an interval of at least a quarter of a mile between any 2 places at which they may open or break up the road, and they shall not open or break up at any such place a greater length than 100 yards.

Where the carriageway over any bridge forms part of or is a road within the jurisdiction of a road Authority but such bridge is vested in some person or persons, corporation, or company, distinct from such road Authority, any work which the promoters may be empowered to construct, and which affects or in anywise interferes with the structural works of such bridge, shall be constructed under the superintendence (at the cost of the promoters) and to the reasonable satisfaction of such person, persons, corporation, or company, unless after notice to be given by the promoters 7 days at least before the commencement of such work such superintendence is refused or withheld.

Where the carriageway in or upon which any tramway is proposed to be formed or laid down is crossed by any railway or tramway on the level, any work which the promoters may be empowered to construct, and which affects or in anywise interferes with such railway or tramway, or the traffic thereon, shall be constructed and maintained under the superintendence (at the cost of the promoters) and to the reasonable satisfaction of the person, corporation, or company owning such railway or tramway, unless after notice to be given by the promoters 7 days at least before the commencement of such work such superintendence is refused or withheld.

Completion of works and reinstatement of road.

27 When the promoters have opened or broken up any portion of any road, they shall be under the following further obligations ; namely,

(1.) They shall, with all convenient speed, and in all cases within four weeks at the most (unless the road Authority otherwise contents in writing) complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance, or renewal of the tramway), fill in the ground and make good the surface, and, to the satisfaction of the road Authority, restore the portion of the road to as good condition as that in which it was before it was opened or broken up, and clear away all surplus paving or metalling material or rubbish occasioned thereby :

(2.) They shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night :

(3.) They shall bear or pay all reasonable expenses of the repair of the road for 6 months after the same is restored, as far as those expenses are increased by the opening or breaking up.

If the promoters aforesaid fail to comply in any respect with the provisions of the present Section, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act or to any other remedy against them) be liable to a penalty not exceeding £20, and to a further penalty not exceeding £5 for each day during which any such failure continues after the first day on which such penalty is incurred.

Repair of part of road where tramway is laid.

28. The promoters shall, at their own expense, at all times maintain and keep in good condition and repair, with such materials and in such manner as the road Authority shall direct, and to their satisfaction, so much of any road whereon any tramway belonging to them is laid as lies between the rails of the tramway and (where 2 tramways are laid by the same promoters in any road at a distance of not more than 4ft. from each other) the portion of the road between the tramways, and in every case so much of the road as extends 18in. beyond the rails of and on each side of any such tramway.

If the promoters abandon their undertaking or any part of the same, and take up any tramway or any part of any tramway belonging to them, they shall with all convenient speed, and in all cases within 6 weeks at the most (unless the road Authority otherwise consents in writing), fill in the ground and make good the surface, and, to the satisfaction of the road Authority, restore the portion of the road upon which such tramway was laid to as good a condition as that in which it was before such tramway was laid thereon, and clear away all surplus paving or metalling material or rubbish occasioned by such work ; and they shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night :

Provided always, that if the promoters fail to comply with the provisions of this Section, the road Authority, if they think fit, may themselves at any time, after 7 days' notice to the promoters, open and break up the road, and do the works necessary for the repair and maintenance or restoration of the road, to the extent in this Section above mentioned, and the expense incurred by the road Authority in so doing shall be repaid to them by the promoters.

Road authority and promoters may contract for paving roads on which are tramways.

29.[a] The road Authority on the one hand and the promoters on the other hand may from time to time enter into and carry into effect, and from time to time alter, renew, or vary, contracts, agreements, or arrangements with respect to the paving and keeping in repair of the whole or any portion of the roadway of any road on which the promoters shall lay any tramway, and the proportion to be paid by either of them of the expense of such paving and keeping in repair.

Provision as to gas and water companies.

30. For the purpose of making, forming, laying down, maintaining, repairing or renewing any of their tramways, the promoters may from time to time, where and as far as it is necessary, or may appear expedient for the purpose of preventing frequent interruption of the traffic by repairs or works in connection with the same, alter the position of any mains or pipes for the supply of gas or water, or any tube, wires, or apparatus for telegraphic or other purposes, subject to the provisions of this Act, and also subject to the following restrictions ; (that is to say,)

(1.) Before laying down a tramway in a road in which any mains or pipes, tubes, wires or apparatus may be laid, the promoters shall, whether they contemplate altering the position of any such mains or pipes, wires, or apparatus, or not, give 7 days' notice to the company, persons, or person to whom such mains or pipes, tubes, wires, or apparatus may belong or by whom they are controlled, of their intention to lay down or alter the tramway, and shall at

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(a) *Val de Travers Asphalt Co.* v. *London Tramways Co.*

the same time deliver a plan and Section of the proposed work. If it should appear to any such company or person that the construction of the tramway as proposed would endanger any such main or pipe, tube, wire, or apparatus, or interfere with or impede the supply of water or gas or the telegraphic or other communication, such company or person (as the case may be) may give notice to the promoters to lower or otherwise alter the position of the said mains or pipes, tubes, wires, or apparatus in such manner as may be considered necessary, and any difference as to the necessity of any such lowering or alteration shall be settled in manner provided by this Act for the settlement of differences between the promoters and other companies or persons, and all alterations to be made under this Section shall be made with as little detriment and inconvenience to the company or person to whom such mains or pipes, tubes, wires, or apparatus may belong, or by whom the same are controlled, or to the inhabitants of the district, as the circumstances will admit, and under the superintendence of such company or person or of their surveyor or engineer if they or he think fit to attend, after receiving not less than 48 hours' notice for that purpose, which notice the promoters are hereby required to give:

(2.) The promoters shall not remove or displace any of the mains or pipes, valves, syphons, plugs, tubes, wires, or apparatus, or other works belonging to or controlled by any such company or person, or do anything to impede the passage of water or gas or the telegraphic or other communication into or through such mains or pipes, without the consent of such company or person, or in any other manner than such company or person shall approve, until good and sufficient mains, pipes, valves, syphons, plugs and other works necessary or proper for continuing the supply of water or gas or telegraphic or other communication, as sufficiently as the same was supplied by the mains or pipes, tubes, wires, or apparatus proposed to be removed or displaced, shall at the expense of the promoters have been first made and laid down in lieu thereof and ready for use, and to the satisfaction of the surveyor or engineer of such water or gas or other company, or of such person, or, in case of disagreement between such surveyor or engineer and the promoters, as an engineer appointed by the Board of Trade shall direct:

(3.) The promoters shall not lay down any such pipes contrary to the regulations of any Act of Parliament relating to such water or gas or other company, or relating to telegraphs:

(4.) The promoters shall make good all damage done by them to property belonging to or controlled by any such company or person, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with such property, or with the private service pipes of any person supplied by any such company or person with water or gas;

(5.) If by any such operations as aforesaid the promoters interrupt the supply of water or gas in or through any main or main pipe they shall be liable to a penalty not exceeding £20 for every day upon which such supply shall be so interrupted.

Protection of sewers, &c.

31. Where in any district any tramway or any work connected therewith interferes with any sewer, drain, watercourse, subway, defence, or work in such district, or in any way affects the sewerage or drainage of such district, the promoters shall not commence any tramway or work until they shall have given to the proper authority 14 days previous notice in writing of their intention to commence the same, by leaving such notice at the principal office of such Authority with all necessary particulars relating thereto, nor until such Authority shall have signified their approval of the same, unless such Authority do not signify their approval, disapproval, or other directions within 14 days after service of the said notice and particulars as aforesaid;

And the promoters shall comply with and conform to all reasonable directions and regulations of the said Authority in the execution of the said works, and shall provide by new, altered, or substituted works, in such manner as such Authority shall reasonably require, for the proper protection of and for preventing injury or impediment to the sewers and works hereinbefore referred to, by or by reason of the tramways, and shall save harmless the said Authority against all and every the expense to be occasioned thereby;

And all such works shall be done under the direction, superintendence, and control of the engineer or other officer or officers of the said Authority, at the reasonable costs, charges, and expenses in all respects of the promoters;

And when any new, altered, or substituted work as aforesaid, or any works or defence connected therewith, shall be completed by or at the costs, charges, or expenses of the promoters, under the provisions of this Act, the same shall thereafter be as fully and completely under the direction, jurisdiction, and control of the said Authority and be maintained by them as any sewers or works.

Rights of authorities and companies, &c., to open roads.

32. Nothing in this Act shall take away or abridge any power to open or break up any road along or across which any tramway is laid, or any other power vested in any Local Authority or road Authority for any of the purposes for which such Authority is respectively constituted, or in any company, body, or person for the purpose of laying down, repairing, altering, or removing any pipe for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes, but in the exercise of such power every such Local Authority, road Authority, company, body, or person shall be subject to the following restrictions; (that is to say,)

(1.) They shall cause as little detriment or inconvenience to the promoters and lessees as circumstances admit:

(2.) Before they commence any work whereby the traffic on the tramway will be interrupted they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the promoters and lessees, if there be any, notice of their intention to commence such work, specifying the time at which they will begin to do so, such notice to be given 18 hours at least before the commencement of the work:

(3). They shall not be liable to pay to the promoters or lessees any compensation for injury done to the tramway by the execution of such work, or for loss of traffic occasioned thereby, or for the reasonable exercise of the powers so vested in them as aforesaid:

(4.) Whenever for the purpose of enabling them to execute such work the Local Authority or the road Authority shall so require, the promoters or lessees shall either stop traffic on the tramway to which the notice shall refer, where it would otherwise interfere with such work, or shore up and secure the same at their own risk and cost during the execution of the work there; provided that such work shall always be completed by the Local Authority or the road Authority, as the case may be, with all reasonable expedition:

(5.) Any company, body, or person shall not execute such work so far as it immediately affects the tramway except under the superintendence of the promoters, unless they refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work or discontinue the same during the progress of the work; and they shall execute such work at their own expense, and to the reasonable satisfaction of the promoters; provided that any additional expense imposed upon them by reason of the existence of the tramway in any road or place where any such mains, pipes, tubes, wires, or apparatus shall have been laid before the construction of such tramway shall be borne by the promoters.

Difference between promoters and road authority, &c.

33. If any difference arises between the promoters or lessees on the one hand and any Local Authority or road Authority, or any gas or water company, or any company, body, or person to whom any sewer, drain, tube, wires, or apparatus for telegraphic or other purposes may belong, or any other company, on the other hand, with respect to any interference or control exercised, or claimed to be exercised, by them or him, or on their or his behalf, or by the promoters or lessees by virtue of this Act, in relation to any tramway or work, or in relation to any work or proceeding of the Local Authority, road Authority, body, company, or person, or with respect to the propriety of or the mode of execution of any work relating to any tramway, or with respect to the amount of any compensation to be made by or to the promoters or lessees, or on the question whether any work is such as ought reasonably to satisfy the Local Authority, road Authority, body, company, or person concerned, or with respect to any other subject or thing regulated by or comprised in this Act, the matter in difference shall (unless otherwise specially provided by this Act) be settled by an engineer or other fit person nominated as referee by the Board of Trade on the application of either party, and the expenses of the reference shall be borne and paid as the referee directs.

Part III.

General Provisions.

Carriages.

Power for promoters to use flange-wheeled carriages, &c.

34. The promoters of tramways authorised by Special Act and their lessees may use on their tramways carriages with flange wheels or wheels suitable only to run on the rail prescribed by such Act;

And, subject to the provisions of such Special Act and of this Act, the promoters and their lessees shall have the exclusive use of their tramways for carriages with flange wheels or other wheels suitable only to run on the prescribed rail.

All carriages used on any tramway shall be moved by the power prescribed by the Special Act, and where no such power is prescribed, by animal power only.

No carriage used on any tramway which is hereafter authorised by Special Act shall extend beyond the outer edge of the wheels of such carriage more than 11 inches on each side.

Licenses to use Tramways.

Licenses to use tramways may be granted by Board of Trade.

35. If at any time after any tramway or part of any tramway shall have been for 3 years opened for public traffic in any district it shall be represented in writing to the Board of Trade by the Local Authority of such district or by 20 inhabitant ratepayers of such district, or by the road Authority of any road in which such tramway or part of a tramway is laid, that the public are deprived of the full benefit of the tramway, the Board of Trade may (if they consider that, *primâ facie*, the case is one for inquiry) direct an inquiry by a referee under this Act into the truth of the representation, and if the referee report that the truth of the representation has been proved to his satisfaction, the Board may from time to time grant licenses to any company or person to use such tramway in addition to the promoters or their lessees, for such traffic as is authorised by the Special Act, with carriages to be approved by the Board, subject to the following provisions, conditions, and restrictions; (that is to say,)

(1.) The license shall be for any period not less than one year nor more than 3 years from the date of the license, but shall be renewable by the Board, if they upon inquiry think fit:

(2.) The license shall be to use the whole of such tramway for the time being opened for public traffic, or such part or parts of such tramway as the Board, having reference to the cause for granting the license, shall think right:

(3.) The license shall direct the number of carriages which the licensee or licensees shall run upon such tramway, and the mode in which and times at which such carriages shall be run:

(4.) The licenses shall specify the tolls to be paid to the promoters or to their lessees by the licensee or licensees for the use of the tramways:

(5.) The licensee or licensees, and their officers and servants, shall permit one person duly authorised for that purpose by the promoters, or by their lessees, to ride free of charge in or upon each carriage of the licensee or licensees run upon the tramways for the whole or any part of the journey:

(6.) The Board of Trade may at any time after the granting of any license revoke, alter, or modify the same for good cause shown to them.

Default in payment of tolls.

36. If on demand any licensee fail to pay the tolls due in respect of any passengers carried in any carriage it shall be lawful for the promoters or their lessees, to whom the same are payable, to detain and sell such carriage, or if the same shall have been removed from the tramway or pre-

mises of such promoters or lessees, to detain and sell any other carriages on such tramway or premises belonging to such licensee, and out of the moneys arising from such sale to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus (if any) of such moneys and such of the carriages as shall remain unsold to the person entitled thereto.

Account of passengers carried.

37. Every licensee shall on demand give to an officer or servant authorised in that behalf by the promoters or their lessees entitled to be paid tolls by such licensee, an exact account in writing signed by such licensee of the number of passengers conveyed by any and every carriage used by him on the tramways.

Penalty for not giving account of passengers carried.

38. If any such licensee fails to give such account to such officer or servant demanding the same as aforesaid, or if any such licensee with intent to avoid the payment of any tolls gives a false account, he shall for every such offence forfeit to the promoters, or to their lessees entitled to be paid tolls by such licensee, a sum not exceeding £5, and such penalty shall be in addition to any tolls payable in respect of the passengers carried by any such carriage.

Disputes as to amount of toll.

39. If any dispute arise concerning the amount of the tolls due to the promoters or to their lessees from any licensee, or concerning the charges occasioned by any detention or sale of any carriage under the provisions herein contained, the same shall be settled in England by 2 Justices . . . . . and it shall be lawful for the promoters or their lessees in the meanwhile to detain the carriage, or (if the case so require) the proceeds of the sale thereof.

Owners of carriages liable for damage done by their servants.

40. Every licensee shall be answerable for any trespass or damage done by his carriages or horses, or by any of the servants or persons employed by him, to or upon the tramway, or to or upon the property of any other person, and, without prejudice to the right of Action against the licensee or any other person, every such servant or other person may lawfully be convicted of such trespass or damage in England before 2 Justices . . . . . either by the confession of the party offending or by the oath of some credible witness ;

And upon such conviction every such licensee shall pay to the promoters, lessees, or persons injured, as the case may be, the damage, to be ascertained by such Justices, so that the same do not exceed £50.

Discontinuance of Tramways.

Tramways to be removed in certain cases.

41.[a] If at any time after the opening of any tramway in any district for traffic the promoters discontinue the working of such tramway, or of any part thereof, for the space of 3 calendar months (such discontinuance not being occasioned by circumstances beyond the control of such promoters, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), and such discontinuance is proved to the satisfaction of the Board of Trade, the said Board, if they think fit, may by Order declare that the powers of the promoters in respect of such tramway or the part thereof so discontinued shall, from the date of such Order, be at an end, and thereupon the said powers of the promoters shall cease and determine, unless the same are purchased by the Local Authority in manner by this Act provided.

Where any such Order has been made, the road Authority of such district may at any time after the expiration of 2 months from the date of such Order, under the authority of a certificate to that effect by the Board of Trade, remove the tramway or part of the tramway so discontinued, and the promoters shall pay to the road Authority the cost of such removal and of the making good of the road by the road Authority, such cost to be certified by the clerk for the time being, or by some other authorised officer of the road Authority, whose certificate shall be final and conclusive ;

And if the promoters fail to pay the amount so certified within one calendar month after delivery to them of such certificate or a copy thereof, the road Authority may, without any previous notice to the promoters (but without prejudice to any other remedy which they may have for the recovery of the amount), sell and dispose of the materials of the tramway or part of tramway removed, either by public auction or private sale, and for such sum or sums, and to such person or persons, as the road Authority may think fit, and may out of the proceeds of such sale pay and reimburse themselves the amount of the cost certified as aforesaid and of the cost of sale, and the balance (if any) of the proceeds of the sale shall be paid over by the road Authority to the promoters.

Insolvency of Promoters.

Proceedings in case of insolvency of promoters.

42. If at any time after the opening of any tramway in any district for traffic, it appears to the Local Authority or the road Authority of such district that the promoters of such tramway are insolvent, so that they are unable to maintain such tramway, or work the same with advantage to the public, and such road authority makes a representation to that effect to the Board of Trade, the Board of Trade may direct an inquiry by a referee into the truth of the representation, and if the referee shall find that the promoters are so insolvent as aforesaid, the Board of Trade may, by Order, declare that the powers of the promoters shall, at the expiration of 6 calendar months from the making of the Order, be at an end, and the powers of the promoters shall cease and determine at the expiration of the said period, unless the same are purchased by the Local Authority in manner by this Act provided ;

And thereupon such road Authority may remove the tramway in like manner and subject to the same provisions as to the payment of the costs of such removal, and to the same remedy for recovery of such costs, in every respect as in cases of removal under the next preceding Section.

Purchase of Tramways.

Future purchase of undertaking by Local Authority.

43. Where the promoters of a tramway in any district are not the Local Authority, the Local Authority, if, by resolution passed at a special meeting of the members constituting such Local Authority, they so decide, may within 6 months after the expiration of a period of 21 years from

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(a) *Liverpool Tramways Co.* v. *Toxteth Park L.B.*

the time when such promoters were empowered to construct such tramway, and within 6 months after the expiration of every subsequent period of 7 years, or within 3 months after any Order made by the Board of Trade under either of the 2 next preceding Sections, with the approval of the Board of Trade, by notice in writing require such promoters to sell, and thereupon such promoters shall sell to them their undertaking, or so much of the same as is within such district, upon terms of paying the then value (exclusive of any allowance for past or future profits of the undertaking, or any compensation for compulsory sale, or other consideration whatsoever) of the tramway, and all lands, buildings, works, materials, and plant of the promoters suitable to and used by them for the purposes of their undertaking within such district, such value to be in case of difference determined by an engineer or other fit person nominated as referee by the Board of Trade on the application of either party, and the expenses of the reference to be borne and paid as the referee directs.

And when any such sale has been made, all the rights, powers, and authorities of such promoters in respect to the undertaking sold, or where any Order has been made by the Board of Trade under either of the next preceding Sections, all the rights, powers, and authorities of such promoters previous to the making of such Order in respect to the undertaking sold, shall be transferred to, vested in, and may be exercised by the Authority to whom the same has been sold, in like manner as if such tramway was constructed by such Authority under the powers conferred upon them by a Provisional Order under this Act, and in reference to the same they shall be deemed to be the promoters.

No such resolution shall be valid unless a month's previous notice of the meeting, and of the purpose thereof, has been given in manner in which notices of meetings of such Local Authority are usually given, nor unless two-thirds of the members constituting such Local Authority are present and vote at the meeting, and a majority of those present and voting concur in the resolution . . . . . .

And it shall be lawful for the chairman of any such meeting, with the consent of a majority of the members present, to adjourn the same from time to time.

The Local Authority in any district may pay the purchase money and all expenses incurred by them in the purchase of any undertaking under the authority of this Section out of the like rate, and shall have the like powers to borrow on the security of the same as if such expenses were incurred in applying for, obtaining, and carrying into effect any Provisional Order obtained by them under this Act.

Where the local Rate is limited by law to a certain amount, and is by reason of such limitation insufficient for the payment of such purchase money and expenses, the Board of Trade may by Provisional Order extend the limit of such local Rate to such amount as they shall think fit and prescribe for the payment of such purchase money and expenses.

Every such Provisional Order shall be confirmed in like manner as a Provisional Order under the Authority of Part I. of this Act, and until such confirmation such Provisional Order shall not have any operation.

Subject and according to the preceding provisions of this Section, 2 or more Local Authorities may jointly purchase any undertaking or so much of the same as is within their districts.

Power of sale.

44. Where any tramway in any district has been opened for traffic for a period of 6 months the promoters may, with the consent of the Board of Trade, sell their undertaking to any person, persons, corporation, or company, or to the Local Authority of such district ;

And when any such sale has been made all the rights, powers, authorities, obligations, and liabilities of such promoters in respect to the undertaking sold shall be transferred to, vested in, and may be exercised by, and shall attach to the person, persons, corporation, company, or Local Authority to whom the same has been sold, in like manner as if such tramway was constructed by such person, persons, corporation, company, or Local Authority under the powers conferred upon them by Special Act, and in reference to the same they shall be deemed to be the promoters.

Provided always, that a Local Authority shall not purchase any undertaking under the provisions of this Section unless they shall decide to make such purchase by resolution passed at a special meeting of the members constituting such Local Authority, which resolution shall be made in the same manner and shall be subject to the same conditions as to validity as resolutions made in regard to the purchases by the next preceding Section authorised.

Where any purchase is made by any Local Authority under the provisions of this Section, such Local Authority may pay the purchase money and all expenses incurred by them in making such purchase out of the like funds, and for such purposes shall have all and the like powers and be subject to all the like conditions as if such purchase were made under the authority of the next preceding Section.

Tolls.

Tolls, &c.

45. The promoters or lessees of a tramway authorised by Special Act may demand and take, in respect of such tramway, tolls and charges not exceeding the sums specified in such Special Act, subject and according to the regulations therein specified.

A list of all the tolls and charges authorised to be taken shall be exhibited in a conspicuous place inside and outside each of the carriages used upon the tramways.

Bye-laws.

Bye-laws

46. Subject to the provisions of the Special Act authorising any tramway and this Act,

The Local Authority of any district in which the same is laid down may, from time to time, make regulations as to the following matters :

The rate of speed to be observed in travelling upon the tramway:
The distances at which carriages using the tramway shall be allowed to follow one after the other:
The stopping of carriages using the tramway:
The traffic on the road in which the tramway is laid.

Regulations.

The promoters of any tramway and their lessees may from time to time make regulations,—
For preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them:
For regulating the travelling in or upon any carriage belonging to them.

And for better enforcing the observance of all or any of such regulations, it shall be lawful for such Local Authority and promoters respectively to make bye-laws for all or any of the aforesaid purposes, and from time to time repeal or alter such bye-laws, and make new bye-laws, provided that such bye-laws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect.

Notice of the making of any bye-law under the provisions of this Act shall be published by the Local Authority or the promoters making the same by advertisment, according to the regulations contained in Part II. of the Schedule (C.) to this Act annexed, and unless such notice is published in manner aforesaid such bye-law shall be disallowed by the Board of Trade.

No such bye-law shall have any force or effect which shall be disallowed by the Board of Trade within 2 calendar months after a true copy of such bye-law shall have been laid before the Board, and a true copy of every such proposed bye-law shall, not less than 2 calendar months before such bye-law shall come into operation. be sent to the Board of Trade, and shall be delivered to the promoters of such tramway if the same was made by the Local Authority, and to such Local Authority if made by the promoters.

Penalties may be imposed in bye-laws.

47. Any such bye-law may impose reasonable penalties for offences against the same, not exceeding 40*s.* for each offence, with or without further penalties for continuing offences, not exceeding for any continuing offence 10*s.* for every day during which the offence continues;

But all bye-laws shall be so framed as to allow in every case part only of the maximum penalty being ordered to be paid.

Power to Local Authority to license drivers, &c.

48. The Local Authority shall have the like power of making and enforcing rules and regulations, and of granting licenses with respect to all carriages using the tramways, and to all drivers, conductors, and other persons having charge of or using the same, and to the standings for the same, as they are for the time being entitled to make, enforce, and grant with respect to hackney carrirges, and the drivers and other persons having the charge thereof, and to the standings for the same in the streets and district of or under the control of the Local Authority:

Provided always, that in any district in which any of the powers aforesaid in relation to hackney carriages and the matters aforesaid in connection therewith are vested in any Authority other than the Local Authority of such district, such Authority shall have and may exercise the powers by this Section conferred upon the Local Authority.

Offences.

Obstructing promoters.

49. If any person wilfully obstructs any person acting under the authority of any promoters in the lawful excise of their powers in setting out or making, forming, laying down, repairing, or renewing a tramway, or defaces or destroys any mark made for the purposes of setting out the line of the tramway, or damages or destroys any property of any promoters, lessees, or licensees, he shall for every such offence be liable to a penalty not exceeding £5.

Wilful injury or obstruction to tramways, &c.

50. If any person, without lawful excuse (the proof whereof shall lie on him), wilfully does any of the following things; (namely,)

Interferes with, removes, or alters any part of a tramway or of the works connected therewith;
Places or throws any stones, dirt, wood, refuse, or other material on any part of a tramway;
Does or causes to be done anything in such manner as to obstruct any carriage using a tramway, or to endanger the lives of persons therein or thereon;
Or knowingly aids or assists in the doing of any such thing; he shall for every such offence be liable (in addition to any proceedings by way of Indictment or otherwise to which he may be subject) to a penalty not exceeding £5.

Penalty on passengers practising frauds.

51. If any person travelling or having travelled in any carriage on any tramway avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance, and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall, for every such offence, be liable to a penalty not exceeding 40*s.*

Transient offenders.

52. It shall be lawful for any officer or servant of the promoters or lessees of any tramway, and all persons called by him to his assistance, to seize and detain any person discovered either in or after committing or attempting to commit any such offence as in the next preceding Section is mentioned, and whose name or residence is unknown to such officer or servant, until such person can be conveniently taken before a Justice, or until he be otherwise discharged by due course of law.

Dangerous goods on a tramway.

53. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding £20 for every such offence, and it shall be lawful for such promoters or lessees to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Using tramways with carriage with flanged-wheels, &c.

54. If any person (except under a lease from or by agreement with the promoters, or under license from the Board of Trade, as by this Act provided), uses a tramway or any part thereof with carriages having flange wheels or other wheels suitable only to run on the rail of such tramway, such person shall for every such offence be liable to a penalty not exceeding £20.

Miscellaneous.

Promoters or lessees to be responsible for damages.

55. The promoters or lessees, as the case may be, shall be answerable for all accident, damages, and injuries happening through their act or default, or through the act or default of any person in their employment by reason or in consequence of any of their works or carriages, and shall save harmless all road and other authorities, companies, or bodies, collectively and individually, and their officers and servants, from all damages and costs in respect of such accidents, damages, and injuries.

Recovery of tolls, penalties, &c.

56.(a) All tolls, penalties, and charges under this Act, or under any bye-law made in pursuance of this Act, may be recovered and enforced as follows; in England before 2 Justices of the Peace in manner directed by the Act of the Session of the 11th and 12th Years of the Reign of Her present Majesty, c. 43, intituled "An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions within England and Wales with respect to summary convictions and Orders," and any Act amending the same . . . . . .

Right of user only.

57. Notwithstanding anything in this Act contained the promoters of any tramway shall not acquire or be deemed to acquire any right other than that of user of any road along or across which they lay any tramway, nor shall anything contained in this Act exempt the promoters of any tramway laid along any turnpike road, or any other person using such tramway, from the payment of such tolls as may be levied in respect of the use of such road by the trustees thereof.

Arrangements between turnpike trustees and promoters.

58. The trustees of any turnpike road and the promoters of any tramway proposed to be laid or laid along the same may, with the approval of the Board of Trade, enter into agreements with each other for the payment of a composition to such trustees in respect of the user of such road for such tramway and the conveyance of traffic thereon, and may with the same approval alter such agreements from time to time.

Rights of owners, &c., of mines.

59. Nothing in this Act shall limit or interfere with the rights of any owner, lessee, or occupier of any mines or minerals lying under or adjacent to any road along or across which any tramway shall be laid to work such mines and minerals, nor shall any such owner, lessee, or occupier be liable to make good or pay compensation for any damage which may be occasioned to such tramway by the working in the usual and ordinary course of their mines or minerals.

Powers of street authorities to widen &c., roads.

60. Nothing in this Act shall take away or affect any power which any Road Authority, or the owners, commissioners, undertakers, or lessees of any railway, tramway, or inland navigation, may have by law to widen, alter, divert, or improve any road, railway, tramway, or inland navigation.

Power for authorities to regulate traffic.

61. Nothing in this Act shall limit the powers of the Local Authority or police in any district to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and such Authority or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the promoters or of lessees as to the traffic of other persons.

Right of the public to use roads.

62. Nothing in this Act or in any bye-law made under this Act shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable only to run on the rail of the tramway.

Inquiries before referee of Board of Trade.

63. Every inquiry which by this Act the Board of Trade are empowered to make or direct shall be made in accordance with the following provisions:

(1.) The inquiry shall be held in public before an officer to be appointed in that behalf by the Board, hereinafter called the referee, and whose appointment shall be by writing, which shall specify all the matters referred to him:

(2.) Ten days' notice at the least shall be given by the referee to the parties upon whose representation the Board of Trade shall have directed the inquiry, of the time and place at which the inquiry is to be commenced:

(3.) The inquiry shall be commenced at the time and place so appointed, and the referee may adjourn the inquiry from time to time as may be necessary to such time and place as he may think fit:

(4.) The referee by summons shall, on the application of any party interested in the inquiry, require the attendance before himself, at a place and time to be mentioned in the summons, of any person to be examined as a witness before him, and every person summoned shall attend the referee, and answer all questions touching the matter to be inquired into, and any person who wilfully disobeys any such summons or refuses to answer any question put to him by such referee for the purposes of the said inquiry shall be liable to a penalty not exceeding £5: provided always, that no person shall be required to attend in obedience to any such summons unless the reasonable charges of his attendance shall have been paid or tendered to him, and no person shall be required in any case in obedience to any such summons to travel more than 10 miles from his place of abode:

(5.) The referee may and shall administer an oath, or an affirmation where an affirmation in lieu of an oath would be admitted in a Court of Justice, to any person tendered or summoned as a witness on the inquiry:

(6.) Any person who upon oath or affirmation wilfully gives false evidence before the referee shall be deemed guilty of perjury:

(a) *Murdoch* v. *London Street Tramways Co.*

(7.) The referee shall make his report to the Board of Trade, in writing, and shall deliver copies of the report upon request to all or any of the parties to the inquiry.

Rules for carrying Act into effect.

64. The Board of Trade may from time to time make, and, when made, may rescind, annul, or add to, rules with respect to the following matters :

(1.) The proceedings to be had before the Board under this Act :

(2.) The payment of money or lodgment of securities by way of deposits, the repayment and forfeiture of the same, the investment of the same, the amount and payment of interest or dividends from time to time accruing due on such deposits :

(3.) The plans and sections of any works to be deposited by promoters under this Act :

(4.) As to any other matter or thing in respect of which it may be expedient to make rules for the purpose of carrying this Act into execution.

Any rules made in pursuance of this Section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act, and shall be judicially noticed.

Any rules made in pursuance of this Section shall be laid before Parliament within 3 weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within 3 weeks after the beginning of the then next Session of Parliament.

SCHEDULE A.

PART I.

Districts of Local Authorities.	Description of Local Authority of District set opposite its Name.	The Local Rate.
	ENGLAND AND WALES.	
The City of London and the liberties thereof.	The Mayor, Aldermen and Commons of the City of London.	The Consolidated Sewers Rate.
The metropolis (1).	The Metropolitan Board of Works.	The Metropolitan Consolidated Rate.
Boroughs (2).	The Mayor, Aldermen, and Burgesses, acting by the Council.	The Borough Fund or other property applicable to the purposes of a Borough Rate, or the Borough Rate.
Any place not included in the above descriptions, and under the jurisdiction of Commissioners, Trustees, or other persons intrusted by any Local Act with the powers of improving, cleansing, or paving any town.	The Commissioners, Trustees, or other persons intrusted by the Local Act with powers of improving, cleansing, or paving the town.	Any Rate leviable by such Commissioners, Trustees, or other persons, or other funds applicable by them to the purposes of improving, cleansing, or paving the town.
Any place not included in the above descriptions, and within the jurisdiction of Local Board constituted in pursuance of the "Public Health Act, 1848," and the "Local Government Act, 1858," or one of such Acts.	The Local Board.	General District Rate.
Any place or parish not within the above descriptions, and in which a Rate is levied for the maintenance of the poor.	The Vestry, Select Vestry, or other body of persons, acting by virtue of any Act of Parliament, prescription, custom, or otherwise, as or instead of a Vestry or select Vestry.	The Poor Rate.

(1.) "The metropolis" shall include all parishes and places in which the Metropolitan Board of Works have power to levy a Main Drainage Rate, except the City of London and the liberties thereof.

(2.) "Borough" shall mean any place for the time being subject to an Act passed in the Session holden in the 5th and 6th Years of the Reign of King William IV., c. 76, intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales."

[The next following portion of this Schedule refers only to Scotland and the Metropolis, and is therefore omitted.]

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PART III.

Approval of Application by Local Authority for a Provisional Order.

The approval of any intended application for a Provisional Order by a Local Authority shall be in manner following ; that is to say,

A resolution approving of the intention to make such application shall be passed at a special meeting of the members constituting such Local Authority.

Such special meeting shall not be held unless a month's previous notice of the same, and of the purpose thereof, has been given in manner in which notices of meetings of such Local Authority are usually given.

Such resolution shall not be passed unless two-thirds of the members constituting such Local Authority are present and vote at such special meeting and a majority of those present and voting concur in the resolution . . . . . .

SCHEDULE B.

PROVISIONAL ORDERS.

PART I.

Advertisement in October or November of intended application.

(1.) Every advertisement is to contain the following particulars :

1. The objects of the intended application.
2. A general description of the nature of the proposed works, if any.
3. The names of the townlands, parishes, townships, and extra-parochial places in which the proposed works, if any, will be made.
4. The times and places at which the deposit under Part II. of this Schedule will be made.
5. An office, either in London or at the place to which the intended application relates, at which printed copies of the draft Provisional Order, when deposited, and of the Provisional Order, when made, will be obtainable as hereinafter provided.

(2.) The whole notice is to be included in one advertisement, which is to be headed with a short title descriptive of the undertaking.

(3). The advertisement is to be inserted once at least in each of 2 successive weeks in some one and the same newspaper published in the district affected by the proposed undertaking where the proposed works (if any) will be made ; or if there be no such newspaper, then in some one and the same newspaper published in the county in which every such district, or some part thereof, is situate ; or if there be none, then in some one and the same newspaper published in some adjoining or neighbouring county.

(4.) The advertisement is also, in every case, to be inserted once at least in the *London Gazette* . . . . . .

PART II.

Deposit on or before 30th November.

(1.) The promoters are to deposit—

1. A copy of the advertisement published by them.
2. A proper Plan and Section of the proposed works, if any, such Plan and Section to be prepared according to such regulations as may from time to time be made by the Board of Trade in that behalf.

(2.) The documents aforesaid are to be deposited for public inspection—

In England, in the office of the Clerk of the Peace for every county, riding, or division, and of the parish clerk of every parish and the office of the Local Authority of every district in or through which any such undertaking is proposed to be made . . . . . .

(3.) The documents aforesaid are also to be deposited at the office of the Board of Trade.

PART III.

Deposit on or before 23rd December.

(1.) The promoters are to deposit at the office of the Board of Trade—

1. A memorial signed by the promoters, headed with a short title descriptive of the undertaking (corresponding with that at the head of the advertisement), addressed to the Board of Trade, and praying for a Provisional Order.
2. A printed draft of the Provisional Order as proposed by the promoters, with any Schedule referred to therein.
3. An estimate of the expense of the proposed works, if any, signed by the persons making the same.

(2.) They are also to deposit a sufficient number of such printed copies at the office named in that behalf in the advertisement ; such copies to be there furnished to all persons applying for them at the price of not more than 1*s.* each.

(3.) The memorial of the promoters (to be written on foolscap paper, bookwise, with quarter margin) is to be in the following form, with such variations as circumstances require :

[*Short title of undertaking.*]

To the Board of Trade,

The memorial of the promoters of [*short title of undertaking.*]

Showeth as follows ;

1. Your memorialists have published, in accordance with the requirements of the "Tramways Act, 1870," the following advertisement :

[*Here advertisement to be set out verbatim.*]

2. Your memorialists have also deposited, in accordance with the requirements of the said Act, copies of the said advertisement and [*here state deposit of the several matters required by Act.*]

Your memorialists, therefore, pray that a Provisional Order may be made in the terms of the draft proposed by your memorialists, or in such other terms as may seem meet.

A.B.
C.D.
Promoters.

PART IV.

Deposit and advertisement of Provisional Order when made.

(1.) The promoters are to deposit printed copies of the Provisional Order, when settled and made for public inspection in the offices of Clerks of the Peace and Sheriff Clerks, where the documents required to be deposited by them under Part II. of this Schedule were deposited.

(2.) They are also to deposit a sufficient number of such printed copies at the office named in that behalf in the advertisement, such copies to be there furnished to all persons applying for them at the price of not more than each.

(3.) They are also to publish the Provisional Order as an advertisement once in the local newspaper in which the original advertisement of the intended application was published, or, in case the same shall no longer be published, in some other newspaper published in the district.

SCHEDULE C.

PART I.

Notice and Deposit of Lease by Local Authority.

One month before any lease is submitted to the Board of Trade, notice of the intention to make such lease shall be given by advertisement.

(1.) Every advertisement is to contain—

1. The term of the lease.
2. The rent reserved.
3. A general description of the covenants and conditions contained therein.
4. The place where the same is deposited for public inspection.

(2.) The advertisement is to be inserted once at least in each of 2 successive weeks in some one and the same newspaper published in the district affected by the proposed lease ; or if there be no such newspaper, then in some one and the same newspaper published in the county in which such district, or some part thereof, is situate ; or if there be none, then in some one and the same newspaper published in some adjoining or neighbouring county.

(3.) The advertisement is also, in every case, to be inserted once at least in the *London Gazette* . . . . . .

Deposit.

A copy of such lease shall be deposited for public inspection during office hours at the office of the Local Authority or at some other convenient place within the district to which such lease relates.

PART II.

Notice of Bye-Laws.

Within one month after the making of any bye-law notice of the making of the same, and a copy of such bye-law, shall be published by advertisement in manner following :

(1.) The advertisement is to be inserted once at least in each of 2 successive weeks in some one and the same newspaper published in the district affected by such bye-law ; or if there be no such newspaper, then in some one and the same newspaper published in the county in which such district, or some part thereof, is situate ; or if there be none, then in some one and the same newspaper published in some adjoining or neighbouring county.

(2.) The advertisement is also, in every case, to be inserted once at least in the *London Gazette* . . . . . .

34 VICT., c. 3.

An Act to empower Committees on Bills confirming or giving effect to Provisional Orders to award costs, and examine witnesses on oath. *(28th February, 1871.)*

Law Reports Statutes, vol. vi., p. 2.

BE it enacted, &c.,

Act repealed.

1. The Act of the 33rd and 34th Victoria, c. 1, is hereby repealed.

Select Committees on Provisional Order Bills may award costs.

2. Any select committee of either House of Parliament to which any Bill for confirming or giving effect to Provisional Orders has been referred, in relation to any Provisional Order therein contained, may award costs, in like manner and under the same conditions under which costs may be awarded by any select committee under the Act of the 28th and 29th Victoria, c. 27; and the provisions of the said Act, so far as they are applicable, shall have effect accordingly.

[§ 3 is repealed by the 34 & 35 Vict., 83, § 2 and other provisions substituted.]

Interpretation.

4. For the purpose of this Act, the words "Provisional Order" shall include provisional certificates, schemes, and Orders in the nature of Provisional Orders, made under the authority of any Statute, and requiring to be confirmed, sanctioned, or carried into effect by Act of Parliament.

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34 & 35 VICT., c. 41.

An Act to amend the Gasworks Clauses Act, 1847. *(13th July, 1871.)*

Law Reports Statutes, vol. vi., p. 249.

WHEREAS it is expedient that the provisions contained in the "Gasworks Clauses Act, 1847," should be amended: Be it therefore enacted, &c.,

10 & 11 Vict., 15, and this Act to be construed together.

1. The "Gasworks Clauses Act, 1847," and this Act, shall be construed together as one Act, and the provisions of this Act shall be held to repeal and supersede such of the provisions of that Act as are inconsistent with this Act.

Short title.

2. This Act may be cited as the "Gasworks Clauses Act, 1871."

Application of Act. 33 & 34 Vict., 70.

3. The provisions of this Act shall apply to every gas undertaking authorised by any Special Act hereafter passed, or by any Provisional Order made under the authority of the "Gas and Water Works Facilities Act, 1870," save where the said provisions are expressly varied or excepted by any such Special Act or Provisional Order;

And every such Special Act and Provisional Order is in this Act included in the term "the Special Act."

Interpretation.

4. Terms used in this Act have the same meanings respectively as the same terms have when used in the "Gasworks Clauses Act, 1847," and in the "Gas and Water Works Facilities Act, 1870."

The term "prescribed" in this Act shall mean prescribed by the Special Act:

The term "premises" in this Act shall include house and building:

And the expression "Superior Courts" or "Court of competent Jurisdiction" in this Act, or in any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand in respect of which the expression is used were an ordinary simple contract debt and not a debt or demand created by Statute.

General Provisions.

Prohibition as to erection of gasworks.

5. The undertakers shall not manufacture gas, or any residual products, except upon lands described in the Special Act, and they shall not store gas, except upon those lands, without the previous consent in writing of the owner, lessee, and occupier of every dwelling-house situate within 300 yards of the limits of the site where such gas is intended to be stored.

Superfluous lands.

8 Vict., 18.

6. The undertakers may sell and dispose of any lands which are vested in them, or which they are authorised to purchase, or which they may hereafter acquire, and which shall not be required for the purposes of the undertaking, and the provisions of the "Lands Clauses Consolidation Act, 1845," §§ 128 to 132 (both Sections inclusive), shall apply to any such sale;

And the undertakers may also from time to time sell and dispose of any works, buildings, or erections on any lands belonging to them which shall not be required for the purposes of the undertaking.

Receipts of guardians, &c.

7. If any money be payable to a shareholder in a gas undertaking, being a minor, idiot, or lunatic, the receipt of his or her respective guardian or committee shall be a sufficient discharge to the undertakers for the same.

Appointment of receiver.

8. The mortgagees of the undertakers may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages, in England and Ireland by the appointment of a receiver, and in Scotland by the appointment of a judicial factor;

And in order to authorise the appointment of a receiver or judicial factor in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than in the whole £1000, or such sum as shall be specified in the Special Act.

Indictments for nuisance.

9. Nothing in this or the Special Act shall exonerate the undertakers from any Indictment, Action, or other proceeding for nuisance in the event of any nuisance being caused by them.

Easements, &c.

10. Persons empowered by the "Lands Clauses Consolidation Act, 1845," to sell and convey or release lands, may, if they think fit, subject to the provisions of that Act and of the "Lands Clauses Consolidation Acts Amendment Act, 1860," grant to the undertakers any easement, right, or privilege, not being an easement of water, required for the purposes of the Special Act, in, over, or affecting any such lands; and the provisions of the last-mentioned Acts with respect to lands and rentcharges, as far as the same are applicable in this behalf, shall extend and apply to such grants, or to such easement, rights, or privileges as aforesaid.

Supply of Gas to Owners and Occupiers of Premises.

Undertakers to furnish sufficient gas.

11. The undertakers shall, upon being required so to do by the owner or occupier of any premises situate within 25 yards from any main of the undertakers, or such other distance as may be prescribed, give and continue to give a supply of gas for such premises, under such pressure in the main as may be prescribed, and they shall furnish and lay any pipe that may be necessary for such purpose, subject to the conditions following; (that is to say,)

The cost of so much of any pipe for the supply of gas to any owner or occupier as may be laid upon the property of such owner or in the possession of such occupier, and of so much of any such pipe as may be laid for a greater distance than 30 feet from any pipe of the undertakers, although not on such property, shall be defrayed by such owner or occupier.

Every owner or occupier of premises requiring a supply of gas shall—

Serve a notice upon the undertakers at their office, specifying the premises in respect of which such supply is required, and the day (not being an earlier day than a reasonable time after the date of the service of such notice), upon which such supply is required to commence;

Enter into a written contract with the undertakers (if required by them so to do) to continue to receive and pay for a supply for gas for a period of at least 2 years, of such an amount that the rent payable for the same shall not be less than £20 per centum per annum on the outlay incurred by the undertakers in providing any pipe to be provided by them for the purpose of such supply; and

Give to the undertakers (if required by them so to do) security for the payment to them of all moneys which may become due to them by such owner or occupier in respect of any pipe to be furnished by the undertakers and in respect of gas to be supplied by them.

Provided always, that the undertakers may, after they have given a supply of gas for any premises, by notice in writing, require the owner or occupier of such premises, within 7 days after the date of the service of such notice, to give to them security for the payment of all moneys which may from time to time become due to them in respect of such supply, in case such owner or occupier has not already given such security, or in case any security given has become invalid, or is insufficient, and in case any such owner or occupier fails to comply with the terms of such notice, the undertakers may, if they please, discontinue to supply gas for such premises so long as such failure continues.

Quality of gas.

12. The quality of the gas supplied by the undertakers shall, with respect to its illuminating power, be such as to produce at the testing place provided in conformity with this Act a light equal in intensity to that produced by the prescribed number of sperm candles of 6 in the pound, and such gas shall as to its purity not exhibit any trace of sulphuretted hydrogen when tested in accordance with the rules prescribed in that behalf in Part II. of the Schedule A. to this Act annexed.

Undertakers may require use of meters.

13. Every consumer of gas supplied by the undertakers shall, if required to do so by them, consume such gas by a meter duly stamped under the authority of an Act passed in the Session of Parliament held in the 22nd and 23rd Years of the Reign of Her present Majesty, intituled "An Act for regulating Measures used in Sales of Gas," and being a legal meter within the meaning of the said Act, or by a meter supplied or approved by the undertakers;

Provided always, that where the provisions of the said Act are in force no meter shall be used unless the same shall be a legal meter within the meaning of the said Act, and that elsewhere the undertakers shall not refuse to approve of any meter which when duly tested according to the rules contained in the said Act for regulating measures used in sales of gas is found to be correct within the meaning of the said Act.

Undertakers to supply meters.

14. The undertakers shall supply to any owner or occupier of premises within the limits of the Special Act requiring the same a meter for registering gas supplied by them:

Provided always, that such owner or occupier shall, if required, previous to receiving such meter, give to the undertakers security for payment to them of the price of such meter if he desires to purchase the same, or of the rent of such meter if he desires to hire the same.

Restriction as to meters.

15. No consumer shall connect any meter with any pipe through which gas is supplied by the undertakers to such meter, or disconnect any meter from any such pipe, unless he shall have given to the undertakers not less than 24 hours' notice in writing of his intention so to do, and if any person acts in contravention of this Section he shall be liable for each offence to a penalty not exceeding 40*s*.

Security.

16. Where any owner or occupier is required by the Special Act to give security to the undertakers, such security may be by way of deposit or otherwise, and of such amount as he and the undertakers agree on, or as, in default of agreement, may be determined, on the application of either party, by 2 Justices, who may also order by which of the parties the costs of the proceedings before them shall be paid, and the decision of the Justices shall be final and binding on all parties.

Consumer to keep meter in order.

17. Every consumer of gas supplied by the undertakers shall at all times, at his own expense, keep all meters belonging to him whereby any gas of the undertakers is registered in proper order for correctly registering such gas, and in default of his so doing the undertakers may cease to supply gas through such meter.

The undertakers shall have access to and be at liberty to take off, remove, test, inspect, and replace any such meter at all reasonable times, such taking off, removal, testing, inspecting, and replacing to be done at the expense of the undertakers if the meter be found in proper order, but otherwise at the expense of the consumer.

Power to the undertakers to let meters.

18. The undertakers may let for hire any meter for ascertaining the quantity of gas consumed or supplied, and any fittings thereto, for such remuneration in money, and on such terms with respect to the repair of such meter and fittings, and for securing the safety and return to the undertakers of such meter, as may be agreed upon between the hirer and the undertakers, and such remuneration shall be recoverable in the same manner as the rents or sums due to the undertakers for gas, and such meters and fittings shall not be subject to distress, or to the landlord's remedy for rent of the premises where the same may be used, nor to be taken in execution under any process of a court of law or equity, or any proceedings in bankruptcy against the persons in whose possessson the same may be.

Undertakers to keep meters let for hire in repair.

19. The undertakers shall at all times, at their own expense, keep all meters let for hire by them to any consumer in proper order for correctly registering gas. and in default of their so doing the consumer shall not be liable to pay rent for the same during such time as such default continues.

The undertakers shall, for the purposes aforesaid, have access to and be at liberty to remove, test, inspect, and replace any such meter at all reasonable times.

Register of a gas meter to be *primâ facie* evidence.

20. The register of the meter shall be *primâ facie* evidence of the quantity of gas consumed, and in respect of which any rent is charged and sought to be recovered by the undertakers:

Provided always, that if the undertakers and the consumer differ as to the quantity consumed, such difference may be determined, upon the application of either party, by 2 Justices, who may also order by which of the parties the costs of the proceedings before them shall be paid, and the decision of the Justices shall be final and binding on all parties.

Power to enter buildings to ascertain gas consumed.

21. Any officer appointed by the undertakers may at all reasonable times enter any building or land lighted with gas supplied by the undertakers, in order to inspect the meters, fittings, and works for the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied;

And if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall for every such offence forfeit to the undertakers a sum not exceeding £5.

Power to remove meter and fittings.

22. In all cases in which a consumer of gas supplied by the undertakers ceases to require a supply of such gas, and in all cases in which the undertakers are authorised to take away and cut off the supply of gas from any premises, it shall be lawful for the undertakers, their agents or workmen, after 24 hours' notice in writing, under the hand of the secretary or other properly authorised officer of the undertakers, to the occupier, or if unoccupied, then to the owner or lessee, or to the agent of the owner or lessee, of any premises in which any pipes, meters, fittings, or apparatus belonging to the undertakers are laid or fixed, and through or in which the supply of gas is from any such cause discontinued, to enter such premises between the hours of 9 in the morning and 4 in the evening, for the purpose of removing and to remove such pipes, meters, fittings, or apparatus, repairing all damage caused by such entry or removal.

Recovery of charges.

23. In case of any person who shall have been supplied with gas by the undertakers shall neglect or refuse to pay the amount due in respect of such supply, any Justice may issue his summons to such person, requiring him to appear at a time and place named therein, and then and there to show cause why the sum so demanded should not be paid;

And if on the appearance of such person, or in default of appearance after proof of the service of the summons, either personally or at the last known place of abode or of business of such person, no sufficient cause can be shown to the contrary, any Justice may issue his warrant of distress for the seizure and sale of the goods and chattels of such person, for the recovery of the

amount which may be proved before such Justice to be due from such person, together with such costs, including the cost of cutting off the gas, if the same shall have been cut off by the undertakers, as to such Justice shall seem just and reasonable.

Supply of Gas to Local Authorities.

Supply of gas to public lamps.

24. The undertakers shall supply gas to any public lamps within the distance of 50 yards from any of the mains of the undertakers in such quantities as the Local Authority of each district or the trustees of any turnpike road or any Highway Board within the limits of the Special Act may from time to time require to be supplied.

And the price to be charged by the undertakers and to be paid to them for all gas so supplied shall be settled by agreement between the Local Authorities and the undertakers, and in case of difference by arbitration, regard being had to the circumstances of the case and the prices charged to private consumers in the district.

Option to use meters.

25. The gas supplied to the public lamps within the limits of the Special Act shall be consumed by meter, at the option either of the Local Authority of the district or the undertakers, and in case of its being consumed by meter the meter shall be provided and fixed by the undertakers, and be paid for by the party requiring it.

If the gas is supplied to the public lamps in any district by average meter indication, the undertakers, shall, for securing uniformity of consumption between metered and unmetered lamps, from time to time provide the public lamps in such district with proper self-acting pressure regulators and burners to the satisfaction of the Local Authority of such district; and the average amount of the indications of all the meters attached to the public lamps within such district under the control of the Local Authority shall except as hereinafter mentioned, be deemed to be the amount consumed by each such lamp in such district.

Governors for street lamps.

26. In case gas is supplied to the public lamps in any district by the undertakers, they or the Local Authority of such district may, at their own expense, cause to be affixed to each lamp the instrument known as a street lamp governor, and the undertakers or such Local Authority (as the case requires) shall be entitled to have access thereto for the purpose of examining the same.

Differences with Local Authority.

8 Vict., 16.

27. Any difference which may arise between the undertakers and any Local Authority in relation to the supply or consumption of gas to or by such Local Authority shall be from time to time settled by arbitration in manner provided by the "Companies Clauses Consolidation Act, 1845," with respect to the settlement of disputes by arbitration.

Testing of Gas.

Testing place.

28. The undertakers shall cause to be provided, at the place prescribed and within the prescribed time, a testing place, with apparatus therein, for the purposes following, or such of them as may be prescribed by the Special Act; that is to say,—

1. For testing the illuminating power of the gas supplied:
2. For testing the presence of sulphuretted hydrogen in the gas supplied.

The said apparatus shall be in accordance with the regulations prescribed in Part I. of the Schedule A. to this Act annexed, or according to such rules as may from time to time be substituted in lieu thereof by any Special Act, and shall be so situated and arranged as to be used for the purpose of testing the illuminating power and purity of the gas supplied by the undertakers, and the undertakers shall at all times thereafter keep and maintain such testing place and apparatus in good repair and working order.

Appointment and powers of gas examiners.

29. The Local Authority of any district within the limits of the Special Act, where the gas is not supplied by such Local Authority, may after the passing of the Special Act from time to time appoint, or may appoint and keep appointed, a competent and impartial person to be a gas examiner to test the gas at the testing place provided in conformity with the provisions of this Act;

And such gas examiner may there test the illuminating power and purity of the gas supplied by the undertakers, on any or every day between the hours of 5 o'clock and 10 o'clock in the afternoon from the 1st day of October to the 31st day of March, both inclusive, and on any or every day between the hours of 8 o'clock and 11 o'clock in the afternoon from the 1st day of April to the 30th day of September, both inclusive.

Justices may appoint gas examiner.

30. Where no such gas examiner is appointed, or where the testing of the gas is imperfectly attended to by the Local Authority, 2 Justices, on the application of consumers of the gas of the undertakers, not being less than 5, by order in writing may appoint some competent and impartial person to be gas examiner, and such person may at any time within the hours aforesaid, on producing the said order, enter on the premises of the undertakers, and there test the illuminating power and purity of the gas supplied by them.

Representation of undertakers.

31. The undertakers may, if they think fit, on each occasion of the testing of the gas by the gas examiner, be represented by some officer, but such officer shall not interfere in the testing.

Mode of testing.

32. Any tests taken in pursuance of this Act shall be taken in accordance with the rules prescribed in Part II. of the Schedule A. to this Act annexed.

Report of gas examiner.

33. The gas examiner shall, on the day immediately following that on which the testing of the illuminating power or purity of the gas has been conducted, make and deliver a report of the results of his testing to the Local Authority or Justices by whom he was appointed and to the undertakers, and such report shall be receivable in evidence.

Access to testing place.

34. The undertakers shall give to the gas examiner and to his assistants, and to every Local Authority within the limits of the Special Act, and their agents, access to the testing place, and shall afford all facilities for the proper execution of this Act;

And in case the undertakers make default in complying with any of the provisions of this Section they shall for every such default be liable to a penalty not exceeding £5 to the Local Authority or to the persons making the application.

Accounts.

Accounts, &c.

35. The undertakers shall fill up and forward to the Local Authority of every district within the limits of the Special Act, on or before the 25th day of March in each year, an annual statement of accounts, made up to the 31st day of December then next preceding, as near as may be in the form and containing the particulars specified in the Schedule B. to this Act annexed.

The undertakers shall keep copies of such annual statement at their office, and sell the same to any applicant at a price not exceeding 1*s.* for each such copy.

The Board of Trade, with the consent of the undertakers, may alter the said forms for the purpose of adapting them to the circumstances of the undertaking, or of better carrying into effect the objects of this Section.

In case the undertakers make default in complying with the provisions of this Section they shall be liable to a penalty not exceeding 40*s.* for each day during which such default continues.

Penalties.

Failure to supply gas.

36. Whenever the undertakers neglect or refuse to give a supply of gas to any owner or occupier of premises within the limits of the Special Act entitled to the same, under such pressure as is prescribed, they shall be liable to a penalty not exceeding 40*s.* for each day during which such default continues.

Whenever the undertakers neglect or refuse to supply gas as by this Act required to all or any of the public lamps in accordance with the provisions of this Act, they shall be liable to a penalty not exceeding 40*s.* for each default.

If it shall be proved to the satisfaction of any 2 Justices, not being shareholders in the undertaking, after hearing the parties, that on any day the gas supplied by the undertakers is under less pressure, of less illuminating power, or of less purity than it ought to be according to the provisions of this or the Special Act, the undertakers shall in every such case forfeit and pay to the Local Authority or other persons making application for testing the gas such sum not exceeding £20 as the Justices shall determine.

Cost of experiment to be paid according to event.

Penalties imposed on the undertakers for one and the same offence by several Acts of Parliament shall not be cumulative, and for such purpose the Special Act and the Acts incorporated therewith shall be deemed several Acts.

Penalties not cumulative.

37. Where the gas examiner is appointed by the Justices as aforesaid, the costs of and attending such experiment, including the remuneration to be paid to the person making the same, and the costs of the proceedings before the Justices, shall be ascertained by such Justices, and in the event of any penalty being imposed on the undertakers shall be paid, together with such penalty, by the undertakers, but in the event of no penalty being imposed the costs shall be in the discretion of the Justices.

Injuring meters.

38. Every person who wilfully, fraudulently, or by culpable negligence injures or suffers to be injured any pipes, meter, or fittings belonging to the undertakers, or alters the index to any meter, or prevents any meter from duly registering the quantity of gas supplied, or fraudulently abstracts, consumes, or uses gas of the undertakers, shall (without prejudice to any other right or remedy for the protection of the undertakers or the punishment of the offender) for every such offence forfeit and pay to the undertakers a sum not exceeding £5, and the undertakers may in addition thereto recover the amount of any damage by them sustained;

And in any case in which any person has wilfully or fraudulently injured or suffered to be injured any pipes, meter, or fittings belonging to the undertakers, or altered the index to any meter, or prevented any meter from duly registering the quantity of gas supplied, the undertakers may also, until the matter complained of has been remedied, but no longer, discontinue the supply of gas to the person so offending (notwithstanding any contract previously existing);

And the existence of artificial means for causing such alteration or prevention, or for abstracting, consuming, or using gas of undertakers, when such meter is under the custody or control of the consumer, shall be *primâ facie* evidence that such alteration, prevention, abstraction, or consumption, as the case may be, has been fraudulently, knowingly, and wilfully caused by the consumer using such meter.

Recovery of Gas Rents.

Incoming tenants not to pay arrears of rent, &c.

39. In case any consumer of gas supplied by the undertakers leaves the premises where such gas has been supplied to him without paying the gas rent or meter rent due from him, the undertakers shall not be entitled to require from the next tenant of such premises the payment of the arrears left unpaid by the former tenant, unless such incoming tenant has undertaken with the former tenant to pay or exonerate him from the payment of such arrears.

Recovery of rents, &c.

40. If any person supplied with gas or with any gas meter or fittings by the undertakers neglects to pay to the undertakers the rent due for such gas or the rent or money due to the undertakers for the hire or fixing of such meter, or any expenses lawfully incurred by the undertakers in cutting off the gas from the premises of such person, the undertakers may recover the sum so due in like manner as a penalty under this Act.

Recovery of sums due.

41. Whenever any person neglects to pay any rent or sum due and payable by him to the undertakers, the undertakers may recover the same, with full costs of suit, in any Court of competent Jurisdiction, and the remedy of the undertakers under this enactment shall be in addition to their other remedies for the recovery of such rent or sum.

Legal Proceedings.

Summonses and warrants.

42. Any summons or warrant issued for any of the purposes of this Act may contain, in the body thereof or in the Schedule thereto, several names and several sums.

Warrants of distress to include costs.

43. Any Justice who issues a warrant of distress in pursuance of the provisions of this Act may order that the costs of the proceedings for the recovery of the money to be levied shall be paid by the person liable to pay such money, and such costs shall be ascertained by the Justice, and shall be included in the warrant of distress for the recovery of such money.

Summary proceedings. 10 Vict., 15.

44. All offences and penalties under this Act, and all money forfeited, and all money and costs by this Act directed to be recovered as penalties, may be prosecuted and recovered in manner directed by the "Gasworks Clauses Act, 1847," with respect to the recovery of penalties.

Service of notices.

45. Every notice which the undertakers are by this Act required to serve upon any person shall be served by being delivered to the person for whom it is intended, or by being left at his usual or last known place of abode, or sent by post addressed to such person, or if such person or his address be not known to the undertakers, and cannot after due inquiry be found or ascertained, then by being affixed for 3 days to some conspicuous part of the premises to which such notice relates.

Justices.

46. No Justice or Judge of any County Court or Quarter Sessions shall be disqualified from acting in the execution of this Act by reason of his being liable to the payment of any gas rent or other charge under this Act.

SCHEDULE A.

PART I.

Regulations in respect of testing apparatus.

1. *The apparatus for testing the illuminating power of the gas* shall consist of the improved form of Bunsen's photometer, known as Letheby's open 60-inch photometer, or Evans' enclosed 100-inch photometer, together with a proper meter, minute clock, governor, pressure gauge, and balance.

The burner to be used for testing the gas shall be such as shall be prescribed.

The candles used for testing the gas shall be sperm candles of 6 to the pound, and 2 candles shall be used together.

2. *The apparatus—*

(*a*) *For testing the presence in the gas of sulphuretted hydrogen.*—A glass vessel containing a strip of bibulous paper moistened with a solution of acetate of lead, containing 60 grains of crystallized acetate of lead dissolved in one fluid ounce of water.

PART II.

Rules as to mode of testing gas.

I. *Mode of testing for illuminating power.*

The gas in the photometer is to be lighted at least 15 minutes before the testings begin, and it is to be kept continuously burning from the beginning to the end of the tests.

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34 & 35 VICT., c. 70.

Law Reports Statutes, vol. vi., p. 389.

An Act for constituting a Local Government Board,(a) and vesting therein certain functions of the Secretary of State and Privy Council concerning the Public Health and Local Government, together with the powers and Duties of the Poor Law Board. (14th August, 1871.)

WHEREAS it is expedient to concentrate in one department of the Government as hereinafter provided the supervision of the laws relating to the Public Health, the Relief of the Poor, and Local Government: Be it enacted, &c.,

Preliminary.

Short title.

1. This Act may be cited as the "Local Government Board Act, 1871."

(*a*) See note to § 7 (*post.*)

Establishment of Local Government Board.

Establishment of Local Government Board.

2. A Board shall be established, to be called the Local Government Board, and from and after the establishment of such Board the Poor Law Board shall cease to exist, and all powers and duties vested in or imposed on the *Poor Law Board*(a) by the several Acts of Parliament relating to the relief of the poor and any other Acts, or vested in or imposed on *one of Her Majesty's Principal Secretaries of State*(a) by the enactments in that behalf mentioned in the 1st part of the Schedule annexed hereto, so far as such powers and duties relate to England, or vested in or imposed on Her Majesty's most honourable *Privy Council*(a) by the enactment in that behalf specified in the 2nd part of the said Schedule, shall be transferred to and imposed on the said Local Government Board.

And, except as otherwise provided by this Act, shall be exercised and performed by such Board in like manner and form, and subject to the same conditions, liabilities, and incidents respectively as such powers and duties might before the passing of this Act have been exercised and performed by the Authorities in whom the same were then vested respectively, or as near thereto as circumstances admit.

Constitution of Local Government Board.

3. The Local Government Board shall consist of a President to be appointed by Her Majesty, and to hold office during the pleasure of Her Majesty, and of the following *ex-officio* members, that is to say, the Lord President of Her Majesty's most honourable Privy Council, all Her Majesty's Principal Secretaries of State for the time being, the Lord Privy Seal, and the Chancellor of the Exchequer.

The Local Government Board shall be deemed to be established from and after the date of the first appointment of a President under this Act.

The Local Government Board may appoint in writing such Secretaries, Assistant Secretaries, Inspectors, Auditors, Clerks, Messengers, and other officers as the Board may, with the sanction of the Treasury, determine.

No payment shall be made in respect of their duties under this Act to the *ex-officio* members of the Local Government Board, but there shall be paid out of the monies provided by Parliament to the President, Secretaries, and other officers of the Board such salaries as the Treasury may from time to time determine: provided, that the appointment of any officer to a new office made by the Local Government Board in pursuance of this Section shall be deemed to be temporary only until the salary of such office has been provided for by Parliament.

President and one secretary may sit in Parliament.

4. The President and one of the Secretaries of the Local Government Board shall at the same time be capable of being elected to and of voting in the Commons House of Parliament, and the office of President shall be deemed to be an office included in Schedule H. of the "Representation of the People Act, 1867"(b); in Schedule H. of the "Representation of the People (Scotland) Act, 1868"(c); and in Schedule E. of the "Representation of the People (Ireland) Act, 1868."(d)

Seal, style, and acts of Board.

5. The Local Government Board may adopt an official seal, and describe themselves generally by the style and title of the "Local Government Board," and, save as hereinafter provided, any act to be done or instrument to be executed by or on behalf of the Local Government Board may be done or executed in the name of that Board by the President or by any member of the Local Government Board, or by a Secretary or Assistant Secretary, if such Secretary or Assistant Secretary is authorised to do or execute the same by any general order of the Local Government Board.

A rule, order, or regulation made by the Local Government Board shall be valid if it is made under the seal of the Board, and signed by the President or one of the *ex-officio* members of the Board, and countersigned by a Secretary or Assistant Secretary; and the production of such *primâ facie* evidence of any of the said rules, order, or regulations as is required by the "Documentary Evidence Act, 1868," with respect to the rules, orders, or regulations of the Poor Law Board, shall, until the contrary is shown, be a sufficient proof that any such rule, order, or regulation of the Local Government Board was duly made. 31 & 32 Vict., 37.

Transfer of officers.

6. All officers, clerks, and other persons employed in or about the execution of the powers and duties by this Act transferred to the Local Government Board shall, from and after the establishment of the Local Government Board, be attached to and under the control of the Local Government Board.

The officers, clerks, and persons so attached shall in other respects hold their offices and places upon the same terms and conditions, and shall have the same powers, privileges, and immunities with respect to the performance of their duties as if this Act had not passed.

The Local Government Board may, by order, distribute the business to be performed under the Local Government Board amongst the several officers and persons transferred to the Board by this Act in such manner as the Local Government Board may think expedient.

Construction of Acts and documents; and power of Board.

7. In the construction of and for the purposes of any Act(e) of Parliament, contract, or other document passed, entered into, or made before the establishment of the Local Government Board, but so far only as may be necessary for exercising the powers and discharging the duties by this Act transferred to and imposed on the Local Government Board, the name of such Board shall, according to circumstances, be deemed to be substituted for the Poor Law Board, one of Her Majesty's Principal Secretaries of State, or Her Majesty's most honourable Privy Council, as the

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(a) See note to § 7 (*post*).
(b) 30 & 31 Vict., 102.
(c) 31 & 32 Vict., 48.
(d) 31 & 32 Vict., 49.
(e) This is a wider expression than any found in § 2 (*ante*).

case may require ; and any act or thing which might, if this Act had not passed, have been done by the Poor Law Board, or by one of Her Majesty's Principal Secretaries of State, or by Her Majesty's most honourable Privy Council, so far as relates to the powers and duties hereby transferred, may be done by the Local Government Board.

Duplicate returns to be sent to the Board.

8. Where under an Act, whether passed before or after the passing of this Act, any return relative to any Rate, toll, tax, or due raised in England (other than such as is raised for the public revenue of the United Kingdom) is required to be sent to one of Her Majesty's Secretaries of State or any other department of the Government, a duplicate of such return shall in like manner be sent to the Local Government Board, and any person failing to send the same shall be subject to the like penalties as a person neglecting to send any return under the Act of the session of the 23rd and 24th Years of the reign of Her present Majesty, c. 51.(a)

SCHEDULE REFERRED TO IN THE FOREGOING ACT.

PART I.

Powers and Duties of Secretary of State.

Subject.	Act. (b)
Registration of Births, Deaths, and Marriages	6 & 7 W. IV. c. 86. 7 W. IV. & 1. Vict. c. 22.
Public Health Local Government	11 & 12 Vict. c. 63. 21 & 22 Vict. c. 98. 24 & 25 Vict. c. 61. 26 [& 27] Vict. c. 17.
Drainage. Sanitary Matters	28 & 29 Vict. c. 75. 29 & 30 Vict. c. 90. 30 & 31 Vict. c. 113. 31 & 32 Vict. c. 115. 32 & 33 Vict. c. 100.
Baths and Wash-houses	9 & 10 Vict. c. 74. 10 & 11 Vict. c. 61.
Public Improvements Towns Improvement Artizans and Labourers' Dwellings Returns. Local Taxation	23 & 24 Vict. c. 30. 10 & 11 Vict. c. 34. 31 & 32 Vict. c. 130. 23 & 34 Vict. c. 51. And any Acts amending the said Acts, and conferring powers on the said Secretary of State.

PART II.

Powers and Duties of Privy Council

Subject.	Act. (b)
Prevention of Disease	11 & 12 Vict. c. 63. 18 & 19 Vict. c. 116. sections one, three, five, and six, of 21 & 22 Vict. c. 97. 22 & 23 Vict. c. 3. 23 & 24 Vict. c. 77. 29 & 30 Vict. c. 90. 31 & 32 Vict. c. 115.
Vaccination	30 & 31 Vict. c. 84. And any Acts amending the said Acts, and conferring powers on the said Privy Council

(a) This Act, which is given *ante*, has been amended by the Act, 40 & 41 Vict., 66, *post*.

(b) Many of the Acts mentioned in this Schedule have been repealed or amended by more recent Acts.

34 & 35 VICT., c. 83.

An Act for enabling the House of Commons and any Committee thereof to administer Oaths to Witnesses. *(16th August, 1871.)*

Law Reports Statutes, vol. vi., p. 428.

WHEREAS it is expedient that the House of Commons, and any committee thereof, should respectively have the powers of administering oaths to witnesses : Be it enacted, &c.,

Examination of witnesses on on oath by the House of Commons and committees thereof.

1. The House of Commons may administer an oath to the witnesses examined at the bar of the said House.

Any committee of the House of Commons may administer an oath to the witnesses examined before such committee.

Any person examined as aforesaid who wilfully gives false evidence shall be liable to the penalties of perjury.

Where any witness to be examined under this Act conscientiously objects to take an oath, he may make his solemn affirmation and declaration in the words following :

"I, *A.B.*, do solemnly, sincerely, and truly affirm and declare that the taking of any oath is "according to my religious belief unlawful, and I do also solemnly, sincerely, and truly affirm and "declare," &c. :

any solemn affirmation and declaration so made shall be of the same force and effect, and shall entail the same consequences as an oath taken in the usual form.

Any oath or affirmation under this Act may be administered by the Speaker of the House of Commons, or by such person or persons as may from time to time be appointed for that purpose either by him or by any Standing Order or other Order of the said House.

Repeal of § 1 of 21 & 22 Vict., 78 ; and of § 3 of 34 & 35 Vict., 3.

2. The first Section of the Act of the session of the 21st and 22nd years of Her present Majesty, chapter 78, intituled "An Act to enable the committees of both Houses of Parliament to administer oaths to witnesses in certain cases," and the 3rd Section of the Act of the present Session of Parliament, chapter 3, intituled "An Act to empower committees on Bills confirming or giving effect to Provisional Orders to award costs and examine witnesses on oath," shall be repealed ;

Provided that the repeal enacted in this Act shall not affect any penalty, forfeiture, or other punishment incurred in respect of any offence against the Sections hereby repealed, or the institution of any legal proceeding, or any other remedy for ascertaining, enforcing, or recovering any such penalty, forfeiture, or punishment as aforesaid.

Saving.

3. Nothing in this Act contained shall be held to confer any additional or further power or privilege on the Commons House of Parliament with reference to impeachment or other criminal jurisdiction or otherwise howsoever than is herein expressly enacted.

Short title of Act.

4. This Act may be cited as the "Parliamentary Witnesses Oaths Act, 1871."

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34 & 35 VICT., c. 105.

An Act for the safe keeping of Petroleum and other substances of a like nature.[a] *(21st August, 1871.)*

Law Reports Statutes, vol. vi., p. 535.

WHEREAS it is expedient to consolidate and amend the law relating to the safe keeping of petroleum and other substances of a like nature : Be it enacted, &c.,

Short title.

1. This Act may be cited as the "Petroleum Act, 1871."

(*a*) Amended by the "Petroleum Act, 1879," (42 & 43 Vict., 47,) and further amended by the "Petroleum (Hawkers) Act, 1881."

Interpretation.

2. In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter assigned to them ; (that is to say,)

"Borough :" The term "borough" means in England any place for the time being subject to the provisions of the Act of the Session of the 5th and 6th Years of the Reign of King William IV., c. 76, "to provide for the regulation of Municipal Corporations in England and Wales," and the Acts amending the same ;

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"Person :" The term "person" includes a body corporate :

"Secretary of State :" The term "Secretary of State" means one of Her Majesty's Principal Secretaries of State :

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"Harbour :" The term "harbour" means any harbour properly so called, whether natural or artificial, and any port, haven, estuary, tidal river or other river, canal or inland navigation navigated by sea-going ships, and any dock, pier, jetty, or other works in or at which ships do or can ship or unship goods or passengers :

"Harbour authority :" The term "Harbour Authority" includes any persons or person being or claiming to be proprietors or proprietor of or intrusted with the duty or invested with the power of improving, maintaining, or managing any harbour :

"Ship :" The term "ship" includes every description of vessel used in navigation, whether propelled by oars or otherwise :

"Summary Jurisdiction Acts :" The term "Summary Jurisdiction Acts" means as follows : As to England, the Act of the Session of the 11th and 12th Years of the Reign of Her present Majesty, c. 43, intituled "An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions within England and Wales with respect to Summary Convictions and Orders," and any Acts amending the same ;

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"Court of Summary Jurisdiction :" The term "Court of Summary Jurisdiction" means and includes any Justice or Justices of the Peace . . . . . Metropolitan Police Magistrate, Stipendiary or other Magistrate, or officer, by whatever name called, to whom jurisdiction is given by the "Summary Jurisdiction Acts" or any Acts therein referred to, or to proceedings before whom the provisions of the "Summary Jurisdiction Acts" are or may be made applicable :

Definition of "petroleum :"

3. For the purposes of this Act the term "petroleum" includes any rock oil, Rangoon oil, Burmah oil, oil made from petroleum, coal, schist, shale, peat, or other bituminous substance, and any products of petroleum, or any of the above-mentioned oils[a] . . . . . .

Bye-laws as to ships carrying petroleum.

4. Every Harbour Authority shall frame and submit for confirmation to the Board of Trade bye-laws for regulating the place or places at which ships carrying petroleum to which this Act applies are to be moored in the harbour over which such Authority has jurisdiction, and are to land their cargo, and for regulating the time and mode of, and the precautions to be taken on, such landing. The harbour Authority shall publish the bye-laws so framed with a notice of the intention of such Authority to apply for the confirmation thereof. The Board of Trade may confirm such bye-laws with or without any omission, addition, or alteration, or may disallow the same.

Every such bye-law when confirmed shall be published by the Harbour Authority, and may be from time to time altered or repealed by a bye-law made in like manner. Bye-laws under this Section shall be published in such manner as the Board of Trade may from time to time direct.

If at any time it appears to the Board of Trade that there is no bye-law for the time being in force under this Section in any harbour the Board of Trade may, by notice, require the harbour Authority of such harbour to frame and submit to them a bye-law for the purposes of this Section, and if such Harbour Authority make default in framing a bye-law and obtaining the confirmation thereof within the time limited by such notice the Board of Trade may make a bye-law for the purposes of this Section, and such bye-law shall have the same effect as if it had been framed by the Harbour Authority and confirmed by the Board of Trade.

Where any ship or cargo is moored, landed, or otherwise dealt with in contravention of any bye-law for the time being in force under this Act in any harbour, the owner and master of such ship, or the owner of such cargo, as the case may be, shall each incur a penalty not exceeding £50 for each day during which such contravention continues, and it shall be lawful for the harbour master or any other person acting under the orders of the harbour Authority of such harbour to cause such ship or cargo to be removed, at the expense of the owner thereof, to such place as may be in conformity with the said bye-law, and all expenses incurred in such removal may be recovered in the same manner in which penalties are by this Act made recoverable.

Notice by owner, &c., of ship carrying petroleum.

5. The owner or master of every ship carrying a cargo any part of which consists of petroleum to which this Act applies, on entering any harbour within the United Kingdom, shall give notice of the nature of such cargo to the Harbour Authority having jurisdiction over such harbour.

If such notice is not given the owner and master of such ship shall each incur a penalty not exceeding the sum of £500, unless it is shown to the satisfaction of the Court before which the case is tried that neither the owner nor the master knew the nature of the goods to which the proceedings relate, nor could with reasonable diligence have obtained such knowledge.

Label on vessels containing petroleum.

6. Where any petroleum to which this Act applies—

(*a.*) Is kept at any place except during the 7 days next after it has been imported ; or,
(*b.*) Is sent or conveyed by land or water between any 2 places in the United Kingdom ; or,
(*c.*) Is sold or exposed for sale ;

the vessel containing such petroleum shall have attached thereto a label in conspicuous characters,

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(*a*) Words omitted here repealed by the "Petroleum Act, 1879," (42 & 43 Vict., 47, Schedule II.)

stating the description of the protroleum, with the addition of the words "highly inflammable," and with the addition—

(*a.*) In the case of a vessel kept, of the name and address of the consignee or owner :

(*b.*) In the case of a vessel sent or conveyed, of the name and address of the sender :

(*c.*) In the case of a vessel sold or exposed for sale, of the name and address of the vendor.

All petroleum to which this Act applies which is kept, sent, conveyed, sold, or exposed for sale, in contravention, of this Section shall, together with the vessel containing the same, be forfeited, and in addition thereto the person keeping, sending, selling, or exposing for sale the same shall for each offence be liable to a penalty not exceeding £5.

Regulations as to storage of petroleum.

7. Save as hereinafter mentioned, after the passing of this Act petroleum to which this Act applies shall not be kept, except in pursuance of a license given by such Local Authority as is in this Act mentioned.

All petroleum kept in contravention of this Section shall, together with the vessel containing the same, be forfeited, and in addition thereto the occupier of the place in which such petroleum is so kept shall be liable to a penalty not exceeding £20 a day for each day during which such petroleum is so kept.

This Section shall not apply to any petroleum kept either for private use or for sale, provided the following conditions are complied with :

(1.) That it is kept in separate glass, earthenware, or metal vessels, each of which contains not more than a pint, and is securely stopped :

(2.) That the aggregate amount kept, supposing the whole contents of the vessels to be in bulk, does not exceed 3 gallons.

Definition of Local Authority

8. The following bodies shall respectively be the Local Authority to grant licenses under this Act in the districts hereinafter mentioned ; (that is to say,)

* * * * * * *

(3.) In any Borough in England or Ireland, except as hereafter in this Section mentioned, the Mayor, Aldermen, and Burgesses acting by the Council :

(4.) In any place in England or Ireland, except as hereafter in this Section mentioned, within the jurisdiction of any Trustees or Improvement Commissioners appointed under the provisions of any local or general Act of Parliament, and not being a Borough or comprising any part of a Borough, the Trustees or Commissioners :

(5.) In any place in England (except as hereafter in this Section mentioned) within the jurisdiction of a Local Board constituted under the "Local Government Act, 1858," and not being any of the districts before mentioned or comprising any part of any such district, the Local Board :

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(8.) In any harbour within the jurisdiction of a Harbour Authority, whether situate or not within the jurisdiction of any Local Authority before in this Section mentioned, the Harbour Authority, to the exclusion of any other Local Authority :

(9.) In any place in which there is no Local Authority as before in this Section defined, in England or Ireland, the Justices in Petty Sessions assembled. . . . . .

Mode of granting licenses.

9. Licenses in pursuance of this Act shall be valid if signed by 2 or more of the persons constituting the Local Authority, or executed in any other way in which other licenses, if any, granted by such Authority are executed. Licenses may be granted for a limited time and may be subject to renewal or not in such manner as the Local Authority think necessary.

There may be annexed to any such license such conditions as to the mode of storage, the nature and situation of the premises in which, and the nature of the goods with which petroleum to which this Act applies is to be stored, the facilities for the testing of such petroleum from time to time, the mode of carrying such petroleum within the district of the licensing Authority, and generally as to the safe keeping of such petroleum as may seem expedient to the Local Authority.

Any licensee violating any of the conditions of his license shall be deemed to be an unlicensed person. There may be charged in respect of each license granted in pursuance of this Act, such sum, not exceeding 5*s.*, as the Local Authority may think fit to charge.

Appeal in case of refusal to license an applicant.

10. If on any application for a license under this Act the Local Authority refuse the license, or grant the same only on conditions with which the applicant is dissatisfied, the Local Authority shall, if required by the applicant, deliver to him in writing under the hand or hands of one or more of the persons constituting the Local Authority, a certificate of the grounds on which they refused the license or annexed conditions to the grant thereof.

The applicant within 10 days from the time of the delivery of the certificate may transmit the same to a Secretary of State, ... together with a memorial, praying that notwithstanding such refusal the license may be granted, or that the conditions may not be imposed, or may be altered or modified in such manner and to such extent as may be set forth in such memorial.

It shall be lawful for the Secretary of State . . . . . if he think fit, on consideration of such memorial and certificate, and, if he think it necessary or desirable, after due inquiry and a report by such person as he may appoint for that purpose, to grant the license prayed for, either absolutely or with such conditions as he thinks fit, or to alter or modify the conditions imposed by the Local Authority ; and the license so granted, or altered and modified, as the case may be, when certified under the hand of a Secretary of State . . . . . shall be to all intents as valid as if granted by the Local Authority.

Testing of petroleum by officer of Local Authority.

11. Any officer authorised by the Local Authority may purchase any petroleum from any dealer in it, or may, on producing a copy of his appointment, purporting to be certified by the Clerk or some member of the Local Authority, or producing some other sufficient authority, require the dealer to show him every or any place, and all or any of the vessels in which any petroleum in his possession is kept, and to give him samples of such petroleum on payment of the value of such samples.

When the officer has by either of the means aforesaid taken samples of petroleum, he may declare in writing to the dealer that he is about to test the same, or cause the same to be tested, in manner set forth in Schedule I. *to this Act*,(a) and it shall be lawful for him to test the same or cause the same to be tested, at any convenient place at such reasonable time as he may appoint, and the dealer or any person appointed by him may be present at the testing, and if it appear to the officer or other person so testing that the petroleum from which such samples have been taken is petroleum to which this Act applies, such officer or other person may certify such fact, and the certificate so given shall be receivable as evidence in any proceedings that may be taken against a dealer in petroleum in pursuance of this Act; but it shall be lawful for a dealer proceeded against to give evidence in proof that such certificate is incorrect, and thereupon the Court before which any such proceedings may be taken may, if such Court think fit, appoint some person skilled in testing petroleum to examine the samples to which such certificate relates, and to declare whether such certificate is correct or incorrect.

Any expenses incurred in testing any petroleum of such dealer in pursuance of this Section shall, if such dealer be convicted of keeping, sending, conveying, selling, or exposing for sale, petroleum in contravention of this Act, be deemed to be a portion of the costs of the proceedings against him, and shall be paid by him accordingly. In any other event such expenses shall be paid by the Local Authority out of any funds for the time being in their hands, and in case the Local Authority are the Justices, out of the County Rate.

Penalty for refusing information and obstructing officer.

12. Any dealer who refuses to show to any officer authorised by the Local Authority every or any place or all or any of the vessels in which petroleum in his possession is kept, or to give him such assistance as he may require for examining the same, or to give to such officer samples of such petroleum on payment of the value of such samples, or who wilfully obstructs the Local Authority, or any officer of the Local Authority, in the execution of this Act, shall incur a penalty not exceeding £20.

Search for petroleum. See 23 & 24 Vict., 139, 25.

13. Where any Court of Summary Jurisdiction is satisfied by information on oath that there is reasonable ground to believe that any petroleum to which this Act applies is being kept, sent, conveyed, or exposed for sale within the jurisdiction of such Court in contravention of this Act, at any place, whether a building or not, or in any ship or vehicle, such Court shall grant a warrant by virtue whereof it shall be lawful for any person named in such warrant to enter the place, ship, or vehicle named in such warrant, and every part thereof, and examine the same and search for petroleum therein, and take samples of any petroleum found therein, and if any petroleum to which this Act applies be found therein, which is kept, sent, conveyed, or exposed for sale in contravention of this Act, to seize and remove such petroleum, and the vessel containing the same, and to detain such petroleum and vessel until some Court of Summary Jurisdiction has determined whether the same are or not forfeited, the proceedings for which forfeiture shall be commenced forthwith after the seizure.

Any person seizing any petroleum to which this Act applies in pursuance of this Section shall not be liable to any suit for detaining the same, or for any loss or damage incurred in respect of such petroleum, otherwise than by any wilful act or neglect while the same is so detained.

If any petroleum to which this Act applies is seized in pursuance of this Section in any ship or vehicle, the person seizing the same may use for the purposes of the removal thereof, during 24 hours after the seizure, the said ship or vehicle, with the tackle, beasts, and accoutrements belonging thereto, and if he do so shall pay to the owner thereof a reasonable recompense for the use thereof, and the amount of such recompense shall, in case of dispute, be settled by the Court of Summary Jurisdiction before whom proceedings for the forfeiture are taken, and may be recovered in like manner as penalties under this Act may be recovered.

Any person who, by himself or by any one in his employ or acting by his direction or with his consent, refuses or fails to admit into any place occupied by or under the control of such person, any person demanding to enter in pursuance of this Section, or in any way obstructs or prevents any person in or from making any such search, examination, or seizure, or taking any such samples as authorised by this Section, shall be liable to pay a penalty not exceeding £20, and to forfeit all petroleum to which this Act applies which is found in his possession or under his control.

Application of Act to other substances.

14. Her Majesty may from time to time make, revoke, and vary Orders in Council directing this Act or any part thereof to apply to any substance, and this Act, or the part thereof specified in the Order shall, during the continuance of the Order, apply to such substance, and shall be construed and have effect as if throughout it such substance had been included in the definition of petroleum to which this Act applies, subject to the following qualifications:

(1.) The quantity of any substance to which this Act is directed by Order in Council to apply, which may be kept without a license, shall be such quantity only as is specified in that behalf in such Order, or if no such quantity is specified no quantity may be kept without a license:

(2.) The label on the vessel containing such substance shall be such as may be specified in that behalf in the Order.

Proceedings for penalties, &c.

11 & 12 Vict., 43.
42 & 43 Vict., 49.

15. In England and Ireland all offences and penalties under this Act, and all monies and costs directed by this Act to be recovered as penalties, may be prosecuted and recovered in manner provided by the "Summary Jurisdiction Acts."

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Provided as follows:

(1.) A Court of Summary Jurisdiction shall not impose a penalty exceeding £50, but any such Court may impose that or any less penalty for any one offence, notwithstanding the offence involves a penalty of higher amount.

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(a) See the "Petroleum Act, 1879," (42 & 43 Vict., 47, § 3.)

(3.) The "Court of Summary Jurisdiction," when hearing and determining an information or complaint, shall be constituted in some one of the following manners; (that is to say,)

(*a.*) In England, either of 2 or more Justices of the Peace in Petty Sessions sitting at a place appointed for holding Petty Sessions, or of one of the Magistrates hereinafter mentioned, sitting alone or with others at some Court or other place appointed for the administration of Justice; that is to say, the Lord Mayor, or any Alderman of the City of London, a Metropolitan Police Magistrate, a Stipendiary Magistrate, or some other officer or officers for the time being empowered by Law to do alone or with others any act authorised to be done by more than one Justice of the Peace.

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(4.) The description of any offence under this Act in the words of such Act shall be sufficient in Law.

(5.) Any exception, exemption, proviso, excuse, or qualification, whether it does or not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information, and if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant or prosecutor.

(6.) No conviction or Order made in pursuance of this Act shall be quashed for want of form or be removed by *Certiorari* or otherwise, either at the instance of the Crown or of any private party, into any Superior Court. Moreover, no warrant of commitment shall be held void by reason of any defect therein, provided that there is a valid conviction to maintain such warrant, and it is alleged in the warrant that the party has been convicted.

(7.) All forfeitures may be sold or otherwise disposed of in such manner as the Court may direct.

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Reservation of previous powers.

16. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred on any Local or Harbour Authority by Act of Parliament, law, or custom, and every Local Authority and Harbour Authority may exercise such other powers in the same manner as if this Act had not passed.

And nothing in this Act contained shall be deemed to exempt any person from any penalty to which he would otherwise be subject in respect of a nuisance.

Repeal.

17. The Acts mentioned in Schedule II. to this Act are hereby repealed to the extent in that Schedule mentioned.

Provided that such repeal shall not affect any Order in Council made, or any license granted, under any Act hereby repealed or any liability or penalty incurred in respect of any offence committed before the passing of this Act, or any remedy or proceeding for enforcing such liability or penalty, and every such Order, so far as relates to the matters provided for by this Act, and every such license, shall have effect as if it had been made or granted under this Act.

[§ 18 is repealed by the "Petroleum Act, 1879," (42 & 43 Vict., 47, Sched. II.)]

SCHEDULES.

SCHEDULE II.

[Superseded by a Schedule in the "Petroleum Act, 1879," 42 & 43 Vict., 47, *post.*]

SCHEDULE II.

[Omitted as unnecessary.]

35 & 36 VICT., c. 38.

An Act for the better Protection of Infant Life.

(25th July, 1872.)

Law Reports Statutes, vol. vii., p. 245.

WHEREAS it is expedient to make better provision for the protection of infants intrusted to persons to be nursed or maintained for hire or reward in that behalf: Be it enacted, &c.,

Interpretation

1. The term "Summary Jurisdiction Acts" means as follows:(a)

(*a*) A more ample definition of this term will be found in the "Summary Jurisdiction Act, 1879," (42 & 43 Vict., 49.)

As to England, the Act of the Session of the 11th and 12th Years of the reign of Her present Majesty, c. 43, intituled "An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions within England and Wales with respect to summary convictions and Orders," and any Acts amending the same.

* * * * * * *

The term "Court of Summary Jurisdiction" means and includes any Justice or Justices of the the Peace, Sheriff or Sheriff substitute, Metropolitan Police Magistrate. Stipendiary or other Magistrate or Authority, by whatever name called, to whom jurisdiction is given by the "Summary Jurisdiction Acts" or any Acts therein referred to, or to proceedings before whom the provisions of the "Summary Jurisdiction Acts" are or may be made applicable :

In this Act the words "Local Rate," "Local Jurisdiction," and "Local Authority," mean, in reference to the districts mentioned in the 1st column of the 1st Schedule annexed hereto, the Rate, jurisdiction, and Authority mentioned in the 2nd, 3rd and 4th columns of the said Schedule, and such Schedule and the notes thereto annexed shall be deemed to be part of this Act.

Houses of persons receiving infants for nursing to be registered.

2. From and after the commencement of this Act it shall not be lawful for any person to retain or receive for hire or reward in that behalf more than one infant, and in case of twins more than 2 infants, under the age of one year for the purpose of nursing or maintaining such infants apart from their parents for a longer period than 24 hours, except in a house which has been registered as herein provided.

Register to be kept by Local Authority.

3. The Local Authority shall cause a register to be kept in which shall be entered the name of every person applying to register any house for the purposes of this Act, and the situation of every such house, and the Local Authority shall from time to time make By-laws for fixing the number of infants who may be received into each house so registered ; the registration shall remain in force for one year ; no fee shall be charged for registration. Every person who receives or retains any infant in contravention to the provisions of this Act shall be guilty of an offence against this Act.

Local Authority may refuse to register.

4. The Local Authority may refuse to register any house, unless they are satisfied that such house is suitable for the purposes for which it is to be registered, and unless they are satisfied by the production of certificates that the person applying to be registered is of good character, and able to maintain such infants.

Registered persons to keep a register of infants and to produce it.

5. The person registered as aforesaid shall immediately enter in a register to be kept by him the name, sex, and age of each infant under his care, and the date at which and the names and addresses of the persons from whom they were received, and shall also enter in the said register the time when and the names and addresses of the person by whom every such infant received and retained as aforesaid shall be removed, immediately after the removal of such infant, and shall produce the said register when required to do so by the Local Authority ; and in the event of his refusing so to produce the said register or neglecting to enter in a register the name, sex, and age of each of the said infants, and the date at which and the names and addresses of the persons from whom they were received and by whom they were removed respectively, shall be liable to a penalty not exceeding £5. The person registered shall be entitled to receive gratuitously from the Local Authority a book of forms for the registration of infants ; such register may be in the form contained in the 2nd Schedule to this Act.

Forgery of certificate, &c.

6. If any person shall make false representations with a view to being registered under this Act, or shall forge any certificate for the purpose of this Act, or make use of any forged certificate, knowing it to be forged, or shall falsify any register kept in pursuance of this Act, he shall be guilty of an offence against this Act.

Local Authority may strike off register.

7. If it shall be proved to the satisfaction of the Local Authority that any person whose house has been so registered as aforesaid has been guilty of serious neglect, or is incapable of providing the infants intrusted to his care with proper food and attention, or that the house specified in the register has become unfit for the reception of infants, it shall be lawful for the Local Authority to strike his name and house off the register.

Inquest to be held on death of infant.

8. The person registered as aforesaid shall within 24 hours after the death of every infant so retained or received cause notice thereof to be given to the coroner for the district within which the said infant died, and the said coroner shall hold an inquest on the body of every such infant unless a certificate under the hand of a registered medical practitioner shall be produced to him by the person so registered certifying that such registered medical practitioner has personally attended or examined such infant, and specifying the cause of its death, and the said coroner shall be satisfied by such certificate that there is no ground for holding such inquest. If the person so registered shall neglect to give notice as aforesaid he shall be guilty of an offence under this Act.

Punishment for offence.

9. Every person guilty of an offence under this Act shall be liable to imprisonment for not more than 6 months, with or without hard labour, or to a penalty not exceeding £5, as a Court of Summary Jurisdiction may award, and shall in addition be liable to have his name and house struck off the register.

Expenses.

10. All expenses incurred in and about the execution of this Act shall be defrayed out of the local Rate.

Offence how to be prosecuted.

11. Any offence under this Act may be prosecuted before a Court of Summary Jurisdiction in manner provided by the "Summary Jurisdiction Acts :" provided as follows :

The description of any offence under this Act in the words of such Act, or as near thereto as may be, shall be sufficient in law:

Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information, and if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant or prosecutor :

The Court of Summary Jurisdiction, when hearing, trying, determining, and adjudging an information or complaint in respect of any offence or matter arising under this Act, shall be constituted either of 2 or more Justices of the Peace in Petty Sessions, or of some Magistrate or officer sitting alone or with others at some Court or other place appointed for the administration of justice, and for the time being empowered by Law to do alone any act authorised to be done by more than one Justice of the Peace.

Application of penalties.

12. Any monies arising from fees or fines under this Act shall be paid to the account of the local Rate, and be applied to the purposes to which that Rate is applicable.

Exceptions.

13. The provisions of this Act shall not extend to the relatives or guardians of any infant retained or received as aforesaid, nor to institutions established for the protection or care of infants, nor to any person receiving any infant for the purpose of nursing or maintaining such infant under the provisions of any Act for the relief of the poor.

[§ 14 relates to Scotland only.]

Commencement of Act.

15. This Act shall commence on the 1st day of November, 1872.

Short title.

16. This Act may be cited as the "Infant Life Protection Act, 1872."

The first Schedule referred to in the foregoing Act.

England.

District.	Local Rate.	Local Jurisdiction.	Local Authority.
Counties, except the Metropolis and city of London.	The County Rate or Rate in the nature of a County Rate.	Petty Sessional Division.	Justices in Petty Sessions
The Metropolis.	Rate or fund applicable to the payment of the general expenses of the Board.	Area of the Metropolis.	The Metropolitan Board of Works.
City of London and the liberties thereof.	Consolidated Sewers Rate	Area of the city of London and the liberties thereof.	Common Council.
Boroughs.	The Borough Fund or Borough Rate.	Area of Borough.	Council.

"County" shall not include a county of a city or county of a town, but shall include any riding, division, parts, or liberty of a county having a separate Commission of the Peace.

Where a county or liberty of a county having a separate Commission of the Peace is not divided into Petty Sessional Divisions, such county or liberty of a county shall itself for the purposes of this Act be deemed to be a Petty Sessional Division of the county by which it is constituted or in which it is geographically situate.

"The Metropolis" shall include all parishes and places in which the Metropolitan Board of Works have power to levy a Main Drainage Rate, exclusive of the City of London and the liberties thereof.

"Borough" shall mean any place for the time being subject to an Act passed in the Session holden in the 5th and 6th Years of the reign of King William IV., c. 76, intituled "An Act made to provide for the regulation of municipal corporations in England and Wales," and having a separate Court of Quarter Sessions.

Every place that is not, according to the foregoing definitions, a Borough, a County, or part of the Metropolis, or City of London, or the liberties thereof, shall be deemed to form part of the county, as hereinbefore defined, to the County Rate of which it is assessed, or if not so assessed, of the county within which it is situate.

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The second Schedule referred to in the foregoing Act.

Register of Infants.

Date at which received.	Name.	Sex.	Age.	Name and Address of Person from whom received.	Date at which removed.	Name and address of Person by whom removed.

35 & 36 VICT., c. 61.

Law Reports Statutes, vol. vii., p. 370.

An Act to regulate the use of Steam Whistles in certain Manufactories. *(6th August, 1872.)*

BE it enacted, &c.,

1. This Act shall not apply to Scotland.

Use of steam whistles, &c.

2. No person shall use or employ in any manufactory, or any other place, any steam whistle or steam trumpet for the purpose of summoning or dismissing workmen or persons employed without the sanction of the Sanitary Authority, and every person offending against this Section shall be liable to a penalty not exceeding £5, and to a further penalty not exceeding 40*s.* for every day during which such offence continues :

Provided always, that the Sanitary Authority, in case they have sanctioned the use of any such instrument as aforesaid, may at any time revoke such sanction, on giving one month's notice to the person using the same :

Provided also, that it shall be lawful for the Local Government Board, on representation made to them by any person that he is prejudicially affected by such sanction, to revoke the same, and such revocation shall have the same force and effect as if it had been made by the Sanitary Authority.

Definition.

3. "Sanitary Authority," means the Authority at the time being empowered to execute the "Nuisance Removal Acts," as defined and extended by the "Sanitary Act, 1866."(a)

Legal procedure

4. All offences and penalties under this Act may be prosecuted and recovered in England in manner directed by the Act of the Session of the 11th and 12th Years of the reign of Her present Majesty, c. 43, and any Acts amending the same.

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35 & 36 VICT., c. 91.

Law Reports Statutes, vol. vii., p. 650.

An Act to authorise the application of Funds of Municipal Corporations and other governing bodies in certain cases.(b) *(10th August, 1872.)*

20 & 21 Vict., c. 50.

WHEREAS by the Act passed in the Session holden in the 20th and 21st Years of the reign of Her Majesty, intituled an "Act to amend the Acts concerning the municipal corporations," the trustees acting under any Act of Parliament for supplying any Borough, or any district within or in certain cases beyond the limits of a Borough, with water or gas, or having powers for providing or maintaining any cemetery or market in or for any Borough, or otherwise improving the same, are authorised and empowered to transfer to the body corporate of such Borough all their rights, estates, properties, and liabilities.

(a) Now the Urban and Rural Sanitary Authorities, created by the "Public Health Act, 1872." [Repealed and in substance re-enacted by the Public Health Act, 1875."]

(b) See Part V., Digest of Cases ; *post*, Title, "Parliamentary Expenses."

And whereas by the 92nd Section of the Act passed in the Session holden in the 5th and 6th Years of the reign of King William IV., c. 76, to provide for the regulation of municipal corporations in England and Wales, in each borough the annual proceeds of all property and hereditaments belonging to the body corporate, and fines and rates levied in the borough, are directed to form the borough fund, and such fund is directed to be applied in the payment of certain salaries and certain expenses and the expenses necessarily incurred in carrying into effect the provisions of the said Act, and the surplus (if any) of such funds is directed to be applied, under the direction of the Council, for the public benefit of the inhabitants and the improvement of the borough:

And whereas the "Public Health Act, 1848," "The Local Government Act, 1858," and various local Acts of Parliament, have conferred powers of improving, cleansing, paving, lighting, and otherwise governing places or districts upon Boards of Health, commissioners, trustees, or other persons:

And whereas it is expedient to extend the powers of governing bodies so as to enable them to apply the borough or other funds under the control of such governing body towards such costs, charges, and expenses as may be incurred for the purposes and in the manner herein provided: Be it therefore enacted, &c.,

Interpretation.

1. The term "governing body" in this Act shall mean the Council of any municipal borough, the Board of Health, Local Board, commissioners, trustees, or other body acting under any general or local Act of Parliament for the management, improvement, cleansing, paving, lighting and otherwise governing places or districts,(a) and the term "district" shall mean the borough, place, township, or district within which the governing body may for the time being have jurisdiction.

Provided, however, that in the borough of Cambridge, in any matters affecting the constitution, power, or functions of the Board of Cambridge Improvement Commissioners, as defined in the several Acts of Parliament relating thereto, the term "governing body" shall mean such Board of Improvement Commissioners, and not the Council of the borough of Cambridge.

Costs of Parliamentary and other proceedings for benefit inhabitants to be a charge on local funds.

2. When in the judgment of a governing body in any district it is expedient for such governing body to promote or oppose any local and personal Bill or Bills in Parliament, or to prosecute or defend any legal proceedings necessary for the promotion or protection of the interests of the inhabitants of the district, it shall be lawful for such governing body to apply the borough fund, borough Rate, or other the public funds or Rates under the control of such governing body to the payment of the costs and expenses attending the same; and when there are several funds or Rates under the control of the governing body, such governing body shall determine out of which fund or funds, Rate or Rates, such expense shall be payable, and in what proportions:

Provided that nothing in this Act contained shall authorise any governing body to promote any Bill in Parliament for the establishment of any gas or water works to compete with any existing gas or water company established under any Act of Parliament:

Provided that no powers contained in this clause shall apply in any case where the promotion of or opposition to a Bill by a governing body has been decided by a committee of either House of Parliament to be unreasonable or vexatious.

No payment to a member.

3. No payment to any member of a governing body for acting as counsel or agent in promoting or opposing any such Bill shall be charged as aforesaid.

Costs of promoting or opposing Bills to require special sanction.

4. No expense in relation to promoting or opposing any Bill or Bills in Parliament shall be charged as aforesaid unless incurred in pursuance of a resolution of an absolute majority of the whole number of the governing body at a meeting of the governing body, after 10 clear days notice by public advertisement of such meeting and of the purpose thereof in some local newspaper published or circulating in the district, such notice to be in addition to the ordinary notices required for summoning such meeting, nor unless such resolution shall have been published twice in some newspaper or newspapers circulating in the district and shall have received, in respect of matters within the jurisdiction of the Local Government Board, the approval of such Board,(b) and in respect of other matters, the approval of one of Her Majesty's Secretaries of State, and in case of the promotion of a Bill in Parliament no further expense shall be incurred or charged as aforesaid after the deposit of the Bill, unless the propriety of such promotion shall be confirmed by such absolute majority at a further special meeting to be held in pursuance of a similar notice not less than 14 days after the deposit of the Bill in Parliament:

Provided further, that no expense in promoting or opposing any Bill in Parliament shall be charged as aforesaid unless such promotion or opposition shall have had the consent of the owners and ratepayers of that district, to be expressed by resolution in the manner provided in the "Local Government Act, 1858,"(c) for the adoption of that Act.

Approval of Local Government Board, &c., necessary.

5. The approval of the Local Government Board or one of Her Majesty's Principal Secretaries of State, as the case may be, shall not be given to any such resolution as aforesaid until the expiration of 7 days after the 2nd publication thereof, as provided by this Act, and in the meantime any ratepayer within the district of the governing body may give notice in writing to the Local Government Board or Secretary of State objecting to such approval.

Costs to be examined.

6. All costs, charges, and expenses incurred under the provisions of this Act shall, before the same become chargeable, be examined and allowed by some person to be authorised by one of Her Majesty's Principal Secretaries of State or by the Local Government Board, as the case may be.

Local inquiry.

7. The Local Government Board, or one of Her Majesty's Principal Secretaries of State, shall have power to direct a local inquiry to be held upon any application under this Act, by any person or persons whom they may respectively nominate for the purpose, and to charge the costs and

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(a) "These words embrace every Sanitary Authority." (Lumley.)

(b) See the requirements of the Local Government Board as to this matter set out in Part IV., "Official Documents" (*post.*)

(c) See "Public Health Act, 1875." Sched. III.

expenses of such local inquiry upon the governing body or the person by whom such application shall be made.

Saving clause.

8. Nothing in this Act shall extend or be construed to alter or affect any special provision which is or shall be contained in any other Act for the payment of the costs, charges, and expenses intended to be provided for by this Act, or to take away or diminish any rights or powers now possessed or enjoyed by any governing body, or which are or shall be vested in or exerciseable by the inhabitants of any district under any general or Special Act.

Repeal of 10 & 11 Vict., 34, 142.

9. The 142nd Section of the "Towns Improvement Clauses Act, 1847," is hereby repealed so far as the same is inconsistent with the provisions of this Act.

Proviso as to Provisional Orders.

10. The provisions of this Act shall not extend to applications for any Bill in Parliament for any object which would, for the time being, be attainable by Provisional Order.

18 & 19 Vict., 120.

11. This Act shall not extend or apply to Ireland or the city of London or the metropolitan area as defined by the "Metropolitan Local Management Act, 1855."

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36 & 37 VICT., c. 33.

Law Reports Statutes, vol. viii., p. 199.

An Act to facilitate the Proof of By-laws and Proceedings of Municipal Corporations in England and Wales. *(7th July, 1873.)*

WHEREAS it is expedient to facilitate the proof of the By-laws and proceedings of Municipal Corporations in England and Wales: Be it therefore enacted, &c.,

Short title.

1. This Act may be cited for all purposes as the "Municipal Corporations Evidence Act, 1873."

Proof of by-laws.

2. The production of a written or printed copy of any By-laws made by the Council of a Borough, either under the "Municipal Corporations Act" of the 5th and 6th of William IV., c. 73, or under any present or future general or local Act of Parliament, authenticated by the common seal of the Borough, shall be evidence, until the contrary is proved, of the due making and existence of such By-laws, and, if so stated in such copy, of the same By-laws having been approved and confirmed by the Authority whose approval or confirmation is or shall be required to the making or enforcing of such bye-laws in all legal proceedings, without further proof of the making of such By-laws, or of such approval or confirmation, or of the said common seal.

Proofs of proceedings of Council and committees.

3. Any minute of proceedings at meetings of the Council, or of committees of the Council, if signed by any person purporting to be the Mayor of the Borough or the Chairman of a meeting of the Council or committee of the Council, either at the meeting of the Council or committee of the Council at which such proceedings took place, or at the next ensuing meeting of the Council or committee of the Council, shall be receivable in evidence in all legal proceedings, without further proof:

And, until the contrary is proved, every meeting of the Council or committee of the Council in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held, and all the members thereof to have been duly qualified, and, when such proceedings are proceedings of committees, that such committees have been duly and regularly constituted, and had power to deal with the matters referred to in such proceedings.

Forgery of seal or signatures.

4. If any person shall forge the seal or signatures of any documents in this Act mentioned or referred to, or shall tender in evidence any such document with a false or counterfeit seal or signature thereto, knowing the same to be false or counterfeit, he shall upon conviction be liable to imprisonment for any term not exceeding 3 years nor less than one year with hard labour.

Interpretation.

5. The word "Borough" in the construction of this Act shall mean City, Borough, or town corporate.

36 & 37 VICT., c. 89.

An Act to extend and amend the provisions of the "Gas and Water-Works Facilities Act, 1870." (5th August, 1873.)

Law Reports Statutes, vol. viii., p. 503.

BE it enacted, &c.,

Short title.

1. This Act may be cited for all purposes as the "Gas and Water-Works Facilities Act, 1870, Amendment Act, 1873."

Interpretation.

2. In this Act the several words and expressions to which by the "Gas and Water-Works Facilities Act, 1870," meanings are assigned, have the same respective meanings as in the said Act :

The expression "Special Act" shall mean and include any local and personal Act conferring powers upon any Local Authority, corporation, commissioners, company, companies, or persons, for the construction and maintenance, or the maintenance and continuance of gas-works, and the manufacture and supply of gas in any district, and any Act amending the same, and shall include any Provisional Order made and confirmed under the authority of the "Gas and Water-Works Facilities Act, 1870," so far as such Act or Provisional Order is in force :

The expression "undertakers" in relation to a Special Act shall mean the Local Authority, corporation, commissioners, company, companies, or persons acting in execution of such Special Act :

The expression "prescribed" shall mean prescribed by the Special Act.

Cases to which Act applies.

3. This Act shall apply where the amendment of any Special Act in force in any district is required by the undertakers or, subject as is in this Act hereinafter provided, by the Local Authority of such district in relation to all or any of the matters following :

(1.) The illuminating power of the gas to be supplied ;
(2.) The maximum price of the gas to be supplied ;
(3.) The pressure at which the gas is to be supplied ;

and such matters or any one or more of them, as the case may be, shall for the purposes of this Act be deemed to be included in the term "amendment of a Special Act."

Board of Trade Provisional Orders.

4. Subject to the provisions of this Act, Provisional Orders making an amendment of a Special Act, may be obtained on the application of the undertakers, or of the Local Authority of any district in which the same is in force, made previous to the 15th day of February, 1874.

Notices and deposit of documents.

5. The undertakers or Local Authority intending to make an application for a Provisional Order in pursuance of this Act shall proceed as follows :—

(1.) During the 30 days immediately preceding their application they shall publish notice of their intention to make such application by advertisement, according to the regulations contained in Part I. of the Schedule to this Act :

(2.) On or before the 5th day after the last publication of such advertisement they shall deposit the documents described in Part II. of the said Schedule, according to the regulations therein contained.

Power of Board of Trade.

6. The Board of Trade shall consider the application, and inquire as to the propriety of proceeding upon such application, and they shall consider any objection thereto that may be lodged with them on or before such day as they from time to time appoint, and shall determine whether or not the application may be proceeded with.

Board of Trade Provisional Order.

7. Where, with a view to prevent undue loss to any undertakers arising from unusual increase in the cost of production of gas, or to the prevention of undue accumulation of profits by undertakers, it appears to the Board of Trade expedient and proper that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, and it has been proved to their satisfaction that all the requirements of this Act have been in all respects complied with, the Board of Trade may settle and make a Provisional Order accordingly :

Provided that the operation of such Provisional Order shall be limited to such period (not exceeding 2 years) as the Board shall therein prescribe :

Provided also, that where any addition shall be made by any such Provisional Order to the maximum price of gas prescribed by the Special Act, provision shall be made by such Provisional Order that the undertakers being a person, company, or companies carrying on business under the Special Act for his or their own pecuniary benefit, shall not divide more than at the rate of 5 per cent. per annum on their ordinary capital for any half year in which they shall have charged more than the maximum price described by the Special Act, or if such undertakers shall not have

paid a dividend of 5 per cent. on such capital for each of the 2 financial years next preceding the application, more than such sum as shall have been the average amount of the dividend in such 2 years, and before allowing any such addition the Board of Trade shall ascertain the amount of dividend paid on such capital during the said 2 years, the contracts, if any, for coal still in force, the present and former prices received by them for coke and residual products, the amount of gas unaccounted for and lost during each of the said 2 years, and their charges for gas during the same period.

Provisional Orders to be taken as valid.

8. Every Provisional Order made by the Board of Trade under the authority of this Act shall be signed by a Secretary or Assistant Secretary of the Board of Trade, and shall take effect from a day subsequent to the date of the signing of the same to be named therein (in this Act referred to as the commencement of such Provisional Order), and every such Order purporting to be so signed shall be conclusive evidence of every fact and circumstance necessary to authorise the making thereof, and shall be deemed and taken to all intents and purposes whatsoever to have been made in pursuance of and in conformity with the provisions of this Act; and so long as such Provisional Order shall continue in force, it shall be of the same force and effect as an Act of Parliament.

Provided always, that where an application under this Act has been made by any undertakers for the grant of a Provisional Order for the amendment of a Special Act, it shall be lawful for the Local Authority of the district in which such Special Act is in force, at any time before the 15th February, 1874, to apply to the Board of Trade for the grant of a Provisional Order for the amendment of such Special Act with respect to the illuminating power or the maximum price of the gas to be supplied by the undertakers, or with respect to the pressure at which such gas is to supplied.

Provided also, that at any time during the continuance of any Provisional Order granted to any undertakers it shall be lawful for the Local Authority of the district in which the same is in force to apply to the Board of Trade to revoke or amend such Provisional Order, and the Board of Trade may revoke or amend the same accordingly.

Publication of Order.

9. When a Provisional Order has been made as aforesaid, and delivered to the persons who applied for the same, they shall, before the day named for the commencement of such Provisional Order, deposit and publish the same by advertisement according to the regulations contained in Part III. of the Schedule to this Act.

Confirmation of Order by Parliament.

10. The Board of Trade shall, as soon as they conveniently can after the making of any Provisional Order under the authority of this Act, procure a Bill to be introduced into either House of Parliament for an Act to confirm the Provisional Order, which shall be set out at length in the Schedule to such Bill.

If, while any such Bill is pending in either House of Parliament, a petition is presented against any Provisional Order comprised therein, the Bill, so far as it relates to the Order petitioned against, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of a Bill for a local and personal Act.

In case either House of Parliament shall refuse to confirm any Provisional Order under this Act, notice of such refusal shall forthwith be given by the Board of Trade to the persons who applied for the same, and to the Local Authority of any district to which such Provisional Order relates, and the Board of Trade shall cause a copy of such notice to be published as an advertisement, once in the local newspaper in which the original advertisement of the intended application was published, or in such other newspaper circulating in such district as the Board of Trade may think proper.

Every such notice shall be signed by a Secretary or Assistant Secretary of the Board of Trade and from and after the expiration of a day to be named therein the Provisional Order to which it relates shall cease to have any operation:

Provided always, that such notice shall not affect any act, matter, or thing done or suffered or any liability incurred under such Provisional Order, nor the effect and validity of such Provisional Order, previous to the day named in such notice.

The production of a copy of such notice purporting to be signed in manner by this Section prescribed shall be evidence of the facts stated therein.

The Act of Parliament confirming any Provisional Order under this Act shall be deemed a Public General Act.

Costs of Order.

11. The costs of and connected with the preparation and making of a Provisional Order, and all proceedings in relation thereto, shall be paid by the persons applying for the same, and the Board of Trade may require them to give security for such costs before they proceed with the Provisional Order.

Such costs incurred by undertakers, being a company, companies, or person carrying on business under the Special Act for their or his own pecuniary benefit, shall, if the same be not obtained, be paid out of the sum applicable to dividend, and if the same be obtained, shall be charged to ordinary expenses of management; and such costs incurred by any other undertakers may be paid by them out of any funds which may from time to time be in their hands, and which may be applicable to the purposes of the Special Act; and such costs incurred by any Local Authority may be paid by them out of the Borough Rate or District Rate leviable by them for the purposes for which they are constituted by any General or Special Acts.

Power of Board of Trade to revoke, &c., an Order.

12. Where under the "Gas and Water-Works Facilities Act, 1870," or this Act, the Board of Trade have made any Provisional Order, they may from time to time revoke, amend, extend, or vary such Provisional Order by a further Provisional Order.

Every application for such further Provisional Order shall be made in like manner and subject to the like conditions as the application for the former Provisional Order.

Every such further Provisional Order shall be made and confirmed in like manner in every respect as the former Provisional Order.

Inquiries by Board of Trade.

13. Where, in relation to any application for a Provisional Order under the "Gas and Water-Works Facilities Act, 1870," or under this Act, it is in the opinion of the Board of Trade expedient that an inquiry should be held, they may order and direct such inquiry to be held at such time and place as they may think proper, subject to the provisions following:

1. The inquiry shall be held in public before an officer or officers to be appointed in that behalf by the Board of Trade, hereinafter called the commissioner or commissioners:
2. Ten days' notice at the least shall be given by the commissioner or commissioners of the time and place at which the inquiry is to be commenced:
3. The inquiry shall be commenced at the time and place so appointed, and the commissioner or commissioners may adjourn the inquiry from time to time as may be necessary to such time and place as he or they may think fit:
4. The commissioner or commissioners by summons shall, on the application of any party interested in the inquiry, require the attendance before him or them, at a place and time to be mentioned in the summons, of any person to be examined as a witness before him or them, and every person summoned shall attend the commissioner or commissioners, and answer all questions touching the matter to be inquired into, and any person who wilfully disobeys any such summons or refuses to answer any question put to him by the commissioner or one of the commissioners for the purposes of the said inquiry shall, on summary conviction before 2 Justices . . . . . be liable to a penalty not exceeding £5:
   Provided always, that no person shall be required to attend in obedience to any such summons unless the reasonable charges of his attendance shall have been paid or tendered to him, and no person shall be required in any case in obedience to any such summons to travel more than 10 miles from his place of abode:
5. The commissioner or commissioners shall make a report to the Board of Trade in writing, and shall deliver copies of the report upon request to all or any of the parties to the inquiry:

Rules.

14. The Board of Trade may from time to time make, and, when made, may rescind, annul, or add to, rules with respect to the following matters:

The proceedings to be had before the Board under the "Gas and Water-Works Facilities Act, 1870," or this Act; and

As to any other matter or thing in respect of which it may be expedient to make rules for the purpose of carrying the said Act or this Act into execution.

Any rules made in pursuance of this Section shall be deemed to be within the powers conferred by the said Act or this Act and shall be of the same force as if enacted in the said Act or this Act, and shall be judicially noticed.

Any rules made in pursuance of this Section shall be laid before Parliament within 3 weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within 3 weeks after the beginning of the then next Session of Parliament.

18 & 19 Vict., 120.

15. This Act shall not apply to any place within the Metropolis as the same is defined in the "Metropolis Management Act, 1855."

SCHEDULE.

Part I.

Advertisement of intended Application.

(1.) Every advertisement is to contain the following particulars:

The objects of the intended application.

The name of an office, either in London or at the place to which the intended application relates, at which printed copies of the draft Provisional Order, when deposited, and of the Provisional Order, when made, will be obtainable as hereinafter provided.

(2). The advertisement is to be inserted twice at least in some one and the same newspaper published in the district affected by the proposed Provisional Order; or if there be no such newspaper, then in some one and the same newspaper published in the county in which such district, or some part thereof, is situate; or if there be none, then in some one and the same newspaper published in some adjoining or neighbouring county. Such advertisements shall be so published that there shall be an interval of not less than 10 days between each publication.

Part II.

(1.) The documents to be deposited at the office of the Board of Trade:—

1. A copy of each of the newspapers containing the advertisement.
2. A memorial signed by the persons applying for a Provisional Order, addressed to the Board of Trade, and praying for a Provisional Order.
3. A printed draft of the Provisional Order as proposed, with any Schedule referred to therein.

(2.) A sufficient number of such printed copies are to be deposited at the office named in that behalf in the advertisement; such copies to be there furnished to all persons applying for them at the price of not more than 1*s.* each.

(3.) The said memorial (to be written on foolscap paper, bookwise, with quarter margin) is to be in the following form, with such variations as circumstances require :

[*Short title of Undertaking.*]

To the Board of Trade,

The memorial of of :

Showeth as follows ;

1. Your memorialists have published, in accordance with the requirements of the "Gas and Water-Works Facilities Act, 1870, Amendment Act, 1873 " the following advertisement :

[*Here advertisement to be set out verbatim.*]

2. Your memorialists have also deposited, in accordance with the requirements of the said Act, copies of the said advertisement and [*here state deposit of the several matters required by Act.*]

Your memorialists, therefore, pray that a Provisional Order may be made in the terms of the draft proposed by your memorialists, or in such other terms as may seem meet.

A.B.
C.D.
E.F.

PART III.

Deposit and advertisement of Provisional Order when made.

(1.) The Provisional Order shall be published as an advertisement once in the local newspaper in which the original advertisement of the intended application was published, or, in such other newspaper circulating in the district to which such Provisional Order relates as the Board of Trade shall direct.

(2.) A sufficient number of printed copies of the Provisional Order shall be deposited at the office named in that behalf in the advertisement, such copies to be there furnished to all persons applying for them at the price of not more than 1*s.* each.

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37 & 38 VICT., c. 59.

Law Reports Statutes, vol. ix., p. 323.

An Act to facilitate the erection of Dwellings for Working Men on land belonging to Municipal Corporations. *(7th August, 1874.)*

WHEREAS it is expedient to encourage the erection of dwelling-houses suitable for persons employed in manual labour, and to afford increased facilities for the acquisition of sites for such dwelling-houses : Be it therefore enacted, &c.,

Short title.

1. This Act may be cited as the "Working Men's Dwellings Act, 1874."

2. This Act shall not extend to Scotland or Ireland.

Interpretation.

3. In this Act—

"Corporation" means a Municipal Corporation for the time being subject to the Act of the Session of the 5th and 6th Years of the reign of King William IV., c. 76, "to provide for the regulation of Municipal Corporations in England and Wales" (in this Act called the "Municipal Corporations Act") acting by the Council of the Borough :

"Working Men's Dwellings" means buildings suitable for the habitation of persons employed in manual labour and their families, but so that the use of part of a building for purposes of retail trade or other purposes, approved by a Corporation, shall not prevent the building from being deemed a dwelling :

"The Treasury" means the Commissioners of Her Majesty's Treasury, or 2 of them.

Power to annex conditions as to building, &c.

4. Where a Corporation determine that any land belonging to them shall be converted into sites for Working Men's Dwellings, and on a representation to the Treasury of the circumstances of the case, under § 94 of the "Municipal Corporations Act," obtain the approval of the Treasury to the Corporation making for that purpose grants or leases for terms of 999 years, or any shorter term, of parts of that land, then the following provisions shall have effect and apply :

(1.) The Corporation may make on the land any roads, drains, walls, fences, or other works requisite for converting the same into building land, at an expense not exceeding such sum as the Treasury approve :

(2.) The Corporation may insert in any grant or lease of any part of the land (in this Act referred to as the site) provisions binding the grantee or lessee to build thereon as in the grant or lease prescribed, and to maintain and repair the building, and prohibiting the division of the site or building, and any addition to or alteration of the character of the building, without the consent of the Corporation, and for the re-vesting of the site in the Corporation, or their re-entry thereon, on breach of any provision in the grant or lease :

(3.) Every provision as aforesaid shall be valid in law to all intents, and binding on the parties.

(4.) A grant or lease by the Corporation of the site, and any subsequent conveyance or assignment thereof, in the respective Form set forth in the Schedule to this Act, or to the like effect, with such variations and additions as circumstances require, shall be good and effectual in Law to all intents ; and terms used in those Forms shall have the same meaning as in this Act.

Costs.

5. All costs and expenses incurred or authorised by a Corporation in carrying into execution or otherwise in pursuance of this Act, shall be paid out of the Borough fund and Borough Rate, or by money borrowed by the Corporation under the "Municipal Corporation Mortgages, &c., Act, 1860."

23 Vict., 16.

SCHEDULE.

A.

Form of Grant by Corporation.

"The Working Men's Dwellings Act, 1874."

Borough of Grant No.

The Mayor, Aldermen, and Burgesses of the Borough of by virtue and in pursuance of the above-mentioned Act, and in consideration of paid to them by *A.B.* of hereby grant to the said *A.B.* (herein referred to as the grantee), and his heirs, the site following (that is to say) [*insert description*] with the appurtenances, subject to the following conditions (that is to say) ;

1. The grantee shall build on the site one working-man's or working-men's dwelling (and no more) according to the plan and specification deposited in the office of the Town Clerk, numbered , and under the superintendence and to the satisfaction the Corporation.

2. The grantee, his heirs and assigns, shall always maintain and repair the building, and shall not sell or alienate the site or building in divisions or separate parts, and, in case of the taking down or destruction of the building, shall not rebuild it except in manner approved by the Corporation.

3. The grantee, his heirs or assigns, shall not add to or alter the character of the building without the consent of the Corporation.

4. If at any time the grantee, his heirs or assigns, fail to fully observe and perform any stipulation of this grant, the Corporation may, if they think fit, declare that the site is re-vested in the Corporation ; and thereupon the same, with the dwelling and other buildings thereon, shall become and be vested in the Corporation, as if this grant had not been made.

In witness whereof, &c., this day of 187 .

(*Corporate Seal.*)

B.

Form of Transfer of Grant.

"The Working Men's Dwellings Act, 1874."

Borough of Transfer No. Grant No.

A.B. of , by virtue and in pursuance of the above-mentioned Act, and in consideration of paid to him by *C.D.* of , hereby grants and trans-

fers to the said *C.D.* and his heirs the site comprised in the within-written(a) grant [*or* the grant No. under the said Act, dated the day of 187 (b)] with the appurtenances and with the dwelling and other buildings thereon, subject to the conditions on which that site is held immediately before the execution of this transfer.

In witness whereof, &c., this day of 18 .

A.B. (L.S.)

C.

Form of Lease by Corporation.

"The Working Men's Dwellings Act, 1874."

Borough of . Lease No. .

The Mayor, Aldermen, and Burgesses of the Borough of by virtue and in pursuance of the above-mentioned Act, and in consideration of the sum of paid to them by *A.B.* of and of the rent and stipulations in this lease reserved and contained, and to be by him, his executors, administrators, or assigns, paid and performed, hereby lease to the said *A.B.* (herein referred to as the lessee), his executors and administrators, the site following (that is to say) [*insert description*] with the appurtenances, for the term of [999] years from the day of , at the yearly rent (clear of all deductions) of , payable by 2 equal half-yearly payments on the day of and the day of in every year, the first thereof to be made on the day of , and the last thereof to be made in advance on the day of next before the end of the term, and so that on the term being determined by re-entry a proportionate part of the rent for the fraction of the current half-year up to the re-entry be repayable.

And the lessee hereby covenants with the Corporation that he, his executors, administrators, or assigns, will during the term pay the rent on the days and in manner aforesaid, and will pay all taxes, rates, and outgoings for the time being payable by the tenant in respect of the premises.

And this lease is made subject to the following conditions (that is to say):

1. The lessee shall build on the site one working-man's or working-men's dwelling (and no more) according to the plan and specification deposited in the office of the Town Clerk, and numbered , under the superintendence and to the satisfaction of the Corporation.

2. The lessee, his executors, administrators, and assigns, shall always during the term maintain and repair the building, and shall not sell or alienate the site or building in divisions or separate parts, and, in case of the taking down or destruction of the building, shall not rebuild it except in manner approved by the Corporation.

3. The lessee, his executors, administrators, or assigns, shall not add to or alter the character of the building without the consent in writing of the Corporation.

4. If at any time the lessee, his executors, administrators, or assigns, fail to duly pay the rent hereby reserved, or to fully observe and perform any stipulation herein contained, the Corporation may, if they think fit, re-enter on any part of the site in the name of the whole, and thereupon the term of years shall absolutely cease.

In witness whereof, &c., this day of 187 .

(*Corporate Seal.*)

A.B. (L.S.)

D.

Form of Assignment of Lease.

"The Working Men's Dwellings Act, 1874."

Borough of Transfer No. Lease No.

A.B. of (herein referred to as the assignor) by virtue and in pursuance of the above-mentioned Act, and in consideration of paid to him by *C.D.* of , hereby assigns to the said *C.D.* (herein referred to as the assignee), his executors and administrators, the site comprised in the within-written lease(c) [*or* the lease No. under the said Act, dated the day of 187 (d)], with the appurtenances, and with the dwelling and other buildings thereon, for the residue of the term of years, at the rent and subject to the stipulations and conditions at and subject to which that site is held immediately before the execution of this assignment.

And the assignee for himself, his executors and administrators, covenants with the assignor, his executors and administrators, that the assignee, his executors or administrators, will pay the yearly rent and observe and perform the stipulations and conditions aforesaid, and will at all times keep the assignor, his executors and administrators, indemnified in respect thereof.

In witness whereof, &c., this day of 187 .

A.B. (L.S.)
C.D. (L.S.)

(*a*) In case of transfer by indorsement.
(*b*) In case of transfer by separate deed.
(*c*) In case of assignment by endorsement.
(*d*) In case of assignment by separate deed.

38 & 39 VICT., c. 55.

ARRANGEMENT OF SECTIONS.

PART I.

PRELIMINARY.

Clause.
1. Short title.
2. Extent of Act.
3. Division of Act into parts.
4. Definitions.

PART II.

AUTHORITIES FOR EXECUTION OF ACT.

CONSTITUTION OF DISTRICTS AND AUTHORITIES.

5. Urban and Rural Sanitary Districts.
6. Description of Urban Districts and Urban Authorities.
7. Incorporation of Local Boards and Improvement Commissioners.
8. Election of Local Boards.
9. Description of Rural Districts and Rural Authorities.
10. Powers and duties of Urban Authorities.
11. Powers and duties of Rural Authorities.
12. Vesting of property in Local Authorities.

PART III.

SANITARY PROVISIONS.

SEWERAGE AND DRAINAGE.

Regulations as to Sewers and Drains.

13. Sewers vested in Local Authority.
14. Power to purchase sewers.
15. Maintenance and making of sewers.
16. Powers for making sewers.
17. Sewage to be purified before being discharged into streams.
18. Alteration and discontinuance of sewers.
19. Cleansing sewers.
20. Map of system of sewerage.
21. Power of Owners and Occupiers within District to drain into sewers of Local Authority.
22. Use of sewers by Owners and Occupiers without District.
23. Power of Local Authority to enforce drainage of undrained houses.
24. Power of Local Authority to require houses to be drained into new sewers.
25. Penalty on building house without drains in Urban District.
26. Penalty on unauthorised building over sewers and under streets in Urban District.

Disposal of Sewage.

27. Powers for disposing of sewage.
28. Power to agree for communication of sewers with sewers of adjoining District.
29. Power to deal with land appropriated to sewage purposes.
30. Contribution to works under agreement for supply or distribution of sewage.
31. Application of 27 & 28 Vict. c. 114. to works for supply of sewage.

As to Sewage Works without District.

32. Notice to be given before commencing sewage works without District.
33. In case of objection, works not to be commenced without sanction of Local Government Board.
34. Inspector to hold inquiry and report to Local Government Board.

PRIVIES, WATERCLOSETS, &c.

Clause.
35. Penalty on building houses without privy accommodation.
36. Power of Local Authority to enforce provision of privy accommodation for houses.
37. As to earth closets.
38. Privy accommodation for factories.
39. Public necessaries.
40. Drains, privies, &c. to be properly kept.
41. Examination of drains, privies, &c. on complaint of nuisance.

SCAVENGING AND CLEANSING.

Regulations as to Streets and Houses.

42. Local Authority to provide for cleansing of streets and removal of refuse.
43. Penalty on neglect of Local Authority to remove refuse, &c.
44. Power of Local Authority to make By-Laws imposing duty of cleansing, &c. on Occupier.
45. Power to provide receptacles for deposit of rubbish.
46. Houses to be purified, on certificate of Officer of Health, or of two Medical Practitioners.
47. Penalty in respect of certain nuisances on premises.

Offensive Ditches and Collections of Matter.

48. Provision for obtaining order for cleansing offensive ditches lying near to or forming the boundaries of Districts.
49. Removal of filth on certificate of Inspector of Nuisances.
50. Periodical removal of manure from mews and other premises.

WATER SUPPLY.

Powers of Local Authority in relation to Supply of Water.

51. General powers for supplying District with water.
52. Restriction on construction of waterworks by Local Authority.
53. As to construction of reservoirs.
54. Power of carrying mains.
55. As to supply of water.
56. Power to charge water rates and rents.
57. Incorporation of certain provisions of "Waterworks Clauses Acts."
58. Power to supply water by measure.
59. Register of meter to be evidence.
60. Penalty for injuring meters.
61. Power to supply water to Authority of adjoining District.
62. Local Authority may require houses to be supplied with water in certain cases.
63. Powers of Water Company for supplying water to Local Authority.
64. Vesting of public cisterns, &c. in Local Authority.
65. Water for public baths, or trading or manufacturing purposes.
66. Duty of Urban Authority to provide fire-plugs.
67. Agreements with Universities.

Provisions for Protection of Water.

68. Penalty for causing water to be corrupted by gas washings.
69. Local Authority may take proceedings to prevent pollution of streams.
70. Power to close polluted wells, &c.

REGULATION OF CELLAR DWELLINGS AND LODGING-HOUSES.

Occupation of Cellar Dwellings.

71. Prohibition of occupying cellar dwellings.
72. Existing cellar dwellings only to be let or occupied on certain conditions.
73. Penalty on persons offending against enactment.
74. Definition of occupying as a dwelling.
75. Power to close cellars in case of two convictions.

Common Lodging-houses.

76. Registers of common lodging-houses to be kept.
77. All common lodging-houses to be registered, and to be kept only by registered keepers.
78. Local Authority may refuse to register houses.
79. Notice of registration to be affixed to houses.
80. By-Laws to be made by Local Authority.
81. Power to Local Authority to require supply of water to houses.
82. Limewashing of houses.
83. Power to order reports from Keepers of Houses receiving vagrants.
84. Keepers to give notice of fever, &c. therein.
85. As to inspection.
86. Offences by Keepers of Houses.

Clause.
87. Evidence as to family in proceedings.
88. Conviction for third offence to disqualify persons from keeping common lodging-house.
89. Interpretation of "common lodging-house."

By-Laws as to Houses let in Lodgings.

90. Local Government Board may empower Local Authority to make By-Laws as to lodging-houses.

Nuisances.

91. Definition of nuisances.
92. Duty of Local Authority to inspect District for detection of nuisances.
93. Information of nuisances to Local Authority.
94. Local Authority to serve notice requiring abatement of nuisance.
95. On non-compliance with notice complaint to be made to Justice.
96. Power of Court of Summary Jurisdiction to make Order dealing with nuisance.
97. Order of prohibition in case of house unfit for human habitation.
98. Penalty for contravention of Order of Court.
99. Appeal against Order.
100. In certain cases Order may be addressed to Local Authority.
101. Power to sell manure, &c.
102. Power of entry of Local Authority.
103. Penalty for disobedience of Order.
104. Costs and expenses of execution of provisions relating to nuisances.
105. Power of individual to complain to Justice of nuisance.
106. Power of Officer of Police to proceed in certain cases against nuisances.
107. Local Authority may take proceedings in Superior Court for abatement of nuisances.
108. Power to proceed where cause of nuisance arises without District.
109. Provision in case of two convictions for overcrowding.
110. Provisions as to ships.
111. Provisions of Act relating to nuisances not to affect other remedies.

Offensive Trades.

112. Restriction on establishment of offensive trade in Urban District.
113. By-Laws as to offensive trades in Urban District.
114. Duty of Urban Authority to complain to Justice of nuisance arising from offensive trade.
115. Power to proceed where nuisance arises from offensive trade carried on without District.

Unsound Meat, &c.

116. Power of Medical Officer of Health to inspect meat, &c.
117. Power of Justice to order destruction of unsound meat, &c.
118. Penalty for hindering Officer from inspecting meat, &c.
119. Search Warrant may be granted by a Justice.

Infectious Diseases and Hospitals.

Provisions against Infection.

120. Duty of Local Authority to cause premises to be cleansed and disinfected.
121. Destruction of infected bedding, &c.
122. Provision of means of disinfection.
123. Provision of conveyance for infected persons.
124. Removal of infected persons without proper lodging to hospital by Order of Justice.
125. Removal to hospital of infected persons brought by ships.
126. Penalty on exposure of infected persons and things.
127. Penalty on failing to provide for disinfection of public conveyance.
128. Penalty on letting houses in which infected persons have been lodging.
129. Penalty on persons letting houses making false statements as to infectious disease.
130. Power of Local Government Board to make regulations.

Hospitals.

131. Power of Local Authority to provide hospitals.
132. Recovery of costs of maintenance of patient in hospital.
133. Power to provide temporary supply of medicine.

Prevention of Epidemic Diseases.

134. Power of Local Government Board to make regulations for prevention of diseases.
135. Publication of regulations and orders.
136. Local Authority to see to the execution of regulations.
137. Power of entry.
138. Poor Law Medical Officer entitled to costs of attendance on board vessels.
139. Local Government Board may combine Local Authorities.
140. Penalty for violating or obstructing the execution of regulations.

MORTUARIES, &c.

Clause.
141. Power of Local Authority to provide mortuaries.
142. Justice may in certain cases order removal of dead body to mortuary.
143. Power of Local Authority to provide places for post-mortem examinations.

PART IV.

LOCAL GOVERNMENT PROVISIONS.

HIGHWAYS AND STREETS.

As to Highways.

144. Powers of Surveyors of Highways and of Vestries under 5 & 6 Will. IV. c. 50. vested in Urban Authority.
145. Inhabitants of Urban District not liable to rates for roads without District.
146. Power of Urban Authority to agree as to making of new public roads.
147. Power of Urban Authority to construct or adopt public bridges, &c. over or under canals, &c.
148. Power of Urban Authority to enter into agreements with Turnpike Trustees as to repair, &c. of roads.

Regulation of Streets and Buildings.

149. Vesting of streets, &c. in Urban Authority.
150. Power to compel paving, &c. of private streets.
151. Exemption from expenses under last section of Incumbent of church, &c.
152. Power to declare private streets when sewered, &c. to be highways.
153. Power to require gas and water pipes to be moved.
154. Power to purchase premises for improvement of streets.
155. Power to regulate line of buildings.
156. Buildings not to be brought forward.
157. Power to make By-Laws respecting new buildings, &c.
158. As to commencement of works and removal of works made contrary to By-Laws.
159. What to be deemed a new building.
160. Incorporation of certain provisions of 10 & 11 Vict. c. 34.

Lighting Streets, &c.

161. Powers of Urban Authority for lighting their District.
162. Power for sale of undertaking of Gas Company to Urban Authority.
163. "Watching and Lighting Act" (3 & 4 Will. IV. c. 90.) to be superseded by this Act.

PUBLIC PLEASURE GROUNDS, &c.

164. Urban Authority may provide places of public recreation.
165. Urban Authority may provide public clocks.

MARKETS AND SLAUGHTER-HOUSES.

166. Urban Authority may provide markets.
167. Incorporation of provisions of 10 & 11 Vict. c. 14. as to markets.
168. Power for sale of undertaking of Market Company to Urban Authority.
169. Power to provide slaughter-houses.
170. Notice to be affixed on slaughter-houses.

POLICE REGULATIONS.

171. Incorporation of certain provisions of 10 & 11 Vict. c. 89.
172. Urban Authority may make By-Laws for licensing horses, boats, &c. for hire.

PART V.

GENERAL PROVISIONS.

CONTRACTS.

173. Power of Local Authorities to contract.
174. Provisions [as] to contracts by Urban Authority.

PURCHASE OF LANDS.

175. Power to purchase lands.
76. Regulations as to purchase of land.
177. Power to let lands.
78. Provision for lands belonging to the Duchy of Lancaster.

ARBITRATION.

Mode of reference to arbitration.
80. Regulations as to arbitration.
181. Claims under 20*l.* may be referred to Court of Summary Jurisdiction.

BY-LAWS.

Clause.
182. Authentication and alteration of By-Laws.
183. Power to impose penalties on breach of By-Laws.
184. Confirmation of By-Laws.
185. By-Laws to be printed, &c.
186. Evidence of By-laws.
187. By-Laws made under § 90 of 5 & 6 Will. IV. c. 76. to be submitted to Local Government Board.
188. As to regulations of Local Authority.

OFFICERS AND CONDUCT OF BUSINESS OF LOCAL AUTHORITIES.

Officers of Local Authorities.

189. Appointment of Officers of Urban Authority.
190. Appointment of Officers of Rural Authority.
191. As to Medical Officer of Health, &c.
192. Offices tenable by same persons.
193. Officers not to contract with Local Authority.
194. Officers intrusted with money to give security.
195. Officers to account.
196. Summary proceedings against defaulting Officers.

Mode of conducting business.

197. Urban Authority to provide offices.
198. Proceedings, &c. of Urban Authority being the Council of a Borough.
199. Meetings, &c. of Urban Authority not being the Council of a Borough.
200. Power of Urban Authority to appoint Committees.
201. Power of Rural Authority to delegate their powers and duties to a Committee.
202. Power of Rural Authority to form Parochial Committees.
203. Casual vacancies in Committees may be filled.
204. Meetings and proceedings of Committees.
205. Inspectors may attend meetings of certain Authorities.
206. Local Authority to report.

PART VI.

RATING AND BORROWING POWERS, &c.

EXPENSES OF URBAN AUTHORITY AND URBAN RATES.

207. Mode of defraying expenses of Urban Authority.
208. Power in certain cases by Provisional Order to alter mode.

General District Rate.

209. District fund account.
210. Making General District Rate.
211. Assessment, &c. of General District Rate.
212. Inspection of Poor Rate books for purposes of assessment.

Private Improvement Rate.

213. Power to make Private Improvement Rates.
214. Proportion of Private Improvement Rate may be deducted from rent.
215. Redemption of Private Improvement Rates.

Highway Rate.

216. Costs of repairs of highways.
217. Certain acts not required to be done in case of Highway Rate made by Urban Authority.

General Provisions as to Urban Rates.

218. Estimate to be prepared before making Rates.
219. Rates to be open to inspection.
220. Description of Owner or Occupier in Rates.
221. Rates may be amended.
222. Publication and collection of Rates.
223. Evidence of Rates.
224. Power to make deduction from Rate in certain cases.
225. Power to reduce or remit Rates.
226. Saving for existing agreements.
227. Limit in Local Act not to apply to Rate for purposes of this Act.
228. Quota of Rates to be paid by the Universities, &c.

EXPENSES OF RURAL AUTHORITY.

Clause.
229. Expenses of Rural Authority.
230. Mode of raising contributions in Rural District.
231. Remedy for non-payment by Overseers of amount required by precept of Rural Authority.
232. As to private improvement expenses.

BORROWING POWERS.

233. Power to borrow on credit of Rates.
234. Regulations as to exercise of borrowing powers.
235. Power to borrow on credit of sewage land and plant.
236. Form of mortgage.
237. Register of mortgages.
238. Transfer of mortgages.
239. Receiver may be appointed in certain cases.
240. Rent-charge may be granted in respect of advances made for private improvements.
241. Rent-charges to be registered.
242. Power of Public Works Loan Commissioners to lend to Local Authority.
243. Power of Public Works Loan Commissioners to lend to Local Authority on recommendation of Local Government Board.
244. Borrowing powers of Joint Boards and certain other Authorities.

AUDIT.

Audit of Accounts of Local Authorities.

245. Accounts of Local Authorities.
246. Audit where Urban Authority are a Town Council.
247. Audit where Urban Authority are not a Town Council.
248. Audit of accounts of Rural Authority.
249. Taxation of bill of Solicitor or Attorney.
250. Auditor to audit accounts of officers.

PART VII.

LEGAL PROCEEDINGS.

Prosecution of Offences and Recovery of Penalties, &c.

251. Summary proceedings for offences, penalties, &c.
252. General provisions as to summary proceedings.
253. Restriction on recovery of penalties.
254. Application of penalties.
255. Proceedings in certain cases against nuisances.
256. Summary proceedings for recovery of Rates.
257. Recovery of expenses by Local Authority from Owners.
258. Justices may act though members of Local Authority or liable to contribute.
259. Appearance of Local Authorities in legal proceedings.
260. Name of Local Authority need not be proved.
261. Demands below 50*l.* may be recovered in County Courts.
262. Proceedings not to be quashed for want of form.
263. False evidence punishable as perjury.
264. Notice of action against Local Authority, &c.
265. Protection of Local Authority and their Officers from personal liability.

Notices.

266. Notices, &c. may be printed or written.
267. Service of notices.

Appeal.

268. Appeal in certain cases to Local Government Board.
269. Appeal to Quarter Sessions.

PART VIII.

ALTERATION OF AREAS AND UNION OF DISTRICTS.

Alteration of Areas.

270. Powers of Local Government Board in relation to alteration of areas.
271. Local Government Board may by Provisional Order constitute Local Government District.
272. Local Government Board may by Order constitute Local Government District in pursuance of a resolution of Owners and Ratepayers.
273. Objection to resolution.
274. Appeal to Local Government Board in case of alleged invalidity of vote.
275. General provisions as to Orders.

Clause.
276. Local Government Board may invest Rural Authority with powers of Urban Authority.
277. Power of Rural Authority to form Special Drainage Districts.
278. Power to settle disputes as to boundaries of Districts.

Union of Districts.

279. Formation of a United District.
280. Governing body of United District.
281. Contents of Provisional Order forming United Districts.
282. Meetings and proceedings of Joint Boards.
283. Expenses of Joint Board.
284. Payment of contributions to Joint Board.
285. Power to execute works in adjoining Districts, and to combine for execution of works.
286. Districts may be united for appointing a Medical Officer of Health.

Port Sanitary Authority.

287. Constitution of Port Sanitary Authority.
288. Jurisdiction of Port Sanitary Authority.
289. Delegation of powers by Port Sanitary Authority.
290. Expenses of Port Sanitary Authority.
291. Provision as to Port of London.
292. Proceedings for raising a sum for payment of debt within District of a defaulting Authority.

PART IX.

Local Government Board.

Inquiries by Board.

293. Power of Board to direct inquiries.
294. Orders as to costs of inquiries.
295. Orders of Board under this Act.
296. Power of Inspectors of Local Government Board.

Provisional Orders by Board.

297. As to Provisional Orders made by Local Government Board.
298. Costs of Provisional Orders.

Power of Board to enforce performance of Duty by defaulting Local Authority.

299. Proceedings on complaint to Board of default of Local Authority.
300. Further provision for recovery of expenses.
301. Power of Board to borrow to defray expenses of performing duty of defaulting Authority.
302. Recovery of principal and interest.

Powers of Board in relation to Local Acts, &c.

303. Power to repeal and alter Local Acts.
304. Settlement of differences arising out of transfer of powers or property to Local Authority.

PART X.

Miscellaneous and Temporary Provisions.

Miscellaneous.

305. Entry on lands for purposes of Act.
306. Penalty on obstructing execution of Act.
307. Penalty on damaging works, &c., of Local Authority.
308. Compensation in case of damage by Local Authority.
309. Compensation in certain cases to Officers.
310. Provision where Improvement Act District or Local Government District becomes a Borough.
311. Power of Local Boards to change name.
312. As to election of certain Improvement Commissioners, &c.
313. Substitution in other Acts of provisions of this Act for provisions of repealed Acts.
314. By-Laws as to hop-pickers.
315. As to By-Laws inconsistent with this Act.
316. As to construction of incorporated Acts.
317. Construction of Schedules.

Temporary Provisions.

318. As to Clerk and Treasurer of certain Authorities.
319. As to special District Rates.
320. Division of expenses between Landlord and Tenant in certain cases.

Clause.
321. Validity of certain Securities.
322. As to certain Turnpike Trustees.
323. As to main Sewerage Districts and Joint Sewerage Boards.
324. As to audit of certain accounts.
325. As to certain Orders under section 20 of 35 & 36 Vict. c. 79.

PART XI.

SAVING CLAUSES AND REPEAL OF ACTS.

Saving Clauses.

326. Provision as to the Sanitary Authorities existing at the passing of this Act and their Officers, &c.
327. Saving for works and property of certain Authorities, and for navigation and water rights, &c.
328. Reference to arbitration in case of works not within preceding section.
329. Effect of arbitration.
330. Provision as to transfer of powers, &c.
331. Provision as to alteration of sewers.
332. Saving for water rights generally.
333. Arbitration as to alteration of sewers injuriously affecting supply of water, &c.
334. Saving for mines, &c.
335. Saving for Collegiate Bodies and Government Departments.
336. Saving for Metropolitan Board of Works.
337. Saving for payment in certain cases to Local Authority.
338. Saving for acts of Authorities under certain Local Acts.
339. Saving for certain Local Boards.
340. Saving for proceedings under Local Acts.
341. Powers of Act to be cumulative.

Oxford.

342. Constitution of Local Board of the Oxford District.

Repeal of Acts.

343. Repeal of Acts in Schedule V.

SCHEDULES.

Law Reports Statutes, vol. x., p. 346.

An Act for consolidating and amending the Acts relating to Public Health in England. *(August 11th, 1875.)*

BE it enacted, &c.

PART I.

Preliminary.

Short title.

1. This Act may be cited as the "Public Health Act, 1875."

Extent of Act.

2. This Act shall not extend to Scotland or Ireland, nor (save as by this Act is expressly provided) to the Metropolis.

Division of Act into Parts.

3. This Act is divided into Parts, as follows:—

Part I.—Preliminary.
Part II.—Authorities for Execution of Act.
Part III.—Sanitary Provisions.
Part IV.—Local Government Provisions.
Part V.—General Provisions.
Part VI.—Rating and Borrowing Powers, &c.
Part VII.—Legal Proceedings.
Part VIII.—Alteration of Areas and Union of Districts.
Part IX.—Local Government Board.
Part X.—Miscellaneous and Temporary Provisions.
Part XI.—Saving Clauses and Repeal of Acts.

Definitions (b).

4. In this Act, if not inconsistent with the context, the following words and expressions have the meanings (*a*) hereinafter respectively assigned to them; that is to say,

"Borough" means any place for the time being subject to the Act of the session of the 5th and 6th years of the reign of King William the Fourth, chapter 76, intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales," and any Act amending the same:

"The Metropolis" means the city of London and all parishes and places mentioned in schedules A, B, and C to the "Metropolis Management Act, 1855":

"Local Government District" means any area subject to the jurisdiction of a Local Board constituted in pursuance of the "Local Government Acts" before the passing of this Act, or in pursuance of this Act, and "Local Board" means any Board so constituted:

"Improvement Act District" means any area for the time being subject to the jurisdiction of any Improvement Commissioners as hereinafter defined:

"Improvement Commissioners" means any Commissioners Trustees or other persons invested by any Local Act with powers of town government and rating:

"Parish" means a place for which a separate Poor Rate is or can be made, or for which a separate Overseer is or can be appointed:

"Union" means a union of parishes incorporated or united for the relief or maintenance of the poor under any public or local Act of Parliament, and includes any parish subject to the jurisdiction of a separate Board of Guardians:

"Guardians" means any persons or body of persons by whom the relief of the poor is administered in any Union:

"Person" includes any body of persons, whether corporate or unincorporate:

"Local Authority" means Urban Sanitary Authority and Rural Sanitary Authority:

"Surveyor" includes any person appointed by a Rural Authority to perform any of the duties of Surveyor under this Act:

"Lands" and "Premises" include messuages buildings lands easements and hereditaments of any tenure (*c*):

"Owner" means the person for the time being receiving the rackrent of the lands or premises in connection with which the word is used, whether on his own account or as Agent or Trustee for any other person, or who would so receive the same if such lands or premises were let at a rackrent (*d*):

"Rackrent" means rent which is not less than two-thirds of the full nett annual value of the property out of which the rent arises; and the full nett annual value shall be taken to be the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant's rates and taxes, and tithe commutation rentcharge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses (if any) necessary to maintain the same in a state to command such rent:

"Street" includes any highway (not being a turnpike road), and any public bridge (not being a county bridge), and any road lane footway square court alley or passage whether a thoroughfare or not (*e*):

"House" includes schools, also factories and other buildings in which . . . . (*f*) persons are employed:

"Drain" means any drain of and used for the drainage of one building only, or premises within the same curtilage, and made merely for the purpose of communicating therefrom with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed:

"Sewer" includes sewers and drains of every description, except drains to which the word "drain" interpreted as aforesaid applies, and except drains vested in or under the control of any Authority having the management of roads and not being a Local Authority under this Act (*g*):

"Slaughter-house" includes the buildings and places commonly called slaughter-houses and knackers' yards, and any building or place used for slaughtering cattle horses or animals of any description for sale (*h*):

"Water company" means any person or body of persons corporate or unincorporate supplying or who may hereafter supply water for his or their own profit:

"Waterworks" includes streams springs wells pumps reservoirs cisterns tanks aqueducts cuts sluices mains pipes culverts engines and all machinery lands buildings and things for supplying or used for supplying water, also the stock in trade of any water company:

(*a*) See the judgment of Erle, J., in *Reg.* v. *Kershaw*, (26 L. J., M. C., 19: 6 E. & B., 999.)

(*b*) See the General Index (*post*), Title "Definitions," for other Definitions to be found in the "Public Health Act, 1875," and in other Acts incorporated or affiliated with it.

(*c*) *Oldaker* v. *Hunt.*

(*d*) *Angell* v. *Paddington Vestry*; *Blything Union* v. *Warton*; *Bowditch* v. *Wakefield L. B. H.*; *Canwell* v. *Hanson*; *Chorlton-on-Medlock Constables* v. *Walker*; *Cook* v. *Montagu*; *Cowen* v. *Phillips*; *Evelyn* v. *Whichcord*; *Holland* (*Lady*) v. *Kensington*; *Hunt* v. *Harris*; *Peek* v. *Waterloo and Seaforth L. B. H.*; *Poplar B. W.* v. *Love*; *Reg.* v. *Lee*; *Tubb* v. *Good.*

(*e*) *Beaver* v. *Manchester*; *Galloway* v. *London*; *Le Neve* v. *Mile End*; *L. C. & D. Ry.* v. *London*; *North London Ry.* v. *St. Mary, Islington*; *Nutter* v. *Accrington*; *Pound* v. *Plumstead B. W.*; *Reg.* v. *Fullford*; *Reg.* v. *St. Mary, Islington.*

(*f*) Words omitted here repealed by the "Factory and Workshop Act, 1878" (41 Vict., **16,** sched. VI.). The cases are *Daniel* v. *Coulsting*; *Hole* v. *Milton*; *Nunn* v. *Denton*; *Reg.* v. *Warwickshire, J.J.*; *Surman* v. *Darley.*

(*g*) *Poplar B. W.* v. *Knight*; *Reg.* v. *Godmanchester*; *Sutton* v. *Norwich.*

(*h*) *Elias* v. *Nightingale.*

"Bakehouse Regulation Act" means 26 & 27 Vict. c. 40. (Bakehouse Regulation Act, 1863) (*a*):
"Artizans and Labourers Dwellings Act" means 31 & 32 Vict. c. 130. (Artizans and Labourers Dwellings Act, 1868) (*b*):
"Baths and Wash-houses Acts" means 9 & 10 Vict. c. 74. (An Act to encourage the establishment of Public Baths and Wash-houses); 10 & 11 Vict. c. 61. (An Act to amend the Act for the establishment of Public Baths and Wash-houses) (*c*):
"Labouring Classes Lodging Houses Acts" means 14 & 15 Vict. c. 34. (Labouring Classes Lodging Houses Act, 1851); 29 & 30 Vict. c. 28. (Labouring Classes Dwelling Houses Act, 1866); 30 & 31 Vict. c. 28. (Labouring Classes Dwelling Houses Act, 1867):
"Sanitary Acts" means all the above-mentioned Acts and the Acts mentioned in Part I. of Schedule V. to this Act:
"Sanitary purposes" means any object or purposes of the Sanitary Acts:
"Court of Quarter Sessions" means the Court of General or Quarter Sessions of the Peace having jurisdiction over the whole or any part of the district or place in which the matter requiring the cognizance of General or Quarter Sessions arises:
"Court of Summary Jurisdiction" means any Justice or Justices of the Peace, Stipendiary or other Magistrate or Officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to:
"Summary Jurisdiction Acts" means the Act of the Session of the 11th and 12th years of the reign of Her present Majesty, chapter 43, intituled "An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions within England and Wales with respect to summary convictions and orders," and any Act amending the same (*d*).

PART II.

AUTHORITIES FOR EXECUTION OF ACT.

Constitution of Districts and Authorities.

Urban and Rural Sanitary Districts.

5. For the purposes of this Act England, except the Metropolis, shall consist of districts to be called respectively—

(1.) Urban Sanitary Districts, and
(2.) Rural Sanitary Districts,

(in this Act referred to as Urban and Rural Districts); and such Urban and Rural Districts shall respectively be subject to the jurisdiction of Local Authorities, called Urban Sanitary Authorities and Rural Sanitary Authorities (in this Act referred to as Urban and Rural Authorities), invested with the powers in this Act mentioned.

Description of Urban Districts and Urban Authorities.

6. Urban Districts shall consist of the places in that behalf mentioned in the first column of the table in this Section contained, and Urban Authorities shall be the several bodies of persons specified in the second column of the said table in relation to the said places respectively.

Urban District.	Urban Authority.
Borough constituted such either before or after the passing of this Act.	The Mayor, Aldermen, and Burgesses acting by the Council.
Improvement Act District constituted such before the passing of this Act, and having no part of its area situated within a Borough or Local Government District.	The Improvement Commissioners.
Local Government District constituted such either before or after the passing of this Act, having no part of its area situated within a Borough, and not coincident in area with a Borough or Improvement Act District.	The Local Board.

Provided that—

(1.) Any Borough, the whole of which is included in and forms part of a Local Government District or Improvement Act District, and any Improvement Act District which is included in and forms part of a Local Government District, and any Local Government District which is included in and forms part of an Improvement Act District, shall for the purposes of this Act be deemed to be absorbed in the larger District in which it is included, or of which it forms part; and the Improvement Commissioners or Local Board, as the case may be, of such larger District, shall be the Urban Authority therein; and

(2.) Where an Improvement Act District is coincident in area with a Local Government District, the Improvement Commissioners, and not a Local Board, shall be the Urban Authority therein; and

(3.) Where any part of an Improvement Act District is situated within a Borough or Local

(*a*) Since repealed, and its important points embodied in the "Factory and Workshop Act, 1878." (41 Vict., **16.**)
(*b*) Since amended by the 42 & 43 Vict., **64.**
(*c*) Since amended by the "Baths and Washhouses Act, 1878." (41 Vict., **14.**)
(*d*) Since amended by the "Summary Jurisdiction Act, 1879." (42 & 43 Vict., **49.**)

Government District, or where any part of a Local Government District is situated within a Borough, the remaining part of such Improvement Act District or of such Local Government District so partly situated within a Borough shall for the purposes of this Act continue subject to the like jurisdiction as it would have been subject to if this Act had not been passed, unless and until the Local Government Board by Provisional Order otherwise directs.

For the purposes of this Act, the Boroughs of Oxford, Cambridge, Blandford, Calne, Wenlock, Folkestone, and Newport Isle of Wight (*a*), shall not be deemed to be Boroughs, and the Borough of Cambridge shall be deemed to be an Improvement Act District, and the Borough of Oxford to be included in the Local Government District of Oxford (*b*). So much of the borough of Folkestone as is not included within the Local Government District of Sandgate shall be an Urban District, and shall be under the jurisdiction, for the purposes of this Act, of the Authority for executing "The Folkestone Improvement Act, 1855."

Incorporation of Local Boards and Improvement Commissioners.

7. Every Local Board, and any Improvement Commissioners being an Urban Authority and not otherwise incorporated, shall continue to be or be a body corporate, designated (in the case of Local Boards and Improvement Commissioners being Urban Sanitary Authorities at the time of the passing of this Act) by such name as they then bear, and (in the case of Local Boards constituted after the passing of this Act) by such name as they may with the sanction of the Local Government Board adopt; with a perpetual succession and a common seal, and with power to sue and be sued in such name, and to hold lands without any license in mortmain for the purposes of this Act.

Election of Local Boards.

8. The members of Local Boards shall be elective; and the number and qualification of members of Local Boards, the qualification of Electors, the mode and expenses of election, and the proceedings incident thereto, the retirement and disqualification of members, the proceedings in case of lapse of a Local Board, and all other matters relating to the election of members of Local Boards, shall be governed by the rules contained in Schedule II. to this Act.

Description of Rural Districts and Rural Authorities.

9. The area of any Union which is not coincident in area with an Urban District, nor wholly included in an Urban District (in this Section called a Rural Union), with the exception of those portions (if any) of the area which are included in any Urban District, shall be a Rural District, and the Guardians of the Union shall form the Rural Authority of such District: Provided that—

(1.) An ex-officio Guardian resident in any Parish or part of a Parish belonging to such Union, which Parish or part of a Parish forms or is situated in an Urban District, shall not act or vote in any case in which Guardians of such Union act or vote as members of the Rural Authority, unless he is the Owner or Occupier of property situated in the Rural District of a value sufficient to qualify him as an elective Guardian for the Union:

(2.) An elective Guardian of any Parish belonging to such Union, and forming or being wholly included within an Urban District, shall not act or vote in any case in which Guardians of such Union act or vote as members of the Rural Authority:

(3.) Where part of a Parish belonging to a Rural Union forms or is situated in an Urban District, the Local Government Board may by order divide such Parish into separate wards, and determine the number of Guardians to be elected by such Wards respectively, in such manner as to provide for the due representation of the part of the Parish situated within the Rural District; but until such order has been made the Guardian or Guardians of such Parish may act and vote as members of the Rural Authority in the same manner as if no part of such Parish formed part of or was situated in an Urban District.

Where the number of elective Guardians who are not by this section disqualified from acting and voting as members of the Rural Authority is less than 5, the Local Government Board may from time to time by order nominate such number of persons as may be necessary to make up that number from Owners or Occupiers of property situated in the Rural District of a value sufficient to qualify them as elective Guardians for the Union, and the persons so nominated shall be entitled to act and vote as members of the Rural Authority but not further or otherwise.

Subject to the provisions of this Act, all Statutes Orders and legal provisions applicable to any Board of Guardians shall apply to them in their capacity of Rural Authority under this Act for purposes of this Act; and it is hereby declared that the Rural Authority are the same body as the Guardians of the Union or Parish for or within which such Authority act.

Powers and duties of Urban Authorities.

10. In addition to the powers rights duties capacities liabilities and obligations exerciseable by or attaching to an Urban Authority under this Act, every Urban Authority shall within their District (to the exclusion of any other Authority which may have previously exercised or been subject to the same) have exercise and be subject to all the powers rights duties capacities liabilities and obligations within such District exerciseable or attaching by and to the Local Authority under the "*Bakehouse Regulation Act*," (*c*) and the "Artizans and Labourers Dwellings Act," or any Acts amending the same. 31 & 32 Vict., **130**:

Where the "Baths and Wash houses Acts" and the "Labouring Classes Lodging Houses Acts," or any of them, are in force within the District of any Urban Authority, such Authority shall have all powers rights duties capacities liabilities and obligations in relation to such Acts exerciseable by or attaching to the Council Incorporated Commissioners Local Board Improvement Commissioners and other Commissioners or persons acting in the execution of the said Acts or any of them. 42 & 43 Vict., **64**; 9 & 10 Vict., **74**; 10 & 11 Vict., **61**; 41 Vict., **14**; 14 & 15 Vict., **34**; 29 & 30 Vict., **28**; 30 & 31 Vict., **28**.

Where the "Baths and Wash-houses Acts" are not in force within the District of any Urban

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(*a*) Newport has been removed from the operation of this Section by the 39 & 40 Vict., c. lx.

(*b*) See § 342, *post*.

(*c*) Since repealed, and its important points embodied in the "Factory and Workshop Act, 1878." (41 Vict., **16**.)

Authority, such Authority may adopt such Acts; and where the "Labouring Classes Lodging Houses Acts" are not in force within the District of any Urban Authority, such Authority may adopt such Acts.

Where any Local Act other than an Act for the conservancy of any river is in force within the District of an Urban Authority, conferring on any Commissioners Trustees or other persons powers for purposes the same as or similar to those of this Act (but not for their own pecuniary benefit), all the powers rights duties capacities liabilities and obligations of such Commissioners Trustees or other persons in relation to such purposes shall be transferred and attach to the said Urban Authority.

Powers and duties of Rural Authorities.

11. In addition to the powers rights duties capacities liabilities and obligations exerciseable by or attaching to a Rural Authority under this Act, every Rural Authority shall, within their District (to the exclusion of any other Authority which may have previously exercised or been subject to the same) have exercise and be subject to all the powers rights duties capacities liabilities and obligations within such District exerciseable by or attaching to the Local Authority under the "*Bakehouse Regulation Act*" (*a*), or any Acts amending the same.

Vesting of property in Local Authorities.

12. From and after the passing of this Act all such property real and personal, including all interests rights and easements in to and out of property real and personal (including things in action), as belongs to or is vested in, or would but for this Act have belonged to or been vested in the Council of any Borough, or any Improvement Commissioners or Local Board as the Urban Sanitary Authority of any District under the "Sanitary Acts," or any Board of Guardians as the Rural Sanitary Authority of any District under those Acts, shall continue vested or vest in such Council, Improvement Commissioners, or Local Board, or Board of Guardians as the Local Authority of their District under this Act, subject to all debts liabilities and obligations affecting the same property.

All debts liabilities and obligations incurred by any Authority whose powers rights duties liabilities capacities and obligations are under this Act exerciseable by or attached to a Local Authority may be enforced against the Local Authority to the same extent and in the same manner as they might have been enforced against the Authority which incurred the same.

PART III.

SANITARY PROVISIONS.

Sewerage and Drainage.

Regulations as to Sewers and Drains.

Sewers vested in Local Authority.

13. (*b*) All existing and future sewers within the district of a Local Authority, together with all buildings works materials and things belonging thereto,

Except

(1.) Sewers made by any person for his own profit, or by any company for the profit of the shareholders; and

(2.) Sewers made and used for the purpose of draining preserving or improving land under any local or private Act of Parliament, or for the purpose of irrigating land; and

(3.) Sewers under the authority of any Commissioners of sewers appointed by the Crown,

shall vest in and be under the control of such Local Authority (*c*).

Provided that sewers within the district of a Local Authority which have been or which may hereafter be constructed by or transferred to some other Local Authority or by or to a Sewage [*sic*] Board or other Authority empowered under any Act of Parliament to construct sewers shall (subject to any agreement to the contrary) vest in and be under the control of the Authority who constructed the same or to whom the same have been transferred.

Power to purchase sewers.

14. Any Local Authority may purchase or otherwise acquire from any person any sewer, or any right of making or of user or other right in or respecting a sewer (with or without any buildings works materials or things belonging thereto), within their district, and any person may sell or grant to such Authority any such sewer right or property belonging to him; and any purchase money paid by such Authority in pursuance of this Section shall be subject to the same trusts (if any) as the sewer right or property sold was subject to.

But any person who, previously to the purchase of a sewer by such Authority, has acquired a right to use such sewer shall be entitled to use the same, or any sewer substituted in lieu thereof, to the same extent (*d*) as he would or might have done if the purchase had not been made.

Maintenance and making of sewers.

15. (*e*) Every Local Authority shall keep in repair all sewers belonging to them, and shall cause to be made such sewers as may be necessary for effectually draining their district for the purposes of this Act.

Powers for making sewers.

16. (*f*) Any Local Authority may carry any sewer through across or under any turnpike road,

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(*a*) See note to § 10, *ante*.

(*b*) *Reg.* v. *Godmanchester*.

(*c*) *Taylor* v. *Oldham Corporation*; *Rolls* v. *St. George's, Southwark, Vestry*.

(*d*) *Metropolitan B. W.* v. *London & North Western Railway*.

(*e*) *Brown* v. *Sargent*; *Glossop* v. *Heston & Isleworth L. B.*; *Maidenhead L. B. H., In re*; *Parsons, Ex parte*; *Reg.* v. *Darlington L. B. H.*; *Reg.* v. *Epsom Union*; *Ruck* v. *Williams*.

(*f*) *Cleckheaton Industrial S. H. Society* v. *Jackson*; *Derby (Earl of)* v. *Bury Improvement Commissioners*; *Hayward* v. *Lowndes*; *Hall* v. *Bristol, Mayor*; *Hughes* v. *Metropolitan B. W.*; *Lamacraft* v. *St. Thomas Rural Sanitary Authority*; *North London Railway Co.* v. *Metropolitan B. W.*; *Pettiward* v. *Metropolitan B. W.*; *Roderick* v. *Aston L. B.*; *Swanston* v. *Twickenham L. B.*; *Thornton* v. *Nutter*.

or any street or place laid out as or intended for a street, or under any cellar or vault which may be under the pavement or carriageway of any street, and, after giving reasonable notice in writing to the owner or occupier (if on the report of the surveyor it appears necessary), into through or under any lands whatsoever within their district.

They may also (subject to the provisions of this Act relating to sewage works without the district of the Local Authority) exercise all or any of the powers given by this Section without their district for the purpose of outfall or distribution of sewage.

Sewage to be purified before being discharged into streams.

17. (*a*) Nothing in this Act shall authorise any Local Authority to make or use any sewer drain or outfall for the purpose of conveying sewage or filthy water into any natural stream or watercourse, or into any canal pond or lake until such sewage or filthy water is freed from all excrementitious or other foul or noxious matter such as would affect or deteriorate the purity and quality of the water in such stream or watercourse or in such canal pond or lake.

Alteration and discontinuance of sewers.

18. (*b*) Any Local Authority may from time to time enlarge lessen alter the course of cover in or otherwise improve any sewer belonging to them, and may discontinue close up or destroy any such sewer that has in their opinion become unnecessary, on condition of providing a sewer as effectual for the use of any person who may be deprived in pursuance of this Section of the lawful use of any sewer: Provided that the discontinuance closing up or destruction of any sewer shall be so done as not to create a nuisance.

Cleansing sewers.

19. (*c*) Every Local Authority shall cause the sewers belonging to them to be constructed covered ventilated and kept so as not to be a nuisance or injurious to health, and to be properly cleansed and emptied.

Map of system of sewerage.

20. An Urban Authority may, if they think fit, provide a map exhibiting a system of sewerage for effectually draining their district, and any such map shall be kept at their office, and shall at all reasonable times be open to the inspection of the ratepayers of their district.

Power of Owners and Occupiers within District to drain into sewers of Local Authority.

21. (*d*) The Owner or Occupier of any premises within the district of a Local Authority shall be entitled to cause his drains to empty into the sewers of that Authority on condition of his giving such notice as may be required by that Authority of his intention so to do, and of complying with the regulations of that Authority in respect of the mode in which the communications between such drains and sewers are to be made, and subject to the control of any person who may be appointed by that Authority to superintend the making of such communications.

Any person causing a drain to empty into a sewer of a Local Authority without complying with the provisions of this section shall be liable to a penalty not exceeding 20*l.*, and the Local Authority may close any communication between a drain and sewer made in contravention of this Section, and may recover in a summary manner from the person so offending any expenses incurred by them under this Section.

Use of sewers by Owners and Occupiers without District.

22. (*e*) The Owner or Occupier of any premises without the district of a Local Authority may cause any sewer or drain from such premises to communicate with any sewer of the Local Authority on such terms and conditions as may be agreed on between such Owner or Occupier and such Local Authority, or as in case of dispute may be settled, at the option of the Owner or Occupier, by a Court of Summary Jurisdiction or by arbitration in manner provided by this Act.

Power of Local Authority to enforce drainage of undrained houses.

23. (*f*) Where any house within the district of a Local Authority is without a drain sufficient for effectual drainage, the Local Authority shall by written notice require the Owner or Occupier of such house, within a reasonable time therein specified, to make a covered drain or drains emptying into any sewer which the Local Authority are entitled to use, and which is not more than 100 feet from the site of such house; but if no such means of drainage are within that distance, then emptying into such covered cesspool or other place not being under any house as the Local Authority direct; and the Local Authority may require any such drain or drains to be of such materials and size, and to be laid at such level, and with such fall as on the report of their Surveyor may appear to them to be necessary.

If such notice is not complied with, the Local Authority may, after the expiration of the time specified in the notice, do the work required, and may recover in a summary manner the expenses incurred by them in so doing from the Owner, or may by order declare the same to be private improvement expenses.

Provided that where, in the opinion of the Local Authority, greater expense would be incurred in causing the drains of two or more houses to empty into an existing sewer pursuant to this Section, than in constructing a new sewer and causing such drains to empty therein, the Local Authority may construct such new sewer (*g*), and require the Owners or Occupiers of such houses to cause their drains to empty therein, and may apportion (*h*) as they deem just the expenses of the construction of such sewer among the Owners of the several houses, and recover in a summary

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(*a*) The Cases bearing on this Section are too numerous to be conveniently cited in a footnote. See them in Part V., "Digest of Cases," *post*. Title: "Water, Pollution of, (2) by Sewage." See also the provisions of the "Rivers Pollution Prevention Act, 1876" (39 & 40 Vict. **74**, §§ 3–4).

(*b*) *Fulham B. W.* v. *Goodwin; St. Marylebone Vestry* v. *Viret.*

(*c*) *A.-G.* v. *Basingstoke, Mayor; Clegg* v. *Castleford L. B. H.; Gordon* v. *St. James's, Westminster, Vestry; Hammond* v. *St. Pancras Vestry; Meek* v. *Whitechapel B. W.; Nuneaton L. B.* v. *General Sewage Co.*

(*d*) *Searle* v. *Barnet L. B.*

(*e*) *Newington L. B.* v. *Cottingham L. B.*

(*f*) *Austin* v. *St. Mary's, Lambeth, Vestry; Finlinson* v. *Porter; Hall* v. *Batley.*

(*g*) *Fulham B. W.* v. *Goodwin; St. Marylebone Vestry* v. *Viret.*

(*h*) *Bradley* v. *Greenwich B. W.*

manner the sums apportioned from such Owners, or may by order declare the same to be private improvement expenses.

Power of Local Authority to require houses to be drained into new sewers.

24. (*a*) Where any house within the district of a Local Authority has a drain communicating with any sewer, which drain though sufficient for the effectual drainage of the house is not adapted to the general sewerage system of the district, or is in the opinion of the Local Authority otherwise objectionable, the Local Authority may, on condition of providing a drain or drains as effectual for the drainage of the house, and communicating with such other sewer as they think fit, close such first-mentioned drain, and may do any works necessary for that purpose, and the expenses of those works, and of the construction of any drain or drains provided by them under this Section, shall be deemed to be expenses properly incurred by them in the execution of this Act.

Penalty on building house without drains in Urban District.

25. It shall not be lawful in any Urban District newly to erect any house or to rebuild any house which has been pulled down to or below the ground floor, or to occupy any house so newly erected or rebuilt, unless and until a covered drain or drains be constructed, of such size and materials, and at such level, and with such fall as on the report of the Surveyor may appear to the Urban Authority to be necessary for the effectual drainage of such house; and the drain or drains so to be constructed shall empty into any sewer which the Urban Authority are entitled to use, and which is within 100 feet of some part of the site of the house to be built or rebuilt; but if no such means of drainage are within that distance, then shall empty into such covered cesspool or other place, not being under any house, as the Urban Authority direct.

Any person who causes any house to be erected or rebuilt or any drain to be constructed in contravention of this Section shall be liable to a penalty not exceeding 50*l*.

Penalty on unauthorised building over sewers and under streets in Urban District.

26. Any person who in any Urban District, without the written consent of the Urban Authority,—

(1.) Causes any building (*b*) to be newly erected over any sewer of the Urban Authority; or,

(2.) Causes any vault arch or cellar to be newly built or constructed under the carriageway of any street,

shall forfeit to the Urban Authority the sum of 5*l*. and a further sum of 40*s*. for every day during which the offence is continued after written notice in this behalf from the Urban Authority; and the Urban Authority may cause any building vault arch or cellar erected or constructed in contravention of this Section to be altered pulled down or otherwise dealt with as they may think fit, and may recover in a summary manner any expenses incurred by them in so doing from the offender.

Disposal of Sewage.

Powers for disposing of sewage.

27. For the purpose of receiving storing disinfecting distributing or otherwise disposing of sewage any Local Authority may—

(1.) Construct any works within their district (*c*), or (subject to the provisions of this Act as to sewage works without the district of the Local Authority) without their district; and

(2.) Contract for the use of, purchase, or take on lease any land buildings engines materials or apparatus either within or without their district; and

(3.) Contract to supply (*d*) for any period not exceeding 25 years any person with sewage, and as to the execution and costs of works either within or without their district for the purposes of such supply:

Provided that no nuisance be created in the exercise of any of the powers given by this Section.

Power to agree for communication of sewers with sewers of adjoining District.

28. The Local Authority of any district may, by agreement with the Local Authority of any adjoining district, and with the sanction of the Local Government Board, cause their sewers to communicate with the sewers of such last-mentioned Authority, in such manner and on such terms and subject to such conditions as may be agreed on between the Local Authorities, or, in case of dispute, may be settled by the Local Government Board: Provided that so far as practicable storm waters shall be prevented from flowing from the sewers of the first-mentioned Authority into the sewers of the last-mentioned Authority, and that the sewage of other districts or places shall not be permitted by the first-mentioned Authority to pass into their sewers so as to be discharged into the sewers of the last-mentioned Authority without the consent of such last-mentioned authority.

Power to deal with land appropriated to sewage purposes.

29. Any Local Authority may deal with any lands held by them for the purpose of receiving storing disinfecting or distributing sewage in such manner as they deem most profitable, either by leasing the same for a period not exceeding 21 years for agricultural purposes, or by contracting with some person to take the whole or a part of the produce of such land, or by farming such land and disposing of the produce thereof; subject to this restriction, that in dealing with land for any of the above purposes, provision shall be made for effectually disposing of all the sewage brought to such land without creating a nuisance.

Contribution to works under agreement for supply or distribution of sewage.

30. Where any Local Authority agree with any person as to the supply of sewage and as to works to be made for the purpose of such supply, they may contribute to the expense of carrying into execution by such person all or any of the purposes of such agreement, and may become shareholders in any company with which any agreement in relation to the matters aforesaid has been or may hereafter be entered into by such Local Authority, or to or in which the benefits and obligations of such agreement may have been or may be transferred or vested.

(*a*) *Fulham B. W.* v. *Goodwin.*

(*b*) *Poplar B. W.* v. *Knight.*

(*c*) *Sutton* v. *Norwich, Mayor*; *A.-G.* v. *Birmingham* (1871).

(*d*) *Nuneaton L. B.* v. *General Sewage Co.*

31. The making of works of distribution and service for the supply of sewage to lands for agricultural purposes shall be deemed an "improvement of land" authorised by the "Improvement of Land Act, 1864," and the provisions of that Act shall apply accordingly.

Application of 27 & 28 Vict., **114**, to works for supply of sewage.

As to Sewage Works without District.

32. (*a*) A Local Authority shall, 3 months at least before commencing the construction or extension of any sewer or other work for sewage purposes without their district, give notice of the intended work by advertisement in one or more of the local newspapers circulated within the District where the work is to be made.

Notice to be given before commencing sewage works without District.

Such notice shall describe the nature of the intended work, and shall state the intended termini thereof, and the names of the Parishes, and the turnpike roads and streets, and other lands (if any) through across under or on which the work is to be made, and shall name a place where a plan of the intended work is open for inspection at all reasonable hours; and a copy of such notice shall be served on the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers of the said lands, and on the Overseers of such Parishes, and on the Trustees, Surveyors of highways, or other persons having the care of such roads or streets.

33. If any such Owner, Lessee, or Occupier, or any such Overseer, Trustee, Surveyor, or other person as aforesaid, or any other Owner, Lessee, or Occupier who would be affected by the intended work, objects to such work, and serves notice in writing of such objection on the Local Authority at any time within the said 3 months, the intended work shall not be commenced without the sanction of the Local Government Board after such inquiry as hereinafter mentioned, unless such objection is withdrawn.

In case of objection, works not to be commenced without sanction of Local Government Board.

34. The Local Government Board may, on application of the Local Authority, appoint an Inspector to make inquiry on the spot into the propriety of the intended work and into the objections thereto, and to report to the Local Government Board on the matters with respect to which such inquiry was directed, and on receiving the report of such Inspector, the Local Government Board may make an Order disallowing or allowing, with such modifications (if any) as they may deem necessary, the intended work.

Inspector to hold inquiry and report to Local Government Board.

Privies, Waterclosets, &c.

35. (*b*) It shall not be lawful newly to erect any house, or to rebuild any house pulled down to or below the ground floor, without a sufficient watercloset earthcloset or privy and an ashpit furnished with proper doors and coverings.

Penalty on building houses without privy accommodation.

Any person who causes any house to be erected or rebuilt in contravention of this enactment shall be liable to a penalty not exceeding 20*l.*

36. (*c*) If a house within the district of a Local Authority appears to such Authority by the report of their Surveyor or Inspector of Nuisances to be without a sufficient watercloset earthcloset or privy and an ashpit furnished with proper doors and coverings, the Local Authority shall, by written notice, require the Owner or Occupier of the house, within a reasonable time therein specified, to provide a sufficient watercloset earthcloset or privy and an ashpit furnished as aforesaid, or either of them, as the case may require.

Power of Local Authority to enforce provision of privy accommodation for houses.

If such notice is not complied with, the Local Authority may, at the expiration of the time specified in the notice, do the work thereby required to be done, and may recover in a summary manner (*d*) from the Owner the expenses incurred by them in so doing, or may by Order declare the same to be private improvement expenses: Provided that where a watercloset earthcloset or privy has been and is used in common by the inmates of 2 or more houses, or if in the opinion of the Local Authority a watercloset earthcloset or privy may be so used, they need not require the same to be provided for each house.

37. Any enactment in force within the district of any Local Authority requiring the construction of a watercloset shall be deemed to be satisfied by the construction, with the approval of the Local Authority, of an earthcloset.

As to earthclosets.

Any Local Authority may, as respects any house in which any earthcloset is in use with their approval, dispense with the supply of water required by any contract or enactment to be furnished to any watercloset in such house, on such terms as may be agreed on between such Authority and the person providing or required to provide such supply of water.

Any Local Authority may themselves undertake or contract with any person to undertake a supply of dry earth or other deodorising substance to any house within their district for the purpose of any earthcloset.

In this Act the term "earthcloset" includes any place for the reception and deodorization of fœcal matter constructed to the satisfaction of the Local Authority.

38. Where it appears to any Local Authority by the report of their Surveyor that any house is used or intended to be used as a factory or building in which persons of both sexes are employed or intended to be employed at one time in any manufacture trade or business, the Local Authority may, if they think fit, by written notice require the Owner or Occupier of such house, within the time therein specified, to construct a sufficient number of watercloset earthclosets or privies and ashpits for the separate use of each sex.

Privy accommodation for factories.

Any person who neglects or refuses to comply with any such notice shall be liable for each default to a penalty not exceeding 20*l.*, and to a further penalty not exceeding 40*s.* for every day during which the default is continued.

(*a*) *Bolton, Mayor* v. *Bolton Guardians.*
(*b*) *Reg.* v. *Clutton.*
(*c*) *St. Luke's, Middlesex, Vestry* v. *Lewis; Tinkler* v. *Wandsworth B.W.; Whitchurch, Ex parte.*
(*d*) *Hargreaves* v. *Taylor.*

Public necessaries.

39. Any Urban Authority may, if they think fit, provide and maintain, in proper and convenient situations, urinals waterclosets earthclosets privies and ashpits, and other similar conveniences for public accommodation (*a*).

Drains, privies, &c. to be properly kept.

40. Every Local Authority shall provide that all drains waterclosets earthclosets privies ashpits and cesspools within their district be constructed and kept so as not to be a nuisance or injurious to health (*b*).

Examination of drains, privies, &c. on complaint of nuisance.

41. On the written application of any person to a Local Authority, stating that any drain watercloset earthcloset privy ashpit or cesspool on or belonging to any premises within their district is a nuisance or injurious to health (but not otherwise), the Local Authority may, by writing, empower their Surveyor or Inspector of Nuisances, after 24 hours written notice to the Occupier of such premises, or in case of emergency without notice, to enter such premises, with or without assistants, and cause the ground to be opened, and examine such drain watercloset earthcloset privy ashpit or cesspool. If the drain watercloset earthcloset privy ashpit or cesspool on examination is found to be in proper condition, he shall cause the ground to be closed, and any damage done to be made good as soon as can be, and the expenses of the works shall be defrayed by the Local Authority. If the drain watercloset earthcloset privy ashpit or cesspool on examination appear to be in bad condition, or to require alteration or amendment, the Local Authority shall forthwith cause notice in writing to be given to the Owner or Occupier of the premises requiring him forthwith or within a reasonable time therein specified to do the necessary works; and if such notice is not complied with, the person to whom it is given shall be liable to a penalty (*c*) not exceeding 10*s.* for every day during which he continues to make default, and the Local Authority may, if they think fit, execute such works, and may recover in a summary manner from the owner the expenses incurred by them in so doing, or may by Order declare the same to be private improvement expenses.

Scavenging and Cleansing.

Regulations as to Streets and Houses.

Local Authority to provide for cleansing of streets and removal of refuse.

42. Every Local Authority may, and when required by Order of the Local Government Board shall, themselves undertake or contract for—

The removal of house refuse (*d*) from premises;

The cleansing of earthclosets privies ashpits and cesspools;

either for the whole or any part of their district: Moreover every Urban Authority and any Rural Authority invested by the Local Government Board with the requisite powers may, and when required by Order of the said Board shall, themselves undertake or contract for the proper cleansing of streets, and may also themselves undertake or contract for the proper watering of streets for the whole or any part of their district.

All matters collected by the Local Authority or Contractor in pursuance of this Section may be sold or otherwise disposed of (*e*), and any profits thus made by an Urban Authority shall be carried to the account of the fund or Rate applicable by them for the general purposes of this Act; and any profits thus made by a Rural Authority in respect of any contributory place shall be carried to the account of the fund or Rate out of which expenses incurred under this Section by that Authority in such contributory place are defrayed.

If any person removes or obstructs the Local Authority or Contractor in removing any matters by this Section authorised to be removed by the Local Authority, he shall for each offence be liable to a penalty not exceeding 5*l.*: Provided that the Occupier of a house within the district shall not be liable to such penalty in respect of any such matters which are produced on his own premises and are intended to be removed for sale or for his own use, and are in the meantime kept so as not to be a nuisance.

Penalty on neglect of Local Authority to remove refuse, &c.

43. If a Local Authority who have themselves undertaken or contracted for the removal of house refuse from premises, or the cleansing of earthclosets privies ashpits and cesspools fail, without reasonable excuse, after notice in writing from the Occupier of any house within their district requiring them to remove any house refuse or to cleanse any earthcloset privy ashpit or cesspool belonging to such house or used by the Occupiers thereof, to cause the same to be removed or cleansed, as the case may be, within 7 days, the Local Authority shall be liable to pay to the Occupier of such house a penalty not exceeding 5*s.* for every day during which such default continues after the expiration of the said period (*f*).

Power of Local Authority to make By-Laws imposing duty of cleansing, &c. on Occupier.

44. Where the Local Authority do not themselves undertake or contract for—

The cleansing of footways and pavements adjoining any premises,

The removal of house refuse from any premises,

The cleansing of earthclosets privies ashpits and cesspools belonging to any premises,

they may make By-Laws imposing the duty of such cleansing or removal, at such intervals as they think fit, on the Occupier of any such premises.

An Urban Authority may also make By-Laws for the prevention of nuisances arising from snow filth dust ashes and rubbish, and for the prevention of the keeping of animals on any premises so as to be injurious to health.

(*a*) *Biddulph* v. *St. George's, Hanover Square, Vestry*; *Chambers* v. *Reid*; *Mason* v. *Wallasey L. B.*; *Vernon* v. *St. James's Vestry.*

(*b*) *Russell* v. *Shenton.*

(*c*) *Hargreaves* v. *Taylor.*

(*d*) *Collins* v. *Paddington Vestry*; *Filby* v. *Combe*; *Gay* v. *Cadby*; *Law* v. *Dodd*; *Lyndon* v. *Stanbridge*; *Margate Pier Co.* v. *Margate L. B. H.*

(*e*) *General Ice Well Co.* v. *Clerkenwell Vestry*; *London General Omnibus Co.* v. *Mead*; *Scarborough, Mayor* v. *Scarborough Union.*

(*f*) *Holborn Guardians* v. *St. Leonard's, Shoreditch, Vestry.*

Power to provide receptacles for deposit of rubbish.

45. Any Urban Authority may, if they see fit, provide in proper and convenient situations receptacles for the temporary deposit and collection of dust ashes and rubbish; they may also provide fit buildings and places for the deposit of any matters collected by them in pursuance of this part of this Act.

Houses to be purified, on Certificate of Officer of Health, or of two Medical Practitioners.

46. Where, on the certificate of the Medical Officer of Health or of any 2 medical practitioners, it appears to any Local Authority that any house or part thereof is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, or that the whitewashing cleansing or purifying of any house or part thereof would tend to prevent or check infectious disease, the Local Authority shall give notice in writing to the Owner or Occupier of such house or part thereof to whitewash cleanse or purify the same, as the case may require.

If the person to whom notice is so given fails to comply therewith within the time therein specified, he shall be liable to a penalty not exceeding 10*s.* for every day during which he continues to make default; and the Local Authority may, if they think fit, cause such house or part thereof to be whitewashed cleansed or purified, and may recover in a summary manner the expenses incurred by them in so doing from the person in default.

Penalty in respect of certain nuisances on premises.

47. Any person who in any Urban District—

(1.) Keeps any swine or pigstye in any dwelling-house, or so as to be a nuisance to any person (*a*); or

(2.) Suffers any waste or stagnant water to remain in any cellar or place within any dwelling-house for 24 hours after written notice to him from the Urban Authority to remove the same; or

(3.) Allows the contents of any watercloset privy or cesspool to overflow or soak therefrom,

shall for every such offence be liable to a penalty not exceeding 40*s.*, and to a further penalty not exceeding 5*s.* for every day during which the offence is continued, and the Urban Authority shall abate or cause to be abated every such nuisance, and may recover in a summary manner the expenses incurred by them in so doing from the Occupier of the premises on which the nuisance exists.

Offensive Ditches and Collections of Matter.

Provision for obtaining order for cleansing offensive ditches lying near to or forming the boundaries of Districts.

48. Where any watercourse or open ditch lying near to or forming the boundary between the District of any Local Authority and any adjoining District is foul and offensive, so as injuriously to affect the District of such Local Authority, any Justice having jurisdiction in such adjoining District may, on the application of such Local Authority, summon the Local Authority of such adjoining District to appear before a Court of summary jurisdiction to show cause why an order should not be made by such Court for cleansing such watercourse or open ditch, and for executing such permanent or other structural works as may appear to such Court to be necessary; and such Court, after hearing the parties, or *ex parte* in case of the default of any of them to appear, may make such order with reference to the execution of the works, and the persons by whom the same shall be executed, and by whom and in what proportions the costs of such works shall be paid, and also as to the amount thereof, and the time and mode of payment, as to such Court may seem reasonable.

Removal of filth on Certificate of Inspector of Nuisances.

49. Where in any Urban District it appears to the Inspector of Nuisances that any accumulation of manure dung soil or filth or other offensive or noxious matter ought to be removed, he shall give notice to the person to whom the same belongs, or to the Occupier of the premises whereon it exists, to remove the same; and if such notice is not complied with within 24 hours from the service thereof, the manure dung soil or filth or matter referred to shall be vested in and be sold or disposed of by the Urban Authority, and the proceeds thereof shall be applied in payment of the expenses incurred by them in the execution of this section; and the surplus (if any) shall be paid on demand to the owner of the matter removed (*b*).

The expenses of removal by the Urban Authority of any such accumulation, if and so far as they are not covered by the sale thereof, may be recovered by the Urban Authority in a summary manner from the person to whom the accumulation belongs, or from the Occupier of the premises, or (where there is no Occupier) from the Owner.

Periodical removal of manure from mews and other premises.

50. Notice may be given by any Urban Authority (by public announcement in the District or otherwise) for the periodical removal of manure or other refuse matter from mews stables or other premises (*c*); and where any such notice has been given any person to whom the manure or other refuse matter belongs who fails so to remove the same, or permits a further accumulation, and does not continue such periodical removal at such intervals as the Urban Authority direct, shall be liable without further notice to a penalty not exceeding 20*s.* for each day during which such manure or other refuse matter is permitted to accumulate.

WATER SUPPLY (*d*).

Powers of Local Authority in relation to Supply of Water.

General powers for supplying District with water.

51. Any Urban Authority may provide their District or any part thereof, and any Rural Authority may provide their District or any contributory place therein, or any part of any such

(*a*) *Digby* v. *West Ham*; *Everett* v. *Grapes*; *Reg.* v. *Wigg*; *Wanstead L. B.* v. *Wooster*.

(*b*) *Flight* v. *Thomas*.

(*c*) *Smith* v. *Waghorn*.

(*d*) The Cases bearing on this subject are too numerous to be conveniently cited in a footnote. See them in Part V., "Digest of Cases," *post*; Titles, "Water Company, Powers, &c., of," and "Water, Rights as to." Reference may also be made to the "Limited Owners' Reservoirs and Water Supply further Facilities Act, 1877" (40 & 41 Vict., **31**), *post*.

contributory place, with a supply of water proper and sufficient for public and private purposes, and for those purposes or any of them may—

(1.) Construct and maintain waterworks, dig wells, and do any other necessary acts; and

(2.) Take on lease or hire any waterworks, and (with the sanction of the Local Government Board) purchase any waterworks, or any water or right to take or convey water, either within or without their District, and any rights powers and privileges of any Water Company; and

(3.) Contract with any person for a supply of water.

Restriction on construction of waterworks by Local Authority.

52. (*a*) Before commencing to construct waterworks within the limits of supply of any Water Company empowered by Act of Parliament or any Order confirmed by Parliament to supply water, the Local Authority shall give written notice to every Water Company within whose limits of supply the Local Authority are desirous of supplying water, stating the purposes for which and (as far as may be practicable) the extent to which water is required by the Local Authority.

It shall not be lawful for the Local Authority to construct any waterworks within such limits if and so long as any such Company are able and willing to supply water proper and sufficient for all reasonable purposes for which it is required by the Local Authority; and any difference as to whether the water which any such Company are able and willing to lay on is proper and sufficient for the purposes for which it is required, or whether the purposes for which it is required are reasonable, or (if and so far as the charges of the Company are not regulated by Parliament) as to the terms of supply, shall be settled by arbitration in manner provided by this Act.

As to construction of reservoirs.

53. At least 2 months before commencing to construct under the provisions of this Act any reservoir (other than a service reservoir or tank which will hold not more than 100,000 gallons) the Local Authority shall give notice of the intended work by advertisement in one or more of the local newspapers circulated within the district where the reservoir is to be constructed.

If any person who would be affected by the intended work objects to such work, and serves notice in writing of such objection on the Local Authority at any time within the said 2 months, the intended work shall not be commenced without the sanction of the Local Government Board, after such inquiry as hereinafter mentioned, unless such objection is withdrawn.

The Local Government Board may, on application of the Local Authority, appoint an Inspector to make inquiry on the spot into the propriety of the intended work and into the objections thereto, and to report to the Local Government Board on the matters with respect to which such inquiry was directed; and on receiving the report of such Inspector, the Local Government Board may make an order disallowing or allowing with such modifications (if any) as they may deem necessary the intended work.

Power of carrying mains. See §§ 16–18 and 32–4, *ante*.

54. Where a Local Authority supply water within their District, they shall have the same powers and be subject to the same restrictions for carrying water mains within or without their District as they have and are subject to for carrying sewers within or without their District respectively by the law for the time being in force.

As to supply of water.

55. A Local Authority shall provide and keep in any Waterworks constructed or purchased by them a supply of pure and wholesome water; and where a Local Authority lay any pipes for the supply of any of the inhabitants of their District, the water may be constantly laid on at such pressure as will carry the same to the top story of the highest dwelling-house within the District or part of the District supplied.

Power to charge Water Rates and Rents.

56. Where a Local Authority supply water to any premises they may (*b*) charge in respect of such supply a Water Rate (*c*) to be assessed on the net annual value of the premises ascertained in the manner by this Act prescribed with respect to General District Rates; moreover they may enter into agreements for supplying water on such terms as may be agreed on between them and the persons receiving the supply, and shall have the same powers for recovering Water Rents or other payments accruing under such agreements as they have for recovering Water Rates.

Incorporation of certain provisions of "Waterworks Clauses Acts" 26 & 27 Vict., **93**; 10 Vict., **17**, 28–34, 44–74.

57. For the purpose of enabling any Local Authority to supply water there shall be incorporated with this Act the Waterworks Clauses Act, 1863, and the following provisions of the Waterworks Clauses Act, 1847; (namely,)

"With respect" (where the Local Authority have not the control of the streets) "to the breaking up of streets for the purpose of laying pipes"; and

"With respect to the communication pipes to be laid by the undertakers"; and

"With respect to the communication pipes to be laid by the inhabitants"; and

"With respect to waste or misuse of the water supplied by the undertakers"; and

"With respect to the provision for guarding against fouling the water of the undertakers"; and

"With respect to the payment and recovery of the Water Rates."

Provided,—

That the provisions with respect to the communication pipes to be laid by the undertakers and the inhabitants respectively shall apply only in Districts or parts of Districts where the Local Authority lay any pipes for the supply of any of the inhabitants thereof; and

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(*a*) *Richmond Water Co.* v. *Richmond Vestry.*

(*b*) On this point see the "Public Health (Water) Act, 1878," (41 & 42 Vict., **25**, § 10), which, in certain cases, makes this "may" into "must," so as to put an end to the gratuitous supply of water.

(*c*) The principles upon which this charge is to be based are laid down in *Worcester, Mayor* v. *Droitwich Union.* (46 L. J., M.C., 241: L. R., 2 Ex. D., 49: 36 L. T., 186: 46 J. P., 355).

That any dispute authorised or directed by any of the said incorporated provisions to be settled by an Inspector or 2 Justices shall be settled by a Court of Summary Jurisdiction; and

That § 44 of the Waterworks Clauses Act, 1847, shall for the purposes of this Act have effect as if the words "with the consent in writing of the Owner or reputed Owner of any such house, or of the Agent of such Owner," were omitted therefrom; and any rent for pipes and works paid by an Occupier under that Section may be deducted by him from any rent from time to time due from him to such Owner.

Power to supply water by measure.

58. A Local Authority may agree with any person to supply water by measure, and as to the payment to be made in the form of rent or otherwise for every meter provided by them; they shall at all times at their own expense keep all meters and other instruments for measuring water let by them for hire to any person in proper order for correctly registering the supply of water, and in default of their so doing such person shall not be liable to pay rent for the same during such time as such default continues. The Local Authority shall for the purposes aforesaid have access to and be at liberty at all reasonable times to remove test inspect and replace any such meter or other instrument.

Register of meter to be evidence.

59. Where water is supplied by measure by any Local Authority, the register of the meter or other instrument for measuring water shall be *primâ facie* evidence of the quantity of water consumed; and if the Local Authority and the Consumer differ with respect to the quantity consumed, the difference shall be determined, on the application of either party, by a Court of Summary Jurisdiction, and such Court may order by which of the parties the costs of the proceedings before them shall be paid, and its decision shall be final and binding.

Penalty for injuring meters.

60. If any person wilfully or by culpable negligence injures or suffers to be injured any meter or fittings belonging to a Local Authority, or fraudulently alters the index to any meter, or prevents any meter from duly registering the quantity of water supplied, or fraudulently abstracts or uses water of the Local Authority (*a*), he shall (without prejudice to any other right or remedy of the Local Authority) be liable to a penalty not exceeding 40*s*., and the Local Authority may in addition thereto recover the amount of any damage sustained. The existence of artificial means, under the control of the Consumer, for causing any such alteration prevention abstraction or use shall be evidence that the consumer has fraudulently effected the same.

Power to supply water to authority of adjoining District.

61. (*b*) Any Local Authority for the time being supplying water within their own District may, with the sanction of the Local Government Board, supply water to the Local Authority of any adjoining District on such terms as may be agreed on between such Authorities, or as, in case of dispute, may be settled by arbitration in manner provided by this Act.

Local Authority may require houses to be supplied with water in certain cases.

62. Where on the report of the Surveyor of a Local Authority it appears to such Authority that any house within their District is without a proper supply of water, and that such a supply of water can be furnished thereto at a cost not exceeding the Water Rate authorised by any local Act in force within the District, or where there is not any local Act so in force at a cost not exceeding 2*d*. a week, or at such other cost as the Local Government Board may, on the application of the Local Authority, determine under all the circumstances of the case to be reasonable (*c*), the Local Authority shall give notice in writing to the Owner, requiring him, within a time therein specified, to obtain such supply, and to do all such works as may be necessary for that purpose.

If such notice is not complied with within the time specified, the Local Authority may, if they think fit, do such works and obtain such supply, and for that purpose may enter into any contract with any Water Company supplying water within their District; and Water Rates may be made and levied on the premises by the Authority or Company which furnishes the supply and may be recovered as if the Owner or Occupier of the premises had demanded a supply of water and were willing to pay Water Rates for the same, and any expenses incurred by the Local Authority in doing any such works may be recovered in a summary manner from the Owner of the premises, or may by order of the Local Authority be declared to be private improvement expenses.

Powers of water company for supplying water to Local Authority 25 & 26 Vict., 89, 51.

63. Any Water Company may contract to supply water or may lease their waterworks to any Local Authority; and the Directors of any Water Company, in pursuance, in the case of a Company registered under the "Companies Act, 1862," of a special resolution of the members passed in manner provided by that Act, and in the case of any other Company of a resolution passed by three-fourths in number and value of the members present, either personally or by proxy, at a meeting specially convened with notice of the business to be transacted, may sell and transfer to any Local Authority, on such terms as may be agreed on between the Company and the Local Authority, all the rights powers and privileges, and all or any of the waterworks premises and other property of the Company, but subject to all liabilities to which the same are subject at the time of such purchase.

Vesting of public cisterns, &c. in Local Authority.

64. (*d*) All existing public cisterns pumps wells reservoirs conduits aqueducts and works used for the gratuitous supply of water to the inhabitants of the District of any Local Authority shall vest in and be under the control of such Authority, and such Authority may cause the same to be maintained and plentifully supplied with pure and wholesome water, or may substitute maintain and plentifully supply with pure and wholesome water other such works equally convenient; they may also (subject to the provisions of this Act) construct any other such works for supplying water for the gratuitous use of any inhabitants who choose to carry the same away, not for sale, but for their own private use.

(*a*) Compare *Reg.* v. *White*, which was a case of fraudulent consumption of gas.

(*b*) *Halifax Corporation* v. *Soothill, Upper.*

(*c*) See the "Public Health (Water) Act, 1878," (41 & 42 Vict., **25**, § 8.)

(*d*) *Edwards* v. *Jolliffe: Leadgate L. B.* v. *Bland.*

Water for public baths, or trading or manufacturing purposes.

65. Any Local Authority may, if they think fit, supply water from any waterworks purchased or constructed by them to any public baths or wash-houses, or for trading or manufacturing purposes, on such terms and conditions as may be agreed on between the Local Authority and the persons desirous of being so supplied; moreover, any Local Authority may, if they think fit, construct any works for the gratuitous supply of any public baths or wash-houses established otherwise than for private profit or supported out of any Poor or Borough Rates.

Duty of Urban Authority to provide fire-plugs.

66. Every Urban Authority shall cause fire-plugs and all necessary works machinery and assistance for securing an efficient supply of water in case of fire to be provided and maintained, and for this purpose they may enter into any agreement with any Water Company or person; and they shall paint or mark on the buildings and walls within the streets, words or marks near to such fire-plugs to denote the situation thereof, and do such other things for the purposes aforesaid as they may deem expedient.

Agreements with Universities.

67. In the Oxford or Cambridge District the Local Authority may supply water to any hall college or premises of the University within such District, on such terms with respect to the mode of paying for such supply as may from time to time be agreed on between such University, or any Hall or College thereof, and the Local Authority.

Provisions for Protection of Water.

Penalty for causing water to be corrupted by gas washings.

68. Any person engaged in the manufacture of gas who—

(1.) Causes (*a*) or suffers to be brought or to flow into any stream reservoir aqueduct pond or place for water, or into any drain or pipe communicating therewith, any washing or other substance produced in making or supplying gas; or,

(2.) Wilfully does any act connected with the making or supplying of gas whereby the water in any such stream reservoir aqueduct pond or place for water is fouled,

shall forfeit for every such offence the sum of 200*l.*, and after the expiration of 24 hours' notice from the Local Authority or the person to whom the water belongs in that behalf, a further sum of 20*l.* for every day during which the offence is continued or during the continuance of the act whereby the water is fouled.

Every such penalty may be recovered, with full costs of suit, in any of the Superior Courts, in the case of water belonging to or under the control of the Local Authority by the Local Authority, and in any other case by the person into whose water such washing or other substance is conveyed or flows or whose water is fouled by any such act as aforesaid, or in default of proceedings by such person, after notice to him from the Local Authority of their intention to proceed for such penalty, by the Local Authority; but such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within 6 months after it has ceased.

Local Authority may take proceedings to prevent pollution of streams.

69. Any Local Authority, with the sanction of the Attorney-General, may, either in their own name or in the name of any other person, with the consent of such person, take such proceedings by Indictment, Bill in Chancery, Action, or otherwise, as they may deem advisable for the purpose of protecting any watercourse within their jurisdiction from pollutions arising from sewage (*b*) either within or without their District; and the costs of and incidental to any such proceedings, including any costs that may be awarded to the defendant, shall be deemed to be expenses properly incurred by such Authority in the execution of this Act.

Power to close polluted wells, &c.

70. On the representation of any person to any Local Authority that within their District the water in any well tank or cistern, public or private, or supplied from any public pump, and used or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, is so polluted as to be injurious to health, such Authority may apply to a Court of Summary Jurisdiction for an Order to remedy the same; and thereupon such Court shall summon the Owner or Occupier of the premises to which the well tank or cistern belongs if it be private, and in the case of a public well tank cistern or pump, any person alleged in the application to be interested in the same, and may either dismiss the application, or may make an Order directing the well tank cistern or pump to be permanently or temporarily closed, or the water to be used for certain purposes only, or such other Order as may appear to them to be requisite to prevent injury to the health of persons drinking the water.

The Court may, if they see fit, cause the water complained of to be analysed (*c*) at the cost of the Local Authority applying to them under this Section.

If the person on whom an order under this Section is made fails to comply with the same, the Court may on the application of the Local Authority authorise them to do whatever may be necessary in the execution of the order, and any expenses incurred by them may be recovered in a summary manner from the person on whom the Order is made.

Expenses incurred by any Rural Authority in the execution of this Section, and not recovered by them as aforesaid, shall be special expenses.

(*a*) *Hipkins* v. *Birmingham Gas Co.*; *Millington* v. *Griffiths.*

(*b*) The Cases bearing on this subject are too numerous to be conveniently cited in a footnote. See them in Part V., "Digest of Cases," *post*, Title, "Water, Pollution of, (2), by Sewage." Reference may also be made to the "Rivers Pollution Prevention Act, 1876," (39 & 40 Vict. **75**, §§ 10-15.)

(*c*) The analysis of Water is not within the obligatory functions of the Public Analysts appointed under the "Sale of Food and Drugs Acts, 1875 and 1879," (38 & 39 Vict. **63**; 42 & 43 Vict. **30**). So that if those officials are called in to deal with Water and have to give evidence in open Court they must do so simply as chemists and in person.

Regulation of Cellar Dwellings and Lodging Houses.

Occupation of Cellar Dwellings.

Prohibition of occupying cellar dwellings.

71. It shall not be lawful to let or occupy or suffer to be occupied separately as a dwelling any cellar (including for the purposes of this Act in that expression any vault or underground room) built or rebuilt after the passing of this Act, or which is not lawfully so let or occupied at the time of the passing of this Act.

Existing cellar dwellings only to be let or occupied on certain conditions.

72. It shall not be lawful to let or occupy or suffer to be occupied separately as a dwelling, any cellar whatsoever, unless the following requisitions are complied with; (that is to say,)

Unless the cellar is in every part thereof at least 7 feet in height, measured from the floor to to the ceiling thereof, and is at least 3 feet of its height above the surface of the street or ground adjoining or nearest to the same; and

Unless there is outside of and adjoining the cellar and extending along the entire frontage thereof, and upwards from 6 inches below the level of the floor thereof up to the surface of the said street or ground, an open area of at least 2 feet and 6 inches wide in every part; and

Unless the cellar is effectually drained by means of a drain, the uppermost part of which is one foot at least below the level of the floor thereof; and

Unless there is appurtenant to the cellar the use of a watercloset earthcloset or privy and an ashpit, furnished with proper doors and coverings, according to the provisions of this Act; and

Unless the cellar has a fireplace with a proper chimney or flue, and an external window of at least 9 superficial feet in area clear of the sash frame, and made to open in a manner approved by the Surveyor (except in the case of an inner or back cellar let or occupied along with a front cellar as part of the same letting or occupation, in which case the external window may be of any dimensions not being less than 4 superficial feet in area clear of the sash frame).

Provided that in any area adjoining a cellar there may be steps necessary for access to such cellar, if the same be so placed as not to be over across or opposite to the said external window, and so as to allow between every part of such steps and the external wall of such cellar a clear space of 6 inches at the least, and that over or across any such area there may be steps necessary for access to any building above the cellar to which such area adjoins, if the same be so placed as not to be over across or opposite to any such external window.

Penalty on persons offending against enactment.

73. Any person who lets occupies or knowingly suffers to be occupied for hire or rent, any cellar contrary to the provisions of this Act shall be liable for every such offence to a penalty not exceeding 20*s.* for every day during which the same continues to be so let or occupied after notice in writing from the Local Authority in this behalf.

Definition of occupying as a dwelling.

74. Any cellar in which any person passes the night shall be deemed to be occupied as a dwelling within the meaning of this Act.

Power to close cellars in case of two convictions.

75. Where 2 convictions against the provisions of any Act relating to the occupation of a cellar as a separate dwelling place have taken place within 3 months (whether the persons so convicted were or were not the same) a Court of Summary Jurisdiction may direct the closing of the premises so occupied for such time as it may deem necessary, or may empower the Local Authority permanently to close the same, and to defray any expenses incurred by them in the execution of this Section.

Common Lodging Houses.

Registers of common lodging-houses to be kept.

76. Every Local Authority shall keep a register in which shall be entered the names and residences of the Keepers of all common lodging-houses (*a*) within the District of such Authority, and the situation of every such house, and the number of lodgers authorised under this Act by such Authority to be received therein.

A copy of any entry in such register, certified by the Clerk of the Local Authority to be a true copy, shall be received in all Courts and on all occasions as evidence, and shall be sufficient proof of the matter registered, without production of the register or of any document or thing on which the entry is founded; and a certified copy of any such entry shall be supplied gratis by the Clerk to any person applying at a reasonable time for the same.

All common lodging-houses to be registered, and to be kept only by registered keepers.

77. A person shall not keep a common lodging-house (*b*) or receive a lodger therein unless the house is registered in accordance with the provisions of this Act; nor unless his name as the Keeper thereof is entered in the register kept under this Act: Provided that when the person so registered dies, his widow or any member of his family may keep the house as a common lodging-house for not more than 4 weeks after his death without being registered as the keeper thereof.

Local Authority may refuse to register houses.

78. A house shall not be registered as a common lodging-house until it has been inspected and approved for the purpose by some officer of the Local Authority; and the Local Authority may refuse to register as the Keeper of a common lodging-house a person who does not produce to the Local Authority a certificate of character, in such form as the Local Authority direct, signed by 3 inhabitant householders of the parish respectively rated to the relief of the poor of the parish within which the lodging-house is situate for property of the yearly rateable value of 6*l.* or upwards.

Notice of registration to be affixed to houses.

79. The Keeper of every common lodging-house shall, if required in writing by the Local

(*a*) *Halligan* v. *Ganly*; *Langdon* v. *Broadbent*.

(*b*) See Part I., "Digest of Statutes," p. 73, par. 512, *ante*; and § 89 *post*.

Authority so to do, affix and keep undefaced and legible a notice with the words "Registered Common Lodging-house" in some conspicuous place on the outside of such house.

The Keeper of any such house who, after requisition in writing from the Local Authority, refuses or neglects to affix or renew such notice, shall be liable to a penalty not exceeding 5*l.* and to a further penalty of 10*s.* for every day that such refusal or neglect continues after conviction.

By-Laws to be made by Local Authority.

80. Every Local Authority shall from time to time make By-Laws—

(1.) For fixing and from time to time varying the number of lodgers who may be received into a common lodging-house, and for the separation of the sexes therein; and,

(2.) For promoting cleanliness and ventilation in such houses; and,

(3.) For the giving of notices and the taking precautions in the case of any infectious disease; and,

(4.) Generally for the well ordering of such houses.

Power to Local Authority to require supply of water to houses.

81. Where it appears to any Local Authority that a common lodging-house is without a proper supply of water for the use of the lodgers, and that such a supply can be furnished thereto at a reasonable rate (*a*), the Local Authority may by notice in writing require the Owner or Keeper of such house, within a time specified therein, to obtain such supply, and to do all works necessary for that purpose; and if the notice be not complied with accordingly, the Local Authority may remove such house from the register until it is complied with.

Limewashing of houses.

82. The Keeper of a common lodging-house shall, to the satisfaction of the Local Authority, limewash the walls and ceilings thereof in the 1st week of each of the months of April and October in every year, and shall if he fails to do so be liable to a penalty not exceeding 40*s.*

Power to order reports from Keepers of houses receiving vagrants.

83. The Keeper of a common lodging-house in which beggars or vagrants are received to lodge shall from time to time, if required in writing by the Local Authority so to do, report to the Local Authority, or to such person as the Local Authority direct, every person who resorted to such house during the preceding day or night, and for that purpose schedules shall be furnished by the Local Authority to the person so ordered to report, which schedules he shall fill up with the information required and transmit to the Local Authority.

Keepers to give notice of fever, &c. therein.

84. The Keeper of a common lodging-house shall, when a person in such house is ill of fever or any infectious disease, give immediate notice thereof to the Medical Officer of Health of the Local Authority, and also to the Poor Law Relieving Officer of the Union or Parish in which the common lodging-house is situated.

As to inspection.

85. The keeper of a common lodging-house, and every other person having or acting in the care or management thereof, shall, at all times when required by any Officer of the Local Authority, give him free access to such house or any part thereof; and any such keeper or person who refuses such access shall be liable to a penalty not exceeding 5*l.*

Offences by Keepers of houses.

86. Any Keeper of a common lodging-house who—

(1.) Receives any lodger in such house without the same being registered under this Act; or

(2.) Fails to make a report, after he has been furnished by the Local Authority with schedules for the purpose in pursuance of this Act, of the persons resorting to such house; or

(3.) Fails to give the notices required by this Act where any person has been confined to his bed in such house by fever or other infectious disease,

shall be liable to a penalty not exceeding 5*l.*, and in the case of a continuing offence to a further penalty not exceeding 40*s.* for every day during which the offence continues.

Evidence as to family in proceedings.

87. In any proceedings under the provisions of this Act relating to common lodging-houses, if the inmates of any house or part of a house allege that they are members of the same family, the burden of proving such allegation shall lie on the persons making it.

Conviction for third offence to disqualify persons from keeping common lodging-house.

88. Where the Keeper of a common lodging-house is convicted of a 3rd offence against any of the provisions of this Act relating to common lodging-houses, the Court before whom the conviction for such 3rd offence takes place may, if it thinks fit, adjudge that he shall not at any time within 5 years after the conviction, or within such shorter period after the conviction as the Court thinks fit, keep a common lodging-house without the previous license in writing of the Local Authority, which license the Local Authority may withhold or grant on such terms and conditions as they think fit.

Interpretation of "common lodging-house."

89. For the purposes of this Act the expression "common lodging-house" includes, in any case in which only part of a house is used as a common lodging-house, the part so used of such house.

By-Laws as to Houses let in Lodgings.

Local Government Board may empower Local Authority to make By-Laws as to lodging-houses.

90. The Local Government Board may, if they think fit, by notice published in the *London Gazette*, declare the following enactment to be in force within the District or any part of the District of any Local Authority, and from and after the publication of such notice such Authority shall be empowered to make By-Laws for the following matters; (that is to say,)

(1.) For fixing and from time to time varying the number of persons who may occupy a house or part of a house which is let in lodgings or occupied by members of more than one family, and for the separation of the sexes in a house so let or occupied:

(2.) For the registration of houses so let or occupied:

(3.) For the inspection of such houses:

(4.) For enforcing drainage and the provision of privy accommodation for such houses, and for promoting cleanliness and ventilation in such houses:

(*a*) See the "Public Health Act, 1875," § 62, *ante*, and the "Public Health (Water) Act, 1878," (41 & 42 Vict. **25**, § 8.)

(5.) For the cleansing and lime-washing at stated times of the premises, and for the paving of the courts and courtyards thereof:

(6.) For the giving of notices and the taking of precautions in case of any infectious disease.

This Section shall not apply to common lodging-houses within the provisions of this Act relating to common lodging-houses.

NUISANCES.

Definition of nuisances.

91. For the purposes of this Act,—

1. Any premises in such a state as to be a nuisance (*a*) or injurious to health:
2. Any pool ditch gutter watercourse privy urinal cesspool drain or ashpit so foul or in such a state as to be a nuisance or injurious to health (*b*):
3. Any animal so kept as to be a nuisance or injurious to health (*c*):
4. Any accumulation or deposit which is a nuisance or injurious to health (*d*):
5. Any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates, whether or not members of the same family (*e*):
6. Any factory, workshop, or workplace . . . . . (*f*) not kept in a cleanly state, or not ventilated in such a manner as to render harmless as far as practicable any gases vapours dust or other impurities generated in the course of the work carried on therein that are a nuisance or injurious to health, or so overcrowded while work is carried on as to be dangerous or injurious to the health of those employed therein:
7. Any fireplace or furnace which does not as far as practicable consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill factory dyehouse brewery bakehouse or gaswork, or in any manufacturing or trade process whatsoever; and

Any chimney (not being the chimney of a private dwelling-house) sending forth black smoke in such quantity as to be a nuisance (*g*),

shall be deemed to be nuisances liable to be dealt with summarily in manner provided by this Act: Provided—

First. That a penalty shall not be imposed on any person in respect of any accumulation or deposit necessary for the effectual carrying on any business or manufacture if it be proved to the satisfaction of the Court that the accumulation or deposit has not been kept longer than is necessary for the purposes of the business or manufacture, and that the best available means have been taken for preventing injury thereby to the public health (*h*):

Secondly. That where a person is summoned before any Court in respect of a nuisance arising from a fireplace or furnace which does not consume the smoke arising from the combustible used in such fireplace or furnace, the Court shall hold that no nuisance is created within the meaning of this Act, and dismiss the complaint, if it is satisfied that such fireplace or furnace is constructed in such manner as to consume as far as practicable, having regard to the nature of the manufacture or trade, all smoke arising therefrom, and that such fireplace or furnace has been carefully attended to by the person having the charge thereof.

Duty of Local Authority to inspect District for detection of nuisances.

92. It shall be the duty of every Local Authority to cause to be made from time to time inspection of their District, with a view to ascertain what nuisances exist calling for abatement under the powers of this Act, and to enforce the provisions of this Act in order to abate the same; also to enforce the provisions of any Act in force within their District requiring fireplaces and furnaces to consume their own smoke.

Information of nuisances to Local Authority.

93. Information of any nuisance under this Act in the District of any Local Authority may be given to such Local Authority by any person aggrieved thereby, or by any 2 inhabitant householders of such District, or by any officer of such Authority, or by the Relieving Officer, or by any Constable or Officer of the Police Force of such District.

Local Authority to serve notice requiring abatement of nuisance.

94. On the receipt of any Information respecting the existence of a nuisance the Local Authority shall, if satisfied of the existence of a nuisance, serve a notice on the person by whose act default or sufferance (*i*) the nuisance arises or continues, or, if such person cannot be found, on the Owner or Occupier of the premises on which the nuisance arises, requiring him to abate the same within a time to be specified in the notice, and to execute such works and do such things as may be necessary for that purpose: Provided—

First. That where the nuisance arises from the want or defective construction of any structural convenience, or where there is no Occupier of the premises, notice under this Section shall be served on the Owner:

Secondly. That where the person causing the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act default or sufferance of the Owner or Occupier of the premises, the Local Authority may themselves abate the same without further order.

(*a*) *G. W. R.* v. *Bishop.*

(*b*) *Reg.* v. *Trimble.*

(*c*) *Draper* v. *Sperring:* and see the Cases cited under § 47, *ante.*

(*d*) *Scarborough, Mayor* v. *Scarborough Union.*

(*e*) *Rye Union* v. *Paine.*

(*f*) Words omitted here repealed by the "Factory and Workshop Act, 1878," (41 Vict., **16**, Sched. VI.), and other provisions substituted. See Part I., "Digest of Statutes," p. 60, par. 411, *ante.*

(*g*) See the Cases in Part V., "Digest of Cases," *post;* Title, "Nuisance, (4) Smoke." But a smoke nuisance proceeding from mines or mineral works seems protected by § 334 (*post*) from the effects of this Section, even though a nuisance injurious to health arises.

(*h*) *General Ice Well Co.* v. *Clerkenwell Vestry; London General Omnibus Co.* v. *Mead; Swaine* v. *G. N. R.*

(*i*) *Riddell* v. *Spear; St. Helen's Chemical Co.* v. *St. Helen's Corporation.*

On non-compliance with notice complaint to be made to Justice.

95. (*a*) If the person on whom a notice to abate a nuisance has been served makes default in complying with any of the requisitions thereof within the time specified, or if the nuisance, although abated since the service of the notice is, in the opinion of the Local Authority, likely to recur on the same premises, the Local Authority shall cause a complaint relating to such nuisance to be made before a Justice, and such Justice shall thereupon issue a summons requiring the person on whom the notice was served to appear before a Court of Summary Jurisdiction.

Power of Court of Summary Jurisdiction to make order dealing with nuisance.

96. (*b*) If the Court is satisfied that the alleged nuisance exists, or that although abated it is likely to recur on the same premises, the Court shall make an Order on such person requiring him to comply with all or any of the requisitions of the notice, or otherwise to abate the nuisance within a time specified in the Order, and to do any works necessary for that purpose; or an Order prohibiting the recurrence of the nuisance and directing the execution of any works necessary to prevent the recurrence; or an Order both requiring abatement and prohibiting the recurrence of the nuisance.

The Court may by their Order impose a penalty not exceeding 5*l.* on the person on whom the Order is made, and shall also give directions as to the payment of all costs incurred up to the time of the hearing or making the Order for abatement or prohibition of the nuisance.

Order of prohibition in case of house unfit for human habitation.

97. Where the nuisance proved to exist is such as to render a house or building, in the judgment of the Court, unfit for human habitation, the Court may prohibit the using thereof for that purpose until, in its judgment, the house or building is rendered fit for that purpose; and on the Court being satisfied that it has been rendered fit for that purpose the Court may determine its previous Order by another, declaring the house or building habitable, and from the date thereof such house or building may be let or inhabited.

Penalty for contravention of Order of Court.

98. (*c*) Any person not obeying an Order to comply with the requisitions of the Local Authority or otherwise to abate the nuisance, shall, if he fails to satisfy the Court that he has used all due diligence to carry out such Order, be liable to a penalty not exceeding 10*s.* per day during his default; and any person knowingly and wilfully acting contrary to an Order of prohibition shall be liable to a penalty not exceeding 20*s.* per day during such contrary action; moreover, the Local Authority may enter the premises to which any Order relates, and abate the nuisance, and do whatever may be necessary in execution of such Order, and recover in a summary manner the expenses incurred by them from the person on whom the Order is made.

Appeal against Order.

99. Where any person appeals against an Order to the Court of Quarter Sessions in manner provided by this Act no liability to penalty shall arise, nor shall any proceedings be taken or work be done under such Order, until after the determination of such appeal, unless such appeal ceases to be prosecuted.

In certain cases Order may be addressed to Local Authority.

100. Whenever it appears to the satisfaction of the Court of Summary Jurisdiction that the person by whose act or default the nuisance arises, or the Owner or Occupier of the premises is not known or cannot be found, then the Order of the Court may be addressed to and executed by the Local Authority.

Power to sell manure, &c.

101. Any matter or thing removed by the Local Authority in abating any nuisance under this Act may be sold by public auction; and the money arising from the sale may be retained by the Local Authority, and applied in payment of the expenses incurred by them with reference to such nuisance, and the surplus (if any) shall be paid, on demand, to the Owner of such matter or thing.

Power of entry of Local Authority.

102. The Local Authority, or any of their Officers, shall be admitted into any premises for the purpose of examining as to the existence of any nuisance thereon, or of enforcing the Provisions of any Act in force within the District requiring fireplaces and furnaces to consume their own smoke, at any time between the hours of 9 in the forenoon and 6 in the afternoon, or in the case of a nuisance arising in respect of any business, then at any hour when such business is in progress or is usually carried on.

Where under this Act a nuisance has been ascertained to exist, or an Order of abatement or prohibition has been made, the Local Authority or any of their Officers shall be admitted from time to time into the premises between the hours aforesaid, until the nuisance is abated, or the works ordered to be done are completed, as the case may be.

Where an Order of abatement or prohibition has not been complied with, or has been infringed, the Local Authority, or any of their Officers, shall be admitted from time to time at all reasonable hours, or at all hours during which business is in progress or is usually carried on, into the premises where the nuisance exists, in order to abate the same.

If admission to premises for any of the purposes of this section is refused, any Justice on complaint thereof on oath by any Officer of the Local Authority (made after reasonable notice in writing of the intention to make the same has been given to the person having custody of the premises), may, by Order under his hand, require the person having custody of the premises to admit the Local Authority, or their Officer, into the premises during the hours aforesaid, and if no person having custody of the premises can be found, the Justice shall, on oath made before him of that fact, by Order under his hand authorise the Local Authority or any of their Officers to enter such premises during the hours aforesaid.

Any Order made by a Justice for admission of the Local Authority or any of their Officers on premises shall continue in force until the nuisance has been abated, or the work for which the entry was necessary has been done.

(*a*) *Brown* v. *Bussell*; *Draper* v. *Sperring*; *Hendon Guardians* v. *Bowles*.

(*b*) *Hargreaves* v. *Taylor*; *Reg.* v. *Trimble*; *Scarborough, Mayor* v. *Scarborough Union*.

(*c*) *Ham L. B., In re*; *Reg.* v. *Jenkins*; *Tomlins* v. *Great Stanmore Committee*.

Penalty for disobedience of Order.

103. Any person who refuses to obey an Order of a Justice for admission of the Local Authority or any of their Officers on any premises shall be liable to a penalty not exceeding 5*l*.

Costs and expenses of execution of provisions relating to nuisances.

104. All reasonable costs and expenses incurred in making a complaint, or giving notice, or in obtaining any Order of the Court or any Justice in relation to a nuisance under this Act, or in carrying the same into effect, shall be deemed to be money paid for the use and at the request of the person on whom the Order is made; or if the Order is made on the Local Authority, or if no Order is made, but the nuisance is proved to have existed when the complaint was made or the notice given, then of the person by whose act or default the nuisance was caused; and in case of nuisances caused by the act or default of the Owner of premises, such costs and expenses may be recovered from any person who is for the time being Owner of such premises: Provided that such costs and expenses shall not exceed in the whole one year's rackrent of the premises.

Such costs and expenses, and any penalties incurred in relation to any such nuisance, may be recovered in a summary manner or in any County or Superior Court; and the Court shall have power to divide costs expenses and penalties between persons by whose acts or defaults a nuisance is caused as to it may seem just.

Any costs and expenses recoverable under this section by a Local Authority from an Owner of premises may be recovered from the Occupier for the time being of such premises; and the Owner shall allow such Occupier to deduct any moneys which he pays under this enactment out of the rent from time to time becoming due in respect of the said premises, as if the same had been actually paid to such Owner as part of such rent (*a*):

Provided, that no such Occupier shall be required to pay any further sum than the amount of rent for the time being due from him, or which, after demand of such costs or expenses from such Occupier, and after notice not to pay his landlord any rent without first deducting the amount of such costs or expenses, becomes payable by such Occupier, unless he refuses, on application to him by the Local Authority, truly to disclose the amount of his rent and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded from any such Occupier is greater than the rent due by him at the time of such notice, or which has since accrued, shall lie on such Occupier:

Provided also, that nothing herein contained shall affect any contract between any Owner or Occupier of any house building or other property whereby it is or may be agreed that the Occupier shall pay or discharge all Rates dues and sums of money payable in respect of such house building or other property, or to affect any contract whatsoever between landlord and tenant (*b*).

Power of individual to complain to Justice of nuisance.

105. Complaint may be made to a Justice of the existence of a nuisance under this Act on any premises within the District of any Local Authority by any person (*c*) aggrieved thereby, or by any inhabitant of such District, or by any Owner of premises within such District, and thereupon the like proceedings shall be had with the like incidents and consequences as to making of Orders, penalties for disobedience of Orders, Appeal, and otherwise, as in the case of a complaint relating to a nuisance made to a Justice by the Local Authority:

Provided that the Court may, if it thinks fit, adjourn the hearing or further hearing of the summons for an examination of the premises where the nuisance is alleged to exist, and may authorise the entry into such premises of any Constable or other person for the purposes of such examination:

Provided also, that the Court may authorise any Constable or other person to do all necessary acts for executing an Order made under this Section, and to recover the expenses from the person on whom the Order is made in a summary manner.

Any Constable or other person authorised under this Section shall have the like powers and be subject to the like restrictions as if he were an Officer of the Local Authority authorised under the provisions of this Act relating to nuisances to enter any premises and do any acts thereon.

Power of Officer of Police to proceed in certain cases against nuisances.

106. Where it is proved to the satisfaction of the Local Government Board that a Local Authority have made default in doing their duty in relation to nuisances under this Act, the Local Government Board may authorise any Officer of Police acting within the District of the defaulting Authority to institute any procee ling which the defaulting Authority might institute with respect to such nuisances, and such Officer may recover in a summary manner or in any County or Superior Court any expenses incurred by him, and not paid by the person proceeded against, from the defaulting Authority:

But such Officer of Police shall not be at liberty to enter any house or part of a house used as the dwelling of any person without such person's consent, or without the warrant of a Justice, for the purpose of carrying into effect this enactment.

Local Authority may take proceedings in Superior Court for abatement of nuisances.

107. Any Local Authority may, if in their opinion summary proceedings would afford an inadequate remedy, cause any proceedings to be taken against any person in any Superior Court of Law or Equity to enforce the abatement or prohibition of any nuisance under this Act, or for the recovery of any penalties from or for the punishment of any persons offending against the provisions of this Act relating to nuisances, and may order the expenses of and incident to all such proceedings to be paid out of the fund or Rate applicable by them to the general purposes of this Act.

Power to proceed where cause of nuisance arises without District.

108. Where a nuisance under this Act within the District of a Local Authority appears to be wholly or partially caused by some act or default committed or taking place without their District, the Local Authority may take or cause to be taken against any person in respect of such act or default any proceedings in relation to nuisances, by this Act authorised, with the same incidents

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(*a*) *Ryan* v. *Thompson*.

(*b*) See the Cases in Part V., "Digest of Cases," (*post*); Title, "Landlord and Tenant."

(*c*) See *Cocker* v. *Cardwell*.

and consequences, as if such act or default were committed or took place wholly within their District; so, however, that summary proceedings shall in no case be taken otherwise than before a Court having jurisdiction in the District where the act or default is alleged to be committed or take place.

This Section shall extend to the Metropolis so far as to authorise proceedings to be taken under it by any Nuisance Authority in the Metropolis in respect of any nuisance within the area of their jurisdiction caused by an act or default committed or taking place within the District of a Local Authority under this Act; or by any such Local Authority in respect of any nuisance within their District caused by an act or default committed or taking place within the jurisdiction of any such Nuisance Authority.

In this Section "Nuisance Authority" means the Local Authority in the Metropolis for the execution of the Nuisances Removal Act for England, 1855, and the Acts amending the same.

Provision in case of two convictions for overcrowding.

109. Where two convictions against the provisions of any Act relating to the overcrowding of a house have taken place within a period of 3 months (whether the persons convicted were or were not the same) a Court of Summary Jurisdiction may on the application of the Local Authority of the District in which the house is situated direct the closing of the house for such period as the Court may deem necessary.

Provision as to ships.

110. For the purpose of the provisions of this Act relating to nuisances, any ship or vessel lying in any river harbour or other water within the District of a Local Authority shall be subject to the jurisdiction of that Authority in the same manner as if it were a house within such District; and any ship or vessel lying in any river harbour or other water not within the District of a Local Authority shall be deemed to be within the District of such Local Authority as may be prescribed by the Local Government Board, and where no Local Authority has been prescribed, then of the Local Authority whose District nearest adjoins the place where such ship or vessel is lying.

The Master or other Officer in charge of any such ship or vessel shall be deemed for the purpose of the said provisions to be the Occupier of such ship or vessel.

This Section shall not apply to any ship or vessel under the command or charge of any Officer bearing Her Majesty's commission, or to any ship or vessel belonging to any Foreign Government.

Provisions of Act relating to nuisances not to affect other remedies.

111. The provisions of this Act relating to nuisances shall be deemed to be in addition to and not to abridge or affect any right remedy or proceeding under any other provisions of this Act or under any other Act, or at Law or in Equity:

Provided that no person shall be punished for the same offence both under the provisions of this Act relating to nuisances, and under any other law or enactment.

Offensive Trades (*a*).

Restriction on establishment of offensive trade in Urban District.

112. Any person who, after the passing of this Act, establishes within the District of an Urban Authority, without their consent in writing, any offensive trade; that is to say, the trade of—

Blood boiler, or
Bone boiler, or
Fellmonger, or
Soap boiler, or
Tallow melter, or
Tripe boiler, or
Any other noxious or offensive trade business or manufacture,

shall be liable to a penalty not exceeding 50*l.* in respect of the establishment thereof, and any person carrying on a business so established shall be liable to a penalty not exceeding 40*s.* for every day on which the offence is continued, whether there has or has not been any conviction in respect of the establishment thereof.

By-Laws as to offensive trades in Urban District.

113. Any Urban Authority may from time to time make By-Laws with respect to any offensive trades established with their consent either before or after the passing of this Act, in order to prevent or diminish the noxious or injurious effects thereof.

Duty of Urban Authority to complain to Justice of nuisance arising from offensive trade.

114. (*b*) Where any candle-house melting-house melting-place or soap-house, or any slaughter-house, or any building or place for boiling offal or blood, or for boiling burning or crushing bones, or any manufactory building or place used for any trade business process or manufacture causing effluvia, is certified to any Urban Authority by their Medical Officer of Health, or by any 2 legally qualified medical practitioners, or by any 10 inhabitants of the District of such Urban Authority, to be a nuisance or injurious to the health of any of the inhabitants of the District, such Urban Authority shall direct complaint to be made before a Justice, who may summon the person by or on whose behalf the trade so complained of is carried on to appear before a Court of Summary Jurisdiction.

The Court shall inquire into the complaint, and if it appears to the Court that the business carried on by the person complained of is a nuisance, or causes any effluvia which is a nuisance or injurious to the health of any of the inhabitants of the District, and unless it be shown that such person has used the best practicable means for abating such nuisance, or preventing or counteracting such effluvia, the person so offending (being the Owner or Occupier of the premises, or being a foreman or other person employed by such Owner or Occupier), shall be liable to a

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(*a*) See the Cases in Part V., "Digest of Cases," (*post*); Title, "Nuisances, (2) Noxious Trades;" and *Baxendale* v. *McMurray*; *Benjamin* v. *Storr*; *Crossley* v. *Lightowler*; *Liverpool New Cattle Market Co.* v. *Hodson*; *Reg.* v. *Stephens*.

(*b*) *Malton Urban S. A.* v. *Malton Manure Co.*

penalty not exceeding 5*l.* nor less than 40*s.*, and on a second and any subsequent conviction to a penalty double the amount of the penalty imposed for the last preceding conviction, but the highest amount of such penalty shall not in any case exceed the sum of 200*l.*:

Provided, that the Court may suspend its final determination on condition that the person complained of undertakes to adopt, within a reasonable time, such means as the Court may deem to be practicable and order to be carried into effect for abating such nuisance, or mitigating or preventing the injurious effects of such effluvia, or if such person gives notice of appeal to the Court of Quarter Sessions in manner provided by this Act.

Any Urban Authority may, if they think fit, on such certificate as is in this Section mentioned, cause to be taken any proceedings in any Superior Court of Law or Equity against any person in respect of the matters alleged in such certificate.

Power to proceed where nuisance arises from offensive trade carried on without District.

115. Where any house building manufactory or place which is certified in pursuance of the last preceding Section to be a nuisance or injurious to the health of any of the inhabitants of the District of an Urban Authority is situated without such District, such Urban Authority may take or cause to be taken any proceedings by that Section authorised in respect of the matters alleged in the certificate, with the same incidents and consequences, as if the house building manufactory or place were situated within such District; so, however, that summary proceedings shall not in any case be had otherwise than before a Court having jurisdiction in the District where the house building manufactory or place is situated.

This Section shall extend to the Metropolis so far as to authorise proceedings to be taken under it by any Nuisance Authority in the Metropolis in respect of any house building manufactory or place which is certified as aforesaid to be a nuisance or injurious to the health of any of the inhabitants within the area of their jurisdiction, and is situated within the District of a Local Authority under this Act; or by any Urban Authority in respect of any house building manufactory or place which is certified as aforesaid to be a nuisance or injurious to the health of any of the inhabitants of their District, and is situated within the jurisdiction of any such Nuisance Authority.

In this Section "Nuisance Authority" means the Local Authority in the Metropolis for the execution of the Nuisances Removal Act for England, 1855, and the Acts amending the same.

Unsound Meat, &c. (*a*).

Power of Medical Officer of Health to inspect meat, &c.

116. Any Medical Officer of Health or Inspector of Nuisances may at all reasonable times inspect and examine any animal carcase meat poultry game flesh fish fruit vegetables corn bread flour or milk exposed for sale, or deposited in any place for the purpose of sale, or of preparation for sale, and intended for the food of man, the proof that the same was not exposed or deposited for any such purpose, or was not intended for the food of man, resting with the party charged; and if any such animal carcase meat poultry game flesh fish fruit vegetables corn bread flour or milk appears to such Medical Officer or Inspector to be diseased or unsound or unwholesome or unfit for the food of man, he may seize and carry away the same himself or by an assistant, in order to have the same dealt with by a Justice.

Power of Justice to order destruction of unsound meat, &c.

117. If it appears to the Justice that any animal carcase meat poultry game flesh fish fruit vegetables corn bread flour or milk so seized is diseased or unsound or unwholesome or unfit for the food of man, he shall condemn the same, and order it to be destroyed or so disposed of as to prevent it from being exposed for sale or used for the food of man; and the person to whom the same belongs or did belong at the time of exposure for sale, or in whose possession or on whose premises the same was found, shall be liable to a penalty not exceeding 20*l.* for every animal carcase or fish or piece of meat flesh or fish, or any poultry or game, or for the parcel of fruit vegetables corn bread or flour or for the milk so condemned, or, at the discretion of the Justice, without the infliction of a fine, to imprisonment for a term of not more than 3 months.

The Justice who, under this Section, is empowered to convict the offender may be either the Justice who may have ordered the article to be disposed of or destroyed, or any other Justice having jurisdiction in the place.

Penalty for hindering Officer from inspecting meat, &c.

118. (*b*) Any person who in any manner prevents any Medical Officer of Health or Inspector of Nuisances from entering any premises and inspecting any animal carcase meat poultry game flesh fish fruit vegetables corn bread flour or milk exposed or deposited for the purpose of sale, or of preparation for sale, and intended for the food of man, or who obstructs or impedes any such Medical Officer or Inspector or his assistant, when carrying into execution the provisions of this Act, shall be liable to a penalty not exceeding 5*l.*

Search warrant may be granted by a Justice.

119. On complaint made on oath by a Medical Officer of Health, or by an Inspector of Nuisances, or other Officer of a Local Authority, any Justice may grant a warrant to any such Officer to enter any building or part of a building in which such Officer has reason for believing that there is kept or concealed any animal carcase meat poultry game flesh fish fruit vegetables corn bread flour or milk which is intended for sale for the food of man, and is diseased unsound or unwholesome, or unfit for the food of man; and to search for seize and carry away any such animal or other article in order to have the same dealt with by a Justice under the provisions of this Act.

Any person who obstructs any such Officer in the performance of his duty under such warrant shall, in addition to any other punishment to which he may be subject, be liable to a penalty not exceeding 20*l.*

(*a*) See the Cases in Part V., "Digest of Cases," (*post*); Title, "Food, Unwholesome;" and *Gill* v. *Bright*; *Reg.* v. *White* (1879).

(*b*) *Small* v. *Bickley*.

INFECTIOUS DISEASES AND HOSPITALS.

Provisions against Infection (*a*).

Duty of Local Authority to cause premises to be cleansed and disinfected.

120. Where any Local Authority are of opinion, on the certificate of their Medical Officer of Health or of any other legally qualified medical practitioner, that the cleansing and disinfecting of any house or part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious disease, it shall be the duty of such Authority to give notice in writing to the Owner or Occupier of such house or part thereof requiring him to cleanse and disinfect such house or part thereof and articles within a time specified in such notice.

If the person to whom notice is so given fails to comply therewith, he shall be liable to a penalty of not less than 1*s.* and not exceeding 10*s.* for every day during which he continues to make default; and the Local Authority shall cause such house or part thereof and articles to be cleansed and disinfected, and may recover the expenses incurred from the Owner or Occupier in default in a summary manner.

Where the Owner or Occupier of any such house or part thereof is from poverty or otherwise unable, in the opinion of the Local Authority, effectually to carry out the requirements of this Section, such Authority may, without enforcing such requirements on such Owner or Occupier, with his consent cleanse and disinfect such house or part thereof and articles, and defray the expenses thereof.

Destruction of infected bedding, &c.

121. Any Local Authority may direct the destruction of any bedding clothing or other articles which have been exposed to infection from any dangerous infectious disorder, and may give compensation for the same.

Provision of means of disinfection.

122. Any Local Authority may provide a proper place, with all necessary apparatus and attendance, for the disinfection of bedding clothing or other articles which have become infected, and may cause any articles brought for disinfection to be disinfected free of charge.

Provision of conveyance for infected persons.

123. Any Local Authority may provide and maintain a carriage or carriages suitable for the conveyance of persons suffering under any infectious disorder, and may pay the expense of conveying therein any person so suffering to a hospital or other place of destination.

Removal of infected persons without proper lodging to hospital by Order of Justice.

124. Where any suitable hospital or place for the reception of the sick is provided within the District of a Local Authority, or within a convenient distance of such District, any person who is suffering from any dangerous infectious disorder, and is without proper lodging or accommodation, or lodged in a room occupied by more than one family, or is on board any ship or vessel, may, on a certificate signed by a legally qualified medical practitioner, and with the consent of the superintending body of such hospital or place, be removed, by Order of any Justice, to such hospital or place at the cost of the Local Authority; and any person so suffering, who is lodged in any common lodging-house, may, with the like consent and on a like certificate, be so removed by Order of the Local Authority.

An Order under this Section may be addressed to such Constable or Officer of the Local Authority as the Justice or Local Authority making the same may think expedient; and any person who wilfully disobeys or obstructs the execution of such Order shall be liable to a penalty not exceeding 10*l.*

Removal to hospital of infected persons brought by ships.

125. Any Local Authority may make Regulations (to be approved of by the Local Government Board) for removing to any hospital to which such Authority are entitled to remove patients, and for keeping in such hospital so long as may be necessary, any persons brought within their District by any ship or boat who are infected with a dangerous infectious disorder, and such Regulations may impose on offenders against the same, reasonable penalties not exceeding 40*s.* for each offence.

Penalty on exposure of infected persons and things.

126. Any person who—

(1.) While suffering from any dangerous infectious disorder wilfully exposes himself without proper precautions against spreading the said disorder in any street public place shop inn or public conveyance or enters any public conveyance without previously notifying to the Owner conductor or driver thereof that he is so suffering; or

(2.) Being in charge of (*b*) any person so suffering, so exposes such sufferer; or

(3.) Gives lends sells transmits or exposes, without previous disinfection, any bedding clothing rags or other things which have been exposed to infection from any such disorder,

shall be liable to a penalty not exceeding 5*l.*; and a person who, while suffering from any such disorder, enters any public conveyance without previously notifying to the Owner or driver that he is so suffering, shall in addition be ordered by the Court to pay such Owner and driver the amount of any loss and expense they may incur in carrying into effect the provisions of this Act with respect to disinfection of the conveyance.

Provided that no proceedings under this Section shall be taken against persons transmitting with proper precautions any bedding clothing rags or other things for the purpose of having the same disinfected.

Penalty on failing to provide for disinfection of public conveyance.

127. Every Owner or driver of a public conveyance shall immediately provide for the disinfection of such conveyance after it has to his knowledge conveyed any person suffering from a dangerous infectious disorder; and if he fails to do so he shall be liable to a penalty not exceeding 5*l.*; but no such Owner or driver shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expense incurred by him in carrying into effect the provisions of this Section.

(*a*) See the Cases in Part V., "Digest of Cases," (*post*); Title, "Infectious Diseases."

(*b*) *Tunbridge Wells L. B.* v. *Bisshopp.*

Penalty on letting houses in which infected persons have been lodging.

128. Any person who knowingly lets for hire any house room or part of a house in which any person has been suffering from any dangerous infectious disorder, without having such house room or part of a house and all articles therein liable to retain infection, disinfected to the satisfaction of a legally qualified medical practitioner, as testified by a certificate signed by him, shall be liable to a penalty not exceeding 20*l.*

For the purposes of this Section, the Keeper of an inn shall be deemed to let for hire part of a house to any person admitted as a guest into such inn.

Penalty on persons letting houses making false statements as to infectious disease.

129. Any person letting for hire or showing for the purpose of letting for hire any house or part of a house, who on being questioned by any person negotiating for the hire of such house or part of a house as to the fact of there being or within 6 weeks previously having been therein any person suffering from any dangerous infectious disorder, knowingly makes a false answer to such question, shall be liable, at the discretion of the Court, to a penalty not exceeding 20*l.*, or to imprisonment, with or without hard labour, for a period not exceeding one month.

Power of Local Government Board to make Regulations.

130. The Local Government Board may from time to time make alter and revoke such Regulations as to the said Board may seem fit, with a view to the treatment of persons affected with cholera, or any other epidemic endemic or infectious disease, and preventing the spread of cholera and such other diseases, as well on the seas rivers and waters of the United Kingdom, and on the high seas within 3 miles of the coasts thereof, as on land; and may declare by what authority or authorities such Regulations shall be enforced and executed. Regulations so made shall be published in the *London Gazette*, and such publication shall be for all purposes conclusive evidence of such Regulations.

Any person wilfully neglecting or refusing to obey or carry out or obstructing the execution of any Regulation made under this Section shall be liable to a penalty not exceeding 50*l.*

Hospitals (*a*).

Power of Local Authority to provide hospitals.

131. Any Local Authority may provide for the use of the inhabitants of their District hospitals or temporary places for the reception of the sick, and for that purpose may—

Themselves build such hospitals or places of reception; or

Contract for the use of any such hospital or part of a hospital or place of reception; or

Enter into any agreement with any person having the management of any hospital, for the reception of the sick inhabitants of their District, on payment of such annual or other sum as may be agreed on.

Two or more Local Authorities may combine in providing a common hospital.

Recovery of cost of maintenance of patient in hospital.

132. Any expenses incurred by a Local Authority in maintaining in a hospital, or in a temporary place for the reception of the sick (whether or not belonging to such Authority), a patient who is not a pauper, shall be deemed to be a debt due from such patient (*b*) to the Local Authority, and may be recovered from him at any time within 6 months after his discharge from such hospital or place of reception, or from his estate in the event of his dying in such hospital or place.

Power to provide temporary supply of medicine.

133. Any Local Authority may, with the sanction of the Local Government Board, themselves provide or contract with any person to provide a temporary supply of medicine and medical assistance for the poorer inhabitants of their District.

Prevention of Epidemic Diseases.

Power of Local Government Board to make Regulations for prevention of diseases.

134. Whenever any part of England appears to be threatened with or is affected by any formidable epidemic endemic or infectious disease, the Local Government Board may make and from time to time alter and revoke Regulations for all or any of the following purposes; (namely),

(1.) For the speedy interment of the dead; and

(2.) For house to house visitation; and

(3.) For the provision of medical aid and accommodation, for the promotion of cleansing ventilation and disinfection, and for guarding against the spread of disease;

and may by Order declare all or any of the Regulations so made to be in force within the whole or any part or parts of the District of any Local Authority, and to apply to any vessels, whether on inland waters or on arms or parts of the sea within the jurisdiction of the Lord High Admiral of the United Kingdom or the Commissioners for executing the office of the Lord High Admiral for the time being, for the period in such Order mentioned; and may by any subsequent Order abridge or extend such period.

Publication of Regulations and Orders.

135. All Regulations and Orders so made by the Local Government Board shall be published in the *London Gazette*, and such publication shall be conclusive evidence thereof for all purposes.

Local Authority to see to the execution of Regulations.

136. The Local Authority of any District within which or part of which Regulations so issued by the Local Government Board are declared to be in force, shall superintend and see to the execution thereof, and shall appoint and pay such Medical or other Officers or persons, and do and provide all such acts matters and things as may be necessary for mitigating any such disease, or for superintending or aiding in the execution of such Regulations, or for executing the same,

(*a*) *A.-G.* v. *Fulham B.W.*; *Hill* v. *Metropolitan Asylums Managers*; *Portman* (*Visct.*) v. *Home Hospitals Association.*

(*b*) See the County Court Case of *Warwick Sanitorium Committee* v. *Spicer.* In that Case a County Court Judge decided that the parent of a patient was not liable for expenses incurred in respect of a child. (*Law Times*, Jan. 1, 1881.)

as the case may require. Moreover, the Local Authority may from time to time direct any prosecution or legal proceedings for or in respect of the wilful violation or neglect of any such Regulation.

Power of entry.

137. The Local Authority and their Officers shall have power of entry on any premises or vessel for the purpose of executing or superintending the execution of any Regulations so issued by the Local Government Board as aforesaid.

Poor Law Medical Officer entitled to costs of attendance on board vessels.

138. Whenever, in compliance with any Regulation so issued by the Local Government Board as aforesaid, any Poor Law Medical Officer performs any medical service on board any vessel he shall be entitled to charge extra for such service, at the general rate of his allowance for services for the Union or place for which he is appointed; and such charges shall be payable by the captain of such vessel on behalf of the Owners thereof, together with any reasonable expenses for the treatment of the sick.

Where such services are rendered by any medical practitioner who is not a Poor Law Medical Officer, he shall be entitled to charges for any service rendered on board, with extra remuneration on account of distance, at the same rate as those which he is in the habit of receiving from private patients of the class of those attended and treated on shipboard, to be paid as aforesaid. In case of dispute in respect of such charges, such dispute may, where the charges do not exceed 20*l.*, be determined by a Court of Summary Jurisdiction; and such Court shall determine summarily the amount which is reasonable, according to the accustomed rate of charge within the place where the dispute arises for attendance on patients of the like class as those in respect of whom the charge is made.

Local Government Board may combine Local Authorities.

139. The Local Government Board may, if they think fit, by Order authorise or require any 2 or more Local Authorities to act together for the purposes of the provisions of this Act relating to prevention of epidemic diseases, and may prescribe the mode of such joint action and of defraying the costs thereof.

Penalty for violating or obstructing the execution of Regulations.

140. Any person who—

(1.) Wilfully violates any Regulation so issued by the Local Government Board as aforesaid; or,

(2.) Wilfully obstructs any person acting under the Authority or in the execution of any such Regulation,

shall be liable to a penalty not exceeding 5*l.*

Mortuaries, &c. (*a*).

Power of Local Authority to provide mortuaries.

141. Any Local Authority may, and if required by the Local Government Board shall, provide and fit up a proper place for the reception of dead bodies before interment (in this Act called a mortuary), and may make By-Laws with respect to the management and charges for use of the same; they may also provide for the decent and economical interment, at charges to be fixed by such By-Laws, of any dead body which may be received into a mortuary.

Justice may in certain cases order removal of dead body to mortuary.

142. Where the body of one who has died of any infectious disease is retained in a room in which persons live or sleep, or any dead body which is in such a state as to endanger the health of the inmates of the same house or room is retained in such house or room, any Justice may, on a certificate signed by a legally qualified medical practitioner, order the body to be removed, at the cost of the Local Authority, to any mortuary provided by such Authority, and direct the same to be buried within a time to be limited in such Order; and unless the friends or relations of the deceased undertake to bury the body within the time so limited, and do bury the same, it shall be the duty of the Relieving Officer to bury such body at the expense of the Poor Rate, but any expense so incurred may be recovered by the Relieving Officer in a summary manner from any person legally liable to pay the expense of such burial.

Any person obstructing the execution of an Order made by a Justice under this Section shall be liable to a penalty not exceeding 5*l.*

Power of Local Authority to provide places for post-mortem examinations.

143. Any Local Authority may provide and maintain a proper place (otherwise than at a workhouse or at a mortuary) for the reception of dead bodies during the time required to conduct any post-mortem examination ordered by a Coroner or other constituted Authority, and may make Regulations with respect to the management of such place; and where any such place has been provided, a Coroner or other constituted Authority may order the removal of the body to and from such place for carrying out such post-mortem examination, such costs of removal to be paid in the same manner and out of the same fund as the costs and fees for post-mortem examinations when ordered by the Coroner.

PART IV.
LOCAL GOVERNMENT PROVISIONS.
Highways and Streets.
As to Highways (*b*).

Powers of Surveyors of Highways and of

144. Every Urban Authority shall within their District exclusively of any other person execute the office of and be Surveyor of Highways, and have exercise and be subject to all the powers

(*a*) *Hansard* v. *St. Matthew, Bethnal Green*; *Margrie* v. *Westminster* (*D. of*).

(*b*) The Cases which would be useful as illustrating the Sections which follow relating to Highways as distinguished from the Cases directly decided under these Sections, are so exceedingly numerous as to render it quite out of the question to cite them in foot-notes. Reference must therefore be made to the "Digest of Cases" in my *Law relating to Highways and*

authorities duties and liabilities (*a*) of Surveyors of Highways under the law for the time being in force, save so far as such powers authorities or duties are or may be inconsistent with the provisions of this Act; every Urban Authority shall also have exercise and be subject to all the powers authorities duties and liabilities which by the "Highway Act, 1835," or any Act amending the same, are vested in and given to the inhabitants in Vestry assembled of any Parish within their District.

Vestries under 5 & 6 Will. IV., **50**, vested in Urban Authority.

All ministerial acts required by any Act of Parliament to be done by or to the Surveyor of Highways may be done by or to the Surveyor of the Urban Authority, or by or to such other person as they may appoint.

145 (*b*). The inhabitants within any Urban District shall not in respect of any property situated therein be liable to the payment of Highway Rate or other payment, not being a Toll, in respect of making or repairing roads or highways without such District: Provided, that any person who in any place after the passing of this Act ceases under or by virtue of any provision of this Act, or of any Order made thereunder, to be Surveyor of Highways within such place, may recover any Highway Rate made in respect of such place, and remaining unpaid at the time of his so ceasing to be such Surveyor, as if he had not ceased to be such Surveyor; and the money so recovered shall be applied, in the first place, in reimbursing himself any expenses incurred by him as such Surveyor, and in discharging any debts legally owing by him on account of the highways within his jurisdiction; and the surplus (if any) shall be paid by him to the Treasurer of the Urban Authority, and carried to the fund or Rate applicable to the repair of highways within their District.

Inhabitants of Urban District not liable to Rates for roads without District.

146. Any Urban Authority may agree with any person for the making of roads within their District for the public use through the lands and at the expense of such person, and may agree that such roads shall become and the same shall accordingly become on completion highways maintainable and repairable by the inhabitants at large within their District; they may also, with the consent of two-thirds of their number, agree with such person to pay, and may accordingly pay, any portion of the expenses of making such roads.

Power of Urban Authority to agree as to making of new public roads.

147. Any Urban Authority may agree with the proprietors of any canal railway or tramway to adopt and maintain any existing or projected bridge viaduct or arch within their District, over or under any such canal railway or tramway, and the approaches thereto, and may accordingly adopt and maintain such bridge viaduct or arch and approaches as parts of public streets or roads maintainable and repairable by the inhabitants at large within their District; or such Authority may themselves agree to construct any such bridge viaduct or arch at the expense of such proprietors; they may also, with the consent of two-thirds of their number, agree to pay, and may accordingly pay, any portion of the expenses of the construction or alteration of any such bridge viaduct or arch, or of the purchase of any adjoining lands required for the foundation and support thereof, or for the approaches thereto.

Power of Urban Authority to construct or adopt public bridges, &c. over or under canals, &c.

148. Any Urban Authority may by agreement with the Trustees of any turnpike road, or with any person liable to repair any street or road, or any part thereof, or with the Surveyor of any county bridge, take on themselves the maintenance repair cleansing or watering of any such street or road or any part thereof, or of any road over any county bridge, and the approaches thereto, or of any part of the said streets or roads within their District, and may remove any turnpike gates toll gates or bars which may be situated within their District, and may erect other turnpike gates toll gates or bars in lieu thereof, on such terms as the Urban Authority and such Trustees or person or Surveyor as aforesaid may agree on:

Power of Urban Authority to enter into agreements with Turnpike Trustees as to repair, &c. of roads.

Provided—

That where any mortgage debt is charged on the Tolls of any such turnpike road, no agreement shall be made for the removal of any of the toll gates or bars thereon, unless with the previous consent in writing of a majority of at least two-thirds in value of the mortgagees; and

That where the terms arranged include any annual or other payments from such Urban Authority to the Trustees of any such turnpike road, then the payments may be secured on any fund or Rate applicable by such Authority to any of the purposes of this Act in the same manner as other charges on any such fund or Rate are authorised by this Act.

Any Executors Administrators Guardians Trustees or Committee of the estate of any idiot or lunatic, who are as such for the time being entitled to any money charged or secured on the Tolls of any such turnpike road, may consent to any such agreement as aforesaid, as fully as if they respectively were so entitled in their own right, discharged of all trusts in respect thereof; and all Executors Administrators Guardians Trustees and Committees so consenting are hereby severally indemnified for so doing.

Regulation of Streets and Buildings.

149. All streets, being or which at any time become highways repairable by the inhabitants at large within any Urban District, and the pavements stones and other materials thereof, and all

Vesting of streets, &c. in Urban Authority.

Bridges. But a few which have some very special relation to Urban Sanitary Districts will be found in Part V., "Digest of Cases," (*post*); Title, "Highway Cases."

(*a*) See the Cases in Part V., (*post*); Title, "Liability for Accidents."

(*b*) The "Highways and Locomotive Amendment Act, 1878" (41 & 42 Vict., **77**, § 13,) transferring as it does some of the burden of maintaining certain classes of roads called "main roads" to the County Rate, impliedly supersedes in a certain degree the provisions of this Section, read literally.

buildings implements and other things provided for the purposes thereof, shall vest in and be under the control of the Urban Authority.

The Urban Authority shall from time to time cause all such streets to be levelled paved metalled flagged channelled altered and repaired as occasion may require; they may from time to time cause the soil of any such street to be raised lowered or altered as they may think fit, and may place and keep in repair fences and posts for the safety of foot passengers.

Any person who without the consent (*a*) of the Urban Authority wilfully displaces or takes up or who injures the pavement stones materials fences or posts of or the trees in any such street shall be liable to a penalty not exceeding 5*l*., and to a further penalty not exceeding 5*s*. for every square foot of pavement stones or other materials so displaced taken up or injured; he shall also be liable in the case of any injury to trees to pay to the Local Authority such amount of compensation as the Court may award.

Power to compel paving, &c. of private streets.

150. (*b*) Where any street within any Urban District (not being a highway repairable by the inhabitants at large) or the carriageway footway or any other part of such street is not sewered levelled paved metalled flagged channelled and made good or is not lighted to the satisfaction of the Urban Authority, such Authority may, by notice addressed to the respective Owners or Occupiers of the premises fronting adjoining or abutting on such parts thereof as may require to be sewered levelled paved metalled flagged or channelled, or to be lighted, require them to sewer level pave metal flag channel or make good or to provide proper means for lighting the same within a time to be specified in such notice.

Before giving such notice the Urban Authority shall cause plans and sections of any structural works intended to be executed under this Section, and an estimate (*c*) of the probable cost thereof, to be made under the direction of their Surveyor, such plans and sections to be on a scale of not less than 1 inch for 88 feet for a horizontal plan, and on a scale of not less than 1 inch for 10 feet for a vertical section, and, in the case of a sewer, showing the depth of such sewer below the surface of the ground: such plans sections and estimate shall be deposited in the office of the Urban Authority, and shall be open at all reasonable hours for the inspection of all persons interested therein during the time specified in such notice; and a reference to such plans and sections in such notice shall be sufficient without requiring any copy of such plans and sections to be annexed to such notice.

If such notice is not complied with (*d*), the Urban Authority may, if they think fit, execute the works mentioned or referred to therein; and may recover in a summary manner the expenses incurred by them in so doing from the Owners in default, according to the frontage of their respective premises, and in such proportion as is settled by the Surveyor of the Urban Authority, or (in case of dispute) by arbitration in manner provided by this Act; or the Urban Authority may by Order declare the expenses so incurred to be Private Improvement Expenses.

The same proceedings may be taken, and the same powers may be exercised, in respect of any street or road of which a part is or may be a public footpath or repairable by the inhabitants at large as fully as if the whole of such street or road was a highway not repairable by the inhabitants at large.

Exemption from expenses under last Section of Incumbent of Church, &c.

151. The Incumbent or Minister of any church chapel or place appropriated to public religious worship, which is now by law (*e*) exempt from Rates for the relief of the poor, shall not be liable to any expenses under the last preceding Section, as the Owner or Occupier of such church chapel or place or of any churchyard or burial ground attached thereto, nor shall any such expenses be deemed to be a charge on such church chapel or other place, or on such churchyard or burial ground, or to subject the same to distress execution or other legal process; and the Urban Authority may, if they think fit, undertake any works from the expenses of which any such Incumbent or Minister is hereby exempted.

Power to declare private streets when sewered, &c. to be highways.

152. (*f*) When any street within any Urban District not being a highway repairable by the inhabitants at large has been sewered levelled paved flagged metalled channelled and made good and provided with proper means of lighting to the satisfaction of the Urban Authority, such Authority may, if they think fit, by notice in writing put up in any part of the street, declare the same to be a highway, and thereupon the same shall become a highway repairable by the inhabitants at large; and every such notice shall be entered among the proceedings of the Urban Authority.

Provided that no such street shall become a highway so repairable, if within one month after such notice has been put up the Proprietor or the majority in number of Proprietors of such street, by notice in writing to the Urban Authority, object thereto, and in ascertaining such majority Joint Proprietors shall be reckoned as one Proprietor.

(*a*) *Edgeware Highway Board* v. *Harrow Gas Co.*

(*b*) See Part V., "Digest of Cases," (*post*); Title, "Paving Expenses." Also *Baddeley* v. *Gingell*; *Bayley* v. *Wilkinson*; *Burgess* v. *Northwich L. B.*; *Cary* v. *Kingston-upon-Hull*; *Hall* v. *Potter*; *Parkinson* v. *Blackburn, Mayor*; *Reg.* v. *Hutchins*; *St. Mary, Islington* v. *Barrett.*

(*c*) *Cunningham* v. *Wolverhampton L. B. H.*

(*d*) *Bradley* v. *Greenwich B. W.*; *Lewis* v. *Cardiff Urban A.*; *Shanklin L. B.* v. *Miller*; *Tottenham L. B.* v. *Rowell* (1880); *Worthington* v. *Sudlow.*

(*e*) 3 & 4 Will. IV., **30**, § 1; extended by 32 & 33 Vict., **40**; and see the following cases: *Angell* v. *Paddington Vestry*; *Caiger* v. *St. Mary, Islington, Vestry*; *Mills* v. *Rydon*; *Reg.* v. *Lee.*

(*f*) See Part V., "Digest of Cases," (*post*); Title, "Highway Cases." Also *Healey* v. *Batley Corporation*; *Mackett* v. *Herne Bay Commissioners*; also my *Law relating to Highways and Bridges*, Part II., Chap. IV.

Power to require gas and water pipes to be moved.

153. Where for any purpose of this Act any Urban Authority deem it necessary to raise sink or otherwise alter the situation of any water or gas pipes mains plugs or other waterworks or gasworks laid in or under any street, they may by notice in writing require the Owner of the pipes mains plugs or works to raise sink or otherwise alter the situation of the same in such manner and within such reasonable time as is specified in the notice; the expenses of or connected with any such alteration shall be paid by the Urban Authority; and if such notice is not complied with the Urban Authority may themselves make the alteration required:

Provided—

That no such alteration shall be required or made which will permanently injure any such pipes mains plugs or works or prevent the water or gas from flowing as freely and conveniently as usual; and

That where under any Local Act of Parliament the expenses of or connected with the raising sinking or otherwise altering the situation of any water or gas pipes mains plugs or other waterworks or gasworks, are directed to be borne by the Owner of such pipes or works, his liability in that respect shall continue in the same manner and under the same conditions in all respects as if this Act had not been passed.

Power to purchase premises for improvement of streets.

154. Any Urban Authority may purchase any premises (*a*) for the purpose of widening opening enlarging or otherwise improving any street, or (with the sanction of the Local Government Board) for the purpose of making any new street.

Power to regulate line of buildings.

155. (*b*) When any house or building situated in any street in an Urban District, or the front thereof, has been taken down, in order to be rebuilt or altered, the Urban Authority may prescribe the line in which any house or building, or the front thereof, to be built or rebuilt in the same situation shall be erected, and such house or building, or the front thereof, shall be erected in accordance therewith.

The Urban Authority shall pay or tender compensation to the Owner or other person immediately interested in such house or building for any loss or damage he may sustain in consequence of his house or building being set back or forward, the amount of such compensation, in case of dispute, to be settled by arbitration in manner provided by this Act.

Buildings not to be brought forward.

156. (*b*) It shall not be lawful in any Urban District, without the written consent of the Urban Authority, to bring forward any house or building forming part of any street, or any part thereof, beyond the front wall of the house or building on either side thereof, nor to build any addition thereto beyond the front of the house or building on either side of the same.

Any person offending against this enactment shall be liable to a penalty not exceeding 40*s.* for every day during which the offence is continued after written notice in this behalf from the Urban Authority.

Power to make By-Laws respecting new buildings, &c.

157. (*c*) Every Urban Authority may make By-Laws with respect to the following matters; (that is to say,)

(1.) With respect to the level width and construction of new streets, and the provisions for the sewerage thereof:

(2.) With respect to the structure of walls foundations roofs and chimneys of new buildings for securing stability and the prevention of fires, and for purposes of health:

(3.) With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings:

(4.) With respect to the drainage of buildings, to waterclosets earthclosets privies ashpits and cesspools in connection with buildings, and to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation:

And they may further provide for the observance of such By-Laws by enacting therein such provisions as they think necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out streets or to construct buildings, as to inspection by the Urban Authority, and as to the power of such Authority (subject to the provisions of this Act) to remove alter or pull down any work begun or done in contravention of such By-Laws: Provided that no By-Law made under this Section shall affect any building erected in any place (which at the time of the passing of this Act is included in an Urban Sanitary District) before the "Local Government Acts" came into force in such place, or any building erected in any place (which at the time of the passing of this Act is not included in an Urban Sanitary District) before such place becomes constituted or included in an Urban District, or by virtue of any Order of the Local Government Board subject to this enactment.

The provisions of this Section and of the 2 last preceding Sections shall not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament.

As to commencement of works and removal of works made contrary to By-Laws.

158. (*c*) Where a notice plan or description of any work is required by any By-Law made by an Urban Authority to be laid before that Authority, the Urban Authority shall, within one month after the same has been delivered or sent to their Surveyor or Clerk, signify in writing their approval or disapproval of the intended work to the person proposing to execute the same; and if the work is commenced after such notice of disapproval, or before the expiration of such month without such approval, and is in any respect not in conformity with any By-Law of the Urban

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(*a*) *Galloway* v. *Commonalty of London*; *Quinton* v. *Bristol, Mayor.*

(*b*) See Part V., "Digest of Cases," (*post*); Titles, "Building Line;" and "By-Laws, (1) Building;" and *Reg.* v. *Fullford*; *Reg.* v. *Platts.*

(*c*) See Part V., "Digest of Cases," (*post*); Title, "By-Laws, (1) Building."

Authority, the Urban Authority may cause so much of the work as has been executed to be pulled down or removed.

Where an Urban Authority incur expenses in or about the removal of any work executed contrary to any By-Law, such Authority may recover in a summary manner the amount of such expenses either from the person executing the works removed or from the person causing the works to be executed, at their discretion.

Where an Urban Authority may under this Section pull down or remove any work begun or executed in contravention of any By-Law, or where the beginning or the execution of the work is an offence in respect whereof the offender is liable in respect of any By-Law to a penalty, the existence of the work during its continuance in such a form and state as to be in contravention of the By-Law shall be deemed to be a continuing offence, but a penalty shall not be incurred in respect thereof after the expiration of one year from the day when the offence was committed or the By-Law was broken.

What to be deemed a new building.

159. (*a*) For the purposes of this Act the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the framework is left down to the ground floor, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only, shall be considered the erection of a new building.

Incorporation of certain provisions of 10 & 11 Vict. 34.

160. The provisions of the "Towns Improvement Clauses Act, 1847," with respect to the following matters; that is to say,

(1.) With respect to naming the streets and numbering the houses; and
(2.) With respect to improving the line of the streets and removing obstructions; and
(3.) With respect to ruinous or dangerous buildings; and
(4.) With respect to precautions during the construction and repair of the sewers streets and houses,

shall, for the purpose of regulating such matters in Urban Districts, be incorporated with this Act.

Notices for alterations under the 69th, 70th, and 71st Sections, directions under the 73rd Section, and Orders under the 74th Section of the said "Towns Improvement Clauses Act," may, at the option of the Urban Authority, be served on Owners instead of Occupiers, or on Owners as well as Occupiers, and the cost of works done under any of these Sections may, when notices have been so served on Owners, be recovered from Owners instead of Occupiers; and when such cost is recovered from Occupiers so much thereof may be deducted from the rent of the premises where the work is done as is allowed in the case of Private Improvement Rates under this Act.

Lighting Streets, &c.

Powers of Urban Authority for lighting their District. 12 & 13 Vict. 94, s.

161. Any Urban Authority may contract with any person for the supply of gas, or other means of lighting the streets markets and public buildings in their District, and may provide such lamps lamp posts and other materials and apparatus as they may think necessary for lighting the same (*b*).

Where there is not any company or person (other than the Urban Authority) authorised by or in pursuance of any Act of Parliament, or any Order confirmed by Parliament, to supply gas for public and private purposes, supplying gas within any part of the District of such Authority, such Authority may themselves undertake to supply gas for such purposes or any of them throughout the whole or any part of their District; and if there is any such company or person so supplying gas, but the limits of supply of such company or person include part only of the District, then the Urban Authority may themselves undertake to supply gas throughout any part of the District not included within such limits of supply (*c*).

Where an Urban Authority may under this Act themselves undertake to supply gas for the whole or any part of their District, a Provisional Order authorising a gas undertaking may be obtained by such Authority under and subject to the provisions of the "Gas and Water Works Facilities Act, 1870," and any Act amending the same; and in the construction of the said Act the term "the undertakers" shall be deemed to include any such Urban Authority: Provided that for the purposes of this Act the Local Government Board shall throughout the said Act be deemed to be substituted for the Board of Trade.

33 & 34 Vict. 70.

Power for sale of gas undertaking to Urban Authority. 23 & 24 Vict. 89, s.

162. (*d*) For the purpose of supplying gas within their District or any part thereof either for public or private purposes any Urban Authority may (with the sanction of the Local Government Board) buy, and the Directors of any Gas Company, in pursuance, in the case of a Company registered under the "Companies Act, 1862," of a special resolution of the members passed in manner provided by that Act, and in the case of any other company, of a resolution passed by a majority of three-fourths in number and value of the members present, either personally or by proxy, at a meeting specially convened with notice of the business to be transacted, may sell and transfer to such Authority, on such terms as may be agreed on between such Authority and the company, all the rights powers and privileges and all or any of the lands premises works and other property of the company, but subject to all liabilities attached to the same at the time of such purchase.

Watching and Lighting Act (3 & 4 Will. IV. 90), superseded.

163. Where in any place which after the passing of this Act becomes constituted or included in an Urban District, or which by virtue of any Order of the Local Government Board becomes subject to this enactment, the Act passed in the 4th year of the reign of King William IV.,

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(*a*) See note to § 157, (*ante*).
(*b*) *Meek* v. *Langdon*; *Reg.* v. *Lambeth Vestry*; *Worksop Gas Co., In re*; *Worksop L.B.H., Ex parte*.
(*c*) *Pudsey Coal Gas Co.* v. *Bradford*.
(*d*) *Birmingham Corporation, In re*.

intituled "An Act to repeal an Act of the 11th year of His late Majesty King George IV., for the lighting and watching of Parishes in England and Wales, and to make other provisions in lieu thereof," has been adopted, the said Act shall be superseded by this Act, and all lamps lamp posts gas pipes fire engines hose and other property vested in the Inspectors for the time being under the said Act shall vest in the Authority having under this Act jurisdiction in such place.

PUBLIC PLEASURE GROUNDS, &c.

Urban Authority may provide places of public recreation.

164. (*a*) Any Urban Authority may purchase or take on lease lay out plant improve and maintain lands for the purpose of being used as public walks or pleasure grounds, and may support or contribute to the support of public walks or pleasure grounds provided by any person whomsoever.

Any Urban Authority may make By-Laws for the regulation of any such public walk or pleasure ground, and may by such By-Laws provide for the removal from such public walk or pleasure ground of any person infringing any such By-Law by any Officer of the Urban Authority or Constable.

Urban Authority may provide public clocks.

165. Any Urban Authority may from time to time provide such clocks as they consider necessary, and cause them to be fixed on or against any public building, or, with the consent of the Owner or Occupier, on or against any private building the situation of which may be convenient for that purpose, and may cause the dials thereof to be lighted at night, and may from time to time alter and remove any such clocks to such other like situation as they may consider expedient.

MARKETS AND SLAUGHTER-HOUSES (*b*).

Urban Authority may provide markets.

166. Where an Urban Authority are a Local Board or Improvement Commissioners they shall have power, with the consent of the Owners and Ratepayers of their District, expressed by resolution passed in manner provided by Schedule III. to this Act, and where the Urban Authority are a Town Council they shall have power, with the consent of two-thirds of their number, to do the following things, or any of them, within their District:

To provide a market place, and construct a market house and other conveniences, for the purpose of holding markets (*c*):

To provide houses and places for weighing carts:

To make convenient approaches to such market:

To provide all such matters and things as may be necessary for the convenient use of such market:

To purchase or take on lease land, and public or private rights in markets and tolls for any of the foregoing purposes:

To take stallages rents and tolls in respect of the use by any person of such market:

But no market shall be established in pursuance of this Section so as to interfere with any rights powers or privileges enjoyed within the District by any person without his consent (*d*).

Incorporation of provisions of 10 Vict. 14, as to markets: viz. §§ 12–16; 21–30; 31–41.

167. For the purpose of enabling any Urban Authority to establish or to regulate markets, there shall be incorporated with this Act the provisions of the "Markets and Fairs Clauses Act, 1847," in so far as the same relate to markets; that is to say,

With respect to the holding of the market or fair, and the protection thereof; and

With respect to the weighing goods and carts; and

With respect to the stallages rents and tolls:

Provided that all tolls leviable by an Urban Authority in pursuance of this Section shall be approved by the Local Government Board.

An Urban Authority may with respect to any market belonging to them make By-Laws for any of the purposes mentioned in § 42 of the "Markets and Fairs Clauses Act, 1847," so far as those purposes relate to markets, and printed copies of any By-Laws so made shall be conspicuously exhibited in the market.

Power for sale of undertaking of Market Company to Urban Authority. 25 & 26 Vict. 89, 51.

168. Any Urban Authority may purchase, and the Directors of any market company, in pursuance, in the case of a company registered under the "Companies Act, 1862," of a special resolution of the members passed in manner provided by that Act, and in the case of any other company, of a resolution passed by a majority of three-fourths in number and value of the members present, either personally or by proxy, at a meeting specially convened with notice of the business to be transacted, may sell and transfer to any Urban Authority, on such terms as may be agreed on between the company and the Urban Authority, all the rights powers and privileges and all or any of the markets premises and things which at the time of such purchase are the property of the company, but subject to all liabilities attached to the same at the time of such purchase.

Power to provide slaughter-houses.

169. Any Urban Authority may, if they think fit, provide slaughter-houses, and they shall make By-Laws with respect to the management and charges for the use of any slaughter-houses so provided.

10 & 11 Vict. 34, 125–31.

For the purpose of enabling any Urban Authority to regulate slaughter-houses within their District the provisions of the "Towns Improvement Clauses Act, 1847," with respect to slaughter-houses shall be incorporated with this Act.

(*a*) For Cases illustrating this Section see my *Digest of the Law relating to Commons and Open Spaces, Public Parks and Recreation Grounds*, Part V., "Digest of Cases."

(*b*) See Part V., "Digest of Cases," (*post*); Titles, "By-Laws, (2) Markets;" and "Markets."

(*c*) *Lax* v. *Darlington Corporation*.

(*d*) *Ellis* v. *Bridgenorth* (1861); *Ellis* v. *Bridgenorth* (1863); *Elwes* v. *Payne*.

11 & 12 Vict. 63 [repealed].

Nothing in this Section shall prejudice or affect any rights powers or privileges of any persons incorporated by any Local Act passed before the passing of the "Public Health Act, 1848," for the purpose of making and maintaining slaughter-houses.

Notice to be affixed on slaughter-houses.

170. The Owner or Occupier of any slaughter-house licensed or registered under this Act shall, within one month after the licensing or registration of the premises, affix, and shall keep undefaced and legible on some conspicuous place on the premises, a notice with the words "Licensed slaughter-house," or "Registered slaughter-house," as the case may be.

Any person who makes default in this respect, or who neglects or refuses to affix or renew such notice after requisition in writing from the Urban Authority, shall be liable to a penalty not exceeding 5*l.* for every such offence, and of 10*s.* for every day during which such offence continues after conviction.

Police Regulations.

Incorporation of part of 10 & 11 Vict. 89: viz.
§§ 21-9;
§§ 30-3;
§§ 34-6;
§§ 37-68;
§ 69.

171. The provisions of the "Towns Police Clauses Act, 1847," with respect to the following matters, (namely,)

(1.) With respect to obstructions and nuisances in the streets; and
(2.) With respect to fires; and
(3.) With respect to places of public resort; and
(4.) With respect to hackney carriages; and
(5.) With respect to public bathing;

shall, for the purpose of regulating such matters in Urban Districts, be incorporated with this Act.

The expression in the provisions so incorporated "the Superintendent Constable," and the expression "any Constable or other Officer appointed by virtue of this or the special Act," shall, for the purposes of this Act, respectively include any Superintendent of Police, and any Constable or Officer of Police acting for or in the District of any Urban Authority; and the expression "within the prescribed distance" shall for the purposes of this Act mean within any Urban District.

10 & 11 Vict. 89, 43.

Notwithstanding anything in the provisions so incorporated, a license granted to the driver of any hackney carriage in pursuance thereof shall be in force for one year only from the date of the license, or until the next General Licensing Meeting where a day for such meeting is appointed.

Urban Authority may make By-Laws for licensing horses, boats, &c. for hire.

172. Any Urban Authority may license the proprietors drivers and conductors of horses ponies mules or asses standing for hire within the District in like manner and with the like incidents and consequences as in the case of proprietors and drivers of hackney carriages, and may make By-Laws for regulating stands and fixing rates of hire, and as to the qualification of such drivers and conductors, and for securing their good and orderly conduct while in charge.

Any Urban Authority may also license the proprietors of pleasure boats and vessels, and the boatmen or other persons in charge thereof, and may make By-Laws for regulating the numbering and naming of such boats and vessels, and the number of persons to be carried therein, and the mooring places for the same, and for fixing rates of hire, and the qualification of such boatmen or other persons in charge, and for securing their good and orderly conduct while in charge.

PART V.

GENERAL PROVISIONS.

Contracts (*a*).

Power of Local Authorities to contract.

173. Any Local Authority may enter into any contracts necessary for carrying this Act into execution (*b*).

Provisions to contracts by Urban Authority.

174. With respect to contracts made by an Urban Authority under this Act, the following regulations shall be observed; (namely,)

(1.) Every contract made by an Urban Authority whereof the value or amount exceeds 50*l.* (*c*) shall be in writing and sealed with the common seal of such Authority:
(2.) Every such contract shall specify the work materials matters or things to be furnished had or done, the price to be paid, and the time or times within which the contract is to be performed, and shall specify some pecuniary penalty to be paid in case the terms of the contract are not duly performed (*d*):
(3.) Before contracting for the execution of any works under the provisions of this Act, an Urban Authority shall obtain from their Surveyor an estimate in writing, as well of the probable expense of executing the work in a substantial manner as of the annual expense of repairing the same; also a report as to the most advantageous mode of contracting, that is to say, whether by contracting only for the execution of the work, or for executing and also maintaining the same in repair during a term of years or otherwise (*e*):
(4.) Before any contract of the value or amount of 100*l.* or upwards is entered into by an Urban Authority 10 days public notice at the least shall be given, expressing the nature and purpose thereof and inviting tenders for the execution of the same; and such Authority shall require and take sufficient security for the due performance of the same:

(*a*) See Part V., "Digest of Cases," (*post*); Titles, "Contract;" "Seal."
(*b*) *Bateman* v. *Ashton-under-Lyne, Mayor.*
(*c*) *Eaton* v. *Basker*; *Hunt* v. *Wimbledon L.B.*
(*d*) *Lamprell* v. *Billericay Union*; *Rutledge* v. *Farnham L. B. H.*
(*e*) *Cunningham* v. *Wolverhampton L. B. H.*; *Nowell* v. *Worcester, Mayor.*

(5.) Every contract entered into by an Urban Authority in conformity with the provisions of this Section, and duly executed by the other parties thereto, shall be binding on the Authority by whom the same is executed and their successors and on all other parties thereto (*a*) and their Executors Administrators Successors or Assigns to all intents and purposes: Provided that an Urban Authority may compound with any contractor or other person in respect of any penalty incurred by reason of the non-performance of any contract entered into as aforesaid, whether such penalty is mentioned in any such contract, or in any bond or otherwise, for such sums of money or other recompense as to such Authority may seem proper.

PURCHASE OF LANDS (*b*).

Power to purchase lands.

175. Any Local Authority may for the purposes (*c*) and subject to the provisions of this Act purchase or take on lease sell or exchange any lands, whether situated within or without their District; they may also buy up any water-mill dam or weir which interferes with the proper drainage of or the supply of water to their District.

Any lands acquired by a Local Authority in pursuance of any powers in this Act contained (*d*) and not required for the purpose for which they were acquired shall (unless the Local Government Board otherwise direct) be sold at the best price that can be gotten for the same, and the proceeds of such sale shall be applied towards discharge, by means of a sinking fund or otherwise, of any principal moneys which have been borrowed by such Authority on the security of the fund or Rate applicable by them for the general purposes of this Act, or if no such principal moneys are outstanding shall be carried to the account of such fund or Rate.

Regulations as to purchase of land.

176. With respect to the purchase of lands by a Local Authority for the purposes of this Act, the following Regulations shall be observed; (that is to say,)

(1.) The "Lands Clauses Consolidation Acts, 1845, 1860, and 1869," shall be incorporated with this Act, except the provisions relating to access to the special Act, and except § 127 of the "Lands Clauses Consolidation Act, 1845" (*e*):

(2.) The Local Authority, before putting in force any of the powers of the said "Lands Clauses Consolidation Acts" with respect to the purchase and taking of lands otherwise than by agreement, shall

Publish once at the least in each of 3 consecutive weeks in the month of November, in some Local newspaper circulated in their District, an advertisement describing shortly the nature of the undertaking in respect of which the lands are proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands that they require; and shall further

Serve a notice in the month of December on every Owner or reputed Owner, Lessee or reputed Lessee, and Occupier of such lands, defining in each case the particular lands intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such lands:

(3.) On compliance with the provisions of this Section with respect to advertisements and notices, the Local Authority may, if they think fit, present a petition under their seal to the Local Government Board. The petition shall state the lands intended to be taken, and the purposes for which they are required, and the names of the Owners Lessees and Occupiers of lands who have assented dissented or are neuter in respect of the taking such lands, or who have returned no answer to the notice; it shall pray that the Local Authority may, with reference to such lands, be allowed to put in force the powers of the said "Lands Clauses Consolidation Acts" with respect to the purchase and taking of lands otherwise than by agreement, and such prayer shall be supported by such evidence as the Local Government Board requires:

4.) On the receipt of such petition and on due proof of the proper advertisements having been published and notices served the Local Government Board shall take such petition into consideration, and may either dismiss the same, or direct a Local Inquiry as to the propriety of assenting to the prayer of such petition; but until such Inquiry has been made no Provisional Order shall be made affecting any lands without the consent of the Owners Lessees and Occupiers thereof:

(5.) After the completion of such Inquiry the Local Government Board may, by Provisional Order, empower the Local Authority to put in force, with reference to the lands referred to in such Order, the powers of the said "Lands Clauses Consolidation Acts" with respect to the purchase and taking of lands otherwise than by agreement, or any of them, and either absolutely or with such conditions and modifications as the Board may think fit, and it shall be the duty of the Local Authority to serve a copy of any Order so made in the manner and on the person in which and on whom notices in respect of such lands are required to be served:

Provided that the notices by this Section required to be given in the months of November and December may be given in the months of September and October or of October and November, but in either of such last-mentioned cases an Inquiry preliminary to the Provisional Order to

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(*a*) *Williamson* v. *St. Mary, Islington, Vestry.*

(*b*) See Part V., "Digest of Cases," (*post*); Title, "Lands Clauses Act, 1845."

(*c*) *Galloway* v. *Commonalty of London*; *Quinton* v. *Bristol, Mayor.*

(*d*) *Worral Waterworks Co.* v. *Lloyd.*

(*e*) This is the Section requiring the re-sale of surplus lands purchased but not wanted. Seemingly Local Authorities are not compelled to re-sell such surplus lands except they please to do so.

which such notices refer shall not be held until the expiration of one month from the last day of the 2nd of the 2 months in which the notices are given; and any notices or Orders by this Section required to be served on a number of persons having any right in over or on lands in common may be served on any 3 or more of such persons on behalf of all such persons.

Power to let lands.

177. Any Local Authority may, with the consent of the Local Government Board, let for any term any lands which they may possess, as and when they can conveniently spare the same.

Provision for lands belonging to the Duchy of Lancaster.

178. The Chancellor and Council of the Duchy of Lancaster for the time being may, if they think fit (but subject and without prejudice to the rights of any Lessee Tenant or Occupier), from time to time contract with any Local Authority for the sale of, and may (subject as aforesaid) absolutely sell and dispose of, for such sum as to the said Chancellor and Council may appear sufficient consideration, the whole or any part of any lands belonging to Her Majesty her heirs or successors in right of the said Duchy, or any right interest or easement in through over or on any such lands which for the purposes of this Act such Local Authority from time to time deem it expedient to purchase; and on payment of the purchase money, as provided by the "Duchy of Lancaster Lands Act, 1855," the said Chancellor and Council may grant and assure to the said Authority, under the seal of the said Duchy, in the name of Her Majesty her heirs or successors the subject of such contract or sale, and such money shall be dealt with as if such subject had been sold under the authority of the "Duchy of Lancaster Lands Act, 1855."

18 & 19 Vict. 58.

ARBITRATION (*a*).

Mode of reference to Arbitration.

179. In case of dispute as to the amount of any compensation to be made under the provisions of this Act (except where the mode of determining the same is specially provided for), and in case of any matter which by this Act is authorised or directed to be settled by Arbitration, then, unless both parties concur in the appointment of a single Arbitrator, each party shall appoint an Arbitrator to whom the matter shall be referred.

Regulations as to Arbitration.

180. With respect to Arbitrations under this Act (*b*), the following Regulations shall be observed (*c*); (that is to say,)

(1.) Every appointment of an Arbitrator under this Act when made on behalf of the Local Authority shall be under their common seal, and on behalf of any other party under his hand, or if such party be a Corporation Aggregate under their common seal:

(2.) Every such appointment shall be delivered to the Arbitrators, and shall be deemed a submission to Arbitration by the parties making the same:

(3.) After the making of any such appointment the same shall not be revoked without the consent of both parties, nor shall the death of either party operate as a revocation:

(4.) If for the space of 14 days after any matter by this Act authorised or directed to be settled by Arbitration has arisen, and notice in writing by one party who has duly appointed an Arbitrator has been given to the other party, stating the matter to be referred, and accompanied by a copy of such appointment, the party to whom notice is given fails to appoint an Arbitrator, the Arbitrator appointed by the party giving the notice shall be deemed to be appointed by and shall act on behalf of both parties (*d*):

(5.) If before the determination of any matter so referred any Arbitrator dies or refuses or becomes incapable to act, the party by whom such Arbitrator was appointed may appoint in writing another person in his stead; and if such party fails so to do for the space of 7 days after notice in writing from the other party in that behalf, the remaining Arbitrator may proceed *ex parte*; and every Arbitrator so appointed shall have the same powers and authorities as were vested in the Arbitrator in whose stead the appointment is made:

(6.) If a single Arbitrator dies or becomes incapable to act before the making of his award, or fails to make his award within 21 days after his appointment, or within such extended time, if any, as may have been duly appointed by him for that purpose, the matters referred to him shall be again referred to Arbitration under the provisions of this Act, as if no former reference had been made:

(7.) Where there is more than one Arbitrator, the Arbitrators shall, before they enter on the reference, appoint by writing under their hands an Umpire, and if the person appointed to be Umpire dies or becomes incapable to act, the Arbitrators shall forthwith appoint another person in his stead; and if the Arbitrators neglect or refuse to appoint an Umpire for 7 days after being requested so to do by any party to the Arbitration, the Local Government Board shall, on the application of any such party, appoint an Umpire (*e*):

(8.) If the Arbitrators fail to make their award within 21 days after the day on which the last of them was appointed, or within such extended time (if any) as may have been duly

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(*a*) See Part V., "Digest of Cases," (*post*); Titles, "Arbitration," "Compensation;" "Lands Clauses Act, 1845." But it need hardly be stated that not a tithe of the Cases relating to Arbitration as a branch of general law are dealt with in this volume. Text-books on Arbitration must be consulted by readers wishing to pursue the subject exhaustively.

(*b*) The "Lands Clauses Act, 1845," being incorporated by the "Public Health Act, 1875," therefore in a certain sense 2 methods of Arbitration procedure are brought into operation; yet it has been held that the earlier Act is to take precedence over the later one—contrary to the usual rule in such cases. (*Rayner, Ex parte.*)

(*c*) *Collins* v. *South Staffordshire Railway Co.*

(*d*) *Burgess* v. *Northwich L. B.*

(*e*) *Holdsworth* v. *Wilson; Hopper, In re; McBryde, Ex parte.*

appointed by them for that purpose, the matters referred shall be determined by the Umpire (*a*):

(9.) The time for making an award by Arbitrators under this Act shall not in any case be extended beyond the period of 2 months from the date of the submission, and the time for making an award by an Umpire under this Act shall not in any case be extended beyond the period of 2 months from the date of the reference of the matters to him:

(10.) Before any Arbitrator or Umpire enters on a reference under this Act he shall make and subscribe the following declaration before a Justice of the Peace; (that is to say,)

"I *A.B.* do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the Public Health Act, 1875.

"*A B.*"

(11.) Such declaration shall be annexed to the award when made; and any Arbitrator or Umpire who wilfully acts contrary to such declaration shall be guilty of a misdemeanour:

(12.) Any Arbitrator Arbitrators or Umpire appointed by virtue of this Act may require the production of such documents in the possession or power of either party as they or he may think necessary for determining the matters referred, and may examine the parties or their witnesses on oath:

(13.) The costs of and consequent upon the reference shall be in the discretion of the Arbitrator or Arbitrators, or (in case the matters referred are determined by an Umpire) of the Umpire (*b*):

(14.) Any submission to Arbitration under the provisions of this Act may be made a rule of any of the Superior Courts, on the application of any party thereto:

(15.) The award of Arbitrators or of an Umpire under this Act shall be final and binding on all parties to the reference.

Claims under 20*l.* may be referred to Court of Summary Jurisdiction.

181. All questions referable to Arbitration under this Act may, when the amount in dispute is less than 20*l.*, be determined at the option of either party before a Court of Summary Jurisdiction, but the Court may, if it thinks fit, require that any work in respect of which the claim of the Local Authority is made and the particulars of the claim be reported on to them by any competent Surveyor, not being the Surveyor of the Local Authority; and the Court may determine the amount of costs incurred in that behalf, and by whom such costs or any part of them shall be paid.

By-Laws (*c*).

Authentication and alteration of By-Laws.

182. All By-Laws made by a Local Authority under and for the purposes of this Act shall be under their common seal; and any such By-Law may be altered or repealed by a subsequent By-Law made pursuant to the provisions of this Act: Provided that no By-Law made under this Act by a Local Authority shall be of any effect if repugnant to the laws of England or to the provisions of this Act.

Power to impose penalties on breach of By-Laws.

183. Any Local Authority may, by any By-Laws made by them under this Act, impose on offenders against the same such reasonable penalties as they think fit, not exceeding the sum of 5*l.* for each offence, and in the case of a continuing offence a further penalty not exceeding 40*s.* for each day after written notice of the offence from the Local Authority; but all such By-Laws imposing any penalty shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty.

Nothing in the provisions of any Act incorporated herewith shall authorise the imposition or recovery under any By-Laws made in pursuance of such provisions of any greater penalty than the penalties in this Section specified.

Confirmation of By-Laws.

184. By-Laws made by a Local Authority under this Act (*d*) shall not take effect unless and until they have been submitted to and confirmed by the Local Government Board, which Board is hereby empowered to allow or disallow the same as it may think proper; nor shall any such By-Laws be confirmed—

Unless notice of intention to apply for confirmation of the same has been given in one or more of the local newspapers circulated within the District to which such By-Laws relate, one month at least before the making of such application; and

Unless for one month at least before any such application a copy of the proposed By-Laws has been kept at the office of the Local Authority, and has been open during office hours thereat to the inspection of the Ratepayers of the District to which such By-Laws relate, without fee or reward.

The Clerk of the Local Authority shall, on the application of any such Ratepayer, furnish him with a copy of such proposed By-Laws or any part thereof, on payment of 6*d.* for every 100 words contained in such copy.

A By-Law required to be confirmed by the Local Government Board shall not require confirmation allowance or approval by any other Authority.

By-Laws to be printed, &c.

185. All By-Laws made by a Local Authority under this Act, or for purposes the same as or similar to those of this Act under any Local Act, shall be printed and hung up in the office of such Authority; and a copy thereof shall be delivered to any Ratepayer of the District to which such By-Laws relate, on his application for the same; a copy of any By-Laws made by a Rural

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(*a*) *Ringland* v. *Lowndes.*

(*b*) *Holdsworth* v. *Wilson*; *Rayner, Ex parte.*

(*c*) See the Cases in Part V., "Digest of Cases," (*post*); Title, "By-Laws."

(*d*) *Reg.* v. *Rose.*

Authority shall also be transmitted to the Overseers of every Parish to which such By-Laws relate, to be deposited with the public documents of the Parish, and to be open to the inspection of any Ratepayer of the Parish at all reasonable hours.

Evidence of By-Laws.

186. A copy of any By-Laws made under this Act by a Local Authority (not being the Council of a Borough), (*a*) signed and certified by the Clerk of such Authority to be a true copy and to have been duly confirmed, shall be evidence until the contrary is proved in all legal proceedings of the due making confirmation and existence of such By-Laws without further or other proof.

By-Laws made under 5 & 6 Will. IV. **76.** 90, to be submitted to Local Government Board.

187. By-Laws made by the Council of any Borough under the provisions of § 90 of the Act of the 6th year of King William IV., chapter 76, for the prevention and suppression of certain nuisances, shall not be required to be sent to a Secretary of State, nor shall they be subject to the disallowance in that Section mentioned; but all the provisions of this Act relating to By-Laws shall apply to the By-Laws so made as if they were made under this Act.

As to Regulations of Local Authority.

188. The provisions of this Act relating to By-Laws shall not apply to any Regulations (*b*) which a Local Authority is by this Act authorised to make; nevertheless, any Local Authority may cause any Regulations made by them under this Act to be published in such manner as they see fit.

OFFICERS AND CONDUCT OF BUSINESS OF LOCAL AUTHORITIES.

Officers of Local Authorities (*c*).

Appointment of Officers of Urban Authority.

189. Every Urban Authority shall from time to time appoint fit and proper persons to be Medical Officer of Health, Surveyor, Inspector of Nuisances, Clerk, and Treasurer: Provided that if any such Authority is empowered by any other Act in force within their District to appoint any such Officer, this Enactment shall be deemed to be satisfied by the employment under this Act of the Officer so appointed, with such additional remuneration as they think fit, and no second appointment shall be made under this Act. Every Urban Authority shall also appoint or employ such Assistants Collectors and other Officers and Servants as may be necessary and proper for the efficient execution of this Act, and may make Regulations with respect to the duties and conduct of the Officers and Servants so appointed or employed.

Subject, in the case of Officers any portion of whose salary is paid out of moneys voted by Parliament, to the powers of the Local Government Board under this Act, the Urban Authority may pay to the Officers and Servants so appointed or employed such reasonable salaries wages or allowances as the Urban Authority may think proper; and, subject as aforesaid, every such Officer and Servant appointed under this Act shall be removable by the Urban Authority at their pleasure.

Appointment of Officers of Rural Authority.

190. Every Rural Authority shall from time to time appoint fit and proper persons to be Medical Officer or Officers of Health, and Inspector or Inspectors of Nuisances; they shall also appoint such Assistants and other Officers and Servants as may be necessary and proper for the efficient execution of this Act.

There may be awarded to the Clerk and Treasurer of the Guardians of any Union, in respect of the additional duties of such Officers under this Act, such remuneration as the Rural Authority may, with the approval of the Local Government Board, determine. If the Clerk of the Union is unable or unwilling to undertake such additional duties, the Assistant Clerk of the Union shall be appointed to discharge the same, with such remuneration as aforesaid.

As to Medical Officer of Health, &c.

191. A person shall not be appointed Medical Officer of Health under this Act unless he is a legally qualified medical practitioner (*d*); and the Local Government Board shall have the same powers as it has in the case of a District Medical Officer of a Union with regard to the qualification appointment duties salary and tenure of office of a Medical Officer of Health or other Officer of a Local Authority any portion of whose salary is paid out of moneys voted by Parliament, and may by Order prescribe the qualification and duties of other Medical Officers of Health appointed under this Act.

The same person may, with the sanction of the Local Government Board, be appointed Medical Officer of Health or Inspector of Nuisances for 2 or more Districts, by the Local Authorities of such Districts; and the Local Government Board shall by Order prescribe the mode of such appointment, and the proportions in which the expenses of such appointment and the salary and charges of such Officer shall be borne by such Authorities.

Any District Medical Officer of a Union may, with the sanction of the Local Government Board and subject to such conditions as the said Board may prescribe, be appointed a Medical Officer of Health; and a Medical Officer of Health may exercise any of the powers with which an Inspector of Nuisances is invested by this Act.

In case of illness or incapacity of the Medical Officer of Health a Local Authority may appoint and pay a Deputy Medical Officer, subject to the approval of the Local Government Board.

Offices tenable by same persons.

192. The same person may be both Surveyor and Inspector of Nuisances; but neither the person holding the office of Treasurer, nor his partner, nor any person in the service or employ of

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(*a*) See 36 & 37 Vict., **33.** (*ante*).

(*b*) "Regulations" are authorised by the following Sections of this Act:—10, 125, 143, 189, 200, 202.

(*c*) See Part V, "Digest of Cases," (*post*); Titles, "Appointment of Officer," "Clerk," "Salary," "Surveyor," "Treasurer;" also *Smith* v. *Hirst*.

(*d*) *I.e*, one registered under the "Medical Act, 1858," (21 & 22 Vict., **90**).

them or either of them, shall be eligible to hold or shall in any manner assist or officiate in the office of Clerk; and neither the person holding the office of Clerk, nor his partner, nor any person in the service or employ of them or either of them, shall be eligible to hold or shall in any manner assist or officiate in the office of Treasurer (*a*).

Any person offending against this enactment shall forfeit and pay the sum of 100*l.*, which may be recovered by any person, with full costs of suit, by Action of debt.

Officers not to contract with Local Authority.

193. Officers or servants appointed or employed under this Act by the Local Authority shall not in anywise be concerned or interested in any bargain or contract made with such Authority for any of the purposes of this Act.

If any such Officer or servant is so concerned or interested, or, under colour of his office or employment, exacts or accepts any fee or reward whatsoever other than his proper salary wages and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under this Act, and shall forfeit and pay the sum of 50*l.*, which may be recovered by any person, with full costs of suit, by Action of debt.

Officers intrusted with money to give security.

194. Before any Officer or servant of a Local Authority enters on any office or employment under this Act by reason whereof he will or may be intrusted with the custody or control of money, the Local Authority by whom he is appointed shall take from him sufficient security for the faithful execution of such office or employment, and for duly accounting for all moneys which may be intrusted to him by reason thereof.

Officers to account.

195. Every Officer and servant appointed or employed under this Act by a Local Authority shall, when and in such manner as may be required by such Authority, make out and deliver to them a true and perfect account in writing of all moneys received by him for the purposes of this Act, stating how, and to whom, and for what purpose such moneys have been disposed of, and shall, together with such account, deliver the vouchers or receipts for all payments made by him, and pay over to the Treasurer all moneys owing by him on the balance of accounts.

And every such Officer or servant employed in the collection of any Rate made under this Act shall, within 7 days after he has received any moneys on account of any such Rate, pay over the same to the Treasurer, and shall, as and when the Local Authority may direct, deliver a list signed by him and containing the names of all persons who have neglected or refused to pay any such Rate, and the sums respectively due from them.

Summary proceedings against defaulting Officers.

196. If any Officer or servant appointed or employed under this Act by a Local Authority—

Fails to render accounts, or to produce and deliver up vouchers and receipts, or to pay over any moneys, as and when required by this Act, or

Fails within 5 days after written notice in that behalf from the Local Authority to deliver up to the Local Authority all books papers writings property and things in his possession or power, relating to the execution of this Act, or belonging to such Authority,

the Local Authority may complain to any Justice, and such Justice shall thereupon summon the party charged to appear before a Court of Summary Jurisdiction (*b*).

On the appearance of the party charged, or on proof that the summons was personally served on him, or left at his last known place of abode or business, if it appears to the Court that he has failed to render any such accounts, or to pay over such moneys, or to produce and deliver up any such vouchers or receipts books papers writings property or things as aforesaid in accordance with the provisions of this Act, and that he still fails or refuses so to do, the Court may commit the offender to gaol, there to remain without bail until he has rendered such accounts, paid over such moneys, and produced and delivered up all such vouchers receipts books papers writings property and things in respect of which the charge was made: Provided that a person shall not be imprisoned under this Section for a period exceeding 6 months.

No proceeding under this Section shall be construed to relieve or discharge any surety of the offender from any liability whatever.

Mode of conducting Business.

Urban Authority to provide offices

197. Every Urban Authority shall from time to time provide and maintain such offices as may be necessary for transacting their business, and that of their Officers and servants under this Act.

Proceedings, &c. of Urban Authority being the Council of a Borough.

198. Where an Urban Authority are the Council of a Borough they shall, subject to the provisions of this Act, exercise and execute their powers authorities and duties under this Act according to the laws for the time being in force with respect to Municipal Corporations in England.

Meetings, &c. of Urban Authority not being the Council of a Borough.

199. Every Urban Authority (not being the Council of a Borough) shall hold an annual meeting, and other meetings for the transaction of business under this Act once at least in each month, and at such other times as may be necessary for properly executing their powers and duties under this Act.

Meetings of Local Boards shall be held and the proceedings thereat shall be conducted in accordance with the Rules as to meetings and proceedings contained in Schedule I. to this Act; and any Improvement Commissioners may, if they think fit, adopt all or any of such Rules.

Power of Urban Authority to appoint Committees.

200. (*c*) Every Urban Authority may from time to time appoint out of their own number so many persons as they may think fit, for any purposes of this Act which in the opinion of such Authority would be better regulated and managed by means of a Committee: Provided that a

(*a*) *Hawkings* v. *Newman.*

(*b*) *Mayer* v. *Harding*, (17 L. T., 140: 32 J. P., 421: Chambers, *Rating*, Case No. 139.)

(*c*) *Barnsley L. B.* v. *Sedgwick*; *Bush* v. *Martin*; *Cook* v. *Ward* (46 L.J., C.P., 554: L.R., 2 C.P.D., 255: 36 L.T., 893: 41 J. P., 439: Chambers, *Public Meetings*, Case No. 11.)

Committee so appointed shall in no case be authorised to borrow any money, to make any Rate, or to enter into any contract, and shall be subject to any Regulations and restrictions which may be imposed by the Authority that formed it.

Power of Rural Authority to delegate their powers and duties to a Committee.

201. A Rural Authority may, at any meeting specially convened for the purpose, delegate for the current year of their office all their powers to a Committee consisting wholly of their own members; provided that one-third at least of such Committee shall consist of *ex-officio* Guardians, but in case an adequate number of such *ex-officio* Guardians does not exist, then the number deficient shall be made up of elected Guardians; and any such Committee shall have the powers by this Act vested in the Rural Authority by which it was formed, and shall be deemed to be during such year of office as aforesaid the Rural Authority of the District.

Power of Rural Authority to form Parochial Committees.

202. A Rural Authority (including any Committee so formed as aforesaid) may, at any meeting specially convened for the purpose, form for any contributory place within their District a Parochial Committee consisting wholly of members of such Authority or Committee, or partly of such members and partly of such other persons liable to contribute to the Rate levied for the relief of the poor in such contributory place, and qualified in such other manner (if any) as the Authority forming such Parochial Committee may determine.

A Rural Authority (including any Committee so formed as aforesaid) may from time to time add to or diminish the number of the members, or otherwise alter the constitution of any Parochial Committee formed by it, or dissolve any Parochial Committee.

A Parochial Committee shall be subject to any Regulations and restrictions which may be imposed by the Authority which formed it: Provided that no jurisdiction shall be given to a Parochial Committee beyond the limits of the contributory place for which it is formed, and that no powers shall be delegated to a Parochial Committee except powers which the Rural Authority could exercise within such contributory place.

A Parochial Committee shall be deemed to be the agents of the Authority which formed it, and the appointment of such Committee shall not relieve that Authority from any obligation imposed on it by Act of Parliament or otherwise.

A Parochial Committee may be empowered by the Authority which formed it to incur expenses to an amount not exceeding such amount as may be prescribed by such Authority; it shall report its expenditure to such Authority as and when directed by such Authority, and the amount so reported, if legally incurred, shall be discharged by such Authority.

Casual vacancies in Committees may be filled.

203. Any casual vacancy occurring by death resignation disqualification, or otherwise in any Committee may be filled up within 6 weeks, by the Authority which formed such Committee, out of qualified persons.

Meetings and proceedings of Committees.

204. Meetings of any Committee appointed under this Act shall be held, and the proceedings thereat shall be conducted (so far as such meetings and proceedings are not regulated by the Authority appointing the Committee), in accordance with the rules as to meetings and proceedings contained in Schedule I. to this Act.

Inspectors may attend meetings of certain Authorities.

205. Inspectors of the Local Government Board may attend any meetings of a Rural Authority or of an Urban Authority (being a Local Board) when and as directed by the Local Government Board.

The Local Authority of the District of Oxford shall not, for the purposes of this Section, be deemed to be a Local Board.

Local Authority to report.

206. Every Local Authority shall make an annual report, in such form and at such time as the Local Government Board may from time to time direct, of all works executed, and of all sums received and disbursements made by them under and for the purposes of this Act during the preceding year, and shall send a copy to the Local Government Board: An Urban Authority shall also publish a copy in some local newspaper circulating in their District.

PART VI.

RATING AND BORROWING POWERS, &c.

Expenses of Urban Authority and Urban Rates.

Mode of defraying expenses of UrbanAuthority.

207. All expenses incurred or payable by an Urban Authority in the execution of this Act, and not otherwise provided for, shall be charged on and defrayed out of the District Fund and General District Rate leviable by them under this Act (*a*), subject to the following exceptions; (namely,)

That if in any District the expenses incurred by an Urban Authority (being the Council of a Borough) in the execution of the "Sanitary Acts" were at the time of the passing of this Act payable out of the Borough Fund or Borough Rate, then the expenses incurred by that Authority in the execution of this Act shall be charged on and defrayed out of the Borough Fund or Borough Rate (*b*); and

That if in any District the expenses incurred by an Urban Authority (being Improvement Commissioners) in the execution of the "Sanitary Acts" were at the time of the passing of this Act payable out of any Rate in the nature of a General District Rate leviable by them as such Commissioners throughout the whole of their District, then the expenses incurred by that Authority in the execution of this Act shall be charged on and defrayed out of such

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(*a*) *Burland* v. *Kingston-upon-Hull* (32 L. J., .B., 17: 3 B. & S., 271: 7 L. T., 316: Chambers, *Rating*, Case No. 2); *Reg.* v. *Rotherham L. B. H.*

(*b*) *Reg.* v. *Tamworth, Mayor.*

Rate; and for the purposes of this Section the Council of the Borough of Folkestone shall be deemed to be Improvement Commissioners; and

That where at the time of the passing of this Act the expenses incurred by an Urban Authority in the execution of certain purposes of the "Sanitary Acts" were payable out of the Borough Fund and Borough Rate, and the expenses incurred by such Authority in the execution of the other purposes of the said Acts were payable out of a Rate or Rates leviable by that Authority throughout the whole of their District for paving sewering or other sanitary purposes, then the expenses incurred by that Authority in the execution of the same or similar purposes respectively under this Act shall respectively be charged on and defrayed out of the Borough Fund and Borough Rate, and out of the Rate or Rates leviable as aforesaid.

Power in certain cases by Provisional Order to alter mode.

208. Where at the time of the passing of this Act the expenses incurred by an Urban Authority for sanitary purposes are payable otherwise than in the manner provided by the "Local Government Acts," the Local Government Board may, on the application of such Authority, or of any 10 persons rated to the relief of the poor within the District declare by Provisional Order that the expenses of such Authority incurred in the execution of this Act shall be defrayed out of a District Fund and General District Rate to be levied by them under this Act, subject to the provisions of this Act with respect to the mode of defraying in certain cases the expenses of the repair of highways.

General District Rate (*a*).

District fund account.

209. In the District of every Urban Authority whose expenses under this Act are directed to be defrayed out of the District Fund and General District Rate there shall be continued or established a fund called the District Fund: a separate account called "the District Fund Account" of all moneys carried under this Act to the account of that fund shall be kept by the Treasurer of the Urban Authority; and such moneys shall be applied by the Urban Authority in defraying such of the expenses chargeable thereon under this Act as they may think proper.

Making General District Rate.

210. For the purpose of defraying any expenses chargeable on the District Fund which that Fund is insufficient to meet, the Urban Authority shall from time to time, as occasion may require, make by writing under their common seal, and levy in addition to any other Rate leviable by them under this Act, a Rate or Rates to be called "General District Rates."

Any such Rate may be made and levied either prospectively in order to raise money for the payment of future charges and expenses, or retrospectively in order to raise money for the payment of charges and expenses incurred at any time within 6 months before the making of the Rate: in calculating the period of 6 months during which the Rate may be made retrospectively, the time during which any appeal or other proceeding relating to such Rate is pending shall be excluded.

Public notice of intention to make any such Rate, and of the time when it is intended to make the same, and of the place where a statement of the proposed Rate is deposited for inspection, shall be given by the Urban Authority in the week immediately before the day on which the Rate is intended to be made, and at least 7 days previously thereto; but in case of proceedings to levy or recover any Rate it shall not be necessary to prove that such notice was given.

Assessment, &c. of General District Rate.

211. With respect to the assessment and levying of General District Rates under this Act the following provisions shall have effect; (namely,)

(1.) General District Rates shall be made and levied on the Occupier of all kinds of property for the time being by law assessable to any Rate for the relief of the poor, and shall be assessed on the full nett annual value of such property, ascertained by the Valuation List for the time being in force, or, if there is none, by the Rate for the relief of the poor made next before the making of the assessment under this Act, subject to the following exceptions regulations and conditions; (namely,)

(*a.*) The Owner, instead of the Occupier, may at the option of the Urban Authority be rated in cases—

Where the rateable value of any premises liable to assessment under this Act does not exceed the sum of 10*l.*; or

Where any premises so liable are let to weekly or monthly tenants; or

Where any premises so liable are let in separate apartments, or where the rents become payable or are collected at any shorter period than quarterly:

Provided that in cases where the Owner is rated instead of the Occupier he shall be assessed on such reduced estimate as the Urban Authority deem reasonable of the nett annual value, not being less than two-thirds nor more than four-fifths of the nett annual value, and where such reduced estimate is in respect of tenements whether occupied or unoccupied, then such assessment may be made on one-half of the amount at which such tenements would be liable to be rated if the same were occupied and the Rate were levied on the Occupiers:

(*b.*) The Owner of any tithes, or of any tithe commutation rentcharge, or the Occupier of any land used as arable meadow or pasture ground only, or as woodlands market gardens or nursery grounds, and the Occupier of any land

(*a*) The Cases which might be cited under this and the following Sections are so numerous that, except in a few instances, a detailed reference to them here is quite out of the question. They will be found in my *Law relating to Rates and Rating*; Part II., "Digest of Cases."

covered with water, or used only as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall be assessed in respect of the same in the proportion of one-fourth part only of such nett annual value thereof:

(*c.*) If within any Urban District or part of such District any kind of property is exempted from rating by any Local Act in respect of all or any of the purposes for which General District Rates may be made under this Act, the same kind of property shall, in respect of the same purposes, and to the same extent within the parts to which the exemption applies (but not further or otherwise), be exempt from assessment to any General District Rates under this Act unless the Local Government Board by Provisional Order otherwise direct.

(2.) If at the time of making any General District Rate any premises in respect of which the Rate may be made are unoccupied, such premises shall be included in the Rate, but the Rate shall not be charged on any person in respect of the same while they continue to be unoccupied; and if any such premises are afterwards occupied during any part of the period for which the Rate was made and before the same has been fully paid, the name of the incoming tenant shall be inserted in the Rate, and thereupon so much of the Rate as at the commencement of his tenancy may be in proportion to the remainder of the said period shall be collected recovered and paid in the same manner in all respects as if the premises had been occupied at the time when the Rate was made:

(3.) If any Owner or Occupier assessed or liable to any such Rate ceases to be Owner or Occupier of the premises in respect whereof he is so assessed or liable, before the end of the period for which the Rate was made, and before the same is fully paid off, he shall be liable to pay only such part of the Rate as may be in proportion to the time during which he continues to be such Owner or Occupier; and in every such case if any person afterwards become Owner or Occupier of the premises during part of the said period, he shall pay such part of the Rate as may be in proportion to the time during which he continues to be such Owner or Occupier, and the same shall be recovered from him in the same manner as if he had been originally assessed or liable:

(4.) The Urban Authority may divide their District or any street therein into parts for all or any of the purposes of this Act, and from time to time abolish or alter any such divisions, and may make a separate assessment on any such part for all or any of the purposes for which the same is formed; and every such part, so far as relates to the purposes in respect of which such separate assessment is made, shall be exempt from any other assessment under this Act: Provided that if any expenses are incurred or to be incurred in respect of 2 or more parts in common the same shall be apportioned between them in a fair and equitable manner.

Inspection of Poor Rate books for purposes of assessment.

212. For the purpose of assessing General District Rates any person appointed by the Urban Authority may inspect take copies of or make extracts from, any Valuation List or Rate for the relief of the poor within the District, or any book relating to the same.

Any Officer having the custody of any such Rate or book who refuses to permit such inspection, or the taking of such copies or extract, shall be liable to a penalty not exceeding 5*l.*

Private Improvement Rate (*a*).

Power to make Private Improvement Rates.

213. Whenever an Urban Authority have incurred or become liable to any expenses which by this Act are or by such Authority may be declared to be private improvement expenses, such Authority may, if they think fit, make and levy on the Occupier of the premises in respect of which the expenses have been incurred, in addition to all other Rates, a Rate or Rates to be called Private Improvement Rates, of such amount as will be sufficient to discharge such expenses, together with interest thereon at a rate not exceeding 5*l.* per centum per annum, in such period not exceeding 30 years as the Urban Authority may in each case determine.

Provided that whenever any premises in respect of which any Private Improvement Rate is made become unoccupied before the expiration of the period for which the Rate was made, or before the same is fully paid off, such Rate shall become a charge on and be paid by the Owner for the time being of the premises so long as the same continue to be unoccupied.

Proportion of Private Improvement Rate may be deducted from rent.

214. (*b*) Where the Occupier by whom any Private Improvement Rate is paid holds the premises in respect of which the Rate is made at a rent not less than the rackrent, he shall be entitled to deduct three-fourths of the amount paid by him on account of such Rate from the rent payable by him to his landlord, and if he hold at a rent less than the rackrent he shall be entitled to deduct from the rent so payable by him such proportion of three-fourths of the Rate as his rent bears to the rackrent; and if the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made, and holds the same for a term of which less than 20 years is unexpired (but not otherwise), he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than 20 years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof.

Provided that nothing in this Section shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

Redemption of Private Improvement Rates.

215. At any time before the expiration of the period for which any Private Improvement Rate

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(*a*) *Eddleston* v. *Francis*; *Gould* v. *Bacup L.B.H.*; *Tottenham L.B.H.* v. *Rowell* (1880); *Wilson* v. *Bolton Mayor.*

(*b*) *Smith* v. *Humble.*

is made, the Owner or Occupier of the premises assessed thereto may redeem the same, by paying to the Urban Authority the expenses in respect of which the Rate was made, or such part thereof as may not have been defrayed by sums already levied in respect of the same:

Provided that money paid in redemption of any Private Improvement Rate shall not be applied by the Urban Authority otherwise than in defraying expenses incurred by them in works of private improvement or in discharging the principal of any moneys borrowed by them to meet those expenses, whether by means of a sinking fund or otherwise.

Highway Rate.

Cost of repairs of highways.

216. In any Urban District where the expenses under this Act of the Urban Authority are charged on and defrayed out of the District Fund and General District Rates, and no other mode of providing for repair of highways is directed by any Local Act, the cost of repair of highways shall be defrayed as follows; (that is to say,)

(1.) Where the whole of the District is rated for works of paving water supply and sewerage, or for works for such of these purposes as are provided for in the District, the cost of repair of highways shall be defrayed out of the General District Rate:

(2.) Where parts of the District are not rated for works of paving water supply and sewerage, or for such of these purposes as are provided for in the District, the cost of repair of highways in those parts shall be defrayed out of a Highway Rate to be separately assessed and levied in those parts by the Urban Authority as Surveyor of Highways, and the cost of such repair in the residue of the District shall be defrayed out of the General District Rate:

(3.) Where no public works of paving water supply and sewerage are established in the District, the cost of repair of highways in the District shall be defrayed out of a Highway Rate, to be levied throughout the whole District by the Urban Authority as Surveyor of Highways:

Provided that where part of a Parish is included within an Urban District, and the excluded part was, before the constitution of that District, liable to contribute to the Highway Rates for such Parish, such excluded part shall (unless in the case of an Urban District constituted before the passing of this Act a resolution deciding that such excluded part should be formed into a separate Highway District has been passed in pursuance of the Local Government Act 1858 Amendment Act 1861), or unless such excluded part has been included in a Highway District under the Highway Acts, for all purposes connected with the repairs of highways and the payment of Highway Rates, be considered to be and be treated as forming part of such District (*a*).

25 & 26 Vict. **61** [Repealed.]

Provided also, that in the case of an Urban District constituted after the passing of this Act a meeting of Owners and Ratepayers of the excluded part (to be convened and conducted in the manner provided by Schedule III. to this Act) may decide that such excluded part shall be a Highway Parish, and thereupon the excluded part shall for all purposes connected with highways, Surveyors of Highways, and Highway Rates, be considered and treated as a Parish maintaining its own highways; but the requisition for holding any such meeting shall be made within 6 months after the constitution of the Urban District.

The Court of Quarter Sessions may by Order direct that for any such excluded part a Waywarden or Waywardens shall be elected, and may invest any Waywarden elected in pursuance of any such Order with all or any of the powers of Waywardens under the "Highway Acts."

Certain acts not required to be done in case of Highway Rate made by Urban Authority.

217. It shall not be necessary for the Urban Authority in the case of any Highway Rate made by them, to do the following acts or any of them; (that is to say,)

To lay such Rate before any Justices, or obtain their allowance;

To annex thereto the signature of such Urban Authority;

To lay the same before the parishioners assembled in Vestry;

To verify before any Justices any accounts kept by them of such Highway Rates;

and all such accounts shall be audited in all respects in the same way as the other accounts of the Urban Authority.

General Provisions as to Urban Rates.

Estimate to be prepared before making Rates.

218. Every Urban Authority, before proceeding to make a General District Rate or Private Improvement Rate under this Act, shall cause an estimate to be prepared of the money required for the purposes in respect of which the Rate is to be made, showing—

The several sums required for each of such purposes; and

The rateable value of the property assessable; and

The amount of Rate which for those purposes it is necessary to make on each pound of such value;

and the estimate so made shall forthwith, after being approved of by the Urban Authority, be entered in the Rate-book, and be kept at their office, open to public inspection during office hours thereat; but it shall not be deemed part of the Rate, nor in any respect affect the validity of the same.

Rates to be open to inspection.

219. Any person interested in or assessed to any Rate made under this Act may inspect the same, and any estimate made previously thereto, and may take copies of or extracts therefrom without fee or reward; any person who, having the custody of any such estimate or Rate, refuses to allow or does not permit such inspection, or such copies or extracts to be taken, shall be liable to a penalty not exceeding 5*l*.

Description of Owner or Occupier in Rates.

220. Where the name of any Owner or Occupier liable to be rated under this Act is not known to the Urban Authority it shall be sufficient to assess and designate him in the Rate as "the

(*a*) *Reg.* v. *Nield*, (W.N., 1871, p. 121: Chambers, *Rating*, Case No. 544`.

Owner" or "the Occupier" of the premises in respect of which the assessment is made, without further description.

Rates may be amended.

221. An Urban Authority may from time to time amend any Rate made in pursuance of this Act, by inserting therein the name of any person claiming and entitled to have his name inserted, or by inserting the name of any person who ought to have been assessed, or by striking out the name of any person who ought not to have been assessed, or by raising or reducing the sum at which any person has been assessed, if it appears to the Urban Authority that he has been under-rated or over-rated, or by making any other alteration which will make the Rate conformable to the provisions of this Act; and no such amendment shall be held to avoid the Rate.

Provided, that any person who may feel himself aggrieved by any such amendment shall have the same right of appeal therefrom as he would have had if the matter of amendment had appeared on the Rate originally made, and with respect to him an amended Rate shall be considered to have been made at the time when he first received notice of the amendment; and an amended Rate shall not be payable by any person the amount of whose Rate is increased by the amendment, or whose name is thereby newly inserted, until 7 days after such notice has been given to him.

Publication and collection of Rates.

222. All Rates made or collected under this Act shall be published in the same manner as Poor Rates, and shall commence and be payable at such time or times, and shall be made in such manner and form, and be collected by such persons, and either together or separately, or with any other Rate or Tax, as the Urban Authority may from time to time appoint: Provided that no publication shall be required of any Private Improvement Rate.

Evidence of Rates.

223. The production of the books purporting to contain any Rate or Assessment made under this Act shall, without any other evidence whatever, be received as *primâ facie* evidence of the making and validity of the Rates mentioned therein.

Power to make deduction from Rate in certain cases.

224. Where it appears to an Urban Authority that any premises were sufficiently drained before the construction of any new sewer laid down by them, they may deduct from the amount of Rates otherwise chargeable in respect of such premises such a sum for such time as they may under all the circumstances of the case deem just.

Power to reduce or remit Rates.

225. An Urban Authority may reduce or remit the payment of any Rate on account of the poverty of any person liable to the payment thereof (*a*).

Saving for existing agreements.

226. Nothing n this part of this Act shall alter or affect any lease contract or agreement made or entered into between the Landlord and Tenant of any premises.

Limit in Local Act not to apply to Rate for purposes of this Act.

227. (*b*) Any limit imposed on or in respect of any Rate by any Local Act of Parliament shall not apply to any Rate required to be levied for the purpose of defraying any expenses incurred by an Urban Authority in the execution of this Act.

Quota of Rates to be paid by the Universities, &c.

228. Nothing in this Act shall be deemed to alter or interfere with any liability existing at the time of the passing of this Act of the Universities of Oxford and Cambridge respectively to contribute towards the expenses of paving and pitching repairing lighting and cleansing under the powers of any Local Act under which the Oxford and Cambridge Commissioners respectively act, the several streets and places within the jurisdiction of such Commissioners respectively.

If any difference arises between either of the said Universities and the Urban Authority with respect to the proportion and manner in which the University shall contribute towards any expenses under this Act, and to which the University is not liable under such Local Act, the same shall be settled by Arbitration in manner provided by this Act.

All Rates, contributions, and sums of money which may become payable under this Act by the said Universities respectively, and their respective Halls and Colleges, may be recovered from such Universities Halls and Colleges in the same manner in all respects as Rates contributions and sums of money may now be recovered from them by virtue of any such Local Act.

Expenses of Rural Authority.

Expenses of Rural Authority.

229. The expenses incurred by a Rural Authority in the execution of this Act shall be divided into general expenses and special expenses.

General expenses (other than those chargeable on Owners and Occupiers under this Act) shall be the expenses of the establishment and Officers of the Rural Authority, the expenses in relation to disinfection, the providing conveyance for infected persons, and all other expenses not determined by this Act or by Order of the Local Government Board to be special expenses.

Special expenses shall be the expenses of the construction maintenance and cleansing of sewers in any contributory place within the District, the providing a supply of water to any such place, and maintaining any necessary works for that purpose, if and so far as the expenses of such supply and works are not defrayed out of Water Rates or Rents under this Act, the charges and expenses arising out of or incidental to the possession of property transferred to the Rural Authority in trust for any contributory place, and all other expenses incurred or payable by the Rural Authority in or in respect of any contributory place within the District, and determined by Order of the Local Government Board to be special expenses.

Where the Rural Authority make any sewers or provide any water supply or execute any other work under this Act for the common benefit of any 2 or more contributory places within their District, they may apportion the expense of constructing any such work, and of maintaining the same, in such proportions as they think just, between such contributory places, and any expense so

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(*a*) *Mashiter* v. *Dunn* (18 L.J., C.P., 13: 6 C.B., 30: 12 L.T., (o.s.), 197: Chambers, *Rating*, Case No. 42).

(*b*) *Walton Commissioners* v. *Walford*, (44 L.J., Q.B., 74: L.R., 10 Q.B., 180: 31 L.T., 825: 39 J.P., 183: Chambers, *Rating*, Case No. 120).

apportioned to any such contributory place shall be deemed to be special expenses legally incurred in respect of such contributory place.

The Overseers of any contributory place, if aggrieved by any such apportionment, may, within 21 days after notice has been given to them of the apportionment, send or deliver a memorial to the Local Government Board stating their grounds of complaint, and the said Board may make such Order in the matter as to it may seem equitable, and the Order so made shall be binding and conclusive on all parties concerned.

General expenses shall be payable out of a common fund to be raised out of the Poor Rate of the Parishes in the District according to the rateable value of each contributory place in manner in this Act mentioned.

Special expenses shall be a separate charge on each contributory place.

The following areas situated in a Rural District shall be contributory places for the purposes of this Act; that is to say,

(1.) Every Parish not having any part of its area within the limits of a Special Drainage District formed in pursuance of the Sanitary Acts or of this Act, or of an Urban District; and

(2.) Every such Special Drainage District as aforesaid; and

(3.) In the case of a Parish wholly situated in a Rural District, and part of which forms or is part of any such Special Drainage District as aforesaid, such portion of that Parish as is not comprised within such Special Drainage District; and

(4.) In the case of a Parish a part of which is situated within an Urban District, such portion of that Parish as is not comprised within such Urban District, or within any such Special Drainage District as aforesaid.

Mode of raising contributions in Rural District.

230. For the purpose of obtaining payment from the several contributory places within their District of the sums to be contributed by them, the Rural Authority shall issue their precept to the Overseers of each such contributory place requiring such Overseers to pay, within a time limited by the precept, the amount specified in such precept to the Rural Authority or to some person appointed by them, care being taken to issue separate precepts in respect of contributions for general expenses and special expenses, or to make such expenses respectively separate items in any precept including both classes of expenses.

Where a contributory place is part of a Parish as defined by this Act, the Overseers of such Parish shall for the purposes of this Act be deemed to be the Overseers of such contributory place, and where any part of a contributory place is part of a Parish the Overseers of such Parish shall for the like purposes be deemed to be the Overseers of such part of such contributory place.

The Overseers shall comply with the requisitions of such precept by paying the contribution required in respect of general expenses out of the Poor Rate of their respective Parishes, and with respect to special expenses by raising the contribution required by the levy (in the case of an entire Parish on the whole of such Parish, and in the case of a contributory place or part of a contributory place forming part of a Parish, by the levy on such place, or such part thereof, exclusive of the rest of the Parish) of a separate Rate in the same manner as if it were a Rate for the relief of the poor, with this exception; (namely,)

That the Owner of any tithes, or of any tithe commutation rentcharge, or the Occupier of any land used as arable meadow or pasture ground only, or as woodlands market gardens or nursery grounds, and the Occupier of any land covered with water, or used as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall, where a Special Assessment is made for the purpose of such Rate, be assessed in respect of one-fourth part only of the rateable value thereof, or where no Special Assessment is made, shall pay in respect of the said property one-fourth part only of the rate in the pound payable in respect of houses and other property:

Provided that where the amount required by any precept or precepts from a contributory place in respect of special expenses is less than 10*l.*, or is so small that a Rate less than 1*d.* in the pound would be required to raise the same, the Overseer shall not assess and levy any special Rate for the same, but shall pay the amount as if it formed part of the contribution required from them in respect of general expenses.

A separate Rate under this Section shall, as respects the powers of the Overseers in relation to making assessing and levying such Rate, and as respects the appeal against such Rate, and all other incidents thereof except the purposes to which it is applicable, and such exemption as aforesaid, and except the allowance of Justices, which shall not be required, be subject to the same provisions as apply in law to a Rate levied for the relief of the poor; and the Overseers of a Parish shall have the same powers of levying such separate Rate in a contributory place or part of a contributory place forming part of their Parish, as they would have if such contributory place or such part thereof formed the whole of their Parish.

Where a contribution for general expenses is required from a contributory place or part of a contributory place which is part of a Parish, the Overseers shall from time to time levy such increase of Rate from the contributory place or such part thereof as may be sufficient to recoup the Parish for the sum it has paid on account of the contributory place or such part thereof in respect of general expenses under this Act, and carry the same to the general account of the Parish, and such increase of Rate shall be raised in such contributory place or part of a contributory place by an addition to the Poor Rate, or by a separate Rate to be assessed made allowed published collected and levied in the same manner as a Poor Rate. The Officers ordinarily employed in the collection of the Poor Rate shall, if required by the Overseers, collect any separate Rate made under this Section, and receive out of such separate Rate such remuneration for the additional duty as the Overseers with the consent of the Vestry may determine.

The Overseers shall at the expiration of their term of office pay any surplus in their hands arising from any separate Rate levied in pursuance of this Act, above the amount for which the

Rate was made, to the Rural Authority or to such person as they may appoint, to the credit of the contributory place within which or within part of which such Rate was made, and such surplus shall go in reduction of the next call that may be made on such contributory place or such part thereof for the purpose of defraying the expenses incurred by the Rural Authority.

Remedy for non-payment by Overseers of amount required by precept of Rural Authority.

231. If the amount required by any precept of a Rural Authority to be paid by the Overseers of any Parish is not paid in manner directed by such precept, and within the time therein specified for that purpose, the Rural Authority shall have the like remedy for recovery from the Overseers of such amount as is not paid as Guardians have for the time being for recovery from Overseers of contributions of Parishes, and for that purpose the precept of the Rural Authority requiring the payment shall be conclusive evidence of the amount thereof (*a*).

As to private improvement expenses.

232. Whenever a Rural Authority have incurred or become liable to any expenses which by this Act are, or by such Authority may be declared to be Private Improvement Expenses, such Authority may make and levy a Private Improvement Rate in the same manner as Private Improvement Rates may be made and levied by an Urban Authority; and all the provisions of this Act applicable to Private Improvement Rates leviable by an Urban Authority shall apply accordingly to any Private Improvement Rate leviable by a Rural Authority.

BORROWING POWERS (*b*).

Power to borrow on credit of Rates.

233. Any Local Authority may, with the sanction of the Local Government Board, for the purpose of defraying any costs charges and expenses incurred or to be incurred by them in the execution of the "Sanitary Acts" or of this Act, or for the purpose of discharging any loans contracted under the "Sanitary Acts" or this Act, borrow or re-borrow, and take up at interest, any sums of money necessary for defraying any such costs charges and expenses, or for discharging any such loans as aforesaid.

An Urban Authority may borrow or re-borrow any such sums on the credit of any fund or all or any Rates or Rate out of which they are authorised to defray expenses incurred by them in the execution of this Act, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund or Rates or Rate.

A Rural Authority may borrow or re-borrow any such sums, if applied or intended to be applied to general expenses of such Authority, on the credit of the common fund out of which such expenses are payable, and if applied or intended to be applied to special expenses of such Authority, on the credit of any Rate or Rates out of which such expenses are payable, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund Rate or Rates.

Regulations as to exercise of borrowing powers.

234. The exercise of the powers of borrowing conferred by this Act shall be subject to the following regulations; (namely,)

(1.) Money shall not be borrowed except for permanent works, (including under this expression any works of which the cost ought in the opinion of the Local Government Board to be spread over a term of years):

(2.) The sum borrowed shall not at any time exceed, with the balances of all the outstanding loans contracted by the Local Authority under the "Sanitary Acts" and this Act, in the whole the assessable value for 2 years of the premises assessable within the District in respect of which such money may be borrowed:

(3.) Where the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year of such premises, the Local Government Board shall not give their sanction to such loan until one of their Inspectors has held a Local Inquiry and reported to the said Board:

(4.) The money may be borrowed for such time, not exceeding 60 years, as the Local Authority, with the sanction of the Local Government Board, determine in each case; and, subject as aforesaid, the Local Authority shall either pay off the moneys so borrowed by equal annual instalments of principal or of principal and interest, or they shall in every year set apart as a sinking fund, and accumulate in the way of compound interest by investing the same in the purchase of Exchequer Bills or other Government Securities, such sum as will with accumulations in the way of compound interest be sufficient, after payment of all expenses, to pay off the moneys so borrowed within the period sanctioned:

(5.) A Local Authority may at any time apply the whole or any part of a sinking fund set apart under this Act in or towards the discharge of the moneys for the repayment of which the fund has been established: Provided that they pay into the fund in each year and accumulate until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied:

(6.) Where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not extend beyond the unexpired portion of the period for which the original loan was sanctioned, unless with the sanction of the Local Government Board, and shall in no case be extended beyond the period of 60 years from the date of the original loan.

Where any Urban Authority borrow any money for the purpose of defraying Private Improvement Expenses, or expenses in respect of which they have determined a part only of the District to

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(*a*) *Reg.* v. *Boteler.*

(*b*) See Part V., "Digest of Cases," (*post*); Title, "Borrowing." Also my *Law relating to Rates and Rating*; Part II., "Digest of Cases," Title, "Borrowing on Security of Rates."

be liable, it shall be the duty of such Authority, as between the Ratepayers of the District, to make good, so far as they can, the money so borrowed, as occasion requires, either out of Private Improvement Rates, or out of a Rate levied in such part of the district as aforesaid.

Power to borrow on credit of sewage land and plant.

235. Where any Local Authority are possessed of any land works or other property for the purposes of disposal of sewage pursuant to this Act, they may borrow any moneys on the credit of such lands works or other property, and may mortgage such lands works or other property to any person advancing such moneys, in the same manner in all respects as if they were the absolute Owner, both at Law and in Equity, of the lands works or other property so mortgaged. The moneys so borrowed shall be applied for purposes for which moneys may be borrowed under this Act; but it shall not be in any way incumbent on the mortgagees to see to the application of such moneys, nor shall they be responsible for any misapplication thereof.

The powers of borrowing conferred by this Section shall, where the sums borrowed do not exceed three-fourths of the purchase money of such lands (but not otherwise), be deemed to be distinct from and in addition to the general borrowing powers conferred on a Local Authority by this Act. Any Local Authority may pay out of any Rates leviable by them for purposes of this Act the interest on any moneys borrowed by such Authority in pursuance of this Section.

Form of mortgage.

236. Every mortgage authorised to be made under this Act shall be by deed, truly stating the date consideration and the time and place of payment, and shall be sealed with the Common Seal of the Local Authority, and may be made according to the form contained in Schedule IV. to this Act, or to the like effect.

Registers of Mortgages.

237. There shall be kept at the office of the Local Authority a Register of the Mortgages on each Rate, and within 14 days after the date of any mortgage an entry shall be made in the Register of the number and date thereof, and of the names and description of the parties thereto, as stated in the deed. Every such Register shall be open to public inspection during office hours at the said office, without fee or reward; and any clerk or other person having the custody of the same, refusing to allow such inspection, shall be liable to a penalty not exceeding 5*l*.

Transfer of Mortgages.

238. Any mortgagee or other person entitled to any mortgage under this Act may transfer his estate and interest therein to any other person by deed duly stamped, truly stating its date and the consideration for the transfer; and such transfers may be according to the form contained in Schedule IV. to this Act, or to the like effect.

There shall be kept at the office of the Local Authority a Register of the Transfers of Mortgage charged on each Rate, and within 30 days after the date of such deed of transfer, if executed within the United Kingdom, or within 30 days after its arrival in the United Kingdom, if executed elsewhere, the same shall be produced to the Clerk of the Local Authority, who shall, on payment of a sum not exceeding 5*s*., cause an entry to be made in such Register of its date, and of the names and description of the parties thereto, as stated in the transfer; and until such entry is made the Local Authority shall not be in any manner responsible to the transferee.

On the registration of any transfer the transferee his executors or administrators shall be entitled to the full benefit of the original mortgage and the principal and interest secured thereby; and any transferee may in like manner transfer his estate and interest in any such mortgage; and no person except the last transferee his executors or administrators shall be entitled to release or discharge any such mortgage or any money secured thereby.

If the Clerk of the Local Authority wilfully neglects or refuses to make in the Register any entry by this Section required to be made, he shall be liable to a penalty not exceeding 20*l*.

Receiver may be appointed in certain cases.

239. If at the expiration of 6 months from the time when any principal money or interest has become due on any mortgage of Rates made under this Act, and after demand in writing, the same is not paid, the mortgagee or other person entitled thereto may, without prejudice to any other mode of recovery, apply for the appointment of a Receiver to a Court of Summary Jurisdiction; and such Court may, after hearing the parties, appoint in writing under their hands and seals some person to collect and receive the whole or a competent part of the Rates liable to the payment of the principal or interest in respect of which the application is made, until such principal or interest, or both, as the case may be, together with the costs of the application and of collection, are fully paid.

On such appointment being made all such Rates, or such competent part thereof as aforesaid, shall be paid to the person appointed, and when so paid shall be so much money received by or to the use of the mortgagee or mortgagees of such Rates, and shall be rateably apportioned between them:

Provided that no such application shall be entertained unless the sum or sums due and owing to the applicant amount to 1000*l*., or unless a joint application is made by 2 or more mortgagees or other persons to whom there may be due, after such lapse of time and demand as last aforesaid, moneys collectively amounting to that sum.

Rentcharge may be granted in respect of advances made for private improvements.

240. Where any person has advanced money for any expenses which by this Act are, or by the Local Authority may be declared to be Private Improvement Expenses, the Local Authority, on being satisfied by the Report of their Surveyor or otherwise that the money advanced by such person has been duly expended, may issue a grant in the form in Schedule IV. to this Act to such person of the yearly rentcharge issuable out of the premises, in respect whereof such advance has been made, or out of such part thereof, to be specified in such grant, as the Local Authority may think proper and sufficient.

Such rentcharge shall be personal estate, and shall begin to accrue from the day of completion of the works on which the money advanced has been expended, and shall be payable by equal

half-yearly payments during a term not exceeding 30 years, in such manner that the whole of the sum advanced, with the costs of preparing the said grant, together with interest thereon respectively, at a Rate not exceeding 6*l.* per centum per annum on the sum from time to time remaining unpaid, shall be repaid at the end of the said term.

The provisions of this Act with respect to deduction from the rent of a proportion of Private Improvement Rates, and with respect to redemption of Private Improvement Rates, shall, *mutatis mutandis*, apply to rentcharges granted under this Section.

Rentcharges to be registered.

241. Rentcharges issued in pursuance of this Act, and transfers thereof, shall be registered in the same manner respectively as mortgages and transfers are required to be registered under the provisions of this Act.

Power of Public Works Loan Commissioners to lend to local authority.

242. (*a*) The Public Works Loan Commissioners may, if they see fit, on the application of any Local Authority, make any loan to such Authority for any of the purposes of this Act on the security of any Fund or Rate applicable to any of the purposes of this Act, without requiring any further or other security.

Power of Public Works Loan Commissioners to lend to local authority on recommendation of Local Government Board.

243. The Public Works Loan Commissioners may, on the application of any Local Authority and on the recommendation of the Local Government Board, make any loan to such Authority in pursuance of any powers of borrowing conferred by this Act, whether for works already executed or yet to be executed, on the security of any Fund or Rate applicable to any of the purposes of this Act, and without requiring any further or other security, such loan to be repaid within a period not exceeding 50 years, and to bear interest at the rate of 3½ per centum per annum, or such other rate as may, in the judgment of the Commissioners of the Treasury, be necessary, in order to enable the loan to be made without loss to the Exchequer:

Provided,—

(1.) That in determining the time when a loan under this Section shall be repayable, the Local Government Board shall have regard to the probable duration and continuing utility of the works in respect of which the same is required:

(2.) That this Section shall not extend to any loan required for the purpose of defraying expenses incurred by the Local Government Board in the performance of the duty of a defaulting Local Authority after the passing of the "Public Health Act, 1872." (*b*).

In the case of a loan made before the passing of the "Public Health Act, 1872," to any Local Authority in pursuance of any powers conferred by the "Sanitary Acts," the Public Works Loan Commissioners may reduce the interest payable thereon to the rate of not less than 3½ per centum per annum.

Borrowing powers of joint boards and certain other authorities.

244. Joint Boards and Port Sanitary Authorities under this Act, and the Local Board of Health of any Main Sewerage District and any Joint Sewerage Board constituted under any of the "Sanitary Acts" and existing at the time of the passing of this Act shall, for the purposes of their constitution, have like powers of borrowing on the credit of any Fund or Rate applicable by them to purposes of this Act or on the credit of sewage land and plant as are by this Act conferred on Local Authorities, and in the exercise of those powers shall be subject to the like restrictions; and the Public Works Loan Commissioners may make any Loan to any of the above-mentioned Authorities which they may make to a Local Authority under this Act.

Audit (*c*).

Audit of Accounts of Local Authorities.

Accounts of Local Authorities.

245. Accounts of the receipts and expenditure under this Act of every Local Authority shall be made up in such form and to such day in every year as the Local Government Board may appoint.

Audit where Urban Authority are a Town Council.

246. Where an Urban Authority are the Council of a Borough the accounts of the receipts and expenditure under this Act of such Authority shall be audited and examined by the Auditors of the Borough, and shall be published in like manner, and at the same time as the Municipal Accounts, and the Auditors shall proceed in the audit after like notice and in like manner, shall have like powers and authorities, and perform like duties, as in the case of auditing the Municipal Accounts.

Each of such Auditors shall in respect of each audit be paid such reasonable remuneration, not

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(*a*) Various Acts relating to the Public Works Loan Commissioners will be found elsewhere in this Part II. (see *post*).

(*b*) 35 & 36 Vict., **79**; (Repealed and principal provisions embodied in this Act).

(*c*) The following are the principal reported Audit Cases:—*Gibson* v. *Bell* (39 J.P., 421); *Pedder* v. *Preston, Mayor* (31 L.J., C.P., 291: 12 C.B., N.S., 535: 6 L.T., 540); *Prest* v. *Royston Union* (33 L.J., 564: 24 W.R., 174); *Prest, Ex parte* (37 J.P., 309); *Reg.* v. *Brecknock JJ.* (7 E. & B., 951, N.); *Reg.* v. *Calthrop* (4 B. & S., 216: [*Reg.* v. *Clothrop*] 11 W.R., 826); *Reg.* v. *Chiddingstone Inhabitants* (31 L.J., M.C., 121: 6 L.T., 44); *Reg.* v. *Denbighshire, JJ.* (33 L.T., O.S., 145); *Reg.* v. *Ewell Overseers* (9 W.R., 127); *Reg.* v. *Finnis* (28 L.J., M.C., 201: 1 E. & E., 935: 33 L.T., O.S., 146); *Reg.* v. *Fordham, Hertfordshire JJ.* (42 L.J., M.C., 153: L.R., 8 Q.B., 501: 38 J.P., 87); *Reg.* v. *G. W. R. Co.* (37 J.P., 389); *Reg.* v. *Knott* (15 L.T., 291: W.N., 1866, p. 368); *Reg.* v. *Linford* (7 E. & B., 950); *Reg.* v. *Master. Gloucestershire JJ.* (38 L. J., M. C., 73: L. R., 4 Q. B., 285: 10 B. & S., 42: [*Reg.* v. *Martin*] 19 L.T., 733); *Reg.* v. *Napton Overseers* (25 L.J., Q.B., 206: [*Reg.* v. *Hunt*] 6 E. & B., 408: [*Napton Overseers, Re*] 27 L.T., O.S., 124); *Reg.* v. *Street* (22 L.J., M.C., 29: 18 Q.B., 682: 19 L.T., O.S., 165); *Reg.* v. *Tyrwhitt* (2 E. & B., 77: 21 L.T., O.S., 112); *Rex* v. *Great Faringdon Guardians* (9 B. & C., 541); *Usher* v. *Woodman* (29 J.P., 27).

being less than 2 guineas for every day in which they are employed in such audit, as such Authority from time to time appoint. Any order of such Authority for the payment of any money may be removed by *Certiorari*, and like proceedings may be had thereon as under § 44 of the Act of the 1st year of Her Majesty, Chapter 78, with respect to Orders of the Council of a Borough for payments out of the Borough Fund.

Audit where Urban Authority are not a Town Council.

247. Where an Urban Authority are not the Council of a Borough the following regulations with respect to audit shall be observed; (namely,)

(1.) The accounts of the receipts and expenditure under this Act of such Authority shall be audited and examined once in every year, as soon as can be after the 25th day of March, by the auditor of accounts relating to the relief of the poor . . . . . (*a*)

(3.) Before each audit such Authority shall, after receiving from the Auditor the requisite appointment, give at least 14 days' notice of the time and place at which the same will be made, and of the deposit of accounts required by this Section, by advertisement in some one or more of the local newspapers circulated in the District; and the production of the newspaper containing such notice shall be deemed to be sufficient proof of such notice on any proceeding whatsoever:

(4.) A copy of the accounts duly made up and balanced, together with all Rate Books account books deeds contracts accounts vouchers and receipts mentioned or referred to in such accounts, shall be deposited in the office of such authority, and be open, during office hours thereat, to the inspection of all persons interested for 7 clear days before the audit, and all such persons shall be at liberty to take copies of or extracts from the same, without fee or reward; and any officer of such Authority duly appointed in that behalf neglecting to make up such accounts and books, or altering such accounts and books, or allowing them to be altered when so made up, or refusing to allow inspection thereof, shall be liable to a penalty not exceeding 5*l.*

(5.) For the purpose of any audit under this Act, every Auditor may, by summons in writing, require the production before him of all books deeds contracts accounts vouchers receipts and other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books deeds contracts accounts vouchers receipts documents or papers to appear before him at any such audit or any adjournment thereof, and to make and sign a declaration as to the correctness of the same; and if any such person neglects or refuses so to do, or to produce any such books deeds contracts accounts vouchers receipts documents or papers, or to make or sign (*b*) such declaration, he shall incur for every neglect or refusal a penalty not exceeding 40*s.*; and if he falsely or corruptly makes or signs any such declaration, knowing the same to be untrue in any material particular, he shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury:

(6.) Any Ratepayer or Owner of property in the District may be present at the audit, and may make any objection to such accounts before the Auditor; and such Ratepayers and Owners shall have the same right of appeal against allowances by an Auditor as they have by law against disallowances:

(7.) Any Auditor acting in pursuance of this Section shall disallow every item of account contrary to law, and surcharge the same on the person making or authorising (*c*) the making of the illegal payment, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person, and shall in every such case certify the amount due from such person, and on application by any party aggrieved shall state in writing the reasons for his decision in respect of such disallowance or surcharge, and also of any allowance which he may have made:

(8.) Any person aggrieved by disallowance made may apply to the Court of Queen's Bench for a writ of *Certiorari* to remove the disallowance into the said court, in the same manner and subject to the same conditions as are provided in the case of disallowances by auditors under the laws for the time being in force with regard to the relief of the poor; and the said Court shall have the same powers with respect to allowances disallowances and surcharges under this Act as it has with respect to disallowances or allowances by the said Auditors; or in lieu of such application any person so aggrieved may appeal to the Local Government Board, which Board shall have the same powers in the case of the appeal as it possesses in the case of appeals against allowances disallowances and surcharges by the said Poor Law Auditors:

(9.) Every sum certified to be due from any person by an Auditor under this Act shall be paid by such person to the Treasurer of such Authority within 14 days after the same has been so certified, unless there is an appeal against the decision; and if such sum is not so paid, and there is no such appeal, the Auditor shall recover the same from the person against whom the same has been certified to be due by the like process and with the like powers as in the case of sums certified on the audit of the Poor Rate Accounts, and shall be paid by such Authority all such costs and expenses, including a

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(*a*) Words omitted here repealed by the "District Auditors' Act, 1879," (42 Vict., **6**, Sched. II.), which Act has brought the audit business of all Sanitary Authorities which are not Municipal Corporations under the control of the Local Government Board. By § 5 of the Act in question that Board is empowered to issue Regulations respecting Audit. For a reference to the Poor Law Statutes which govern Audits conducted by Auditors of the Local Government Board, see Part I., "Digest of Statutes," Chap. V., Title, "Audit." (*Ante*).

(*b*) *The Queen* v. *Burrell.*

(*c*) See *A.-G.* v. *Tottenham L. B. H.* as to the effect of a member dissenting from an improper payment when proposed at a meeting.

reasonable compensation for loss of time incurred by him in such proceedings, as are not recovered by him from such person:

(10) Within 14 days after the completion of the Audit, the Auditor shall report on the accounts audited and examined, and shall deliver such report to the Clerk of such Authority, who shall cause the same to be deposited in their office, and shall publish an abstract of such accounts in some one or more of the local newspapers circulated in the District.

Where the provisions as to audit of any Local Act constituting a Board of Improvement Commissioners are repugnant to or inconsistent with those of this Act, the audit of the accounts of such Improvement Commissioners shall be conducted in all respects in accordance with the provisions of this Act.

Audit of accounts of Rural Authority.

248. The accounts under this Act of every Rural Authority shall be audited by the same persons and in every respect in the same manner as the accounts of Guardians are audited under the Acts for the relief of the poor for the time being in force.

The accounts of the Overseers collecting or paying any money for the purposes of this Act shall be audited in the same manner as the accounts of Overseers collecting or paying any money for the purposes of the Acts relating to the relief of the poor for the time being in force.

An Auditor shall, with respect to the accounts audited under this Section, have the like powers and be subject to the like obligations in every respect as in the case of an audit under the Acts relating to the relief of the poor, and any person aggrieved by the decision of the Auditor shall have the like rights and remedies as in the case of such last-mentioned audit.

Taxation of bill of solicitor or attorney.

249. On the application of any Local Authority whose accounts are required by this Act to be audited to the Clerk of the Peace of the County in which the District of such Authority is wholly or in part situated, the said Clerk or his Deputy shall tax any bill due to any Solicitor or Attorney in respect of legal business performed on behalf of such Authority; and the allowance of any sum on such taxation shall be *primâ facie* evidence of the reasonableness of the amount, but not of the legality of the charge.

The Clerk of the Peace shall be allowed for such taxation a remuneration after the Rate to be fixed by the master of the Crown Office, and declared by an Order of the Local Government Board (*a*).

If any such Bill is not taxed by the Clerk of the Peace or some other duly authorised taxing officer before being presented to the Auditors or Auditor, the decision of the Auditors or Auditor upon the reasonableness and the legality of the charge shall be final.

Auditor to audit accounts of officers.

250. The accounts under this Act of Officers or Assistants of any Local Authority who are required to receive moneys or goods on behalf of such Authority shall be audited by the Auditors or Auditor of the accounts of such Authority, with the same powers incidents and consequences as in the case of such last-mentioned accounts.

PART VII.

LEGAL PROCEEDINGS (*b*).

Prosecution of Offences and Recovery of Penalties, &c.

Summary proceedings for offences, penalties, &c.

251. All offences under this Act, and all penalties forfeitures costs and expenses under this Act directed to be recovered in a summary manner, or the recovery of which is not otherwise provided for, may be (*c*) prosecuted and recovered in manner directed by the Summary Jurisdiction Acts (*d*) before a Court of Summary Jurisdiction (*e*). The Court of Summary Jurisdiction, when hearing and determining an information or complaint under this Act, shall be constituted of 2 or more Justices of the Peace in Petty Sessions, sitting at a place appointed for holding Petty Sessions (*f*) or of some Magistrate or Officer for the time being empowered by law to do alone any act authorised to be done by more than one Justice of the Peace sitting at some Court or other place appointed for the administration of Justice.

General provisions as to summary proceedings.

252. Any complaint or information made or laid in pursuance of this Act shall be made or laid within 6 months from the time when the matter of such complaint or information respectively arose (*g*).

The description of any offence under this Act in the words of this Act shall be sufficient in law.

Any exception exemption proviso excuse or qualification whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information; and, if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant.

Restriction on recovery of penalties.

253. (*h*) Proceedings for the recovery of any penalty under this Act shall not, except as in this Act is expressly provided, be had or taken by any person other than by a party aggrieved, or by the Local Authority of the District in which the offence is committed, without the consent in writing of the Attorney-General: Provided that such consent shall not be required to proceedings which are by the provisions of this Act relating to nuisances or offensive trades authorised to be

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(*a*) See Part I., "Digest of Statutes," Chap. V., Title, "Audit." (*Ante*).

(*b*) See Part V., "Digest of Cases," (*post*); Title, "Legal Proceedings."

(*c*) *Blackburn, Mayor* v. *Parkinson: St. Pancras Vestry* v. *Batterbury.*

(*d*) *I. e.*, 11 & 12 Vict., **43**: 42 & 43 Vict., **49**.

(*e*) *Kerr* v. *Preston Corporation.*

(*f*) *Reg.* v. *Brodhurst*, decided under the Section of the "Public Health Act, 1848," with which this Section corresponds must now be read as varied by the "Summary Jurisdiction Act, 1879," 42 & 43 Vict., **49**, § 46.

(*g*) *Eddleston* v. *Francis; Reg.* v. *Leeds & Bradford Railway Co.*

(*h*) See Part V., "Digest of Cases," (*post*); Titles, "Aggrieved Party," "Election Business:" and p. 70, *ante*, foot-note (*a*).

taken by a Local Authority in respect of any act or default committed or taking place without their District, or in respect of any house building manufactory or place situated without their District.

Application of penalties.

254. Where the application of a penalty under this Act is not otherwise provided for, one-half thereof shall go to the informer, and the remainder to the Local Authority of the District in which the offence was committed: Provided, that if the Local Authority are the informer they shall be entitled to the whole of the penalty recovered; and all penalties or sums recovered by them on account of any penalty shall be paid over to their Treasurer, and shall by him be carried to the account of the fund applicable by such Authority to the general purposes of this Act (*a*).

Proceedings in certain cases against nuisances.

255. (*b*) Where any nuisance under this Act appears to be wholly or partially caused by the acts or defaults of 2 or more persons, it shall be lawful for the Local Authority or other complainant to institute proceedings against any one of such persons, or to include all or any 2 or more of such persons in one proceeding; and any one or more of such persons may be ordered to abate such nuisance, so far as the same appears to the Court having cognizance of the case to be caused by his or their acts or defaults, or may be prohibited from continuing any acts or defaults which, in the opinion of such Court, contribute to such nuisance, or may be fined or otherwise punished, notwithstanding that the acts or defaults of any one of such persons would not separately have caused a nuisance; and the costs may be distributed as to such Court may appear fair and reasonable.

Proceedings against several persons included in one complaint shall not abate by reason of the death of any among the persons so included, but all such proceedings may be carried on as if the deceased person had not been originally so included.

Whenever in any proceeding under the provisions of this Act relating to nuisances, whether written or otherwise, it becomes necessary to mention or refer to the Owner or Occupier of any premises, it shall be sufficient to designate him as the "Owner" or "Occupier" of such premises, without name or further description.

Nothing in this Section shall prevent persons proceeded against from recovering contribution in any case in which they would now be entitled to contribution by Law.

Summary proceedings for recovery of Rates.

256. (*c*) If any person assessed to any Rate made under this Act by any Urban Authority fails to pay the same when due and for the space of 14 days after the same has been lawfully demanded in writing, or if any person quits or is about to quit any premises without payment of any such Rate then due from him in respect of such premises, and refuses to pay the same after lawful demand thereof in writing, any Justice may summon the defaulter to appear before a Court of Summary Jurisdiction to show cause why the Rate in arrear should not be paid; and if the defaulter fails to appear, or if no sufficient cause for nonpayment is shown, the Court may make an Order for payment of the same, and, in default of compliance with such Order, may by Warrant cause the same to be levied by distress of the goods and chattels of the defaulter.

The costs of the levy of arrears of any Rate may be included in the Warrant for such levy.

Recovery of expenses by Local Authority fro Owners.

257. (*d*) Where any Local Authority have incurred expenses for the repayment whereof the Owner of the premises for or in respect of which the same are incurred is made liable under this Act or by any agreement with the Local Authority, such expenses may be recovered, together with interest at a rate not exceeding 5*l.* per centum per annum, from the date of service of a demand for the same till payment thereof, from any person who is the Owner of such premises when the works are completed for which such expenses have been incurred, and until recovery of such expenses and interest the same shall be a charge on the premises in respect of which they were incurred. In all summary proceedings by a Local Authority for the recovery of expenses incurred by them in works of private improvement, the time within which such proceedings may be taken shall be reckoned from the date of the service of notice of demand.

Where such expenses have been settled and apportioned by the Surveyor of the Local Authority as payable by such Owner, such apportionment shall be binding and conclusive on such owner, unless within 3 months from service of notice on him by the Local Authority or their Surveyor of the amount settled by the Surveyor to be due from such Owner, he shall by written notice dispute the same.

The Local Authority may, by Order, declare any such expenses to be payable by annual instalments within a period not exceeding 30 years, with interest at a rate not exceeding 5*l.* per centum per annum, until the whole amount is paid; and any such instalments and interest, or any part thereof, may be recovered in a summary manner from the Owner or Occupier for the time being of such premises, and may be deducted from the rent of such premises, in the same proportions as are allowed in the case of Private Improvement Rates under this Act.

Justices may act though members of Local Authority or liable to contribute.

258. (*e*) No Justice of the Peace shall be deemed incapable of acting in cases arising under this

(*a*) *Dyer* v. *Best.*

(*b*) *Brown* v. *Bussell*; *Francomb* v. *Freeman*; *Hendon Guardians* v. *Bowles*; *Home* v. *Kelso Local Authority*; *Reg.* v. *Trimble.*

(*c*) For cases connected with Legal Proceedings for the recovery of Rates, see my *Law relating to Rates and Rating*, Part II., "Digest of Cases," *passim.* See also *Ashworth* v. *Hebden Bridge L. B.* (*post*).

(*d*) See Part V., "Digest of Cases," (*post*); Titles, "Apportionment," "Paving Expenses;" also in particular *Bermondsey Vestry* v. *Ramsay*; *Lewi* v. *Cardiff Urban Authority*; *Reg.* v. *Swindon L. B.*; *Tottenham L. B. H.* v. *Rowell* (1880.)

(*e*) See Part V., "Digest of Cases," (*post*); Title, "Legal Proceedings, (7) Justices." The Cases there cited concerning Decisions by Justices who may be said to be interested are very contradictory, and it is not easy to say exactly what the present state of the Law is. Attention is directed especially to *Reg.* v. *Gibbon*; *Reg.* v. *Huntingdon, JJ.*; and *Reg.* v. *Weymouth, JJ.*, and also to *Reg.* v. *White* (alias *White* v. *Redfern*) reported on other points but not on this one.

Act by reason of his being a member of any Local Authority, or by reason of his being as one of several ratepayers, or as one of any other class of persons liable in common with the others to contribute to, or to be benefited by any Rate or fund, out of which any expenses incurred by such authority are under this Act to be defrayed.

Appearance of Local Authorities in Legal Proceedings.

259. Any Local Authority may appear before any Court, or in any legal proceeding by their Clerk, or by any officer or member authorised generally or in respect of any special proceeding by resolution of such Authority, and their Clerk, or any Officer or Member so authorised shall be at liberty to institute and carry on any proceeding which the Local Authority is authorised to institute and carry on under this Act.

Name of Local Authority need not be proved.

260. In any proceeding instituted by or against a Local Authority under this Act it shall not be necessary for the Plaintiff to prove the corporate name of the Local Authority or the Constitution or limits of their District: Provided that this Section shall not abridge or prejudice the right of any defendant to take or avail himself of any objection which he might have taken or availed himself of if this Act had not been passed.

Demands below 50*l.* may be recovered in County Courts.

261. (*a*) Proceedings for the recovery of demands below 50*l.*, which Local Authorities are empowered to recover in a summary manner, may, at the option of the Local Authority, be taken in the County Court as if such demands were debts within the cognisance of such courts.

Proceedings not to be quashed for want of form.

262. No Rate order conviction or thing made or done or relating to the execution of this Act shall be vacated, quashed, or set aside for want of form, or (unless otherwise expressly provided by this Act) be removed or removable by *Certiorari* or any other writ or process whatsoever into any of the Superior Courts (*b*): Provided that nothing in this Section shall prevent the removal of any Case stated for the opinion of a Superior Court, or of any Rate order conviction or thing to which such Special Case relates.

False evidence punishable as injury.

263. Any person who on any examination on oath, under any of the provisions of this Act, wilfully and corruptly gives false evidence shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury.

Notice of action against Local Authority, &c.

264. A writ or process shall not be sued out against or served on any Local Authority, or any member thereof, or any Officer of a Local Authority, or person acting in his aid, for anything done or intended to be done or omitted to be done under the provisions of this Act, until the expiration of one month after notice (*c*) in writing has been served on such Local Authority Member Officer or person, clearly stating the cause of Action, and the name and place of abode of the intended Plaintiff, and of his attorney or agent in the cause; and on the trial of any such Action the Plaintiff shall not be permitted to go into evidence of any cause of Action which is not stated in the notice so served; and unless such notice is proved the Jury shall find for the Defendant.

Every such Action shall be commenced within 6 months (*d*) next after the accruing of the cause of Action, and not afterwards, and shall be tried in the county or place where the cause of Action occurred, and not elsewhere. (*e*)

Any person to whom any such notice of Action is given as aforesaid may tender amends to the Plaintiff his attorney or agent, at any time within one month after service of such notice, and, in case the same be not accepted, may plead such tender in bar; and in case amends have not been tendered as aforesaid, or in case the amends tendered are insufficient, the Defendant may, by leave of the Court, at any time before trial, pay into Court under plea such sum of money as he may think proper; and if upon issue joined, or upon any plea pleaded for the whole Action, the Jury find generally for the Defendant, or if the Plaintiff be nonsuited or judgment be given for the Defendant, then the Defendant shall be entitled to full costs of suit, and have judgment accordingly.

Protection of Local Authority and their Officers from personal liability.

265. (*f*) No matter or thing done, and no contract entered into by any Local Authority or joint board or Port Sanitary Authority, and no matter or thing done by any member of any such Authority or by any officer of such authority or other person whomsoever acting under the direction of such Authority, shall, if the matter or thing were done or the contract were entered into *bonâ fide* for the purpose of executing this Act, subject them or any of them personally to any Action liability claim or demand whatsoever; and any expense incurred by any such Authority member officer or other person acting as last aforesaid shall be borne and repaid out of the fund or Rate applicable by such Authority to the general purposes of this Act.

Provided that nothing in this Section shall exempt any member of any such Authority from liability to be surcharged with the amount of any payment which may be disallowed by the Auditor in the accounts of such Authority, and which such member authorised or joined in authorising.

NOTICES. (*g*)

Notices, &c. may be printed or written.

266. Notices orders and other such documents under this Act may be in writing or print, or partly in writing and partly in print: and if the same require authentication by the Local Authority

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(*a*) *Tottenham L. B.* v. *Rowell* (1876); *West Ham L. B.* v. *Maddams.*

(*b*) But see *Reg.* v. *Dickenson*; *Reg.* v. *Rose*; *Broughton L. B. H., in re* (12 L. T., 310: 29 J.P., 324; Chambers, *Rating*, Case No. 538). *Elliot* v. *Thompson* (33 L.T., 339: 24 W.R., 56).

(*c*) See Part V., "Digest of Cases," (*post*); Title, "Notices," *passim*; and *Davies* v. *Swansea, Mayor*; *Judge* v. *Selmes* (40 L.J., Q.B., 287: L.R., 6 Q.B., 724: 24 L.T., 905; Chambers, *Rating*, Case No. 136): *Mason* v. *Birkenhead Improvement Commissioners*; *Smith* v. *West Derby L. B.*; *Stringer* v. *Barker*; *Williams* v. *Golding.*

(*d*) *A.-G.* v. *Hackney B. W.*; *Backhouse* v. *Bonomi*; *Baker* v. *Wisbeach, Mayor*; *Delany* v. *Metropolitan B. W.*; *Flower* v. *Leyton L. B.*; *Whitehouse* v. *Fellows.*

(*e*) Superseded by the "Judicature Act, 1875," (38 & 39 Vic., **77**, § 33), and Order 36, Rule 1.

(*f*) *Bailey* v. *Cuckson*; *Mill* v. *Hawker*; *Ward* v. *Lee.*

(*g*) See Part V., "Digest of Cases," (*post*); Title, "Notices"; *Peek* v. *Waterloo and Seaforth L. B. H.*

the signature thereof by the Clerk to the Local Authority or their Surveyor or Inspector of Nuisances shall be sufficient authentication.

Service of notices.

267. Notices orders and any other documents required or authorised to be served under this Act may be served by delivering the same to or at the residence of the person to whom they are respectively addressed, or where addressed to the Owner or Occupier of premises by delivering the same or a true copy thereof to some person on the premises, or if there is no person on the premises who can be so served by fixing the same on some conspicuous part of the premises; they may also be served by post by a prepaid letter, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the notice order or other document was properly addressed and put into the post.

Any notice by this Act required to be given to the Owner or Occupier of any premises may be addressed by the description of the "Owner" or "Occupier" of the premises (naming them) in respect of which the notice is given, without further name or description.

APPEAL. (*a*)

Appeal in certain cases to Local Government Board.

268. Where any person deems himself aggrieved by the decision of the Local Authority in any case in which the Local Authority are empowered to recover in a summary manner any expenses incurred by them, or to declare such expenses to be Private Improvement Expenses, he may, within 21 days after notice of such decision, address a memorial to the Local Government Board, stating the grounds of his complaint, and shall deliver a copy thereof to the Local Authority; the Local Government Board may make such Order in the matter as to the said Board may seem equitable, and the Order so made shall be binding and conclusive on all parties.

Any proceedings that may have been commenced for the recovery of such expenses by the Local Authority shall, on the delivery to them of such copy as aforesaid, be stayed; and the Local Government Board may, if it thinks fit, by its Order, direct the Local Authority to pay to the person so proceeded against such sum as the said Board may consider to be a just compensation for the loss damage or grievance thereby sustained by him.

Appeal to Quarter Sessions.

269. (*b*) Where any person deems himself aggrieved by any Rate made under the provisions of this Act, or by any order conviction judgment or determination of or by any matter or thing done by any Court of Summary Jurisdiction, such person may appeal therefrom, subject to the conditions and regulations following:

(1.) The appeal shall be made to the next Court of Quarter Sessions for the County Division or place in which the cause of appeal has arisen, holden not less than 21 days after the demand of the rate or the decision of the Court from which the appeal is made:

(2.) The Appellant shall, within 14 days after the cause of appeal has arisen, give notice to the other party and to the Authority or Court of Summary Jurisdiction by whose act he deems himself aggrieved, of his intention to appeal, and of the ground thereof (*c*):

(3.) The Appellant shall, immediately (*d*) after such notice, enter into a recognizance before a Justice of the Peace, with 2 sufficient sureties, conditioned personally to try such appeal, and to abide the judgment of the Court thereon, and to pay such costs as may be awarded by the Court, or give such other security by deposit of money or otherwise as the Justice may allow:

(4.) Where the Appellant is in custody the Justice may, on the Appellant entering into such recognisance or giving such other security as aforesaid, release him from custody:

(5.) On appeals under this Act against any Rate (*e*) the Court of Appeal shall have the same power to amend or quash any Rate or assessment, and to award costs between the parties to the appeal, as is or may by law be vested in any Court of Quarter Sessions with respect to amending or quashing any Rate or assessment, or awarding costs, on appeals with respect to Rates for the relief of the poor; and the costs awarded by the said Court under this Act may be recovered in the same manner in all respects as costs awarded on the last-mentioned appeals: Provided that, notwithstanding the quashing of any Rate appealed against, all moneys charged by such Rate shall, if the Court of Appeal think fit so to order, be levied as if no appeal had been made, and such moneys, when paid, shall be taken as payment on account of the next effective Rate for the purposes in respect of which the quashed Rate was made:

(6.) In the case of other appeals the Court of Appeal may if it thinks fit adjourn the appeal, and on the hearing thereof may confirm reverse or modify the decision of the Court of Summary Jurisdiction, or remit the matter to the Court of Summary Jurisdiction with the opinion of the Court of Appeal thereon, or make such other order in the matter as the Court thinks just. The Court of Appeal may also make such order as to costs to be paid by either party as the Court thinks just.

(7.) The decision of the Court of Appeal shall be binding on all parties: Provided that the Court of Appeal may, if such Court thinks fit, state the facts specially for the determination of a superior Court. (*f*)

(*a*) See Part V., "Digest of Cases," (*post*); Title, "Local Government Board, &c."; and *Bird, Ex parte.*

(*b*) The "Summary Jurisdiction Act, 1879," (42 & 43 Vict., **49**, § 19) has created a procedure on Appeals which differs in some degree from that here given, but recourse may, it seems, be had to either procedure.

(*c*) See Part V., "Digest of Cases," (*post*); Title, "Time, Computation of."

(*d*) *Reg.* v. *Berkshire, JJ.*, (48 L. J., M. C., 137: L. R. 4 Q.B.D., 469.)

(*e*) See my *Law relating to Rates and Rating*; Part II., "Digest of Cases;" Title, "Appeal against Rates."

(*f*) But a *Certiorari* is no longer required in order to bring before a Superior Court a case stated. (42 & 43 Vict., **49**, § 40).

PART VIII.

Alteration of Areas and Union of Districts.

Alteration of Areas.

Powers of Local Government Board in relation to alteration of areas.

270. The following enactments shall be made as to alteration of areas :

(1.) The Local Government Board, by Provisional Order, may dissolve any Local Government District, and may merge any such District in some other urban or rural District or Districts ; or it may by Provisional Order declare the whole or any portion of a Local Government or a rural District immediately adjoining a Local Government District to be included in such last-mentioned district ; or it may by Provisional Order declare any portion of a Local Government District immediately adjoining a rural District to be included in such rural District ; and thereupon the included area shall, for the purposes of this Act, be deemed to form part of the District in which it is included by such Order ; and the remaining part (if any) of the Local Government District or rural District affected by such Order shall continue subject to the like jurisdiction as it would have been subject to if such Order had not been made unless and until the Local Government Board by Provisional Order otherwise directs :

(2.) In the case of a Borough comprising within its area the whole of an Improvement Act District, or having an area coextensive with such District, the Local Government Board by Provisional Order may dissolve such District and transfer to the Council of the Borough all or any of the jurisdiction and powers of the Improvement Commissioners of such District remaining vested in them at the time of the passing of this Act :

(3.) The Local Government Board may by Order dissolve any special drainage District constituted either before or after the passing of this Act in which a loan for the execution of works has not been raised, and merge it in the Parish or Parishes in which it is situated, and the Local Government Board may by Provisional Order dissolve any such District in which a loan has been raised for the execution of works, and merge it in the Parish or Parishes in which it is situated.

Local Government Board may by provisional order constitute Local Government district.

271. The Local Government Board may, by Provisional Order, declare any rural District, or any portion of any rural District or Districts, to be a Local Government District ; and from and after the commencement of the Order, the District or portion of the District or Districts therein referred to shall become a Local Government District, and shall be subject to the jurisdiction of a Local Board, to be elected in manner provided by Schedule II. to this Act.

The Local Government Board may, by any Order constituting a Local Government District under this Section, divide such Districts into Wards for the election of Members of the Local Board.

Local Government Board may by order constitute Local Government district in pursuance of a resolution of Owners and Ratepayers.

272. (*a*) The owners and ratepayers of any place situated in any rural District or Districts, and having a known and defined boundary, may, by a resolution passed in manner provided by Schedule III. to this Act, declare that it is expedient that such place should be constituted a Local Government District ; and the Local Government Board may, if it thinks fit, by Order made not less than 6 weeks after the receipt of a copy of such resolution by the said Board, declare such place to be a Local Government District, and from and after the commencement of such Order, such place shall become a Local Government District, and be subjcct to the jurisdiction of a Local Board, to be elected in manner provided by Schedule II. to this Act.

A petition may be presented to the Local Government Board from any place so situated as aforesaid, and not having a known and defined boundary, to settle its boundary for the purposes of this Act ; the petition shall state the proposed boundaries of the place, shall be signed by one-tenth of the persons rated to the relief of the poor and resident within such boundaries, and shall be supported by such evidence as the Local Government Board may require. The Local Government Board may, after Local Inquiry as to the genuineness of the petition, and as to the propriety of the proposed boundaries, either dismiss the petition altogether or make order as to the boundaries of the place, and may also make order as to the costs of the proceedings in relation thereto, and the persons by whom such costs are to be borne.

Any place the boundaries of which have been settled in pursuance of the foregoing provisions shall thenceforth, for the purposes of this Act, be deemed to be a place with a known and defined boundary.

Objection to Resolution.

273. Where not less than one-twentieth of the owners and ratepayers of any place (such twentieth to be one-twentieth in number of the owners and ratepayers of the place taken together, or the owners and ratepayers in respect of one-twentieth of the rateable property in the place), in which a resolution has been passed declaring that it is expedient that such place should be constituted a Local Government District, are desirous that such District should not be constituted, or that any part of such place should be excluded therefrom, they may present a petition to the Local Government Board objecting to such resolution, and specifying the grounds of their objection.

Such petition shall be subscribed by the owners and ratepayers presenting the same, and shall be presented within 6 weeks from the date of the passing of the resolution objected to, and shall, where the exclusion of part of the place is prayed for, state the part of the place proposed to be excluded, accompanied with an explanatory plan.

The Local Government Board may after Local Inquiry make order with respect to the matter in question, and such order shall be binding on the place in respect of which it is made.

(*a*) See Part V., "Digest of Cases," (*post*) ; Title, "Adoption of the Public Health Act."

Appeal to Local Government Board in case of alleged invalidity of vote.

274. Any owner or ratepayer who disputes the validity of the vote for the adoption of the resolution may appeal, (*a*) within 6 weeks from the declaration of the decision of the meeting, to the Local Government Board, setting forth the grounds on which he disputes the validity of the vote; and the Local Government Board may, on such appeal, after Local Inquiry, make such Order as to the said Board seems fit as to the validity or invalidity of the vote, and any other questions arising on the appeal.

But no objection shall be made, at any trial or in any legal proceeding, to the validity of the vote for the adoption of the resolution, or to any Order made in pursuance thereof, (*b*) or to any proceedings on which such Order was founded, unless the objector gives 14 days' notice to the other parties interested in such trial or proceeding of his intention to make the same, specifying fully the nature of the objection to be made; and no objection whatever in respect of the matters mentioned in this Section shall be admissible at any trial or in any legal proceeding after the expiration of 6 months from the date of the constitution of the District.

General provisions as to orders.

275. Every Order made by the Local Government Board under this part of this Act shall specify a day on which such Order shall come into operation (in this Act referred to as the Commencement of the Order); and from and after the Commencement of the Order all the powers rights duties capacities liabilities obligations and property which under this Act are exerciseable by or attaching to or vested in the Local Authority having, under this Act, jurisdiction in any District or part of a District which is by such Order included in some other District, shall (so far as the same relate to the District or part of a District so included) pass to and vest in the Local Authority of such other District: Provided that in the case of the constitution of a new Local Government District, all the powers rights duties capacities liabilities obligations and property which under this Act are exerciseable by or attaching to or vested in any Local Authority or Authorities having, under this Act, jurisdiction in the area so constituted a Local Government District, shall continue to be exerciseable by attached to and vested in such Authority or Authorities, until the day of the first meeting of the Local Board for the District so constituted.

Any Order made in pursuance of this Part of this Act may, if necessary, provide for the settlement of any differences, or the adjustment of any accounts or apportionment of any liabilities arising between Districts Parishes or other places in consequence of the exercise of any powers conferred by this Part of this Act, and may direct the persons by whom and to whom any moneys found to be due are to be paid, and the mode of raising such moneys; and where any Local Government District is diminished or increased in extent under this Part of this Act, the Order shall prescribe the number of members to be elected for the District when altered.

The Local Government Board may include in the same Order provisions for the dissolution of one district, and for the inclusion of the whole or any part of such District in any other District or Districts.

Local Government Board may invest Rural Authority with powers of Urban Authority.

276. The Local Government Board may, on the application of the Authority of any Rural District, or of persons rated to the relief of the poor, the assessment of whose hereditaments amounts at the least to one-tenth of the net rateable value of such District, or of any contributory place therein, by Order to be published in the *London Gazette* or in such other manner as the Local Government Board may direct, declare any provisions of this Act in force in Urban Districts to be in force in such Rural District or contributory place, and may invest such Authority with all or any of the powers rights duties capacities liabilities and obligations of an Urban Authority under this Act, and such investment may be made either unconditionally or subject to any conditions to be specified by the Board as to the time, portion of the District, or manner during at and in which such powers rights duties liabilities capacities and obligations are to be exercised and attach: Provided that an Order of the Local Government Board made on the application of one-tenth of the persons rated to the relief of the poor in any contributory place shall not invest the Rural Authority with any new powers beyond the limits of such contributory place.

Power of Rural Authority to form special drainage Districts.

277. It shall be lawful for a Rural Authority, by resolution to be approved by the Local Government Board, but not otherwise, to constitute any portion of the area within their jurisdiction a special drainage district, for the purpose of charging thereon exclusively the expenses of works of sewerage, water supply, or of other works, which by this Act are or by Order of the Local Government Board may be declared to be special expenses, and thereupon such area shall become a separate contributory place.

Power to settle disputes as to boundaries of Districts.

278. On the application of any Urban Authority (being a Local Board or Improvement Commissioners), the Local Government Board may, by Order after Local Inquiry, settle any dispute as to the boundaries of the District of such authority; such Order shall be published in some local newspaper circulating in the district to which it relates, and from and after its commencement shall be conclusive on the question determined by it.

Union of Districts.

Formation of United District.

279. Where, on the application of the Local Authorities of any Urban or Rural Districts, or of any of such Authorities, it appears to the Local Government Board that it would be for the advantage of such Districts, or any of them, or any parts thereof, or of any contributory places in any rural District or Districts, to be formed into a United District for all or any of the purposes following; (that is to say,)

(1.) The procuring a common supply of water; or

(2.) The making a main sewer or carrying into effect a system of sewerage for the use of all such Districts or contributory places; or

(3.) For any other purposes of this Act;

(*a*) *Harrop* v. *Bayley.* (*b*) *Bird, Ex parte.*

the Local Government Board may by Provisional Order form such districts or contributory places into a United District.

All costs charges and expenses of and incidental to the formation of a United District shall, in the event of the United District being formed, be a first charge on the Rates leviable in the United District in pursuance of this Act.

Governing body of United District.

280. The governing body of a United District shall be a Joint Board consisting of such *ex-officio* members and of such number of elective members as the Local Government Board may by the Provisional Order forming the District determine.

A Joint Board shall be a body corporate by such name as may be determined by the Provisional Order, having a perpetual succession and a common seal, with power to hold lands for the purposes of its constitution, without any license in mortmain.

Contents of provisional order forming United District.

281. The Provisional Order forming a United District under this Act shall define the purposes for which such United District is formed, and the powers rights duties capacities liabilities and obligations under this Act which the Joint Board is authorised to exercise or perform, or is made subject to, and shall contain regulations as to the qualification and mode of election of elective members of the Joint Board, as to their continuance in Office, as to casual vacancies in the Joint Board, as to their Meetings and Officers, and any other matter or thing, including the adjustment of present and future liabilities and property with respect to which the Local Government Board may think fit to make any regulations for the better carrying into effect the provisions of this Act with respect to United Districts.

Upon the constitution of a Joint Board the Local Authorities having jurisdiction in the component Districts or contributory places shall cease to exercise therein any powers, or to perform any duties, or to be subject to any liabilities or obligations, which the Joint Board is authorised to exercise or perform or is made subject to; nevertheless, the Joint Board may delegate to the Local Authority of any component district the exercise of any of its powers or the performance of any of its duties.

Meetings and proceedings of Joint Boards.

282. Meetings of any Joint Board shall be held and the proceedings thereat shall be conducted (so far as such meetings and proceedings are not regulated by the Order forming the Joint Board) in accordance with the rules as to meetings and proceedings contained in Schedule I. to this Act.

Expenses of Joint Board.

283. Any expenses incurred by a Joint Board in pursuance of this Act, unless otherwise determined by the Provisional Order, shall be defrayed out of a common fund, to be contributed by the component Districts or contributory places in proportion to the rateable value of the property in each District or contributory place, such value to be ascertained according to the valuation list in force for the time being.

Payment of contributions to Joint Board.

284. For the purpose of obtaining payment from component Districts of the sums to be contributed by them, the Joint Board shall issue their precept to the Local Authority of each component District, stating the sum to be contributed by such Authority, and requiring such Authority, within a time limited by the precept, to pay the sums therein mentioned to the Joint Board, or to such person as the Joint Board may direct.

Any sum mentioned in a precept addressed by a Joint Board to a Local Authority as aforesaid shall be a debt due from that Authority, and may be recovered accordingly, such contribution in the case of a Rural Authority being deemed to be general expenses.

If any Local Authority makes default in complying with the precept addressed to it, the Joint Board may, instead of instituting proceedings for the recovery of a debt, or in addition to such proceedings as to any part of a debt which may for the time being be unpaid, proceed in a summary manner as in this Act mentioned to raise within the District of the defaulting authority such sum as may be sufficient to pay the sum due.

For the purpose of obtaining payment from contributory places of the sums to be contributed by them, the Joint Board shall have the same powers of issuing precepts and of recovering the amounts named therein as if such contributory places formed a Rural District, and the Joint Board were the Authority thereof.

Power to execute works in adjoining districts, and to combine for execution of works.

285. Any Local Authority may, with the consent of the Local Authority of any adjoining District, execute and do in such adjoining District all or any of such works and things as they may execute and do within their own District, and on such terms as to payment or otherwise as may be agreed on between them and the Local Authority of the adjoining District; moreover 2 or more Local Authorities may combine together for the purpose of executing and maintaining any works that may be for the benefit of their respective districts or any part thereof. All moneys which any Local Authority may agree to contribute for defraying expenses incurred under this Section shall be deemed to be expenses incurred by them in the execution of works within their district.

Districts may be united for appointing a Medical Officer of Health.

286. Where it appears to the Local Government Board, on any representation made to it, that the appointment of a Medical Officer of Health for 2 or more districts situated wholly or partially in the same county would diminish expense, or otherwise be for the advantage of such districts, the Local Government Board may by Order unite such districts for the purpose of appointing a Medical Officer of Health, and may make regulations as to the mode of his appointment and removal by representatives of the Authorities of the constituent districts, and as to the meetings from time to time of such representatives, and the proportion in which the expenses of the appointment and of the salary and expenses of such officer are to be borne by such Authorities, and as to any other matters (including the necessary expenses of such representatives) which, in the opinion of the said Board, require regulation for the purposes of this Section; and no other Medical Officer of Health shall be appointed for any constituent District, except as an assistant to the officer appointed for the united districts:

Provided that no urban District containing a population of 25,000 and upwards, or (in the case of a Borough) having a separate Court of Quarter Sessions, shall be included in any union of

Districts formed under this Section without the consent of the Local Authority of such District or Borough.

Not less than 28 days' notice that it is proposed to make an Order under this Section shall be given by the Local Government Board to the Local Authority of any District proposed to be included in the Union, and if within 21 days after such notice has been given to any such Authority they give notice to the Local Government Board that they object to the proposal, the Local Government Board may include their District in the Union by a Provisional Order but not otherwise.

There may be assigned by the Local Government Board to the District Medical Officer of any Union comprising or coincident with any constituent District such duties in rendering local assistance to the Medical Officer of Health appointed for the united districts as the said Board may think fit; and such District Medical Officer shall receive, in respect of any duties so assigned to him, such additional remuneration to be paid by the Local Authority or Authorities of the District or Districts within which his duties under this Section are performed as those Authorities may, with the approval of the Local Government Board, determine.

Port Sanitary Authority.

Constitution of Port Sanitary Authority.

287. The Local Government Board may, by Provisional Order, permanently constitute any Local Authority whose District or part of whose District forms part of or abuts on any part of a port in England, or the waters of such port, or any conservators commissioners or other persons having authority in or over such port or any part thereof (which Local Authority conservators commissioners or other persons are in this Act referred to as a "Riparian Authority,") the Sanitary Authority of the whole of such port or of any part thereof (in this Act referred to as the "Port Sanitary Authority").

The Local Government Board may also by Provisional Order permanently constitute a Port Sanitary Authority for the whole or any part of a port, by combining any 2 or more Riparian Authorities having jurisdiction within such port, or any part thereof, and may prescribe the mode of their joint action; or by forming a Joint Board consisting of representative members of any 2 or more Riparian Authorities, in the same manner as is by this Act provided with respect to the formation of a United District. Moreover, the Local Government Board may by Provisional Order permanently constitute a Port Sanitary Authority for any 2 or more ports, by forming a Joint Board consisting of representative members of all or any of the Riparian Authorities having jurisdiction within such ports, or any part thereof.

In any case in which the Local Government Board are by this Section authorised permanently to constitute by Provisional Order a Port Sanitary Authority, the said Board may, if it thinks fit, until such Order has been made and confirmed by Parliament, temporarily constitute by Order any such Authority, and may from time to time renew any such last-mentioned Order, and may by any Order so made or renewed make any such provisions as it is by this Section empowered to make by Provisional Order.

Any Order constituting a Port Sanitary Authority may assign to any such Authority any powers rights duties capacities liabilities and obligations under this Act, and direct the mode in which the expenses of such Authority are to be paid; and where such Order constitutes a Joint Board the Port Sanitary Authority, it may contain regulations with respect to any matters for which regulations may be made by a Provisional Order forming a United District under this Act.

A port shall mean a port as established for the purposes of the laws relating to the customs of the United Kingdom.

Jurisdiction of Port Sanitary Authority.

288. The Order of the Local Government Board constituting a Port Sanitary Authority shall be deemed to give such Authority jurisdiction over all waters within the limits of such port, and also over the whole or such portions of the District within the jurisdiction of any Riparian Authority as may be specified in the Order.

Delegation of Powers by Port Sanitary Authority.

289. A Port Sanitary Authority may, with the sanction of the Local Government Board, delegate to any Riparian Authority within or bordering on their District the exercise of any powers conferred on such Port Sanitary Authority by the Order of the Local Government Board, but, except in so far as such delegation may extend, no other Authority shall exercise any powers conferred on a Port Sanitary Authority by the Order of the Local Government Board within the District of such Port Sanitary Authority.

Expenses of Port Sanitary Authority.

290. Any expenses incurred by a Port Sanitary Authority constituted temporarily in carrying into effect any purposes of this Act shall be defrayed out of a common fund to be contributed by the Riparian Authorities in such proportions as the Local Government Board thinks just.

Such Port Sanitary Authority, if itself a Local Authority under this Act independently of its character of a Port Sanitary Authority, shall raise the proportion of expenses due in respect of its own District in the same manner as if such expenses had been incurred by it in the ordinary manner for the purposes of this Act.

For the purpose of obtaining payment from the contributory Riparian Authorities of the sums to be contributed by them, such Port Sanitary Authority shall issue their precept to each such Authority, requiring such Authority, within a time limited by the precept, to pay the amount therein mentioned to such Port Sanitary Authority, or to such person as such Port Sanitary Authority may direct.

Any contribution payable by a Riparian Authority to such Port Sanitary Authority shall be a debt due from them, and may be recovered accordingly, such contribution in the case of a Rural Authority being deemed general expenses of that Authority. If any Riparian Authority makes default in complying with the precept addressed to it by such Port Sanitary Authority, such Port Sanitary Authority may, instead of instituting proceedings for the recovery of the debt, or in addition to such proceedings, as to any part of the debt which may for the time being be unpaid,

proceed in the summary manner in this Act mentioned to raise within the District of the defaulting authority such sum as may be sufficient to pay the debt due.

Where several riparian authorities are combined in the District of one Port Sanitary Authority the Local Government Board may by Order declare that some one or more of such Authorities shall be exempt from contributing to the expenses incurred by such Authorities.

Provision as to Port of London.

291. The Mayor Aldermen and Commons of the City of London shall be the Port Sanitary Authority of the Port of London, and shall pay out of their corporate funds all their expenses as such Port Sanitary Authority.

Proceedings for raising a sum for payment of debt within District of a Defaulting Authority.

292. Where any Port Sanitary Authority Joint Board or other Authority are authorised, in pursuance of this Act, to proceed in a summary manner to raise within the District of a defaulting Authority such sum as may be sufficient to pay any debt due to them, the Authority so authorised for the purpose of raising such sum shall, within the District of the defaulting Authority, have, so far as relates to the raising such sum, the same powers as if they were the defaulting Authority, and as if such sum were expenses properly incurred by the defaulting Authority within the District of such Authority.

Where the defaulting Authority have power to raise any moneys due for their expenses by levy of a Rate from individual ratepayers, the Authority so authorised as aforesaid shall have power to levy such a Rate by any Officer appointed by them, and the Officer so appointed shall have the same powers, and the Rate shall be levied in the same manner and be subject to the same incidents in all respects as if it were being levied by the Officer of the defaulting Authority for the payment of the expenses of that Authority; and where the defaulting Authority have power to raise moneys due for their expenses by issuing precepts, or otherwise requiring payments from any other Authorities, the Authority so authorised as aforesaid shall have the same power as the defaulting Authority would have of issuing precepts, or otherwise requiring payment from such other Authorities.

Any precepts issued by the Authority so authorised as aforesaid for raising the sum due to them may be enforced in the same manner in all respects as if they had been issued by the defaulting Authority.

The Authority so authorised as aforesaid may, in making an estimate of the sum to be raised for the purpose of paying the debt due to them, add such sums as they think sufficient, not exceeding 10 per cent. on the debt due, and may defray thereout all costs charges and expenses (including compensation to any persons they may employ) to be incurred by such Authority by reason of the default of the defaulting Authority; and the Authority so authorised as aforesaid shall apply all moneys raised by them in payment of the debt due to them, and such costs charges and expenses as aforesaid, and shall render the balance, if any, remaining in their hands after such application to the defaulting Authority.

PART IX.

Local Government Board.

Inquiries by Board.

Power of Board to direct inquiries.

293. The Local Government Board may from time to time cause to be made such Inquiries as are directed by this Act, and such Inquiries as they see fit in relation to any matters concerning the public health in any place, or any matters with respect to which their sanction approval or consent is required by this Act.

Orders as to costs of inquiries.

294. The Local Government Board may make Orders as to the costs of Inquiries or proceedings instituted by, or of appeals to the said Board under this Act, and as to the parties by whom or the Rates out of which such costs shall be borne; and every such Order may be made a rule of one of the Superior Courts of Law on the application of any person named therein.

Orders of Board under this Act.

295. (*a*) All Orders made by the Local Government Board in pursuance of this Act shall be binding and conclusive in respect of the matters to which they refer, and shall be published in such manner as that Board may direct.

Powers of inspectors of Local Government Board.

10 & 11 Vict., 109, 21-2.

296. Inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the Board, have in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which Poor Law Inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts.

Provisional Orders by Board. (*b*)

As to provisional orders made by Local Government Board.

297. With respect to Provisional Orders authorised to be made by the Local Government Board under this Act, the following enactments shall be made:—

(1.) The Local Government Board shall not make any Provisional Order under this Act unless public notice of the purport of the proposed Order has been previously given by advertisement in 2 successive weeks in some local newspaper circulating in the District to which such Provisional Order relates:

(2.) Before making any such Provisional Order, the Local Government Board shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject matter is one to which a Local Inquiry is applicable, shall cause to be made a Local Inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections:

(*a*) *Bird, Ex parte.* (*b*) See Part V., "Digest of Cases," (*post*); Title, "Provisional Order."

(3.) The Local Government Board may submit to Parliament for confirmation any Provisional Order made by it in pursuance of this Act, but any such Order shall be of no force whatever unless and until it is confirmed by Parliament:

(4.) If while the Bill confirming any such Order is pending in either House of Parliament, a petition is presented against any Order comprised therein, the Bill, so far as it relates to such Order, may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of private bills:

(5.) Any Act confirming any Provisional Order made in pursuance of any of the "Sanitary Acts" or of this Act, and any Order in Council made in pursuance of any of the "Sanitary Acts," may be repealed altered or amended by any Provisional Order made by the Local Government Board and confirmed by Parliament:

(6.) The Local Government Board may revoke, either wholly or partially, any Provisional Order made by them before the same is confirmed by Parliament, but such revocation shall not be made whilst the Bill confirming the Order is pending in either House of Parliament:

(7.) The making of a Provisional Order shall be *primâ facie* evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making of such Provisional Order have been complied with:

(8.) Every Act confirming any such Provisional Order shall be deemed to be a public general Act.

Costs of provisional orders.

298. The reasonable costs of any Local Authority in respect of Provisional Orders made in pursuance of this Act, and of the Inquiry preliminary thereto, as sanctioned by the Local Government Board, whether in promoting or opposing the same, shall be deemed to be expenses properly incurred for purposes of this Act by the Local Authority interested in or affected by such Provisional Orders, and such costs shall be paid accordingly; and if thought expedient by the Local Government Board, the Local Authority may contract a loan for the purpose of defraying such costs.

Power of Board to enforce Performance of Duty by defaulting Local Authority.

Proceedings on complaint to Board of default of Local Authority.

299. Where complaint is made to the Local Government Board that a Local Authority has made default in providing their District with sufficient sewers, or in the maintenance of existing sewers, or in providing their District with a supply of water, (*a*) in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, (*b*) or that a Local Authority has made default in enforcing any provisions of this Act which it is their duty to enforce, the Local Government Board, if satisfied, after due inquiry, that the authority has been guilty of the alleged default, shall make an Order (*c*) limiting a time for the performance of their duty in the matter of such complaint. If such duty is not performed by the time limited in the Order, such Order may be enforced by writ of *Mandamus*, (*d*) or the Local Government Board may appoint some person to perform such duty, and shall by Order direct that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the Order, together with the costs of the proceedings, shall be paid by the Authority in default; and any Order made for the payment of such expenses and costs may be removed into the Court of Queen's Bench, and be enforced in the same manner as if the same were an Order of such Court.

Any person appointed under this Section to perform the duty of a defaulting Local Authority shall, in the performance and for the purposes of such duty, be invested with all the powers of such Authority other than (save as hereinafter provided) the powers of levying Rates; and the Local Government Board may from time to time by Order change any person so appointed.

Further provision for recovery of expenses.

300. Any sum specified in an Order of the Local Government Board for payment of the expenses of performing the duty of a defaulting Local Authority, together with the costs of the proceedings, shall be deemed to be expenses properly incurred by such Authority, and to be a debt due from such Authority, and payable out of any moneys in the hands of such Authority or of their Officers, or out of any Rate applicable to the payment of any expenses properly incurred by such Authority, which Rate is in this Part of the Act referred to as "the Local Rate." If the defaulting Authority refuses to pay any such sum, with costs, as aforesaid, for a period of 14 days after demand, the Local Government Board may by Order empower any person to levy, by and out of the Local Rate, such sum (the amount to be specified in the Order) as may, in the opinion of the Local Government Board, be sufficient to defray the debt so due from the Defaulting Authority, and all expenses incurred in consequence of the non-payment of such debt.

Any person or persons so empowered shall have the same powers of levying the Local Rate, and requiring all Officers of the defaulting Authority to pay over any moneys in their hands, as the defaulting Authority would have in the case of expenses legally payable out of a Local Rate to be raised by such Authority; and the said person or persons, after repaying all sums of money so due in respect of the Order, shall pay the surplus, if any (the amount to be ascertained by the Local Government Board), to or to the Order of the defaulting Authority.

Power of Board to borrow to defray expenses of performing duty of defaulting Authority.

301. The Local Government Board may from time to time certify the amount of expenses that have been incurred, or an estimate of the expenses about to be incurred, by any person appointed by the said Board under this Act to perform the duty of a defaulting Local Authority; also, the amount of any loan required to be raised for the purpose of defraying any expenses that

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(*a*) And see the "Public Health (Water) Act, 1878." (41 & 42 Vict., **25**, § 4, *ad fin.*)

(*b*) See 41 & 42 Vict., **25**, § 8.

(*c*) *Darlington Town Council* v. *Secretary of State*; *Reg.* v. *Cockerell*; *Reg.* v. *Local Government Board* (1878).

(*d*) *Reg.* v. *Lincoln Corporation.*

have been so incurred, or are estimated as about to be incurred; and the certificate of the said Board shall be conclusive as to all matters to which it relates.

Whenever the Local Government Board so certifies a loan to be required, the Public Works Loan Commissioners may advance to the Local Government Board, or to any person appointed as aforesaid, the amount of the loan so certified to be required on the security of the Local Rate, without requiring any other security; and the Local Government Board, or the person so appointed, may, by any instrument duly executed, charge the Local Rate with the repayment of the principal and interest due in respect of such loan, and every such charge shall have the same effect as if the defaulting Local Authority were empowered to raise such loan on the security of the Local Rate, and had duly executed an instrument charging the same on the Local Rate.

Recovery of principal and interest.

302. Any principal money or interest for the time being due in respect of any loan under this Act made for payment of the expenses incurred or to be incurred in the performance of the duty of a Defaulting Local Authority shall be taken to be a debt due from such Authority, and, in addition to any other remedies, may be recovered in the manner in which a debt due from a defaulting Authority may be recovered in pursuance of the provisions of this Part of this Act.

The surplus (if any) of any such loan, after payment of the expenses aforesaid shall, on the amount thereof being certified by the Local Government Board, be paid to or to the order of the defaulting Authority.

"Expenses," for the purposes of the provisions of this Part of this Act relating to Defaulting Local Authorities, shall include all sums payable under those provisions by or by the order of the Local Government Board, or the person appointed by that Board.

Powers of Board in relation to Local Acts, &c. (a).

Power to repeal and alter Local Acts.

303. The Local Government Board may, on the application of the Local Authority of any District, by Provisional Order, wholly or partially repeal alter or amend any Local Act, other than an Act for the conservancy of rivers, which is in force in any area comprising the whole or part of any such District, and not conferring powers or privileges on any persons or person for their or his own pecuniary benefit, which relates to the same subject matters as this Act.

Any such Provisional Order may provide for the extension of the provisions of the Local Act referred to therein beyond the District or Districts with the limits of such Act, or for the exclusion of the whole or a portion of any such District from the application of such Act; and may provide what Local Authority shall have jurisdiction for the purposes of this Act in any area which is by such order included in or excluded from such District.

Settlement of differences arising out of transfer of powers or property to Local Authority.

304. On the application of any Authority from whom or to whom any powers rights duties capacities liabilities obligations and property, or any of them, are at any time transferred or alleged or claimed to be transferred in pursuance of this Act, or any Provisional Order made thereunder, or on the application of any person affected by such transfer, the Local Government Board may by Order settle any doubt or difference, and adjust any accounts arising out of or incidental to such powers rights duties capacities liabilities obligations or property, or to the transfer thereof, and direct the parties by whom and to whom any moneys found to be due are to be paid, and the mode of raising such moneys; and any provisions contained in any order so made shall be deemed to have been made in pursuance of and to be within the powers conferred by this Section, subject to this proviso, that where any such Order directs any Rate to be made, or other act or thing to be done, which the party required to make or do would not, apart from the provisions of this Act, have been enabled to make or do by law, such Order shall be provisional only until it has been confirmed by Parliament.

Any settlement or adjustment under this Section may be included in any Provisional Order which gives rise to the same.

PART X.

Miscellaneous and Temporary Provisions.

Miscellaneous.

Entry on lands for purposes of Act.

305. (*b*) Whenever it becomes necessary for a Local Authority or any of their Officers to enter examine or lay open any lands or premises for the purpose of making plans surveying measuring taking levels making keeping in repair or examining works, ascertaining the course of sewers or drains, or ascertaining or fixing boundaries, and the Owner or Occupier of such lands or premises refuses to permit the same to be entered upon examined or laid open for the purposes aforesaid or any of them, the Local Authority may, after written notice to such Owner or Occupier, apply to a Court of Summary Jurisdiction for an Order authorising the Local Authority to enter examine and lay open the said lands and premises for the purposes aforesaid or any of them.

If no sufficient cause is shown against the application the Court may make an Order accordingly, and on such Order being made the Local Authority or any of their Officers may, at all reasonable times between the hours of 9 in the forenoon and 6 in the afternoon, enter examine or lay open the lands or premises mentioned in such Order, for such of the said purposes as are therein specified, without being subject to any Action or molestation for so doing: Provided that, except in case of emergency, no entry shall be made or works commenced under this Section unless at least 24 hours notice of the intended entry, and of the object thereof, be given to the Occupier of the premises intended to be entered.

(*a*) *Monmouth, Mayor* v. *Monmouth Churchwardens* (38 L. T., 612: Chambers, *Rating*, Case No. 549); *Reg.* v. *London & North Western Railway Co.*, (16 L. J., M. C., 102: [*L. N. W. R.* v. *Walsall*] 41 J. P., 141: Chambers, *Rating*, Case No. 18.)

(*b*) *Diss Urban Authority* v. *Aldrich*; *Lamacraft* v. *St. Thomas' Rural Sanitary Authority.*

Penalty on obstructing execution of Act.

306. (*a*) Any person who wilfully obstructs any member of the Local Authority, or any person duly employed in the execution of this Act, or who destroys pulls down injures or defaces any board on which any bye-law notice or other matter is inscribed, shall, if the same was put up by authority of the Local Government Board or of the Local Authority, be liable for every such offence to a penalty not exceeding 5*l.*

Where the Occupier of any premises prevents the Owner thereof from obeying or carrying into effect any provisions of this Act, any Justice to whom application is made in this behalf shall, by Order in writing, require such Occupier to permit the execution of any works required to be executed, provided that the same appear to such Justice to be necessary for the purpose of obeying or carrying into effect the provisions of this Act; and if within 24 hours after the making of the Order such Occupier fails to comply therewith, he shall be liable to a penalty not exceeding 5*l.* for every day during the continuance of non-compliance.

If the Occupier of any premises, when requested by or on behalf of the Local Authority to state the name of the Owner of the premises occupied by him, refuses or wilfully omits to disclose or wilfully mis-states the same, he shall (unless he shows cause to the satisfaction of the Court for his refusal) be liable to a penalty not exceeding 5*l.*

Penalty on damaging works, &c., of Local Authority.

307. Any person who wilfully damages any works or property belonging to any Local Authority shall, in cases where no other penalty is provided by this Act, be liable to a penalty not exceeding 5*l.* (*b.*)

Compensation in case of damage by Local Authority.

308. (*c*) Where any person sustains any damage by reason of the exercise of any of the powers of this Act, in relation to any matter as to which he is not himself in default, full compensation shall be made to such person by the Local Authority exercising such powers; and any dispute as to the fact of damage or amount of compensation shall be settled by arbitration in manner provided by this Act, or if the compensation claimed does not exceed the sum of 20*l.*, the same may at the option of either party be ascertained by and recovered before a Court of Summary Jurisdiction.

Compensation in certain cases to officers.

309. If any officer of any trustees commissioners or other body of persons intrusted with the execution of any Local Act, whether acting exclusively under the Local Act, or partly under the Local Act and partly under the "Local Government Acts," or any officer of any Sanitary Authority under the "Sanitary Acts" by this Act repealed, or of any Local Authority under this Act, is, by or in pursuance of the "Public Health Act, 1872," or of this Act, or of any Provisional Order made in pursuance of either of those Acts, removed from his office, or deprived of the whole or part of the emoluments (*d*) of his office, and does not afterwards receive remuneration to an equal amount in respect of some office or employment under or by the Authority of any District under this Act, the Local Government Board may by Order award to such officer such compensation as the said Board may think just; and such compensation may be by way of annuity or otherwise, and shall be paid by the Local Authority of the District in which such officer held his office out of any Rates applicable to the general purposes of this Act within that District.

Provision where Improvement Act District or Local Government District becomes a Borough.

310. Where after the passing of this Act a District or part of a District under the jurisdiction of Improvement Commissioners, or a District or part of a District under the jurisdiction of a Local Board, is constituted or included in a Borough, all the powers rights duties capacities liabilities obligations and property exerciseable by attaching to or vested in such Improvement Commissioners or Local Board (as the case may be) under this Act, or under any Local Act for purposes the same as or similar to those of this Act, or under any general Act of Parliament, within or for the benefit of such District or part of a District, shall pass to and be exerciseable by and vested in the Council of such Borough.

The transfer by virtue of the "Public Health Act, 1872," of the powers rights duties capacities liabilities obligations and property of any Local Board or Improvement Commissioners to an Urban Sanitary Authority, shall be deemed to have included all powers rights duties capacities liabilities obligations and property exerciseable by attaching to or vested in such Local Board or Improvement Commissioners as a Burial Board under any general Act of Parliament.

Power of Local Boards to change name.

311. Any Local Board constituted either before or after the passing of this Act may, with the sanction of the Local Government Board, change their name. Every such change of name shall be published in such manner as the Local Government Board may direct. No such change of name shall affect any rights or obligations of the Local Board, or render defective any legal proceedings instituted by or against the Local Board; and any legal proceedings may be continued or commenced against the Local Board by their new name which might have been continued or commenced against the Local Board by their former name.

As to election of certain Improvement Commissioners, &c.

312. The retirement and mode of election of members of any Authority invested by any Local Act with powers of town government and rating, whose retirement and mode of election were at the time of the passing of this Act regulated by the "Local Government Acts," shall be regulated in all respects by the rules for election of Local Boards contained in Schedule II. to this Act; but this enactment shall not affect the qualification fixed for members of such Authority by the Local Act under which such Authority are constituted, or the qualification and tenure of office of any ex officio members of such Authority.

Substitution in

313. Where in any Act, or Order made by one of Her Majesty's Principal Secretaries of State

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(*a*) *Reg.* v. *Pollard* (1866).

(*b*) See 24 & 25 Vict., **97**, § 52: 42 & 43 Vict., **49**, § 5.

(*c*) See Part V., "Digest of Cases," (*post*); Title, "Compensation"; also *Brine* v. *Great Western Railway Co.* *Coe* v. *Wise*; *Clothier* v. *Webster*; *Geddis* v. *Bann Reservoirs Proprietors*; *Mersey Dock and Harbour Board* v. *Gibbs*: and Cases under the title "Liability for Accidents."

(*d*) *Reg.* v. *Norwich, Mayor*; *Reg.* v. *Poor Law Board*; *Reg.* v. *Postmaster General.*

other Acts of provisions of this Act for provisions of repealed Acts.

or by the Local Government Board and in force at the time of the passing of this Act, or in any document, any provisions of any of the "Sanitary Acts" which are repealed by this Act are mentioned or referred to, such Act Order or Document shall be read as if the provisions of this Act applicable to purposes the same as or similar to those of the repealed provisions were therein mentioned or referred to instead of such repealed provisions and were substituted for the same; nevertheless those substituted provisions shall have effect subject to any modification or restriction in such Act Order or Document expressed in relation to the repealed provisions therein mentioned or referred to.

By-laws as to hop-pickers.

314. Any Local Authority may, if they think fit, make By-Laws for securing the decent lodging and accommodation of persons engaged in hop-picking within the district of such Authority.

As to by-laws inconsistent with this Act.

315. Any By-Law made by any Sanitary Authority under the "Sanitary Acts" which is inconsistent with any of the provisions of this Act shall so far as it is inconsistent therewith be deemed to be repealed.

As to construction of incorporated Acts.

316. In the construction of the provisions of any Act incorporated with this Act the term "the Special Act" includes this Act, and, in the case of the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, any Order confirmed by Parliament and authorising the purchase of lands otherwise than by agreement under this Act; the term "the limits of the special Act" means the limits of the District; and the Urban or Rural Authority shall be deemed to be "the promoters of the undertaking," "the commissioners," or "the undertakers," as the case may be.

All penalties incurred under the provisions of any Act incorporated with this Act shall be recovered and applied in the same way as penalties incurred under this Act.

Construction of schedules.

317. The Schedules to this Act shall be read and have effect as part of this Act.

The Forms contained in Schedule IV. to this Act, or Forms to the like effect, varied as circumstances may require, may be used and shall be sufficient for all purposes.

Temporary Provisions.

As to Clerk and Treasurer of certain authorities.

318. Nothing in this Act shall affect the rights or position of any clerk or treasurer the tenure of whose office is regulated by § 12 of the "Public Health Act, 1872."

As to special District rates.

319. Nothing in this Act shall affect the making and levying of any special district Rates, or the discharge of sums borrowed on the credit of any special district Rates, or any right or remedy for the recovery of the same, under any provision of the "Local Government Acts" in force at the time of the passing of this Act.

Division of expenses between Landlord and Tenant in certain cases.

320. Where under the provisions of any Local Act in that behalf any expenses directed by this Act to be paid in the case of a Council of a Borough out of the Borough Fund or Borough Rate were, before the passing of the "Public Health Act, 1872," divided between landlord and tenant in moieties or otherwise, the Local Government Board may, on the application either of landlord or tenant, by Order make provision for the continuance of such division of expenses during the continuance of any contract existing between them at the passing of the last-mentioned Act.

Validity of certain securities.

321. Where by any sanction to a loan given or by any Provisional Order made under the "Sanitary Acts," it is directed that the sums borrowed shall be repaid within a limited period of years from the date of the borrowing thereof, any security which has been given for a sum so borrowed shall not be invalid by reason of the sum having been made repayable within a period less than the period so limited.

As to certain turnpike Trustees.

322. Where by any Local Act powers are conferred on any turnpike Trustees for any purposes the same as or similar to any of the purposes of the "Sanitary Acts" or of this Act, such trustees shall not be deemed to be an Urban Authority under this Act, but all their powers and obligations under such Local Act for such purposes shall be transferred to the Local Authority within whose District the area to which such Local Act applies is contained.

As to Main Sewerage Districts and Joint Sewerage Boards.

11 & 12 Vict., 63; 30 & 31 Vict., 113.

323. Where any District has been constituted in pursuance of the provisions of the "Public Health Act, 1848," for the purposes of main sewerage only, or where a District has been formed subject to the jurisdiction of a Joint Sewerage Board in pursuance of the "Sewage Utilisation Act, 1867," the Local Government Board may by Provisional Order dissolve such District, or may constitute such District a united District subject to the jurisdiction of a Joint Board in manner provided by this Act, without application previous to the making of any such Order; and until an Order has been made by the Local Government Board under this Section, the Authority of any such District shall continue to be the Authority thereof and their members shall be elected as if this Act had not passed: Provided that the provisions of this Act applicable to purposes the same as or similar to those of any enactments of the "Sanitary Acts" which are in force within the District of any such Authority at the time of the passing of this Act and are repealed by this Act shall be deemed to be substituted for those enactments.

Any Order made under this Section may if necessary provide for the settlement of any differences or the adjustment of any accounts or the apportionment of any liabilities arising between Districts Parishes or other places in consequence of the exercise of any of the powers conferred by this Section, and may direct the persons by and to whom any moneys found to be due are to be paid and the mode of raising such moneys.

As to audit of certain accounts.

324. The accounts of any Urban or Rural Sanitary Authority under the "Sanitary Acts" by this Act repealed, not audited at the time of the passing of this Act, shall be deemed for the purposes of audit to be accounts of such Authority under this Act.

As to certain orders under 35 & 36 Vict. 79, 20.

325. The power conferred by § 20 of "The Public Health Act, 1872," of temporarily constituting a Port Sanitary Authority shall be deemed to have authorised a renewal from time to time of any order made under that section.

PART XI.

Saving Clauses and Repeal of Acts.

Saving Clauses.

Provisions of the Sanitary authorities existing at the passing of this Act and their officers, &c.

326. All Urban Sanitary Authorities and Rural Sanitary Authorities existing at the time of the passing of this Act shall be deemed to be Urban Authorities and Rural Authorities under this Act; and all Joint Boards, Port Sanitary Authorities, Committees of Rural Sanitary Authorities, and Parochial Committees, and all Local Government Districts constituted in pursuance of the "Sanitary Acts," and existing at the time of the passing of this Act, shall be deemed to be Joint Boards, Port Sanitary Authorities, Committees of Rural Sanitary Authorities, and Parochial Committees, and Local Government Districts under this Act; and the members of all the above-mentioned bodies shall hold office (subject to the Provisions of this Act respecting the election of members of Local Boards) for such time as they would respectively have held office if this Act had not been passed; and the Officers and servants of all the above-mentioned bodies shall continue to hold their several offices and employments on the same terms and subject to the same conditions, as to duties remuneration and otherwise, as they would have held them if this Act had not been passed; and all By-Laws duly made under any of the "Sanitary Acts" by this Act repealed and not inconsistent with any of the provisions of this Act shall be deemed to be By-Laws under this Act; and all the provisions of this Act shall apply to all such bodies existing at the time of the passing of this Act, and to their several officers and servants, in substitution for the provisions of the "Sanitary Acts" by this Act repealed, but so as not to affect any right acquired or liability incurred under the "Sanitary Acts," or any of them, before the passing of this Act, and existing at the time of the passing of this Act.

Saving for works and property of certain authorities, and for navigation and water rights, &c.

327. Nothing in this Act shall be construed to authorise any Local Authority—

1.) To use injure or interfere with any sluices floodgates sewers groynes or sea defences or other works, already or hereafter made under the authority of any Commissioners of Sewers appointed by the Crown, or any sewers or other works already or hereafter made and used by any body of persons or person for the purpose of draining preserving or improving land under any local or private Act of Parliament, or for the purpose of irrigating land; or

(2.) To disturb or interfere with any lands or other property vested in the Lord High Admiral of the United Kingdom or the Commissioners for executing the office of the Lord High Admiral for the time being or in Her Majesty's Principal Secretary of State for the War Department for the time being; or

(3.) To interfere with any river canal dock harbour lock reservoir or basin, so as to injuriously affect the navigation thereon, or the use thereof, or to interfere with any towing-path so as to interrupt the traffic thereof, in cases where any body of persons or person are or is by virtue of any Act of Parliament entitled to navigate on or use such river canal dock harbour lock reservoir or basin, or to receive any tolls or dues in respect of the navigation thereon or use thereof; (*a*) or

(4.) To interfere with any watercourse in such manner as to injuriously affect the supply of water to any river canal dock harbour reservoir or basin, in cases where any such body of persons or person as last aforesaid would, if this Act had not passed, have been entitled by law to prevent or be relieved against such interference; or

(5.) To interfere with any bridges crossing any river canal dock harbour or basin, in cases where any body of persons or person are or is authorised by virtue of any act of Parliament to navigate or use such river canal dock harbour or basin, or to demand any tolls or dues in respect of the navigation thereon or use thereof; or

(6.) To execute any works in through or under any wharves quays docks harbours or basins, to the exclusive use of which any body of persons or person are or is entitled by virtue of any Act of Parliament, or for the use of which any body of persons or person are or is entitled by virtue of any Act of Parliament to demand any tolls or dues,—

Without the consent in every case of such Lord High Admiral or Commissioners for executing the office of Lord High Admiral, Secretary of State, Commissioners, body of persons or person as are hereinbefore in that behalf respectively mentioned, such consent to be expressed in writing in the case of a Corporation under their common seal, and in the case of any body of persons not being a Corporation under the hand of their Clerk or other duly authorised Officer or Agent. And nothing in this Act shall prejudice or affect the rights privileges powers or authorities given or reserved to any person under such local or private Acts for draining preserving or improving land as are in this Section mentioned.

Reference to arbitration in case of works not within preceding section.

328. Where any matters or things proposed to be done by any Local Authority, and not being within the prohibition aforesaid, interfere with the improvement of any river canal dock harbour lock reservoir basin or towing-path which any body of persons or person are or is entitled by virtue of any Act of Parliament to navigate on or use, or in respect of the navigation whereon or use whereof to demand any tolls or dues, or interfere with any works belonging to such river canal dock harbour or basin, or with any land necessary for the enjoyment or improvement thereof, the Local Authority shall give to such body of persons or person a notice specifying the particulars of the matters and things so intended to be done. If the parties on whom such notice is served do

(*a*) *Wilts & Berks Canal Co.* v. *Swindon Waterworks Co.*

not consent to the requisitions thereof, the matter in difference shall be referred to arbitration; and the following questions shall be decided by such arbitration; (that is to say,)

(1.) Whether the matters or things proposed to be done by the Local Authority will cause any injury to such river canal dock harbour basin towing-path works or land, or to the enjoyment or improvement of such river canal dock harbour or basin as aforesaid:

(2.) Whether any injury that may be caused by such matters or things, or any of them, is or is not of a nature to admit of being fully compensated by money.

Effect of arbitration.

329. The result of any such arbitration shall be final, and the Local Authority shall do as follows: (that is to say,)

(1.) If the Arbitrators are of opinion that no injury will be caused, the Local Authority may forthwith proceed to do the proposed matters and things:

(2.) If the Arbitrators are of opinion that injury will be caused, but that such injury is of a nature to admit of being fully compensated by money, they shall proceed to assess such compensation; and on payment of the amount so assessed, but not before, the Local Authority may proceed to do the proposed matters and things:

(3.) If the Arbitrators are of opinion that injury will be caused, and that it is not of a nature to admit of being fully compensated by money, the Local Authority shall not proceed to do any matter or thing in respect of which such opinion may be given.

Provision as to transfer of powers, &c.

330. No transfer of powers and privileges under this Act shall deprive any body of persons or person authorised by virtue of any Act of Parliament to navigate on any river or canal, or to demand for their or his own benefit in respect of such navigation any tolls or dues, of such powers and privileges as are vested in them by any Act of Parliament in relation to such river or canal.

Provision as to alteration of sewers.

331. Any body of persons or person authorised by virtue of any Act of Parliament to navigate on or use any river canal dock harbour or basin, or to demand any tolls or dues in respect of the navigation on such river or canal, or the use of such dock harbour or basin, may, at their own expense, and on substituting other sewers drains culverts and pipes equally effectual, and certified as such by the Surveyor to the Local Authority, take up, divert, or alter the level of any sewers drains culverts or pipes constructed by any Local Authority, and passing under or interfering with such rivers canals docks harbours or basins, or the towing-paths thereof, and may do all such things as may be necessary for carrying into effect such taking up diversion or alteration.

Saving for water rights generally.

332. (*a*) Nothing in this Act shall be construed to authorise any Local Authority to injuriously affect any reservoir canal river or stream or the feeders thereof or the supply quality or fall of water contained in any reservoir canal river stream or in the feeders thereof, in cases where any body of persons or person would, if this Act had not passed, have been entitled by law to prevent or be relieved against the injuriously affecting such reservoir canal river stream feeders or such supply quality or fall of water, unless the Local Authority first obtain the consent in writing of the body of persons or person so entitled as aforesaid.

Arbitration as to alteration of sewers injuriously affecting supply of water, &c.

333. Any difference of opinion that may arise between a Local Authority and any such body of persons or person as aforesaid, whether any sewers drains culverts or pipes substituted under the powers of this Act for sewers drains culverts or pipes constructed or laid down by any Local Authority are equally effectual with those for which they are substituted, or whether the supply quality or fall of water in any such reservoir canal river or stream as last aforesaid is injuriously affected by the exercise of powers under this Act, may, at the option of the party complaining, be determined by arbitration in manner by this Part of this Act provided. The Arbitrators shall decide the same questions as to the alleged injury, and the Local Authority shall proceed in the same way as is by this Act provided with regard to arbitrations in cases of alleged injury to rivers canals docks harbours and basins.

Saving for mines, &c.

334. (*b*) Nothing in this Act shall be construed to extend to mines of different descriptions so as to interfere with or to obstruct the efficient working of the same; (*c*) nor to the smelting of ores and minerals, nor to the calcining puddling and rolling of iron and other metals, nor to the conversion of pig iron into wrought iron, so as to obstruct or interfere with any of such processes respectively.

Saving for collegiate bodies and Government departments.

335. Any collegiate or other corporate body required or authorised by or in pursuance of any Act of Parliament to divert its sewers or drains from any river, or to construct new sewers, and any public department of the Government, shall have the like powers and be subject to the like obligations under this Act as they had or were subject to under the "Sewage Utilization Act, 1867;" and for that purpose the provisions of this Act applicable to purposes the same as or similar to those of the "Sewage Utilization Act, 1865" and the "Sewage Utilization Act, 1867" shall apply in substitution for the last-mentioned provisions.

Saving for Metropolitan Board of Works.

336. Nothing in or done under this Act shall affect any outfall or other works of the Metropolitan Board of Works (although beyond the Metropolis) executed under the "Metropolis Management Act, 1855" and the Acts amending the same, or take away, abridge, or prejudicially affect any right power authority jurisdiction or privilege of the Metropolitan Board of Works.

Saving for payment in certain cases to Local Authority.

337. Nothing in this Act shall affect the payment or recovery of any yearly sum payable at the time of the passing of this Act in pursuance of the "Local Government 1858 Amendment Act 1861" to any Local Authority in respect of any premises without their District which have a drain communicating with a sewer within their District: Provided that any such sum shall cease to be payable, if and when the connection between the drain and the sewer is discontinued, from the

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(*a*) *Grand Junction Canal Co.* v. *Shugar; Reg.* v. *Darlington L. B. H.*

(*b*) *Norris* v. *Barnes.*

(*c*) But the "Rivers Pollution Prevention Act, 1876" does something more to fetter the freedom of mine-owners. (39 & 40 Vict., **75**, § 5.)

time of such discontinuance; but if after the discontinuance the connexion is re-established, the yearly sum shall again become payable, and so from time to time.

Saving for acts of authorities under certain Local Acts.

338. All Rates Orders acts or things made assessed performed or done, before the passing of this Act, by any Authority purporting to act under the powers conferred on them by a Local Act with respect to any sanitary purposes shall be valid, notwithstanding the passing of the "Public Health Act 1872," or of this Act.

Saving for certain Local Boards.

339. Nothing in this Act shall affect the composition of any Local Board constituted by any Order in Council or any Provisional Order made under the "Public Health Act 1848," and confirmed by Parliament, or the qualification or number of Members of any such Board; but any such Order in Council, or Order so confirmed, or the Act confirming any such last-mentioned Order, may be repealed altered or amended in manner provided by this Act.

Saving for proceedings under Local Acts.

340. Where within the district of a Local Authority any Local Act is in force, providing for purposes the same as or similar to the purposes of this Act, proceedings may be instituted at the discretion of the Authority or person instituting the same, either under the Local Act or this Act, (*a*) or under both, subject to these qualifications:

(1.) That no person shall be punished for the same offence both under a Local Act and this Act; and

(2.) That the Local Authority shall not, by reason of any Local Act in force within their district, be exempted from the performance of any duty or obligation to which they may be subject under this Act.

Powers of Act to be cumulative.

341. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred by Act of Parliament Law or Custom, and such other powers may be exercised in the same manner as if this Act had not passed; and nothing in this Act shall exempt any person from any penalty to which he would have been subject if this Act had not passed.

Provided that no person who has been adjudged to pay any penalty in pursuance of this Act shall for the same offence be liable to a penalty under any other Act.

Oxford.

Constitution Local Board the Oxford District.

342. The Local Government District of Oxford shall be subject to the jurisdiction of a Local Board consisting of the Vice-Chancellor of the University of Oxford and the Mayor of Oxford for the time being, of 45 other Members, 15 to be elected by the University of Oxford, 16 by the Town Council of Oxford, and 14 by the Ratepayers of the Parishes situated within the area formerly within the Jurisdiction of the Commissioners, for amending certain mileways leading to Oxford, and making improvements in the University and City of Oxford, the suburbs thereof and the adjoining Parish of Saint Clement, and of the Members for any Parishes or parts of Parishes which may have been or may hereafter be added to the Oxford District.

After the passing of this Act, a District formed out of the Rural Sanitary Districts of the City of Oxford, and the Abingdon Union, to be termed the "Grandpont District," shall be defined by an Order of the Local Government Board, and on a day to be mentioned in such Order, the said District shall form part of the said Local Government District of Oxford. The election of Members of the said Local Board by the Town Council and by the Ratepayers of the Parishes and parts of Parishes respectively shall be conducted at the same time, in the same way, and subject to the same regulations in and subject to which such election is conducted at the time of the passing of this Act.

As regards the District of Cowley now comprised in the said Local Government District of Oxford, and the District of Grandpont when added to the same District, the Chairman of the said Local Board, or, in his absence, the Clerk to the Local Board, shall summon a Meeting of the several persons rated to the relief of the poor in respect of hereditaments situated in the said Cowley and Grandpont Districts respectively, by Public Notices under his hand, to be affixed 3 clear days previously to the principal doors of every Church and Chapel in the Districts, such meeting to be held on the day when the Members for the Parishes are elected, and at a place in each such District to be fixed by the Chairman or Clerk, and the appointment of a Chairman and all other the business of such Meetings shall be conducted as if the Meetings respectively were the Meetings of a Vestry in a Parish.

An election of the member for the Grandpont District shall take place as soon as convenient after that District has been added to the Oxford Local Government District as aforesaid, and he shall continue in office until the next annual election of the said Local Board.

The 15 Members to be elected by the University shall be elected as follows: namely, 4 Members shall be elected by the University in Convocation, and 11 members shall be elected by the Heads and Senior Resident Bursars of the several colleges entitled by any Statute of the University or otherwise to matriculate students, and by the Heads of the several Halls; any Member of the University, being of the degree of Master of Arts, Bachelor of Civil Law, or Bachelor in Medicine, or any superior degree of the University, shall be qualified to be elected; and the elections shall be conducted by the said University, and by the Colleges and Halls respectively, at the same time, and in the same way, and subject to the same regulations, in and subject to which Guardians of the Poor for the University and for the Colleges and Halls are now or may hereafter be chosen by them respectively, save that in the election of Members the Heads and Bursars of all the Colleges and the Heads of all the Halls shall be summoned by the Vice-Chancellor for that purpose, and shall be entitled to vote.

Except as above provided, nothing in this Act shall affect the provisions of any Order confirmed

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(*a*) *Parry* v. *Croydon Commercial Gas & Coke Co.*

by Parliament relating to the Local Government District of Oxford, and in force at the time of the passing of this Act.

REPEAL OF ACTS.

Repeal of Acts in Schedule V.

343. The Acts specified in the 1st and 2nd Parts of Schedule V. to this Act are hereby repealed to the extent in the 3rd column in the said parts of that Schedule mentioned, with the following qualification; (that is to say,)

That so much of the said Acts as is set forth in the 3rd part of that Schedule shall be reenacted in manner therein appearing, and shall be in force as if enacted in the body of this Act.

Provided also, that this repeal shall not affect—

(*a.*) Anything duly done or suffered under any enactment hereby repealed; or

(*b.*) Any right or liability acquired accrued or incurred under any enactment hereby repealed; or

(*c.*) Any security given under any enactment hereby repealed; or

(*d.*) Any penalty forfeiture or punishment incurred in respect of any offence committed against any enactment hereby repealed; (*a*) or

(*e.*) Any investigation legal proceeding or remedy in respect of any such right liability security penalty forfeiture or punishment as aforesaid; and any such investigation legal proceeding and remedy may be carried on as if this Act had not been passed.

SCHEDULES.

SCHEDULE I.

RULES AS TO MEETINGS AND PROCEEDINGS. (*b*)

(1.) *Rules applicable to Local Boards.* (*c*)

1. Every Local Board shall from time to time make regulations with respect to the summoning notice place management and adjournment of their meetings, and generally with respect to the transaction and management of their business under this Act.

2. No business shall be transacted at any such meeting unless at least one-third of the full number of members be present thereat, subject to this qualification, that in no case shall a larger quorum than 7 members be required.

3. Every Local Board shall from time to time at their annual meeting appoint one of their number to be chairman for one year at all meetings at which he is present.

4. If the Chairman so appointed dies resigns or becomes incapable of acting, another member shall be appointed to be Chairman for the period during which the person so dying resigning or becoming incapable would have been entitled to continue in office, and no longer.

5. If the Chairman is absent from any meeting at the time appointed for holding the same, the members present shall appoint one of their number to act as Chairman thereat.

6. The names of the members present, as well as of those voting on each question, shall be recorded, so as to show whether each vote given was for or against the question.

7. Every question at a meeting shall be decided by a majority of votes of the members present, and voting on that question.

8. In case of an equal division of votes the Chairman shall have a second or casting vote.

9. The proceedings of a Local Board shall not be invalidated by any vacancy or vacancies among their members, or by any defect in the election of such Board, or in the election or selection or qualification of any members thereof.

10. Any minute made of proceedings at a meeting, and copies of any orders made or resolutions passed at a meeting, if purporting to be signed by the Chairman of the meeting at which such proceedings took place or such orders were made or resolutions passed, or by the Chairman of the next ensuing meeting, (*d*) shall be received as evidence in all legal proceedings; and, until the contrary is proved, every meeting where minutes of the proceedings have been so made shall be deemed to have been duly convened and held, and all the proceedings thereat to have been duly had.

11. The annual meeting of a Local Board shall be held as soon as may be convenient after the 15th of April in each year.

12. The first meeting of a Local Board for a District constituted after the passing of this Act shall be held at such place and on such day (not being more than 10 days after the completion of the election) as the returning officer may by written notice to each member of the Board appoint; and the members shall appoint one of their number to be Chairman at such meeting, and shall also appoint one of their number to be Chairman for one year at all meetings at which he is present.

13. Nothing in these rules contained with respect to the appointment of Chairman shall apply to the Oxford District, and in that District a Chairman shall be appointed as heretofore.

(*a*) *Barnes* v. *Eddleston.*

(*b*) My *Handbook for Public Meetings* will be found to contain much useful information bearing on Meetings of Local Boards. (See especially Chapters III. and IV.)

(*c*) See § 188 of this Act (*ante*).

(*d*) This seems to imply that the minutes of every meeting are to be signed at the very next meeting even if a special and not an ordinary meeting: the matter is mentioned in this note because it is believed to be not unusual on the part of Local Boards not to read any minutes at a special meeting summoned for a particular purpose out of the usual course.

(2.) *Rules applicable to Committees of Local Authorities, other than Councils of Boroughs, and to Joint Boards.*

1. A Committee or Joint Board may meet and adjourn as it thinks proper.
2. The quorum of a Committee or Joint Board shall consist of such number of members as may be prescribed by the Authority that appointed the Committee or Joint Board, or, if no number is prescribed, of 3 members.
3. A Committee or Joint Board may appoint a Chairman of its meetings.
4. If no Chairman is elected, or if the Chairman elected is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be Chairman of such meeting.
5. Every question at a meeting shall be determined by a majority of votes of the members present and voting on that question.
6. In case of an equal division of votes the Chairman shall have a second or casting vote.
7. The proceedings of a Committee or Joint Board shall not be invalidated by reason of any vacancy or vacancies amongst their members, or any defect in the mode of appointment of such Committee or Joint Board or of any member thereof.
8. Any minute made of proceedings at a meeting, and copies of any orders made or resolutions passed at a meeting, purporting to be signed by the Chairman of the meeting at which such proceedings took place or such orders were made or resolutions passed, or by the Chairman of the next ensuing meeting, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every meeting where minutes of the proceedings have been so made shall be deemed to have been duly convened and held, and all the proceedings thereat to have been duly had.

SCHEDULE II.

(1.) Rules for Election of Local Boards (*a*).

Number and Qualification of Members.

1. The number of Members of a Local Board constituted after the passing of this Act shall be such number as is determined by the Order forming the District.
2. The Local Government Board may from time to time by Order, after Local Inquiry, increase or diminish the number of Members of any Local Board, and may prescribe at what time or times and in what manner such increase or diminution shall take effect, and may vary temporarily the provisions of this schedule relating to the continuance in office and retirement of Members so far as may be necessary for that purpose.
3. A person shall not be qualified to be a Member of a Local Board unless he is at the time of his election, and so long as he continues in office by virtue of such election, resident within the District for which or for part of which he is elected, or within 7 miles thereof, (*b*) and is seised or possessed of real or personal estate, or both, to the value of not less than 500*l.* in Districts containing less than 20,000 inhabitants, or to the value of not less than 1000*l.* in Districts containing 20,000 or more inhabitants; or is rated (*c*) to the relief of the poor of such District, or of some Parish within the same, on an annual value (*d*) of not less than 15*l.* in Districts containing less than 20,000 inhabitants, or on an annual value of not less than 30*l.* in Districts containing 20,000 or more inhabitants.
4. Where 2 or more persons are jointly seised or possessed of real or personal estate, or both, of such value or amount as would, if equally divided between them, qualify each to be elected, or if 2 or more persons are jointly rated in respect of any property which, if equally divided between them, would qualify each to be elected, each of the persons so jointly seised possessed or rated may be elected, but the same property shall not at the same time qualify the owner and the occupier thereof.
5. A person who is a bankrupt or whose affairs are under liquidation by arrangement or who has entered into any composition with his creditors, shall be incapable, so long as any proceedings in relation to such bankruptcy liquidation or composition are pending, of being elected Member of a Local Board.

Wards.

6. The Local Government Board may, by Order made on application in pursuance of a resolution of owners and ratepayers passed in manner provided by Schedule III. to this Act, and after Local Inquiry, divide any District into Wards; and on the like application from time to time may abolish such Wards, or alter the number or boundaries of such Wards, and may determine and from time to time alter the proportion of Members of the Local Board to be elected by each Ward.

Provided that where a District has been divided into Wards by a Provisional Order, such Wards shall not be abolished or altered otherwise than by a Provisional Order confirmed by Parliament.

7. If any Member is elected in more than one Ward, he shall within 3 days' notice thereof choose, or, in default of his choosing, the Local Board at their next meeting shall decide for which one of the Wards the Member shall serve, and he shall thereupon be held to be elected in that

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(*a*) See Part V., "Digest of Cases," (*post*); Title, "Election Business."

(*b*) See Part V., "Digest of Cases," (*post*); Title, "Distance, Measurement of."

(*c*) *Reg.* v. *Eddows.*

(*d*) *Baker* v. *Marsh* (24 L.J., Q.B., 1: 4 E. & B., 144: 24 L.T., (o.s.), 72: Chambers, *Rating*, Case No. 124).

Ward only, and a vacancy shall be held to exist in the other Ward or Wards, and shall be filled up as if it were a casual vacancy.

8. No person entitled to vote shall give in the whole of the Wards a greater number of votes than he would have been entitled to give if the District had not been divided into Wards, nor in any one Ward a greater number of votes than he is entitled to in respect of property in that Ward.

9. Subject as aforesaid, any owner or ratepayer may, by notice in writing delivered to the Clerk of the Local Board, or in case of the first election to the Returning Officer, elect in what Ward or Wards he will vote for the ensuing year, and determine the proportion of votes which he will give in any one or more of such Wards, and if he does not give such notice he shall not be entitled to vote for any Ward in which he does not reside (*a*).

Qualification of Electors, Scale of Voting, and Register of Owners.

10. The word "Owner," when used in relation to the right of voting at any election of a Local Board, shall mean any person for the time being in the actual occupation of any kind of property in the District or part of a District for which he claims to vote, rateable to the relief of the poor, and not let to him at a rackrent, or any person receiving on his own account, or as mortgagee or other incumbrancer in possession, the rackrent of any such property.

11. A person shall not be deemed a ratepayer or be entitled to vote as such at any such election unless he has been rated (*b*) to the relief of the poor in the District or part of a District for which he claims to vote for the space of one whole year immediately preceding the day of tendering his vote, and has also before that day paid all Rates made on him for the relief of the poor in such District or part of a District for the period of one whole year, and all Rates due from him under this Act, except Rates which have been made or become due with the 6 months immediately preceding.

12. Owners of and ratepayers in respect of property situated within the District for which the election is held shall be entitled to vote according to the scale following; (that is to say,)

If the property in respect of which the person is entitled to vote is rated to the Poor Rate on a rateable value of less than 50*l.*, he shall have one vote; if such rateable value amounts to 50*l.* and is less than 100*l.*, he shall have two votes; if it amounts to 100*l.* and is less than 150*l.*, he shall have three votes; if it amounts to 150*l.* and is less than 200*l.*, he shall have four votes; if it amounts to 200*l.* and is less than 250*l.*, he shall have five votes; and if it amounts to or exceeds 250*l.*, he shall have six votes.

13. Any person who is Owner and also *bonâ fide* occupier of the same property shall be entitled to vote both in respect of such ownership and of such occupation.

14. Owners may give their votes either personally or by proxy.

15. The instrument appointing a proxy shall be in writing under the hand of the appointor, or where the appointor is a Corporation under their common seal, or where the appointor is a body of persons unincorporate under the hands of 3 directors or other persons having the direction or management of the undertaking or business carried on by such body of persons; and every such instrument shall be attested by a witness, and may be in the form M. in Schedule IV. to this Act.

16. No member of the Corporation or of any such body of persons (other than a partnership firm consisting of not more than 6 persons) shall be entitled to vote individually as Owner in respect of property belonging to such Corporation or body of persons.

17. Partners in a firm consisting of not more than 6 persons may vote as Owners in respect of property of the firm as if that property were equally divided among the partners.

18. An Owner or a proxy shall not (except at the first election of a Local Board constituted after the passing of this Act) be entitled to have a voting-paper delivered to him as such unless his name is on the Register hereinafter mentioned.

19. The Local Board shall cause a Register to be made and kept, in which shall be entered the names addresses and qualifications of the Owners claiming and entitled to vote, and the names or descriptions addresses and qualifications of the appointors of proxies, and the names and addresses of proxies duly appointed.

Any such Register made before the passing of this Act shall be deemed to be a Register or part of a Register under this Act.

20. A claim by an Owner or proxy to be entered on the Register shall state his name and address within the District, and a description of the nature of the interest or estate in the property giving the qualification, and a statement of the amount of all rent service (if any) received or paid in respect thereof by him or the body of persons for whom he is proxy, and of the persons from whom or to whom the same is received or paid; and in the case of a proxy the claim shall be accompanied by the appointment of the proxy or an attested copy thereof.

21. A claim by an Owner or proxy may be made by writing in the Form L. in Schedule IV. to this Act.

22. A person entitled to vote either as Owner or Ratepayer may object to the keeping of any name on the Register by writing in the Form L. in the said Schedule.

23. Claims and objections shall be sent to the Chairman of the Local Board on some one of the first 6 days of March, and a claim or objection sent at any other time shall not be admitted by the Chairman.

(*a*) *Reg.* v. *Parkinson.*

(*b*) This must be read in the light of the "Poor Rate Assessment and Collection Act, 1869," (32 & 33 Vict., c. 41, § 7); and see *Goodhew* v. *Williams.*

24. A person making an objection shall also give written notice thereof to the person objected to by leaving the same at the address within the District of that person.

25. The Chairman shall, between the 20th of February and the 1st day of March, publish a notice, in the Form L. in Schedule IV. to this Act, and signed by him, of the time within which claims and objections are to be made as aforesaid, and shall cause a copy of such notice to be inserted in some local newspaper circulating in the District and to be affixed at the places where parochial notices are usually affixed.

26. The Chairman on the expiration of the time for sending in claims and objections shall with the assistance of such persons (if any) as the Local Board may appoint, proceed forthwith to revise (*a*) the Register by entering thereon the names of the persons who have claimed and are proved to his satisfaction to be entitled to vote as Owners or proxies respectively, and the other particulars by this Schedule required to be entered with respect to Owners and proxies, and by expunging from the Register the names of Owners and proxies who are proved to his satisfaction to be dead or to have ceased to be entitled to vote.

27. For the purpose of enabling the Chairman to determine the validity of claims and objections he may examine such persons and call for such evidence from the persons making the same as he may think fit; any person may tender himself to be examined; but no person shall be entitled to be examined or to be heard before the Chairman in support either of a claim or an objection.

28. Not later than the 16th of March the Chairman shall close the revision and sign the revised Register, and that Register shall continue in force for the 12 months next ensuing.

29. If the Chairman is unable or unwilling to conduct the revision of the Register, the Local Board shall appoint some person to conduct the revision, and in default of such appointment the revision shall be conducted by the Clerk to the Local Board. Any person so appointed or the Clerk shall for the purposes of the revision have the same powers and duties as the Chairman of the Local Board.

30. The Register shall be open to the inspection of candidates and other persons interested in any election or in any question at which any such Owner or proxy claims to vote, subject to such rules as the Local Board may prescribe for the prevention of loss injury or disorder.

31. At the first election of a Local Board constituted after the passing of this Act an Owner or proxy shall be entitled to have a voting-paper delivered to him if not less than 14 days before the last day appointed for delivery of the voting-papers he sends a claim in writing to the returning officer containing such particulars as are hereinbefore required to be contained in claims to be entered on the Register of Owners and proxies.

Returning Officer (*b*).

32. The Returning Officer, for the purposes of the election of a Local Board, shall be the Chairman of the Board, or in the case of the first election, if the District is constituted by Provisional Order, such person as may be appointed by Order of the Local Government Board; and if the District is constituted in pursuance of a resolution of Owners and Ratepayers, the summoning officer of the meeting of Owners and Ratepayers; and all powers and duties by this Act vested in or imposed on the Returning Officer, and all other duties requisite to be performed by him in relation to such election, shall be exercised and performed by the Chairman or such person as aforesaid.

33. If the office of Chairman is vacant at the time when any such power or duty must be exercised or performed, or if the Chairman or such other person as aforesaid, from illness or other sufficient cause, is unable to exercise or perform such powers or duties, or is absent, or refuses to act, some other person shall be appointed (in case of the first election) by the Local Government Board, and (in any other case) by the Local Board, to exercise or perform such powers and duties.

34. The Local Board, or (in case of the first election) the Returning Officer, shall, before or during the election, appoint a competent number of persons to assist the Returning Officer in conducting and completing the same.

35. If any Returning Officer appointed by the Local Government Board dies refuses or becomes incapable to act, the Local Government Board may appoint another person to act in his stead.

Election.

36. The Returning Officer shall after the close of the revision of the Register but not less than 14 days before the last day appointed for delivery to him of nomination papers, publish a notice, signed by him, and specifying—

The number and qualification of the persons to be elected;

The place where the nomination papers hereinafter mentioned are to be delivered or sent to him;

The last day on which they are to be delivered or sent in;

The mode of voting in case of a contest:

The day or days on which the voting papers will be delivered and the day on which they will be collected; and

The place for the examination and for the casting up of the votes;

and shall also cause copies of such notice to be affixed at the places where parochial notices are usually affixed.

37. The returning officer may, if he thinks fit, cause to be made an alphabetical list of the persons entitled to vote at the election.

(*a*) *Reg.* v. *Clerk of Bury Guardians.*

(*b*) See Part V., "Digest of Cases," (*post*) Title, "Election Business," *passim.*

38. The Clerk of the Board of Guardians of any Union, and the Overseers or other officers of every parish wholly or in part within the parts for which the election is held, and having the custody of any books or papers relating to the election of Guardians of the poor or of the Poor Rate books relating to any such parish, shall permit the same to be inspected and copies or extracts to be taken therefrom by the Returning Officer. Any person having the custody of any such books or papers who refuses to permit the same to be inspected, or copies or extracts to be taken therefrom, shall be liable to a penalty not exceeding 5*l*.

39. Any person entitled to vote may nominate for the office of member of the Local Board himself (if qualified to be elected), or any other person or persons so qualified (not exceeding the number of persons to be elected). (*a*)

40. Every such nomination shall be in writing, and shall state the names and residence and calling or quality of the person or persons nominated, and shall be signed by the person nominating (*b*), and be delivered or sent to the Returning Officer.

41. Any person nominated may withdraw from his candidature by giving notice to that effect, signed by him, to the Returning Officer.

42. If the number of persons nominated and not withdrawn is the same as or less than the number of persons to be elected, such persons (if duly qualified) shall be deemed and shall be certified by the Returning Officer under his hand to be elected.

43. If the number nominated and not withdrawn exceeds the number to be elected, the Returning Officer shall cause voting-papers, in the form N. contained in Schedule IV. to this Act, to be prepared and filled up, and shall insert therein the names and residence and the calling or quality of each of the persons nominated and not withdrawn, in the alphabetical order of the surnames of such persons, but it shall not be necessary to insert more than once the name of any person nominated.

44. The returning officer shall, 3 days at least before the day of collection of the voting-papers, cause one of such voting-papers to be delivered, by persons appointed by him for that purpose, at the address stated in the register or claim of each Owner and Proxy, and at the residence within the District of each Ratepayer entitled to vote therein.

45. Each voter shall write his initials in the voting paper delivered to him against the name or names of the person or persons (not exceeding the number of persons to be elected) for whom he intends to vote, and shall sign such voting-paper. (*c*)

46. Any person voting as a proxy shall in like manner write his own initials and sign his own name, and state also in writing the name of the person or body of persons for whom he is proxy.

47. Any voter unable to write shall affix his mark at the foot of the voting-paper in the presence of a witness, who shall attest and write the name of the voter against the mark, as well as the initials of such voter against the name of every candidate for whom the voter intends to vote.

48. The returning officer shall cause the voting-papers to be collected on the day of collection (which shall not be later than the 7th of April) by such persons as he may appoint.

49. No voting-paper shall be received or admitted unless the same has been delivered at the address or residence as aforesaid of the voter, nor unless the same is collected by the persons appointed for that purpose: Provided—

(*a.*) That if any person entitled to receive a voting-paper has not received a voting-paper as aforesaid, he shall, on personal application before the day of collection to the Returning Officer, be entitled to receive a voting-paper from him, and to fill up the same in his presence, and then and there to deliver the same to him:

(*b*) That if any voting-paper duly delivered has not been collected, through the default of the Returning Officer or the persons appointed to collect the same, the voter in person may deliver the same to the Returning Officer before 12 o'clock at noon on the day or on the first day (as the case may be) appointed for the examination and casting up of the votes.

50. If any person nominated, or any person on his behalf, gives at least one clear day's notice in writing to the Returning Officer, before the delivery or collection of the voting-papers, of an intention to send some agent to accompany the deliverer or collector of the papers, the Returning Officer shall make his arrangements so as to enable the person appointed by him to be so accompanied, but no such Agent shall interfere in any respect in the delivery or collection of the voting-papers.

Counting of Votes.

51. The Returning Officer (*d*) shall on the day immediately following the day of collection of the voting-papers, and on as many days immediately succeeding as may be necessary, attend at the place appointed for the examination and casting up of the votes, and ascertain the validity of the votes, by an examination of the Rate Books and such other books and documents as he may think necessary, and by examining such persons as he may see fit; he shall cast up such of the votes as he finds to be valid, and to have been duly given collected or received, and shall ascertain the number of such votes for each candidate.

Any Candidate may himself attend or may appoint any Agent to attend the examination and casting-up of the votes; any Candidate or Agent so attending who obstructs or in any way interferes with the examination and casting-up of the votes may, by order of the Returning Officer, be forthwith removed from the place appointed for that purpose, and if so removed shall not be permitted to return.

(*a*) *Reg.* v. *Parkinson.*

(*b*) *Howes* v. *Turner; Mather* v. *Brown; Reg.* v. *Bradley; Reg.* v. *Coward; Reg.* v. *Deighton; Reg.* v. *Hammond; Reg.* v. *Morgan; Soper* v. *Basingstoke, Mayor.*

(*c*) *Reg.* v. *Avery; Reg.* v. *Tart.*

(*d*) *Reg.* v. *Backhouse; Reg.* v. *Collins; Reg.* v. *St. Pancras Inspectors of Votes.*

52. The Candidates to the number to be elected who, being duly qualified, have obtained the greatest number of votes, shall be deemed and shall be certified by the Returning Officer under his hand to be elected, and to each person so elected the Returning Officer shall forthwith send or deliver notice of his election.

53. The Returning Officer shall also cause to be made a list containing the names of the Candidates, together with (in case of a contest) the number of votes given for each, and the names of the persons elected, and shall sign and certify such list, and shall deliver the same, together with the nomination and voting-papers which he has received, to the Local Board at their 1st or next meeting (as the case may be), who shall cause the same to be deposited in their office.

54. Such list shall during office hours be open to public inspection, together with all other documents relating to the election, for 6 months after the election, without fee or reward; and the Returning Officer shall, as soon as may be after the completion of the election, cause such list to be printed, and copies thereof to be affixed at the usual places for affixing parochial notices within the parts for which the election has taken place.

55. The Returning Officer shall make all his arrangements for the conduct of the election so as to ensure its completion, and the ascertainment of the result, on or before the 15th of April in each year; and on that day the Candidates elected shall come into office, and until that day the members in whose room they are elected shall continue to hold office.

Provided that the 1st election of a Local Board for a District constituted after the passing of this Act may be held at any time mentioned in the Order constituting the District, and the Members shall come into office on the day appointed for their 1st meeting, but shall for the purposes of retirement be deemed to have come into office on the 15th of April next following the Commencement of the Order.

Declaration to be made by Members.

56. A person shall not act as a Member of a Local Board (except in administering the following Declaration) until he has made and signed before 2 or more other Members of such Board a Declaration in writing to the effect following; (that is to say,)

"I *A.B.* do solemnly declare, that I am seised or possessed of real or personal [*or* real and personal] estate to the value or amount of [*or* that I am rated to the relief of the poor of on the annual value of .]

"(Signed) *A.B.*

"Made before us, *C.D.* and *E.F.*, Members of the Local Board for the District of this day of ."

57. Such Declaration shall be signed by the person making the same, and shall be filed and kept by the Clerk of the Local Board; and any person who falsely or corruptly makes and subscribes such Declaration, knowing the same to be untrue in any material particular, shall be deemed guilty of a misdemeanour.

58. Any person who neglects to make and subscribe the Declaration required by this Act for the space of 3 months next after he has become a Member of the Local Board shall be deemed to have refused to act, and shall cease to be a Member of such Local Board, and his office as such shall thereupon become vacant.

Retirement of Members.

59. Subject as hereinafter mentioned, one-third of the number of Members elected for the District, or if the District is divided into Wards, one-third of the number elected for each Ward (being those who have been longest in office), shall go out of office on the 15th of April in each year.

60. The order in which the persons elected at the 1st election of a Local Board for a District constituted after the passing of this Act shall go out of office shall be regulated by the Local Board, and if the number of persons to be elected is not divisible by 3, the proportion to go out of office in each year shall be regulated by the Local Board so that as nearly as may be one-third shall go out of office in each year.

61. No person elected shall in any case continuously remain in office (without re-election) for more than 3 years: Provided that if the number of persons to be elected for any Ward is less than 3, the persons elected shall go out of office on the 15th of April in such year or years as the Local Board may, with the sanction of the Local Government Board, determine.

62. Before the 15th of April in each year a number of persons equal to the number of retiring Members shall be elected in manner provided by this Schedule, and so many others as may be necessary to complete the full number of the Local Board in respect of which the election is held.

63. Any person who has ceased to be a member is re-eligible (if qualified).

Disqualification of Members (*a*).

64. Any Member who ceases to hold his qualification, or becomes bankrupt, or submits his affairs to liquidation by arrangement, or compounds with his creditors, or is absent from meetings of the Local Board for more than 6 months (*b*) consecutively (unless in case of illness), or accepts or holds any office or place of profit under the Local Board of which he is Member, or in any manner is concerned in any bargain or contract entered into by such Board, or participates in the profit thereof, or of any work done under the authority of this Act in or for the District, shall, except in

(*a*) See Part V., "Digest of Cases," (*post*); Title, "Contract, Disqualification by."

(*b*) *Reg.* v. *Turmine.*

the cases next hereinafter provided, cease to be such Member, and his office as such shall thereupon become vacant:

Provided that no Member shall vacate his office—

By reason of his being interested in the sale or lease of any lands (*a*) or in any loan of money to the Local Board; or

By reason of his being interested in any contract with the Local Board as a shareholder in any joint-stock company, but he shall not vote at any meeting of the Local Board on any question in which such company are interested, save that in the case of a water company, or other company established for the carrying on of works of a like public nature, this prohibition may be dispensed with by the Local Government Board.

Casual Vacancies.

65. Any casual vacancy occurring by death resignation disqualification failure duly to elect Members or otherwise in a Local Board shall be filled up by the Local Board out of qualified persons within 6 weeks or within such further period as the Local Government Board may by Order allow; but the Member so chosen shall retain his office so long only as the vacating Member would have retained the same if no vacancy had occurred.

In the event of a casual vacancy, or of an ordinary vacancy which ought to have been filled up at a previous election, being filled up at an annual election, if there is a poll, the Member who has been elected by the fewest votes shall be deemed elected to fill such vacancy; if there is no poll, the Member to be deemed to be elected to fill such vacancy shall be determined by lot.

General Provisions.

66. Whenever the day appointed for the performance of any act in relation to any election is a Sunday, Christmas Day, or Good Friday, a Bank holiday, or any day appointed for public fast or thanksgiving, such act shall be performed on the day next following, unless it is one of the days excluded as aforesaid; and in that case on the day following such excluded day.

67. The necessary expenses attendant on any election, and such reasonable remuneration to the Returning Officer (*b*) and other persons for services performed or expenses incurred by them in relation thereto as may be allowed by the Local Board, shall be paid out of the General District Rates levied under this Act.

68. If the Returning Officer refuses or neglects (*c*) to comply with any of the provisions of this Schedule relating to elections, he shall be liable to a penalty not exceeding 50*l.*; and any person employed for the purposes of any such election by or under the Returning Officer who is guilty of any such neglect or refusal shall be liable to a penalty not exceeding 5*l.*

69. Any person who— (*d*)

Fabricates in whole or in part or alters defaces destroys abstracts or purloins any voting-paper, or

Personates any person entitled to vote at any election, or

Falsely assumes to act in the name or on the behalf of any person so entitled to vote, or

Interferes with the delivery or collection of any voting-papers, or

Delivers any voting-paper under a false pretence of being lawfully authorised so to do,

shall be liable to a penalty not exceeding 20*l.* or, in the discretion of the Court, to imprisonment with or without hard labour for any period not exceeding 3 months.

70 (*e.*) Any person who, not being duly qualified to act as Member of the Local Board, or not having made and subscribed the declaration required of him by this Act, or being disabled from acting by any provision of this Act, acts as such Member, shall be liable to a penalty of 50*l.*, which may be recovered by any person, with full costs of suit, by Action of debt; in such Action it shall be sufficient for the plaintiff to prove in the first instance that the defendant at the time when the offence is alleged to have been committed acted as such Member; and the burden of proving qualification, and the making and subscription of the Declaration, or of negativing disqualification by reason of non-residence or not being seised or possessed of the requisite real or personal estate, or both, shall be on the defendant.

But all acts and proceedings of any person disqualified disabled or not duly qualified, or who has not made and subscribed the Declaration required by this Act, shall, if done previously to the recovery of the penalty mentioned in this Act, be valid and effectual to all intents and purposes.

As to Local Boards established before the passing of the "Local Government Act, 1858."

71. Where the District of a Local Board established under the "Public Health Act, 1848," before the passing of the "Local Government Act, 1858," comprises the whole or any part of a Borough or Boroughs, and also parts not within the boundaries of any such Borough, the following provisions shall have effect, (namely,)

(*a.*) Each person selected by the Council of any such Borough out of their own number shall be a Member of the Local Board with which he is selected to act, so long as he continues without re-election to be Member of the Council from whom he was selected, and no longer; and a Declaration shall not be required to be made by any person so selected:

(*a*) *Reg.* v. *Gaskarth.*
(*b*) *Metcalfe, Ex parte.*
(*c*) *Queen* v. *Burrell*; *Tozer* v. *Child.*
(*d*) *Aberdare, L. B. H.* v. *Hammett*; *Bell* v. *Morson*; *Davies* v. *Stone*; *Reg.* v. *Beckwith*; *Reg.* v. *Hague*; *Reg.* v. *Hartshorn*; *Verdin* v. *Wray*; *Whiteley* v. *Chappell.*
(*e*) *Fletcher* v. *Hudson*; *Smith* v. *Fieldhouse.*

(*b.*) Each person selected by any such Council otherwise than out of their own number shall be a Member of the Local Board with which he is selected to act, for one year from the date of his selection, and no longer:

(*c.*) In case of any vacancy in the number selected some other qualified person shall be selected by the Council by whom the person causing the vacancy was selected, within one month after the occurrence of the vacancy:

(*d.*) The meeting of any Council at which any selection as aforesaid is made in pursuance of this Act shall to all intents and purposes be deemed to be a meeting held in pursuance of the Act of the Session of the 5th and 6th years of the reign of King William the Fourth, intituled "An Act for the Regulation of Municipal Corporations in England and Wales," and any Act amending the same:

(*e.*) If any person is both selected and elected to be a Member of any such Local Board, he shall, within 3 days after notice thereof from the Clerk, choose, or, in default of such choice, the Local Board of which he is so selected and elected to be Member shall determine, the title in respect of which he shall serve; and immediately on such choice or determination the person so selected and elected shall be deemed to be Member only in respect of the title so chosen or determined, and his office as Member in respect of any other title shall thereupon become vacant.

72. Elective Members of any Local Board established under the "Public Health Act, 1848," before the passing of the "Local Government Act, 1858," shall be elected by such owners of property and ratepayers and in such manner as in this Schedule mentioned; and the provisions of this Schedule (with the exception of the provisions relating to the number and qualification of Members) shall apply accordingly.

Temporary Provisions.

73. All Members of Local Boards existing at the time of the passing of this Act shall, notwithstanding any provision of any Act or Order confirmed by Parliament, continue to hold office till the 15th day of April, 1876; and the next election of Members of such Local Boards shall be held in accordance with the provisions of this Schedule.

74. The provisions of § 26 of the "Sanitary Law Amendment Act, 1874," shall be deemed not to have been compulsory in the case of the 1st election of Members of any Local Board elected after the passing of that Act, and before the passing of this Act; and all elections held or purporting to have been held in accordance with such provisions before the passing of this Act, shall be deemed to have been duly held, and to be valid for all purposes.

Oxford.

75. Nothing in the Rules in this Schedule shall apply to the Local Government District of Oxford.

(II.) Proceedings in case of Lapse of Local Board.

1. Where any Local Board lapses through its Members ceasing to hold office, and failure to elect new Members in manner by this Act provided, any mortgagee or other person entitled to any principal or interest on any mortgage of Rates made by such Local Board may without prejudice to any other mode of recovery, apply for the appointment of a Receiver to a Court of Summary Jurisdiction. The said Court may, by writing under their hands, appoint a person to make levy and collect the whole or a competent part of the Rates liable to the payment of the principal and interest in respect of which the application is made, and to recover all arrears of such Rates until such principal and interest, together with the costs of the application and of collection, are paid; and on such appointment being made, all such Rates, competent part thereof and arrears, shall be paid to the Receiver so appointed, and shall be rateably apportioned by him among the mortgagees or other persons entitled to the same.

2. In the case of any lapse of a Local Board, the Owners and ratepayers of the District may, by resolution passed in manner provided by Schedule III. to this Act, determine to elect, and may accordingly proceed to the election of a new Local Board in manner provided by this Schedule, and the result of such election shall be signified to the Local Government Board by the Returning Officer; and all the powers rights duties property and liabilities of the lapsed Board shall attach to the new Board as if there had been no lapse before the election thereof, and from the date of the completion of such election all powers of any Receiver to make Rates under this Schedule shall determine.

If no election takes place in pursuance of this provision within 3 months from the date of the lapse of the Board, the Local Government Board may by Order dissolve the District, and declare it to be a Rural District, or to be included in any adjoining Rural District; and from and after a day named in such Order all such powers rights duties property and liabilities of the lapsed Board as the Local Government Board may direct shall with respect to the dissolved District attach to the Rural Authority named in the Order, and such property shall be held by the Rural Authority for the benefit of the dissolved District.

The Local Government Board may by Order determine any question as to the fact of a Local Board having lapsed, or as to the date of the lapse of any Local Board.

SCHEDULE III.

Rules as to Resolutions of Owners and Ratepayers.

(1.) For the purpose of passing a resolution of Owners and ratepayers under this Act, a meeting shall be summoned on the requisition of any 20 ratepayers and Owners, or of any 20 ratepayers and Owners, resident in the District or place with respect to which the resolution is to be passed.

(2.) The Summoning Officer of such meeting shall be—

In Boroughs, the Mayor;

In Improvement Act Districts, the Chairman of the Improvement Commissioners;

In Local Government Districts, the Chairman of the Local Board;

In places situated in any Rural District or Districts and having known and defined boundaries, the Churchwardens or one of them having jurisdiction co-extensive with the place; or if there are no Churchwardens, the Overseers or one of them having the like jurisdiction; or if there is none of the officers respectively above enumerated, or if such officer in any case neglects, is unable, or refuses to perform the duties hereby imposed on him, by any person appointed by the Local Government Board.

Where the boundaries of a place are settled by Order of the Local Government Board, the Board shall by such Order appoint the Summoning Officer.

If any Summoning Officer appointed by the Local Government Board dies, becomes incapable, or refuses or neglects to act, the Local Government Board may appoint another officer in his room.

(3.) Ratepayers or Owners making a requisition for the summoning of such meeting shall, if required, give security in a bond, with 2 sufficient sureties, for repayment to the Summoning Officer, in the event of the resolution not being passed, of the costs incurred in relation to such meeting or any poll taken in pursuance of any demand made thereat; the amount of the security to be given by such sureties, and their sufficiency, and the amount of such costs, to be settled by agreement between the Summoning Officer and such ratepayers or Owners, or, in case of dispute, by a Court of Summary Jurisdiction.

(4.) The Summoning Officer shall, on such requisition as aforesaid, fix a time and place for holding such meeting, and shall forthwith give notice thereof—

By advertisement in some one or more of the local newspapers circulated in the District or place;

By causing such notice to be affixed to the principal doors of every Church and Chapel (*a*) in the place to which notices are usually affixed.

(5.) The Summoning Officer shall be the Chairman of the meeting unless he is unable or unwilling to preside, in which case the meeting on assembling shall choose one of its number as Chairman, who may, with the consent of a majority of the persons present, adjourn the same from time to time.

(6.) The Chairman shall propose to the meeting the resolution, and the meeting shall decide for or against its adoption: Provided, that if any Owner or ratepayer demands that such question be decided by a poll (*b*) of Owners and ratepayers, such poll shall be taken by voting-papers in the Form O. in Schedule IV. to this Act, in the same way and with the same incidents and conditions as to the qualification of electors and scale of voting, as to notice to be given by the Returning Officer, delivery filling up and collection of voting-papers, as to the counting of votes, as to penalties for neglect or refusal to comply with the provisions of the Act, and in all respects whatsoever as is provided by the Rules for the election of Local Boards in Schedule II. to this Act; except that in Districts or places where there is no Register of Owners and proxies under this Act, any Owner or proxy shall be entitled to have a voting-paper delivered to him if at least 14 days before the last day appointed for delivery of the voting-papers he sends a claim in writing to the Summoning Officer containing the particulars required by Schedule II. to this Act to be contained in claims to be entered on the Register of Owners and proxies, and except that the provisions with respect to certain specified days of the month shall not apply.

For the purposes of such poll the Summoning Officer shall be the Returning Officer, and shall have the powers and perform the duties of a Returning Officer under Schedule II. to this Act, so far as the same are applicable to a poll under this Schedule.

If no poll is demanded, or the demand for a poll is withdrawn by the persons making the same, a declaration by the Chairman shall, in the absence of proof to the contrary, be sufficient evidence of the decision of such meeting.

(7.) A copy, under the hand of the Summoning Officer, of every resolution so passed, shall be forwarded by him to the Local Government Board; and it shall be his duty to publish a copy thereof by advertisement for 3 successive weeks in some one or more of the local newspapers circulated in the District or place, and by causing a copy thereof to be affixed to the principal doors of every church and chapel in the place to which notices are usually affixed.

(8.) Where in pursuance of a resolution passed in manner provided by this Schedule any place is constituted a Local Government District, all costs incurred by the Summoning Officer in relation to the meeting, and any poll taken in pursuance of any demand made thereat, shall be a 1st charge on the General District Rates leviable within such District; in the case of a resolution so passed by Owners or ratepayers in any Urban District, such costs shall be paid out of the fund or Rate applicable by the Urban Authority to the general purposes of this Act.

(*a*) *I.e.* of the Established Church; and see *Ormerod* v. *Chadwick* (16 L.J., M.C., 143: 16 M. & W., 367: 2 New Sess. Cas., 697: 8 L.T. (o.s.), 343: Chambers, *Rating*, Case No. 78): *Reg.* v. *Whipp* (12 L.J., M.C., 64: 3 G. & D., 372: 4 Q.B., 141: 7 J.P., 656: Chambers, *Rating*, Case No. 96).

(*b*) *Tear* v. *Freebody*.

SCHEDULE IV.

FORMS.

Form A.

Form of Notice requiring Abatement of Nuisance.

To [*person causing the nuisance, or Owner or Occupier of the Premises whereon the nuisance exists, as the case may be*].

Take notice that under the provisions of the "Public Health Act, 1875," the [*describe the Local Authority*], being satisfied of the existence of a nuisance at [*describe Premises or place where the nuisance exists*], arising from [*describe the cause of nuisance, for instance*, want of a privy or drain; *or for further instance*, a ditch or drain so foul as to be a nuisance or injurious to health; *or for further instance*, swine kept so as to be a nuisance or injurious to health], do hereby require you within from the service of this notice to abate the same, and for that purpose to [*state any things required to be done or works to be executed*].

If you make default in complying with the requisitions of this notice, or if the said nuisance, though abated, is likely to recur, a summons will be issued requiring your attendance to answer a complaint which will be made to a Court of Summary Jurisdiction for enforcing the abatement of the nuisance, and prohibiting a recurrence thereof, and for recovering the costs and penalties that may be incurred thereby.

Dated this day of 18 .

Signature of Officer of Local Authority

Form B.

Form of Summons.

Summons.

To the Owner *or* Occupier of [*describe Premises*], situated at [*insert such a description as may be sufficient to identify the Premises*], *or* to *A.B.* of

County of [*or* Borough of, *&c.*, *or* District of, *or as the case may be*] to wit.

You are required to appear before [*describe the Court of Summary Jurisdiction*], at the Petty Sessions [*or* Court] holden at on the day of next, at the hour of in the noon, to answer the complaint this day made to me by that in or on the Premises above mentioned [*or* in or on certain Premises situated at No. in the street in the Parish of *or such other description or reference as may be sufficient to identify the Premises*], in the District, under the "Public Health Act, 1875," of [*describe the Local Authority*] the following nuisance exists [*describing it, as the case may be*], and that the said nuisance is caused by the act or default of the Occupier [*or* Owner] of the said Premises, *or* by you *A.B.* [*or in case the nuisance be discontinued, but likely to be repeated, say*, there existed recently, to wit, on or about the day of on the Premises, the following nuisance [*describe the nuisance*], and that the said nuisance was caused [*&c.*], and although the same has since the said last-mentioned day been abated or discontinued, there is reasonable ground to consider that the same or the like nuisance is likely to recur on the said Premises].

Given under my hand and seal this day of 18 .

J.S. (L.S.)

Form C.

Form of Order for Abatement or Prohibition of Nuisance.

To the Owner [*or* Occupier] of [*describe the Premises*] situated [*give such description as may be sufficient to identify the Premises*], *or* to *A.B.* of

County of [*or* Borough, *&c.*, of or, District of *or as the case may be.*]

Whereas on the day of complaint was before Esquire, one of Her Majesty's Justices of the Peace acting in and for the county [*or other jurisdiction*] stated in the margin, [*or as the case may be,*] by that in or on certain Premises situated at in the District under the Public Health Act, 1875, of [*describe the Local Authority*] the following nuisance then existed [*describing it*]; and that the said nuisance was caused by the act or default of the Owner [*or* Occupier] of the said Premises [*or* was caused by *A.B.*] [*If the nuisance have been removed say*, the following nuisance existed on or about [*the day the nuisance was ascertained to exist*], and that the said nuisance was caused, *&c.*, and although the same is now removed, the same or the like nuisance is likely to recur on the same Premises].

And whereas the Owner [*or* Occupier] within the meaning of the said Public Health Act, 1875, [*or* the said *A.B.*], hath this day appeared before us [(*or* me) *describing the Court*], to answer the matter of the said complaint [*or in case the party charged do not appear, say*, and whereas it hath this day been proved to our (*or* my) satisfaction that a true copy of a summons requiring the Owner [*or* Occupier] of the said Premises [*or* the said *A.B.*] to appear this day before us [*or* me] hath been duly served according to the said Act.

Now on proof here had before us [*or* me] that the nuisance so complained of doth exist on the

said Premises, and that the same is caused by the act or default of the Owner [*or* Occupier] of the said Premises [*or* by the said *A.B.*], we [*or* I], in pursuance of the said Act, do order the said Owner [*or* Occupier, *or A.B.*] within [*specify the time*] from the service of this Order or a true copy thereof according to the said Act [*here specify any things required to be done or works to be executed, as, for instance,* to provide for the cleanly and wholesome keeping of, *or,* to remove the animal kept so as to be a nuisance or injurious to health; *or, for further instance,* to cleanse, whitewash, purify, and disinfect the said dwelling-house; *or, for further instance,* to construct a privy *or* drain, *&c.*; *or, for further instance,* to cleanse *or* to cover *or* to fill up the said cesspool, *&c.*], so that the same shall no longer be a nuisance or injurious to health as aforesaid.

[*And if it appear to the Court that the nuisance is likely to recur on the Premises say* [And we] [*or* I] being satisfied that, notwithstanding the said cause or causes of nuisances may be removed under this Order, the same is or are likely to recur, do therefore prohibit the said Owner [*or* Occupier, *or A.B.*] from [*here insert the matter of the prohibition, as, for instance,*] from using the said house or building for human habitation until the same, in our [*or* my] judgment is rendered fit for that purpose.]

In case the nuisance were removed before complaint, say, Now, on proof here had before us [*or* me] that at or recently before the time of making the said complaint, to wit, on as aforesaid, the cause of nuisance complained of did exist on the said Premises, but that the same hath since been removed, yet, notwithstanding such removal, we [*or* I] being satisfied that it is likely that the same or the like nuisance will recur on the said Premises, do hereby prohibit [*Order of prohibition*]; and if this Order of prohibition be infringed, then we [*or* I] [*Order on Local Authority to do works*].

Given under the hands and seals of us, [*or* the hand and seal of me, *describing the Court*].

This day of 18 .

J.S. (L.S.)
J.P. (L.S.)

FORM D.

Form of Order for Abatement of Nuisance by Local Authority.

To the Town Council, *&c., as the case may be.*

County, *&c.* to wit. } WHEREAS [*recite complaint of nuisance as in last Form*].

And whereas it hath been now proved to our [*or* my] satisfaction that such nuisance exists, but that no Owner or Occupier of the Premises, or person causing the nuisance, is known *or* can be found [*as the case may be*]; Now we [*or* I], in pursuance of the said Act, do order the said [*Local Authority, naming it,*] forthwith to [*here specify the works to be done*].

Given, *&c.* (*as in last Form*).

FORM E.

Form of Order to permit Execution of Works by Owner.

County of [*or* Borough, *&c.*,] to wit. } WHEREAS complaint hath been made to me, *E.F.* Esquire, one of Her Majesty's Justices of the Peace in and for the county [*or* borough, *&c.*] of by *A.B.*, Owner, within the meaning of the Public Health Act, 1875, of certain Premises [*describe situation of Premises so as to identify them*], that *C.D.*, the Occupier of the said Premises, doth prevent the said *A.B.* from obeying and carrying into effect the provisions of the said Act in this, to wit, that he the said *C.D.* doth prevent the said *A.B.* from [*here describe the works generally, according to circumstances, for instance, thus:* constructing and laying down, in connexion with the said house, a covered drain, so as to communicate with a sewer, which the Local Authority under the said Act of the District of are entitled to use, such sewer being within 100 feet of the said Premises]: And whereas the said *C.D.*, having been duly summoned to answer the said complaint, and not having shown sufficient cause against the same, and it appearing to me that the said works are necessary for the purpose of enabling the said *A.B.* to obey and carry into effect the provisions of the said Act, I do hereby order that the said *C.D.* do permit the said *A.B.* to execute the same in the manner required by the said Act.

Given under my hand and seal, this day of 18 .

J.S. (L.S.)

FORM F.

Order of Justice for Admission of Officer of Local Authority.

WHEREAS [*describe the Local Authority*] have by their officer [*naming him*] made application to me *A.B.*, one of Her Majesty's Justices of the Peace having jurisdiction in and for [*describe the place*], and the said officer has made oath to me that demand has been made pursuant to the provisions of the Public Health Act 1875, for admission to [*describe situation of Premises so as to identify them*], for the purpose of [*describe the purpose, as the case may be*], and that such demand has been refused.

Now, therefore, I the said *A.B.* do hereby require you [*name the person having custody of the Premises*], to admit the said [*name the Local Authority*], [*or* the officer of the said *Local Authority*], to the said Premises, for the purpose aforesaid.

Given, &c. (*as in last Form*).

FORM G.

Form of Notice requiring Owner to Sewer, &c., Private Street.

To the Owner of certain Premises fronting, adjoining, or abutting on a certain street called within the District of [*describe the Local Authority*].

Whereas the said street is not sewered levelled paved flagged and channelled to the satisfaction of the above-named [*Local Authority*]; and whereas your said Premises front, adjoin, or abut on certain parts of the said street which require to be sewered levelled paved flagged and channelled: Now, therefore the said [*Local Authority*], hereby give you notice (in pursuance of the Public Health Act, 1875), to sewer level pave flag and channel the same within the space of [*state the time*] from the date hereof, in manner following; (that is to say,) the sewers to be laid or made [*here describe the mode to be adopted and material to be used*], of the sizes and forms, and at the rate or rates of inclination shown on the plans and sections of the works as prepared by the Surveyor of the [*Local Authority*].

Each gully for surface draining, and its connexion with the sewer, to be placed as shown on the said plans, and to be constructed of the forms, materials, and dimensions as shown on the said plans.

A foundation for the carriageway and footway in the said street to be formed in the following manner [*here describe the mode to be adopted and the material to be used*], and the said carriageway and footway to be paved [*here describe the mode to be adopted and the material to be used*].

The channel stones to be [*here describe the mode to be adopted and the material to be used*]. The curb or side stones to be [*here describe the mode to be adopted and the material to be used*].

The whole of the abovementioned works to be executed by you in accordance with the plans and sections hereinbefore referred to, and now lying for inspection by you at the office of the [*Local Authority*], situate in street, in aforesaid, and the dimensions, widths, and levels shown thereon, and to be done in a good, workmanlike, and substantial manner, to the satisfaction of the said [*Local Authority*], or their Surveyor.

Dated this day of 18 .

(Signed)

Clerk to the said [*Local Authority*].

FORM H.

Form of Mortgage of Rates.

By virtue of the Public Health Act, 1875, we the being the Local Authority under that Act for the District of in consideration of the sum of paid to the Treasurer of the said District by *A.B.*, of for the purposes of the said Act, do grant and assign unto the said *A.B.*, his executors, administrators, and assigns, such proportion of the Rates arising or accruing by virtue of the said Act from [*the Rates mortgaged*] as the said sum of doth or shall bear to the whole sum which is or shall be borrowed on the credit of the said Rates, to hold to the said *A.B.*, his executors, administrators, and assigns, from the day of the date hereof until the said sum of with interest at the rate of per centum per annum for the same, shall be fully paid and satisfied: And it is hereby declared, that the said principal sum shall be repaid on the day of at [*place of payment*].

Dated this day of 18 .

[*To be sealed with the Common Seal of the Local Authority.*]

FORM I.

Form of Transfer of Mortgage.

I *A.B.* of , in consideration of the sum of paid to me by *C.D.*, of do hereby transfer to the said *C.D.*, his executors, administrators, and assigns, a certain mortgage, bearing date the day of and made by the Local Authority under the Public Health Act, 1875, for the District of for securing the sum of and interest thereon at per centum per annum [*or if such transfer be by endorsement on the mortgage, insert, instead of the words immediately following the word "assigns," the within security*], and all my right estate and interest in and to the money thereby secured, and in and to the Rates thereby assigned. In witness whereof I have hereunto set my hand and seal this day of 18 .

A.B. (L.S.)

FORM K.

Form of Rentcharge.

By virtue of the Public Health Act, 1875, we the being the Local Authority under that Act for the District of do hereby declare and absolutely order that the inheritance of the [dwelling-house shop lands and Premises, *as the case may be*], situated in street, in the Parish of within the said District, and now in the occupation of shall be absolutely charged with the sum of pounds, paid by of for the improvement by drainage and water supply [*as the case may be*] of the same dwelling-house shop lands and Premises [*as the case may be*], together with interest for the same from the date hereof at pounds per centum per annum, until full payment thereof; and also all costs incurred by the said his executors administrators or assigns, under this security, shall be fully paid and satisfied: And we hereby further declare that the said principal and interest moneys shall be paid and payable by the Owner or Occupier of the said Premises to the said his executors administrators and assigns, in manner following; (that is to say,) the interest on such principal sum of pounds, or on so much thereof as shall from time

to time remain due and payable under this Order, shall be paid and payable by equal half-yearly payments whilst payable on the day of and the day of in every year, the 1st payment thereof to be made on the day of next, and such principal sum of pounds shall be paid and payable by equal annual instalments on the day of in each of the next succeeding years, towards the discharge of the same principal sum, until the whole shall be fully satisfied and discharged.

[*To be sealed with the Common Seal of the Local Authority.*]

FORM L.

Register of Owners for the District of .

Notice of Time for making Claims and Objections.

I hereby give notice that all persons who are entitled to vote as Owners or proxies at the election of Members of the Local Board for the District of , and who are not on the register of Owners and proxies now in force, or who being on the register do not retain the qualification or the address described therein, and who are desirous to have their names inserted in the register about to be made for the said District, and all persons who are desirous of objecting to any name on the register now in force, are hereby required to give or send to me, on some one of the first 6 days of March next, a claim or objection (*as the case may be*) in the Form hereunder set forth.

(Signed) _____
Chairman of the Local Board.

Owner's Claim.

To the Chairman of the Local Board for the District of
This day of 18 .

I the undersigned claim to have my name inserted in the register of Owners and proxies for the District of , pursuant to the provisions of the Public Health Act, 1875, as Owner of the property hereinafter described which is situated in the Parish of , that is to say: (*a*)

I also state that the interest or estate which I have in such property, and the amount of all the rent-service which I receive or pay in respect thereof, and the names of the persons from whom I receive or to whom I pay such rent-service are set forth in the Form hereunder written.

Description of Property. (*b*)	In respect of which I have an estate or interest of (*c*)	And in respect of which I receive in rent-service the sum of (*d*)	From (*e*)	And in respect of which I pay in rent-service the sum of (*f*)	To (*g*)
		£ *s.* *d.*		£ *s.* *d.*	

_____ Signature of claimant.
_____ Address (*h*) of claimant.

(*a*) Here insert a clear statement of the property, as "house," "building," "house and acres of land."

(*b*) Describe the property by its name, situation, or the name of the Occupier, or any other designation by which it may be identified.

(*c*) Describe the estate or interest, as *an estate in fee simple, of freehold, a term of years*, and also whether it is held by the claimant solely, or jointly with others, and in the case of a partner claiming, insert the number and names of the other partners in the firm.

(*d*) If the property is let by the Owner, insert the amount of rent received from each tenant.

(*e*) Insert name of tenant or tenants.

(*f*) If the Owner is a lessee paying rent, insert the amount of all the rent he pays.

(*g*) Insert the name of the lessor.

(*h*) This need not be the Owner's residence, but should be some address within the District.

* A partner must set out the amount of rent-service which he would receive or pay if the qualifying property were equally divided among his co-partners and himself.

Claim of Proxy.

To the Chairman of the Local Board for the District of .
This day of 18 .

I the undersigned having been appointed by of
Owner [*or* Owners] of the property hereinafter described which is situated in the Parish of to vote as his [*or* their] proxy pursuant to the provisions of the Public Health Act, 1875, claim to have my name inserted in the register of Owners and proxies for the District of as such proxy.

I herewith transmit to you (*a*) the writing under the hand [*or* hands, *or in the case of a corporation* the seal] of appointing me such proxy.

I also state that the interest or estate which has [*or* have in such property and the amount of the rent-service which he [*or* they] receives or pays [*or* pay] in respect thereof and the names of the persons from whom he [*or* they] receives [*or* receive] or to whom he [*or* they] pays [*or* pay] such rent-service are set forth in the form hereunder written.

Description of Property (*b*)	In respect of which the appointor has an estate or interest of (*c*)	And in respect of which the appointor receives in rent-service the sum of (*d*)	From (*e*)	And in respect of which the appointor pays in rent-service the sum of (*f*)	To (*g*)
		£ *s.* *d.*		£ *s.* *d.*	

Signature of proxy.
Address (*h*) of proxy.

(*a*) If the appointment itself is not sent, insert the words "an attested copy of."

(*b*) Describe the property by its name, situation, or the name of the Occupier, or any other designation by which it may be identified.

(*c*) Describe the estate or interest, as *an estate in fee simple, of freehold, a term of years*, and whether it is held by the appointor solely or jointly with others.

(*d*) If the property is let by the appointor, insert the amount of rent received from each tenant.

(*e*) Insert name of tenant or tenants.

(*f*) If the appointor is a lessee paying rent, insert the amount of all the rent he pays.

(*g*) Insert the name of the lessor.

(*h*) This need not be the proxy's residence, but should be some address within the District.

Form of Objection.

To the Chairman of the Local Board of the District of .
This day of

I hereby give you notice that I object to the name of the person mentioned and described below being retained on the register of Owners and proxies for the District of .

Christian and surname of the Owner of proxy objected to.	Address as described.	Nature of Qualification, as described.	Description (in case of proxy) of appointor.

Signature of objector.
Address of objector.

FORM M.

Appointment of Proxy.

To the Chairman of the Local Board for the District of
This day of 18

I [*or* we] the undersigned being the Owner [*or* Owners] of the property hereinafter described which is situated in the Parish of do hereby appoint to vote as my [*or* our] proxy in all cases wherein he may lawfully do so, pursuant to the provisions of the Public Health Act, 1875. And I [*or* we] hereby state that the description of the said property is as follows; viz. (*a*)

Signature of Owner (*b*).
Address of Owner.
Witness.

(*a*) Describe the property by its name, situation, or the name of the Occupier, or any other designation by which it may be identified.

(*b*) Or of three directors; or in the case of a corporation *say*, Given under our Common Seal, *and add the name of the person or persons entitled to affix the Seal.*

FORM N.

Form of Voting Paper at Elections of Members of Local Boards.

Voting Paper.

District of .

No. of Voting Paper.	Name and Address of Voter.	Number of Votes.	
		As Owner.	As Ratepayer.

Initials of the Voter against the Names of the Persons for whom he intends to vote.	Names of the Persons nominated.	Residence of the Persons nominated.	Quality or Calling of the Persons nominated.	Name of the Nominator or of one of the Nominators.	Address of such Nominator.

I vote for the persons in the above list against whose names my initials are placed.

(Signed)_____

or the mark of _____

Witness to the mark _____

or _____ proxy for _____

Directions to the Voter.

The voter must write his initials against the name of every person for whom he votes, and must subscribe his name and address at full length.

If the voter cannot write he must make his mark instead of initials, but such mark must be attested by a witness, and such witness must write the initials of the voter against the name of every person for whom the voter intends to vote.

If a proxy votes he must in like manner write his initials, subscribe his own name and address, and add after his signature the name of the body of persons for whom he is proxy.

This paper will be collected on the of between the hours of and .

FORM O.

Form of Voting Paper for Poll taken under Schedule III.

Voting Paper No. ( ).

At a meeting held on the day of at in the county of it was agreed that the following resolution should be proposed to the Owners and ratepayers of .

(*Set out the resolution.*)

———	In favour of	Against	Number of Votes	
			As Owner	As Ratepayer
Do you vote in favour of or against the adoption of this resolution.				

(Signed)_____

or the mark of _____

Witness to the mark _____

or proxy for _____

Directions to the Voter.

The voter must write his initials under the heading "in favour" or "against," according as he votes for or against the resolution, and must subscribe his name and address at full length.

If the voter cannot write he must make his mark instead of initials, but such mark must be attested by a witness, and such witness must write the initials of the voter against his mark.

If a proxy votes he must in like manner write his initials, subscribe his own name and address, and add after his signature the words "as proxy for," with the name of the body of persons for whom he is proxy.

This paper will be collected on the of between the hours of and .

SCHEDULE V.

[Parts I. and II. of this Schedule are not here given in full because they merely contain a statement of the Acts repealed by the "Public Health Act, 1875." The Acts in question are the following:—*11 & 12 Vict. c. 63 (Public Health Act, 1848); 12 & 13 Vict. c. 94 (Public Health Supplemental Act, 1849); 13 & 14 Vict. c. 90 (Public Health Supplemental Act, 1850 [No. 2]); 14 & 15 Vict. c. 28 (Common Lodging Houses Act, 1851); 15 & 16 Vict. c. 42 (Public Health Supplemental Act, 1852 [No. 1]); 16 & 17 Vict. c. 41 (Common Lodging Houses Act, 1853); 18 & 19 Vict. c. 116 (Diseases Prevention Act, 1855); 18 & 19 Vict. c. 121 (Nuisances Removal Act for England, 1855); *21 & 22 Vict. c. 98 (Local Government Act, 1858); 23 & 24 Vict. c. 77 (An Act to amend the Acts for the Removal of Nuisances and the Prevention of Diseases); *24 & 25 Vict. c. 61 (Local Government Act (1858) Amendment Act, 1861);* 26 & 27 Vict. c. 17 (Local Government Act Amendment Act, 1863); 26 & 27 Vict. c. 117 (Nuisances Removal Act for England (Amendment) Act, 1863); 28 & 29 Vict. c. 75 (Sewage Utilisation Act, 1865); 29 & 30 Vict. c. 41 (Nuisances Removal [No. 1] Act, 1866); 29 & 30 Vict. c. 90 (Sanitary Act, 1866); 30 & 31 Vict. c. 113 (Sewage Utilisation Act, 1867); 31 & 32 Vict. c. 115 (Sanitary Act, 1868); 32 & 33 Vict. c. 100 (Sanitary Loans Act, 1869); 33 & 34 Vict. c. 53 (Sanitary Act, 1870); 35 & 36 Vict. c. 79 (Public Health Act, 1872); 37 & 38 Vict. c. 89 (Sanitary Law Amendment Act, 1874.)

The repeals are absolute except so far as the Acts apply to the Metropolis, &c., or Scotland or Ireland; and except a few special savings in the three Public Health Supplemental Acts. The four Acts marked with an asterisk are those referred to in the "Public Health Act, 1875," as the "Local Government Acts."]

Part III.

11 & 12 Vict. c. 63. s. 83.

As to interments within churches.

No vault or grave shall be constructed or made within the walls of or underneath any church or other place of public worship built in any Urban District after the 31st day of August, 1848; and whosoever shall bury, or cause, permit, or suffer to be buried, any corpse or coffin in any vault or grave constructed or made contrary to this enactment, shall for every such offence be liable to a penalty not exceeding 50*l*., which may be recovered by any person, with full costs of suit, in an Action of debt.

21 & 22 Vict. c. 98. s. 49.

Local Board to be Burial Board in certain cases.

When a Vestry of any Parish comprised in a Local Government District resolves to appoint a Burial Board, the Local Board may at the option of the Vestry be the Burial Board for such Parish, and all expenses incurred by such Burial Board shall be defrayed out of a Rate to be levied in such Parish in the same manner as a General District Rate.

Provided, that if such Parish has been declared a Ward for the election of Members of the Local Board, such Members shall form the Burial Board for the Parish, and shall be deemed to be a Burial Board elected under the Burial Acts for the time being in force.

24 & 25 Vict. c. 61. s. 21.

Urban Authorities may repair fences surrounding burial grounds.

Any Urban Authority constituted a Burial Board may from time to time repair and uphold the fences surrounding any burial ground which has been discontinued as such within their jurisdiction, or take down such fences and substitute others in lieu thereof, and shall from time to time take the necessary steps for preventing the desecration of such burial ground and placing it in a proper sanitary condition; and they may from time to time pass By-Laws (subject to the provisions of this Act) for the preservation and regulation of all burial grounds within their jurisdiction; and the expense of carrying this Section into execution may be defrayed out of any Rates authorized to be levied by any Urban Authority constituted a Burial Board.

26 & 27 Vict. c. 17. s. 6.

Local Government Districts to be within Highway Districts for meetings.

Where any Local Government District or any other place is surrounded by or adjoins a Highway District constituted under the "Highway Acts," such first-mentioned District or other place shall, for the purpose of any meeting of the Highway Board, be deemed to be within such Highway District.

29 & 30 Vict. c. 90. s. 44.

Power to Burial Boards in certain cases to transfer their powers to Urban Authority.

When the District of a Burial Board is included in or conterminous with the District of an Urban Authority, the Burial Board may, by resolution of the Vestry, and by agreement of the Burial Board and Urban Authority, transfer to the Urban Authority all their estate property rights powers duties and liabilities, and from and after such transfer, the Urban Authority shall have all such estate property rights powers duties and liabilities as if they had been duly appointed a Burial Board under the Burial Acts for the time being in force.

29 & 30 Vict. c. 90. s. 51.

Power to reduce penalties imposed by 6 G. IV., 78.

All penalties imposed by the Act of the 6th year of King George IV., chapter 78 intituled "An Act to repeal the several laws relating to quarantine, and to make other provisions in lieu thereof," may be reduced by the Justices or Court having jurisdiction in respect of such penalties to such sum as the Justices or Court think just. (*a*)

29 & 30 Vict. c. 90. s. 52.

Description of vessels within provisions of 6 G. IV., 78.

Every vessel having on board any person affected with a dangerous or infectious disorder shal be deemed to be within the provisions of the Act of the 6th year of King George IV., chapter 78, although such vessel has not commenced her voyage, or has come from or is bound for some place in the United Kingdom.

35 & 36 Vict. c. 76. s. 34.

As to consent of Local Government Board required in certain cases.

Where in any Local Acts the consent, sanction, or confirmation of one of Her Majesty's Principal Secretaries of State is required with respect to the borrowing of any money, to the giving effect to any By-Laws, or to the appointment of any officer for sanitary purposes, the consent, sanction, or confirmation of the Local Government Board shall be required instead of that of the Secretary of State.

The consent of the Local Government Board, and not that of the Treasury, shall be required to the borrowing of money for the purposes of the "Baths and Wash-houses Acts."

If any question arises as to what are sanitary purposes within the meaning of this Section, the determination of the Local Government Board on such question shall be conclusive.

35 & 36 Vict. c. 79. s. 35.

Transfer of powers of Board of Trade under Alkali Act, and Metropolis Water Acts, to Local Government Board.

The powers and duties of the Board of Trade under the "Alkali Act, 1863," (*b*) and any Act amending the same, and under the "Metropolis Water Acts, 1852 and 1871," shall be exerciseable and performed by the Local Government Board, and "the Local Government Board" shall be deemed to be substituted for "the Board of Trade" wherever the latter expression occurs in the said Acts.

35 & 36 Vict. c. 79. s. 36.

Transfer of powers of Secretary of State under Highway and Turnpike Acts to Local Government Board.

All powers, duties, and acts vested in, imposed on, or required to be done by or to one of Her Majesty's Principal Secretaries of State by the several Acts of Parliament relating to Highways in England and Wales, and to Turnpike Roads and Trusts and Bridges in England and Wales, shall be imposed on and be done by or to the Local Government Board, subject to the conditions, liabilities, and incidents to which such powers, duties, and acts were respectively subject immediately before the passing of the "Public Health Act, 1872," or as near thereto as circumstances admit.

35 & 36 Vict. c. 79. s. 37.

Transfer of officers to Local Government Board.

All Inspectors, Clerks, and other Officers who are by virtue of Section 37 of the "Public Health Act, 1872," attached to and under the control of the Local Government Board, shall hold their offices and places upon the same terms and conditions, and shall have the same powers, privileges, and immunities with respect to the performance of their duties, as if this Act had not passed.

The Local Government Board may by Order distribute the business to be performed under the Local Government Board amongst such officers and persons in such manner as the Local Government Board may think expedient.

35 & 36 Vict. c. 79. s. 38.

Salary of medical officer.

Nothwithstanding anything contained in any Act of Parliament now in force, there shall be paid out of moneys to be provided by Parliament to the Medical Officer of the Local Government Board such salary as the Treasury may from time to time determine.

35 & 36 Vict. c. 79. s. 48.

Orders of the Local Government Board how to be published.

Every General Order of the Local Government Board, made in pursuance of the "Poor Law Amendment Act, 1834," and the several Acts amending the same, shall be published in the *London Gazette*, and when so published shall take effect in like manner, and shall be of as much force and validity as any General Order of the Poor Law Board made and sent in the manner prescribed by the last-mentioned Acts, and no further proceeding shall be necessary in such behalf; and as regards any single Order of the said Board, made in pursuance of the said last-mentioned Acts, it shall not be necessary henceforth to send a copy thereof to the Clerk to the Justices of the Petty Sessions.

(*a*) See the "Customs Consolidation Act, 1876," (39 Vict., **36**, § 234, *post.*)

(*b*) Repealed with its amending Acts by the "Alkali Act, 1881," (44 & 45 Vict., **37**, *post.*)

38 & 39 VICT., c. 63.

An Act to repeal the Adulteration of Food Acts, and to make better provision for the Sale of Food and Drugs in a pure state.[a]

(11th August, 1875.)

Law Reports Statutes, vol. x., p. 575.

WHEREAS it is desirable that the Acts now in force relating to the adulteration of food should be repealed, and that the Law regarding the sale of food and drugs in a pure and genuine condition should be amended: Be it therefore enacted, &c.,

Repeal of Statutes.

1. From the commencement of this Act the Statutes of the 23rd and 24th of Victoria, c. 84, of the 31st and 32nd of Victoria, c. 121, § 24, of the 33rd and 34th of Victoria, c. 26, § 3, and of the 35th and 36th of Victoria, c. 74, shall be repealed, except in regard to any appointment made under them and not then determined, and in regard to any offence committed against them or any prosecution or other act commenced and not concluded or completed, and any payment of money then due in respect of any provision thereof.

Interpretation of words.

2. The term "food" shall include every article used for food or drink by man, other than drugs or water:
The term "drug" shall include medicine for internal or external use:
The term "County" shall include every county, riding, and division, as well as every county of a city or town not being a Borough:
The term "Justices" shall include any Police and Stipendiary Magistrate invested with the powers of a Justice of the Peace in England . . . . . .

Description of Offences.

Prohibition of the mixing of injurious ingredients, and of selling the same.

3. No person shall mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder, any article of food[b] with any ingredient or material so as to render the article injurious to health, with intent that the same may be sold in that state, and no person shall sell any such article so mixed, coloured, stained, or powdered, under a penalty in each case not exceeding £50 for the first offence; every offence, after a conviction for a first offence, shall be a misdemeanor, for which the person, on conviction, shall be imprisoned for a period not exceeding 6 months with hard labour.

Prohibition of the mixing of drugs with injurious ingredients, and of selling the same.

4. No person shall, except for the purpose of compounding as hereinafter described, mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder, any drug with any ingredient or material so as to affect injuriously the quality or potency of such drug, with intent that the same may be sold in that state, and no person shall sell any such drug so mixed, coloured, stained, or powdered, under the same penalty in each case respectively as in the preceding Section for a first and subsequent offence.

Exemption in case of proof of absence of knowledge.

5. Provided that no person shall be liable to be convicted under either of the 2 last foregoing Sections of this Act in respect of the sale of any article of food, or of any drug, if he shows to the satisfaction of the Justice or Court before whom he is charged that he did not know of the article of food or drug sold by him being so mixed, coloured, stained, or powdered as in either of those Sections mentioned, and that he could not with reasonable diligence have obtained that knowledge.

Prohibition of the sale of articles of food and of drugs not of the proper nature, substance, and quality.

6.[c] No person shall sell to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, under a penalty not exceeding £20; provided that an offence shall not be deemed to be committed under this Section in the following cases; that is to say,

(1.) Where any matter or ingredient not injurious to health has been added to the food or drug because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the food or drug, or conceal the inferior quality thereof;

(2.) Where the drug or food is a proprietary medicine, or is the subject of a patent in force, and is supplied in the state required by the specification of the patent;

(3.) Where the food or drug is compounded as in this Act mentioned;

(4.) Where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation.

(*a*) See Part V., "Digest of Cases," (*post.*) Title, "Adulteration of Food." This Act has been amended by the 42 & 43 Vict., 30.

(*b*) *Warren* v. *Phillips.*

(*c*) *Hoyle* v. *Hitchman*; *Pashler* v. *Stevenitt*; *Rook* v. *Hopley*; *Sandys* v. *Markham*; *Sandys* v. *Small*; *Webb* v. *Knight.*

A.D 1875.

Compounded food and drugs.

7. No person shall sell any compound article of food or compounded drug which is not composed of ingredients in accordance with the demand of the purchaser, under a penalty not exceeding £20.

Protection from offences by giving of label.

8.(a) Provided that no person shall be guilty of any such offence as aforesaid in respect of the sale of an article of food or a drug mixed with any matter or ingredient not injurious to health, and not intended fradulently to increase its bulk, weight, or measure, or conceal its inferior quality, if at the time of delivering such article or drug he shall supply to the person receiving the same a notice, by a label distinctly and legibly written or printed on or with the article or drug, to the effect that the same is mixed.

Abstraction of part of an article of food before sale.

9. No person shall, with the intent that the same may be sold in its altered state without notice, abstract from an article of food any part of it so as to affect injuriously its quality, substance, or nature, and no person shall sell any article so altered without making disclosure of the alteration, under a penalty in each case not exceeding £20.

Appointment and Duties of Analysts, and Proceedings to obtain Analysis.

Appointment of analysts.

10. . . . . the Court of Quarter Sessions of every county, and the Town Council of every Borough having a separate Court of Quarter Sessions, or having under any general or local Act of Parliament or otherwise a separate police establishment, may, as soon as convenient after the passing of this Act, where no appointment has been hitherto made, and in all cases as and when vacancies in the office occur, or when required so to do by the Local Government Board, shall, for their respective . . . . . Counties or Boroughs, appoint one or more persons possessing competent knowledge, skill, and experience, as analysts of all articles of food and drugs sold within the said . . . . . Counties or Boroughs, and shall pay to such analysts such remuneration as shall be mutually agreed upon, and may remove him or them as they shall deem proper; but such appointments and removals shall at all times be subject to the approval of the Local Government Board, who may require satisfactory proof of competency to be supplied to them, and may give their approval absolutely or with modifications as to the period of the appointment and removal, or otherwise: Provided, that no person shall hereafter be appointed an analyst for any place under this Section who shall be engaged directly or indirectly in any trade or business connected with the sale of food or drugs in such place.

* * * * * * *

Analyst may act for more than one Authority.

11. The Town Council of any Borough may agree that the analyst appointed by any neighbouring Borough or for the County in which the Borough is situated, shall act for their Borough during such time as the said Council shall think proper, and shall make due provision for the payment of his remuneration, and if such analyst shall consent, he shall during such time be the analyst for such Borough for the purposes of this Act.

Purchaser may have an article of food analysed

12. Any purchaser of an article of food or of a drug in any place being a district, county, city, or Borough where there is any analyst appointed under this or any Act hereby repealed shall be entitled, on payment to such analyst of a sum not exceeding 10*s.* 6*d.*, or if there be no such analyst then acting for such place, to the analyst of another place, of such sum as may be agreed upon between such person and the analyst, to have such article analysed by such analyst, and to receive from him a certificate of the result of his analysis.

Certain officers to obtain samples.

13.(b) Any Medical Officer of Health, Inspector of Nuisances, or Inspector of Weights and Measures, or any Inspector of a Market, or any police constable under the direction and at the cost of the Local Authority appointing such Officer, Inspector, or constable, or charged with the execution of this Act, may procure any sample of food or drugs, and if he suspect the same to have been sold to him contrary to any provision of this Act, shall submit the same to be analysed by the analyst of the district or place for which he acts, or if there be no such analyst then acting for such place to the analyst of another place, and such analyst shall, upon receiving payment as is provided in the last Section, with all convenient speed analyse the same and give a certificate to such officer, wherein he shall specify the result of the analysis.

Provision for dealing with the samples when purchased.

14.(c) The person purchasing any article with the intention of submitting the same to analysis shall, after the purchase shall have been completed, forthwith notify to the seller or his agent seiling the article his intention to have the same analysed by the public analyst, and shall offer to divide the article into 3 parts to be then and there separated, and each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall, if required to do so, proceed accordingly, and shall deliver one of the parts to the seller or his agent.

He shall afterwards retain one of the said parts for future comparison and submit the 3rd part, if he deems it right to have the article analysed, to the analyst.

Provision when sample is not divided.

15. If the seller or his agent do not accept the offer of the purchaser to divide the article purchased in his presence, the analyst receiving the article for analysis shall divide the same into 2 parts, and shall seal or fasten up one of those parts and shall cause it to be delivered, either upon receipt of the sample or when he supplies his certificate to the purchaser, who shall retain the same for production in case proceedings shall afterwards be taken in the matter.

Provision for sending article to the analyst by post.

16. If the analyst do not reside within 2 miles of the residence of the person requiring the article to be analysed, such article may be forwarded to the analyst through the post office as a registered letter, subject to any regulations which the Postmaster-General may make (d) in reference to the carrying and delivery of such article, and the charge for the postage of such article shall be deemed one of the charges of this Act or of the prosecution, as the case may be.

(a) *Liddiard* v. *Reece*; *Sandys* v. *Small*.
(b) *Horder* v. *Scott*.
(c) *Barnes* v. *Chipp*; *Rouch* v. *Hall*; *Smith* v. *Stace*.
(d) For these Regulations, see Part IV., "Official Documents," (*post*).

Person refusing to sell any article to an officer liable to penalty.

17. If any such officer, inspector, or constable, as above described, shall apply to purchase any article of food or any drug exposed to sale, or on sale by retail on any premises or in any shop or stores, and shall tender the price for the quantity which he shall require for the purpose of analysis, not being more than shall be reasonably requisite, and the person exposing the same for sale shall refuse to sell the same to such officer, inspector, or constable, such person shall be liable to a penalty not exceeding £10.

Certificate.

18. The certificate of the analysis shall be in the form set forth in the Schedule hereto, or to the like effect.

Analysts to report quarterly.

19. Every analyst appointed under any Act hereby repealed or this Act shall report quarterly to the Authority appointing him the number of articles analysed by him under this Act during the foregoing quarter, and shall specify the result of each analysis and the sum paid to him in respect thereof, and such report shall be presented at the next meeting of the Authority appointing such analyst, and every such Authority shall annually transmit to the Local Government Board, at such time and in such form as the Board shall direct, a certified copy of such quarterly report.

Proceedings against Offenders.

Proceedings against offenders.

20.(a) When the analyst having analysed any article shall have given his certificate of the result, from which it may appear that an offence against some one of the provisions of this Act has been committed, the person causing the analysis to be made may take proceedings for the recovery of the penalty herein imposed for such offence, before any Justices in Petty Sessions assembled having jurisdiction in the place where the article or drug sold was actually delivered to the purchaser, in a summary manner.

Every penalty imposed by this Act shall be recovered in England in the manner prescribed by the 11th and 12th of Victoria, c. 43 . . . . . .

Every penalty herein imposed may be reduced or mitigated according to the judgment of the Justices.

Certificate of analyst *primâ facie* evidence, but analyst may be called. Defendant and wife may be examined.

21. At the hearing of the information in such proceeding the production of the certificate of the analyst shall be sufficient evidence of the facts therein stated, unless the defendant shall require that the analyst shall be called as a witness, and the parts of the articles retained by the person who purchased the article shall be produced, and the defendant may, if he think fit, tender himself and his wife to be examined on his behalf, and he or she shall, if he so desire, be examined accordingly.

Justices may have articles analysed.

22. The Justices before whom any complaint may be made, or the Court before whom any appeal may be heard, under this Act may, upon the request of either party, in their discretion cause any article of food or drug to be sent to the Commissioners of Inland Revenue, who shall thereupon direct the chemical officers of their department at Somerset House to make the analysis, and give a certificate to such Justices of the result of the analysis ; and the expense of such analysis shall be paid by the complainant or the defendant as the Justices may by Order direct.

Appeal to QuarterSessions

23. Any person who has been convicted of any offence punishable by any Act hereby repealed or by this Act by any Justices may appeal in England to the next General or Quarter Sessions of the Peace which shall be held for the city, county, town, or place wherein such conviction shall have been made, provided that such person enter into a recognizance within 3 days next after such conviction, with 2 sufficient sureties, conditioned to try such appeal, and to be forthcoming to abide the judgment and determination of the Court at such General or Quarter Sessions, and to pay such costs as shall be by such Court awarded ; and the Justices before whom such conviction shall be had are hereby empowered and required to take such recognizance ; and the Court at such General or Quarter Sessions are hereby required to hear and determine the matter of such appeal, and may award such costs to the party appealing or appealed against as they or he shall think proper.

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On prosecution defendant to prove that he is protected.

24. In any prosecution under this Act, where the fact of an article having been sold in a mixed state has been proved, if the defendant shall desire to rely upon any exception or provision contained in this Act, it shall be incumbent upon him to prove the same.

Defendant to be discharged if he prove that he bought the article in the same state as sold, and with a warranty.

25. If the defendant in any prosecution under this Act prove to the satisfaction of the Justices or Court that he had purchased the article in question as the same in nature, substance, and quality as that demanded of him by the prosecutor, and with a written warranty to that effect, that he had no reason to believe at the time when he sold it that the article was otherwise, and that he sold it in the same state as when he purchased it, he shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor, unless he shall have given due notice to him that he will rely on the above defence.

Application of penalties.

26. Every penalty imposed and recovered under this Act shall be paid in the case of a prosecution by any Officer, Inspector, or constable of the Authority who shall have appointed an analyst or agreed to the acting of an analyst within their district, to such Officer, Inspector, or constable, and shall be by him paid to the Authority for whom he acts, and be applied towards the expenses of executing this Act, any Statute to the contrary notwithstanding ; but in the case of any other prosecution the same shall be paid and applied in England according to the Law regulating the application of penalties for offences punishable in a summary manner. . . . . .

Forgery of certificate or warranty.

27. Any person who shall forge, or shall utter, knowing it to be forged for the purposes of this Act, any certificate or any writing purporting to contain a warranty, shall be guilty of a misdemeanor and be punishable on conviction by imprisonment for a term of not exceeding 2 years with hard labour ;

Wilful misapplication of warranty.

Every person who shall wilfully apply to an article of food, or a drug, in any proceedings under this Act, a certificate or warranty given in relation to any other article or drug, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding £20 ;

(a) See the Amendment Act. (42 & 43 Vict., 30, § 10.)

False warranty. Every person who shall give a false warranty in writing to any purchaser in respect of an article of food or a drug sold by him as principal or agent, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding £20;

False label. And every person who shall wilfully give a label with any article sold by him which shall falsely describe the article sold, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding £20.

Proceedings of indictment and contracts not to be affected. 28. Nothing in this Act contained shall affect the power of proceeding by Indictment, or take away any other remedy against any offender under this Act, or in any way interfere with contracts and bargains between individuals, and the rights and remedies belonging thereto.

Provided that in any Action brought by any person for a breach of contract on the sale of any article of food or of any drug, such person may recover alone or in addition to any other damages recoverable by him the amount of any penalty in which he may have been convicted under this Act, together with the costs paid by him upon such conviction and those incurred by him in and about his defence thereto, if he prove that the article or drug the subject of such conviction was sold to him as and for an article or drug of the same nature, substance, and quality as that which was demanded of him, and that he purchased it not knowing it to be otherwise, and afterwards sold it in the same state in which he purchased it; the defendant in such Action being nevertheless at liberty to prove that the conviction was wrongful, or that the amount of costs awarded or claimed was unreasonable.

Expenses of Executing the Act.

Expences of executing Act. 29. The expenses of executing this Act shall be borne . . . . . in counties by the County Rate, and in Boroughs by the Borough Fund or Rate.

Special Provision as to Tea.

Tea to be examined on importation. 30. From and after the 1st day of January, 1876, all tea imported as merchandise into and landed at any port in Great Britain or Ireland shall be subject to examination by persons to be appointed by the Commissioners of Customs, subject to the approval of the Treasury, for the inspection and analysis thereof, for which purpose samples may, when deemed necessary by such inspectors, be taken and with all convenient speed be examined by the analysts to be so appointed; and if upon such analysis the same shall be found to be mixed with other substances or exhausted tea, the same shall not be delivered unless with the sanction of the said Commissioners, and on such terms and conditions as they shall see fit to direct, either for home consumption or for use as ships stores or for exportation; but if on such inspection and analysis it shall appear that such tea is in the opinion of the analyst unfit for human food, the same shall be forfeited and destroyed or otherwise disposed of in such manner as the said Commissioners may direct.

Interpretation. 31. Tea to which the term "exhausted" is applied in this Act shall mean and include any tea which has been deprived of its proper quality, strength, or virtue by steeping, infusion, decoction, or other means.

Cinque port. 32. For the purposes of this Act every liberty of a cinque port not comprised within the jurisdiction of a Borough shall be part of the County in which it is situated, and subject to the jurisdiction of the Justices of such County.

[§ § 33—4 relate to Scotland and Ireland only.]

Commencement of Act. 35. This Act shall commence on the 1st day of October, 1875.

Short title. 36. This Act may be cited as the "Sale of Food and Drugs Act, 1875."

SCHEDULE.

Form of Certificate.

To*

I, the undersigned, public analyst for the do hereby certify that I received on the day of 18 , from † , a sample of for analysis (which then weighed ‡), and have analysed the same, and declare the result of my analysis to be as follows:—

I am of opinion that the same is a sample of genuine

or,

I am of opinion that the said sample contained the parts as under, or the per-centages of foreign ingredients as under.

Observations.§

As witness my hand this day of

A.B.,

at .

* Here insert the name of the person submitting the article for analysis.

† Here insert the name of the person delivering the sample.

‡ When the article cannot be conveniently weighed, this passage may be erased, or the blank may be left unfilled.

§ Here the analyst may insert at his discretion his opinion as to whether the mixture (if any) was for the purpose of rendering the article portable and palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary, or otherwise, and whether the ingredients or materials mixed are or are not injurious to health.

In the case of a certificate regarding milk, butter, or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

38 & 39 VICT., c. 83.

ARRANGEMENT OF SECTIONS.

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1. Short title.
2. Limits of Act.
3. Commencement of Act.
4. Definition of borrowing under Act.

(2.) *Debentures.*

5. Regulations as to debentures.

(3.) *Debenture Stock.*

6. Regulations as to debenture stock.

(4.) *Annuity Certificates.*

7. Regulations as to annuity certificates.

(5.) *Priority of Loans.*

8. Priority of loans.

(6.) *Notice of Trusts.*

9. Notice of trust not receivable.
10. Owners of securities not responsible for acts of Local Authority.

(7.) *Remedy for Non-payment.*

11. Remedy by *Mandamus* for non-payment of money.
12. Remedy by appointment of receiver for non-payment of money.

(8.) *Discharge of Loan.*

13. Loan borrowed to be discharged within prescribed period.
14. Discharge of loan by appropriation of annual sum.
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22. Execution and supply of securities.

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23. Register of nominal securities.
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31. Borrowing and re-borrowing by Local Authorities.

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32. Forgery of securities.
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(10.) *Definitions.*
34. Definitions.
(11.) *Repeal and Consequential Enactment.*
35. Repeal of 36 & 37 Vict., c. 35.
36. Incorporation of County Authority for purposes of Act.
SCHEDULE.

Law Reports Statutes, vol. x.

An Act to amend the Law relating to Securities for Loans contracted by Local Authorities. (13th August, 1875.)

WHEREAS it is expedient to amend the Law relating to securities for loans contracted by Local Authorities: Be it therefore enacted, &c.,

(1.) *Preliminary.*

Short title. 1. This Act may be cited for all purposes as the "Local Loans Act, 1875."

Limits of Act. 2. This Act shall not extend to Scotland or Ireland.

Commencement of Act. 3. This Act shall come into operation on the 1st day of January, 1876, which day is hereinafter referred to as the commencement of this Act.

Definition of borrowing under Act. 4. A Local Authority shall be deemed to borrow, subject to the provisions of this Act, whenever it raises a loan by the issue of debentures or debenture stock or annuity certificates, purporting to be created under its powers, or partly in one way and partly in another;

Subject to this proviso, that where a loan is directed to be raised by debentures or debenture stock or annuity certificates under this Act, the prescribed mode only shall be adopted.

(2.) *Debentures.*

Regulations as to debentures. 5. A debenture under this Act shall be an instrument taking effect as a deed, and charging the Local Rate or property in such debenture specified with payment, as in the debenture mentioned, of the principal sum and interest therein specified.

Where a debenture under this Act charges property other than the Local Rate, and it is intended that in default of payment of the principal sum due on such debenture, or of the interest thereon, the property is to be sold, a statement to that effect shall be inserted in the debenture.

The principal sum may be made payable to the bearer of the debenture, or to a person to be named therein, his executors, administrators, or assigns.

A debenture in which the principal sum is made payable to the bearer shall be transferable by delivery.

A debenture in which the principal sum is made payable to a person named therein, his executors, administrators, or assigns, is in this Act referred to as a nominal debenture, and shall be transferable by writing in manner directed by the Local Authority.

There may be attached to a debenture under this Act, or be thereafter issued in respect thereof, or partly in one way and partly in the other, coupons making the interest as therein mentioned payable to the bearer of each coupon, or to the person named in each coupon or his order, or the interest on a debenture may be made payable to the owner for the time being of such debenture, or may be otherwise made payable in such manner as in the said debenture mentioned.

A coupon making the interest therein mentioned payable to the person named therein or his Order is in this Act referred to as a coupon payable to Order.

A debenture under this Act shall not be issued for a less sum than the prescribed sum, or, where no sum is prescribed, than £20.

(3.) *Debenture Stock.*

Regulations as to debenture stock. 6. A debenture stock may be created and issued by a Local Authority having power to raise a loan or any part thereof by the issue of debenture stock.

Such debenture stock shall be of a nominal amount, not exceeding the amount of money authorised to be raised by such stock, and shall, unless otherwise provided by the conditions of issue, be redeemable at par at the option of the Local Authority at such times and upon such conditions as the Local Authority may declare at the time of the issue thereof.

The title of any person to any share in debenture stock shall be evidenced by the entry in the register as in this Act mentioned of the name of such person as owner of such share.

Debenture stock shall bear such rate of interest, to be payable at such times as the Local Authority may declare at the time of issue of the stock.

Debenture stock and the interest thereon shall be a charge on the Local Rate or property specified at the time of the issue thereof, in the same manner as if it were a principal sum and interest charged thereon by deed.

Where debenture stock and the interest thereon is a charge on property other than the Local Rate, and it is intended that in default of the payment of the interest thereon, or for the purpose of raising the money required for the redemption of the stock, the property is to be sold, a declaration to that effect shall be made by the Local Authority at the time of the issue of the stock, and shall be deemed to form one of the conditions of such issue.

Debenture stock shall have all the incidents of personal estate, and shall, subject to the provisions of this Act, be transferable by writing in manner directed by the Local Authority.

The interest on any share of debenture stock shall be recoverable by the owner of such share in the same manner in all respects as if such interest were an annuity of like amount secured to him by an annuity certificate under this Act.

The owner of any share in debenture stock shall not be entitled to require payment of the nominal amount of stock held by him, except at the time and upon the conditions declared by the Local Authority at the time of the issue of such stock.

The conditions of issue of debenture stock shall be declared by the Local Authority at the time of such issue, and a printed copy of such conditions shall be supplied to every owner of debenture stock requiring the same, and shall be entered in the register of such stock.

The Local Authority may, if it thinks fit, on the application of the owner of any share in debenture stock, grant to him a certificate of title to his share in such stock, or any part of such share, with coupons attached entitling the bearer of the coupons to the interest on the share or part of a share specified in such certificate.

A certificate of title to a share in debenture stock under this Section (in this Act called a stock certificate to bearer) shall entitle the bearer to the stock therein described, and to the interest thereon, and shall be transferable by delivery.

Any share in stock in respect of which a stock certificate to bearer has been issued, shall, so long as such certificate is outstanding, cease to be dealt with through the medium of the register.

Debenture stock, in respect of which a stock certificate to bearer has not been issued, is in this Act referred to as nominal debenture stock.

(4.) *Annuity Certificates.*

Regulations as to annuity certificates.

7. An annuity certificate under this Act shall be an instrument taking effect as a deed, and charging the Local Rate or property in such certificate specified with payment, as in the certificate mentioned, of the annual sum therein specified.

Where an annuity certificate under this Act charges property other than the Local Rate, and it is intended that in default of payment of the annual sum secured by such annuity certificate, or of some part thereof, the property is to be sold, a statement to that effect shall be inserted in the annuity certificate.

The annual sum may be made payable to the bearer of the certificate or to a person to be named therein, his executors, administrators, or assigns.

An annuity certificate in which the annual sum is made payable to the bearer shall be transferable by delivery.

An annuity certificate in which the annual sum is made payable to a person named therein, his executors, administrators, or assigns, is in this Act referred to as a nominal annuity certificate, and shall be transferable by writing in manner directed by the Local Authority.

An annuity certificate under this Act shall not be issued for a less annual sum than the prescribed sum, or, where no sum is prescribed, than £3.

(5.) *Priority of Loans.*

Priority of loans.

8. All sums for the time being due or authorised to be raised on or in respect of any securities issued in respect of the same loan by a Local Authority under this Act shall be paid without any preference the one over the other by reason of the priority of date of any of such securities.

When more than one loan has been raised under this Act by the same Local Authority, the sums for the time being due or authorised to be raised on or in respect of any securities issued in respect of each loan shall take priority according to the date of such loan.

Where any sum of money is authorised to be borrowed in manner provided by this Act such sum may, unless it is otherwise prescribed, be raised under this Act as one loan or several loans, as may be deemed most convenient by the borrowing Authority, so that the aggregate amount authorised to be borrowed be not exceeded.

The date of each loan shall, with a view to the priority of the loan and to the period within which such loan is to be discharged, and for the other purposes of this Act, so far as relates to that period, be fixed by the Local Authority, and may be so fixed irrespectively of the dates of the particular securities issued in respect of such loan, so that the period within which the loan is required to be discharged be not exceeded.

(6.) *Notice of Trusts.*

Notice of trust not receivable.

9. No notice of any trust, expressed, implied, or constructive, shall be received by the Local Authority, or by any registrar or officer of the Local Authority, in relation to any security issued by such Authority under this Act.

Owners of securities not responsible for acts of Local Authority.

10. A person advancing any money to a Local Authority and receiving in consideration of such advance any security under this Act, shall not be bound to inquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

(7.) *Remedy for Non-Payment.*

Remedy by *mandamus* for non-payment of money.

11. The Local Authority shall pay or raise all sums for the time being due or authorised to be raised on or in respect of any security issued by them under this Act, and if default is made in payment of any sum so due, such sum shall be deemed to be a specialty debt due to the person entitled thereto from the Local Authority of such a nature that a *Mandamus* will be granted to enforce the payment thereof; and an Action may be brought accordingly, in which a *Mandamus* may be claimed.

Remedy by appointment of receiver for non-payment of money.

12. Where a Local Authority makes default for a period of 21 days in paying an amount of not less than £500 (whether in one sum or separate sums) for the time being due on or in respect of any security issued under this Act, the persons entitled to the said amount, or any of such persons, may, instead of or in addition to bringing an Action or Actions, apply to the County

Court for the appointment of a Receiver, and any Receiver so appointed (subject to any direction which may be given by the Court) shall from time to time raise as hereinafter mentioned, by or out of the Local Rate or property charged, sufficient money to pay the amount the payment of which is so in default, and all sums due while he is Receiver on or in respect of any such security, together with all costs, charges, and expenses incurred in or about the appointment of such Receiver and the execution of his duties under this Section, including a proper remuneration for his trouble, and shall render to the defaulting Authority the balance, if any, remaining in his hands after making the said payments.

Where the amount so due or authorised to be raised is charged on the Local Rate, the Receiver may raise the money he is authorised to raise under this Section by means of the Local Rate, and for that purpose shall have the same power as the defaulting Authority of levying the Local Rate, and the Receiver shall have such access to and use of the documents of the defaulting Authority relative to the Local Rate as he may require.

Where the amount so due or authorised to be raised is charged on any property, other than the Local Rate, the Receiver may raise the sum which he is authorised to raise under this Section by receipt of the rents and profits of the property, and if the security involves a power of sale, as in this Act mentioned, by sale of the property in such manner and subject to such conditions of sale and otherwise as the Court may direct.

A County Court may appoint a Receiver under this Section with respect to any Local Rate levied, or any property situate wholly or partly within the jurisdiction of such Court, and may remove such Receiver and appoint another in his stead, and so from time to time;

And may make such Orders and give such directions as to the powers and duties of the Receiver, and otherwise as to the disposal of the moneys received by him, as may be thought fit for carrying this Section into effect.

(8.) *Discharge of Loan.*

Loan borrowed to be discharged within prescribed period.

13. Every loan borrowed in manner provided by this Act shall be discharged within the prescribed period from the date thereof, and if no period is prescribed, within the period of 20 years from the date thereof, which period of 20 years shall for the purposes of this Act be included under the term "prescribed period," and such discharge shall be secured by one or more of the following methods; that is to say,

By the issue of annuity certificates limited to expire within the prescribed period; or,

By the issue of debentures made payable in such a manuer that in each year such number of debentures will become due and be paid off as will secure the repayment of the whole sum secured by such debentures by equal annual instalments, extending over the whole of the prescribed period, or over a less time than the prescribed period; or,

By the annual appropriation, as in this Act mentioned, of a fixed sum to the discharge of a certain portion of such loan; or,

Where a sinking fund is prescribed, but not otherwise, by the establishment of a sinking fund and the application thereof in manner in this Act mentioned.

Discharge of loan by appropriation of annual sum.

14. Where a fixed annual sum is appropriated to the discharge of a loan, or part of a loan, the Local Authority shall raise in every year an equal sum of money of such amount as will, at or before the expiration of the prescribed period, pay off the whole of such loan or part of a loan, and the interest thereon.

The Local Authority shall in each year pay out of such fixed sum the interest due on the loan or part of a loan during the current year, and appropriate the residue of such sum, in the case of money borrowed on debentures, to the payment off of a corresponding amount of the principal sum secured by such debentures, and in the case of money borrowed by the issue of debenture stock to the redemption of a corresponding amount of such stock.

The debentures or portion of debenture stock to be paid off in every year shall be ascertained in such manner as may have been fixed at the time of the issue of the debentures or debenture stock, or may thereafter have been arranged.

Where the debentures or portion of debenture stock to be paid off are or is to be determined by lot, the lots shall be drawn in presence of the Local Authority, and any owners of debenture or debenture stock who choose to be present;

The Local Authority shall cause not less than one month's previous notice of the time and place at which lots are to be drawn to be given by advertisement, published once at the least in each of 4 successive weeks in some newspaper circulating in the district within which the Local Authority has jurisdiction.

Any fractional sum remaining of such residue as aforesaid, after payment of the debentures or debenture stock, payable as aforesaid, shall be carried to the credit of the annual sum to be raised in the ensuing year.

All expenses incurred by the Local Authority in respect of any drawings by lot or otherwise in respect of the discharge of a loan shall be paid out of the current revenue of the Local Authority.

Discharge of loan by sinking fund.

15. Where a sinking fund is prescribed for any loan or part of a loan, the Local Authority shall create a sinking fund as hereafter mentioned; that is to say,

(1.) Such equal yearly or half-yearly sums shall be paid into the sinking fund in each year as, being accumulated at compound interest at the prescribed Rate, or if no Rate is prescribed, at such Rate as in the opinion of the Local Authority, (regard being had to the securities in which they are authorised to make investments,) will at the expiration of some period not longer than the prescribed period, be sufficient, after payment of all expenses, to discharge such loan or part of a loan; and,

(2.) The first of such payments shall be made within one year from the date of the loan; and,

(3.) All sums paid into the sinking fund shall be, as soon as may be, invested by the Local Authority in the prescribed manner, and if no manner is prescribed, or if a manner having been prescribed, the Local Government Board shall assent, in securities in which trustees are by Law for the time being authorised to invest, or in debentures, debenture

stock, or annuity certificates issued under this Act, and any such investments may be from time to time varied or transposed, and all dividends and other annual sums received in respect of such investments shall, as soon as may be after they are received, be paid into the sinking fund and invested by the Local Authority in like manner; and,

(4.) The Local Authority may from time to time apply the sinking fund, or any part thereof, in or towards the discharge of the loan or part of a loan for which it was created, and until such loan or part is wholly discharged shall not apply the same for any other purpose;

(5.) The debentures or portion of debenture stock, to the payment of which such sinking fund is for the time being applicable, shall be ascertained in such manner as may have been fixed at the time of the issue of the debentures or debenture stock, or may thereafter have been arranged. Where the debentures or portion of debenture stock to be paid off are or is to be determined by lot, the lots shall be drawn and notice shall be given in manner hereinbefore in this Act mentioned;

(6.) Any surplus of the sinking fund remaining after the discharge of the loan or part of a loan for the discharge of which it was created shall be paid into some other sinking fund under the control of the Local Authority, or if there is no such fund shall be applied to any purpose to which such loan is applicable, or otherwise, as the Local Authority may, with the assent of the Local Government Board, think expedient;

(7.) Where any part or the sinking fund is invested in any securities of the Local Authority, or is applied in paying off any part of the loan before the prescribed period, the interest which would otherwise be payable on such securities or on such part of the loan shall be paid into the sinking fund and invested in manner provided by this Act;

(8.) If the annual income of the sinking fund is not less than the annual interest payable on so much of the loan or part of the loan in respect of which it was created as remains undischarged, the equal annual sums required by this Section to be paid into the sinking fund may cease to be so paid.

Annual return as to sinking fund.

16. Where a sinking fund is created for the purpose of discharging any loan or part of a loan the Local Authority shall, until such loan or part of a loan is discharged, within 21 days after the expiration of each year, transmit to the Local Government Board a return in such form and verified in such manner as the Board from time to time directs, showing the amount which has been invested or applied for the purpose of such sinking fund during the year next preceding the making of such return, and the description of the securities upon which any investment has been made, and the purposes to which any portion of the sinking fund has been applied during the same period, and the total amount (if any) remaining invested at the end of the year.

If it appears to the Local Government Board, by such return or otherwise, that the Local Authority have failed to comply with the provisions of this Act with respect to the sinking fund, that Board may, if they think fit, and after hearing the Local Authority, if desirous to be heard, by Order direct that the sum in respect of which default has been made is to be raised and invested or applied as part of the sinking fund, and any such Order may be enforced by *Mandamus*.

Supplemental Provisions.

(1.) *As to Coupons.*

Temporary issue of coupons.

17. Coupons in respect of any debenture or stock certificate to bearer under this Act may be issued comprising the interest payable during the whole period of years for which the debenture or stock certificate is in force, or any less period, and at the expiration of any such less period fresh coupons may be issued in respect of the debenture or stock certificate, or such debenture or stock certificate may be exchanged for another debenture or stock certificate with coupons for a further period.

Endorsement and crossing coupons.

18. A coupon payable to Order, which when presented for payment purports to be endorsed by the person named therein, shall be a sufficient authority to the person paying the money to pay the amount due in respect of such coupon to the bearer thereof, and it shall not be incumbent on the person paying such coupon to prove that such endorsement or any subsequent endorsement was made by or under the direction or authority of the person who is named in the coupon, or to whom the coupon was made payable by any endorser.

Where a coupon bears across its face an addition in written, printed, or stamped letters of the name of any banker or of the words "and company" in full or abbreviated, between two tranverse lines, such addition shall be deemed to be a material part of the coupon, and have the force of a direction to the person by whom such coupon is to be paid that the same is to be paid only to or through the banker named, or if none is so named, to or through some banker, and the same shall be payable only to or through the banker named or some banker.

Coupons issued in respect of a security are exempt from stamp duty as if attached thereto.

19. Any coupons issued in respect of any debenture or stock certificate to bearer under this Act shall for the purpose of the Acts relating to stamp duties be deemed to have been attached to and issued with such security.

(2.) *As to Stock Certificates.*

Conversion into nominal debenture stock of stock in certificate to bearer.

20. The bearer of a stock certificate to bearer may, on delivery to the Local Authority of his certificate and of all unpaid coupons belonging thereto, require the Local Authority to enter him in the register of the Local Authority as an owner of the share of stock described in the stock certificate to bearer, and thereupon that stock shall become nominal debenture stock and the interest thereon shall be payable as if no stock certificate to bearer had been issued in respect of that share of stock.

Trustee not to apply for stock certificate to bearer.

21. A trustee of debenture stock shall not apply for or hold a stock certificate to bearer unless authorised to do so by the terms of his trust, and any contravention of this provision by a trustee shall be deemed a breach of trust.

But this provision shall not impose on the Local Authority an obligation to inquire whether a person applying for a stock certificate to bearer is or is not a trustee, or subject the Local Authority to any liability in the event of their issuing a stock certificate to bearer to a trustee, or invalidate any stock certificate to bearer issued.

(3.) *As to Execution and Supply of Securities.*

Execution and supply of securities.

22. Every debenture, stock certificate to bearer, and annuity certificate under this Act shall be deemed to be well executed if under the Common Seal of the Local Authority, where that Authority is a body corporate, and if signed by 2 or more members of the Local Authority, where the Local Authority is not a body corporate, or if otherwise executed in such manner as the Local Government Board may direct on the application of any Local Authority, whether corporate or unincorporate.

The Commissioners of Inland Revenue may, when required by any Local Authority, and on payment of such sum as may, with the sanction of the Treasury, be agreed upon, supply such Authority with debentures, stock certificates to bearer, coupons, and annuity certificates under this Act in such form and of such materials as the Local Authority may direct.

(4.) *As to Register of Nominal Securities.*

Register of nominal securities.

23. A Local Authority issuing nominal debentures, nominal debenture stock, or nominal annuity certificates under this Act, shall cause a Register of such securities to be kept in one or more book or books, and there shall be entered in such register—

(1.) The names and addresses and the descriptions of the owners for the time being of every such security, with a statement of the securities held by each person registered, and

(2.) The date at which the name of any person was entered in the Register in respect of any such security.

The Register under this Section shall be evidence of any matters by this Act directed or authorised to be inserted therein.

Inspection of register.

24. Any person may inspect the Register at any reasonable time upon payment of such fee not exceeding 1*s.* as may be fixed by the Local Authority, and shall be entitled to obtain from the registrar, copies or extracts certified by him to be true copies or extracts of such register, upon payment of such fee not exceeding 2*s.* 6*d.*, and 2*d.* for every folio of 72 words, as the Local Authority may from time to time fix, and any copy or extract so certified shall be admissible in evidence.

Rectification of register.

25. If the name of any person is without sufficient cause entered in or omitted from the Register, or if default is made or unnecessary delay takes place in making any entry in such Register, the person aggrieved or the Local Authority may apply to the Court for an Order that the Register may be rectified.

The Court may either refuse the application with or without costs to be paid by the applicant, or may, if satisfied of the justice of the case, whether there has or has not been any default on the part of the registrar, make an Order for the rectification of the Register, and make such order as to the payment of the costs of the application or of damages to the person aggrieved as to the Court may seem just.

The Court may, in any proceeding under this Section, decide any question relating to the title of any party to such proceeding to have his name entered in or omitted from the Register, and generally any question which it may be necessary or expedient to decide for the rectification of the Register.

The Court for the purposes of this Section means any of Her Majesty's Superior Courts of Law or Equity, or any Court to which the jurisdiction of such Courts may be transferred, and where the value of any security or securities to which the application relates does not exceed £50 shall include a County Court, and the jurisdiction by this Act given to a Superior Court may be exercised in a summary manner by any Judge or Judges of such Court sitting in chambers or otherwise.

(5.) *As to Loans under Official Sanction.*

Permissive issue of securities under official sanction.

26. Any Local Authority about to raise a loan by the issue of any securities under this Act may apply to the Local Government Board to authorise the issue of such securities under official sanction.

The Local Government Board, before granting their official sanction to such issue, shall require the Local Authority to furnish in such form, and with such particulars, and supported by such evidence as the Local Government Board may require, such returns of the financial condition of such Authority and borrowing powers of such Authority and of the indebtedness of such Authority, whether incurred before or after the passing of this Act, and such other particulars as will enable the Local Government Board to ascertain the facts required by this Section to be stated in relation to such issue, and the Local Government Board may make such examination or inquiries for ascertaining the said matters and the accuracy of such returns as they may think expedient, and they shall not give their sanction unless they are satisfied with the information given and the result of the inquiries made.

The issue of any securities under official sanction shall be authenticated by an official stamp on such securities or otherwise as the Local Government Board may from time to time direct.

The sanction of the Local Government Board given in respect of any securities shall be conclusive evidence that the Local Authority by whom such securities may be issued had power to

issue the same, and that the same have been duly issued, and are as to form and otherwise in conformity with this Act.

The owner of any security issued under official sanction shall on request made by him to the Local Government Board be furnished with a statement of the following particulars; that is to say,

Where a security is charged on a Rate, of the rateable value, at the date of the issue of such security, of the property subject to the Rate, and where the security is a charge on property, of the estimated value of such property; also of

The relative priority of the loan, in respect of which such security is issued, and of the other loans (if any) of the borrowing Authority;

and such statement shall be evidence of the particulars therein stated.

(6.) *As to Investments on Loans under Act.*

Power for trustees to invest in loans under Act.

27. Any trustees or other persons for the time being authorised or directed to invest any moneys in the debentures or the debenture stock of any railway or other company shall, unless the contrary is provided by the instrument authorising or directing such investment, have the same power of investing such moneys in any nominal debentures or nominal debenture stock issued under this Act as they have of investing such moneys in debentures or debenture stock of any railway or other company as aforesaid.

Power for Public Works Loan Commissioners to take securities under Act.

28. When the Public Works Loan Commissioners are authorised to grant any loan to a Local Authority under any Act, passed either before or after the passing of this Act, and are satisfied with the sufficiency of the Rates or other property on which such loan is charged to defray the loan, they may, notwithstanding anything contained in any other Act of Parliament, take debentures, debenture stock, or annuity certificates under this Act as a security for such loan.

(7.) *As to General Rules.*

Application of rules in schedule.

29. The General Rules in the Schedule to this Act with respect to the transfer and transmission of nominal securities shall have the same force as if they were enacted in the body of this Act.

Power to make general rules.

30. The Local Authority may from time to time, with the consent of the Local Government Board, make, and when made, add to, rescind, or alter, such Rules as they think fit with respect to the following matters:

(1.) The issue of coupons, the registry of securities, the mode of transferring securities not transferable by delivery, the fees, if any, to be charged in respect of registry and otherwise in respect of any security issued by them under this Act; and,

(2.) With respect to any matter or thing required for the purposes of carrying into effect this Act, and not inconsistent therewith.

The Local Authority may also by such Rules as aforesaid add to, rescind, or alter any of the Rules in the Schedule hereto.

Any General Rules made by the Local Authority in pursuance of this Section shall, so far as they are consistent with this Act, have the same force as if they were enacted therein.

Provided, that any Rules made, added to, rescinded, or altered in pursuance of this Section shall not affect any securities issued in respect of any loan the date of which is prior to the date of such making, addition, rescission, or alteration.

(8.) *As to Borrowing.*

Borrowing and re-borrowing by Local Authorities.

31. Any Local Authority, notwithstanding any provision in any other Act of Parliament passed before the passing of this Act, may, if it thinks fit, borrow in manner provided by this Act any loan which it is authorised to borrow.

Any Local Authority may from to time in like manner re-borrow money for the purpose of discharging any loan lawfully contracted by them either before or after the passing this Act;

Provided that the time for repayment of any money so borrowed shall not be extended beyond the unexpired portion of the term for which the original loan was contracted, unless with the sanction of the Local Government Board, and in no case shall be extended beyond the prescribed period.

(9.) *As to Forgery and Loss of Securities.*

Forgery of securities.

32. For the purposes of the Act of the Session of the 24th and 25th Years of the reign of Her present Majesty, c. 98, intituled "An Act to consolidate and amend the Statute Law of England relating to indictable offences by Forgery," debenture stock under this Act shall be deemed to be capital stock of a body corporate, and any other security issued in pursuance of this Act shall be considered to be a writing obligatory, and any coupon bearing across its face an addition in written, printed, or stamped letters of the name of any banker, or of the words "and company" in full or abbreviated, between two tranverse lines, shall be deemed to be a cheque or draft on a banker.

Loss of securities.

33. If any security issued under this Act is lost, mislaid, or destroyed, the Local Authority shall, on such indemnity being given as they may require, and on payment of the expense of the issue, issue a fresh security in the place of the security so lost, mislaid, or destroyed.

(10.) *Definitions.*

Definitions.

34. For the purposes of this Act—

"Prescribed" means prescribed by any Act passed either before or after the passing of this Act authorising a Local Authority to borrow money:

"Local Authority" means the Justices of any County, Liberty, Riding, Parts, or Division of a County in General or Quarter Sessions assembled, the Council of any Municipal Borough, also any Authority whatsoever having power to levy a Rate, as in this Act defined, also any prescribed Authority:

"Municipal Borough" means any Borough for the time being subject to the Act of the Session of the 5th and 6th Years of the reign of King William IV., c. 76, intituled "An Act to provide for the regulation of Municipal Corporations in England and Wales," and any Acts amending the same:

A "Rate" means a Rate the proceeds of which are applicable to public local purposes and leviable on the basis of an assessment in respect of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other document requiring payment from some Authority or officer, is or can be ultimately raised out of a Rate, and the levy of a Rate includes the issue and enforcement of any such precept, certificate, or document as aforesaid, and expressions relating to the levy and the assessment and making of a Rate shall be construed accordingly:

"Local Rate" means any Rate as before defined which a Local Authority have power to levy or charge by way of mortgage or otherwise:

"Security" means any debenture, debenture stock, annuity certificate, coupon, or stock certificate to bearer issued under this Act:

"Person" includes a body of persons corporate or unincorporate:

"Executors and Administrators" includes successors.

(11.) *Repeal and Consequential Enactment.*

Repeal of 36 & 37 Vict., 35.

35. The "County Debentures Act," 1873," is hereby repealed, as from the commencement of this Act;

But this repeal shall not abridge or prejudicially affect the incorporation of any County Authority under that Act, or any right in respect of any debenture issued in pursuance of that Act before the commencement of this Act, or any remedy for non-payment of moneys secured by any such debenture, and all such rights and remedies may be enforced as if this Act had not been passed.

Incorporation of County Authority for purposes of Act.

36. The Justices of any County, Liberty, Riding, Parts, or Division of a County in General or Quarter Sessions assembled, issuing any securities under this Act, shall, so far as relates to such securities, be deemed to be incorporated by the name of the Justices of the County, Liberty, Riding, Parts, or Division of the County to which they belong, or by any other name by which such Justices are ordinarily known, or by which they granted the said securities, and may sue and be sued in any Action or other legal proceeding relating thereto by such corporate name.

SCHEDULE.

General Rules.

Transfer of Nominal Securities.

(1.) A number of persons, not exceeding such number as may from time to time be directed by the Local Authority, may be registered as joint-owners of the same nominal security, with right of survivorship between them.

(2.) Unless otherwise directed by a General Rule of the Local Authority, the instrument of transfer of any nominal security issued by a Local Authority shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain owner of such security until the name of the transferee is entered in the register in respect thereof.

(3.) The transfer books of nominal securities may be closed at such times, not exceeding twice in each year, and not exceeding 14 days at each time of closing, as the Local Authority may direct.

Transmission of Nominal Securities.

(4.) The executors or administrators of a deceased owner of a nominal security shall be the only persons recognised by the Local Authority as having any title to such security.

(5.) Any person becoming entitled to a nominal security in consequence of the death or bankruptcy of any owner, or in consequence of the marriage of any female owner, may be registered as owner upon such evidence being produced as may from time to time be required by the Local Authority.

(6.) Unless otherwise directed by a Rule of the Local Authority, any person who has become entitled to a nominal security in consequence of the death or bankruptcy of any owner, or in consequence of the marriage of any female owner, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such security.

(7.) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such security.

(8.) The instrument of transfer shall be presented to the Local Authority, accompanied with such evidence as the Local Authority may require to prove the title of the transferor, and thereupon the Local Authority shall register the transferee as owner.

(9.) In the construction of this Schedule the term "nominal security" means any nominal debenture, nominal debenture stock, or nominal annuity certificate.

38 & 39 VICT., c. 89.[a]

ARRANGEMENT OF SECTIONS.

Preliminary.

Clause.
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31. Bankruptcy of debtor.
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35. Security for completion of works partly finished or not commenced.
36. Examination as to proper application of moneys lent.
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38. Change of security.
39. Concurrence by Commissioners in leases, sales, &c., of mortgaged property.

Special Provisions as to Borrowers.

40. Power to various Authorities to mortgage and levy Rates.

(*a*) This Act consolidates a number of Acts. Local Authorities under the "Public Health Act, 1875," often being able to borrow of the Public Works Loan Commissioners, such portions of the Act as give information likely to be of direct usefulness to those Authorities are here printed. It has been amended by 41 Vict., 18; and by 44 & 45 Vict., (*post.*)

Miscellaneous.

Clause.
41. Regulations by Commissioners.
42. Payment of fees and other sums into the Exchequer.
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45. Authority, and laying before Parliament Treasury warrants.
46. Receipt for money payable on account of loan, &c.
47. Notices may be served by post.
48. Notices to and by Commissioners.
49. Effect of Schedules.
50. Application of Act to loans under Special Acts.
51. Definitions.

Temporary Provisions and Repeal.

52. First Commissioners.
53. Existing officers of Commissioners.
54. Sending of statements and making of regulations before commencement of Act.
55. Reference in Acts to repealed Acts.
56. Saving for loans and transactions under repealed Acts.
57. Repeal of Acts.

SCHEDULES.

Law Reports Statutes, vol. x., p. 991.

An Act to consolidate with Amendments the Acts relating to Loans for Public Works.

(13th August, 1875.)

BE it enacted, &c.,

Preliminary.

Short title.

1. This Act may be cited as the "Public Works Loans Act, 1875."

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Objects, Terms, and Duration of Loan.

Loans for public works.

9. The Loan Commissioners may, if they think it expedient, from time to time, in manner mentioned in this Act, make loans for the purpose of any of the works mentioned in the 1st Schedule to this Act. to any person having power under an Act of Parliament or otherwise to borrow for such purpose.

The Loan Commissioners in considering the propriety of granting a loan shall have regard to the sufficiency of the security for its repayment, and, subject to the provisions of any Special Act, shall determine whether the work for which the loan is asked would be such a benefit to the public as to justify a loan out of public money, having regard to the amount of money placed at their disposal by Parliament.

Interest on loan.

10. Every loan granted under this Act shall bear interest at a rate not less than the rate authorised by a Special Act relating to such loan, or if no rate be so authorised, not than less 5 per cent. per annum . . . . . .

Term of years for repayment of loan.

11. Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise) within a period from the date of the actual advance of such loan, not exceeding the period authorised by a Special Act relating to such loan, or if no period be so authorised not exceeding 20 years.

Where a loan has been granted repayable within a period less than the full period allowed by the foregoing provisions of this Section, the Loan Commisioners, if the repayment of the loan with interest is in their opinion sufficiently secured by such security as is required by this Act, and if they think fit, may extend the period for the repayment of such loan to a period not exceeding the said full period from the date of the advance of such loan.

Where no period is authorised by a Special Act relating to the loan, the Treasury, on the recommendation of the Loan Commissioners, stating special circumstances, may either before or after the grant of the loan, extend the period within which the loan is to be repaid to such period as may be recommended by the Loan Commissioners.

The Loan Commissioners in considering whether the period for the repayment of a loan should or should not be the said full period, and the Loan Commissioners and the Treasury in considering whether the period should be extended as aforesaid, shall have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by such work.

The first instalment for the repayment of every loan shall be made payable within a period not exceeding 5 years from the date of the advance of such loan.

Security for loans.

12. The Loan Commissioners before advancing any money on account of a loan shall take security for the repayment of the loan with the interest, consisting of the security authorised by the Special Act relating to the loan, or if none is so authorised, of a mortgage of property or of a Rate, or of both property and a Rate, and (save as hereinafter mentioned) of personal security.

The Loan Commissioners may, if they think fit, dispense with personal security in any case in which in their opinion the mortgaged property or Rate is sufficient security for the payment of the principal and interest of the loan within the stipulated period.

Funds for Loans.

Annual estimate of amounts required.

13. For the purpose of passing an annual Act of Parliament, granting money for the purpose of loans by the Loan Commissioners, every intending borrower shall send to the Commissioners on or before the 31st day of December in every year a statement of the new loan or instalments of a loan already granted which the sender will probably apply to borrow during the ensuing financial year; and the Commissioners shall as soon as practicable submit all such statements to the Treasury, with such observations thereon and information respecting the same as they may think expedient, and as may be necessary for enabling the Treasury to lay before the House of Commons an estimate of the amount required to be granted for the purpose of loans by the Loan Commissioners.

The Loan Commissioners shall not, except with the permission of the Treasury, grant any loan or advance any instalment of a loan which has not been included in such a statement as above mentioned.

The Treasury, if they think that after providing for the loans and instalments included in the said statements, or such of them as will actually be advanced, there will be a balance out of the sum granted by Parliament sufficient to meet any loan or instalment not included in the statements, may, if they think fit, grant such permission, and may grant it conditionally upon the said balance being in their opinion sufficient when the time for the actual payment arrives.

If the regulations under this Act require quarterly statements to be sent by borrowers of the amounts which will be required by such borrowers, the Treasury may, if they think fit, refuse to issue in any quarter of a financial year any larger sum than the total of the amounts named in the statements referring to such quarter.

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Recovery of Loans.

Charge on property and priority of loan by the Commissioners.

18. Where a loan is granted by the Loan Commissioners on the security of a mortgage of any property (whether with or without any other security), the property from and after the date of the mortgage shall be charged with the payment to the use of Her Majesty of the loan with interest as in the mortgage mentioned, in priority, save so far as otherwise specified in the mortgage, over every other debt, mortgage, or charge whatsoever affecting the property, except any loan due to any creditor not assenting to such priority which has been advanced in good faith before the loan advanced by the Commissioners and secured by a mortgage of the property executed to a person who is entitled as a *bonâ fide* creditor to the repayment thereof with interest.

Provided that if there is more than one such creditor and not less than four-fifths in value of such creditors consent in writing that the said charge shall have priority over the loans and mortgages of such creditors, in such case the loans and mortgages of all such creditors, as well those who have not agreed as those who have agreed, shall be postponed to the loan granted by the Commissioners and to the said charge thereof, and to the security for the same.

Nothing in any Special Act, and no rule of Law or custom shall affect the priority given by this Section, except so far as the Special Act negative such priority in terms expressly referring to this Act.

Charges on Rate of loan and loan not to be repudiated by locality having had the benefit of it.

19. Where a loan is granted by the Loan Commissioners on the security of a mortgage of any Rate (whether with or without any other security) such Rate from and after the date of the mortgage shall be charged with the payment to the use of Her Majesty of the loan with interest as in the mortgage mentioned.

Where the loan has been granted to any borrower who appeared to the Commissioners to have power to levy and mortgage such Rate and has been expended upon the work in respect of which or in or for the benefit of the locality in which such Rate or any part thereof is levied, the mortgage of the Rate for securing the repayment of the loan with interest shall be valid, and may be enforced in pursuance of this Act, notwithstanding any defect in the power or title of the borrower by whom the mortgage purports to be granted; and in particular the Commissioners may, although such borrower was not legally constituted or is dissolved, or is otherwise incapable and always was incapable of making, levying, or mortgaging such Rate, have the same power of making and levying and enforcing the making or levying the said Rate for the purpose of repaying such loan and interest, and all other sums due under the mortgage, as if such borrower had been duly constituted, and was not dissolved, and had had full power to make, levy, and mortgage such Rate.

Securities to be taken in name of secretary.

20. All securities for any loan granted by the Loan Commissioners in pursuance of this Act may be given to the Secretary of the Commissioners on their behalf. Every such security is in this Act referred to as a security given to the Commissioners.

Taking possession by Commissioners of property on default of payment.

21. Where a mortgage of property has been given to secure any loan granted by the Loan Commissioners, and default is made in making payment according to the terms of such mortgage, then at any time after such default and without any consent on the part of any person interested in the equity of redemption of the mortgaged property, the Commissioners, without prejudice to any other remedy, shall have power to do all or any of the following things; namely,

(1.) Take possession of the mortgaged property, or any part thereof; and

(2.) Grant any lease of the mortgaged property, or any part thereof, for such term and upon such reasonable conditions as they may think expedient, and that either for a premium or rent, or both; and

(3.) Sell or mortgage the mortgaged property, or any part thereof.

Powers of Commissioners when in possession.

22. The Loan Commissioners, when authorised to take possession of any mortgaged property, may take possession either by themselves or by any person appointed by them (whether such person is interested in the mortgaged property or not), and upon possession of any mortgaged property being so taken,—

(1.) All the estate, right, interest, powers, authorities, and privileges, of what nature or kind soever, which were at the time of the making of the mortgage or may for the time being be vested in or exerciseable by the mortgagor or any person claiming through or under the mortgagor, either in relation to the property or necessary for carrying on and managing the same, shall become vested in the secretary of the Commissioners; and

(2.) The Commissioners may by themselves or any person appointed as aforesaid manage and carry on the property, and receive the revenue arising therefrom, or in any way receivable in respect thereof, or otherwise, in pursuance of the mortgage, and exercise all or any of the powers and authorities vested in their Secretary by this Act; and

(3.) The Commissioners or their Secretary or such person as aforesaid shall not be liable for the repairs or maintenance of the mortgaged property, but may apply any moneys received in respect thereof or raised from any Rate towards such repairs or maintenance to such extent as the Commissioners may think expedient; and

(4.) The Commissioners may, with the consent of the Treasury, advance out of moneys at their disposal under this Act sums for the completion, repair, improvement, or security of the mortgaged property, and every such sum shall be deemed and shall be a loan secured on the property and repayable with *the like interest*(a) from the time of the advance, and by the like person, and shall have the like priority and be recoverable in the like manner as if it were part of the original loan secured by the said mortgage; and

(5.) If the revenue received from or in respect of the property is insufficient to keep down the current expenses of working, maintaining, and repairing the same, together with the instalments of principal and the interest for the time being due on the mortgage, and no Rate or no sufficient Rate can be levied to meet the deficiency, the Commissioners may, with the consent of the Treasury, destroy or cause to be destroyed, or (if they sell the same) authorise the purchaser with the like consent to destroy the same, and sell or authorise the purchaser to sell the materials thereof and other the articles, goods, and effects belonging thereto, and neither the Commissioners, nor their Secretary, nor the purchaser so authorised, nor his representatives, shall be liable in damages or otherwise to any person whomsoever for such destruction; and the provisions of this Act, with respect to the sale of any mortgaged property shall apply to any sale under this Section; and

(6.) Possession under this Act may be relinquished at such time and in such manner and upon such terms and conditions as the Commissioners think fit, and upon such relinquishment all powers, authorities, and privileges which on the taking of possession became vested in the Secretary of the Commissioners shall, so far as they are not reserved, revert to and become vested in the person in whom the same would have been vested if possession had not been taken, but the Commissioners may, if they think fit, on the relinquishment of possession, reserve any of the said powers, authorities, and privileges, with a view to the payment of any sum due to them:

(7.) Every such relinquishment of possession of any mortgaged property shall be without prejudice to the power of again taking possession thereof under the provisions of this Act.

Powers in relation to Rate where default made.

23. Where a loan made by the Commissioners is secured by the mortgage of a Rate (whether with or without any other security), and the Commissioners might, if such loan were secured upon a mortgage of property, take possession of such property, the Commissioners may, without prejudice to any other remedy, by notice in writing served at the office or last known place of address of the mortgagor, or where from any cause the same cannot be so served by notice in writing published in the prescribed manner, declare their intention to exercise the powers conferred by this Act, and thereupon the Commissioners shall have and may exercise the same power as the mortgagor of making and levying the Rate mortgaged, and for that purpose the Commissioners or their secretary with their concurrence may appoint an officer who, subject to the direction of the Commissioners, shall have and may exercise the same powers, authorities, and duties as if he had been appointed by the mortgagor.

The Commissioners, in making an estimate of the Rate to be levied for the purpose of paying any sum due, may add such sum as they think sufficient for defraying and may defray thereout all costs, charges, and expenses, including remuneration to any officer or other person employed, incurred by the Commissioners in the execution of their powers under this Section or otherwise by reason of the default in payment.

Any balance remaining in the hands of the Commissioners shall be paid by them to the mortgagor.

The Commissioners may, by a like notice, declare their intention to relinquish the powers conferred by this Section, and that either absolutely or with reservations and conditions, and thereupon all such powers shall revest in the mortgagor, subject to the said reservations and conditions.

Liability of Commissioners after taking Possession or in default of payment.

24. When the Loan Commissioners have taken possession of any property under this Act, or exercised the powers conferred by this Act in relation to any Rate, neither they nor their Secretary, nor any person appointed by them in that behalf, shall be liable to account to any person interested in the equity of redemption in such property or Rate for any moneys which, but for their wilful neglect or default, they or he might have received when so in possession or exercising such powers, or for any moneys other than those which have actually come to their or his hands.

Sale and mortgage by Commissioners of mortgaged premises.

25. Where the Loan Commissioners have power to sell or mortgage, they shall have power to sell or mortgage either together or in parcels, by public aution or private contract, and subject to such conditions as to title or evidence of title or otherwise as the Commissioners may think proper.

(a) By the "Public Works Loans Act, 1881," (44 & 45 Vict., , § 7), the interest under this Section is not to be less than 5 per cent.

They may also buy in at any auction and rescind any contract for sale or mortgage, and resell or re-mortgage, without being responsible for any loss occasioned thereby.

Where a sale cannot be made in the ordinary way for a sum equal to the amount remaining due under the mortgage, the Loan Commissioners may, if they think fit, sell in such manner, and subject to such conditions, stipulations, and agreements, as they may think expedient for the purpose of ensuring the completion or carrying on of the work comprised in such mortgage by the purchaser thereof, with a view to the public good or general benefit, or for any other purpose, notwithstanding such conditions, stipulations, and agreements may be prejudicial to the sale, or may not be beneficial to the persons interested in the equity of redemption in the property.

The Loan Commissioners may for the purpose of any sale or mortgage execute all such agreements, conveyances, and instruments as they may think fit.

Purchaser not liable to see to the validity of sale or application of money

26. Every sale or mortgage made by the Commissioners or their secretary, and purporting to be made in pursuance of this Act, shall, so far as regards the interest of the purchaser and mortgagee, be deemed to be valid, and the purchaser or mortgagee shall not be bound to see or inquire whether the sale or mortgage is authorised, nor in the case of a mortgage whether the money raised is required to be raised, nor as to the necessity or expediency of or authority for making the conditions, stipulations, or agreements subject to which the sale or mortgage was made, nor otherwise as to the propriety or regularity of such sale or mortgage, nor be affected by express notice as to any matters into which he is not bound to see or inquire.

The receipt in writing of the Bank of England, or one of their cashiers or other proper officer for the purpose of the Bank of England, or other prescribed receipt, shall be a full discharge for the money paid on the sale or mortgage, and the person paying the same shall not be bound to see to the application of such money, or be liable or in any manner accountable for the mis-application or non-application thereof.

Terms of lease, sale, or mortgage.

27. Any lease, mortgage, conveyance, or other disposition made by the Secretary of the Commissioners under this Act of any mortgaged property may be in the prescribed form, and shall convey to the person in whose favour such lease, mortgage, conveyance, or other disposition is made, and according to the terms thereof, all or any part of the estate, right, interest, powers, authorities, and privileges, which under the mortgage and this Act are vested in or capable of being exercised by the Loan Commissioners, or their Secretary, either before or after possession taken, and the same shall thereupon be vested in and may be exercised and put in force by such person accordingly.

Nothing in this Act shall operate to invalidate or affect the rights of any person entitled *bonâ fide* to any debt, estate, or interest, having priority over or ranking *pari passu* with the loan granted by the Commissioners, or the security for such loan, or the rights of any lessee under any lease made either prior to such security or with the concurrence of the Commissioners.

Application of money arising on taking possession, sale, mortgage, &c., by Commissioners.

28. Any money arising from the taking possession, lease, sale, mortgage, or other disposition under this Act by or under the direction of the Loan Commissioners of any mortgaged property shall be applied first in discharge of all costs, charges and expenses incurred by or under the direction of the Commissioners in respect thereof, or otherwise by reason of the default in payment, and secondly in discharge of the whole of the principal of the loan secured by the mortgage and for the time being unpaid (notwithstanding that the same or any instalment thereof may not have become actually due), and in discharge of all interest accrued due on such principal, and of all other sums (if any) due under the mortgage.

The surplus (if any) of such money either shall be paid to the mortgagor or other person or persons entitled thereto, or, if the Commissioners think fit, shall be paid by the Secretary of the Commissioners into the Court of Chancery in England in like manner as if he were a trustee of such money for the persons entitled thereto, and the Court may make such Orders for the payment and distribution of such money to or among those persons as may from time to time seem to the Court just.

Payment of loan before it is due, and transfer of security for all or part of loan.

29. The Loan Commissioners may, if they think fit, at any time accept payment of the whole or any part of the principal and interest of any loan or other moneys secured by any mortgage under this Act before the time when the same is due; and may release or convey the mortgaged property or Rate to the person paying the same, or as he may direct, upon such terms and conditions and in such manner and form as the Commissioners may think expedient.

The person in whose favour any conveyance of the mortgaged property or Rate under this Section is made shall, subject to any limitations inserted therein, be entitled to the like priorities, powers, and authorities as the Commissioners or their Secretary were entitled to, either subject to or with priority over or concurrently with any priorities, powers, and authorities reserved to the Commissioners by the conveyance.

The Commissioners shall have full power to enter into and concur in all such arrangements as they may deem expedient for the purposes of carrying into effect a release or conveyance under this Section.

Discharge of security and revesting of property on repayment of loan.

30. Upon all money due under a mortgage under this Act being fully paid the Commissioners shall, when required, give in the prescribed manner to the person liable to the payment thereof a receipt in writing for the same, and such further sufficient discharge (if any) as may seem to the Commissioners to be necessary, and upon such receipt being given the mortgaged Rate shall be released from the charge and the mortgaged property, or the part thereof not sold or disposed of under this Act shall, (unless the Commissioners, on the request and at the expense of the person paying the said money, make any other disposition thereof,) revest in the person who would have been entitled thereto if the mortgage had not been made, subject nevertheless to any lease, mortgage, or other act previously made or done by or under the direction of the Commissioners.

Bankruptcy of debtor.

31. Where an individual liable to pay as principal or surety the principal or interest of any loan under this Act becomes bankrupt or insolvent, or enters into any composition or arrangement with his creditors, or has his affairs liquidated by arrangement, or takes the benefit of, or becomes subject to the provisions of any Act passed for the relief of persons in debt, or for enabling the property of such persons to be distributed among their creditors, or where any company liable to pay as principal or surety the principal or interest of any loan under this Act becomes bankrupt or is wound up, the whole of such loan shall become due immediately, notwithstanding that the date for the payment thereof or part thereof has not arrived, unless in the case of a surety the Commissioners think fit to accept some other surety.

Form of mortgage.

32. Every security given under this Act may be in such form as may be prescribed, and the fact of the Secretary of the Loan Commissioners being a party thereto shall be conclusive evidence that the same is in the prescribed form, and every such security shall be valid and effectual to pass all the estate, right, and interest purporting to be passed thereunder by the parties executing the same, subject to the provisions of this Act.

Recovery of debt on personal security.

33. Every sum payable under any security made in pursuance of this Act shall be made payable to the use of Her Majesty, her heirs and successors, and may be recovered as a specialty debt due to the Crown, in like manner as if the security had been made in the form provided by the Act of the 33rd Year of the reign of Henry VIII., c. 39 ; but no person shall be liable for any larger sum than that which he is expressed to be bound to pay.

Every sum payable in respect of a loan granted by the Loan Commissioners (either before or after the passing of this Act) or under the security for such loan, shall be compounded for or released only under the authority of Parliament in each case.

The Loan Commissioners may issue a warrant to the proper officer forthwith to enforce payment of such debt to the Crown as aforesaid, and if necessary to enter satisfaction therefor, and shall have the control over any proceedings taken to enforce such debt, and such proceedings shall not be discontinued, quashed, or abated without the written authority of the Loan Commissioners.

The Court of Exchequer, or other competent Court, or any Judge thereof, may, upon the production of the said warrant, direct an immediate writ of extent, or of *Diem clausit extremum*, to issue without any writ of *Scire facias* or any affidavit or other proof of the cause of the proceeding.

Nothing in this Act shall render it the duty of the Loan Commissioners to issue such warrant or to register such writ or debt, unless they are of opinion that it is necessary for the purpose of securing the payment of the debt, or that otherwise under the particular circumstances it is expedient so to do.

Recovery of loan after the expiration of term for repayment.

34. The expiration of the period within which a loan under this Act is made repayable (whether such period is the full period allowed by this or the Special Act or a shorter period) shall not in any way affect any power of the Loan Commissioners of recovering or enforcing payment of any sum due in respect of such loan.

Supplemental Provisions as to Loans and Securities.

Security for completion of works partly finished or not commenced.

35. Where the Commissioners grant a loan in aid of any work which is either partly completed or not commenced, they may, by a bond to Her Majesty or otherwise, take such security for the application of the loan to the work, and for the due completion of the work (including the raising of sufficient funds for that purpose), as they may think sufficient for securing the interest of the public.

Examination as to proper application of moneys lent.

36.(a) Where the Loan Commissioners advance any loan for any purpose on the security of a Rate, it shall be the duty of the Local Government Board to satisfy themselves that the loan is applied to such purpose ; they may from time to time make such examination as they may think necessary with a view to ascertain that such loan has been so applied.

The Local Government Board may appoint any officer to conduct on their behalf any examination under this Section, and such officer shall have the same powers to require the attendance of persons and the production of accounts and other documents, so far as such attendance or production is required for the purpose of such examination, as an Inspector of the Local Government Board has under the Acts relating to the relief of the poor.

Suspension of payment of principal and interest.

37. The Treasury may, on the recommendation of the Loan Commissioners, postpone for any time not exceeding 5 years the payment of the instalments of principal and interest, or either, due or to become due in respect of a loan granted by the Commissioners for the purpose of any work, and that upon such terms and conditions for the completion and improvement of such work, and the ultimate payment of such principal and interest, as the Treasury may on the said recommendation authorise.

Change of security.

38. The Loan Commissioners may, subject to the prescribed regulations, if under the circumstances of the case they think fit, accept any security in lieu of any security previously given to them, or of any part of such security, and that subject to such terms and conditions as they direct ; so, however, that the substituted security shall be of the character which the Commissioners might take if the loan were originally granted at the time of such substitution, and that no change of security under this Section shall extend the period for the repayment of the loan.

Concurrence by Commissioners in leases, sales, &c., of mortgaged property.

39. The Loan Commissioners may concur in any lease, conveyance, release, or other disposition of any property mortgaged under this Act, or any part thereof, and in the arrangements relative thereto, upon such terms and conditions as they may think fit, and either with or without consideration, so that in their opinion the payment, with interest, of the loan charged on the mortgaged property is sufficiently secured or is not thereby made less secure.

(*a*) Amended by the Public Works Loans Act, 1881," (44 & 45 Vict., , § 8.)

Special Provisions as to Borrowers.

Power to various authorities to mortgage and levy rates.

40. The Justices for any County, or any riding, division, parts, or liberty of a County, in General or Quarter Sessions assembled, may (if they resolve by a majority of not less than 5 Justices so to do) borrow money from the Loan Commissioners for the purpose of building, rebuilding, enlarging, repairing, improving, and fitting up any police station and Justices room, and offices connected therewith, or any of such purposes, and may levy a Rate or any increase of a County Rate for the purpose of paying the principal and interest of such loan, and may mortgage such Rate or the County Rate to the Loan Commissioners in accordance with this Act.

The Council of any Borough may borrow money from the Loan Commissioners for the purpose of building, rebuilding, enlarging, repairing, improving, and fitting up any police station and Justices room, and offices connected therewith, or any of such purposes, and may levy a Rate or an increase of the Borough Rate for the purpose of paying the principal and interest of such loan, and may mortgage such Rate or the Borough Rate to the Loan Commissioners in accordance with this Act.

The said Justices and Council respectively shall have power to give the mortgage in such manner and form as the Loan Commissioners may direct.

Miscellaneous.

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Perjury.

44. Any person who, when examined by the Loan Commissioners in pursuance of this Act, or any regulation made under this Act, wilfully gives false evidence, or who, for the purpose of obtaining a loan under this Act, wilfully gives information to such Commissioners which is false in any material particular, shall be guilty of perjury.

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Receipt for money payable on account of loan, &c.

46. The receipt in writing of the Bank of England, or one of their cashiers or other the proper officer for the purpose of the Bank of England, and any other prescribed receipt for any money paid in discharge of the principal or interest of any loan granted under this Act, or of any sum due under any security made under this Act or otherwise payable to or by the direction of the Loan Commissioners or their Secretary, shall be a complete discharge to the person paying the same.

Notices may be served by post.

47. Notices, directions, orders, and documents required by this Act, or by any regulation made under this Act, to be served or sent may, unless otherwise expressly provided, be served and sent by Post, and, until the contrary is proved, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of Post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notice, direction, order, or document was prepaid, and properly addressed, and put into the Post.

Notices to and by Commissioners.

48. Notices, and documents required by this Act, or by any regulation made under this Act, to be served on the Loan Commissioners, may be so served by serving the same on their Secretary, or by sending the same addressed to or delivering the same at the office of the Commissioners.

Notices and documents required for the purposes of this Act, or of any regulation made thereunder, to be served by or on the Loan Commissioners, or to be made or issued by the Loan Commissioners, shall be in writing or in print, or partly in writing and partly in print.

Effect of Schedules.

49. The Schedules to this Act shall be construed and have effect as part of this Act.

Application of Act to loans under special Acts.

50. Except so far as a Special Act, by express reference to some part of this Act, alters that part, every loan made by the Loan Commissioners shall, notwithstanding any provision in such Special Act and any rule of Law or custom, be made in accordance with and under the powers of this Act, and be repayable in manner provided by this Act, and by the security for the same granted under this Act, and every such loan, together with the security for the same, shall have the priority and be subject to the powers, authorities, and remedies mentioned in this Act; and although made in pursuance of a Special Act, shall be deemed for all purposes to be a loan under this Act.

Definitions

51. In this Act, if not inconsistent with the context,—

* * * * * * *

The expression "Rate" means a Rate, cess, or assessment the proceeds of which are applicable to public local purposes and leviable on the basis of a valuation of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a Rate, as before defined, and the making and levy of a Rate includes the issue and enforcement of any such precept, certificate, or instrument as aforesaid, and expressions relating to the making and levy of a Rate shall be construed accordingly:

Any toll, due, rent, imposition, and other sum not being a Rate as above defined shall be deemed to be property for the purposes of this Act.

All references to a mortgagor or borrower shall, if need be, be deemed to include a reference to the successors, heirs, executors, administrators, and assigns of, or other persons claiming through or under such mortgagor, or borrower.

Temporary Provisions and Repeal.

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Saving for loans and transactions under repealed Acts.

56. Save as otherwise provided by this Act this Act shall apply only to loans granted and securities made after the commencement of this Act.

The Loan Commissioners shall have the same power of making further advances on any mortgage made before the commencement of this Act and intended to secure more than the sum which has actually been advanced thereon as they would have had under the Acts repealed by this Act if they had not been repealed, but such advances shall be made out of money issued under this Act.

The Loan Commissioners, on granting any new loan to persons by whom a loan granted before the commencement of this Act is still owing, may make it a condition of the grant of such new loan that the old loan shall be deemed to have been granted in pursuance of this Act, and on such condition being accepted the old loan shall be deemed to be a loan under this Act.

For the purpose of any loans granted and securities made before the commencement of this Act, the Loan Commissioners under this Act and their Secretary and other officers for the time being shall be deemed to be the same Commissioners, Secretary, and officers as the Commissioners, Secretary, and officers under the Acts in pursuance of which such loan was granted and securities made, and all securities and documents relating to such Commissioners, Secretary, and officers shall be construed accordingly.

SCHEDULES.

FIRST SCHEDULE.

Works for the Purpose of which the Commissioners may Lend Money.

Baths and wash-houses provided by Local Authorities.

Burial grounds provided by Burial Boards.

Conservation or improvement of rivers or main drainage.

Docks.

24 & 25 Vict., 47. Harbours and piers, and any work for which the Public Works Loan Commissioners are authorised to lend by § 3 of the "Harbours and Passing Tolls, &c., Act, 1861."

Improvement of towns.

Labourers dwellings.

Lighthouses, floating and other lights for the guidance of ships, buoys and beacons.

Lunatic asylums of any County or Borough in Great Britain. . . . . .

Police stations and Justices' rooms of any County or Borough in Great Britain, and the offices connected therewith. . . . . .

Prisons.

Public libraries and museums.

33 & 34 Vict., 70. Any school-house or work for which a School Board is authorised to borrow under the "Elementary Education Acts, 1870 and 1873," or any Act amending the same. . . . . .

36 & 37 Vict., 86. Waterworks established or carried on by a Sanitary or other Local Authority.

35 & 36 Vict. 62. Workhouses or poorhouses, and any work for which Guardians of the Poor . . . . . are authorised to borrow under the general Acts relating to the relief of the poor.

Any work for which a Sanitary Authority are authorised to borrow under the "Public Health Act, 1875."

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Any work for which the Commissioners are authorised to lend by any Act passed after the passing of this Act.

SECOND SCHEDULE.

Form of Declaration.

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THIRD SCHEDULE.

ACTS REPEALED.

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39 & 40 VICT., c. 31.

An Act to grant money for the purpose of Loans by the Public Works Loans Commissioners, and to amend the "Public Works Loans Act, 1875." (24th July, 1876.)

Law Reports Statutes, vol. xi., p. 161.

Explanation of 38 & 39 Vict., **89**, 33.

38 & 39 Vict., **55**.

6. Whereas by § 33 of the "Public Works Loans Act, 1875," it is enacted that every sum payable in respect of a loan by the Loan Commissioners shall be compounded for and released only under the Authority of Parliament in each case, and doubts have arisen whether the said enactment prevents the reduction of interest in accordance with § 243 of the "Public Health Act, 1875" . . . . . on loans to a Local Authority in pursuance of the "Sanitary Acts," and it is expedient to remove such doubts, and to authorise the Loan Commissioners to reduce the interest on loans made before the commencement of the "Public Works Loans Act, 1875": Be it enacted as follows:

The Public Works Loan Commissioners may, on or before the 31st of July, 1876, if they think expedient, with the consent of the Treasury, reduce the interest payable on any loan made before the commencement of the "Public Works Loans Act, 1875," to any rate not less than 4 per centum per annum:

Provided always, that nothing in the "Public Works Loans Act, 1875," shall be deemed to take away or abridge the power of the Loan Commissioners under § 243 of the "Public Health Act, 1875," . . . . . to reduce, if they think fit, any interest payable on any such loan to a Local Authority as in those Sections mentioned.(a)

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39 & 40 VICT., c. 36.

An Act for consolidating the Duties of Customs. (24th July, 1876.)

Law Reports Statutes, vol. xi., p. 233.

Persons arriving in ships from infected places not to land before examination.

234. It shall be lawful for Her Majesty in Council, or any 2 of the Lords of Her Majesty's Privy Council, from time to time, by her or their Order, to require that no person on board any ship coming to any port in the United Kingdom, the Channel Islands, or the Isle of Man, from or having touched at any place out of the United Kingdom abroad where they have reason to apprehend that yellow fever or other highly infectious distemper prevails, shall quit such vessel before the state of health of the persons on board shall have been ascertained, on examination by the proper officer of Customs, at such place or places as may from time to time be appointed by the Commissioners of Customs for such purpose, and before permission to land shall have been given by such officer, whether or not it shall on or after such examination be found expedient to order such vessel under the restraint of quarantine, and any person so quitting any such vessel shall forfeit a sum not exceeding £100; and if the master, pilot, or person in charge of such ship shall not, on arrival at such place, hoist and continue such signal as shall be directed by such Order, until the proper officer shall have given permission to haul down the same, he shall forfeit a like penalty; and such penalties, or either of them, if incurred, and any penalty incurred under the Act of the 6th Year of the reign of King George IV., c. 78,(b) shall be subject to reduction to any sum not exceeding £100, and may be recovered by information and summons before a Stipendiary Magistrate, or any 2 Justices of the Peace, who are hereby authorised to reduce the same accordingly, and to commit the offender to prison in default of payment of any penalty so imposed for any period not exceeding 6 months.

(a) The passages omitted relate to Scotland. (b) This is the "Quarantine Act, 1825," printed *ante*.

39 & 40 VICT., c. 61.

Law Reports Statutes, vol. xi., p. 401.

An Act to provide for the better arrangement of divided Parishes and other local areas, and to make sundry amendments in the Law relating to the Relief of the Poor in England.[a]

(15th August, 1876.)

WHEREAS many parishes in England are divided and some Unions are formed in a manner which renders their arrangements inconvenient, and whereas other Unions are too large in extent for the purposes of the relief of the poor and other Local Administration, and it is expedient that provision should be made for remedying these inconveniences: And whereas other amendments are required in the laws for the relief of the poor in England: Be it therefore enacted, &c.,

Local Government Board may make provision for divided parishes

1.[b] Where any parish shall be divided so as to have its parts or any of them isolated in some other parish or parishes or otherwise detached, the Local Government Board may, as and when they shall see fit, after Local Inquiry to be held upon notice duly given to the Clerk of the Peace of the County or Counties in which the parts of the parish are situated and in the parishes to be affected in the manner prescribed or usually adopted therein for the publication of parochial notices, make an Order, to take effect at the expiration of some period not less than 3 months from the day when a copy of such Order shall have been sent to the overseers, either for constituting separate parishes out of the dividend parish or for amalgamating some of the parts thereof with the parish or parishes in which the same may be locally included, or to which they may be annexed, as shall appear to such Board to be most convenient, and providing where requisite for a change of the County of the parish or part of a parish.

If one-tenth of Ratepayers object, Order to be provisional.

2. If one-tenth in number and rateable value of the persons appearing on the Rate in force for the time being to be rated to the relief of the poor in any parish affected by such Order shall give notice to the Local Government Board in writing of objection to the same, within 3 months after copies of such Order shall have been sent to the overseers of the parishes affected thereby, the Order shall be deemed to be a Provisional Order only, and shall be dealt with accordingly.

State of parishes after new Order.

3. From and after the 25th day of March next ensuing the day when such Order, if not objected to, shall take effect, and in the case of a Provisional Order next ensuing the date of the Act of Parliament confirming the same, the several parts of every parish to which such Order shall apply shall be and continue to be constituted in the manner directed by the said Order, and the officers of the several parishes affected thereby shall be empowered and shall be required to act as if such parishes had been constituted in the manner directed prior to the issue of such Order.

Ecclesiastical divisions and municipal boundaries not affected.

4. Nothing herein contained shall apply to the ecclesiastical divisions of parishes, nor to the constitution of school districts, without the sanction of the Education Department, or shall alter the boundaries of any Municipal Borough, and for the purposes of the election of Members of Parliament and of burgesses in Municipal Boroughs, of the jury lists, of the action of the Justices, and of the police and constables, the parishes shall continue to be deemed unaltered until new lists are made and new constables are appointed.

Provision for Highway District.

5. Where a parish affected by the Order shall be included in a Highway District, its condition therein and the appointment of the waywarden thereof shall be changed according to the terms of the Order, whether its area or contents be diminished or increased thereby.

Appointment of Overseers.

6. Every parish constituted under this Act by the Order of the Local Government Board, shall, notwithstanding the prohibition as to the appointment of overseers contained in the 22nd Section of the "Poor Law Amendment Act, 1844," be a parish for which an overseer shall be appointed, and for all other lay and civil purposes to which a parish may be liable or entitled.

The meeting of inhabitants of the same qualified as in the case of any ordinary parish shall be deemed the vestry meeting thereof, and the rector, vicar, or perpetual curate having cure of souls in the greater part thereof shall, when present, be the Chairman thereof, unless the Local Government Board shall determine in their Order which of such incumbents shall be such Chairman, and all the documents of the respective parishes shall be deposited and kept in such place as the Local Government Board by their Order shall appoint.

(*a*) A very considerable part of this Act relates only to the relief of the poor, and therefore it appears here in a somewhat fragmentary form, the Poor Law portions having been for the most part omitted, as foreign to the purposes of this work.

(*b*) See the "Poor Law Act, 1879," 42 & 43 Vict., 54, § 5 (*post.*)

7. If any person shall be deprived of any office or employment, or if his profits in respect thereof shall be diminished under or by reason of any provision of this Act, the Local Government Board may, if they see fit, award by their Order a compensation to him, according to their judgment, to be paid out of such fund and in such manner as shall appear to them to be equitable. Compensation.

8. The said Board shall make due adjustment of the property, if any, and of the debts or liabilities of the parishes among the several parts thereof according to the alterations caused by the Order, and the arrears of Rates due at the time when the Order takes effect shall be recovered by the overseers or other officers properly competent to do so, and from the persons liable, as if there had been no alteration, and the Justices, who shall make a county Rate upon any such parishes before a new basis for the same shall be established, shall make due provision therein for the alterations aforesaid. Adjustment of property and debts.

Provided that no person shall be liable to any Rate made in the parish to which the part of the parish wherein his land or premises shall be situated may be added before the said 25th day of March.

9. Nothing herein contained shall prejudice, vary, or affect any right, interest, or jurisdiction in or over any charitable endowment which now is, or hereafter shall be, applicable for the benefit of a divided parish, as defined by § 1 of this Act, or the inhabitants thereof. Endowments for benefit of divided parish not to be affected.

Poor Law Amendments.

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14. No person shall be entitled to vote in the election of a Guardian or in the election to an office under the provisions of any Statute who shall be in receipt of relief given to himself or his wife or child, or who shall have been in receipt of such relief on any day during the year last preceding such election. In the case of any person objected to on this ground a certificate from the Clerk of the Guardians under his hand shall be sufficient evidence of such person having received relief. Paupers not to vote at certain elections.

15. The Guardians of any Union or parish, or the Board of Overseers of any parish incorporated under a Local Act, may pay the reasonable expenses incurred in the preparation and collection of information required of or by them respecting any matter which is submitted to their management, supervision, or control, and charge the amount in the case of a Union to their common fund or as general or special expenses, according as the subject-matter relates to the general concern of the Union or district or to some separate part thereof, and in the case of the Board of Guardians of a parish or Board of Overseers to the fund under their control. Guardians may pay for information for the discharge of duties.

16. If the Guardians or Board of Overseers require any such information from any of their officers, the amount payable may, if there be any disagreement on the subject, be settled by the Local Government Board. Local Government Board to settle payments to officers.

17. If any officer seek a superannuation allowance from the Guardians of any Union or parish, or from the overseers of any such parish under any Statute applicable to such allowance, his service as a Registrar of Marriages, or under any of the provisions of the "Sanitary Acts" as defined by the "Public Health Act, 1875," or of that Act, shall not operate to prevent him from obtaining the same. Superannuation allowances. 38 & 39 Vict., 55.

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29. Whereas it frequently happens that the amount to be recovered by the overseers or their successors in the Rate last made before the termination of their year of office is insufficient to meet the demands upon them, and the said overseers pay the necessary excess out of their own funds, but the rule of Law applicable to such payments will not allow such payments to be reimbursed to them out of any subsequent Rate, and great hardship arises therefrom: Now, therefore, it is hereby enacted, that henceforth in any such case the payment of an Overseer to his predecessor in respect of any money so paid by him in excess, if otherwise lawful, may be allowed by the auditor if it appear to him that the said payment in excess did not arise from the negligence or wilful action of the overseer so paying the sum out of his own funds. Balances of outgoing overseers.

All disallowances and surcharges made on the ground of the said rule of Law by an auditor prior to the passing of this Act, in respect of any accounts due at or prior to the 25th of March last and not remitted, shall be and the same are herewith discharged, unless the Local Government Board shall in any case otherwise direct.

30. So much of the Act 4 and 5 Victoria, c. 48, as exempts the property of Municipal Corporations from being rated to the relief of the poor in the cases therein mentioned is hereby repealed. Repeal of the exemption of corporate property.

31. In all cases where a warrant of distress is issued for the recovery of a Poor Rate the person against whom the same is issued shall be liable to pay the cost of such warrant, and of the broker or other officer for his attendance to make the levy, although such person may tender the amount of the Rate before any levy is made. Brokers charges.

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37. From and after the 25th day of March next, when an overseer shall make and levy any Rate or assessment which is not now subject to be audited by the District Auditor, or by any auditor or auditors appointed under or by virtue of the "Metropolis Local Management Act," such Rate or assessment, and the accounts relating thereto, shall be submitted by him, and by the collector thereof, if any, to the said auditor, in the like manner, and with the like incidents, consequences, liabilities, and power of appeal as in the case of the Poor Rate made by such overseer; and every other audit of such Rate or assessment, if any, shall cease. Audit of Rates not now subject to District Auditor.

And the Local Government Board shall have the same power to make Orders to regulate the keeping of such accounts as they have in regard to other Local Rates.

A.D. 1876.

Auditor's decision upon joint accounts.

38. When an auditor shall have allowed, disallowed, or surcharged a sum in any account rendered to him jointly, and an appeal shall be made against the same, the decision of the auditor may be reversed by the Court or the Local Government Board, as the case may be, and the disallowance or surcharge may be remitted by the said Board in favour of one or more of the persons appealing only without discharging the other person or persons against whom such decision of the auditor was pronounced.

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Interpretation clause.

44. The words herein contained shall be construed as in the "Poor Law Amendment Act, 1834," and in the Acts amending or extending the same, and the provisions contained therein and not repealed shall, so far as they shall be consistent herewith, be extended to this Act. . . . . .

Short title.

45. This Act may be cited and described for all purposes as the "Divided Parishes and Poor Law Amendment Act, 1876."

SCHEDULE.

[Applies to the Metropolis only.]

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39 & 40 VICT., c. 75.

ARRANGEMENT OF SECTIONS.

Sections.

1. Short title of Act.

PART I.

LAW AS TO SOLID MATTERS.

2. Prohibition as to putting solid matters into streams.

PART II.

LAW AS TO SEWAGE POLLUTIONS.

3. Prohibition as to drainage into streams of sewers.

PART III.

LAW AS TO MANUFACTURING AND MINING POLLUTIONS.

4. Prohibition as to drainage into streams from manufactories.
5. Prohibition as to drainage into streams from mines.
6. Restriction on proceedings under this Part of the Act.

PART IV.

ADMINISTRATION OF LAW.

7. Sanitary Authority to afford facilities for factories draining into sewers.
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(1.) *Legal Proceedings.*

10. Offences to be restrained by summary Order of County Court.
11. Appeal from County Court, and removal of case into High Court of Justice.
12. Certificate of Inspector of Local Government Board as to best practicable means.
13. Restriction on proceedings for offences.
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15. Power of Inspectors of Local Government Board.

(2.) *Saving Clauses.*

16. Powers of Act cumulative.
17. Saving of rights of impounding and diverting water.
18. Saving of certain Conservancy Acts.
19. Saving of works of certain Local Authorities.

(3.) *Definitions.*

20. Definitions.

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A.D. 1876.

An Act for making further Provision for the Prevention of the Pollution of Rivers.

(15th August, 1876.)

Law Reports Statutes, vol. xi., p. 448.

WHEREAS it is expedient to make further provision for the prevention of the pollution of rivers, and in particular to prevent the establishment of new sources of pollution: Be it therefore enacted, &c.,

1. This Act may be cited for all purposes as the "Rivers Pollution Prevention Act, 1876." **Short title.**

PART I.

Law as to Solid Matters.

2. Every person who puts or causes to be put or to fall or knowingly permits to be put or to fall or to be carried into any stream, so as either singly or in combination with other similar acts of the same or any other person to interfere with its due flow, or to pollute its water, the solid refuse of any manufactory, manufacturing process or quarry, or any rubbish or cinders, or any other waste or any putrid solid matter, shall be deemed to have committed an offence against this Act. **Prohibition as to putting solid matters into streams.**

In proving interference with the due flow of any stream or in proving the pollution of any stream, evidence may be given of repeated acts which together cause such interference or pollution, although each act taken by itself may not be sufficient for that purpose.

PART II.

Law as to Sewage Pollutions.

3. Every person who causes to fall or flow or knowingly permits to fall or flow or to be carried into any stream any solid or liquid sewage matter, shall (subject as in this Act mentioned) be deemed to have committed an offence against this Act. **Prohibition as to drainage into streams of sewers.**

Where any sewage matter falls or flows or is carried into any stream along a channel used, constructed, or in process of construction at the date of the passing of this Act for the purpose of conveying such sewage matter, the person causing or knowingly permitting the sewage matter so to fall or flow or to be carried shall not be deemed to have committed an offence against this Act if he shows to the satisfaction of the Court having cognisance of the case that he is using the best practicable and available means to render harmless the sewage matter so falling or flowing or carried into the stream.

Where the Local Government Board are satisfied after Local Inquiry that further time ought to be granted to any Sanitary Authority, which at the date of the passing of this Act is discharging sewage matter into any stream, or permitting it to be so discharged, by any such channel as aforesaid, for the purpose of enabling such Authority to adopt the best practicable and available means for rendering harmless such sewage matter, the Local Government Board may by Order declare that this Section shall not, so far as regards the discharge of sewage matter by such channel be in operation until the expiration of a period to be limited in the Order.

Any Order made under this Section may be from time to time renewed by the Local Government Board, subject to such conditions, if any, as they may see fit.

A person other than a Sanitary Authority shall not be guilty of an offence under this Section in respect of the passing of sewage matter into a stream along a drain communicating with any sewer belonging to or under the control of any Sanitary Authority, provided he has the sanction of the Sanitary Authority for so doing.

PART III.

Law as to Manufacturing and Mining Pollutions.

4. Every person who causes to fall or flow or knowingly permits to fall or flow or to be carried into any stream any poisonous, noxious, or polluting liquid proceeding from any factory or manufacturing process shall (subject as in this Act mentioned) be deemed to have committed an offence against this Act. **Prohibition as to drainage into streams from manufactories.**

Where any such poisonous, noxious, or polluting liquid as aforesaid falls or flows or is carried into any stream along a channel used, constructed, or in process of construction at the date of the passing of this Act, or any new channel constructed in substitution thereof, and having its outfall at the same spot, for the purpose of conveying such liquid, the person causing or knowingly permitting the poisonous, noxious, or polluting liquid so to fall or flow or to be carried shall not be deemed to have committed an offence against this Act if he shows to the satisfaction of the Court having cognisance of the case that he is using the best practicable and reasonably available means to render harmless the poisonous, noxious, or polluting liquid so falling or flowing or carried into the stream.

5. Every person who causes to fall or flow or knowingly permits to fall or flow or to be carried into any stream any solid matter from any mine in such quantities as to prejudicially interfere with its due flow, or any poisonous, noxious, or polluting solid or liquid matter proceeding from any mine, other than water in the same condition as that in which it has been drained or raised from such mine, shall be deemed to have committed an offence against this Act, unless in the case of poisonous, noxious, or polluting matter he shows to the satisfaction of the Court having cognisance of the case that he is using the best practicable and reasonably available means to render harmless the poisonous, noxious, or polluting matter so falling or flowing or carried into the stream. **Prohibition as to drainage into stream from mines.**

Restriction on proceedings under this part of the Act.

6. Unless and until Parliament otherwise provides the following enactments shall take effect: Proceedings shall not be taken against any person under this Part of this Act save by a Sanitary Authority, nor shall any such proceedings be taken without the consent of the Local Government Board :

Provided always, that if the Sanitary Authority, on the application of any person interested alleging an offence to have been committed, shall refuse to take proceedings or apply for the consent by this Section provided, the person so interested may apply to the Local Government Board, and if that Board on inquiry is of opinion that the Sanitary Authority should take proceedings, they may direct the Sanitary Authority accordingly, who shall thereupon commence proceedings.

The said Board in giving or withholding their consent shall have regard to the industrial interests involved in the case and to the circumstances and requirements of the locality.

The said Board shall not give their consent to proceedings by the Sanitary Authority of any District which is the seat of any manufacturing industry, unless they are satisfied, after due inquiry, that means for rendering harmless the poisonous, noxious, or polluting liquids proceeding from the processes of such manufactures are reasonably practicable and available under all the circumstances of the case, and that no material injury will be inflicted by such proceedings on the interests of such industry.

Any person within such District as aforesaid, against whom proceedings are proposed to be taken under this Part of this Act, shall, notwithstanding any consent of the Local Government Board, be at liberty to object before the Sanitary Authority to such proceedings being taken, and such Authority shall, if required in writing by such person, afford him an opportunity of being heard against such proceedings being taken, so far as the same relate to his works or manufacturing processes.

The Sanitary Authority shall thereupon allow such person to be heard by himself, agents, and witnesses, and after inquiry such Authority shall determine, having regard to all the considerations to which the Local Government Board are by this Section directed to have regard, whether such proceedings as aforesaid shall or shall not be taken ; and where any such Sanitary Authority has taken proceedings under this Act, it shall not be competent to other Sanitary Authorities to take proceedings under this Act till the party against whom such proceedings are intended shall have failed in reasonable time to carry out the Order of any competent Court under this Act.

PART IV.

Administration of Law.

Sanitary Authority to facilities for factories draining into sewers.

7. Every Sanitary or other Local Authority having sewers under their control shall give facilities for enabling manufacturers within their district to carry the liquids proceeding from their factories or manufacturing processes into such sewers :

Provided, that this Section shall not extend to compel any Sanitary or other Local Authority to admit into their sewers any liquid which would prejudicially affect such sewers or the disposal by sale, application to land, or otherwise, of the sewage matter conveyed along such sewers, or which would from its temperature or otherwise be injurious in a sanitary point of view :

Provided, also, that no Sanitary Authority shall be required to give such facilities as aforesaid where the sewers of such Authority are only sufficient for the requirements of their district, nor where such facilities would interfere with any Order of any Court of competent jurisdiction respecting the sewage of such Authority.

Power of Sanitary Authority to enforce Act.

8. Every Sanitary Authority shall, subject to the restrictions in this Act contained, have power to enforce the provisions of this Act in relation to any stream being within or passing through or by any part of their District, and for that purpose to institute proceedings in respect of any offence against this Act which causes interference with the due flow within their District of any such stream, or the pollution within their District of any such stream, against any other Sanitary Authority or person, whether such offence is committed within or without the district of the first-named Sanitary Authority.

38 & 39 Vict., 55, 207 *et seq.*

Any expenses incurred by a Sanitary Authority in the execution of this Act shall be payable as if they were expenses properly incurred by that Authority in the execution of the "Public Health Act, 1875."

Proceedings may also, subject to the restrictions in this Act contained, be instituted in respect of any offence against this Act by any person aggrieved by the commission of such offence.

Power of Lee Conservancy Board to enforce Act.

9. The Conservancy Board constituted under the "Lee Conservancy Act, 1868," shall, within the area of their jurisdiction, have, to the exclusion of any other Authority, the powers for enforcing the provisions of this Act which Sanitary Authorities have under this Act.

The said Conservancy Board may also enforce the provisions of the "Lee Conservancy Act, 1868," under the head or division "Protection of Water," by application to the County Court having jurisdiction in the place in which any offence is committed against those provisions, and such Court may by summary Order require any person to abstain from the commission of any such offence, and the provisions of this Act with respect to summary Orders of County Courts and appeal therefrom shall apply accordingly.

Legal Proceedings. Saving Clauses. Definitions.

(1.) *Legal Proceedings.*

Offences to be restrained by summary order of County Court.

10. The County Court having jurisdiction in the place where any offence against this Act is committed may by summary Order require any person to abstain from the commission of such offence, and where such offence consists in default to perform a duty under this Act may require him to perform such duty in manner in the said Order specified ; the Court may insert in any Order such conditions as to time or mode of action as it may think just, and may suspend or rescind any Order on such undertaking being given or condition being performed as it may think just, and generally may give such directions for carrying into effect any Order as to the Court seems meet.

Previous to granting such Order the Court may, if it think fit, remit to skilled parties to report on the "best practicable and available means" and the nature and cost of the works and apparatus required, who shall in all cases take into consideration the reasonableness of the expense involved in their report.

Any person making default in complying with any requirement of an Order of a County Court made in pursuance of this Section shall pay to the person complaining, or such other person as the Court may direct, such sum, not exceeding £50 a day for every day during which he is in default, as the Court may Order; and such penalty shall be enforced in the same manner as any debt adjudged to be due by the Court; moreover, if any person so in default persists in disobeying any requirement of any such Order for a period of not less than a month or such other period less than a month as may be prescribed by such Order, the Court may in addition to any penalty it may impose appoint any person or persons to carry into effect such Order, and all expenses incurred by any such person or persons to such amount as may be allowed by the County Court shall be deemed to be a debt due from the person in default to the person or persons executing such Order, and may be recovered accordingly in the County Court.

Appeal from County Court and removal of case into High Court of Justice

11. If either party in any proceedings before the County Court under this Act feels aggrieved by the decision of the Court in point of Law or on the merits, or in respect of the admission or rejection of any evidence, he may appeal from that decision to the High Court of Justice.

The appeal shall be in the form of a special case to be agreed upon by both parties or their Attorneys, and, if they cannot agree, to be settled by the Judge of the County Court upon the application of the parties or their Attorneys.

The Court of Appeal may draw any inferences from the facts stated in the case that a jury might draw from facts stated by witnesses.

Subject to the provisions of this Section, all the enactments, rules, and Orders relating to proceedings in Actions in County Courts, and to enforcing judgments in County Courts and appeals from decisions of the County Court Judges, and to the conditions of such appeals, and to the power of the Superior Courts on such appeals, shall apply to all proceedings under this Act, and to an appeal from such Action, in the same manner as if such Action and appeal related to a matter within the ordinary jurisdiction of the Court.

Any plaint entered in a County Court under this Act may be removed into the High Court of Justice by leave of any Judge of the said High Court, if it appears to such Judge desirable in the interests of Justice that such case should be tried in the first instance in the High Court of Justice and not in a County Court, and on such terms as to security for and payment of costs, and such other terms (if any) as such Judge may think fit.

Certificate of Inspector of Local Government Board as to best practicable means.

12. A certificate granted by an Inspector of proper qualifications appointed for the purposes of this Act by the Local Government Board to the effect that the means used for rendering harmless any sewage matter or poisonous, noxious, or polluting solid or liquid matter falling or flowing or carried into any stream, are the best or only practicable and available means under the circumstances of the particular case, shall in all Courts and in all proceedings under this Act be conclusive evidence of the fact; such certificate shall continue in force for a period to be named therein, not exceeding 2 years, and at the expiration of that period may be renewed for the like or any less period.

All expenses incurred in or about obtaining a certificate under this Section shall be paid by the applicant for the same.

Any person aggrieved by the grant or the withholding of a certificate under this Section may appeal to the Local Government Board against the decision of the Inspector; and the Board may either confirm, reverse, or modify his decision, and may make such Order as to the party or parties by whom the costs of the appeal are to be borne as to the said Board may appear just.

Restriction on proceedings for offences.

13. Proceedings shall not be taken under this Act against any person for any offence against the provisions of Parts II. and III. of this Act until the expiration of 12 months after the passing of this Act; nor shall proceedings in any case be taken under this Act for any offence against this Act until the expiration of 2 months after written notice of the intention to take such proceedings has been given to the offender, nor shall proceedings under this Act be taken for any offence against this Act while other proceedings in relation to such offence are pending.

Orders as to costs of inquiries.

14. The Local Government Board may make Orders as to the costs incurred by them in relation to inquiries instituted by them under this Act, and as to the parties by whom such costs shall be borne; and every such Order and every Order for the payment of costs made by the said Board under § 12 of this Act may be made a Rule of Her Majesty's High Court of Justice.

Power of Inspectors of Local Government Board, 38 & 39 Vict., 55, 296.

15. Inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the Board under this Act, have in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which the Inspectors of the said Board have under the "Public Health Act, 1875," for the purposes of that Act.

(2.) *Saving Clauses.*

Powers of Act cumulative.

16. The powers given by this Act shall not be deemed to prejudice or affect any other rights or powers now existing or vested in any person or persons by Act of Parliament, Law, or custom, and such other rights or powers may be exercised in the same manner as if this Act had not passed;

And nothing in this Act shall legalise any act or default which would but for this Act be deemed to be a nuisance or otherwise contrary to Law.

Provided nevertheless, that in any proceedings for enforcing against any person such rights or powers the Court before which such proceedings are pending shall take into consideration any certificate granted to such person under this Act.

Saving of rights of impounding and diverting water.

17. This Act shall not apply to or affect the lawful exercise of any rights of impounding or diverting water.

A.D. 1876.

Saving of certain Conservancy Acts.

18. Nothing in or done under this Act shall extend to interfere with, take away, abridge, or prejudicially affect any right, power, authority, jurisdiction, or privilege given by the "Thames Conservancy Acts, 1857 and 1864," or by the "Thames Navigation Act, 1866," or by the "Lee Conservancy Act, 1868," or any Act or Acts extending or amending the said Acts or either of them, or affect any outfall or other works of the Metropolitan Board of Works (although beyond the Metropolis) executed under the "Metropolis Management Act, 1855," and the Acts amending or extending the same, or take away, abridge, or prejudicially affect any right, power, authority, jurisdiction, or privilege of the Metropolitan Board of Works.

Saving of works of certain Local Authorities.

19. Where any Local Authority or any Urban or Rural Sanitary Authority has been empowered or required by any Act of Parliament to carry any sewage into the sea or any tidal waters, nothing done by such Authority in pursuance of such enactment, shall be deemed to be an offence against this Act.

Definitions.

20. In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter respectively assigned to them; that is to say,

"Person" includes any body of persons, whether corporate or unincorporate:

"Stream" includes the sea to such extent, and tidal waters to such point, as may, after Local Inquiry and on sanitary grounds, be determined by the Local Government Board, by Order published in the *London Gazette*. Save as aforesaid, it includes rivers, streams, canals, lakes, and watercourses, other than watercourses at the passing of this Act mainly used as sewers, and emptying directly into the sea, or tidal waters which have not been determined to be streams within the meaning of this Act by such Order as aforesaid:

"Solid matter" shall not include particles of matter in suspension in water:

"Polluting" shall not include innocuous discoloration:

18 & 19 Vict., 120. 18 & 19 Vict., 121. 38 & 39 Vict., 55.

"Sanitary Authority" means—In the metropolis as defined by the "Metropolis Management Act, 1855," any Local Authority acting in the execution of the "Nuisances Removal for England Act, 1855," and the Acts amending the same; elsewhere in England, any Urban or Rural Sanitary Authority acting in the execution of the "Public Health Act, 1875."

[Parts V. and VI. have reference to the application of the Act to Scotland and Ireland.]

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40 VICT., c. 11.

Law Reports Statutes, vol. xii., p. 116.

An Act to make provision with respect to Judicial proceedings in certain cases relating to Rating.

(17th May, 1877.)

BE it enacted, &c.,

Judges may act in certain cases relating to Rates.

1. No Judge shall be incapable of acting in his judicial office in any proceeding, whether commenced before or after the passing of this Act, by reason of his being, as one of several ratepayers, or as one of any other class of persons, liable, in common with the others, to contribute to or to be benefited by any Rate which may be increased, diminished, or in any way affected by such proceeding.

Certain acts done before the passing of Act not to be invalidated.

2. No act, matter, or thing which before the passing of this Act has been done, made, or executed by any Judge prior to the passing of this Act, shall hereafter be quashed, or declared void because the same has been so made, done, or executed by any Judge who may have been, as one of several ratepayers, or as one of any other class of persons, liable, in common with the others, to contribute to or to be benefited by any Rate which may have been increased, diminished, or in any way affected by such act, matter, or thing.

Interpretation.

3. In this Act, if not inconsistent with the context, the following words and expressions have the meanings hereinafter respectively assigned to them; that is to say,

"Judge" means—As to England, any Judge of Her Majesty's High Court of Justice, or Her Majesty's Court of Appeal, or of any of the Superior Courts of Law or Equity in England, as they existed before the constitution of Her Majesty's High Court of Justice; and . . . . . As to the United Kingdom, any Lord of Appeal, or Peer of Parliament, when sitting and voting in the House of Lords, upon the hearing of any matter brought before that House by way of error, or appeal from any other Court.

"Rate" means any Rate, tax, duty, or assessment, whether public, general, or local, and also any fund formed from the proceeds of any such Rate, tax, duty, or assessment, or applicable to the same, or like purposes to which any such Rate, tax, duty, or assessment might be applied.

40 & 41 VICT., c. 31.

An Act to give further facilities to Landowners of limited interests in England and Wales and Ireland to charge their estates with the expenses of constructing Reservoirs for the storage of Water, and other similar purposes.
(2nd August, 1877.)

Law Reports Statutes, vol. xii., p. 189.

WHEREAS landowners of limited interests in England and Wales, with the approval of the Inclosure Commissioners, and in Ireland of the Commissioners of Public Works in Ireland, are enabled to charge their estates with sums expended by them in constructing reservoirs and other works for the supply of water, if it can be shown to the satisfaction of the said Commissioners that such works will effect a permanent yearly increase in the value of such estates for agricultural purposes exceeding the yearly amount proposed to be charged thereon, and are also enabled to charge their estates with sums subscribed for the construction of railways and navigable canals, if it can be shown to the satisfaction of the Commissioners that such railways and canals will effect a permanent yearly increase in the value of such estates for any purpose exceeding the yearly amount proposed to be charged thereon : And whereas in many places it would greatly conduce to the affording of a plentiful supply of pure water to the inhabitants of villages and towns and to the industrial requirements of the locality, if facilities were given to landowners of limited interests to charge their estates, subject to the approval of the Commissioners, with sums expended by them in constructing reservoirs and other works for the supply of water, of a character permanently to increase the value of such estates for other than agricultural purposes, or to be otherwise permanently productive of profit to the owners of the estates, and if such landowners were also enabled to charge their estates with sums subscribed by them for the construction of waterworks on the same terms and conditions as those on which they are now enabled to charge their estates with subscriptions for the construction of railways and canals : Be it therefore enacted, &c.,

Short title.

1. This Act may be cited as the "Limited Owners Reservoirs and Water Supply Further Facilities Act, 1877."

Extent of Act.

2. This Act shall not extend to Scotland.

Act incorporated with 27 & 28 Vict., 114.

3. This Act shall be incorporated with the "Improvement of Land Act, 1864," and the 2 Acts shall be read together as one Act.

Certain provisions of 26 & 27 Vict., 93, incorporated.

4. The provisions of the "Waterworks Clauses Act, 1863," with respect to the security of the reservoirs constructed by the undertakers are incorporated with this Act ; and in that Act, as incorporated with this Act, the expression the "Special Act" shall mean and include the "Improvement of Land Act, 1864," and this Act ; and the expression the "undertakers" shall mean any person who constructs or erects any reservoir or dam under the authority of either of the last mentioned Acts.

What to be deemed improvements within 27 & 28 Vict., 114.

5. The construction or erection of reservoirs or other works of a permanent character for the supply of water to persons residing or engaged in labour on the lands on which such works are situate, or on any other lands settled to the same uses, or for the more convenient or profitable user of such lands, or for the supply of water to any Sanitary or other Local Authority or water company, or to any manufacturer or other person, or for any one or more of such purposes, shall be deemed to be an improvement of land within the meaning of the 9th Section of the "Improvement of Land Act, 1864," and shall be sanctioned by the Commissioners, if it can be shown to their satisfaction that such reservoirs or works for the supply of water will for any purpose effect a permanent yearly increase in the value of the lands on which they are situate, or any other lands settled to the same uses, or will be permanently productive of a yearly revenue to the owner of such lands exceeding the yearly amount proposed to be charged thereon ; and the construction of any such works shall be deemed to include the purchase by the landowner of any water right or other easement which might otherwise interfere with or prevent the construction of the same or any such supply of water as aforesaid.

In calculating whether the improvement is likely to effect a permanent increase of the yearly value of the land, or be productive of a yearly revenue to the landowner exceeding the yearly amount proposed to be charged thereon, it shall be lawful for the Commissioners to take into account the value of any contract, the terms of which have been agreed upon between the landowner and any Sanitary or other Local Authority, or water company, or manufacturer or other persons, for the purpose of supplying such Authority, company, person, or persons with water, as well as the effect on such value or revenue of any sum expended by the landowner in the construction of the works over and above the sum proposed to be charged upon the land.

When the improvement will afford a supply of water to persons residing or engaged in labour on the lands on which the proposed works will be situate, or on any other lands settled to the same uses, the Commissioners may, if they think fit, sanction the improvement, although it may not be shown that the same will effect a direct yearly increase in the value of the lands, or be productive of a yearly revenue to the owner of the lands exceeding the yearly amount proposed to be charged thereon.

Supply of water to Local Authority, &c.

6. Any landowner charging or proposing to charge his estate with the cost of the construction of reservoirs or other works for the supply of water under this Act may enter into any agreement for the supply of water to any Sanitary or other Local Authority, water company, manufacturer, or other person, for any term not exceeding the number of years during which the cost of the improvement, or any part of it, is made a charge upon the estate;

Provided that every such agreement be approved by the Commissioners, and that no premium or benefit in the nature of a premium be reserved thereby by the landowner.

Power to contract for execution of reservoirs, &c.

7. Any company now authorised to contract with landowners in England and Wales, or in Ireland, for the execution of any works for the improvement of land, or to make advances for the purpose of executing or assisting in the execution of such works may, with the approval of the Commissioners, contract with any such landowner for the execution of any reservoirs or works of water supply, the cost of which may by this Act be charged upon the estates of such landowner, and may, with the like approval, make advances for the purpose of executing or assisting in the execution of such reservoirs or works;

And for this purpose the execution of any such reservoirs or works shall be deemed to be an improvement of land within the meaning of any Act of Parliament or Articles of Association relating to any such company.

Subscriptions to waterworks.

8. Any landowner desiring to charge his estates with subscriptions for the construction of waterworks by a water company may charge his estates with such moneys on the same terms and conditions as he may under the "Improvement of Land Act, 1864," charge his estates with money subscribed for the construction of railways or navigable canals; and for this purpose the provisions contained in §§ 78 to 89, both inclusive, of the "Improvement of Land Act, 1864," shall apply, *mutatis mutandis* to such subscriptions, as if the same had been subscribed for the construction of a railway or navigable canal.

Protection of rights.

9. Nothing in this Act shall be construed to authorise any landowner, or any water company, Local Authority, person, or persons authorised by any landowner, to injuriously affect any reservoir, canal, river, stream, or navigation, or the feeders thereof, or the supply, quality, or fall of water contained in any reservoir, canal, river, stream, or navigation, or in the feeders thereof, or any other water rights or easements in cases where any body of persons or person would, if this Act had not passed, have been entitled by Law to prevent or be relieved against the injuriously affecting such reservoir, canal, river, stream, navigation, feeders, or such supply, quality, or fall of water, or other water rights or easements, unless the landowner, water company, Local Authority, person, or persons first obtain the consent in writing of the body of persons or person so entitled as aforesaid.

Definitions.

10. In this Act the following words and expressions shall have the following meaning; that is to say,

"The Commissioners" means the Inclosure Commissioners of England and Wales . . . . . .

"The Improvement of Land Act, 1864," means the 27th and 28th Vict., c. 114:

"Works for the supply of water" includes wells, pumps, reservoirs, cisterns, ponds, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, machinery, and things for supplying or used in supplying water:

"Water company" means any person or body of persons, corporate or unincorporate, supplying or who may hereafter supply water for his or their own profit:

"Local Authority" means any Authority having jurisdiction for any public local purpose.

The several words and expressions to which by the "Improvement of Land Act, 1864," meanings are assigned, shall in this Act have the same respective meanings as in that Act.

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40 & 41 VICT., c. 60.

ARRANGEMENT OF SECTIONS.

Section.
1. Registration of use of canal boat as dwelling.
2. Local Government Board to make Regulations for registration, fixing number of persons, promoting cleanliness, and preventing infectious disease.
3. Certificate of registry and lettering and numbering of boat.

Section.
4. Power of Sanitary Authority for prevention of infectious disease in canal boats.
5. Authorised person may enter boat, &c.
6. Education of children dwelling on board canal boats.
7. Registration Authority.
8. Expenses of Sanitary Authority.
9. Regulations to be laid before Parliament.
10. Illegal detention of Certificate of Registry.
11. Application of Fees under this Act.
12. Power of Canal Company, &c., to establish schools.
13. Recovery of Penalties.
14. Definitions.
15. Commencement of Act.
16. Extent of Act.
17. Short Title.

An Act to provide for the Registration and Regulation of Canal Boats used as Dwellings. (14th August, 1877.)

Law Reports Statutes, vol. xii., p. 403.

BE it enacted, &c.,

Registration of use of canal boat as dwelling

1. After the expiration of 12 months after the commencement of this Act, or if the Regulations of the Local Government Board hereinafter mentioned have not at that time come into force, then after the expiration of 6 months from the date at which they have come into force, a canal boat shall not be used [*sic*] a dwelling unless it has been registered in accordance with this Act.

The owner of a canal boat may register that boat with the Registration Authority hereinafter mentioned as a dwelling for such number of persons of the specified age and sex as may be allowed under the provisions of this Act;

And the boat shall be used as a dwelling only for the number of persons of the age and sex for which it is registered.

If a canal boat is used as a dwelling in contravention of this Act, the master of the boat, and also the owner of the boat, if he is in fault, shall each be liable to a fine not exceeding 20*s.* for each occasion on which the boat is so used.

Local Government Board to make regulations for registration, &c.

2. The Local Government Board shall make Regulations, and may from time to time revoke and vary such Regulations—

(1.) For the Registration of canal boats under this Act, including Certificates of Registration, and the fees in connexion with such registration; and
(2.) For the lettering, marking, and numbering of such boats; and
(3.) For fixing the number, age, and sex of the persons who may be allowed to dwell in a canal boat, having regard to the cubic space, ventilation, provision for the separation of the sexes, general healthiness, and convenience of accommodation of the boat; and
(4.) For promoting cleanliness in and providing for the habitable condition of canal boats; and
(5.) For preventing the spread of infectious disease by canal boats.

The Registration Authority shall register every canal boat which conforms to the conditions of Registration provided by the said Regulations for the number of persons allowed by those Regulations, to dwell therein.

Certificate of registry and lettering and numbering of boat.

3. Upon the registry of a boat under this Act, the Registration Authority shall give to the owner thereof 2 certificates of registry, identifying the owner and the boat, and stating the place to which the boat is registered as belonging, and the number, age, and sex of the persons allowed to dwell in the boat, and such other particulars as may be provided by Regulations under this Act, or may seem fit to the Registration Authority, and the master shall have the care of one of such certificates.

Every canal boat when registered shall be lettered, marked, and numbered in some conspicuous manner (as directed by the Regulations made under this Act), and such lettering, marking, and numbering shall include the word "registered," and the name of the place to which the boat is registered as belonging, and the registered number.

Any boat not lettered, marked, and numbered in conformity with this Section, or having the letter, mark, or number altered, defaced, or obliterated, shall be deemed, for the purposes of this Act, to be an unregistered canal boat.

Power of Sanitary Authority for prevention of infectious disease in canal boat.

38 & 39 Vict., 55.

4. Where any Sanitary Authority within whose district a canal or any part of a canal is situate is informed by the master of a canal boat or otherwise that a person on a canal boat is suffering from an infectious disorder, the Authority shall cause such steps to be taken as may by the certificate of their Medical Officer of Health, or of any other legally qualified practitioner, appear requisite for preventing the said disorder from spreading, and for that purpose may exercise the power of removing a person suffering as aforesaid, and all other powers in relation to provisions against infection conferred by the "Public Health Act, 1875," and may also, if need be, detain the boat;

But such boat shall not be detained a longer time than is necessary for cleansing and disinfecting the same.

A.D. 1877.

Authorised person may enter boat, &c.

5. Where any person duly authorised by a Registration or Sanitary Authority, or by a Justice of the Peace, has reasonable cause to suppose, either that there is any contravention of this Act on board a canal boat, or that there is on board a canal boat any person suffering from an infectious disorder, he may, on producing (if demanded) either a copy of his authorisation, purporting to be certified by the Clerk or a member of the Sanitary Authority, or some other sufficient evidence of his being authorised as aforesaid, enter by day such canal boat and examine the same and every part thereof, in order to ascertain whether on board such boat there is any contravention of this Act, or a person suffering from an infectious disorder, and may, if need be, detain the boat for the purpose, but for no longer time than is necessary.

The master of the boat shall, if required by such person, produce to him the certificate of registry (if any) of the boat, and permit him to examine and copy the same, and shall furnish him with such assistance and means as such person may require for the purpose of his entry and examination of and departure from the boat in pursuance of this Section.

A refusal to comply with the requisition of such person under this Section shall be deemed to be an obstruction of such person.

If such person is obstructed in the performance of his duty under this Act in the case of any boat, the person so obstructing shall be liable to a fine not exceeding 40*s*.

Education of children on canal boats.

33 & 34 Vict., 75; 36 & 37 Vict., 86; 39 & 40 Vict., 79.

6. A child in a canal boat registered in pursuance of this Act, and his parent, shall for the purposes of the "Elementary Education Acts, 1870, 1873, and 1876," be deemed, subject as hereinafter mentioned, to be resident in the place to which the boat is registered as belonging, and shall be subject accordingly to any By-Law in force under the said Acts in that place.

Provided that if the parent satisfies the School Board or School Attendance Committee having authority in that place, that the child is actually attending school, or is under efficient instruction in accordance with the said Acts, in some other school district, the said Board or committee shall grant him without charge a certificate to that effect, and thereupon he and his child shall be deemed for the purposes aforesaid to be resident in the school district in which the child is so attending school, or under efficient instruction, and shall be subject to any By-Law in force therein.

The said certificate may on application by the parent be rescinded or varied by the School Board or School Attendance Committee for the place to which the boat is registered as belonging, and may be rescinded without application by any such Board or Committee, if they are satisfied, after due notice to the parent, that his child is not properly attending school or under efficient instruction in the school district mentioned in the certificate.

Registration Authority.

7. For the purpose of the registration of canal boats the Registration Authority shall be such one or more of the Sanitary Authorities having Districts abutting on a canal as may from time to time be prescribed by Regulation of the Local Government Board.

A canal boat shall be registered with some Registration Authority having a District abutting on the canal on which such boat is accustomed or intended to ply.

33 & 34 Vict., 75; 36 & 37 Vict., 86; 39 & 40 Vict., 79.

With a view of determining the place to which a canal boat belongs, for the purpose of the "Elementary Education Acts, 1870, 1873, and 1876," the Registration Authority shall register any canal boat in respect of which an application is made for registration as belonging to some place which is either a School District or is part of a School District, and is situate wholly or partly within the jurisdiction of the Registration Authority with which it is registered.

Expenses of Sanitary Authority.

8. The expenses incurred in the execution of this Act by a Local Authority shall be defrayed as follows:

38 & 39 Vict., 55.

(1.) When they are incurred by an Urban Sanitary Authority, a Rural Sanitary Authority, or a Port Sanitary Authority, they shall be defrayed out of the fund or Rate out of which the expenses of such Authority, as a Sanitary Authority under the "Public Health Act, 1875," are defrayed; provided that when they are incurred by a Rural Sanitary Authority they shall be deemed to be general expenses; and

18 & 19 Vict., 120.

(2.) When they are incurred by a Vestry or District Board in the Metropolis they shall be defrayed as expenses incurred by such Vestry or Board in the execution of the "Metropolis Management Act, 1855," and the Acts amending the same.

Regulations to be laid before Parliament.

9. An Order of the Local Government Board making, revoking, or varying any regulation in pursuance of this Act shall not come into force until it has lain in a complete form as settled and approved by the Board for 40 days before both Houses of Parliament during the Session of Parliament.

The Local Government Board shall take steps for enabling all persons interested in any Regulations made by that Board in pursuance of this Act to obtain copies thereof at such places in the neighbourhood of canals as the Local Government Board may prescribe, on payment of such sum not exceeding 6*d*. as may be prescribed by that Board.

Illegal detention of certificate.

10. If the master of any canal boat illegally detains the certificate of registry of such boat, he may, on summary conviction before 2 Justices, be directed by Order of such Justices to deliver up such certificate, and shall, in addition thereto, be liable to a fine not exceeding 40*s*., and the Justices may direct any part of such fine to be paid to the person injured by the detention of such certificate.

Application of fees under this Act.

11. All fees paid in respect of registration under this Act shall be carried to the fund or Rate out of which the expenses incurred in the execution of this Act by the Authority making such registration are by this Act declared to be payable.

Power of canal company, &c., to establishschools

12. Any company or association, corporate or unincorporate, being the owners of any canal boats, or being the owners, lessees, or undertakers of any canal, may, with the assent of a special resolution of their members, and notwithstanding any Act of Parliament, charter, or document regulating the funds of the company or association, appropriate any portion of their funds to the establishment and maintenance, or establishment or maintenance, of a school or schools wherein the children of the persons employed in canal boats may be lodged, maintained, and educated, or educated only;

With this restriction, that the children shall not be maintained gratuitously, but the lodging or education may be wholly or partially gratuitous.

A "special resolution" shall for the purposes of this Act mean a resolution passed in manner provided by the 51st Section of the "Companies Act, 1862." 25 & 26 Vict., 89.

13. Offences under this Act may be prosecuted, and fines under this Act may be recovered on summary conviction before 2 Justices having jurisdiction, either in the place to which the boat in respect of which the offence was committed is registered as belonging, or in the place where the offence is committed, or in the place where the alleged offender for the time being is, in manner provided by the Act of the 11th and 12th Years of the reign of Her present Majesty, c. 43, intituled "An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions within England and Wales with respect to Summary Convictions and Orders," and the Acts amending the same. Recovery of penalties.

14. In this Act, unless the context otherwise requires— Definitions.

The expression "Sanitary Authority" means an Urban Sanitary Authority, a Rural Sanitary Authority, or a Port Sanitary Authority; . . . . . .

The expression "parent" includes guardian, and every person who is liable to maintain or has the actual custody of any child:

The expressions "Urban Sanitary Authority" and "Rural Sanitary Authority" and "Port Sanitary Authority," have the same meaning as in the "Public Health Act, 1875:" 38 & 39 Vict., 55.

The expression "canal" includes any river, inland navigation, lake, or water being within the body of a county, whether it is or not within the ebb and flow of the tide:

The expression "canal boat" means any vessel, however propelled, which is used for the conveyance of goods along a canal as above defined, and which is not a ship duly registered under the "Merchant Shipping Act, 1854," and the Acts amending the same: 17 & 18 Vict., 104.

The expression "owner" includes a person who, though only the hirer of a canal boat, appoints the master and other persons working such boat.

The expression "master" in relation to a canal boat means the person having for the time being command or charge of the boat.

15. This Act shall come into operation on the 1st day of January, 1878, which day is in this Act referred to as the commencement of this Act. Commencement of Act.

16. This Act shall not extend to Scotland or Ireland. Extent of Act.

17. This Act may be cited as the "Canal Boats Act, 1877." Short title.

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40 & 41 VICT., c. 66.

An Act to amend the Law with respect to the Annual Returns of Local Taxation in England, and for other purposes relating to such Taxation. *(14th August, 1877.)*

Law Reports Statutes, vol. xii., p. 442.

WHEREAS by the "Local Taxation Returns Act, 1860," and other Acts, Local Authorities or their officers are required to make annually to one of Her Majesty's Principal Secretaries of State, or to the Local Government Board, returns of their receipts and expenditure, and of any Rates, taxes, tolls, or dues levied by them, and it is expedient to make further provision respecting such returns: Be it therefore enacted, &c., 23 & 24 Vict., 51.

1. The annual return required by Law to be made of any receipts or expenditure of a Local Authority, or of any Rates, taxes, tolls, or dues, shall be made for the financial year ending on the 25th day of March, or on such other day as the Local Government Board may from time to time prescribe, upon the application of any particular Authority in respect of their receipts and expenditure, or of any Rates, taxes, tolls, or dues levied by them, or in respect of the receipts and expenditure and of the Rates, taxes, tolls, or dues levied by any class of Authorities. Date for annual return of local taxation.

A.D. 1877.

Every such return shall be sent to the Local Government Board and not to one of Her Majesty's Principal Secretaries of State, and shall be so sent within one month after the audit of the receipts and expenditure to which the return relates is completed, or if the audit is not completed within 6 months after the end of the financial year for which the return is to be made, then on the expiration of such 6 months, or if there is no audit, then within one month after the end of the said financial year.

For the purpose of any such return the date to which the accounts of any Local Authority are required by Law to be made up, and the date at which such accounts are required by law to be audited, and auditors are required to be elected or appointed, may be altered by the Local Authority, with the approval of the Local Government Board:

Provided that nothing in this Section shall prevent any accounts being made up and audited at shorter periods than 12 months, so that one of such shorter periods ends on the last day of the financial year for which the return of such accounts is to be made.

Clerk of Local Authority to send return.

2. Every return to which this Act applies shall be made by the Clerk of the Local Authority, or where no Clerk is appointed or acting, by the Treasurer or other officer keeping the accounts of the receipts and expenditure, Rates, taxes, tolls, or dues, to which the return relates, and any such Clerk, treasurer, or other officer who makes default in making any such return shall be liable to a penalty not exceeding £20 for each offence, to be recovered by Action on behalf of Her Majesty in the High Court of Justice.

Definition of "Local Authority."

3. The expression "Local Authority" in this Act means any Justices, Municipal, or other Corporation, Board, Guardians, Sanitary Authority, Vestry, Commissioners, Inspectors, Trustees, or other body of persons required by Law to make to one of Her Majesty's Principal Secretaries of State, or to the Local Government Board, a return of their receipts and expenditure, or of any Rates, taxes, tolls, or dues levied by them or under their direction.

First return under Act.

4. The first return under this Act shall be made for the financial year ending in the year 1878, and the Local Government Board shall make such provision as may seem to them necessary for any change of the date of the accounts and audit of the accounts of any Local Authority which may be rendered necessary by the provisions of this Act, so as to cause as little inconvenience as possible to the Local Authority.

Short title.

5. This Act may be cited as the "Local Taxation Returns Act, 1877."

The Act of the Session of the 23rd and 24th Years of the reign of Her present Majesty, c. 51, intituled "An Act to provide for an annual return of Rates, taxes, tolls, and dues levied for local purposes in England," may be cited as the "Local Taxation Returns Act, 1860," and that Act and this Act may be cited as the "Local Taxation Returns Acts, 1860 and 1877."

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41 VICT., c. 14.

Law Reports Statutes, vol. xiii., p. 126.

An Act to amend the Law relating to Public Baths and Washhouses. (27th May, 1878.)

WHEREAS the Act passed in the Session held in the 9th and 10th Years of the Reign of Her present Majesty, c. 74, intituled "An Act to encourage the establishment of Public Baths and Washhouses," was amended by the Act passed in the Session held in the 10th and 11th Years of the Reign of Her present Majesty, c. 61, intituled "An Act to amend the Act for the establishment of Public Baths and Washhouses," and it is expedient further to amend the said first-recited Act, and to provide for the establishment of covered swimming baths and other purposes: Be it therefore enacted, &c.,

Short title.

1. This Act may be cited for all purposes as the "Baths and Washhouses Act, 1878."

"Covered swimming bath."

The words "covered swimming bath" in this Act shall mean a swimming bath protected by a roof or other covering from the weather.

Construction of Act. 38 & 39 Vict., 66: 38 & 39 Vict., 55.

2. This Act and the recited Acts, as amended by the "Statute Law Revision Act, 1875," and the "Public Health Act, 1875," and by this Act, shall be construed and carried into execution as one Act;

And the words the "Council and the Commissioners" when used in this Act shall include the Urban Authority mentioned in the 10th Section of the "Public Health Act, 1875."

Covered swimming baths authorised.

3. All the provisions of the recited Acts respectively shall be construed to extend and to have extended from the passing of such Acts respectively to covered swimming baths, as well as to baths, washhouses, and open bathing places.

Charges for swimming baths.

4. The Council and the Commissioners respectively may from time to time provide covered swimming baths, and make such reasonable charges for the use thereof as they shall think fit, not exceeding the charges mentioned in the Schedule annexed to this Act.

Power to close swimming baths for a limited period.

5. The Council and the Commissioners respectively may during such period, not exceeding 5 months in any one year, as they shall think fit, from the beginning of the month of November to the end of the month of March, close any covered swimming bath or open swimming bath, and may either keep the same closed or may establish therein a gymnasium or such other means of healthful recreation as they shall think fit, or may during such period allow any covered or open swimming bath to be used as an empty building for such purposes of healthful recreation or exercise as they shall think fit during such period as aforesaid, and may at any time allow any portion of the public baths not required by the Commissioners to be used for holding vestry meetings or other parochial purposes :

Provided always, that no covered or open swimming bath when closed may be used for music or dancing.

By-Laws.

6. The Council and the Commissioners respectively may make By-Laws for the regulation, management, and use of the open or swimming baths when used for any of the purposes mentioned in the 5th Section of this Act ;

And all the provisions in the principal Act relating to By-Laws shall extend and apply to By-Laws made under this Section.

Officers.

7. The Council and the Commissioners respectively may appoint and remove at pleasure such officers and servants as shall be necessary for the management and superintendence of any gymnasium or other means of recreation established under this Act, and may appoint reasonable salaries, wages, and allowances for such officers and servants.

Charges for gymnasium, &c.

8. The Council and the Commissioners respectively may from time to time make such reasonable charges for the use of the gymnasium or other means of recreation established under this Act, or for the use of any covered swimming bath as an empty room, as they shall think fit.

Borrowing powers, &c., extended.

9. The provisions in the 21st, 22nd, and 23rd Sections of the principal Act authorising the borrowing and advancement of money for the purposes of that Act shall be taken to authorise the borrowing and advancement of money in like manner for the purposes of this Act ;

And the approval of the Local Government Board shall be substituted for that of the Commissioners of Her Majesty's Treasury in all cases where money is borrowed for the purposes of the principal Act or this Act.

Removal of offenders. Baths to be considered public and open places.

10. The Council and the Commissioners respectively, and their respective servants and agents, may remove any person offending against any of the By-Laws made under this Act and the recited Acts, or any of them :

And any bath or washhouse, or open bathing place, or covered swimming bath, established under this Act and the recited Acts, or any of them, shall be taken to be a public and open place, so as to make offences against decency therein criminal offences.

Power to refuse admittance to baths, &c., to offenders.

11. The Council and the Commissioners respectively, and their respective officers and servants, may refuse admittance to any bath, washhouse, open bathing place, or covered swimming bath, or any of them, to any person (1) who shall have been convicted of wilfully disobeying any of the By-laws in such bath, washhouse, open bathing place, or covered swimming bath ; (2) who shall have been convicted of any offence against public decency in any of such baths, washhouses, open bathing places, or covered swimming baths as aforesaid.

[§ 12 relates to the Metropolis only.]

Expenses of executing Act.

13. The expense of carrying this Act into execution shall be defrayed, and the income arising from the use in any manner of any covered swimming bath established under the provisions of this Act and the recited Acts, or any of them, shall be applied, in the same manner as that in which the expenses of the principal Act are thereby directed to be defrayed, and the income arising from baths, and washhouses, and open bathing places, is thereby directed to be applied.

Increase of charge.

14. The charge of one halfpenny, fixed by the 10th and 11th Victoria, c. 61, § 7, and Part 5 of the Schedule to that Act, shall be increased to one penny.

The SCHEDULE above referred to.

Charges for covered Swimming Baths.

1st Class.—Any sum not exceeding 8*d.* for each person.

2nd Class.—Any sum not exceeding 4*d.* for each person.

3rd Class.—Any sum not exceeding 2*d.* for each person.

41 VICT., c. 16.

Law Reports Statutes, vol. xiii., p. 137.

An Act to consolidate and amend the Law relating to Factories and Workshops.

(27th May, 1878.)

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Sanitary condition of factory, &c.

3. A factory and a workshop shall be kept in a cleanly state and free from effluvia arising from any drain, privy, or other nuisance.

A factory or workshop shall not be so overcrowded while work is carried on therein as to be injurious to the health of the persons employed therein, and shall be ventilated in such a manner as to render harmless, so far as is practicable, all the gases, vapours, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health.

A factory or workshop in which there is a contravention of this Section shall be deemed not to be kept in conformity with this Act.

Notice by Factory Inspector to Sanitary Authority.

4. Where it appears to an Inspector under this Act that any act, neglect, or default in relation to any drain, water-closet, earth-closet, privy, ashpit, water-supply, nuisance, or other matter in a factory or workshop is punishable or remediable under the Law relating to Public Health, but not under this Act, that Inspector shall give notice in writing of such act, neglect, or default to the Sanitary Authority in whose district the factory or workshop is situate, and it shall be the duty of the Sanitary Authority to make such inquiry into the subject of the notice, and take such action thereon, as to that Authority may seem proper for the purpose of enforcing the Law.

An Inspector under this Act may, for the purposes of this Section, take with him into a factory or a workshop a Medical Officer of Health, Inspector of Nuisances, or other officer of the Sanitary Authority.

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Application to Factories, &c., of "Public Health Act, 1875."

101. The provisions of § 91 of the "Public Health Act, 1875," with respect to a factory, workshop, or work-place not kept in a cleanly state or not ventilated or overcrowded, shall not apply to a factory or workshop which is subject to the provisions of this Act relating to cleanliness, ventilation, and overcrowding, but shall apply to every other factory, workshop, and work-place.

It is hereby declared that the "Public Health Act, 1875," shall apply to buildings in which persons are employed, whatever their number may be, in like manner as it applies to buildings where more than 20 persons(a) are employed.

(a) This allusion to "20 persons" is evidently an oversight, for the limitation to that effect in § 52 of the "Public Health Act, 1848," was removed when that Section was reproduced in the "Public Health Act, 1875," (see § 38.)

41 VICT., c. 18.

An Act to grant Money for the purpose of Loans by the Public Works Loan Commissioners and by the Commissioners of Public Works in Ireland, and to authorise the former Commissioners to compound and cancel certain loans and interest, and to amend the "Public Works Loans Act, 1875." (27th May, 1878.)

Law Reports Statutes, vol. xiii., p. 189.

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Amendment of 38 & 39 Vict., 89, 36, as to examination into proper application of loan advanced on rates.

4. Whereas by § 36 of the "Public Works Loans Act, 1875," the Local Government Board are required to satisfy themselves that any loan advanced by the Public Works Loan Commissioners on the security of a Rate is applied to the purpose for which it is advanced, and are authorised to appoint any officer to conduct on their behalf such examination as they may think necessary with a view to ascertaining that the loan has been so applied, and it is expedient to make further provision with respect to the powers of the Local Government Board for the purposes of the said Section : Be it therefore enacted as follows :

38 & 39 Vict., 89.

Where upon any examination made in pursuance of § 36 of the "Public Works Loans Act, 1875," with reference to a loan advanced by the Public Works Loan Commissioners for any purpose on the security of a Rate, it appears to the Local Government Board that any sum, being the whole or part of the money raised by the loan, has not been applied for the said purpose, the Local Government Board may order that sum to be, within the time named in the Order, applied either for the said purpose or towards the repayment to the Public Works Loan Commissioners of the principal of the loan, or partly in one of such ways and partly in the other, and further, if it appears to them that the sum, or any part thereof, has been applied for some purpose other than that for which it was advanced, may by the same or any other Order direct a sum equal to the amount so misapplied to be raised within the time and out of the fund or Rate named in the Order and to be applied as directed by the above-mentioned Order.

An Order made by the Local Government Board in pursuance of this Section may be enforced by writ of *Mandamus*.

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41 & 42 VICT., c. 25.

ARRANGEMENT OF SECTIONS.

Section.
1. Short title, and construction.
2. Commencement of Act.
3. Duty of Rural Authority to provide or require provision of sufficient water supply, and procedure for enforcing such requirement.
4. Appeal by owner against requirement to provide water supply.
5. Appeal against apportionment of expenses.
6. Houses in Rural Districts not to be erected or rebuilt without sufficient water supply.
7. Periodical inspections of water supply.
8. Explanation of § 62 of 38 & 39 Vict., c. 55 as to the meaning "of reasonable cost."
9. Rating for water supply by stand-pipes.
10. Power to require water Rates to be levied.
11. Powers of Urban Sanitary Authorities in certain cases.
12. Forms in the Schedule.
13. Powers of Act cumulative.

SCHEDULE.

A.D. 1878.

Law Reports Statutes, vol. xiii., p. 202.

An Act to amend the Public Health Act, 1875, so far as relates to the supply of Water.

(4th July, 1878.)

38 & 39 Vict., 55.

WHEREAS it is expedient to amend the provisions of the "Public Health Act, 1875:" Be it therefore enacted, &c.,

Short title, and construction.

1. This Act may be cited as the "Public Health (Water) Act, 1878," and shall be construed as one with the "Public Health Act, 1875."

Commencement of Act.

2. This Act shall come into operation on the 25th day of March, 1879, which day is in this Act referred to as the commencement of this Act.

Duty of Rural Authority to provide or require provision of sufficient water supply, and procedure for enforcing such requirement.

3. It shall be the duty of every Rural Sanitary Authority, regard being had to the provisions in this Act contained, to see that every occupied dwelling-house within their District has within a reasonable distance an available supply of wholesome water sufficient for the consumption and use for domestic purposes of the inmates of the house.

Where it appears to a Rural Sanitary Authority, on the report of their Inspector of Nuisances, or their Medical Officer of Health, that any occupied dwelling-house within their District has not such supply within a reasonable distance, and the Authority are of opinion that such supply can be provided at a reasonable cost not exceeding a capital sum the interest on which at the rate of 5 per centum per annum would amount to 2*d.* per week, or at such other cost not exceeding a capital sum the interest on which at the rate of 5 per centum per annum would amount to 3*d.* per week, as the Local Government Board may on the application of the Local Authority determine under all the circumstances of the case to be reasonable, and that the expense of providing the supply ought to be paid by the owner or defrayed as Private Improvement Expenses, proceedings may be taken as follows:

(1.) The Authority may serve on the owner of the house a notice requiring him, within a time specified in the notice and not exceeding 6 months from the date of the service thereof, to provide such supply, and to do all such works as may be necessary for that purpose.

(2.) If at the expiration of the time so specified the notice is not complied with, the Authority may serve on the owner a second notice, informing him that if the requirements of the 1st notice are not complied with within one month from the date of the service of the 2nd notice, the Authority will themselves provide such supply, and that the expense of providing the supply will in that case be payable by the owner or as a private improvement expense.

38 & 39 Vict., 55, 213—5, 232.

(3.) If at the expiration of one month from the date of the service of the 2nd notice the requirements of the 1st notice are not complied with, the Authority may, subject as in this Act is mentioned, themselves provide the supply, and for that purpose they may enter upon the premises and execute all such works as appear to them necessary for obtaining a supply of water for the house, and for the purposes of such entry §§ 102 and 103 of the "Public Health Act, 1875," shall apply until the works are completed, in the same manner as if an Order of a Court of Summary Jurisdiction had been made for the abatement of a nuisance on the premises, and that Order had not been complied with.

38 & 39 Vict., 55.

(4.) Any expenses incurred by the Authority in providing such supply and doing such works may, when the supply has been provided, be recovered in a summary manner from the owner of the house, or may, at the option of the Authority, be declared, by their Order, to be Private Improvement Expenses.

(5.) Where the owners of 2 or more houses have failed to comply with the requirements of the notices served on them under this Section, and the Authority might, under this Act, execute the necessary works for providing a water supply for each house, the Authority may, if it appears to them desirable, and no greater expense would be occasioned thereby, execute works for the joint supply of water to those houses, and apportion the expenses as they deem just.

The Authority may, on cause being shown to their satisfaction why the requirements of a notice served by them under this Section should not be complied with, withdraw the notice or modify the requirements thereof.

38 & 39 Vict., 55, 62, 81, and 299.

Provided that nothing in this Section contained shall be deemed to relieve the Authority from the duty imposed upon them by the "Public Health Act, 1875," of providing their District or any contributory place or part of a contributory place therein with a supply of water in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, and a general scheme of supply is required, and such supply can be got at a reasonable cost.

Appeal by owner against requirement to provide water supply.

4. Where an owner of a house has been required by the notice of a Rural Sanitary Authority to provide a supply of water for his house, and objects to such requirement on any of the following grounds; that is to say,

(1.) That the supply is not required; or,

(2.) That the time limited by the notice for providing the supply is insufficient; or,

(3.) That it is impracticable to provide the supply at a reasonable cost; or,

(4.) That the Authority ought themselves to provide a supply of water for the district or contributory place in which the house is situate, or to render the existing supply of water wholesome; or,

(5.) That the whole or part of the expense of providing the supply, or of rendering the existing supply wholesome, ought to be a charge on the district or contributory place;

he may, within 21 days after service on him of the 2nd notice, address a memorial to the Authority, stating his objections, and in that case it shall not be lawful for the Authority to pro-

ceed with the execution of the works which they might otherwise execute under this Act until they have been authorised to execute the same by a Court of Summary Jurisdiction or by the Local Government Board in manner hereinafter provided.

If the objections stated in the memorial do not include either the 4th or 5th of the above-mentioned grounds, the Authority may apply to a Court of Summary Jurisdiction(a) for an Order authorising them to proceed with the works, and thereupon the Court shall summon the owner, and, if satisfied on hearing the case that the objections are not well founded, shall make an Order authorising the Authority to proceed with the works in the event of their not being executed by the owner within a time limited by the Order.

If the objections stated in the memorial are or include the 4th and 5th of the above-mentioned grounds, or either of them, the Authority shall forward a copy of the memorial to the Local Government Board, who may either cancel the requirement of the Authority, or confirm the same, with or without modifications.

If the Local Government Board confirm the requirement they shall issue an Order authorising the Authority, subject to such modifications, if any, as they prescribe, to execute the works in the event of such works not being executed by the owner within a time limited by the Order.

Any such Order may, if the Local Government Board think it equitable so to do, apportion the expense of providing the supply between the owner of the house and the Authority of the District comprising the contributory place in which the house is situate, or between the owner and any other person or persons.

If the Local Government Board cancel the requirement on the grounds that the Authority ought themselves to provide a supply of water for the District or contributory place in which the house is situate, or to render the existing supply wholesome, the memorial shall be deemed to have been a complaint of default made to the Local Government Board against the Authority under the 299th Section of the "Public Health Act, 1875." 38 & 39 Vict., 55.

Appeal against apportionment of expenses.

5. Where the expenses of providing a joint supply of water for 2 or more houses are apportioned under this Act by a Rural Sanitary Authority among the owners of the several houses, notice of such apportionment shall be forthwith given to each of such owners, and if any owner objects to the apportionment as unjust, he may, within 21 days after service on him of notice thereof, apply to a Justice, and thereupon the Justice may summon the Authority, and also the other owners, to show cause before a Court of Summary Jurisdiction why the apportionment should not be varied, and the Court may either dismiss the application or make such Order varying the apportionment as to the Court may appear reasonable.

Houses in rural districts not to be erected or rebuilt without sufficient water supply.

6. It shall not be lawful in any Rural District for the owner of any dwelling-house which may be erected after the date of the commencement of this Act, or of any dwelling-house which after that date may be pulled down to or below the ground floor and rebuilt, to occupy the same, or cause or permit the same to be occupied, unless and until he has obtained from the Sanitary Authority of the District a certificate that there is provided, within a reasonable distance of the house, such an available supply of wholesome water as may appear to such Authority, on the report of their Inspector of Nuisances or of their Medical Officer of Health, to be sufficient for the consumption and use for domestic purposes of the inmates of the house.

If the Sanitary Authority refuse to grant such certificate, the owner may apply to a Court of Summary Jurisdiction for an Order authorising the occupation of the house notwithstanding the refusal of the certificate, and thereupon the Court shall summon the Authority, and if the Court, after hearing the case, is of opinion that the certificate ought to have been granted, the Court may make an Order authorising the occupation of the house.

Any owner who occupies a house or causes or permits it to be occupied in contravention of this Section shall be liable on conviction by a Court of Summary Jurisdiction to a penalty not exceeding £10.

Periodical inspections of water supply.

7. It shall be the duty of every Rural Sanitary Authority from time to time to take such steps as may be necessary to ascertain the condition of the water supply within their District, and the Authority may pay all reasonable costs and expenses incurred by them for the purpose of taking such steps. The Authority, or any of their officers, or any person duly authorised in writing for that purpose by the Authority, if they or he have or has reasonable ground for believing that any occupied dwelling-house within the District is without a proper supply of wholesome water, sufficient for the consumption and use for domestic purposes of the inmates of such house, shall be admitted into the premises for which such supply is required or from which the water supply may be derived for the purpose of ascertaining whether or not such house has such a supply within a reasonable distance; and for the purposes of any such admission §§ 102 and 103 of the "Public Health Act, 1875," shall apply in the same manner as if such admission were necessary for the purpose of examining as to the existence of any nuisance on the premises, and the person so authorised as aforesaid were an officer of the Rural Sanitary Authority. 38 & 39 Vict., 55.

Explanation of 38 & 39 Vict., 55, 62, as to the meaning of "reasonable cost."

8. Where application is made to the Local Government Board by a Local Authority under § 62 of the "Public Health Act, 1875," to determine what is a reasonable cost within the meaning of that Section, the Board may, for that purpose, fix, by Order, a general scale of charges for the whole or any part of the District of the Local Authority, and the cost of the supply of water to any house within the area specified in the Order shall be deemed to be determined to be a reasonable cost within the meaning of that Section if it does not exceed the cost authorised by such general scale of charges.

Rating for water supply by stand-pipes.

9. Where a Rural Sanitary Authority have provided a stand-pipe or stand-pipes for the supply of water to any portion of their district, they may recover Water Rates or Water Rents from the owner or occupier of every dwelling-house within 200 feet of any such stand-pipe, in the same manner in all respects as if the supply had been given on the premises.

(a) See 38 & 39 Vict., 55, § 251, *et seq.*

Provided that if any such dwelling-house has, within a reasonable distance, and from other sources, a supply of wholesome water sufficient for the consumption and use of the inmates of the house, no Water Rate or Water Rent shall be recoverable from the owner or occupier of the house unless and until the water supplied by the Authority by means of such stand-pipes is used by inmates of the house.

Power to require water rates to be levied. 38 & 39 Vict., 55, 56, 64—5, 229.

10. Where a Sanitary Authority under the provisions of the "Public Health Act, 1875," as amended by this Act, supply water in any Urban District or in any contributory place, and an application is made to them by any 10 persons rated to the relief of the poor in such Urban District, or by any 5 persons so rated in such contributory place, to charge Water Rates or Water Rents in respect of the water so supplied, it shall be incumbent upon the Authority to exercise the powers given to them by the "Public Health Act, 1875," and by this Act, of charging Water Rates or Water Rents in respect of all water supplied by them in such Urban District or in such contributory place.

Powers of Urban Sanitary Authorities in certain cases.

11. The Local Government Board may, if they think fit, by Order, invest any Urban Sanitary Authority with all or any of the powers and duties which are by this Act given to a Rural Sanitary Authority, and such investment may be made either unconditionally or subject to any conditions to be specified by the Board as to the time, portion of the district, or manner during at or in which the powers and duties are to be exercised.

Forms in the Schedule.

12. The Forms contained in the Schedule to this Act, or Forms to like effect varied as circumstances may require, may be used, and shall be deemed sufficient for all purposes.

Powers of Act cumulative.

13. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred by Act of Parliament, Law, or custom.

THE SCHEDULE.

FORM (A.)

Form of Notice requiring Owner to provide a supply of Water for an Occupied House.

To the owner of the house occupied by [*state name of occupier*] and situated at [*give such description as may be sufficient to identify the premises*] within the District of [*describe the Local Authority*].

Whereas it appears to the above-named [*Local Authority*] on the report of their [*Inspector of Nuisances or their Medical Officer of Health, as the case may be*] that the said house has not within a reasonable distance an available supply of wholesome water sufficient for the consumption and use for domestic purposes of the inmates of the house by reason of the existing supply not being [*wholesome or sufficient, or within a reasonable distance, as the case may be*], and that the requisite supply can be provided at a reasonable cost; and whereas the said [*Local Authority*] are of opinion that such supply ought to be provided at your expense as the owner of the said house, or defrayed as private improvement expenses:

Now, therefore, we, the said [*Local Authority*], in pursuance of the "Public Health (Water) Act, 1878," do hereby require you to provide an available supply of wholesome water sufficient for the consumption and use for domestic purposes of the inmates of the said house within a reasonable distance from such house, and to do all such works as may be necessary for that purpose within [*state the time*] from the date of the service hereof.

Dated this day of 187 .

(Signed)

Clerk to the said [*Local Authority*].

FORM (B.)

Form of Second Notice to be served where Requirements of First Notice have not been complied with.

§ 12.

To the owner of the house occupied by [*state name of occupier*] and situated at [*give such description as may be sufficient to identify the premises*] within the District of [*describe the Local Authority*].

Whereas on the day of the above-named [*Local Authority*], in pursuance of the "Public Health (Water) Act, 1878," served on you a notice bearing date the day of requiring you as the owner of the said house to provide an available supply of wholesome water sufficient for the consumption and use for domestic purposes of the inmates of the said house within a reasonable distance from such house, and to do all such works as might be necessary for that purpose within [*state the time*] from the date of the service of such notice:

And whereas the said notice has not been complied with: Now, therefore, we, the said [*Local Authority*], do hereby give you notice that if the requirements of the said first notice dated the day of are not complied with within one month from the date of the service hereof, we [*describe Local Authority*] will ourselves provide a supply of water for the said house, and do all necessary works for that purpose, and that the cost which may be incurred therein will be recovered from you summarily or be recovered as private improvement expenses.

Dated this day of 187 .

(Signed)

Clerk to the said [*Local Authority*].

41 & 42 VICT., c. 74.

An Act for making better provision respecting Contagious and Infectious Diseases of Cattle and other Animals; and for other purposes. *(16th August, 1878.)*

Law Reports Statutes, vol. xiii., p. 581

PART II.—ENGLAND.

* * * * * * *

Local Authorities.

Local Authorities described in Schedule.

9. For the purposes of this Part, the respective Districts, Authorities, Rates, and officers described in the 2nd Schedule, shall be the District, the Local Authority, the local Rate, and the Clerk of the Local Authority. . . . . .

* * * * * * *

Dairies, Cow-sheds, and Milk-shops.

Power of Privy Council to make Orders relative to dairies, cow-sheds, and milk-shops.

34. The Privy Council may from time to time make such general or special Orders as they think fit, subject and according to the provisions of this Act, for the following purposes, or any of them :

(i.) For the registration with the Local Authority of all persons carrying on the trade of cow-keepers, dairymen, or purveyors of milk.

(ii.) For the inspection of cattle in dairies, and for prescribing and regulating the lighting, ventilation, cleansing, drainage, and water supply of dairies and cow-sheds in the occupation of persons following the trade of cowkeepers or dairymen.

(iii.) For securing the cleanliness of milk-stores, milk-shops, and of milk-vessels used for containing milk for sale by such persons.

(iv.) For prescribing precautions to be taken for protecting milk against infection or contamination.

(v.) For authorising a Local Authority to make regulations for the purposes aforesaid, or any of them, subject to such conditions, if any, as the Privy Council prescribe.

Powers and Duties of Local Authorities.

Local Authorities to be treated as incorporated.

37. A Local Authority, not being a body corporate, may sue and be sued, and take and hold land, and otherwise act and be dealt with for all purposes of this Act, by the name or title of the Local Authority under this Act for their District, as if they were incorporated.

Committees of Local Authorities.

38. The provisions in the 6th Schedule shall have effect with respect to committees of Local Authorities.

Provision of places for landing of foreign animals.

39. (1). A Local Authority may provide, erect, and fit up wharves, stations, lairs, sheds, and other places for the landing, reception, keeping, sale, slaughter, or disposal of foreign animals, carcases, fodder, litter, dung, and other things.

10 & 11 Vict., 14, 44—9.

(2.) There shall be incorporated with this Act the "Markets and Fairs Clauses Act, 1847," except §§6 to 9 and 51 to 60 thereof, all inclusive.

(3.) A wharf or other place provided by a Local Authority under this Section shall be a market within that Act; and this Act shall be the Special Act; and the prescribed limits shall be the limits of lands acquired or appropriated for purposes of this Section; and By-Laws shall be approved by the Privy Council, which approval shall be sufficient without any other approval or allowance, notice of application for approval being given, and proposed By-Laws being published before application, as required by the "Markets and Fairs Clauses Act, 1847."

10 & 11 Vict., 14.

(4.) A Local Authority may charge for the use of a wharf or other place provided by them under this Section such sums as By-Laws from time to time appoint, and the same shall be deemed tolls authorised by the Special Act.

(5.) All sums so received by the Local Authority shall be carried to a separate account, and shall be applied in payment of interest on money borrowed by them for purposes of Part III., relating to foreign animals, of the "Contagious Diseases (Animals) Act, 1869," or of this Section, and in repayment of the principal thereof, and subject thereto, towards discharge of their expenses under this Act.

32 & 33 Vict., 70.

(6.) The Local Authority shall make such periodical returns to the Privy Council of their expenditure and receipts in respect of the wharf or other place as the Privy Council from time to time require.

(7.) The Privy Council, if satisfied on inquiry that the tolls taken by the Local Authority for the wharf or other place may properly be reduced, regard being had to the expenditure and receipts of the Local Authority in respect thereof, and to any money secured on the tolls, and to the other circumstances of the case, may require the Local Authority to submit to the Privy Council, for their approval, a new Schedule of tolls, and on failure of the Local Authority to do so, to the satisfaction of the Privy Council, may, by Order, prescribe such tolls as they think fit, in lieu of those before approved by them.

32 & 33 Vict., 70. (8.) The provisions of this Section shall apply to a wharf or other place provided by a Local Authority under the "Contagious Diseases (Animals) Act, 1869."

Power for Local Authority to acquire land.

40. (1.) A Local Authority may purchase, or may by agreement take on lease or at a rent, land for wharves or other places, or for use for burial of carcases in cases where there is not any ground suitable in that behalf in the possession or occupation of the owner of the animal, or any common or uninclosed land suitable, and approved by the Privy Council, in that behalf, or for any other purpose of this Act.

(2.) They may (subject to any agreement) dispose of lands so acquired, but not required for this Act, carrying the money produced thereby to the credit of the Local Rate.

38 & 39 Vict., 55. (3.) The regulations contained in § 176 of the "Public Health Act, 1875," shall be observed with respect to the purchase of land by a Local Authority for purposes of this Act, as if the Local Authority were a Local Board, and purposes of this Act were purposes of that Act; save that the requisite advertisements and notices may be published and served in any 2 consecutive months, and that the Local Rate be substituted for the Rates therein mentioned.

(4.) The powers conferred by this Section may be exercised by a Local Authority with respect to land within or without their District.

Duties of Local Authorities, and enforcement thereof.

41. (1.) Every Local Authority shall execute and enforce this Act and every Order of Council, as far as the same are to be executed or enforced by Local Authorities.

(2.) Where a Local Authority fail to execute or enforce any of the provisions of this Act, or of an Order of Council, the Privy Council may by Order empower a person therein named to execute and enforce those provisions, or to procure the execution aud enforcement thereof.

(3.) The expenses incurred thereby by or on behalf of the Privy Council, including compensation for animals slaughtered, shall be expenses of the Local Authority, and the amount thereof shall be paid to the Privy Council, on demand, by the Treasurer or other proper officer of the Local Authority; and in default of payment the same shall be recoverable from the Local Authority, with costs, by a person appointed by the Privy Council to sue in that behalf.

(4.) For the purposes of this Section an Order of the Privy Council shall be conclusive in respect of any default, amount of expenses, or other matter therein stated or appearing.

(5.) The provisions of this Section shall be without prejudice to the right or power of the Privy Council, or any other Authority or any person, to take any other proceedings for requiring a Local Authority to execute or enforce any of the provisions of this Act, or of an Order of Council.

Inspectors and other officers of Local Authority

42. (1.) Every Local Authority shall from time to time appoint so many inspectors and other officers as they think necessary for the execution and enforcement of this Act, and shall assign to those inspectors and officers such duties, and salaries or allowances, and may delegate to any of them such authorities and discretion, as to the Local Authority seem fit, and may at any time revoke any appointment so made.

(2.) Every Local Authority shall keep appointed at all times at least one veterinary inspector, and shall appoint and at all times keep appointed so many other veterinary inspectors as the Privy Council, having regard to the extent and circumstances of the District of the Local Authority, from time to time direct.

(3.) The Privy Council, on being satisfied on inquiry that an inspector of a Local Authority is incompetent, or has been guilty of misconduct or neglect, may, if they think fit, direct his removal, and thereupon he shall cease to be an inspector.

Reports to Privy Council.

43. Every Local Authority and their inspectors and officers shall send and give to the Privy Council such notices, reports, returns, and information as the Privy Council from time to time require.

Orders and regulations of Local Authorities.

44. (1.) An Order or regulation of a Local Authority may be proved—

(i.) By the production of a newspaper purporting to contain the Order or regulation as an advertisement; or

(ii.) By the production of a copy of the Order or regulation purporting to be certified by the Clerk of the Local Authority as a true copy.

(2.) An Order or regulation so proved shall be taken to have been duly made, unless and until the contrary is proved.

(3.) An Order or regulation of a Local Authority authorised by this Act or by Order of Council shall alone be deemed for purposes of this Act an Order or regulation of a Local Authority.

Powers of Local Authorities to be for their district.

45. The provisions of this Act conferring powers on, or otherwise relating to, a Local Authority, or their inspectors or officers, shall, unless otherwise expressed, be read as having reference to the District of the Local Authority; and powers thereby conferred shall, unless it is otherwise expressed, be exerciseable and shall operate within and in relation to that District only.

Expenses of Local Authorities.

Expenses out of local Rate.

46. The expenses of a Local Authority shall be defrayed out of the Local Rate; and such sums as may be necessary to defray those expenses shall from time to time be levied with and as part of the Local Rate.

Relief of Boroughs from contribution to county expenses

47. (1.) The Local Authority of a Borough assessed to the County Rate of a County shall be paid by the Local Authority of the County the proportionate amount paid by the several parishes and parts of parishes in the Borough towards the expenses under this Act of the Local Authority of the County.

(2.) The Local Authority of a Borough having a separate Court of Quarter Sessions shall be exempt from contributing towards the expenses under this Act of the Local Authority of the County within which the Borough is situate; and the treasurer of the County shall, out of the account required by the "Municipal Corporation Act, 1835," to be kept by him of money expended out of the County Rate for other purposes than those in that Act mentioned, exclude the expenses under this Act of the Local Authority of the County; and the amount to be paid to the treasurer of the County by the Borough shall be varied accordingly.

5 & 6 Will. IV., 76.

Outstanding Rates.

48. The existence of an Order or precept for the making or collection under any former Act of a Rate remaining uncollected wholly or in part at the commencement of this Act shall not affect the validity of any Rate thereafter made.

Borrowing by Local Authorities.

Power for Local Authority to borrow.

49. (1.) Where the amount or proportion of the Local Rate levied or required for this Act exceeds or would exceed in any financial year 6*d*. in the pound, a Local Authority may borrow at interest on the credit of the Local Rate any money necessary under this Act, and may secure the repayment thereof, with interest, by mortgaging the Local Rate for any term not exceeding 7 years.

(2.) Where the amount or proportion aforesaid exceeds or would exceed in any financial year 9*d*. in the pound, the Local Government Board may, if they think fit, on application of the Local Authority, extend the term to any period not exceeding 14 years.

(3.) A Local Authority, borrowing for the purposes of this Section, shall borrow subject to the provisions of the "Local Loans Act, 1875;" and every loan raised under this Section shall be discharged in manner prescribed by § 13 of that Act, for which purpose a sinking fund is hereby prescribed, if in any case the Local Government Board so direct, but not otherwise.

38 & 39 Vict., 83.

(4.) The Public Works Loan Commissioners may, on the recommendation of the Local Government Board, advance money to a Local Authority in manner provided by the "Public Works Loans Act, 1875," and any enactment amending or substituted for that Act, the same to be repaid, with interest, within the term aforesaid, and the Local Authority may so borrow accordingly.

38 & 39 Vict., 58.

(5.) A Local Authority, borrowing for purposes of the provisions of this Act relating to foreign animals, may, if they think fit, give as security, either with the Local Rate, if any, or separately therefrom, the charges which they are authorised to make for the use of a wharf or other place provided by them under this Act, and any estates, revenues, or funds belonging to them and not otherwise appropriated by Law; and in that case the limitations in this Section respecting the amount or proportion of Rate and term of years shall not operate.

Duties and authorities of constables.

50. (1.) The police of each police district or area, county, borough, town, and place shall execute and enforce this Act and every Order of Council.

(2.) Where a person is seen or found committing, or is reasonably suspected of being engaged in committing, an offence against this Act, a constable may, without warrant, stop and detain him; and, if his name and address are not known to the constable, and he fails to give them to the satisfaction of the constable, the constable may, without warrant, apprehend him; and the constable may, whether so stopping or detaining or apprehending the person or not, stop, detain, and examine an animal, vehicle, boat, or thing to which the offence or suspected offence relates, and require the same to be forthwith taken back to or into any place or district wherefrom or whereout it was unlawfully removed, and execute and enforce that requisition.

(3.) If any person obstructs or impedes a constable or other officer in the execution of this Act or of an Order of Council or of a Regulation of a Local Authority, or assists in any such obstructing or impeding, the constable or officer may without warrant apprehend the offender.

(4.) A person apprehended under this Section shall be taken with all practicable speed before a Justice, and shall not be detained without a warrant longer than is necessary for that purpose; and all enactments relating to the release of persons on recognizances taken by an officer of police or a constable shall apply in the case of a person apprehended under this Section.

(5.) The foregoing provisions of this Section respecting a constable extend and apply to any person called by a constable to his assistance.

(6.) A constable shall forthwith make a report in writing to his superior officer of every case in which he stops any person, animal, vehicle, boat, or thing under this Section, and of his his proceedings consequent thereon.

(7.) Nothing in this Section shall take away or abridge any power or authority that a constable would have had if this Section had not been enacted.

General.

General powers of inspectors.

51. (1.) An inspector shall have, for purposes of this Act, all powers which a constable has under this Act or otherwise in the place where the inspector is acting.

(2.) An inspector may at any time enter any land, or dairy or cow-shed to which this Act applies, or milk-stores or milk-shop, or other building or place wherein he has reasonable grounds for supposing—

(*a.*) That disease exists or has within 56 days existed ; or
(*b.*) That the carcase of a diseased or suspected animal is or has been kept, or has been buried, destroyed, or otherwise disposed of ; or
(*c.*) That there is to be found any pen, place, vehicle, or thing in respect whereof any person has on any occasion failed to comply with the provisions of this Act, or of an Order of Council, or of a Regulation of a Local Authority ; or
(*d.*) That this Act or an Order of Council or a Regulation of a Local Authority has not been or is not being complied with.

(3.) An inspector may at any time enter any pen, vehicle, vessel, or boat in which or in respect whereof he has reasonable grounds for supposing that this Act or an Order of Council or a Regulation of a Local Authority has not been or is not being complied with.

(4.) An inspector entering, as in this Section authorised, shall, if required by the owner, or occupier, or person in charge of the land, building, place, pen, vehicle, vessel, or boat, state in writing his reasons for entering.

(5.) A certificate of a veterinary inspector to the effect that an animal is or was affected with a disease specified in the certificate shall for the purposes of this Act be conclusive evidence in all Courts of Justice of the matter certified.

(6.) An inspector of the Privy Council shall have all the powers of an inspector throughout England or that part thereof for which he is appointed.

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THE SECOND SCHEDULE.

Local Authorities in England.

§§ 7 and 9.

District.	Local Authority.	Local Rate.	Clerk of Local Authority.
I.—Counties, except within the Metropolis.	The Justices in General or Quarter Sessions assembled.	The County Rate, or Rate in the nature of a County Rate.	The Clerk of the Peace.
* *	* *	* *	* *
IV.—Boroughs subject to the "Municipal Corporation Act, 1835."	The Mayor, Aldermen, and Burgesses acting by the Council.	The Borough Rate, with the Borough Fund.	The Town Clerk.
V.—Other Boroughs.	The Commissioners or other body maintaining the police therein.	The Rate applicable by the Commissioners or other body to the maintenance of the police.	The Clerk of the Commissioners or other body.
VI.—The district of the Local Board of Oxford.	The Local Board.	The Rate leviable by the Local Board.	The Clerk of the Local Board.

41 & 42 VICT., c. 76.

Law Reports Statutes, vol. xiii., p. 620.

An Act to make further provision respecting the Post Office Telegraphs. (16th August, 1878.)

* * * * * * *

Definitions. 26 & 27 Vict., 112.

2. In the construction of this Act, unless there is something inconsistent in the context, words and expressions shall have the same meanings as in the "Telegraph Act, 1863," and in addition thereto—

The expressions "street" and "public road" shall respectively include any highway :

* * * * * * *

Amendment of 26 & 27 Vict., 112, as to consents.

3. Where any body or person (within the meaning of the "Telegraph Act, 1863,") having power under the said Act to give or withhold their consent to the Postmaster General placing telegraphs and posts (within the meaning of the said Act) in, under, upon, along, over, or across a street or public road(a) . . . . . within 21 days after being required to do so by the Postmaster General to give their consent, or attach to their consent any terms, conditions, or stipulations to

(*a*) Words omitted here relate to Railway and Canal, &c., Authorities.

which the Postmaster-General objects, or withdraw a consent, a difference shall be deemed to have arisen between the Postmaster-General and such body or person[a] . . . . . and that difference shall be determined in manner hereinafter provided, and the Authority by whom the difference is to be determined may, if after hearing all parties concerned they think it just, give their consent either unconditionally or subject to such pecuniary or other terms, conditions, and stipulations as they may think just; and that consent shall for all purposes be of the same effect as if it were a consent given under the "Telegraph Act, 1863," to the Postmaster-General by such body or person, proprietors, lessees, directors, or persons.

Difference relating to a street or public road to be determined by Stipendiary Magistrate, County Court Judge, or Sheriff.

4. Where any difference arises under this Act or the "Telegraph Act, 1863," between the Postmaster-General and any body or person having any power, jurisdiction, or control over or relating to a street or public road, or having power under the last-mentioned Act to give or withhold a consent to the placing of telegraphs and posts in, under, upon, along, or across a street or public road, such difference shall in England or Wales and Ireland be referred to the Police or Stipendiary Magistrate having jurisdiction within the district in which the difference has arisen, or if there be no such Magistrate, then to the Judge of the County Court having jurisdiction within such district, and in Scotland to the Sheriff, and such Magistrate, Judge, and Sheriff are respectively empowered and required to hear and determine such difference, and §§ 30 to 33, both inclusive, of the "Regulation of Railways Act, 1868," shall apply to every difference so referred to such Magistrate, Judge, or Sheriff (as the case may be) in like manner as if he were an arbitrator appointed pursuant to those Sections, and as if the Postmaster-General, body, or person between whom the difference has arisen were companies within the meaning of those Sections.

31 & 32 Vict., 119.

Provided always, that in case either the Postmaster-General or the body or person between whom the difference has arisen shall be dissatisfied with the award or decision of such Magistrate, Judge, or Sheriff, the party so dissatisfied may within 21 days after such award or decision require by a notice in writing given to the other party, that the difference shall be referred to the Railway Commissioners.

General provisions as to arbitration.

5. The differences so required to be referred by the last preceding Section to the Railway Commissioners and all other differences under this Act, except a difference between the Postmaster-General and any body or person having any right, power, jurisdiction, or control in, over, or relating to any estuary or branch of the sea or the shore or bed of any tidal water, shall be referred to and shall be determined by the Railway Commissioners for the time being; and every difference referred to them under this Act shall be conducted by the Railway Commissioners in the same manner as any other proceeding is conducted by them under the Acts relating to those Commissioners; and it shall be the duty of the Railway Commissioners, and they are hereby empowered, to undertake and determine any difference referred to them under this Act; and any difference between the Postmaster-General and any body or person having any right of property or other right, or any power, jurisdiction, or Authority in, over, or relating to any estuary, branch of the sea, or the shore or bed of any tidal water shall be referred to and determined by the Board of Trade.

In the event of the Railway Commissioners ceasing to hold office, all differences directed under this Act to be determined by them shall be determined by the Board of Trade, and §§ 30 to 33, both inclusive, of the "Regulation of Railways Act, 1868," shall apply to every difference to be determined under this Act by the Board of Trade, in like manner as if the Postmaster-General, undertakers, body, or person between whom that difference has arisen were companies within the meaning of those Sections.

31 & 32 Vict., 119.

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Printing, authentication, and service of notices and other documents

12. A notice under this Act may be in writing or print, or partly in writing and partly in print.

Any notice, appointment, direction, or document given, issued or made for the purposes of this Act by the Postmaster-General shall be sufficiently authenticated if purporting to be signed by a Secretary or Assistant Secretary of the Post Office, or by a superintending engineer of the Postmaster-General, or by an officer appointed for the purpose by the Postmaster-General, and when so authenticated shall be deemed to be given, issued, or made by the Postmaster-General.

Where a notice is given by any undertakers, body, or person, the notice shall be sufficiently authenticated if purporting to be signed by the Chairman, Secretary, Clerk, or other officer of such undertakers, body, or person.

A notice required to be given under this Act to the Postmaster-General may be given by leaving the same at or by forwarding the same by Post to the General Post Office in a letter addressed to the Postmaster-General or to the Secretary of the Post Office, or to an Assistant Secretary of the Post Office, or by delivering the same to or forwarding the same by Post in a letter addressed to the superintending engineer of the Postmaster-General for the district in which is the work, telegraphic line, or other matter referred to in the notice and addressed to him at his office or usual place of abode.

A notice required to be given under this Act to any undertakers or body may be given by leaving the same at or by forwarding the same by Post to the office, or where there is more than one office the principal office of such undertakers or body in a letter addressed to such undertakers or body, or to their Chairman, Secretary, Clerk, or other officer.

A notice required to be given under this Act to any person may be given by delivering the same to such person or by leaving the same at or forwarding the same by Post in a letter addressed to such person at his usual or last known place of abode.

Where a notice is forwarded by Post it shall be deemed to have been given at the time when the letter containing the same would be delivered in the ordinary course of Post, and in proving the giving thereof it shall be sufficient to prove that the same was properly addressed and put into the Post.

The expression "notice" in this Section shall be deemed to include a counter-notice.

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(a) Words omitted here relate to Railway and Canal, &c., Authorities.

42 & 43 VICT., c. 17.

Law Reports Statutes, vol. xiv., p. 22.

An Act to amend the "House of Commons Costs Taxation Act, 1847." (3rd July, 1879.)

10 & 11 Vict., **69**.

WHEREAS it is expedient that the provisions of the "House of Commons Costs Taxation Act, 1847," should be extended and made applicable to other cases than those mentioned in the said Act: Be it enacted, &c.,

Powers of 10 & 11 Vict., **69**. extended to Provisional Orders and other cases.

1. All the powers and provisions of the above-recited Act shall extend and apply to the costs, charges, and expenses of any Parliamentary Agent, solicitor, or other person in respect to the obtaining or promotion of or opposition to any Provisional Order or Provisional Certificate, or any Bill for confirming the same[a];

And in respect to the promotion of any Bill by any public Trustees or Commissioners, or by any Municipal or other Public Authority, and in respect to the opposition to any public and general Bill.

Taxing officer of House to tax costs of Orders and Bills.

2. In case the taxing officer of the House of Commons shall be requested by one of Her Majesty's Principal Secretaries of State or by the Local Government Board to tax and settle, or to assist in taxing and settling, any costs, charges, or expenses incurred in respect of any Bill, or in respect of any Provisional Order or Provisional Certificate, such taxing officer shall thereupon proceed to tax and settle the same, and shall return the same with his opinion thereon to the Secretary of State or to the Local Government Board, as the case may be.

Fees under this Act.

3. The said taxing officer shall have the same powers and may receive the like fees in respect of any taxation by him under this Act as in the case of any taxation under the Act first above recited.

Short title.

4. This Act may be cited for all purposes as the "House of Commons Costs Taxation Act, 1879."

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42 & 43 VICT., c. 30.

Law Reports Statutes, vol. xiv., p. 103.

An Act to amend the "Sale of Food and Drugs Act, 1875." (21st July, 1879.)

38 & 39 Vict., **63**.

WHEREAS conflicting decisions have been given in England and in Scotland in regard to the meaning and effect of § 6 of the "Sale of Food and Drugs Act, 1875," in this Act referred to as the principal Act, and it is expedient, in this respect and otherwise, to amend the said Act: Be it enacted, &c.,

Short title.

1. This Act may be cited for all purposes as the "Sale of Food and Drugs Act Amendment Act, 1879."

In sale of adulterated articles no defence to allege purchase for analysis.

2. In any prosecution under the provisions of the principal Act for selling to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, it shall be no defence to any such prosecution to allege that the purchaser, having bought only for analysis, was not prejudiced by such sale.

Neither shall it be a good defence to prove that the article of food or drug in question, though defective in nature or in substance or in quality, was not defective in all 3 respects.

(*a*) The principle laid down in *Morley, In re*, seems to apply here.

Officer, inspector or constable may obtain a sample of milk at the place of delivery to submit to analyst.

3.(a) Any Medical Officer of Health, Inspector of Nuisances, or Inspector of Weights and Measures, or any Inspector of a Market, or any Police Constable under the direction and at the cost of the Local Authority appointing such Officer, Inspector, or Constable, or charged with the execution of this Act, may procure at the place of delivery any sample of any milk in course of delivery to the purchaser or consignee in pursuance of any contract for the sale to such purchaser or consignee of such milk;

And such Officer, Inspector, or Constable, if he suspect the same to have been sold contrary to any of the provisions of the principal Act, shall submit the same to be analysed, and the same shall be analysed, and proceedings shall be taken, and penalties on conviction be enforced in like manner in all respects as if such Officer, Inspector, or Constable had purchased the same from the seller or consignor under § 13 of the principal Act.

Penalty for refusal to give milk for analysis.

4. The seller or consignor or any person or persons entrusted by him for the time being with the charge of such milk, if he shall refuse to allow such Officer, Inspector, or Constable to take the quantity which such Officer, Inspector, or Constable shall require for the purpose of analysis, shall be liable to a penalty not exceeding £10.

Extension of Act as to sale in streets, &c.

5. Any street or open place of public resort shall be held to come within the meaning of § 17 of the principal Act.

Reduction allowed under proof for brandy whisky, rum, gin.

6. In determining whether an offence has been committed under § 6 of the said Act by selling, to the prejudice of the purchaser, spirits not adulterated, otherwise than by the admixture of water, it shall be a good defence to prove that such admixture has not reduced the spirit more than 25 degrees under proof for brandy, whisky, or rum, or 35 degrees under proof for gin.

Extension of meaning of "county."

7. Every Liberty having a separate Court of Quarter Sessions, except a Liberty of a Cinque Port, shall be deemed to be a county within the meaning of the said Act.

Quarter Sessions Boroughs not to contribute to county analyst. 5 & 6 Will. IV., 76.

8. The Town Council of any Borough having a separate Court of Quarter Sessions shall be exempt from contributing towards the expenses incurred in the execution of the principal Act in respect of the County within which such Borough is situate, and the Treasurer of the County shall exclude the expenses so incurred from the account required by § 117 of the "Municipal Corporation Act, 1835," to be sent by him to such Town Council.

Provision for Boroughs with separate police.

9. The Town Council of any Borough having under any general or local Act of Parliament, or otherwise, a separate police establishment, and being liable to be assessed to the County Rate of the County within which the Borough is situate, shall be paid by the Justices of such County the proportionate amount contributed towards the expenses incurred by the County in the execution of the principal Act by the several parishes and parts of parishes within such Borough in respect of the rateable value of the property assessable therein, as ascertained by the Valuation Lists for the time being in force.

Special provision as to time for proceedings.

10. In all prosecutions under the principal Act, and notwithstanding the provisions of § 20 of the said Act, the summons to appear before the Magistrates shall be served upon the person charged with violating the provisions of the said Act within a reasonable time, and in the case of a perishable article not exceeding 28 days from the time of the purchase from such person for test purposes of the food or drug, for the sale of which in contravention to the terms of the principal Act the seller is rendered liable to prosecution, and particulars of the offence or offences against the said Act of which the seller is accused, and also the name of the prosecutor, shall be stated on the summons, and the summons shall not be made returnable in a less time than 7 days from the day it is served upon the person summoned.

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42 & 43 VICT., c. 31.

An Act to amend the "Public Health Act, 1875," as to Interments. *(21st July, 1879).*

Law Reports Statutes, vol. xiv., p. 105.

BE it enacted, &c.,

Short title and construction. 38 & 39 Vict., 55.

1. This Act may be cited as the "Public Health (Interments) Act, 1879," and shall be construed as one with the "Public Health Act, 1875," in this Act called the principal Act.

The provisions of 38 & 39 Vict., 55, § 141, extended to cemeteries.

2. (1.) The provisions of the principal Act, as to a place for the reception of the dead before interment, in the principal Act called a mortuary, shall extend to a place for the interment of the dead, in this Act called a cemetery;

And the purposes of the principal Act shall include the acquisition, construction, and maintenance of a cemetery.

(a) *Rouch* v. *Hall.*

(2.) A Local Authority may acquire, construct, and maintain a cemetery either wholly or partly within or without their district, subject as to works without their district, for the purpose of a cemetery to the provisions of the principal Act as to sewage works by a Local Authority without their district.

38 & 39 Vict., 55, §§ 32—34.

(3.) A Local Authority may accept a donation of land for the purpose of a cemetery, and a donation of money or other property for enabling them to acquire, construct, or maintain a cemetery.

10 & 11 Vict., 65, incorporated.

3. The "Cemeteries Clauses Act, 1847," shall be incorporated with this Act.

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42 & 43 VICT., c. 47.

ARRANGEMENT OF SECTIONS.

Section.
1. Short title, and construction of Act.
2. Alteration of test.
3. Verification of test apparatus.
4. Continuance of 34 & 35 Vict., c. 105.
5. Commencement of Act.
6. Repeal of part of 34 & 35 Vict., c. 105.

First Schedule.—Mode of testing petroleum so as to ascertain the temperature at which it will give off inflammable vapour.

Second Schedule.—Act repealed.

Law Reports Statutes, vol. xiv., p. 231.

An Act to continue and amend the "Petroleum Act, 1871." (11th August, 1879.)

BE it enacted, &c.,

Short title and construction of Act. 34 & 35 Vict., 105.

1. This Act may be cited as the "Petroleum Act, 1879."

This Act shall be construed as one with the "Petroleum Act, 1871," and together with that Act may be cited as the "Petroleum Acts, 1871 and 1879."

Alteration of test. 34 & 35 Vict., 105.

2. Whereas by the "Petroleum Act, 1871," it is enacted that the term "petroleum to which this Act applies" means such of the petroleum defined by that Act as, when tested in manner set forth in Schedule I. to that Act, gives off an inflammable vapour at a temperature of less than 100 degrees of Fahrenheit's thermometer, and it is expedient to alter the said test: Be it therefore enacted that—

34 & 35 Vict., 105.

In the "Petroleum Act, 1871," the term "petroleum to which this Act applies" shall mean such of the petroleum defined by § 3 of that Act as, when tested in manner set forth in Schedule I. to this Act, gives off an inflammable vapour at a temperature of less than 73 degrees of Fahrenheit's thermometer.

34 & 35 Vict., 105.

Every reference in the "Petroleum Act, 1871," to Schedule I. to that Act shall be construed to refer to Schedule I. to this Act.

Verification of test apparatus.

3. A model of the apparatus for testing petroleum, as described in Schedule I. to this Act, shall be deposited with the Board of Trade, and the Board of Trade shall, on payment of such fee, not exceeding 5*s.*, as they from time to time prescribe, cause to be compared with such model and verified every apparatus constructed in accordance with Schedule I. to this Act which is submitted to them for the purpose, and if the same is found correct shall stamp the same with a mark approved of by the Board and notified in the *London Gazette*.

An apparatus for testing petroleum purporting to be stamped with the said mark shall, until the contrary is proved, be deemed to have been verified by the Board of Trade.

All fees under this Section shall be paid into the Exchequer.

Continuance of 34 & 35 Vict., 105.

4. The "Petroleum Act, 1871," shall continue in force until otherwise directed by Parliament.

Commencement of Act.

5. This Act shall come into operation on the 31st day of December, 1879, which day is in this Act referred to as the commencement of this Act.

A.D. 1879.

6. The "Petroleum Act, 1871," shall be repealed after the commencement of this Act to the extent in the 3rd column of the 2nd Schedule to this Act mentioned. Repeal of part of 34 & 35 Vict., 105.

Provided that any sample of petroleum taken before the commencement of this Act shall be tested in manner set forth in Schedule I. to the "Petroleum Act, 1871," and any offence committed before the commencement of this Act shall be prosecuted, and any investigation, legal proceeding, or remedy in relation to such offence, or to any act done before the commencement of this Act, shall be instituted, carried on, and have effect as if the provisions of this Act, other than those continuing the "Petroleum Act, 1871," had not been passed. 34 & 35 Vict., 105.

34 & 35 Vict., 105.

FIRST SCHEDULE.

Mode of Testing Petroleum so as to ascertain the Temperature at which it will give off Inflammable Vapour.

Specification of the Test Apparatus.

The following is a description of the details of the apparatus :

The oil cup consists of a cylindrical vessel 2″ diameter, $2\frac{3}{10}$″ height (internal), with outward projecting rim $\frac{5}{10}$″ wide, $\frac{3}{8}$″ from the top, and $1\frac{1}{8}$″ from the bottom of the cup. It is made of gun metal or brass (17 B.W.G.) tinned inside. A bracket, consisting of a short stout piece of wire bent upwards and terminating in a point, is fixed to the inside of the cup to serve as a gauge. The distance of the point from the bottom of the cup is $1\frac{1}{2}$″. The cup is provided with a close-fitting overlapping cover made of brass (22 B.W.G.), which carries the thermometer and test lamp. The latter is suspended from two supports from the side by means of trunnions upon which it may be made to oscillate, it is provided with a spout, the mouth of which is one-sixteenth of an inch in diameter. The socket which is to hold the thermometer is fixed at such an angle and its length is so adjusted that the bulb of the thermometer when inserted to its full depth shall be $1\frac{1}{2}$″ below the centre of the lid.

The cover is provided with 3 square holes, one in the centre, $\frac{5}{10}$″ by $\frac{4}{10}$″, and 2 smaller ones $\frac{3}{10}$″ by $\frac{2}{10}$″, close to the sides and opposite each other. These 3 holes may be closed and uncovered by means of a slide moving in grooves, and having perforations corresponding to those on the lid.

In moving the slide so as to uncover the holes, the oscillating lamp is caught by a pin fixed in the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. Upon the slide being pushed back so as to cover the holes, the lamp returns to its original position.

Upon the cover, in front of and in line with the mouth of the lamp, is fixed a white bead, the dimensions of which represent the size of the test flame to be used.

The bath or heated vessel consists of 2 flat-bottomed copper cylinders (24 B.W.G.), an inner one of 3″ diameter and $2\frac{1}{2}$″ height, and an outer one of $5\frac{1}{2}$″ diameter and $5\frac{3}{4}$″ height; they are soldered to a circular copper plate (20 B.W.G.) perforated in the centre, which forms the top of the bath, in such a manner as to enclose the space between the 2 cylinders, but leaving access to the inner cylinder. The top of the bath projects both outwards and inwards about $\frac{3}{8}$″; that is, its diameter is about $\frac{6}{8}$″ greater than that of the body of the bath, while the diameter of the circular opening in the centre is about the same amount less than that of the inner copper cylinder. To the inner projection of the top is fastened, by 6 small screws, a flat ring of ebonite, the screws being sunk below the surface of the ebonite, to avoid metallic contact between the bath and the oil cup. The exact distance between the sides and bottom of the bath and of the oil lamp is one-half of an inch. A split socket similar to that on the cover of the oil cup, but set at a right angle, allows a thermometer to be inserted into the space between the 2 cylinders. The bath is further provided with a funnel, an overflow pipe, and 2 loop handles.

The bath rests upon a cast iron tripod stand, to the ring of which is attached a copper cylinder or jacket (24 B.W.G.) flanged at the top, and of such dimensions that the bath, while firmly resting on the iron ring, just touches with its projecting top the inward turned flange. The diameter of this outer jacket is $6\frac{1}{2}$″. One of the 3 legs of the stand serves as support for the spirit lamp attached to it by means of a small swing bracket. The distance of the wick holder from the bottom of the bath is 1″.

Two thermometers are provided with the apparatus, the one for ascertaining the temperature of the bath, the other for determining the flashing point. The thermometer for ascertaining the temperature of the water has a long bulb and a space at the top. Its range is from about 90° to 190° Fahrenheit. The scale (in degrees of Fahrenheit) is marked on an ivory back fastened to the tube in the usual way. It is fitted with a metal collar, fitting the socket, and the part of the tube below the scale should have a length of about $3\frac{1}{2}$″ measured from the lower end of the scale to

the end of the bulb. The thermometer for ascertaining the temperature of the oil is fitted with collar and ivory scale in a similar manner to the one described. It has a round bulb, a space at the top, and ranges from about 55° F. to 150° F.; it measures from end of ivory back to bulb 2¼".

Note.—A model apparatus is deposited at the Weights and Measures Department of the Board of Trade.

Directions for applying the Flashing Test.

1. The test apparatus is to be placed for use in a position where it is not exposed to currents of air or draughts.

2. The heating vessel or water bath is filled by pouring water into the funnel until it begins to flow out at the spout of the vessel. The temperature of the water at the commencement of the test is to be 130° Fahrenheit, and this is attained in the first instance either by mixing hot and cold water in the bath, or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication, or by heating the water with the spirit lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

If the water has been heated too highly, it is easily reduced to 130° by pouring in cold water little by little (to replace a portion of the warm water) until the thermometer gives the proper reading.

When a test has been completed, this water bath is again raised to 130° by placing the lamp underneath, and the result is readily obtained while the petroleum cup is being emptied, cooled, and refilled with a fresh sample to be tested. The lamp is then turned on its swivel from under the apparatus, and the next test is proceeded with.

3. The test lamp is prepared for use by fitting it with a piece of flat plaited candle wick, and filling it with colza or rape oil up to the lower edge of the opening of the spout or wick tube. The lamp is trimmed so that when lighted it gives a flame of about 0·15 of an inch diameter, and this size of flame which is represented by the projecting white bead on the cover of the oil cup is readily maintained by simple manipulation from time to time with a small wire trimmer.

When gas is available it may be conveniently used in place of the little oil lamp, and for this purpose a test-flame arrangement for use with gas may be substituted for the lamp.

4. The bath having been raised to the proper temperature, the oil to be tested is introduced into the petroleum cup, being poured in slowly until the level of the liquid just reaches the point of the gauge which is fixed in the cup. In warm weather the temperature of the room in which the samples to be tested have been kept should be observed in the first instance, and if it exceeds 65° the samples to be tested should be cooled down (to about 60°) by immersing the bottles containing them in cold water, or by any other convenient method. The lid of the cup, with the slide closed, is then put on, and the cup is placed into the bath or heating vessel. The thermometer in the lid of the cup has been adjusted so as to have its bulb just immersed in the liquid, and its position is not under any circumstances to be altered. When the cup has been placed in the proper position, the scale of the thermometer faces the operator.

5. The test lamp is then placed in position upon the lid of the cup, the lead line or pendulum, which has been fixed in a convenient position in front of the operator, is set in motion, and the rise of the thermometer in the petroleum cup is watched. When the temperature has reached about 66° the operation of testing is to be commenced, the test-flame being applied once for every rise of one degree, in the following manner :—

The slide is slowly drawn open while the pendulum performs 3 oscillations, and is closed during the 4th oscillation.

Note.—If it is desired to employ the test apparatus to determine the flashing points of oils of very low volatility, the mode of proceeding is to be modified as follows :—

The air-chamber which surrounds the cup is filled with cold water, to a depth of 1½ inches, and the heating vessel or water bath is filled as usual, but also with cold water. The lamp is then placed under the apparatus and kept there during the entire operation. If a very heavy oil is being dealt with, the operation may be commenced with water previously heated to 120°, instead of with cold water.

SECOND SCHEDULE.

Act Repealed.

Year and Chapter.	Title.	Extent of Repeal.
34 & 35 Vict., c. 105 - - - - - -	"The Petroleum Act, 1871" -	Section 3, from "and the term petroleum to which this Act applies" inclusive to the end of the Section. Section 18.

42 & 43 VICT., c. 54.

An Act[a] to make better provision for the adjustment of Parish Boundaries, and to make further amendments in the Acts relating to the relief of the Poor in England.

(15th August, 1879.)

Law Reports Statutes, vol. xiv., p. 286.

BE it enacted, &c.,

Short title.

1. This Act may be cited as the "Poor Law Act, 1879."

Extent of Act.

2. This Act shall not extend to Scotland or Ireland.

Commencement of Act.

3. This Act shall come into operation on the 1st day of September, 1879, which day is in this Act referred to as the commencement of this Act.

Parish Boundaries.

Applying certain provisions of 39 & 40 Vict., 61, to inconvenient divisions of parishes 39 & 40 Vict., 61.

4. Where part of a parish is on one side while the residue of the parish is on the other side of the boundary of a municipal Borough or County, or of a river, estuary, or branch of the sea, or where part of a parish is so situate as to be nearly detached from the residue of the parish, or is otherwise so situate as to render the administration of the relief of the poor in or the Local Government of such part in conjunction with the residue of the parish inconvenient, the said parish shall be deemed to be a divided parish within the meaning of § 1 of the "Divided Parishes and Poor Law Amendment Act, 1876," and the provisions of that Act shall apply accordingly in like manner as if the said part were isolated as mentioned in that Section.

Removing doubts as to construction of 39 & 40 Vict., 61, 1.

5. Whereas by § 1 of the "Divided Parishes and Poor Law Amendment Act, 1876," an Order may be made "for constituting separate parishes out of the divided parish, or for amalgamating some of the parts thereof with the parish or parishes in which the same may be locally included, or to which they may be annexed"; and doubts have arisen with respect to the construction of the said provision, and it is expedient to remove such doubts: Be it therefore enacted as follows:

An Order under the said Act may deal with several divided parishes at the same time, and may constitute separate parishes out of any of such divided parishes or out of parts of several divided parishes, and may unite any parts of a divided parish or of several divided parishes with each other, and amalgamate the parts so united with any adjoining parish, and may amalgamate any part of a divided parish or parts of several divided parishes with an adjoining parish or adjoining parishes.

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Removing doubts as to an order under 39 & 40 Vict., 61, 5.

7. Whereas by § 5 of the "Divided Parishes and Poor Law Amendment Act, 1876," provision is made for dealing with a parish included in a Highway District, and doubts have arisen as to the effect of an Order under the said Act so far as regards highways, and it is expedient to remove such doubts: Be it therefore enacted as follows:

39 & 40 Vict., 61.

Where a parish is a place separately maintaining its own highways, an Order made either before or after the commencement of this Act under the "Divided Parishes and Poor Law Amendment Act, 1876," shall be deemed to have dealt with that parish for highway as well as for Poor Law purposes.

39 & 40 Vict., 61.

Where a parish is not a place separately maintaining its own highways, an Order under the "Divided Parishes and Poor Law Amendment Act, 1876," dealing with such Poor Law parish or any part thereof, may deal with any area affected by the Order for highway purposes in like manner as it deals with the same for Poor Law purposes.

Where any such Order has been made before the passing of this Act, a supplemental Order may be made under the said Act for the purposes of dealing with the area so far as regards highways.

For the purposes of this Section, any parish, township, or place separately maintaining its own highways or entitled to return a separate waywarden to a Highway Board under the "Highway Acts" shall be deemed to be a place separately maintaining its own highways.

(*a*) Sections and parts of Sections relating exclusively to Poor Law matters, or to the Metropolis, are omitted.

Miscellaneous Amendments of Law.

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Transfer of buildings, &c., to Rural Sanitary Authority for use as infection hospitals.

14. If it appear to the Guardians of any Union desirable that any hospital or building vested in them as Guardians under the Acts relating to the relief of the poor should be vested in them as the Rural Sanitary Authority of such Union, for the reception of persons suffering from any dangerous infectious disorder, the Guardians may, by resolution, to be confirmed by an Order of the Local Government Board, transfer such hospital or building accordingly; and from and after the date named in the Order such hospital or building shall be deemed to be vested in the Guardians as the Rural Sanitary Authority of the Union, for the use of the inhabitants of the Union or part thereof named in the resolution and Order.

If the same is to be for the use of the inhabitants of any part of the Union comprised in an Urban Sanitary District the Order may determine the contribution to be made by the Urban Sanitary Authority of such District towards the maintenance of the hospital or building.

Where an Urban Sanitary District comprises part of the Union, and the said hospital or building is not to be for the use of the inhabitants of that part, the Order may determine the value of the interest of that part of the Union in such hospital or building, and the manner in which such value is to be paid to that part by the residue of the Union for whose use the hospital or building is to be kept and the application of the sum so paid.

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Power to remunerate poor rate collectors for collecting rates in parts of parishes.

17. Where a Rate is levied by the overseers of a parish over part of the parish only, the officers ordinarily employed in the collection of the Poor Rate shall, if required by the overseers, collect such first-mentioned Rate, and shall receive out of the same such remuneration for the additional duty as the overseers, with the consent of the Vestry, may determine.

Definitions.

18. In this Act, unless inconsistent with the context,—

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"Parish."

The expression "Parish" means any parish, township, or place for which a separate Poor Rate is or can be made:

"Municipal Borough." 5 & 6 Will. IV., 76.

The expression "Municipal Borough" means a Borough for the time being subject to the "Municipal Corporation Act, 1835," and the Acts amending the same:

"Urban and Rural Sanitary district." 39 & 40 Vict., 55.

The expressions "Urban Sanitary District" and "Rural Sanitary District" mean respectively an Urban Sanitary District and Rural Sanitary District within the meaning of the "Public Health Act, 1875:"

"Union."

The expression "Union" means a union of parishes under a general or local Act, with a separate Board of Guardians, and includes a parish for which there is a separate Board of Guardians:

"Guardians." 4 & 5 Will. IV., 76.

The expression "Guardians" means Guardians appointed under the "Poor Law Amendment Act, 1834," and the Acts amending the same, and includes Guardians or other body of persons performing under any Local Act the like functions as Guardians under the "Poor Law Amendment Act, 1834."

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42 & 43 VICT., c. cxciii.

[Not in the *Law Reports Statutes.*]

An Act for confirming certain Provisional Orders made by the Board of Trade under the "Tramways Act, 1870" . . . . . and for empowering the Board of Trade to grant licenses for the use for limited periods, by way of experiment, of steam or any mechanical power upon tramways in certain cases. (11th Aug., 1879.)

33 & 34 Vict., 78.

WHEREAS under the authority of the "Tramways Act, 1870," the Board of Trade have made certain Provisional Orders authorising the construction of tramways in the places in the said Orders respectively mentioned, and the said several Orders with certain amendments made therein by the Board of Trade in pursuance of the report of a Select Com-

mittee of the House of Lords bearing date the 31st day of March, 1879, are set out in the Schedule to this Act annexed :

And whereas a Provisional Order made by the Board of Trade under the authority of the "Tramways Act, 1870," is not of any validity or force whatever until the confirmation thereof by Act of Parliament : 33 & 34 Vict., 78.

And whereas it is expedient that the several Provisional Orders made by the Board of Trade under the authority of the said Act, amended as aforesaid, and set out in the Schedule to this Act annexed, be confirmed by Act of Parliament :

And whereas it is expedient to empower the Board of Trade to grant licenses for the use, for limited periods, by way of experiment, of steam or any mechanical power upon tramways in certain cases :

Be it therefore enacted, &c.,

1. This Act may be cited as the "Tramways Orders Confirmation Act, 1879." Short title.

2. The several Orders set out in the Schedule to this Act annexed shall be and the same are hereby confirmed; and all the provisions thereof, in manner and form as they are set out in the said Schedule, shall, from and after the passing of this Act, have full force and validity, and the dates of the same respectively shall be the date of the passing of this Act. Confirmation of Orders in Schedule.

3. Where by any Act of Parliament passed before the passing of this Act or by any Provisional Order made by the Board of Trade under the authority of the "Tramways Act, 1870," and confirmed by any Act of Parliament passed before the passing of this Act, or by any of the several Orders set out in the Schedule to this Act annexed, and by this Act confirmed, any corporation, company, or person have or has been authorised to construct and maintain the tramways in such Act or Order more particularly described, to be worked and used with carriages, which are to be moved by animal power only, or by any mechanical power other than steam power, then and in every such case, and until otherwise provided by Parliament, the Board of Trade may, by a license granted to such corporation or their lessees, or to such company or person, containing such restrictions, requirements, conditions, and regulations as they may think fit, authorise for a limited period not exceeding one year, and as an experiment only, the use of steam or any mechanical power, either in addition to or in substitution for the animal or other power authorised by such Act or Order, for moving carriages on any of the tramways authorised by such Act or Order, and thereupon steam or such mechanical power may be used thereon accordingly. Board of Trade may license use of steam or mechanical power on tramways.

Any license under this Section may provide for enforcing any restriction, requirement, condition, or regulation thereof by penalties not exceeding £10 for each offence.

The Board of Trade may, if they think fit, renew for a period not exceeding one year a license under this Section.

No license and no renewal of a license under this Section shall be granted authorising the use of steam or any mechanical power on any tramway in any District, unless the consent of the Local and Road Authority of such District has been obtained to the application for such license or such renewal : Provided that, where such application relates to a tramway in 2 or more Districts, and any Local or Road Authority, having jurisdiction in any of such Districts, does not consent thereto, the Board of Trade may nevertheless grant a license or a renewal of a license under this Section, if they are satisfied after inquiry that two-thirds of the length of such tramway is situate in a District or in Districts, the Local and Road Authority or the Local and Road Authorities of which District or Districts do consent to such application.

[§§ 4—5 relate to Liverpool only.]

6. The Board of Trade shall have power to suspend or revoke a license under this Act at any time during the continuance thereof, without assigning any reason, and whether such power of suspension or revocation is or is not contained in the license. Revocation of license.

7. A license under this Act shall not, nor shall anything in this Act confer on the grantee of such license any right or title whatsoever to have such license renewed, or to receive compensation in respect of the non-renewal, revocation, forfeiture, or suspension of such license, or in respect of any expense the grantee of such license may have been put to, in order to act, or in consequence of acting in pursuance of the license, or in complying with the conditions thereof. Saving as to creation of vested interests by license.

8. The grantee of a license under this Act shall be liable for all accidents, damage, and injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of the works, carriages, or engines of such grantee, whether moved by steam, mechanical, or animal power, and shall save harmless all Road and Local Authorities, companies, and bodies, collectively and individually, and their officers and servants, from all damages and costs in respect of such accidents, damage, and injuries. Liability of grantee of license for injuries.

9. Penalties imposed by a license granted in pursuance of this Act may be enforced and recovered as if the same were penalties under the "Tramways Act, 1870." Recovery of penalties.

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[The remainder of the Act consists of a Schedule of 260 pages.]

44 & 45 VICT., c. 37.

ARRANGEMENT OF SECTIONS.

PRELIMINARY.

Section.
1. Short title.
2. Commencement of Act.

PART 1.

Alkali Works and Alkali Waste.

3. Condensation of muriatic and other acid gases in alkali works.
4. Best practicable means to be used for preventing discharge of noxious and offensive gases in alkali works.
5. Acid drainage and alkali waste to be kept apart.
6. Deposit or discharge of alkali waste.
7. Prevention of nuisance from alkali waste already deposited or discharged

PART II.

Sulphuric Acid Works and other specified Works.

8. Condensation of acid gases in sulphuric acid Works.
9. Best practicable means to be used for preventing discharge of noxious and offensive gases in scheduled Works.
10. Provisional Order to prevent discharge of certain gases in salt Works.

PART III.

(1.) *Registration of Works.*

11. Registration of Works, and stamp duty.
12. Certificate of Inspector prior to registration of new Works.
13. Supplemental provisions as to duties.

(2.) *Inspection.*

14. Appointment of Inspectors.
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(3.) *Special Rules.*

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Section.
21. Provision as to calculation of acid.
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24. Application of fines.
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27. Complaint by Sanitary Authority in cases of nuisance.
28. Actions in case of contributory nuisance.

(5.) *Definitions; Repeal; Saving.*

29. Interpretation of terms.
30. Repeal of 26 & 27 Vict., c. 124, 31 & 32 Vict., c. 36, and 37 & 38 Vict., c. 43.
31. Saving as to general Law.
SCHEDULE:
List of Works.

An Act to consolidate the "Alkali Acts, 1863 and 1874," and to make further provision for regulating Alkali and certain other Works in which noxious or offensive gases are evolved.

(11th August, 1881.)

BE it enacted, &c.,

PRELIMINARY.

1. This Act may be cited as the "Alkali, &c., Works Regulation Act, 1881." Short title.

2. This Act shall (save as otherwise provided in this Act) come into operation on the 1st day of January, 1882, which date is hereinafter referred to as the commencement of this Act. Commencement of Act.

PART I.

Alkali Works and Alkali Waste.

3. Every alkali work shall be carried on in such manner as to secure the condensation, to the satisfaction of the Chief Inspector, derived from his own examination, or from that of some other Inspector— Condensation of of muriatic and and other acid gases in alkali works.

(*a.*) Of the muriatic acid gas evolved in such work, to the extent of 95 per centum, and to such an extent that in each cubic foot of air, smoke, or chimney gases, escaping from the works into the atmosphere, there is not contained more than one-fifth part of a grain of muriatic acid.

(*b.*) Of the acid gases of sulphur and nitrogen which are evolved in the process of manufacturing sulphuric acid or sulphates in the work, to such an extent that the total acidity of such gases in each cubic foot of air, smoke, or gases, escaping into the chimney or into the atmosphere, does not exceed what is equivalent to 4 grains of sulphuric anhydride.

The owner of any alkali work which is carried on in contravention of this Section shall be liable to a fine not exceeding, in the case of the 1st offence, £50, and in the case of every subsequent offence, £100.

4. In addition to the condensation of acid gases as aforesaid, the owner of every alkali work shall use the best practicable means for preventing the discharge into the atmosphere of all noxious gases and of all offensive gases evolved in such work, or for rendering such gases harmless and inoffensive when discharged, subject to the qualification that no objection shall be taken under this Section by an Inspector to any discharge of gas by a chimney or flue, on the basis of the amount of acid gas per cubic foot of air, smoke, or gases, where that amount does not exceed the amount limited by the last preceding Section. Best practicable means to be used for preventing discharge of noxious and offensive gases in alkali works.

If the owner of any alkali work fails, in the opinion of the Court having cognisance of the matter, to use such means, he shall be liable to a fine not exceeding, in the case of the 1st offence, £20, and in the case of every subsequent offence, £50, with a further sum not exceeding £5 for every day during which any such subsequent offence has continued.

Acid drainage and alkali waste to be kept apart.

5. Every work in which acid is produced or used shall be carried on in such manner that the acid shall not come in contact with alkali waste, or with drainage therefrom, so as to cause a nuisance.

The owner of any work which is carried on in contravention of this Section shall be liable to a fine not exceeding, in the case of the 1st offence, £50, and in the case of every subsequent offence, £100, with a further sum not exceeding £5 for every day during which any such subsequent offence has continued.

On the request of the owner of any such work as is mentioned in this Section the Sanitary Authority of the District in which such work is situate shall, at the expense of such owner, provide and maintain a drain or channel for carrying off the acid produced in such work into the sea or into any river or watercourse into which such acid can be carried without contravention of the "Rivers Pollution Prevention Act, 1876"; and the Sanitary Authority shall for the purpose of providing any such drain or channel have the like powers as they have for providing sewers, whether within or without their district, under the "Public Health Act."

39 & 40 Vict., 75.

38 & 39 Vict., 55, 11—34.

Compensation shall be made to any person for any damage sustained by him by reason of the exercise by a Sanitary Authority of the powers conferred by this Section, and such compensation shall be deemed part of the expenses to be paid by the owner making the request to the Sanitary Authority under this Section.

Deposit or discharge of alkali waste.

6. Alkali waste shall not be deposited or discharged without the best practicable means being used for effectually preventing any nuisance arising therefrom.

Any person who causes or knowingly permits any alkali waste to be deposited or discharged in contravention of this Section shall be liable to a fine not exceeding, in the case of the 1st offence, £20, and in the case of every subsequent offence, £50, with a further sum not exceeding £5 for every day during which any such subsequent offence has continued.

Prevention of nuisance from alkali waste already deposited or discharged.

7. Where alkali waste has been deposited or discharged either before or after the commencement of this Act, and complaint is made to the Chief Inspector that a nuisance is occasioned thereby, the Chief Inspector, if satisfied of the existence of the nuisance, and that it is within the power of the owner or occupier of the land to abate it, shall serve a notice on such owner or occupier requiring him to abate the nuisance; and if such owner or occupier fails to use the best practicable and reasonably available means for the abatement thereof he shall be liable to a fine not exceeding £20, and if he does not proceed to use such means within such time as shall be limited by the Court inflicting such fine then he shall be liable to a further penalty of £5 per day from the expiration of the time so limited.

Part II.

Sulphuric Acid Works and other Specified Works.

Condensation of acid gases in sulphuric acid works.

8. Every sulphuric acid work as defined in the Schedule to this Act shall be carried on in such manner as to secure the condensation, to the satisfaction of the Chief Inspector, derived from his own examination or from that of some other Inspector, of the acid gases of sulphur and nitrogen which are evolved in the process of the manufacture of sulphuric acid in such work, to such an extent that the total acidity of such gases in each cubic foot of air, smoke, or gases escaping into the chimney or into the atmosphere does not exceed what is equivalent to 4 grains of sulphuric anhydride.

The owner of any sulphuric acid work which is carried on in contravention of this Section shall be liable to a fine not exceeding, in the case of the 1st offence, £50, and in the case of every subsequent offence, £100.

Best practicable means to be used for preventing discharge of noxious and offensive gases in Scheduled works.

9. The owner of any work specified in the Schedule to this Act (hereinafter referred to as a Scheduled work) shall use the best practicable means for preventing the discharge into the atmosphere of all noxious gases and of all offensive gases evolved in such work, or for rendering such gases harmless and inoffensive when discharged, subject to the qualification, in the case of sulphuric acid works, that no objection shall be taken under this Section by an Inspector to any discharge of gas by a chimney or flue, on the basis of the amount of acid gas per cubic foot of air smoke or gases, where that amount does not exceed the amount limited by the last preceding Section.

If the owner of any such work fails, in the opinion of the Court having cognisance of the matter, to use such means, he shall be liable to a fine not exceeding, in the case of the 1st offence, £20, and in the case of every subsequent offence, £50, with a further sum not exceeding £5 for every day during which any such subsequent offence has continued.

Provisional Order to prevent discharge of certain gases in salt works.

10. An Inspector may from time to time inquire whether, in any works in which the extraction of salt from brine is carried on, hereinafter called salt works, means can be adopted at a reasonable expense for preventing the discharge from the furnaces or chimneys of such works into the atmosphere of sulphurous and muriatic acid gases evolved in such works, or either of such

gases, or for rendering such gases, or either of them, harmless or inoffensive when discharged; also whether in any works in which aluminous deposits are treated for the purpose of making cement, hereinafter called cement works, such means as aforesaid can be adopted with respect to the noxious or offensive gases evolved from such works.

Where it appears to the Local Government Board that such means can be adopted at a reasonable expense the Board may from time to time by Order require the owners of such works to adopt the best practicable means for the purpose, and may by the Order limit the amount or proportion, in the case of salt works, of sulphurous or muriatic acid gas, and in the case of cement works of any noxious or offensive gas, which is to be permitted to escape from such works into the chimney or into the atmosphere, and may also by the Order extend to such works such provisions of this Act relating to Scheduled works as they see fit.

An Order made under this Section shall be Provisional only and shall not be of any validity until confirmed by Parliament, but when so confirmed shall have full effect, with such modifications as may be made therein by Parliament; and the expression "this Act" when used in this Act shall be deemed to include an Order so confirmed, so far as is consistent with the tenor of that Order.

The Board shall take such steps as they may think fit for giving notice to persons interested of the provisions of any Order made by them under this Section before any Bill for confirming the same is introduced into Parliament.

An Order made under this Section may impose fines for a breach of its provisions of like amount as any fines imposed by this Act for offences against this Act.

Part III.

(1.) *Registration of Works.*

Registration works, and stamp duty.

11. (1.) An alkali work or a work to which Part II. of this Act applies shall not, after the 1st day of April, 1882, be carried on unless it is certified to be registered.

(2.) The work shall be registered in a Register containing the prescribed particulars, and the Register shall be conducted and the certificates issued in the prescribed manner.

(3.) The owner of an alkali work or of a work required to be registered shall in the month of January or February in every year apply for a certificate of registration in the prescribed manner, and on such application and compliance with the conditions as to registration the certificate shall be issued, and shall be in force for one year from the 1st day of April following the said application.

(4.) The owner of an alkali work or of a work required to be registered erected after the commencement of this Act shall before commencing any manufacture or process in such work apply for such certificate in the prescribed manner, and on such application and compliance with the conditions as to registration the certificate shall be issued as soon as may be, and shall be in force until the next 1st day of April.

There shall be charged in respect of every such certificate, in the case of an alkali work, the duty of £5; and in the case of a work required to be registered, not being an alkali work, the duty of £3.

(5.) Written notice of any change which occurs in the ownership of a work or in the other particulars stated in the Register shall within one month after such change be sent by the owner to an Inspector, and the Register and the certificate shall be altered accordingly in the prescribed manner without charge and without the issue of a new certificate. If such notice is not sent as so required the work shall not be deemed to be certified to be registered.

(6.) The owner of a work which is carried on in contravention of this Section shall be deemed guilty of an offence against this Act, and shall be liable to a fine not exceeding £5 for every day during which it is so carried on.

Certificate of inspector prior to registration of new works.

12. An alkali work or a Scheduled work, erected after the commencement of this Act, or which has been closed for a period of 12 months, shall not be registered under this Act unless the work is furnished with such appliances as at the time of registration appear to the Chief Inspector after his own examination, or that of an Inspector, or in case of difference to the Central Authority, to be necessary in Order to enable the work to be carried on in accordance with such requirements of this Act as for the time being apply to such work.

Supplemental provisions as to duties.

13. The duties charged in respect of a certificate of registration under this Act shall be stamp duties under the management of the Commissioners of Inland Revenue, and all the Acts relating to stamp duties, particularly those relating to forgery, fraudulent dies and other offences in connection with stamp duties, shall apply accordingly; and for the purpose of the said duties the Commissioners of Inland Revenue shall issue stamped forms of certificate, and the Commissioners may issue the same at any time after the passing of this Act.

(2.) *Inspection.*

Appointment of inspectors.

14. The Local Government Board shall at any time after the passing of this Act, and from time to time, with the approval of the Commissioners of Her Majesty's Treasury as to numbers and salaries or remuneration, appoint such Inspectors (under whatever title they from time to time fix) as the Board think necessary for the execution of this Act, and may assign them their duties and award them their salaries or remuneration, and shall constitute a Chief Inspector, and may regulate the cases and manner in which the Inspectors, or any of them, are to execute and perform the powers and duties of Inspectors under this Act, and may remove such Inspectors.

Notice of the appointment of every such Inspector shall be published in the *London Gazette*, and a copy of the *Gazette* shall be evidence of the appointment.

The salaries or remuneration of the Inspectors, and such expenses of the execution of this Act as the Commissioners of Her Majesty's Treasury may sanction, shall be paid out of moneys provided by Parliament.

26 & 27 Vict., 124. 37 & 38 Vict., 43.

The Inspector appointed before the commencement of this Act under the "Alkali Acts, 1863 and 1874," shall be deemed to be the first Chief Inspector under this Act, and the Sub-Inspectors appointed under those Acts before the commencement of this Act shall be deemed to be Inspectors appointed under this Act. A person holding the office of Chief Inspector (other than the person at the commencement of this Act discharging the duties thereof) or Inspector shall not be employed in any other work except by or with the sanction of the Authority appointing him to such office.

Disqualification of certain persons for inspectors.

15. A person who acts or practices as a land agent, or who is engaged or interested directly or indirectly in any work to which this Act applies, or in any patent for any process or apparatus carried on or used in any such work, or in any process or apparatus connected with the condensation of acid gases, or with the treatment of alkali waste, or with preventing the discharge into the atmosphere or rendering harmless or inoffensive any noxious or offensive gas, or otherwise with any of the matters dealt with by this Act, or who is employed in or about or in connection with any work to which this Act applies, or in any other chemical work for gain, shall be disqualified to act as an Inspector under this Act.

Powers of inspectors.

16. For the purpose of the execution of this Act, an Inspector may at all reasonable times by day and night, without giving previous notice, but so as not to interrupt the process of the manufacture, enter and inspect any work to which this Act applies, and examine any process causing the evolution of any noxious or offensive gas, and any apparatus for condensing any such gas, or otherwise preventing the discharge thereof into the atmosphere, or for rendering any such gas harmless or inoffensive when discharged, and may ascertain the quantity of gas discharged into the atmosphere, condensed, or otherwise dealt with ; and may enter and inspect any place where alkali waste is treated or deposited, or where any liquid containing acid is likely to come into contact with alkali waste ; and generally may inquire into all matters and processes which tend to show compliance or non-compliance with such of the provisions of this Act as are for the time being applicable to the work or place entered, or which seem necessary or proper for the execution of his duties under this Act.

An Inspector may, but so as not to interrupt the process of the manufacture, apply any tests and make any experiments he may think proper for the purpose of the execution of his duties under this Act.

Facilities for inspection.

17. The owner of any work to which this Act applies shall, on the demand of the Chief Inspector, furnish him within a reasonable time with a plan, to be kept secret, of those parts of such work in which any process causing the evolution of any noxious or offensive gas, or any process for the condensation of such gas or preventing the discharge thereof into the atmosphere, or for rendering any such gas harmless or inoffensive when discharged, is carried on.

The owner of every such work and his agents shall render to every Inspector all necessary facilities for an entry, inspection, examination and testing in pursuance of this Act.

Every owner of a work in which such facilities are not afforded to an Inspector as are required by this Act, or in which an Inspector is obstructed in the execution of his duty under this Act, and every person wilfully obstructing an Inspector in the execution of his duty under this Act, shall be deemed guilty of an offence against this Act, and shall be liable to a fine not exceeding £10.

Annual report to Local Government Board.

18. The Chief Inspector shall on or before the 1st day of March in every year make a report in writing to the Local Government Board of the proceedings of himself and of the other Inspectors under this Act, who shall furnish him with a detailed account of the number of inspections of works in their districts, and the recorded escapes of acid gases from such works during the preceding year, and a copy of such report shall be laid before both Houses of Parliament.

Additional inspector on application of Sanitary Authorities.

19. If any Sanitary Authority or Authorities apply to the Central Authority for an additional Inspector under this Act, and undertake to pay a proportion of his salary or remuneration, not being less than one-half, out of any Rate or Rates leviable by such Authority or Authorities (which undertaking such Authority or Authorities are hereby authorised to give and to carry into effect), the Local Government Board may (if they see fit) from time to time, with the sanction of the Commissioners of Her Majesty's Treasury, appoint an additional Inspector under this Act, to reside within a convenient distance of the works he is required to inspect ; and such Inspector

shall have the same powers and be subject to the same power of removal and the same regulations and liabilities as other Inspectors under this Act.

The proportion of salary or remuneration aforesaid shall be paid at the prescribed time or times into Her Majesty's Exchequer, and in the case of failure on the part of any Sanitary Authority to pay any sum payable by them in pursuance of this Section, the same may be recovered by Action in any Court of competent jurisdiction.

(3.) *Special Rules.*

Power of owners of works to make special rules.

20. The owner of an alkali work or of a Scheduled work may, with the sanction of the Central Authority make, and when made alter, add to and repeal special Rules for the guidance of his workmen who are employed in any process causing the evolution of any noxious or offensive gas, or whose duty it is to attend to the apparatus used in the condensation of that gas, or for preventing the discharge thereof into the atmosphere, or for rendering any such gas harmless and inoffensive when discharged, and may annex fines to any violation of such Rules, so that the fine for any offence do not exceed £2.

A printed copy of the special Rules in force under this Section in any work shall be given by the owner of that work to every person working or employed in or about that work who is affected thereby.

Any fine incurred under this Act in respect of an offence against a special Rule may be recovered summarily.

(4.) *Procedure.*

Provision as to calculation of acid.

21. In calculating the proportion of acid to a cubic foot of air, smoke, or gases, for the purposes of this Act, such air, smoke, or gases shall be calculated at the temperature of 60 degrees of Fahrenheit's thermometer, and at a barometric pressure of 30 inches.

Recovery of fines for offences against Act in County Court.

22. The following Regulations are hereby enacted with respect to the recovery of fines for offences other than offences against a special Rule :

Every such fine shall be recovered by Action in the County Court having jurisdiction in the District in which the offence is alleged to have been committed :

The Action shall be brought, with the sanction of the Central Authority, by the Chief Inspector, or by such other Inspector as the Local Government Board may in any particular case direct, within 3 months after the commission of the offence, and for the purposes of such Action the fine shall be deemed to be a debt due to such Inspector :

The plaintiff in any Action for a fine under this Act shall be presumed to be an Inspector authorised under this Act to bring the Action, until the contrary is proved by the defendant :

The Court may, on the application of either party, appoint a person to take down in writing the evidence of the witnesses, and may award to that person such remuneration as the Court thinks just ; the amount so awarded shall be deemed to be costs in the Action :

If either party in any Action under this Act feels aggrieved by the decision of the Court in point of Law, or on the merits or in respect of the admission or rejection of any evidence, he may appeal from that decision to the High Court of Justice :

The appeal shall be in the form of a Special Case to be agreed on by both parties or their solicitors, and if they cannot agree, to be settled by the Judge of the County Court on the application of the parties or their solicitors :

The Court of Appeal may draw any inference from the facts stated in the case that a Jury might draw from facts stated by witnesses :

Subject to the provisions of this Section, all the enactments, Rules, and Orders relating to proceedings in Actions in County Courts, and to enforcing judgments in County Courts, and appeals from decisions of the County Court Judges, and to the conditions of such appeals, and to the power of the High Court of Justice, or any Division or Judge thereof, on such appeals shall apply to an Action for a fine under this Act, and to an appeal from such Action, in the same manner as if such Action and appeal related to a matter within the ordinary jurisdiction of the Court.(a)

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(a) The remainder of this Section applies only to the Metropolis, Scotland, and Ireland.

Further provisions as to recovery of fines in County Court.

23. In any proceeding under this Act in relation to a fine for an offence other than an offence against a Special Rule—

(*a.*) It shall be sufficient to allege that any work is a work to which this Act applies, without more ; and

(*b.*) It shall be sufficient to state the name of the registered or ostensible owner of the work, or the title of the firm by which the employer of persons in such work is usually known.

A person shall not be subject to a fine under this Act for more than one offence in respect of the same work or place in respect of any one day.

Not less than 21 days before the hearing of any proceeding against an owner to recover a fine under this Act for failing to secure the condensation of any gas to the satisfaction of the Chief Inspector, or for failing to use the best practicable means as required by this Act, an Inspector shall serve on the owner proceeded against a notice in writing stating, as the case requires, either the facts on which such Chief Inspector founds his opinion, or the means which such owner has failed to use, and the means which, in the Chief Inspector's opinion, would suffice, and shall produce a copy of such notice before the Court having cognisance of the matter.

A person shall not be liable under this Act to an increased fine in respect of a 2nd offence, or in respect of a 3rd or any subsequent offence, unless a fine has been recovered within the preceding 12 months against such person for the 1st offence, or for the 2nd or other offence, as the case may be.

Application of fines.

24. All fines recovered under this Act, except in respect of offences against a Special Rule, shall be paid into the receipt of Her Majesty's Exchequer.

Discharge of owner on conviction of actual offender.

25. The owner of a work in which an offence under this Act other than an offence against a Special Rule has been proved to have been committed shall in every case be deemed to have committed the offence, and shall be liable to pay the fine, unless he proves to the satisfaction of the Court before which any proceeding is instituted to recover such fine, that he has used due diligence to comply with and to enforce the execution of this Act, and that the offence in question was committed by some agent, servant, or workman, whom he shall charge by name as the actual offender, without his knowledge, consent, or connivance ; in which case such agent, servant, or workman shall be liable to pay the fine, and proceedings may be taken against him for the recovery thereof and of the costs of all proceedings which may be taken either against himself or against the owner under this Act :

Provided that it shall be lawful for the Inspector to proceed in the 1st instance against the person whom he believes to be the actual offender, without first proceeding against the owner, in any case in which it is made to appear to the satisfaction of such Inspector that the owner has used all due diligence to comply with and to enforce the execution of this Act, and that the offence has been committed by the person whom he may charge therewith without the knowledge, consent, or connivance of the owner, and in contravention of his orders.

Service of notices.

26. Any notice, summons, or other document under this Act, may be in writing or print, or partly in writing and partly in print.

Any notice, summons, or document required or authorised for the purposes of this Act to be delivered to or served on or sent to the owner of any work, may be served by delivering the same to the owner, or at his residence or works ; it may also be served or sent by Post by a prepaid letter, and if served or sent by Post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of Post ; and in proving such service or sending it shall be sufficient to prove that it was properly addressed and put into the Post ; and the same shall be deemed to be properly addressed if addressed to the registered address of an owner, or, when required to be served on or sent to the owner of any works, if addressed to the owner of the works at the works, with the addition of the proper postal address, but without naming the person who is the owner.

Complaint by Sanitary Authority in cases of nuisance.

27. Where it appears to any Sanitary Authority, on the written representation of any of their officers, or of any 10 inhabitants of their District, that any work (either within or without the District) to which this Act applies is carried on in contravention of this Act, or that any alkali waste is deposited (either within or without the District), in contravention of this Act, and that a nuisance is occasioned by such contravention to any of the inhabitants of their District, such Authority may complain to the Central Authority, who shall make such inquiry into the matters complained of, and after the inquiry may direct such proceedings to be taken by an Inspector as they think just.

The Sanitary Authority complaining shall, if so required by the Central Authority, pay the expense of any such inquiry, and may pay the same out of the fund or Rate applicable to the general expenses of such Authority.

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Actions in case of contributory nuisance.

28. Where a nuisance arising from any noxious or offensive gas or gases is wholly or partially caused by the Acts or defaults of several persons, any person injured by such nuisance may proceed against any one or more of such persons, and may recover damages from each person made a defendant in proportion to the extent of the contribution of such defendant to the nuisance, notwithstanding that the act or default of such defendant would not separately have

caused a nuisance. This Section shall not apply to any defendant who can produce a certificate from the Chief Inspector that in the works of such defendant the requirements of this Act have been complied with and were complied with when the nuisance arose.

(5.) *Definitions; Repeal; Saving.*

29. In this Act, unless the context otherwise requires— Interpretation of terms.

"Alkali work" means every work for the manufacture of alkali, sulphate of soda, or sulphate of potash, in which muriatic acid gas is evolved, and for the purpose of this definition the formation of any sulphate in the treatment of copper ores by common salt or other chlorides shall be deemed to be a manufacture of sulphate of soda.

"Noxious or offensive gas" does not include sulphurous acid arising from the combustion of coal.

"Owner" means the lessee, occupier, or any other person carrying on any work to which this Act applies.

"Prescribed" means prescribed from time to time by the Local Government Board, and the "Local Government Board" means the Local Government Board established by the "Local Government Board Act, 1871." 34 & 35 Vict., 70.

"Central Authority" means as regards England the said Local Government Board . . . . . .

"Sanitary Authority" means any Local Authority entrusted with the execution of the "Public Health Act."

"The Public Health Act" means, as regards England, the "Public Health Act, 1875." 38 & 39 Vict., 55.

"Person" includes a corporation.

30. The following Acts, that is to say— Repeal of Acts.

The "Alkali Act, 1863," (26 & 27 Vict., c. 124).

The "Act to make perpetual the Alkali Act, 1863," (31 & 32 Vict., c. 36), and

The "Alkali Act, 1874," (37 & 38 Vict., c. 43),

are hereby repealed without prejudice to anything done or suffered before the commencement of this Act, or to the recovery of any penalty incurred before or proceeding pending at the commencement of this Act; and any such penalty or proceeding may be recovered or continued as if this Act had not been passed.

31. Nothing in this Act shall legalise any act or default that would, but for this Act, be deemed to be a nuisance, or otherwise be contrary to Law, or deprive any person of any remedy by Action, Indictment or otherwise, to which he would have been entitled if this Act had not passed. Saving as to general Law.

SCHEDULE.

List of Works.

(1.) Sulphuric acid works, that is to say, any works in which the manufacture of sulphuric acid is carried on (not being alkali works within the meaning of the foregoing Act, and not being works in which the manufacture of sulphuric acid is carried on in conjunction with the extraction of copper or other metals from ore);

(2.) Chemical manure works, that is to say, any works in which the manufacture of chemical manure is carried on;

(3.) Gas liquor works, that is to say, any works in which gas liquor is used in any manufacturing process;

(4.) Nitric acid works, that is to say, any works in which the manufacture of nitric acid is carried on;

(5.) Sulphate of ammonia works and muriate of ammonia works, that is to say, any works in which the manufacture of sulphate of ammonia or of muriate of ammonia is carried on; and

(6.) Chlorine works or works in which chlorine, bleaching powder, or bleaching liquor is made.

44 & 45 VICT., c. 38.

Law Reports Statutes, vol. xvii.

An Act to grant Money for the purpose of Loans by the Public Works Loan Commissioners and the Commissioners of Public Works in Ireland; and for other purposes relating to Loans by those Commissioners. ***(22nd Aug., 1881.)***

* * * * * * *

Short title.

1. This Act may be cited as the "Public Works Loans Act, 1881."

* * * * * * *

Amendment of Acts.

Amendment of 38 & 39 Vict., 89, 22 as to rate of interest for loan

7. Where the Public Works Loan Commissioners have, either before or after the passing of this Act, in pursuance of the "Public Works Loans Act, 1875," or of any enactment repealed by that Act, taken possession of any mortgaged property, and after the passing of this Act advance any sum for the completion, repair, improvement, or security of that property, the rate of interest on such sum shall, notwithstanding anything in § 22 of the "Public Works Loans Act, 1875," or any like enactment repealed by that Act, be not less than 5 per cent. per annum.

Expenses of ascertaining (under 38 & 39 Vict., 89, 36), that loans advanced by Commissioners have been properly applied.

8. The Local Government Board may make Orders as to the expenses incurred by them or by any officer appointed by them in making or conducting any examination in pursuance of § 36 of the "Public Works Loans Act, 1875," for the purpose of ascertaining that any loan or part of a loan advanced by the Public Works Loan Commissioners either before or after the passing of this Act, on the security of a Rate, has been applied to the purpose for which the same was advanced.

Any such Order may contain directions as to the parties by whom, and the Rates out of which such expenses shall be borne, and on the application of the Local Government Board may be made a Rule of the High Court of Justice in England. . . . . .

Application of surplus balances of loans made by Commissioners.

41 Vict., 18.

9. The unapplied balance of any loan advanced by the Public Works Loan Commissioners, either before or after the passing this Act, on the security of a Rate, may, with the consent of the said Commissioners, and of the Central Authority or Department, if any, with whose sanction or consent such loan was authorised to be raised, be applied to any purpose to which moneys borrowed on the security of such Rate are properly applicable; and in construing § 36 of the the "Public Works Loans Act, 1875," and § 4 of the "Public Works Loans Act, 1878," the purpose to which any such unapplied balance as aforesaid is so applied, shall be deemed to be the purpose for which that portion of the loan was advanced.

44 & 45 VICT., c. 67.

ARRANGEMENT OF SECTIONS.

Section.
1. Power to hawk petroleum.
2. Regulations for hawking petroleum.
3. Modification of conditions of license under 34 & 35 Vict., c. 105.
4. Power of constable as to prevention of offences.
5. Saving of Rights of Municipal Boroughs.
6. Definitions.
7. Short title and construction of Act.

An Act to regulate the Hawking of Petroleum and other substances of a like nature.

Law Reports Statutes, vol. xvii.

BE it enacted, &c.,

Power to hawk petroleum, 34 & 35 Vict., 105.

1. Any person who is licensed in pursuance of the "Petroleum Act, 1871," to keep petroleum to which that Act applies may, subject to the enactments for the time being in force with respect to hawkers and pedlars, hawk such petroleum by himself or his servants.

Regulations for hawking petroleum.

2. With respect to the hawking of petroleum to which the "Petroleum Act, 1871," applies, the following Regulations shall be observed :

(1.) The amount of petroleum conveyed at one time in any one carriage shall not exceed 20 gallons :

(2.) The petroleum shall be conveyed in a closed vessel so constructed as to be free from leakage :

(3.) The carriage in which the vessels containing the petroleum are conveyed shall be so ventilated as to prevent any evaporation from the petroleum mixing with the air in or about the carriage in such proportion as to produce or be liable to produce an explosive mixture :

(4.) Any fire or light or any article of an explosive or highly inflammable nature shall not be brought into or dangerously near to the carriage in which the vessels containing the petroleum are conveyed :

(5.) The carriage in which the vessels containing the petroleum are conveyed shall be so constructed or fitted that the petroleum cannot escape therefrom in the form of liquid, whether ignited or otherwise :

(6.) Proper care shall be taken to prevent any petroleum escaping into any part of a house or building, or of the curtilage thereof, or into a drain or sewer :

(7.) The petroleum shall be stored in some premises licensed for keeping of petroleum and in accordance with the license for such premises both every night and also when the petroleum is not in the course of being hawked :

(8.) All due precautions shall be taken for the prevention of accidents by fire or explosion, and for preventing unauthorised persons having access to the vessels containing the petroleum, and every person concerned in hawking the petroleum shall abstain from any act whatever which tends to cause fire or explosion, and is not reasonably necessary for the purpose of such hawking :

(9.) No article or substance of an explosive or inflammable character other than petroleum, nor any article liable to cause or communicate fire or explosion, shall be in the carriage while such carriage is being used for the purpose of hawking petroleum :

In the event of any contravention of this Section with reference to any petroleum, the petroleum, together with the vessels containing and the carriage conveying the same, shall be liable to be forfeited, and in addition thereto the licensee by whom or by whose servants the petroleum was being hawked shall be liable on summary conviction to a penalty not exceeding £20.

Provided that—

(1.) Where some servant of the licensee or other person has in fact committed the offence, such servant or other person shall be liable to the same penalty as if he were the licensee :

(2.) Where the licensee is charged with a contravention of this Section, he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge, and if the licensee proves to the satisfaction of the Court that he had used due diligence to enforce the execution of this Section, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the licensee shall be exempt from any penalty.

Any petroleum other than that to which the "Petroleum Act, 1871," applies while in any carriage used for the hawking of petroleum to which the "Petroleum Act, 1871," applies, shall for the purposes of this Section be deemed to be petroleum to which the "Petroleum Act, 1871," applies.

Modification of conditions of license under 34 & 35 Vict., 105.

3. Any conditions annexed to a license granted in pursuance of the "Petroleum Act, 1871," either before or after the passing of this Act, shall, so far as they are inconsistent with this Act, be void, but save as aforesaid nothing in this Act shall affect the application to a licensee of the provisions of the "Petroleum Act, 1871," or of any license granted thereunder.

Power of constable as to prevention of offences.

4. Where a constable or any officer authorised by the Local Authority has reasonable cause to believe that a contravention of this Act is being committed in relation to any petroleum, he may seize and detain such petroleum and the vessels and carriage containing the same, until some Court of Summary Jurisdiction has determined whether there was or not a contravention of this Act, and § 13 of the "Petroleum Act, 1871," shall apply to such constable and officer as if he were the person named in the warrant mentioned in that Section, and as if the seizure were a seizure in pursuance of that Section.

Saving of rights of Municipal Boroughs.

5. Nothing in this Act contained shall extend to authorise the hawking of Petroleum within the limits of any Municipal Borough in which, by any lawful authority, such hawkings shall have been or may hereafter be forbidden.

Definitions.

6. For the purposes of this Act—

The expression "carriage" includes any carriage, waggon, cart, truck, vehicle, or other means of conveyance by land, in whatever manner the same may be drawn or propelled ; and

A person shall be deemed for the purposes of this Act to hawk petroleum if by himself or his servants he goes about carrying petroleum to sell, whether going from town to town or to other men's houses, or selling it in the streets of the place of his residence or otherwise, and whether with or without any horse or other beast bearing or drawing burden.

Short title and construction of Act.

7. This Act may be cited as the "Petroleum (Hawkers) Act, 1881."

This Act shall be construed as one with the "Petroleum Acts, 1871 and 1879," and together with those Acts may be cited as the "Petroleum Acts, 1871 to 1881."

PART III.

Precedents.

IN previous editions of this work much space was given up to a series of Precedents of By-Laws required for the purposes of the several Public Health and Local Government Acts. Those Precedents, the result of a vast amount of trouble and research, were an attractive feature of the work, and contributed, it is believed, much to its success. Obviously, however, it is far better that such Precedents should emanate from a Government Department than from a private individual, and I am therefore very glad that the Local Government Board, by having issued, in the year 1877 and subsequently, Model By-Laws applicable to so many Public Health matters,[a] has rendered it unnecessary for me to deal with this branch of the subject in the same way as formerly.

The following is a list of the "Model By-Laws"[b] issued by the Local Government Board up to the present time :—

1. Cleansing of Footways and Pavements, the removal of House Refuse, and the cleansing of Earth-closets, Privies, Ash-pits and Cesspools.
2. Prevention of Nuisances from Snow, Filth, Dust, Ashes and Rubbish, and for the Prevention of the Keeping of Animals on any premises so as to be injurious to health.
3. Common Lodging-houses.
4. New Streets and Buildings.
5. Market.
6. Slaughter-houses.
7. Hackney Carriages.
8. Public Bathing.
9. Public Baths and Wash-houses.

9a. Public Wash-houses.

9b. Open Bathing Place.

9c. Duties of Officers and Servants of Public Baths, Wash-houses, and open Bathing Place.

10. Public Pleasure Ground.
11. Horses, Ponies, Mules, or Asses, standing for hire.
12. Pleasure Boats, and Vessels.
13. Houses let in Lodgings, or occupied by members of more than one family.
14. Management of a Cemetery.

The Local Government Board is not required by the "Public Health Act, 1875," (see § 188) to exercise over "Regulations" as to Meetings and Business matters and the Duties of Officers, the supervision which it does over By-Laws, and therefore I continue to include some Precedents of "Regulations" touching these details of Local Government work.

(*a*) The Powers of Local Authorities, as to the establishment of By-Laws, will be found stated fully in Part I., "Digest of Statutes," chap. II., p. 22, (*ante.*)

(*b*) These are printed for H.M. Stationery Office, and copies are on sale to the public: they may be procured through Stevens & Sons, 119 Chancery Lane, at prices varying from 2*d.* to 6*d.* each set.

1.

Regulations with respect to the Meetings and Business Arrangements of Local Boards.[a]

Ordinary meetings. (1.) The ordinary meetings of the Board shall be held at the offices of the Board, in ——— street, *fortnightly*, on *alternate*———*days*, or at such other times as the Board may determine.

Reporters. (2.) Newspaper reporters shall be at liberty to attend every ordinary meeting of the Board under such restrictions as the Board may from time to time prescribe. When the Board sits as a committee the reporters shall retire, if required by the Board to do so.

End of year. (3.) At the *last general meeting* of the Board held previously to the 1st day of March, in each year, the final arrangements shall be made for the election of new members in the place of those retiring by rotation because they have served 3 years, and to occupy seats that may happen to be vacant.

Election arrangements. (4.) The Election arrangements shall every year be carried out in the following order:—The notices shall be issued on the 7th day of March; the nomination papers received between the 7th day of March and the 26th day of March; the voting-papers delivered on the 10th day of April; and the voting-papers collected on the 13th day of April. If any of the above-named days should be a Sunday, Christmas Day, Good Friday, or a day appointed for any Bank Holiday, or Public Fast or Thanksgiving, the work allotted thereto shall, subject to the provisions of the "Public Health Act, 1875," and the discretion of the Returning Officer, be performed on the day following.

New members. (5.) New members will be expected to sign the usual declaration at the first meeting after their election.

Special meetings. (6.) The Chairman or any[b] ——— members of the Board may, by a written requisition, authorise the Clerk to summon a special meeting of the Board at 24 *hours'* notice to the members (if so short a notice be unavoidable); such requisition shall set forth the business for which the meeting is to be summoned, and no business other than that specified in the requisition shall be transacted at such special meeting.

Adjournment of meetings. (7.) The members of the Board present at any ordinary meeting when there is no quorum, or the majority of them, or, if only one such member be present, then such one member may, at the expiration of 30 *minutes* after the time fixed for the meeting adjourn such meeting to the next usual day of meeting; if no member be present, then such meeting shall be so adjourned by the Clerk, and an entry of such adjournment shall be made in the Minute Book. In default of a proper adjournment in manner aforesaid, the Board shall and may meet on any other day upon notice given as hereinafter provided, and such meeting shall be deemed an ordinary general meeting.

Notice of meetings. (8.) *Three clear days'* notice of every ordinary meeting shall be given by the Clerk, by a circular delivered or sent by Post to each member of the Board, to his usual or last known place of abode, and such notice shall contain a summary of the business to be transacted at such meeting. It shall not be necessary in any case to prove that such circular has been duly delivered or sent in pursuance of these Regulations, but the same shall be deemed and taken to have been duly delivered or sent unless the contrary be shown. A copy shall also be publicly exhibited outside the office of the Board.

Quorum. (9.) The Quorum shall be ——— members.

Order of business. (10.) The business of the ordinary meetings of the Board shall be conducted in the following order:—

(i.) The Minutes of the last ordinary meeting and of any special meeting that may have since been held shall be read, and they shall be signed by the Chairman who is presiding over the meeting at which they are read; save that in case no member who was present on the previous occasion shall be in attendance when the Minutes are read, they shall also be signed by the Clerk. An entry of such Minutes having been so read and signed shall in all cases be made in the Minutes of the day.

(ii.) The business arising out of the Minutes of such meeting or meetings shall then be disposed of.

(iii.) The Registrar's Returns of Births and Deaths shall be laid on the table.

(*a*) Throughout this Section the word "Board" is employed, but in reprinting the matter for Corporate Boroughs the word "Council" must be substituted. Words in italics or within brackets, as the case may be, are to be understood as discretionary, that is to say, as open to alteration, if needs be, to suit particular local circumstances. Of course other alterations may also be introduced, and such will especially be requisite in reference to the duties of Officers, these Regulations having been primarily framed for a large Local Government District with a fuller staff of Officers than will usually be appointed. These Regulations should be followed by a reprint of the enactments in the "Public Health Act, 1875," relating to meetings of Boards and Committees, (38 & 39 Vict., 55, § 197 *et seq.*, and Sched. I.)

(*b*) This may conveniently be the number fixed for the quorum.

(iv.) The Board shall then examine the Treasurer's, Clerk's, and Collector's accounts, and receive any report or Minutes which a Committee may have prepared for presentation. Every Report and all Minutes of a Committee shall be in writing, and shall be approved, amended, or rejected either wholly or in part, or the consideration thereof may be adjourned, wholly or in part, as occasion shall require.

(v.) All correspondence, &c., with the Board since its last meeting, and all applications made to it, whether in writing or otherwise, and any reports from officers of the Board, shall then be read, and considered, and such orders given thereon as may be necessary,

(vi.) The Board shall then consider any motions, of which due notice shall have been given.

Minute book.

(11.) The Minute Book shall, on application to the Clerk, be open during office hours to the inspection of the members of the Board, free of any charge, and also to all persons rated to the General District Rate, on payment to the Clerk of 1*s.* for each *quarter of an hour* during which such inspection lasts. Every such member or person may have copies of extracts supplied from such Minute Book within a reasonable time after demand in writing, at the rate of 3*d.* for every 100 words or figures of such copies or extracts, which fee is to be paid to the Clerk.

Alteration of resolutions.

(12.) No resolution of the Board shall be altered or rescinded at any meeting unless a *fortnight's* notice be given by the Clerk to each member of the Board, setting forth the proposed alteration, nor unless there be at least *two-thirds* of the members present at such meeting; provided always that this regulation shall not extend to any resolution which immediately concerns the abatement of a nuisance, nor to any question which, by a vote of the Board, may be decided to be one of emergency.

Motions.

(13.) Every motion made at a meeting shall be committed to writing and handed to the Chairman, if so required by him.

(14.) No important motion shall be discussed at any meeting, unless notice of the same in writing shall have been delivered to the Clerk at least 5 clear days before such meeting; provided always that the Chairman shall not be at liberty to refuse to receive a motion unless in his judgment it shall be one which must in strictness be looked upon as "important," and therefore needing adequate notice.

(15.) All motions shall be made in the order of the notice thereof, unless the Board shall unanimously decide otherwise.

(16.) A negatived motion shall not be again entertained until after the expiration of 3 *calendar months.*

(17.) Every member shall stand when speaking and shall address the Chairman, and if 2 or more members shall rise to speak at the same time, the Chairman shall decide to whom the priority shall be given.

(18.) The Chairman shall have power to prevent any member, except the mover, from speaking more than once on any one motion or question, unless in explanation. The mover shall in all cases be entitled to speak once in making his motion and once by way of reply; provided always that it shall be lawful for the Board to resolve itself into a committee for the purpose of taking into consideration any subject which may require more full and free discussion.

Committees.

(19.) So far as applicable, these Regulations shall apply to the proceedings of all Committees. Of every Committee 3 members shall form a quorum, unless the Board shall otherwise direct. The Chairman of the Board shall be *ex-officio* a member of every Committee.

(20.) The following shall be the ordinary Committees of the Board:—

1. FINANCE AND ASSESSMENT.
2. BUILDINGS.
3. SANITARY.
4. HIGHWAYS, LIGHTING, WATERING.
5. LAW AND PARLIAMENTARY.
6. GAS-WORKS.
7. WATER-WORKS.
8. BATHS AND WASH-HOUSES.

Payment of accounts.

(21.) All bills and accounts shall be paid by cheques drawn on the Treasurer, and signed at a meeting of the Board by 3 members, and countersigned by the Clerk.

(22.) All bills, for the payment of which cheques have been duly signed, shall be forthwith paid, and produced with their respective vouchers, at the next meeting of the Finance Committee.

Custody of books, &c.

(23.) Except when otherwise appointed by the Board, the seal of the Board, together with the books, papers, plans, and other documents belonging to the Board (save such as shall be under the immediate consideration of any Committee), shall be kept by the Clerk, and shall, during office hours, be open to the inspection of the members; but the Clerk shall not part with the same except for the temporary use of any of the officers of the Board, and all documents, &c., so taken, shall be returned as soon as they are done with, or forthwith, on the order of the Board or the Clerk.

Seal.

(24.) The seal of the Board shall only be attached to any document on a vote to that effect being duly passed.

Office hours.

(25.) The offices of the Board shall be open on such days and at such times as shall from time to time be fixed by the Board. At present the office hours are *as follows:*———

———

Approved at a Meeting of the Board, held the _____ *day of* _____ 18__

in testimony whereof the Common Seal of the said Board was affixed.

_____ *Chairman.*

2.

Regulations with respect to the Duties and Conduct of Officers of Local Boards.

—o—

Tenure of office.

(1.) All Officers appointed by the Board shall (subject to any Regulations prescribed by Statute, or by the Local Government Board, or by these Regulations, or by the Board) hold their respective offices during the pleasure of the Board; and they may resign or be dismissed after *one month's* notice on either side. All Officers who may be entrusted with money shall give security.

General conditions.

(2.) The following shall be the respective duties and obligations of the several Officers named, (a) so far as this statement of them is not inconsistent with any special contract now existing between them and the Board, and subject also to any new special contract which may hereafter be made respecting any of such duties. No officer shall be beneficially interested as shareholder or otherwise in any company (not being a Railway or Canal Company) which has contracts and dealings with the Board.

THE CLERK.

To attend meetings.

(3.) The Clerk shall prepare and cause to be delivered all notices convening meetings of the Board and of Committees; he shall himself attend all such meetings and read everything requiring to be read thereat; and he shall record the proceedings in the appropriate Minute Books. Each Minute Book is to contain in respect of every meeting a statement of the names of the members present, and a full summary of the business done. The General Minute Book of the Board is further to contain a statement of the Books and Accounts of the other Officers examined by the Clerk since the previous meeting; particulars of money paid to, and cheques drawn on, the Treasurer; also Minutes specifying the allocation or division of charges according to previous orders of the Board; and there is to be affixed to every Minute relating to any pecuniary transaction a marginal note of reference to the respective folios of the Ledger in which the items will be found set out.

Special meetings.

(4.) He shall, upon the receipt of a written requisition signed by (i.) the Chairman, or (ii.) any ————(b) members of the Board, summon a Special Meeting thereof.

To keep books and papers.

(5.) He shall be responsible for the safe keeping of all Books and Papers which are in his custody as Clerk, and shall produce the same for the inspection of the Board, or any member thereof, when required to do so.

Treasurer's account.

(6.) He shall ascertain before every ordinary, and, if required, before any Special Meeting of the Board, the state of the Treasurer's account, and report the same at the meeting.

Cheques and vouchers.

(7.) He shall prepare under the direction of the Board, or the Finance Committee, all cheques for the payment of money due from the Board, and shall countersign and deliver the said cheques, and file the vouchers relating thereto.

Miscellaneous moneys.

(8.) He shall keep a proper account (according to the particulars supplied to him by the Surveyor, or the Inspector of Nuisances, or otherwise) of all penalties, proceeds on sale of refuse, &c., and other moneys payable to the Board, and shall *once a month* furnish the Collector with such particulars as are necessary to enable him to collect the same.

To examine accounts and papers.

(9.) He shall examine and check the accounts of the Collector at least *once a month* for the purpose of seeing that all moneys received by that Officer have been duly accounted for to the Treasurer; and, generally, he shall be responsible for the regular and sufficient examination of all accounts whatsoever, and of all papers relating to the business of the Board as they come to hand; and at every meeting he shall in his discretion report to the Board concerning the same.

To keep a ledger.

(10.) He shall keep a Ledger and punctually enter therein all the financial transactions of the Board as authorised by the Board, and recorded in the Minute Book, and otherwise. The said financial transactions shall be exhibited under such heads as may be necessary to comply with the requirements of the Local Government Board, as expressed by Orders(c) or otherwise.

Audit.

(11.) Immediately after March 25 in every year he shall prepare a Summary of the gross Receipts and Expenditure under each head, and shall submit such Summary first to the Board and then to the Auditor: he shall prepare the accounts for Audit, and shall produce them with all necessary books, documents, and vouchers to the Auditor at his Audit; and give the notices thereof required by Law.

(*a*) The duties of certain Officers will be more conveniently defined in connection with the By-Laws for the execution of which they are responsible. This applies, for instance, to such functionaries as the Inspector of Hackney Carriages, the Inspector of Boats, the Inspector of Markets, the Public Librarian, &c., &c. The Model By-Laws (No. 9) of the Local Government Board respecting Public Baths and Wash-Houses contain a most elaborate code of Regulations for the control of the officers and servants of such establishments, but it has not been deemed necessary to reprint that code here.

(*b*) See note (*b*) on p. 414.

(*c*) Allusion is more particularly made here to the "Local Board Accounts Order" issued on March 22, 1880.

(12.) He shall conduct the correspondence of the Board according to its directions, and carefully preserve all letters and papers received, and copies of all letters written; and shall make all necessary transcripts thereof. To conduct correspondence.

(13.) He shall advise the Board on all matters connected with the "Public Health Act, 1875," and kindred Acts in respect of which the Board or any members thereof desire his advice. To advise the Board.

(14.) He shall communicate to the other Officers all orders of the Board, and shall report any neglect or failure therein which may come to his knowledge. To communicate orders.

(15.) He shall prepare all notices to be given by the Board, and see that the same are duly served (save such as are required by these Regulations, or by any By-Law of the Board, or by Statute, to be prepared or served by any other Officer). To prepare notices.

(16.) He shall, under the direction of the Board and with the co-operation of the other Officers, make out all estimates for Rates, including notices appertaining thereto; he shall see that such notices are duly published and generally that all the formalities prescribed by Statute are duly complied with. Duties as to rates.

(17.) Save as is herein provided, he shall prepare, or peruse and approve, on behalf of the Board all deeds, contracts, agreements, or other instruments to be executed by or to the Board, and shall see that the same are duly executed, but, except under a special order of the Board, he shall not concern himself with the preparation, perusal, or approval of conveyances to or from the Board, or with investigations of the title of any land or premises in respect of which the Board may be carrying on negociations. Deeds, contracts &c.

(18.) He shall conduct without charge, save for actual disbursements, all applications which the Board may deem necessary to Justices at Petty or Special Sessions, or out of Sessions, and (if he be a Solicitor) all legal proceedings on behalf of the Board, except proceedings at the Assizes, or at Quarter or General Sessions, and except Actions, suits, and other proceedings in any Court of Law, Arbitrations, and Parliamentary Business. Legal proceedings.

(19.) He shall require the Surveyor and the Inspectors of Nuisances, Hackney Carriages, Boats, and Common Lodging-houses (if there be such Officers appointed) to deliver to him once a month statements respecting their work in a form prescribed; he shall examine the same and lay them before the Board. Returns from other officers.

(20.) He shall prepare and transmit all Reports and Returns (Parliamentary or otherwise) having reference to the administration of the "Public Health Act, 1875," within the district. To prepare returns.

(21.) He shall assist in the conduct of Elections; he shall, without special instructions, perform all the duties specifically imposed by the "Public Health Act" and these Regulations, or by any By-Law of the Board, on the Clerk of an Urban Sanitary Authority; and he shall comply with all lawful directions of the Board, or of a Committee, applicable to his office. General duties.

THE TREASURER.(a)

(22.) The Treasurer shall receive all moneys tendered to him on account of the Board, and shall credit the Board therewith. To receive money.

(23.) He shall pay, out of the money belonging to the Board which may be in his hands, all cheques presented to him which are signed by *three* Members of the Board and are countersigned by the Clerk, provided the same shall be presented at his usual place of business in business hours. To pay cheques.

(24.) He shall keep in a Pass-Book, approved by the Board, a proper account of his receipts and payments, and shall submit the same (duly made up to the previous day) for inspection at every ordinary meeting of the Board; annually to the Auditor; and at such other times as the Board may direct. Pass-book.

(25.) He shall sign the Collector's statement which will be presented to him every *Friday*, and such signature shall be deemed an acknowledgment of the receipt of the money therein stated to have been paid to him. In event of the Collector not tendering any money on the usual day, and not informing the Treasurer that he has no money in hand, the Treasurer shall notify the Collector's default to the Clerk by Post or otherwise the same evening. The Treasurer shall also give receipts to all persons paying money to him on account of the Board. Dealings with collector.

(26.) He shall assist the Clerk in the preparation of any of the accounts of the Board for the Audit, and shall also assist the Auditor, if and when he may by them, or by either of them, be required to do so. To assist in the audit.

(27.) He shall comply with all lawful directions of the Board applicable to his office, and shall give, and from time to time renew, such security as the Board may require, for the faithful execution of his office; on the death, insolvency, or bankruptcy of any surety of his, he shall immediately notify the fact to the Board. General duties: Security.

THE MEDICAL OFFICER OF HEALTH.

(28.) The duties of the Medical Officer of Health shall be those prescribed in the General Orders relating to Medical Officers of Health issued by the Local Government Board on March 8 and 9, 1880, with the following addition:—He shall at the first Ordinary Meeting of the Board held after January 1, April 1, July 1 and October 1, present to the Board a comprehensive report on the general health and sanitary condition of the district. Duties.

THE SURVEYOR.(a)

(29.) The Surveyor shall devote his whole time to the duties of his office and shall not undertake any private practice; he shall advise the Board on all questions connected with the discharge of the duties imposed on the Board by the "Public Health Act, 1875" where such questions General duties.

(a) See the "Local Board Accounts Order, 1880." (Part IV., *post.*)

involve surveys, repairs, engineering or building works of any kind whatsoever. He shall keep a book to be called the "Surveyor's Report Book," and at every ordinary meeting of the Board he shall report upon the state of all works under his charge and offer any suggestion which he thinks fit, making also in this book entries respecting any matter which he is by the By-Laws required to report, and conveniently can so enter.

To take charge of property.

(30.) He shall have charge of all carts, tools, instruments and stores which are the property of the Board and are officially under his control, and he shall be responsible for the same not being wantonly destroyed or damaged, and shall see that such of them as are ordinarily used by other persons besides himself are duly marked with the name or initials of the Board.

To procure materials.

(31.) He shall procure under the direction of the Board all supplies of stone, materials, tools, and other articles necessary for the maintenance of the Highways, or for carrying out the general work of the Board, and shall see that the same are properly stored and applied.

Expenditure limited.

(32.) He shall not, without the sanction of the Board, or some committee thereof, expend any greater sum that £2 except in case of emergency.

To furnish estimates and reports.

(33.) Before the Board enters into any contract for works, he shall furnish an estimate in writing of the probable expense of constructing and annually maintaining the proposed works, and he shall report on the most advantageous mode of contracting, that is to say, whether for construction only or for construction and maintenance during a term of years or otherwise. And generally when the Board shall so require, he shall furnish reports, estimates, or specifications relative to any matter which concerns his department, including, at the instance of the Clerk, estimates required in connection with new Rates.

To overlook contractors, tradesmen, &c.

(34.) He shall see that all contracts entered into with the Board in reference to any work connected with his department are duly carried out, certifying from time to time to this effect, or to the contrary, as the case may be. He shall overlook all Tradesmen and Labourers employed by the Board in connection with the work of his department; and shall certify to the correctness or otherwise, of all claims on the Board made by such persons, before the said claims are submitted to the Finance Committee.

To prepare weekly statements.

(35.) Every *Friday* evening at 6 p.m. he shall pay the Labourers who are under him, and on *Saturday* mornings he shall deliver to the Clerk for presentation to the Board a statement of the names of the men employed during the week, together with particulars of the work done by them, of the number of days they each worked, of the rate of wages per day, and the amount paid to each. He shall at the same time deliver a statement of the materials supplied to the Board during the week with particulars of the names of the parties furnishing the same; and of the quantity, description, price and total cost of such materials. Both the aforesaid statements shall be made on the forms prescribed by the Board.

Map of district.

(36.) If the Board should so determine, he shall assist in preparing a map exhibiting a system of Sewerage for the District. He shall take charge of such map when prepared, and shall mark on it all new roads, buildings, &c., and underground works as they are executed, so that the map in question may at all times accurately exhibit the condition of the District. In marking the public sewers on the Map he shall indicate as fully as possible the places where private drains communicate with such sewers, and the respective levels of such communications.

To manage sewers.

(37.) He shall be responsible for the management of all public sewers, storm-water drains, and ventilators vested in the Board, and of all house drains which are under its immediate control; he shall examine such sewers and drains at stated periods to see that they continue in proper working order in every respect.

Cleansing of ditches, &c.

(38.) Where any ponds, pools, open ditches, or places used for the collection of any drainage, filth, or matter likely to be prejudicial to health, or of any offensive nature are to be drained, cleansed, covered or filled up, he shall see that proper precautions are taken for the prevention of injurious effects during the performance of the work.

Duties as to nuisances.

(39.) He shall advise the Board as to what works of drainage, what water-closets, privies, earth-closets or ash-pits ought to be provided for the District or for any factory, house, or premises therein, in order to mitigate nuisances pointed out by the Inspector of Nuisances or otherwise; and he shall superintend the carrying out of any such orders of the Board in reference to such matters, whether the expenses are defrayed by private parties or by the Board.

(40.) He shall, on receipt of the Board's authority in writing, and after 24 hours' notice in writing to the occupier (or in case of emergency without such notice), enter any premises and lay open and examine any drain, water-closet, privy, earth-closet, cesspool or ash-pit of which complaint as a nuisance has been made in writing, and shall report to the Board what alterations (if any) are required.

Drainage of houses.

(41.) Whenever proposals are made for the erection or re-building of any house within the district, he shall report to the Board as to the size, materials, level, and fall of any drains which appear necessary for the proper drainage of the same and its appurtenances; and he shall see that the drains so to be constructed shall duly communicate with such outfall as may be directed by the Board, and if the nearest available outfall cannot be reached within 100 feet of any part of the site of such house, then that a suitable cesspool be provided.

Duties as to highways.

(42.) He shall be responsible for the general management of the highways and public thoroughfares of the District, and from time to time shall examine their condition. Under the authority of the Highway Committee he shall make, alter, and repair highways, and perform generally all the duties appertaining to the office of Surveyor of Highways.

Duties as to private roads.

(43.) He shall advise the Board on the propriety, or otherwise, of private roads being converted into public highways; and when any such conversion is arranged he shall be responsible for seeing that the requirements of the Board in reference thereto are duly complied with.

(44.) He shall advise the Board as to the level, width, and construction of new streets, and the purchase of property for improving streets, and as to the sewerage thereof; and as to the structure of the walls of new buildings for securing stability and the prevention of fire; and as to sufficiency of space about buildings to secure a free circulation of air; and as to the ventilation of buildings and sewers; and as to the drainage of buildings; and as to the water-closets, earth-closets, privies, cesspools, and ash-pits in connection with buildings. New streets and buildings.

(45.) He shall advise the Board as to permitting any building to be set forward for the purpose of improving a street; and as to setting back any building taken down to be rebuilt; and as to the removal or alteration of any porch, shed, projecting window, step, cellar, cellar door, or window, sign, sign-post, show-board, window-shutter, wall, gate, fence, or other obstruction erected against or in front of any building, and which is an obstruction to the convenient user of a street. Street improvements. 11 & 12 Vict., 34, 69.

(46.) He shall cause all necessary bars and chains to be fixed in or across any street or thoroughfare during the execution of any works, so as to prevent or regulate the passage of carriages, carts, horses, and persons; and while such works are in progress he shall cause the same to be lighted and guarded by night. Works to be protected. 11 & 12 Vict., 34, 69.

(47.) He shall see that all "streets" are named, and that the names are exhibited in convenient places; and that all houses in such streets are, if so required by the Board, duly numbered on or over the doors or entrance thereof. Naming, &c., of streets.

(48.) He shall report to the Board all encroachments and obstructions in the streets owing to the erection of buildings or the alteration or breaking up of pavements, in order that the proper notices may be served on the offenders, and, if needs be, the customary penalties enforced. He shall take care that in laying down any gas or water pipes, telegraph wires, or tramways, proper precautions are taken by all the several parties for the prevention of accidents and for the due re-instatement of the roads or ground. Encroachments and obstructions.

(49.) He shall advise the Board respecting all plans deposited at his office for the sanction of the Board; and he shall, if he sees cause, suggest amendments or alterations in such plans; he shall register, number, date, and file the duplicate copy of every deposited plan, and shall from time to time take steps for ascertaining that the By-Laws and orders of the Board in regard to the matters to which the plans relate, and also as to communications with sewers, are being duly carried out. To advise on plans.

(50.) He shall report to the Board any building unfit for human habitation, or from decay or other causes in a dangerous state, in order that such precautions may be taken by prohibiting its use as a human habitation, or by fencing, or otherwise, as may be deemed expedient. To report on ruined buildings.

(51.) He shall, on receiving information from the Clerk that application has been made to register a Common Lodging-house, forthwith measure and report the cubic content of every room therein, with the view of fixing the proper number of Lodgers to be admitted. To report on common lodging houses.

(52.) He shall, from time to time, inspect the Public Lamps, and report any deficiency he may observe either as to their number, or condition; or as to the quantity or quality of the gas; or as to the arrangements which may be in force for lighting or extinguishing the same. He shall prepare all such plans, estimates, and reports relating to lighting as the Board may require. Duties as to public lighting.

(53.) In the event of the Board determining to provide Public Walks or Pleasure Grounds, he shall superintend the formation and keeping up thereof; and shall have charge of all Trees, Ornamental Banks, Benches, and Seats which are under the control of the Board. Pleasure grounds, &c.

(54.) In the event of the Board undertaking the Water Supply of the District, he shall, under the supervision of the Consulting Engineer, lay out the works, and perform such duties in connection therewith as the Consulting Engineer shall direct him to perform. Water supply.

(55.) He shall, from time to time, when and as directed by the Board, value all new property and alterations of old property within the District, and shall attend appeals in support of his valuations. To value property.

(56.) He shall take the earliest opportunity of reporting to the Board all cases of non-compliance with its By-Laws and Regulations which may come to his knowledge, and all offences against any statute relating to Highways, Public Health and Local Government, to which he considers that the attention of the Board ought to be directed. To report breaches of By-Laws, &c.

(57.) He shall attend all Ordinary Meetings of the Board, and, when required, any Special Meeting or any Meeting of a Committee; he shall without special Instructions perform all the duties specifically imposed by the "Public Health Act, 1875," and these Regulations on the Surveyor of an Urban Sanitary Authority; and he shall comply with all lawful directions of the Board, or of a Committee, applicable to his office, and he shall render such assistance to the officers of the Board as the Board shall direct. Attendance at meetings.

THE INSPECTOR OF NUISANCES.(a)

(58.) The Inspector of Nuisances shall keep a book in which he shall enter particulars of every nuisance injurious to health, and of every matter to which he considers that the attention of the Board ought to be directed. He shall also enter therein every complaint made to him of any breach of the General Law, or of the By-Laws and Regulations of the Board for the promotion of health and cleanliness, and the suppression of nuisances. On receiving complaints so made, he shall forthwith enquire into the truth thereof, and report to the Board at its next meeting. He shall note in his book the orders of the Board thereon and proceed accordingly. To keep a book.

(a) In the case of Inspectors of Nuisances whose salaries are partly repaid out of moneys voted by Parliament, some special provisions as to their duties will be found in the General Order dated March 10, 1880, which is given in Part IV., (*post*).

To report house nuisances.

(59.) He shall report in writing on all house-drains, water-closets, privies, earth-closets, cesspools and ash-pits which in his opinion are a nuisance, or injurious to health, with a view to the Surveyor making application to the Board respecting such, in the terms and for the purposes of the "Public Health Act, 1875."

To superintend works.

(60.) He shall, under the Surveyor, superintend the execution of such works as are carried out at the instance of the Board and which he shall be directed to superintend, and he shall certify to the correctness or otherwise of all claims on the Board for work performed under his inspection, or in any way relating to the duties of his office.

Duties as to nuisances, &c.

(61.) He shall report any premises in such a state as to be a nuisance, or injurious to health; any pool, ditch, gutter, water-course, privy, urinal, cesspool, drain, or ash-pit, or place containing drainage, filth, water, matter, or offensive thing, that is foul and likely to be prejudicial to health, and requires draining, cleansing, covering, or filling up; also any animal kept in a dirty state, or in an improper place; any accumulation of foul matter, including waste or stagnant water, in any cellar or dwelling house; any overflow of the contents of a water-closet, privy, or cesspool; and any house in a filthy or unwholesome condition.

(62.) He shall notify to the Surveyor any case of a house being without a sufficient water-closet, privy, earth-closet, or ash-pit, or an adequate supply of water.

(63.) Where it may appear to him that any accumulation of manure, dung, soil, or filth, or other offensive matter ought to be removed, he shall give notice to the owner thereof, or to the occupier of the premises wherein it exists, to remove the same; if at the expiration of 24 hours the notice shall not have been complied with, he shall himself direct the removal thereof, at the expense of the owner or occupier in default.

Scavenging.

(64.) He shall see that the streets and gulley holes, &c., therein are properly swept, watered, and cleansed; also that all snow, filth, dust, ashes, house refuse, rubbish, and dung, are duly removed on such days, at such hours, and in such manner as the Board shall from time to time appoint; and this whether the Board itself undertakes the scavenging or employs Contractors. He shall also see that the places where such refuse as aforesaid is deposited are kept, as far as may be, in a proper state.

Dangerous buildings.

(65.) He shall inform the Surveyor of any building that may be unfit for human habitation, or may be, from decay or other causes, in a dangerous state.

Cellar dwellings

(66.) He shall see that Cellar dwellings are not occupied except in compliance with the enactments relating thereto.

To inspect various places.

(67.) He shall inspect once a month every registered (*Common Lodging-house*), Slaughter-house, and Knacker's Yard, with the view of seeing that the By-Laws applicable thereto are duly observed; and he shall report to the Board, through the Clerk, such matters as in his opinion need the Board's consideration; for instance, Houses used as Common Lodging-houses without being registered; Houses overcrowded; Cellars occupied contrary to law; or Buildings used as Slaughter-houses, &c., without being registered.

Factories and smoke.

(68.) He shall report any Factory, Workshop, or Workplace (not under the "Factory Act, 1878") which is not kept clean and duly ventilated; also any chimney (not of a Dwelling-house) which sends forth black smoke in such quantities as to be a nuisance.

Offensive trades

(69.) He shall report any noxious or offensive businesses, trades, or manufactures, which are newly-established; and shall see that the By-Laws made in respect of the same are duly observed.

Food.

(70.) He shall inspect in his discretion any Meat, Poultry, Game, Fish, Fruit, Vegetables, Corn, Bread, Flour, or Milk deposited for sale; and in case any articles of this sort appear to be intended for the food of man and are unfit for such purpose, he shall seize the same and submit them to a Justice.

Burial grounds.

(71.) He shall visit and examine from time to time all Burial Grounds, and shall report anything respecting the same which may seem to him to demand the interference of the Board.

Infectious diseases.

(72.) He shall give immediate notice to the Medical Officer of Health of the occurrence of any case of contagious, infectious, or epidemic disease which may come to his knowledge.

Water.

(73.) He shall report all cases of wilful or negligent waste or misuse of water supplied by the Board, or any fouling of water by gas, filth, or otherwise.

Sale of refuse.

(74.) He shall superintend the sale or disposal of all sewage, manure, soil, filth, ashes, dust, rubbish, or other like matter, belonging to the Board; and shall render to the Clerk once a month an account thereof, in order that the proceeds may be duly collected; he shall keep a duplicate copy of such monthly account in a book provided for that purpose.

To report breaches of By-Laws.

(75.) He shall take the earliest opportunity of reporting to the Board all cases of non-compliance with the By-Laws and Regulations which may come to his knowledge, and all offences against any Statute relating to Highways, Public Health, and Local Government to which he considers that the attention of the Board ought to be directed.

Notices.

(76.) He shall serve all notices issued on behalf of the Board, relating to any nuisance or the abatement thereof. When any notices may be lawfully sent by Post, it shall be his duty to post such notices, keeping a sufficient record of all notices so despatched.

Attendance at meetings.

(77.) He shall attend all ordinary meetings of the Board, and, when required, any special meeting, or any meeting of a Committee.

General duties.

(78.) He shall without special instructions perform all the duties specifically imposed by the "Public Health Act, 1875," and these Regulations (or by any Order of the Local Government Board that applies to his case) on the Inspector of Nuisances of an Urban Sanitary Authority; and he shall comply with all the lawful directions of the Board, or of a Committee, or of the Surveyor, applicable to his office.

THE COLLECTOR.(a)

To make out Rate-books.

(79.) The Collector shall, under the supervision of the Clerk, make out all Rates and estimates for Rates, and he shall see that the requisite notices relating to such Rates are duly published; he shall have the custody of the Rate-Books, and shall amend the entries therein, if, and when, directed to do so by the Board or the Finance Committee.

"Rate Demand and Receipt Book."

(80.) As soon as a Rate is ready for collection, he shall prepare a "Rate Demand and Receipt Book," comprising (i.) a Demand Note; (ii.) a Receipt, and (iii.) a Receipt Counterfoil, all in the form to be prescribed for that purpose: he shall number each Demand Note, Receipt, and Counterfoil with corresponding numbers consecutively throughout the book, and fill in the various blanks according to the particulars furnished by the Rate-Book and otherwise; the aforesaid book when thus filled up shall be submitted to the Clerk, and on the leaf next after the last receipt the Clerk shall certify that he has examined such book, and shall state in words at length the number of receipts then filled up for the Rate about to be collected. If on closing any Rate there shall remain in the Receipt Book any receipts unused, the Collector shall state on each the reason why it was not used, and shall date and sign such statement.

Collection of Rates.

(81.) Not later than 14 *days* after the making of a Rate, he shall commence the service on every Ratepayer of Demand Notes, torn one by one from the "Rate Demand and Receipt Book," as aforesaid; as soon as possible after *seven* days have elapsed since the delivery of the Demand Notes, he shall call on the Ratepayers in order; he shall use his best endeavours to complete the collection of every Rate within *two* months of the making thereof.

To make weekly payments to the treasurer.

(82.) He shall pay over to the Treasurer every *Friday* all money in his hands belonging to the Board, and he shall at the time of such payment give to the Treasurer a statement in writing showing to what Rates or accounts such money belongs. The Treasurer shall sign this statement. The Collector shall make a payment to the Treasurer of £20 whenever he has accumulated such a sum, notwithstanding that a week shall not have elapsed since his previous payment.

"Collecting and Deposit Book."

(83.) He shall keep a book to be called the "Collecting and Deposit Book," in the form to be prescribed for that purpose, and he shall enter therein all sums received and paid over by him as Collector, accurately dating the entries.

To account to the Clerk.

(84.) He shall attend the Clerk every *Friday* after he has duly transacted his customary business with the Treasurer; and he shall produce for the examination of the Clerk all his books of account relating to Rates in course of collection.

Monthly statements.

(85.) He shall make out once a month, or oftener if required, a statement showing with reference to each Rate in course of collection the amount thereof actually collected, and the amounts of arrears legally excused, irrecoverable, and recoverable; he shall transmit this statement to the Clerk with the view of its being laid before the Finance Committee and the Board.

Annual statements.

(86.) He shall prepare, at least once a year, and have ready for the audit, or oftener if the Board so requires, a statement showing the name of every person rated from whom nothing has been received on account of Rates made since the commencement of the current financial year; and he shall in each case annex a note stating the reason why such Rates have not been enforced.

To collect miscellaneous moneys

(87.) He shall collect all money due to the Board in respect of the sale of sewage, filth, &c., and such other money as he may be required by the Clerk to collect. He shall give receipts on printed forms for all money thus paid to him, keeping counterfoils of such receipts.

Enforcement of debts.

(88.) He shall, if required to do so, take proceedings, under the direction of the Clerk, for the recovery, after the same has been lawfully demanded, of any money due to the Board.

Compositions.

(89.) He shall give notice, on a form to be provided for that purpose, to owners of property respecting the composition for Rates which the Board is prepared to accept, and shall receive and file the answers given.

Apportionments

(90.) He shall apportion the Rates (other than Private Improvement Rates) payable on premises becoming occupied or unoccupied (as the case may be) after the making of any Rate; and shall collect sums so apportioned, entering in the Rate-Book an explanation thereof in each case.

Attendance at meetings: Audit.

(91.) He shall attend any meeting of the Board, or of a Committee, if so required; and he shall aid the Clerk in preparing for the audit, and shall attend the same.

General duties: Security.

(92.) He shall comply with all lawful directions of the Board or the Clerk applicable to his office; and shall give, and, from time to time, renew, such security as the Board may require for the faithful execution of his office. On the death, or bankruptcy of any surety of his, he shall immediately notify the fact to the Board.

THE INSPECTOR OF COMMON LODGING HOUSES.(b)

General duties.

(93.) The Inspector of Common Lodging-Houses shall visit once a month, and at such other times as he may be directed by the Board, all Registered Common Lodging-houses; he shall report to the Board any violation of the By-Laws for the regulation of such places which may come to his notice; and he shall report all houses used as Common Lodging-houses which may not be registered.

(*a*) See the "Local Board Accounts Order, 1880." (Part IV., *post*.)

(*b*) Frequently either the Surveyor or the Inspector of Nuisances acts as Inspector of Common Lodging-Houses, in which case this Regulation will not be wanted, and the words in No. 67, which are in brackets, must stand.

THE SUPERINTENDENT OF THE WATER-WORKS.

General duties. (94.) The Superintendent of the Water-works shall, under the supervision of the Water-works Committee, have charge of all reservoirs, cisterns, conduits, pipes, and other works belonging to the Board, and connected with the storage and supply of water; he shall manage the distribution of the water; and he shall see that all the property of the Board which is officially under his control is kept in good working order and repair.

To keep daily records. (95.) He shall keep, or cause to be kept, a daily register of the flow of water from the Storage Reservoir, and also a daily record of the Rainfall as indicated by a Rain-gauge.

To procure materials. (96.) He shall procure, under the direction of the *Water-works* Committee, all supplies of materials and articles necessary for carrying on the supply of *water*.

Expenditure limited. (97.) He shall not, without the sanction of the *Water-works* Committee, or the Board, expend any greater sum than £5, except in case of emergency.

To overlook contractors, tradesmen, &c. (98.) He shall see that all contracts entered into with the Board in reference to any work connected with his department are duly carried out, certifying from time to time to this effect, or to the contrary, as the case may be. He shall overlook all Tradesmen and Labourers employed by the Board in connection with the work of his department; and shall certify to the correctness or otherwise, of all claims on the Board made by such persons before the said claims are submitted to the Finance Committee.

To prepare weekly statements. (99.) Every *Friday* evening at 6 p.m., he shall pay the Labourers who are under him, and on *Saturday* mornings he shall deliver to the Clerk for presentation to the Board a statement of the names of the men employed during the week, together with particulars of the work done by them, of the number of days they each have worked, of the rate of wages per day, and the amount paid to each. He shall at the same time deliver a statement of the materials supplied to the Board during the week, with particulars of the names of the parties furnishing the same; and of the quantity, description, price, and total cost of such materials. Both the aforesaid statements shall be made on the forms prescribed by the Board.

To receive applications. (100.) He shall receive and file all applications made by parties desiring to be supplied with *water* by the Board. If such applications are complied with, he shall see that all the necessary works are duly executed, as nearly as possible in the order in which the applications are made.

To keep books. (101.) He shall keep, or cause to be kept, all such books of account and other books as the *Water-works* Committee may require; and shall conduct on behalf of the Board all correspondence relating to his department.

To report breaches of By-Laws, &c. (102.) He shall periodically inspect all house-fittings and *water*-meters (when such are used), and shall take the earliest opportunity of reporting to the Board all cases of non-compliance with its By-Laws or Regulations which may come to his knowledge; and all offences against any Statute to which he considers that the attention of the Board ought to be directed.

Attendance at meetings. (103.) He shall attend all meetings of the *Water-works* Committee, and, when required, any meeting of any other Committee, or of the Board; he shall see that all orders of the *Water-works* Committee, or of the Board, connected with the work of his department, are duly and promptly carried out; and generally he shall comply with all lawful directions of the *Water-works* Committee, or of the Board, applicable to his office.

THE SUPERINTENDENT OF THE GAS-WORKS.

General duties. (104.) The Superintendent of the Gas-works shall, under the supervision of the Gas-works Committee, have charge of all works, pipes, and apparatus, belonging to the Board, and connected with the manufacture and supply of gas; he shall manage the manufacture, sale, and distribution of gas, coke, gas tar, and other products arising from the mauufacture of gas; and he shall see that all the property of the Board which is officially under his control is kept in good working order and repair.

Duties, as to the measurement of gas, meters, and public lamps. (105.) He shall keep, or cause to be kept, a daily register of the gas manufactured, and shall make all necessary arrangements that every meter may be inspected, read, supplied with water (if needs be) or otherwise attended to, at least once in *three months*, and that meters requiring attention may be promptly examined, and, if necessary, put in order. He shall make all necessary arrangements for the lighting and extinguishing of the public lamps, and shall provide for their being regularly inspected and repaired as occasion shall require.

[*** *The Regulations numbered* 96—103 (*ante*) *are applicable to the office of Superintendent of Gas-works, and may be reprinted when it is desired to define at length the duties of such an official, substituting throughout the word* "*Gas*" *for* "*Water*," *and omitting from No.* 102 *the words in parentheses.*]

Approved, &c., &c.

3.

Form of Provisional Order for the supply of Gas by Local Boards.

[In consequence of the representations made by various Local Authorities, clauses were introduced into the "Public Health Act, 1875," for the purpose of enabling the Local Government Board, on the application of an Urban Sanitary Authority, to issue a Provisional Order under the "Gas and Water Works Facilities Act, 1870," authorising a Gas Undertaking by such Authority. A copy of one such Order issued in 1881 is here given as a precedent for others. It was confirmed by Act of Parliament the same year.]

BOROUGH OF BRIDGNORTH.

Provisional Order under the "Gas and Water Works Facilities Act, 1870."

To the Mayor, Aldermen, and Burgesses of the Borough of Bridgnorth, in the County of Salop, being the Urban Sanitary Authority for that Borough ;—

And to all others whom it may concern.

Whereas by § 3 of the "Gas and Water Works Facilities Act, 1870," it is enacted that that Act shall apply where powers are required for the purposes of constructing or maintaining and continuing Gas Works and Works connected therewith, or of manufacturing and supplying Gas in any district within which there is not an existing company, corporation, body of commissioners, or person empowered by Act of Parliament to construct such Works or to manufacture and supply Gas, and that such purposes shall, for the purposes of that Act, be deemed to be included in the term "Gas Undertaking ;"

And whereas by § 4 of the same Act it is enacted that Provisional Orders authorising any Gas undertaking under the authority of that Act, may be obtained in any district by any Company, companies, or person, and that in the construction of that Act the term "Undertakers" shall be deemed to include any such company, companies, or person ;

And whereas by the same Act it is further enacted, that applications for such Provisional Orders shall be made to, and that such Provisional Orders may be made by, the Board of Trade ;

And whereas by § 161 of the "Public Health Act, 1875," it is enacted that where there s not any company or person (other than the Urban Sanitary Authority) authorised by or in pursuance of any Act of Parliament, or any Order confirmed by Parliament to supply Gas for public and private purposes, supplying Gas within any part of the district of such Authority, such Authority may themselves undertake to supply Gas for such purposes, or any of them throughout the whole or any part of their district, and that where an Urban Sanitary Authority may under the said "Public Health Act, 1875," themselves undertake to supply Gas for the whole or any part of their district, a Provisional Order authorising a Gas undertaking may be obtained by such Authority under and subject to the provisions of the said "Gas and Water Works Facilities Act, 1870," and any Act amending the same ; and that in the construction of the said Act, the term "the undertakers" shall bedeemed to include any such Urban Sanitary Authority ; provided that for the purposes of the said "Public Health Act, 1875," the Local Government Board shall throughout the said "Gas and Water Works Facilities Act, 1870," and any Act amending the same, be deemed to be substituted for the Board of Trade ;

And whereas by § 162 of the "Public Health Act, 1875," it is also enacted that for the purpose of supplying gas within their district or any part thereof, either for public or private purposes, any Urban Sanitary Authority may (with the sanction of the Local Government Board) buy, and the directors of any gas company, in pursuance, in the case of a company registered under the "Companies Act, 1862," of a special resolution of the members passed in manner provided by that Act, and in the case of any other company, of a resolution passed by a majority of three-fourths in number and value of the members present, either personally, or by proxy, at a meeting specially convened with notice of the business to be transacted, may sell and transfer to such Authority on such terms as may be agreed on between such Authority and the Company, all the rights, powers, and privileges, and all or any of the lands, premises, works, and other property of the company, but subject to all liabilities attached to the same at the time of such purchase ;

And whereas the Mayor, Aldermen, and Burgesses of the Borough of Bridgnorth, in the County of Salop, being the Urban Sanitary Authority for that Borough (hereinafter called the "Urban Sanitary Authority") have (subject to the sanction of the Local Government Board) agreed to buy, and the directors of the Bridgnorth Gas Company, Limited, have in pursuance of a special resolution of the members passed in manner provided by the "Companies Act, 1862," agreed to sell to the Urban Sanitary Authority, the company's gas undertaking, including all the land, buildings, plant, retorts, main pipes, meters, syphons, and all works whatsoever which may have been laid down, fixed, erected, or placed by the said company and all other property whatsoever of the said company (hereinafter called the "Gas Undertaking of the Company") ;

And whereas the Urban Sanitary Authority, being, under the "Public Health Act, 1875," themselves empowered to supply Gas for the whole or any part of their district, applied to the Local Government Board to issue a Provisional Order, authorising them to maintain and continue, if and when the same shall be acquired by them, the Gas undertaking of the company, (not being a company authorised by or in pursuance of any Act of Parliament, or any Order confirmed by Parliament, to supply Gas for public and private purposes), to construct other Gas Works, to manufacture and supply gas, and to borrow money for those purposes, and duly complied with the provisions of the said "Gas and Water Works Facilities Act, 1870," with respect to the service of notices, publication of advertisements, and deposit of documents.

And whereas the Local Government Board, upon receipt of such application, caused public inquiry to be held in the district of the Urban Sanitary Authority on the subject thereof, which inquiry was held, after due notice thereof, and report has been made to them thereon, in accordance with the provisions of § 13 of the "Gas and Water Works Facilities Act, 1870, Amendment Act, 1873 ;"

Now therefore, we, the Local Government Board, in pursuance of the powers given to us by the Statutes in that behalf, do hereby order that, from and after the date of the Act of Parliament confirming this Order, the following provisions shall take effect ; viz.—

1. This Order may be cited as the "Bridgnorth Gas Order, 1881."

2. The several words and expressions to which, by the Acts in whole or in part incorporated with this Order, and by the "Gas and Water Works Facilities Act, 1870," meanings are assigned, have in this Order the same respective meanings.

3. The limits within which the provisions of this Order shall be in force and have effect shall be the parishes of Saint Leonard and Saint Mary Magdalene, within the said Borough of Bridgnorth.

4. The Urban Sanitary Authority shall, in relation to the purposes of this Order, exercise and be subject to all the powers and provisions of the "Public Health Act, 1875," so far as the same are applicable to the purposes of this Order, but nothing herein contained shall empower the Urban Sanitary Authority to acquire lands otherwise than by agreement, or to acquire any lands by agreement, except to the extent limited in this Order.

5. The provisions of the "Lands Clauses Consolidation Acts" (except with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the entry upon lands by the promoters of the undertaking, and except § 127 of the "Lands Clauses Consolidation Act, 1845,") and the provisions of the "Gas Works Clauses Act, 1847," (except §§ 30 to 38, both inclusive, and §§ 41, 43, 45, 46, and 47 thereof), and of the "Gas Works Clauses Act, 1871," (except §§ 24 to 27, both inclusive, §§ 29 and 35, and Schedule B. thereof), are hereby incorporated with this Order, except where the same are expressly varied thereby, and the said provisions of the said Gas Works Clauses Acts shall apply as well to any mains, pipes, or works which may at any time be acquired by the Urban Sanitary Authority under or by virtue of the "Public Health Act, 1875," as to any mains, pipes, or works which may be laid down or constructed under the Authority of this Order.

6. The Urban Sanitary Authority may, on the land described in the Schedule hereto, if and when the same shall be acquired by them, repair, renew, maintain, continue, and from time to time, construct, erect, alter, enlarge, or when necessary, remove buildings, apparatus and works for the manufacture and storage of gas and of coke and other refuse, or residual products arising from the manufacture of gas, and any matters producible therefrom ; and they may, subject to the provisions of this Order, make gas, and supply and sell the same within the parishes of Saint Leonard and Saint Mary Magadalene, within the said Borough, and may convert or manufacture coke, and all refuse or residual products arising from the manufacture of Gas by them, and any matters producible therefrom, and may sell and dispose of the same at the Gas Works and elsewhere. The Urban Sanitary Authority may also (if hereafter considered expedient) erect an embankment wall along the side of the river Severn, from a point near the bridge, in the said parish of Saint Mary Magdalene, crossing the said river, to a point as near to the said Gas Works, in the said parish of Saint Leonard, as may be necessary to enable the Urban Sanitary Authority to construct a road for the purpose of conveying coal and other things to and from the Gas Works, and for laying a main in order to afford a better supply of gas in the lower town and other parts of the said parishes of Saint Leonard and Saint Mary Magdalene, and for such purposes may acquire, by agreement, such lands, buildings, premises, or other property as may be necessary to enable them to construct the said road in accordance with the plan and section prepared and deposited in manner provided by the "Gas and Water Works Facilities Act, 1870," or as near thereto as circumstances may admit, and may construct such road and lay such main accordingly.

7. The Urban Sanitary Authority shall not manufacture Gas or any residual products arising in the manufacture of Gas, on any land other than that specified in the Schedule hereto, neither shall they store Gas on any land other than that specified in the said Schedule, which shall be situated within 300 yards of any dwelling-house existing at the time when they propose to store gas thereon, without the consent in writing of the owner, lessee, and occupier of such dwelling-house.

8. The quality of the Gas supplied by the Urban Sanitary Authority, shall, with respect to its illuminating power, be such as to produce at the testing place hereinafter mentioned, a light equal in intensity to the light produced by 15 sperm candles of 6 to the pound, and shall in all respects be in accordance with the provisions of the "Gas Works Clauses Act, 1871."

9. The Urban Sanitary Authority shall, before supplying, or within one month after commencing to supply, gas under the authority of this Order, provide and maintain a suitable photometer and other necessary appliances for the purposes of testing the quality of the gas, and shall at all times keep the same in proper order and repair.

10. All gas supplied by the Urban Sanitary Authority to any consumer of Gas shall be supplied at such pressure as to balance from midnight to sunset a column of water not less than five-tenths of an inch in height and to balance from sunset to midnight a column of water not less than eight-tenths of an inch in height at the main, or as near as may be to the junction therewith of the service-pipe supplying such consumer.

11. For the purposes of the "Gas Works Clauses Act, 1871," the prescribed testing place shall be a testing place to be provided by the said Urban Sanitary Authority at the Gas Works situate on the land described in the Schedule hereto, near to the carpet factory of Messrs. Southwell at the end of Friars Street, in the said parish of Saint Leonard, before supplying, or within one month after commencing to supply, Gas under the authority of this Order, if the Urban Sanitary Authority shall acquire such Gas Works, and the burner to be used for testing the Gas shall be a Sugg's "London" Argand, No. 1, with a six-inch by one-and-three-quarter-inch glass chimney, and if at any time the gas flame tails over the top of the glass, a six-inch by two-inch chimney shall be used ; and any Gas Examiner appointed under the "Gas Works Clauses Act, 1871," for the purposes of this Order, may from time to time, subject to the terms of his appointment, at such testing place or elsewhere, not being the immediate approach to any railway bridge or railway station, as and when he thinks fit, test the pressure at which the Gas is supplied, and for that purpose may open any street, road, passage, or place vested in or under the control of any Local or Road Authority.

12. No penalty shall be incurred by the Urban Sanitary Authority for insufficiency of pressure, defect of illuminating power, or for excess of impurity in the Gas supplied by them in any case, in respect of which it is proved that such insufficiency, defect, or excess was produced by an unavoidable cause or accident.

13. The price to be charged by the Urban Sanitary Authority for Gas supplied by them to consumers, shall not exceed 5*s*. per 1000 cubic feet, and so on in proportion for any less quantity supplied, provided nevertheless that every odd fraction or portion of 100 cubic feet may be charged for as 100 cubic feet.

14. The Urban Sanitary Authority may, with the sanction of the Local Government Board, for the purposes of the Gas undertaking hereby authorised, borrow money upon the security of any lands, works, or other property of which they shall be at any time possessed, for the purpose of such undertaking, and may mortgage such lands, works, or other property to any person or persons advancing such money, in the same manner in all respects as if they were the absolute owner, both at Law and in Equity, of the lands, works, or other property so mortgaged.

15. For the purposes of the Loans mentioned in Article 14, the provisions of the "Local Loans Act, 1875," including the power of creating debenture stock, shall be available to the Urban Sanitary Authority.

16. Any money borrowed by the Urban Sanitary Authority under the provisions of Articles 14 and 15 of this Order, or otherwise, for the purposes of the said undertaking, shall be repaid within such period (not exceeding 50 years) as the Urban Sanitary Authority with the sanction of the Local Government Board shall determine, and the period so determined and sanctioned shall be deemed to be the "prescribed period" within the meaning of the "Local Loans Act, 1875."

17. The Urban Sanitary Authority shall repay the money borrowed under Article 14, other than money borrowed under the "Local Loans Act, 1875," either by equal annual instalments of principal, or of principal and interest, or by setting apart in every year as a sinking fund such a sum or sums as will, according to a reasonable calculation for the time being, with accumulations in the way of compound interest, be sufficient after payment of all expenses, to pay off the money so borrowed within the period sanctioned, and shall invest the same in the purchase of Exchequer Bills or other Government Securities, or, if the Local Government Board shall assent, in securities in which Trustees are by Law for the time being authorised to invest, or in nominal debentures or nominal debenture stock issued under the "Local Loans Act, 1875," by any Local Authority other than the Urban Sanitary Authority, the Urban Sanitary Authority being at liberty from time to time to vary and transpose such investments.

18. The Urban Sanitary Authority may at any time apply the whole or any part of such sinking fund in or towards the discharge of the money for the repayment of which the fund is established; provided that the Urban Sanitary Authority pay into the fund each year, and accumulate until the whole of the money borrowed is discharged, a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied.

19. The Urban Sanitary Authority may, with the sanction of the Local Government Board, re-borrow money upon the security mentioned in Article 14, for the purpose of discharging any loans contracted under that Article, other than loans contracted under the "Local Loans Act, 1875": Provided that the money borrowed for such purpose shall be repaid in the manner provided by Articles 16 and 17, and the time for repayment of the money so borrowed shall not, except with the sanction of the Local Government Board, extend beyond the unexpired portion of the period for which the original loan was sanctioned, and shall in no case be extended beyond the period of 50 years from the date of the original loan.

20. All money borrowed or re-borrowed under this Order shall be appropriated to the purposes for which it is authorised to be so borrowed or re-borrowed; and all money received by the Urban Sanitary Authority either as purchase money of lands sold, or for equality of exchange, or as consideration for a lease, shall be applied to works or objects on which capital may properly be expended, when the Local Government Board have sanctioned the application of the same to those purposes, or shall be applied, according as the Urban Sanitary Authority may determine, towards the reduction of the debt owing by the Urban Sanitary Authority, or towards the increase of the sinking fund under this Order: Provided that it shall not be in any way incumbent on any mortgagee to see to the application of any money so borrowed or re-borrowed, nor shall the mortgagee be responsible for any misapplication thereof.

21. The powers of borrowing and re-borrowing conferred by Articles 14, 15, and 19, of this Order shall be deemed to be distinct from and in addition to the powers of borrowing conferred on the Urban Sanitary Authority by the "Public Health Act, 1875."

22. The Clerk of the Urban Sanitary Authority shall, within 21 days after the expiration of each year during which any sum is required to be paid as an instalment, or to be set apart for a sinking fund, in respect of moneys borrowed under the provisions of this Order, transmit to the Local Government Board a return, in such form as may be prescribed by that Board and verified by statutory declaration, if so required by them, showing the amounts which have been paid as instalments and the amounts which have been invested or applied for the purpose of such sinking fund during the year next preceding the making of such return, and the description of the securities upon which any investment has been made, and the purposes to which any portion of the sinking fund, or investment, or of the sums accumulated by way of interest has been applied during the same period, and the total amount (if any) remaining invested at the end of the year.

23. If it appears to the Local Government Board, by that return or otherwise, that the Urban Sanitary Authority have failed to pay any instalment required to be paid, or to set apart any sum required for any sinking fund, or have applied any portion of the money set apart for any sinking fund, or of the sums accumulated by way of interest to any purposes other than those authorised, they may, by Order, direct that a sum not exceeding double the amount in respect of which default has been made, shall be paid by way of instalment or be set apart and invested or applied as part of the sinking fund; and any such Order shall be enforceable by writ of *Mandamus*, to be obtained by the Local Government Board out of Her Majesty's High Court of Justice.

24. When the Urban Sanitary Authority require money to be deposited by any person with them by way of security for the payment to them of any moneys which may become due to them by such person in respect of any supply of gas, or of the purchase or hire of any meter, the Urban Sanitary Authority shall pay interest

at the rate of £3 per centum per annum on every sum of 10*s.* so deposited, for every 6 months during which the same remains in their hands: Provided that the Urban Sanitary Authority may, if they think fit, invest any money so deposited with them in the manner provided in Article 17 as to the sinking fund, and in that case the Urban Sanitary Authority shall pay no higher rate of interest than they themselves receive thereon.

25. The Urban Sanitary Authority shall keep separate capital and revenue accounts of all receipts, credits, payments, and liabilities in and about the execution of this Order, and from or on account of the Gas undertaking hereby authorised, which accounts shall be distinct from the other accounts of the Urban Sanitary Authority, and shall be called respectively "the Gas Capital Account," and "the Gas Revenue Account."

26. All moneys from time to time received by the Urban Sanitary Authority, by way of revenue under this Order, shall be applied to the following purposes:—

In payment of the gas establishment charges, that is to say, of the expenses properly chargeable to revenue, of establishing, conducting, managing, and maintaining the Gas Works and Works connected therewith;

In payment of the interest on the moneys borrowed or re-borrowed for the purposes of this Order;

In providing for the discharge of any moneys borrowed or re-borrowed for the purposes of this Order;

In setting apart, if the Urban Sanitary Authority think fit, a yearly sum not exceeding £10 per centum of such revenue for the purpose of forming a reserve fund to provide for the expenses attendant upon or occasioned by any sudden accident to the said Gas Works and Works connected therewith, or any other extraordinary expenditure authorised by this Order: Provided that such reserve fund shall be accumulated by way of compound interest by investment in the manner specified in Article 17 as to the sinking fund, and shall not at any time exceed the sum of £2000, and that whenever the reserve fund amounts to £2000 the income therefrom shall be applied in the same manner as money received by the Urban Sanitary Authority by way of revenue under this Order;

In payment, if the Urban Sanitary Authority think fit, of the expenses of executing any permanent Works authorised by this Order;

The residue, if any, of such revenue shall be carried to the district fund, but no part of such revenue shall be carried to the district fund when the price of Gas to private consumers exceeds 3*s.* per 1000 cubic feet.

27. The Urban Sanitary Authority shall keep separate records of the quantities of Gas supplied to private consumers, and for public lighting, respectively, and for the purpose of ascertaining the quantity of Gas supplied for public lighting, shall provide and maintain meters for the public street lamps in the proportion of not less than one meter for every 12 lamps. Separate accounts of the cost of the public and private lighting shall be kept by the Urban Sanitary Authority, and the price charged for Gas for public lighting shall not be more than £10 per centum less than that charged to private consumers.

28. The Urban Sanitary Authority shall not defray any of the charges and expenses of carrying this Order into execution, other than payments required to be made in respect of money borrowed on mortgage of the General District Rate out of the General District Rate when the price of Gas is less than 5*s.* per 1000 cubic feet.

29. If any difference arise between the Urban Sanitary Authority and any railway, canal, or other company, into, over, through, across, or under whose land or works they may at any time have power to carry any mains, pipes, or other works, as to the mode of laying down, repairing, altering, or enlarging such mains, pipes, or other works, or as to the facilities to be afforded by such Company for such laying down, repairing, altering or enlarging, such difference shall, upon the application of the Urban Sanitary Authority, or the governing body of such company, be settled by an engineer to be appointed by the Local Government Board, and the costs and expenses of and incidental to such appointment shall be paid by the Urban Sanitary Authority and the Company in equal moieties, unless the Local Government Board shall otherwise order.

THE SCHEDULE ABOVE REFERRED TO.

All that piece of land called "The Poplar Meadow," situate, lying, and being at or near the Friars, in the Parish of Saint Leonard, in the Borough of Bridgnorth, containing 1A. 3R. 5P., or thereabouts, now belonging to the Bridgnorth Gas Company, Limited, and in the possession or occupation in part of the said Bridgnorth Gas Company, Limited, and in part of the Severn Towing Path Commissioners, and bounded on or towards the north by a field called "Severn Meadow," belonging to Charles Henry Hinckesman; on the west by a field called "Little Meadow," also belonging to the said Charles Henry Hinckesman; on the south by a road leading from Friars Street to the River Severn; and on the east by the said River Severn.

Given under the Seal of Office of the Local Government Board, this 19th day of April, in the year 1881.

J. G. DODSON, President.
JOHN LAMBERT, Secretary.

(L.S.)

PART IV.

Official Documents.

Instructions as to setting out New Boundaries, and Division into Wards.

(Local Government Act Office, August 1864.)

The "Local Government Act 1858" provides (§ 16) that New Boundaries may be defined and set out for the purposes of the Act. § 24 provides for the Division of Districts into Wards. [Subsequent Legislation recognises these enactments.]

SETTING OUT NEW BOUNDARIES.

In devising New Boundaries care should be taken to enclose an area as compact as practicable.

Natural Divisions, such as rivers, brooks and smaller streams, constitute useful and readily defined Boundaries.

Roads, foot-walks, and known and defined Township Parish, or County Boundaries are also readily recognised, and may be adopted, if suitable.

New Boundary-lines should be commenced at some well-known place, and from such place should be defined from point to point. The several angles should be marked by letters or figures.

A full and clearly-written description of the proposed Boundary should accompany the Plan. The description should commence at (A), some easily recognisable place on the South of the proposed District, then describe Westward to (B), and so on to the completion of the Boundary. If a field-fence is taken, state the number of such field on the Tithe Map, or the Tenant or owner's name. The description should be clear, unmistakable, and as short as is consistent with accuracy of description. The name of the proposed District should be distinctly printed on the Map, with the area in acres.

DIVISION INTO WARDS.

Division into Wards is for purposes of Election of Members to serve on the Local Board.

A Map of the entire District, with name of District clearly printed thereon, must be provided, on which the Main Boundary is shewn.

The proposed division into Wards must be by lines, clearly defined on the Map of the District; brooks, roads, foot-walks, streets, fences, or other easily recognisable lines of division may be adopted.

Define such lines on the Map by a margin of colour.

Describe the proposed Boundary-line in writing, fixing and defining the several points by letters (A, B) or by figures (1, 2), and so on.

Print on the Map the name or number of each Ward.

Give the relative areas, population and rateable value of each Ward.

State the number of Members proposed to be elected for each Ward. The number must be divisible by 3, as one-third of the Members must retire each year, but may be re-elected.

A duplicate Map or Tracing must be provided by the Applicants in each case of setting out New Boundaries or division into Wards, such Map or Tracing to remain with this Office for future reference.

2.

Tables

SHOWING

The EQUAL ANNUAL AMOUNT OF PRINCIPAL, combined with INTEREST, which is requisite for the REPAYMENT OF LOANS, at Rates of Interest from Three to Six per Cent. per Annum, in any Period from One to Fifty Years.

[*These Tables were originally published in* 1862, *at Her Majesty's Stationery Office, under the authority, it is believed, of the Local Government Act Office. The copy used for this reprint had prefixed the words "Examined by the Actuary of the National Debt Office."*]

Rule.—To find the Annual Instalment to repay any amount with Interest in any number of Years from 1 to 50, at any rate of Interest from 3 to 6 per cent., multiply the sum to be repaid with Interest in equal Annual Instalments by the fraction of £1, which would repay £1, with Interest at the given rate in the given period, as shown in the 1st column of the Table opposite the number of years.

Or less exactly by proportion in sterling money,—as £100 is to the sum to be repaid, so is the Annual Instalment which would repay £100 in the given period, with the given rate of Interest, to the Annual Instalment required. The Instalment necessary to repay £100 is shown in the 3rd column opposite the given number of years.

Example:—To find the Annual Instalment to repay £5722 with Interest at 4½ per cent. per annum in 23 equal Annual Instalments.

1st Method:—

·070682 × £5722 = £404 8 10

or ·070682
5722
141364
141364
494774
353410
404·442404
20
8·848080
12
10·176960 = £404 8 10

2nd Method:—

As £100 : £5722 : : £7 1 4¼ : £404 8 3¼

20
141
12
1696
4
6785
5722
13570
13570
47495
33925
100)388237(70
4)388237
12)97059-¼
20)8038-3 = £404 8 3¼

TABLE SHOWING THE EQUAL ANNUAL AMOUNT OF PRINCIPAL COMBINED WITH INTEREST WHICH IS REQUISITE FOR THE REPAYMENT OF LOANS AT THE UNDERMENTIONED RATES OF INTEREST IN ANY PERIOD FROM 1 TO 50 YEARS.

Number of years in which Loans to be repaid.	3 per Cent. per Annum.						3½ per Cent. per Annum.						4 per Cent. per Annum.					
	Average Annual Instalment of Principal and Interest of						Average Annual Instalment of Principal and Interest of						Average Annual Instalment of Principal and Interest of					
	£1.			£100.			£1.			£100.			£1.			£100.		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
1	1·030000=1	0	7¼	103	0	0	1·035000=1	0	8½	103	10	0	1·040000=1	0	9½	104	0	0
2	0·522611	0	10 5½	52	5	2¾	0·526400	0	10 6½	52	12	9½	0·530196	0	10 7¾	53	0	4¾
3	0·353530	0	7 0¾	35	7	0¾	0·356934	0	7 1¾	35	13	10½	0·360349	0	7 2½	36	0	8½
4	0·269027	0	5 4¾	26	18	0¾	0·272251	0	5 5¼	27	4	6	0·275490	0	5 6	27	10	11¾
5	0·218354	0	4 4½	21	16	8½	0·221481	0	4 5¼	22	2	11½	0·224627	0	4 6	22	9	3
6	0·184597	0	3 8¼	18	9	2¼	0·187668	0	3 9	18	15	4	0·190762	0	3 9¾	19	1	6¼
7	0·160506	0	3 2½	16	1	0¼	0·163544	0	3 3¼	16	7	1	0·166610	0	3 4	16	13	2½
8	0·142456	0	2 10¼	14	4	11	0·145477	0	2 11	14	10	11¼	0·148528	0	2 11¾	14	17	0¾
9	0·128434	0	2 6¾	12	16	10½	0·131446	0	2 7½	13	2	10¾	0·134493	0	2 8¼	13	8	11¾
10	0·117231	0	2 4¼	11	14	5½	0·120241	0	2 4¾	12	0	5¾	0·123291	0	2 5½	12	6	7
11	0·108077	0	2 2	10	16	1¾	0·111092	0	2 2¾	11	2	2¼	0·114149	0	2 3½	11	8	3½
12	0·100462	0	2 0	10	0	11	0·103484	0	2 0¾	10	6	11¾	0·106552	0	2 1½	10	13	1¼
13	0·094030	0	1 10½	9	8	0¾	0·097062	0	1 11¼	9	14	1¼	0·100144	0	2 0	10	0	3½
14	0·088526	0	1 9¼	8	17	0½	0·091571	0	1 10	9	3	1¾	0·094669	0	1 10¾	9	9	4
15	0·083767	0	1 8	8	7	6¼	0·086825	0	1 8¾	8	13	7¾	0·089941	0	1 9½	8	19	10½
16	0·079611	0	1 7¼	7	19	2¾	0·082685	0	1 7¾	8	5	4½	0·085810	0	1 8½	8	11	7¾
17	0·075953	0	1 6¼	7	11	10¾	0·079043	0	1 7	7	18	1	0·082199	0	1 7¾	8	4	4¾
18	0·072709	0	1 5½	7	5	5	0·075817	0	1 6¼	7	11	7½	0·078993	0	1 7	7	17	11¾
19	0·069814	0	1 4¾	6	19	7½	0·072940	0	1 5½	7	5	10½	0·076139	0	1 6¼	7	12	3¼
20	0·067216	0	1 4¼	6	14	5¾	0·070361	0	1 5	7	0	8¾	0·073582	0	1 5¾	7	7	2
21	0·064872	0	1 3½	6	9	9	0·068037	0	1 4¼	6	16	1	0·071280	0	1 5	7	2	6¾
22	0·062747	0	1 3	6	5	6	0·065932	0	1 3¾	6	11	10½	0·069199	0	1 4½	6	18	4¾
23	0·060814	0	1 2½	6	1	7½	0·064019	0	1 3¼	6	8	0½	0·067309	0	1 4¼	6	14	7½
24	0·059047	0	1 2¼	5	18	1¼	0·062273	0	1 3	6	4	6½	0·065587	0	1 3¾	6	11	2
25	0·057428	0	1 1¾	5	14	10¼	0·060674	0	1 2½	6	1	4¼	0·064012	0	1 3¼	6	8	0¼
26	0·055938	0	1 1½	5	11	10½	0·059205	0	1 2¼	5	18	5	0·062567	0	1 3	6	5	1½
27	0·054564	0	1 1	5	9	1½	0·057852	0	1 2	5	15	8½	0·061239	0	1 2¾	6	2	5½
28	0·053293	0	1 0¾	5	6	7	0·056603	0	1 1½	5	13	2½	0·060013	0	1 2½	6	0	0¼
29	0·052115	0	1 0½	5	4	2¾	0·055445	0	1 1¼	5	10	10¾	0·058880	0	1 2	5	17	7¼
30	0·051019	0	1 0¼	5	2	0½	0·054371	0	1 1	5	8	9	0·057830	0	1 1¾	5	15	8
31	0·049999	0	1 0	5	0	0	0·053372	0	1 0¾	5	6	9	0·056855	0	1 1¾	5	13	8½
32	0·049047	0	0 11¾	4	18	1	0·052442	0	1 0½	5	4	10¾	0·055949	0	1 1½	5	11	10¾
33	0·048156	0	0 11½	4	16	3¾	0·051572	0	1 0¼	5	3	1¾	0·055104	0	1 1¼	5	10	2½
34	0·047322	0	0 11¼	4	14	7¾	0·050760	0	1 0¼	5	1	6¼	0·054315	0	1 1	5	8	7½
35	0·046539	0	0 11¼	4	13	1	0·049998	0	1 0	5	0	0	0·053577	0	1 0¾	5	7	1¾
36	0·045804	0	0 11	4	11	7¼	0·049284	0	0 11¾	4	18	6¾	0·052887	0	1 0¾	5	5	9¼
37	0·045112	0	0 10¾	4	10	2¾	0·048613	0	0 11¾	4	17	2¾	0·052240	0	1 0½	5	4	5¾
38	0·044459	0	0 10¾	4	8	11	0·047982	0	0 11½	4	15	11½	0·051632	0	1 0½	5	3	3¾
39	0·043844	0	0 10½	4	7	8¼	0·047388	0	0 11½	4	14	9¼	0·051061	0	1 0¼	5	2	1½
40	0·043262	0	0 10½	4	6	6¼	0·046827	0	0 11¼	4	13	7¾	0·050524	0	1 0¼	5	1	0½
41	0·042712	0	0 10¼	4	5	5	0·046298	0	0 11¼	4	12	7	0·050017	0	1 0	5	0	0½
42	0·042192	0	0 10¼	4	4	4¾	0·045798	0	0 11	4	11	7¼	0·049540	0	1 0	4	19	1
43	0·041698	0	0 10	4	3	4¾	0·045325	0	0 11	4	10	7¾	0·049090	0	0 11¾	4	18	2¼
44	0·041230	0	0 10	4	2	5½	0·044878	0	0 10¾	4	9	9	0·048665	0	0 11¾	4	17	4
45	0·040785	0	0 9¾	4	1	6¾	0·044453	0	0 10¾	4	8	11	0·048263	0	0 11½	4	16	6¼
46	0·040363	0	0 9¾	4	0	8¾	0·044051	0	0 10½	4	8	1¼	0·047882	0	0 11½	4	15	9¼
47	0·039961	0	0 9½	3	19	11	0·043669	0	0 10½	4	7	4	0·047522	0	0 11½	4	15	0½
48	0·039578	0	0 9½	3	19	2	0·043307	0	0 10½	4	6	7¼	0·047181	0	0 11¼	4	14	4¼
49	0·039213	0	0 9½	3	18	5	0·042962	0	0 10¼	4	5	11	0·046857	0	0 11¼	4	13	8½
50	0·038866	0	0 9¼	3	17	8¾	0·042634	0	0 10¼	4	5	3¼	0·046550		0 11¼	4	13	1¼

TABLE SHOWING THE EQUAL ANNUAL AMOUNT OF PRINCIPAL COMBINED WITH INTEREST WHICH IS REQUISITE FOR THE REPAYMENT OF LOANS AT THE UNDERMENTIONED RATES OF INTEREST IN ANY PERIOD FROM 1 TO 50 YEARS.

Number of years in which Loans to be repaid.	4½ per Cent. per Annum.						5 per Cent. per Annum.						6 per Cent. per Annum.					
	Average Annual Instalment of Principal and Interest of						Average Annual Instalment of Principal and Interest of						Average Annual Instalment of Principal and Interest of					
	£1.			£100.			£1.			£100.			£1.			£100.		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
1	1·045000=1	0	10¾	104	10	0	1·050000=1	1	0	105	0	0	1·060000=1	1	2½	106	0	0
2	0·533998	0	10	8¼	53	8	0	0·537805	0	10	9	53	15	7¼	0·545437	0	10	11	54	10	10½
3	0·363773	0	7	3¼	36	7	6½	0·367209	0	7	4¼	36	14	5	0·374110	0	7	5¾	37	8	2¾
4	0·278744	0	5	7	27	17	5¾	0·282012	0	5	7¾	28	4	0¼	0·288591	0	5	9½	28	17	2¼
5	0·227792	0	4	6¾	22	15	7	0·230975	0	4	7½	23	1	11½	0·237396	0	4	9	23	14	9½
6	0·193878	0	3	10½	19	7	9	0·197017	0	3	11¼	19	14	0¼	0·203366	0	4	0¾	20	6	8¾
7	0·169701	0	3	4¾	16	19	5	0·172820	0	3	5½	17	5	7¾	0·179135	0	3	7	17	18	3¼
8	0·151610	0	3	0½	15	3	2¾	0·154722	0	3	1	15	9	5½	0·161036	0	3	2¾	16	2	0¾
9	0·137574	0	2	9	13	15	1¾	0·140690	0	2	9¾	14	1	4½	0·147022	0	2	11¼	14	14	0½
10	0·126379	0	2	6¼	12	12	9	0·129505	0	2	7	12	19	0	0·135868	0	2	8¾	13	11	9
11	0·117248	0	2	4¼	11	14	6	0·120389	0	2	5	12	0	9¼	0·126793	0	2	6¼	12	13	7
12	0·109666	0	2	2¼	10	19	4	0·112825	0	2	3	11	5	7¾	0·119277	0	2	4¾	11	18	6¾
13	0·103275	0	2	0¾	10	6	6½	0·106456	0	2	1½	10	12	11	0·112960	0	2	3	11	5	11
14	0·097820	0	1	11½	9	15	7¾	0·101024	0	2	0¼	10	2	0½	0·107585	0	2	1¾	10	15	2
15	0·093114	0	1	10¼	9	6	2¾	0·096342	0	1	11¼	9	12	8½	0·102963	0	2	0¾	10	5	11¼
16	0·089015	0	1	9½	8	18	0¼	0·092270	0	1	10¼	9	4	6½	0·098952	0	1	11¾	9	17	11
17	0·085418	0	1	8½	8	10	10	0·088699	0	1	9¼	8	17	4¾	0·095445	0	1	11	9	10	10¾
18	0·082237	0	1	7¾	8	4	5¾	0·085546	0	1	8½	8	11	1	0·092357	0	1	10¼	9	4	8½
19	0·079407	0	1	7	7	18	9¾	0·082745	0	1	7¾	8	5	5¾	0·089621	0	1	9½	8	19	3
20	0·076876	0	1	6½	7	13	9	0·080243	0	1	7¼	8	0	5¾	0·087185	0	1	9	8	14	4½
21	0·074601	0	1	6	7	9	2½	0·077996	0	1	6¾	7	16	0	0·085005	0	1	8½	8	10	0
22	0·072546	0	1	5½	7	5	1	0·075971	0	1	6¼	7	11	11½	0·083046	0	1	8	8	6	1
23	0·070682	0	1	5	7	1	4¼	0·074137	0	1	5¾	7	8	3½	0·081278	0	1	7½	8	2	6¾
24	0·068987	0	1	4½	6	17	11¾	0·072471	0	1	5½	7	4	11¼	0·079679	0	1	7¼	7	19	4¼
25	0·067439	0	1	4¼	6	14	10½	0·070952	0	1	5	7	1	11	0·078227	0	1	6¾	7	16	5½
26	0·066021	0	1	4	6	12	0½	0·069564	0	1	4¾	6	19	1½	0·076904	0	1	6½	7	13	9¾
27	0·064719	0	1	3½	6	9	5¼	0·068292	0	1	4½	6	16	7	0·075697	0	1	6¼	7	11	4¾
28	0·063521	0	1	3¼	6	7	0½	0·067123	0	1	4¼	6	14	3	0·074593	0	1	6	7	9	2¾
29	0·062415	0	1	3	6	4	10	0·066046	0	1	4	6	12	1	0·073580	0	1	5¾	7	7	2
30	0·061392	0	1	2¾	6	2	9½	0·065051	0	1	3¾	6	10	1¼	0·072649	0	1	5½	7	5	3½
31	0·060443	0	1	2½	6	0	10¾	0·064132	0	1	3½	6	8	3¼	0·071792	0	1	5¼	7	3	7
32	0·059563	0	1	2¼	5	19	1½	0·063280	0	1	3¼	6	6	6¾	0·071002	0	1	5	7	2	0
33	0·058745	0	1	2	5	17	6	0·062490	0	1	3	6	4	11¾	0·070273	0	1	4¾	7	0	6½
34	0·057982	0	1	2	5	15	11½	0·061755	0	1	2¾	6	3	6	0·069598	0	1	4¾	6	19	2¼
35	0·057270	0	1	1¾	5	14	6½	0·061072	0	1	2¾	6	2	1¾	0·068974	0	1	4½	6	17	11½
36	0·056606	0	1	1½	5	13	2½	0·060435	0	1	2½	6	0	10½	0·068395	0	1	4½	6	16	9½
37	0·055984	0	1	1½	5	11	11¾	0·059840	0	1	2¼	5	19	8¼	0·067857	0	1	4¼	6	15	8½
38	0·055402	0	1	1¼	5	10	9¾	0·059284	0	1	2¼	5	18	6¾	0·067358	0	1	4¼	6	14	8½
39	0·054856	0	1	1¼	5	9	8½	0·058765	0	1	2	5	17	6½	0·066894	0	1	4	6	13	9½
40	0·054343	0	1	1	5	8	8¼	0·058278	0	1	2	5	16	6¾	0·066462	0	1	4	6	12	11
41	0·053862	0	1	1	5	7	8¾	0·057822	0	1	2	5	15	7¾	0·066059	0	1	4	6	12	1½
42	0·053409	0	1	0¾	5	6	9¾	0·057395	0	1	1¾	5	14	9½	0·065683	0	1	3¾	6	11	4½
43	0·052982	0	1	0¾	5	5	11½	0·056993	0	1	1¾	5	13	11¼	0·065333	0	1	3¾	6	10	8
44	0·052581	0	1	0¾	5	5	2	0·056616	0	1	1½	5	13	2¾	0·065006	0	1	3½	6	10	0¼
45	0·052202	0	1	0½	5	4	5	0·056262	0	1	1½	5	12	6¼	0·064701	0	1	3½	6	9	4¾
46	0·051845	0	1	0½	5	3	8¼	0·055928	0	1	1½	5	11	10½	0·064415	0	1	3½	6	8	10
47	0·051507	0	1	0½	5	3	0¼	0·055614	0	1	1¼	5	11	2¾	0·064148	0	1	3½	6	8	3½
48	0·051189	0	1	0¼	5	2	4½	0·055318	0	1	1¼	5	10	7¾	0·063898	0	1	3¼	6	7	9½
49	0·050887	0	1	0¼	5	1	9¾	0·055040	0	1	1¼	5	10	1	0·063664	0	1	3¼	6	7	4
50	0·050602	0	1	0¼	5	1	2¾	0·054777	0	1	1¼	5	9	6¾	0·063444	0	1	3¼	6	6	10¾

3.

Memorandum as to the "Borough Funds Act, 1872,"

35 & 36 Vict., c. 91.

[This Act requires, as one of the conditions on which the funds of Municipal Corporations, Local Boards, or other governing bodies may be charged with the expenses of promoting or opposing Bills in Parliament, that the promotion or opposition should have been consented to by the Local Government Board, so far as it relates to matters within the jurisdiction of that Board. The following memorandum has been issued by the Local Government Board for the guidance of Town Councils making applications for the consent of the Board under the Act referred to.]

Every application under the above-mentioned Act for the approval of the Local Government Board to a resolution of the Town Council of a Borough in favour of promoting or opposing a Bill in Parliament at the expense of the Borough or other local Rate should be accompanied by—

1. A copy of the Bill which is to be promoted or opposed, and a statement of the grounds of such promotion or opposition.

2. A statutory declaration by the Mayor, Town Clerk, or other officer of the Corporation, in the form set forth below, showing that the requirements of the above-mentioned Act have been complied with, and having annexed to it the several documents therein referred to.

Form of Statutory Declaration.

"I, *A.B.*, do solemnly and sincerely declare as follows:—

"1. On the day of a notice was advertised in the (being a local newspaper published and circulating in the Borough of) of a meeting to be held of the Council of the Borough, and of the purpose of such meeting.

"A copy of the newspaper containing an advertisement of the said notice is annexed hereto marked A.

"2. Such notice was in addition to the ordinary notice required for the summoning of a meeting of the Council.

"3. In pursuance of such notice a meeting of the Council was held on the day of , and a resolution was passed by an absolute majority of the whole number of the Council, of which resolution a copy is annexed hereto marked B.

"4. The said resolution was twice published in the , being a newspaper circulating in the district; viz., the first time on the day of and the second time on the day of

"Copies of the newspapers containing the publication of such resolution are annexed hereto marked respectively C and D.

"5. A requisition was made in writing by ratepayers or owners for the summoning of a meeting of owners and ratepayers of the Borough for the purpose of giving their consent to the promotion of (or opposition to) the said Bill, and a copy of the said requisition is annexed hereto marked E.

"6. On such requisition the Mayor fixed the time and place for holding a meeting of owners and ratepayers and gave public notice thereof.

"Such notice was advertised in the , being a newspaper circulating in the said Borough, on the day of , and was affixed on the principal doors of every church and chapel within the Borough.

"Copies of the notice and of the newspaper containing the advertisement of such notice are annexed hereto, marked respectively F. and G.

"7. On the day of a meeting of the owners and ratepayers of the Borough was held accordingly, and a resolution passed, of which a copy is hereto annexed marked H.*

"I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the 5th and 6th Years of the reign of His late Majesty, King William IV., intituled "An Act to repeal an Act of the present Session of Parliament, intituled 'An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits,' and to make other provisions for the abolition of unnecessary oaths."

Exhibits to be annexed to the above Declaration.

A. Copy of newspaper containing advertisement of notice of meeting of Council, and of purposes of such meeting.
B. Copy of resolution passed at meeting of Council.
C. Copy of newspaper containing the first publication of resolution of Council.
D. Copy of newspaper containing the second publication of resolution of Council.
E. Copy of requisition for a meeting of owners and ratepayers.
F. Copy of the notice of meeting of owners and ratepayers.
G. Copy of newspaper containing advertisement of notice of meeting of owners and ratepayers.
H. Copy of resolution passed at meeting of owners and ratepayers.

[Similar Memoranda applicable to Bills promoted or opposed by Improvement Commissioners and Local Boards have been issued by the Local Government Board.]

* If a poll was demanded and taken, here state the fact.

4.

Regulations made by the Public Works Loan Commissioners for carrying into effect the "Public Works Loans Act, 1875."[a]

1. All words used in these Regulations shall have the same meaning as is assigned to them by the "Public Works Loans Act, 1875," which Act is hereinafter referred to as "the Act."

* * * * * * *

7. The fees or sums to be paid by the applicants in respect of loans on Rates, pursuant to § 41, shall not exceed the following sums, viz.:—

For loans as hereunder :	£	*s.*	*d.*
Not exceeding £300	3	3	0
Exceeding £300 and not exceeding £500	5	5	0
„ £500 „ £1000	7	17	6
„ £1000 „ £2000	10	10	0
„ £2000 „	15	15	0

Where a loan is advanced by instalments secured by one deed, an additional fee of £3. 3*s.* shall be paid on account of each advance after the first.

In addition to the above, the applicants shall pay all disbursements incurred by the Loan Commissioners in respect of their several applications.

In cases of all business not being a loan on Rate, the sums payable shall be fixed by the Commissioners, regard being had to each particular case.

8. When the Loan Commissioners shall have determined upon any amount of money to be advanced by way of loan pursuant to § 9 of the Act, the said Commissioners, or any 3 or more of them, shall forthwith certify such amount to the Commissioners for the Reduction of the National Debt for the time being, and at the foot of every such certificate the Secretary shall state the name or names of the person or persons by whom every such certificate is to be presented to the said Commissioners for the Reduction of the National Debt, and upon every such certificate being lodged for 7 clear days at the office of the said Commissioners for the Reduction of the National Debt, the Comptroller General, or other proper officer of the said Commissioners, shall sign an Order appended to such certificate for the payment of the sum mentioned therein to the person or persons named at the foot of the certificate, or to one of such persons, which Order shall be addressed to the cashiers of the Governor and Company of the Bank of England; and the signatures of such person or persons. jointly or severally, shall be a sufficient discharge to the said Commissioners for the Reduction of the National Debt and to the said Governor and Company respectively, provided the total amount directed to be paid by such certificate or certificates respectively shall not at any time exceed the amount for the time being standing to the credit of the account referred to in § 16 of the Act.

9. Upon delivery to the borrower or his nominee of the certificate referred to in the last preceding Regulation such borrower or nominee shall pay at the office of the Loan Commissioners the amount of the fees referred to in Regulation No. 7 as payable on any loan or instalment of a loan for which such certificate shall have been issued, together with the amount of stamp duty thereon; and the further amount, if any, of disbursements in respect thereof, and the receipt for any such amounts, shall be signed by the officer in charge of the accounts, or, in his absence, by such person as may be nominated by the Secretary.

10. All moneys payable towards the discharge of advances made by the Loan Commissioners, and in payment of interest thereon, shall be paid by the borrower or his agent into the Bank of England to the credit of "The Public Works Loans Account," being the account directed by the Treasury under § 43; and such payments shall be made under authority to be obtained at the office of the Loan Commissioners empowering the Bank of England to receive the sum therein mentioned, and the receipt of the Bank of England for such payment shall be obtained at the office of the Loan Commissioners on the succeeding day.

11. Any receipt required to be given by or on behalf of the Loan Commissioners (other than for money paid into the Bank of England under Regulation No. 10, and for sums payable under Regulation No. 9), and any receipt and further discharge, if any, to be given when all money due under a mortgage has been fully paid, shall be so given by the Secretary.

12. Any notice required by § 23 of the Act to be published, shall be published once in a local paper circulating in the district where the Rate is intended to be levied.

13. All documents of the Loan Commissioners not required to be signed by them shall, if purporting to be signed by the Secretary, be deemed, until the contrary is proved, to be made or issued by the Loan Commissioners and all directions given, or acts done by the Secretary, shall be deemed, until the contrary is proved, to be given or done by the Loan Commissioners; and all documents may be proved by the production of a copy or extract purporting to be signed by the Secretary to be true.

For the purposes of this Regulation no proof shall be required of the handwriting or official position of the person purporting to be the Secretary.

(14.) The Loan Commissioners, regard being had to § 36 of the Act, shall whenever they advance a loan on the security of a Rate, inform the Local Government Board of such advance having been made and of the purposes thereof.

* * * * * * *

(*a*) From the 1*st Annual Report of the "Public Works Loans Board*, 1876." (House of Commons Paper, 1876, No. 269.)

(16.) To enable intending borrowers to make the statement referred to in § 13 of the Act, the Loan Commissioners shall cause a form of statement to be prepared and issued to such intending borrowers on their written notification of intention to borrow, which form, duly filled up, must be returned to the Loan Commissioners on or before 31st December in each year.

The Loan Commissioners may, provided such notification be received at their office on or before the said 31st December, extend the period for return of such form of statement to any day not later than the 14th January in each year.

(17.) The Assistant-Secretary of the Loan Commissioners shall, under their directions, be competent to perform any act authorised by the above Regulations to be performed by the Secretary.

The above Regulations received the approval of the Lords Commissioners of Her Majesty's Treasury on 13th April, 1876, and were published in the *London Gazette* of the 25th April, 1876.

By Order of the Board,

Public Works Loan Board, 30th May, 1876. (Signed) W. W. WILLINK, *Secretary.*

SUPPLEMENTARY REGULATIONS, 1880.[a]

1. All certificates which shall be given by the Loan Commissioners, pursuant to the 8th of the Regulations made on the 1st day of April, 1876, under the "Public Works Loans Act, 1875," for advances which are intended to be made out of moneys provided by the Commissioners for the Reduction of the National Debt, under the powers contained in the "Public Works Loans Act, 1879," shall be lodged at the office of the last-mentioned Commissioners for such number of days as may from time to time be agreed upon between the said Commissioners and the Loan Commissioners, anything contained in the said 8th Regulation to the contrary notwithstanding.

2. For the purpose of making payments to the Commissioners for the Reduction of the National Debt, on account of principal or interest in respect of moneys advanced by them to the Loan Commissioners under the "Public Works Loans Act, 1879," the Bank of England shall transfer in accordance with § 7 of the said Act, from the Public Works Loan Account to the credit of the National Debt Commissioners at the Bank of England, such sums as may from time to time be directed by the Loan Commissioners, and every such direction shall be signed by their Secretary or Assistant Secretary.

5.

Note as to Loans by the Public Works Loan Commissioners.

The following extract from the *1st Annual Report of the Public Works Loan Board*, 1876, is important as showing the principles on which the Board proceeds in making advances to Local Authorities:—

"As regards sanitary loans granted under recommendations by the Local Government Board, pursuant to § 44 of the "Public Health Act, 1872," and § 243 of the "Public Health Act, 1875," such recommendations . . . . . and the grants of such loans have been confined to sanitary purposes (in the ordinary acceptation, in the Board's opinion, of those words), such as water supply, sewerage, disposal of sewage, and the providing of hospitals, although the definition in the "Public Health Act, 1872," of the words "sanitary purposes" and "Sanitary Acts" might admit of a far wider interpretation; but the Public Works Loan Commissioners, in their view of the intention of the Legislature, have considered that they should not be justified in entertaining applications for loans on the terms authorised by the Sections of the Acts above referred to except for works strictly conducive to public health, and in this view, although it had been questioned, the Lords Commissioners of Her Majesty's Treasury expressed their concurrence."—(*Report*, 1876, p. 10.)

6.

The Transmission of Samples for the purposes of the "Sale of Food and Drugs Act, 1875."

REGULATIONS ISSUED BY THE POSTMASTER-GENERAL FOR THE TRANSMISSION BY POST OF SAMPLES FOR ANALYSIS.

(1.) Each packet must be addressed according to the official designation of the analyst as "Public Analyst," or otherwise, and the nature of its contents must be stated on the front of the packet.

(2.) Any postmaster at whose office a packet for a public analyst shall be tendered for registration, may refuse to accept it for this purpose unless it be packed in so secure a manner as to render it at least unlikely that its contents will escape, and injure the correspondence.

(*a*) *5th Annual Report of the* "*Public Works Loan Board*, 1879-80," (House of Commons Paper, 1880, Sess. 2, No. 208, p. 3.)

(3.) Liquids for analysis shall be contained in stout bottles or bladders, which shall be enclosed in strong wooden boxes with rounded edges—the boxes being covered by stout wrappers of paper or cloth; and no such package shall exceed 8 inches in length, 4 inches in width, and 3 inches in depth.

(4.) No packet whatever addressed to a public analyst shall exceed the dimensions of 18 inches in length, 9 inches in width, or 6 inches in depth.

(5.) The postage and registration fee on each packet must of course be prepaid.

REGULATIONS TO BE OBSERVED IN TRANSMITTING ARTICLES FOR ANALYSIS TO THE COMMISSIONERS OF INLAND REVENUE.

(1.) The sample retained by the purchaser, as stated in §§ 14 and 15 of the Act, should be carefully sealed up and secured either in paper or in a box, as the case may be.

(2.) The seal should bear a motto or devise not in common use, to enable its identity to be sworn to.

(3.) If sent through the post, the instructions issued by the Postmaster-General for the transmission of such samples should be carefully carried out, and the parcel should be addressed to—

THE COMMISSIONERS OF INLAND REVENUE
Inland Revenue Office,
Somerset House,
The Principal of the Laboratory. LONDON, W.C.

And in addition to the nature of the contents being stated on the front of the packet, as enjoined by the Postmaster-General, the name of the place whence sent should be stated.

If dispatched by railway or other conveyance, the address above given, with the name of the place from which forwarded, will be sufficient.

(4.) At the time the parcel is dispatched by Post or otherwise, a letter should be sent by Post to the Principal of the Laboratory, apprising him of the transmission of the sample for analysis, and stating the nature of the alleged adulteration, and such other particulars as may be considered necessary to facilitate the examination of the sample.

7.

Memorandum issued by the Local Government Board relative to the joint appointment of Medical Officers of Health, or Inspectors of Nuisances, for 2 or more Sanitary Districts.

Local Government Board, Whitehall, S.W., February, 1876.

By § 189 of the "Public Health Act," every Urban Sanitary Authority is required to appoint, from time to time fit and proper persons to be Medical Officer of Health and Inspector of Nuisances; and, by § 190, every Rural Sanitary Authority is required to appoint, from time to time, fit and proper persons to be Medical Officer or Officers of Health, and Inspector or Inspectors of Nuisances.

By § 191, sub-section 2, it is enacted that the same person may, with the sanction of the Local Government Board, be appointed Medical Officer of Health or Inspector of Nuisances for 2 or more districts, by the Local Authorities of such districts; and that the Local Government Board shall, by Order, prescribe the mode of such appointment, and the proportions in which the expenses of such appointment, and the salary and charges of the officer, shall be borne by the Authorities.

In those cases in which Sanitary Authorities, whether Urban or Rural, propose to make appointments in pursuance of § 191, sub-section 2, the following course of proceeding should be adopted:

Each of the Authorities proposing to combine should pass a resolution agreeing to combine with the other Authorities in the appointment of the same person as Medical Officer of Health or Inspector of Nuisances, as the case may be; and, when an arrangement has been arrived at as to the period for which the appointment is to be made, the amount of the salary to be paid to the officer when appointed, and the proportions to be borne by each Authority, copies of the resolutions embodying the proposals should be transmitted to the Local Government Board for their consideration.

If the proposal be sanctioned by the Board, they will then issue the Order required by the Statute.

The Order will provide:—

(*a.*) For the election of a Joint Committee, to consist of a certain number of members of each Authority, upon whom the appointment of the officer will devolve.

(*b.*) For convening a meeting of the Joint Committee, at which the appointment is to be made in the mode prescribed by the Order.

(*c.*) For the appointment of the Clerk of one of the Authorities to act as Clerk to the Committee, for the purpose of conducting the requisite proceedings in regard to the appointment.

(*d.*) For the proportions in which the salary and charges of the officer, as well as the expenses of the appointment, including the remuneration of the Clerk to the Joint Committee, shall be borne by the several Authorities.

(*e.*) For the tenure of office and duties of the officer; and also for his qualification in the case of a Medical Officer of Health.

(*f.*) For the re-appointment from time to time of the person elected under the Order, provided that the Sanitary Authorities by whom the appointment was made should be desirous of continuing his appointment for a further period.

When the appointment has been duly made, in pursuance of the Order, the Clerk to the Joint Committee should forthwith report the appointment to the Local Government Board for their approval.

JOHN LAMBERT, *Secretary.*

8.

Annual Reports of Medical Officers of Health to be prepared for the use of the Local Government Board.

Local Government Board, Whitehall, S.W.,
30th December, 1876.

Sir,

I am directed by the Local Government Board to forward to you, herewith, copies of Instructions which have been prepared by the Medical Officer of the Board with reference to the annual reports which are to be made by Medical Officers of Health appointed under the Board's Order of the 11th November, 1872(a); and I am to request that one of the copies may, without delay, be sent to each Medical Officer of Health in the Rural [or Urban] Sanitary District. I am also to enclose forms for use by the Medical Officers of Health in making their reports for 1876, three copies of which should, at the same time, be sent to each of them.

The Board attach much importance to the annual reports of the Medical Officers of Health. If carefully made in accordance with the instructions, the reports will afford valuable information and assistance both to the Sanitary Authority and to the Board. It is also important that they should be made within a reasonable time from the close of the year to which they relate, and the Board rely upon receiving, within the time specified, the copies which are to be transmitted to them.

I am, &c.,
John Lambert,
Secretary.

To the Clerk to the
Rural [or Urban] Sanitary Authority.

INSTRUCTIONS.

Every Medical Officer of Health, appointed under the Order of the Local Government Board dated the 11th November, 1872(a), is required to make an annual report with regard to each Sanitary District, or division of a district, which is under his superintendence. This report is to be for the year ending the 31st of December, or, if the officer at that date has not been in office for a whole year, then for so much of the year as has elapsed since his appointment. The report is to be made to the Sanitary Authority, and a copy of it is to be sent by the Medical Officer of Health to the Local Government Board. It should be made as soon as practicable after the expiration of the year to which it relates. The Medical Officer of Health ought not, in general, to have any difficulty in doing this within a month or 6 weeks; but if from any special circumstances the report cannot be completed within 6 weeks, it should be understood that the delay must not be indefinite, and that the report, complete or incomplete, should be in the hands of the Sanitary Authority within, at most, 3 months from the end of the year. The Board's copy of the report should be forwarded to them when the original is sent to the Sanitary Authority, except where the report is likely to be printed by order of the Authority. In such cases the Board need only be supplied with a printed copy. But in all cases in which the report cannot be sent to the Board within 6 weeks from the end of the year, they should be informed by the Medical Officer of Health as to the reason for the delay.

Article 14 of § 4 of the Board's Order (a copy of which Section is printed below) provides that the annual report is to contain information as to the sickness and deaths that have occurred during the year; the measures taken in order to prevent the spread of disease; and the proceedings of the Medical Officer of Health. It would be well if the report, so far as it relates to the Medical Officer of Health's proceedings, were, in the main, the same in arrangement as the articles which deal with these proceedings; thus stating first what has been done under articles 1—3, which make it the duty of the Medical Officer of Health to inform himself as to the sanitary state of the district, and to make the inquiries and inspections necessary for this purpose; next, the advice which has been given to the Sanitary Authority under articles 4 and 5; and, lastly, the action he has taken under articles 6—10 in the several matters therein referred to.

As regards the duties imposed under these several articles, each of which will thus be reported on, special attention should be had to the provisions of Article 3, which directs systematic inspections of the district to be made by the Medical Officer of Health, apart from the inquiries which under other Articles of the Order he has to make into particular outbreaks of disease, or into unwholesome conditions to which his attention may have been specially called by complaints or otherwise. The object of these systematic inspections is that the Medical Officer of Health may assure himself that he is well acquainted with all the discoverable circumstances which are likely to affect the public health in his district. How often these inspections require to be made, and how detailed the inquires should be, must be determined by the particular circumstances of the locality. In some neighbourhoods a house-to-house inspection should as far as practicable be made; in others this may not be needful; but every Medical Officer of Health should at certain times set himself to examine into the state of his District, devoting some time to each portion of it, so as to be sure that no part escapes his notice. In making such an inspection the Medical Officer of Health will usually require the assistance of the Inspector of Nuisances. Of these inspections, of the judgment he has formed thereon as to the sanitary state of his District, and of the advice he has in consequence given to the Sanitary Authority, and the action taken by the Authority thereon, the annual report should contain a full account.

As regards the tabular statements of sickness and mortality (forms for which statements are now issued by the Board) only one observation appears to be needful. The district under the superintendence of a Medical Officer of Health will often contain several parts evidently differing in their circumstances, or having very

(a) The Order here alluded to was replaced in 1880 by a new one in very similar terms which will be found, *post*. But in reading Dr. Seaton's letter it must be remembered that his allusions are to the old Order.

different death rates, either of all registered deaths, or of those from some particular disease or class of diseases. The observation of these differences can scarcely fail to lead to valuable information, and it is in view of those differences that in Article 14 the tabular statements are required to be classified according to *localities*, and that provision for such a classification is made in the enclosed forms for returns of deaths. In the absence of any ascertained differences of the above sort, it will still be desirable to classify the deaths of the district according to the part of the District in which they occur; and for this purpose any areas of known population (such a parishes, townships, or wards) may be taken as representing "*localities*" for the purposes of the Order. Classification on this basis will be likely to lead to the discovery of real differences when the returns for several years can be compared together.

Having regard to the imperfect character of the information which is obtainable as to non-fatal sickness, such a classification cannot, it seems, be generally attempted in the sickness returns; but in particular cases Medical Officers of Health may be able, and may find it useful, so as to classify the pauper sickness of which they receive information.

What has been said above with regard to the information which an annual report should contain must be understood, not as suggesting that the report should be limited to these subjects, or that more detailed or differently arranged tabular statements may not be added, but as indicating the minimum of information which will satisfy the requirements of the Board's Order. Many Medical Officers of Health will doubtless, and with great advantage to the administration of their District, give much more detailed information than they are actually required to furnish, and will give especial prominence to the questions to which they have been led by the circumstances of the past year to devote particular attention, or in the investigation of which they may have arrived at valuable conclusions. Any information of this kind will be gladly received by the Local Government Board.

EDWARD C. SEATON, M.D.,
Medical Officer.

Local Government Board,
December, 1876.

9.

Circular of the Local Government Board respecting its New Code of Model By-Laws.[a]

Local Government Board, Whitehall, S.W.,
25th July, 1877.

SIR,

I am directed by the Local Government Board to forward herewith, for the use of the Urban Sanitary Authority, printed copies of a selection of Model Forms which the Board have caused to be prepared for the guidance of Sanitary Authorities in framing By-Laws under the "Public Health Act, 1875," and the other statutory provisions which, by the operation of that Act, are rendered applicable to their respective Districts.

In the preparation of these Forms the Board have not hesitated to seek assistance from advisers whose practical experience rendered their criticism of the proposed clauses of especial value. Thus, through the ready co-operation of the authorities of the City of London, the Board have been enabled to obtain from the officers charged with the superintendence of the markets of that city many useful observations upon the clauses suggested as By-Laws for the regulation of provincial markets. From the varied and extensive information at the disposal of the Commissioners of Police of the Metropolis, the Board have derived much assistance in the compilation of the series relating to hackney carriages and common lodging-houses. The Board have been also favoured with a very comprehensive and elaborate statement of the views of the Royal Institute of British Architects upon the By-Laws for the regulation of new streets and buildings.

Equal care has also been bestowed upon the work of rendering the model series free from objection upon legal grounds. The Board have endeavoured to exclude every provision of doubtful validity, and to confine the clauses strictly within the limits imposed by the statutory enactments by which they are authorised.

In their selection of the subjects, the Board have been chiefly influenced by their experience of the ordinary requirements of Sanitary Authorities; though the Board hope to be able, as time and opportunity permit, to extend their model code to the whole range of matters to which By-Laws under the "Public Health Act" relate.

The contents of the series of which copies accompany this circular may be thus summarised:—

* * * * * * *

The prefatory Memoranda accompanying the several series of By-Laws will, in most cases, be found to indicate the points of chief importance to which it is necessary that the attention of the Sanitary Authority should be directed in connection with the special subjects to which those series relate.

But the Board may here explain, with reference to the By-Laws for the regulation of new streets and buildings, the reasons that have induced them to abstain, for the present, from suggesting clauses with regard to certain matters for which Sanitary Authorities have in many instances proposed to make By-Laws.

It will be seen that the model series contains no By-Laws specifying provisions for the sewerage of new streets, and the reason for this is that the conditions which such By-Laws must satisfy are, to so great an extent, dependent upon the varying circumstances of different localities. The Board do not anticipate that inconvenience will result from the absence of satisfactory By-Laws with respect to sewerage, for it may be doubted whether any powers, which under such By-Laws may be lawfully assumed by Sanitary Authorities, will, as regards extent and efficacy, compare with the powers which they derive from the express provisions of the "Public Health Act."

(*a*) When a Code of By-Laws on any subject is promulgated which is to supersede an existing Code, it is desirable that a note of the fact should be prefixed to the new Code.

Frequent applications have been made to the Board for confirmation of a By-Law prescribing a minimum height for habitable rooms, and it has been sought to justify such a provision as being a By-Law with respect to ventilation, and as being authorised by § 157 (3) of the "Public Health Act, 1875." The form of By-Law generally proposed has been regarded as open to objection upon several grounds, and the important question as to whether the requirement of a minimum height for habitable rooms can be enforced by means of a By-Law with respect to ventilation, under the enactment above mentioned, suggests so many serious considerations that the Board have decidedto submit a Case for the opinion of the Law Officers of the Crown upon the numerous points which have been raised in connection with the suggested By-Law.

The Board now desire to advert to those provisions of the "Public Health Act, 1875," to which, as affecting By-Laws generally, the attention of Sanitary Authorities should be directed.

It is provided by § 182 that "no By-Law made under this Act by a Local Authority shall be of any effect if repugnant to the laws of England or to the provisions of this Act." From this enactment several important rules may be deduced. A By-Law to be in harmony with the laws of England must be certain and determinate, and likewise reasonable, and hence arises the necessity for the use of certain and definite language in prescribing rules which are destined to have, locally, the binding effect of a statute.

The Board have, from time to time, had occasion to point out to Sanitary Authorities that the assumption in their By-Laws of the power of suspending the operation of particular provisions in individual cases is open to much objection. Frequently the conditions under which this power may be exercised have been left undetermined in the By-Laws; and the result is to impart a general uncertainty to provisions of which the precise scope should be clearly defined. Again, the Board have been called upon to criticise By-Laws which, while purporting to lay down rules enforceable by penalties, ignore the necessary details and substitute vague conditions which render compliance with the By-Laws dependent upon the approval, by the Sanitary Authority or their officers, of the mode of proceeding in each case. Such By-Laws also are open to objection on the ground of uncertainty, and they do not fulfil the purpose for which the power of making By-Laws was conferred upon Sanitary Authorities. The Board think that every person who, by neglect of the rules which a By-Law is intended to prescribe, may be rendered liable to a penalty is entitled to demand from those who impose such rules a clear statement of the course of action which must be followed or avoided.

Further, a By-Law must be reasonable. The exercise of the power which the Legislature has confided to Sanitary Authorities must frequently bring them into contact with important interests. Within certain limits, they may regulate the conduct of persons employed in certain specified callings. They may impose restrictions upon the enjoyment of individual rights and privileges. Trade and property may, under certain conditions, be affected by their action. These considerations point to the necessity for prudence and deliberation in the choice of By-Laws, so that the duties and restraints which they create may not interfere oppressively with individual freedom of action.

A By-Law under the "Public Health Act, 1875," will also be invalid if it be repugnant to the provisions of that Act. Parliament has specified a variety of purposes for which By-Laws may be made. For those purposes alone are By-Laws authorised; and, as the Court of Queen's Bench decided in the case of *Reg.* v. *Wood* (5 E. & B., 49; S. C. *nom. Reg.* v. *Rose*, 24 L. J., N. S., M. C., 130; 1 *Jur.*, N. S., 802), Sanitary Authorities cannot legally assume the power of making By-Laws for carrying out the general objects of the Act. It follows, therefore, that every By-Law must be strictly limited with reference to the terms of the specific enactment from which its force is derived. Any attempt, by the strained construction of any such enactment, to extend the range of a By-Law should especially be avoided. But, while it is of primary importance in framing a By-Law to consider closely the language of the statutory provision which declares its purpose, the exact meaning of that language can never be safely determined without careful comparison of other enactments relating to the same or to kindred topics.

It must always be remembered that By-Laws are designed to supplement, and not to vary or supersede the express provisions of the Statute Law. In the "Public Health Act, 1875," and in the incorporated clauses, the subjects of By-Laws may sometimes appear identical with those of specific enactments. But, in all such cases, a closer examination will show that the subjects are not really identical.

And, however difficult it may be to detect the points of difference in a few exceptional instances, a safe rule may be deduced from the obvious considerations that a By-Law which merely repeats a statutory enactment is, to that extent, surplusage, and that a By-Law which aims at altering or amending such an enactment is rendered invalid by the proviso in § 182 of the "Public Health Act, 1875."

In the next place, it should be observed that By-Laws under the Act of 1875 cannot take effect until they have been submitted to and confirmed by the Local Government Board; and, before By-Laws can be confirmed, 2 preliminary conditions must have been satisfied. Notice of intention to apply for confirmation must be given in one or more of the local newspapers, circulated within the district to which the By-Laws relate, one month at least before the making of the application; and, for one month at least before the application, a copy of the proposed By-Laws must be kept at the office of the Sanitary Authority, and must be open during office hours thereat to the inspection of the ratepayers of the district to which the By-Laws relate, without fee or reward. Further, the Clerk of the Local Authority is required, on the application of any ratepayer, to furnish him with a copy of the proposed By-Laws or any part thereof, on payment of 6*d.* for every 100 words contained in the copy.

It should also be noted that, by the last clause of § 184 of the 38 & 39 Vict., c. 55, it is enacted that a By-Law required to be confirmed by the Local Government Board shall not require confirmation, allowance, or approval by any other Authority.

Another important provision in relation to By-Laws is that contained in § 183 of the 38 & 39 Vict., c. 55. That Section empowers any Local Authority, by any By-Laws made by them under the Act, to impose on offenders against the same such reasonable penalties as the Local Authority think fit, not exceeding the sum of £5 for each offence, and in the case of a continuing offence a further penalty not exceeding 40*s.* for each day after written notice of the offence from the Local Authority.

All such By-Laws imposing any penalty should be so framed as to allow of the recovery of any sum less than the full amount of the penalty ; and nothing in the provisions of any Act incorporated with the 38 & 39 Vict., c. 55, will authorise the imposition or recovery, under any By-Laws made in pursuance of such provisions, of any greater penalty than the penalties specified in § 183.

Among other provisions in the 38 & 39 Vict., c. 55, relating directly or indirectly to By-laws, attention may be directed to the following : All By-Laws made by a Local Authority under the Act, or, for purposes the same as or similar to those of the Act, under any Local Act, are to be printed and hung up in the office of the Authority, and a copy thereof is to be delivered to any ratepayer of the district to which such By-Laws relate, on his application for the same (§ 185). A copy of any By-Laws made under the Act by a Local Authority (not being the Council of a Borough), signed and certified by the Clerk of such Authority to be a true copy, and to have been duly confirmed, will be evidence, until the contrary is proved, in all legal proceedings, of the due making, confirmation, and existence of such By-Laws without further or other proof. (§ 186.)

Any person who destroys, pulls down, injures, or defaces any board on which any By-Law is inscribed will, if the same was put up by authority of the Local Authority, be liable for every such offence to a penalty not exceeding £5 (§ 306).

By-Laws made by the Council of any Borough under the provisions of § 90 of the 5 & 6 Will. IV., c. 76, for the prevention and suppression of certain nuisances, do not require to be sent to a Secretary of State, nor will they be subject to the disallowance in that Section mentioned, but all provisions of the "Public Health Act, 1875," relating to By-Laws, will apply to the By-Laws so made, as if they were made under that Act. (§ 187).

Next, it should be observed that § 188 of the 38 & 39 Vict., c. 55, enacts that the provisions of the Act relating to By-Laws shall not apply to any Regulations which a Local Authority is by the Act authorised to make ; nevertheless any Local Authority may cause any Regulations made by them under the Act to be published in such manner as they see fit. Hence it follows that the Regulations which an Urban Authority may make, under § 189, with respect to the duties and conduct of their officers and servants, and the Regulations which, under Rule 1 of the 1st Schedule to the Act, every Local Board may make with respect to the summoning, notice, place, management, and adjournment of their meetings, and generally with respect to the transaction and management of their business under the Act, do not require confirmation by the Local Government Board.

It may be also noted that any By-Law made by any Sanitary Authority under the "Sanitary Acts" which is inconsistent with any of the provisions of the "Public Health Act, 1875," is, so far as it is inconsistent therewith, to be deemed to be repealed (§ 315) ; but all By-Laws duly made under any of the "Sanitary Acts" by the "Public Health Act" repealed, and not inconsistent with any of the provisions of that Act, are to be deemed to be By-Laws under that Act (§ 326).

The Board desire me to add a few remarks in explanation of the method of procedure which they suggest for adoption by Sanitary Authorities in submitting By-Laws for revision and confirmation. The Board have caused to be printed on foolscap paper, with an ample margin for annotations, the whole of the clauses comprised in the model series of which copies accompany this circular. Every Sanitary Authority desirous of making new By-Laws or of amending existing By-Laws will, on application to the Board, be supplied with the necessary draft forms. If, in any case, the model clauses require alteration to suit the special circumstances of a particular District, the proposed variations should be clearly shown in manuscript in the margin of the draft. The Board will then be readily able to direct their attention to these variations, and to state their views upon any points which may arise. When the final revision of the draft has been completed, and the Sanitary Authority have been informed of the decision of the Board with regard to the allowance or disallowance of the several clauses, a fair copy embodying the contents of the draft as revised, and carefully compared with the original to ensure the correction of possible errors, should be prepared for deposit at the office of the Sanitary Authority, and for inspection by the ratepayers.

After the necessary notice of the intention of the Sanitary Authority to apply for confirmation of the By-Laws, and after due consideration of any objections made by persons locally interested, the By-Laws, with the common seal of the Sanitary Authority properly affixed at a meeting of which the precise date should be notified at the end of each series, should be transmitted to the Board, together with copies of the newspapers containing the advertisement required by § 184.

In order that delay in the confirmation of By-Laws may be avoided, the Board desire to impress upon Sanitary Authorities the necessity for careful examination, with the original draft, of the fair copy deposited for inspection, and of the By-Laws finally submitted to the Board. It is also important that the advertisement of the intention of the Sanitary Authority to apply for confirmation should be so framed as to comply strictly with the provisions of § 184 ; and, indeed, in all respects the requirements of that enactment should be fully satisfied.

In conclusion, the Board desire me to add that, while throughout the Model By-Laws they have, for the sake of convenience, uniformly used the expression "Sanitary Authority," it is expedient that the distinctive title of each Urban Authority should appear in the By-Laws which they submit for confirmation. The Urban Authority should either substitute the designation "Town Council," "Improvement Commissioners," or "Local Board," as the case may require ; or, if they retain in the By-Laws the expression "Sanitary Authority," they should insert at the commencement of each series an interpretation clause clearly describing the particular body which this expression is intended to denote.

It also appears to be desirable, in the case of By-Laws made by a Town Council, that the word "Borough" should be substituted for the word "District," or that the interpretation clause should be extended to the latter term.

I am, Sir, your obedient Servant,

JOHN LAMBERT, *Secretary.*

To the Clerk to the Urban Sanitary Authority.

[*** Shorter forms of this Circular and modified as necessary have been issued to Clerks of Rural Sanitary Authorities.]

10.

Circular respecting the "Rivers Pollution Prevention Act, 1876."

Local Government Board, Whitehall, S.W.,
6th August, 1877.

Sir,

I am directed by the Local Government Board to bring under the notice of the Sanitary Authority the provisions of the "Rivers Pollution Prevention Act, 1876," (39 & 40 Vict., c. 75); and in so doing, to point out that after the 15th instant the proceedings authorised by the Act, in respect of offences arising from sewage, manufacturing, or mining pollutions, may be taken.

The Sanitary Authority are doubtless aware that it has been competent for them to enforce the prohibition against putting solid matters into streams, from the date of the passing of the Act.

Offences against the Act.

Offences against the Act are divided into four classes, according as they consist of the pollution or obstruction of streams:—

(1.) By the solid refuse of any manufactory, manufacturing process, or quarry, or any rubbish or cinders, or any other waste, or any putrid solid matter;

(2.) By solid or liquid sewage matter;

(3.) By any poisonous, noxious, or polluting liquid from any factory or manufacturing process; or

(4.) By the solid matter from any mine, in such quantities as to prejudicially interfere with the due flow of the stream, or by any poisonous, noxious, or polluting solid or liquid matter from any mine, other than water in the same condition as drained or raised from the mine.

In proving the pollution of the stream, or interference with its due flow, in the 1st class of cases, evidence may be given of repeated acts, which together cause the pollution or interference, although each act, taken by itself may not be sufficient for that purpose.

It will be an offence of the 2nd class, except in certain exceptional cases mentioned in the Act, to cause to fall or flow, or knowingly to permit to fall or flow, or to be carried into any stream any solid or liquid sewage matter.

The Board are desirous of specially drawing the attention of the Sanitary Authority to the provisions in relation to sewage pollutions, inasmuch as any infringement of them will render the Authority liable to hostile proceedings under the Act on the part either of other Sanitary Authorities, or of any person or body of persons aggrieved by the commission of the offence.

In determining whether or not such an offence has been committed, it should be noted that a marked distinction is drawn between the cases in which the sewage is conveyed into the stream along channels, the construction of which had not been commenced at the time of the passing of the Act, and those in which it is so conveyed along channels then already existing, or in process of construction. In the former cases it will be an offence against the Act for any Sanitary Authority to cause or permit the discharge into any stream of any solid or liquid sewage matter. In the latter an offence will not be deemed to have been committed if it can be shown to the satisfaction of the Court having cognisance of the case that the best practicable and available means are used to render the sewage harmless. Moreover, in this class of cases the important power has been given to the Board of suspending, in any particular instance, for a limited period the operation of this portion of the Act beyond the 12 months allowed by the Statute, provided that they are satisfied, after Local Inquiry, that further time ought to be granted to the Sanitary Authority for the purpose of enabling them to adopt the best practicable and available means for rendering the sewage harmless.

In connection with offences of this class it should be stated that where any Local Authority or any Rural or Urban Sanitary Authority have been empowered or required by any Act of Parliament to carry any sewage into the sea or any tidal waters, nothing done by such Authority in pursuanee of such enactment will be deemed to be an offence against the Act.

As regards pollutions from factories or manufacturing processes, a distinction is drawn similar to that already referred to with respect to sewage pollutions, between the cases where the liquid finds its way into the stream along a channel used, constructed, or in process of construction at the date of the passing of the Act, or any new channel constructed in substitution thereof, and having its outfall at the same spot, and those in which it is conveyed into the stream along a channel not falling under either of the above descriptions. In the former cases an offence against the Act will not be deemed to have been committed, if it can be shown to the satisfaction of the Court having cognisance of the case that the person complained of is using the best practicable and reasonably available means to render the liquid harmless.

With respect to pollutions from mines, an offence will not be deemed to have been committed if it can be shown to the satisfaction of the Court that the person complained of is using the best practicable and reasonably available means to render the polluting matter harmless; and it must be observed that it is immaterial in this case whether the channel by which the discharge is effected was or was not constructed or in process of construction before the passing of the Act.

Administration of the Law.

It will be observed that the new and important powers and duties conferred upon Sanitary Authorities, with a view to prevent the pollution of streams, apply not only to rivers, streams, canals, lakes, and certain watercourses, but also to the sea to such extent, and tidal waters to such point, as may be determined by the Board.

Subject to certain restrictions contained in the Act, every Sanitary Authority will have power to enforce its provisions in relation to any stream which is within, or which passes through or by any part of their district; and for this purpose they may institute proceedings in respect of any offence against the Act which causes

within their disirict the pollution of any stream, or an interference with its due flow. These proceedings may be taken either against any other Sanitary Authority or against any person or body of persons, and whether or not the offence is committed within the district of the prosecuting Authority.

Any expenses incurred by a Sanitary Authority in the execution of the Act will be payable as if they were expenses incurred by the Authority in the execution of the "Public Health Act, 1875."

Restrictions on Proceedings.

As has been already stated, an interval of 12 months from the passing of the Act is required in certain cases to elapse before proceedings can be instituted. Independently of this restriction, no proceedings can be taken in any case in respect of any offence under the Act, until the expiration of 2 months after written notice has been given to the offender; nor may any such proceedings be taken while other proceedings under the Act are pending in relation to the offence.

No proceedings can be taken in respect of offences arising from the discharge into streams of the liquid refuse from manufactories, or the solid or liquid refuse from mines, without the consent of the Board.

In giving or withholding their consent the Board are to have regard to the industrial interests involved in the case, and to the circumstances and requirements of the locality; and they are prohibited from giving their consent to proceedings by the Sanitary Authority of any district which is the seat of any manufacturing industry, unless they are satisfied, after due inquiry, that means for rendering harmless the liquid refuse from the processes of such manufactures are reasonably practicable and available under all the circumstances of the case, and that no material injury will be inflicted by such proceedings on the interests of such industry.

When the consent of the Board has been given to the proceedings, it will still be competent to the person against whom they are proposed to be taken, to object before the Sanitary Authority to their being taken; and the Authority, if required in writing by such person, must thereupon allow him to be heard before them by himself, his agents and witnesses; and after inquiry they are to determine whether or not the proceedings shall be taken, having regard to the same considerations as those by which the Board are to be guided in giving or withholding they consent.

Where any Sanitary Authority have taken proceedings under the Act, it will not be competent to other Sanitary Authorities to do so till the party complained of has failed to carry out, within a reasonable time, the Order of any competent Court under the Act.

It should here be mentioned that whereas proceedings in respect of other offences against the Act may be taken by any person aggrieved by the commission of the offence, the enforcement of the Act, so far as it relates to prosecutions in respect of mining and manufacturing pollutions, has for the present devolved exclusively on Sanitary Authorities. It must, however, be borne in mind that if the Sanitary Authority, on the application of any person interested, refuse to take proceedings in respect of these pollutions, or to apply for the consent of the Board for that purpose, the person so interested may apply to the Board; and if they, on inquiry, are of opinion that the Sanitary Authority should take proceedings, they may give directions accordingly, in which case the Authority are thereupon required by the Act to commence proceedings.

Every Sanitary or other Local Authority having sewers under their control, are required by the Act to give facilities for enabling manufacturers within their district to carry the liquids proceeding from their factories or manufacturing processes into such sewers.

It is, however, expressly provided that this enactment shall not compel the Authority to admit into their sewers any liquid which would prejudicially affect the sewers, or the disposal by sale, application to land, or otherwise, of the sewage matter conveyed along them, or which would, from its temperature or otherwise, be injurious in a sanitary point of view. Nor are the Authority to be required to give such facilities where their sewers are only sufficient for the requirements of their district, nor where such facilities would interfere with any Order of any Court of competent jurisdiction respecting the sewage of the Authority.

Proceedings against Offenders.

The Act, while providing that the powers which it confers shall be cumulative, and that no act or default which would otherwise be a nuisance or contrary to Law shall be legalised by it, has for the first time rendered the pollution and obstruction of streams, wherever situated, a statutory offence, in respect of which the County Court having jurisdiction in the place where the offence is committed, may make a summary Order, requiring the offender to discontinue the pollution or obstruction. Any such Order may, if the offence consists in default to perform a duty, require the offender to perform the duty, and specify the manner in which this is to be done, and may impose a penalty not exceeding £50 a day for every day during which the offender continues in default. In the event of his continuing in default for a period of not less than a month, or such other shorter period as may be prescribed by the Order, the County Court is enabled, in addition to the penalty imposed, to appoint one or more persons to carry the Order into effect, and to provide for the recovery from the offender of the consequent expenses.

Appeals may be made from the decision of the County Court to the High Court of Justice; and any County Court plaint under the Act may be removed into the High Court of Justice by leave of any Judge of such Court.

Certificates of Inspectors of the Board.

One of the most important provisions in the Act is that under which Inspectors of proper qualifications appointed by the Board, are authorised to grant certificates to the effect that the means used for rendering harmless any sewage, or poisonous, noxious, or polluting solid or liquid matter discharged into any stream are the best or only practicable and available means under the circumstances of the particular case. Such certificates will, in all Courts and proceedings under the Act be conclusive evidence of the fact, and they must also be taken into consideration by any Court before which any legal proceedings are pending with reference to the pollution of any stream, although such preceedings may not have been instituted under the Act. If any party is aggrieved by the grant or withholding of a certificate, an appeal may be made to the Board against the decision of the Inspector; and the Board may either confirm, reverse, or modify his decision, and may make such Order as to the party or parties by whom the costs of the appeal are to be borne, as they may think just.

The certificate will continue in force for a period to be named therein, not exceeding 2 years; and at the expiration of that period it may be renewed for the like or any less period. The expense of obtaining the certificate must be paid by the applicants.

The Board may state that they have already appointed Mr. Robert Rawlinson, C.B., their Chief Engineering Inspector, and Dr. Angus Smith, F.R.S., the Chief Inspector under the Alkali Acts, as Inspectors for granting the certificates referred to.

The above is a summary of the more important provisions of the Act, so far as they relate to Sanitary Authorities. It is hoped that they may conduce in no inconsiderable degree to the mitigation of existing and the prevention of future pollutions; and that at the same time they will not be found to have imposed undue restrictions upon Local Authorities, or the manufacturing or mining interests of the country.

I am, Sir,

Your obedient Servant,

To the Clerk to the Sanitary Authority. John Lambert, *Secretary.*

11.

General Memorandum issued by the Local Government Board on the Proceedings which are advisable in places attacked or threatened by Epidemic Disease.

1. Wherever there is prevalence or threatening of cholera, diphtheria, fever, or any other epidemic disease, it is of more than common importance that the statutory powers conferred upon Sanitary Authorities for the protection of the public health should be well exercised by those Authorities, acting with the advice of their Medical Officers of Health.

2. Proper precautions are equally requisite for all classes of society. But it is chiefly with regard to the poorer population, therefore, chiefly in the courts and alleys of towns, and at the labourers' cottages of country districts, that Local Authorities are called upon to exercise vigilance, and to proffer information and advice. Common lodging-houses, and houses which are sub-let in several small holdings, always require particular attention.

3. Wherever there is accumulation, stink, or soakage, of house refuse, or of other decaying animal or vegetable matter, the nuisance should as promptly as possible be abated, and precaution should be taken not to let it recur. Especially examination should be made as to the efficient working of sewers and drains, and any nuisance therefrom, or from any foul ditches or ponds, should be got rid of without delay. The ventilation of sewers, the ventilation and trapping of house drains, and the disconnection of cistern overflows and sink pipes from drains should be carefully seen to. The scavenging of the district, the state of receptacles for excrement, and of dust bins, will require particular and sustained attention. In slaughter-houses, and wherever animals are kept, strict cleanliness should be enforced.

4. In order to guard against the harm which sometimes arises from disturbing heaps of offensive matter, it is often necessary to combine the use of chemical disinfectants (see § 17) with such means as are taken for the removal of filth; and in cases where removal is for the time impossible or inexpedient, the filth should always be disinfected. Disinfection is likewise desirable for unpaved earth close to dwellings, if it be sodden with slops and filth. Generally, where cholera or enteric (typhoid) fever is in a house, the privy requires to be disinfected.

5. Sources of water-supply should be well examined. Those which are in any way tainted by animal or vegetable refuse, above all, those into which there is any leakage or filtration from sewers, drains, cesspools, or foul ditches, ought no longer to be drunk from. Especially where the disease is cholera, diarrhœa, or enteric fever, it is essential that no foul water be drunk. If unfortunately the only water which for a time can be got should be open to suspicion of dangerous organic impurity, it ought at least to be boiled before it is used for drinking, but then not to be drunk later than 24 hours after it has been boiled. Or, under medical or other skilled direction, water, in quantities sufficient for one day's drinking in the house may be disinfected by a very careful use of Condy's red disinfectant fluid; which should be added to the water (with stirring or shaking) in such number of drops that the water, an hour afterwards, shall have the faintest pink colour which the eye can distinctly perceive. Filtering of the ordinary kind cannot by itself be trusted to purify water, but is a good addition to either of the above processes. It cannot be too distinctly understood, that dangerous qualities of water are not obviated by the addition of wine or spirits. When there appears any probable relation between the distribution of disease and of milk supplies, the cleanliness of dairies, and the purity of the water used in them, should be carefully investigated.

6. The washing and lime-whiting of uncleanly premises, especially of such as are densely occupied, should be pressed with all practicable despatch.

7. Overcrowding should be prevented. Especially where disease has begun, the sick-room should, as far as possible, be free from persons who are not of use or comfort to the patient.

8. Ample ventilation should be enforced. It should be seen that window-frames are made to open, and that windows are sufficiently opened. Especially where any kind of infective fever has begun, it is essential, both for patients and for persons who are about them, that the sick-room and the sick house be constantly well traversed by streams of fresh air.

9. The cleanliest domestic habits should be enjoined. Refuse matters which have to be cast away should never be allowed to remain within doors; and things which have to be disinfected or cleansed, should always be disinfected or cleansed without delay.

10. Special precautions of cleanliness and disinfection are necessary with regard to infective matters discharged from the bodies of the sick. Among discharges which it is proper to treat as infective, are those which come, in cases of small-pox, from the affected skin; in cases of cholera and enteric fever, from the intestinal

canal ; in cases of diphtheria, from the nose and throat ; likewise, in cases of any eruptive or other epidemic fever, the general exhalations of the sick. The caution which is necessary with regard to such matters must, of course, extend to whatever is imbued with them ; so that bedding, clothing, towels, and other articles, which have been in use by the sick, may not become sources of mischief, either in the house to which they belong, or in houses to which they are conveyed. Moreover, in enteric fever and cholera, the evacuations should be regarded as capable of communicating an infectious quality to any night-soil with which they are mingled in privies, drains, or cesspools ; and this danger is best guarded against by thoroughly disinfecting them before they are thrown away (see § 17) ; above all, they must never be cast where they can run or soak into sources of drinking water.

11. All reasonable care should be taken not to allow infective disease to spread by the unnecessary association of sick with healthy persons. This care is requisite, not only with regard to the sick house, but likewise with regard to day schools and other establishments wherein members of many different households are accustomed to meet.

12. Where dangerous conditions of residence cannot be promptly remedied, it will be best that the inmates, while unattacked by disease, remove to some safer lodging. If the disease begins in houses where the sick person cannot be rightly circumstanced and tended, medical advice should be taken as to the propriety of removing him to an infirmary or hospital. Every Sanitary Authority should have in readiness a hospital for the reception of such cases.

13. Privation, as predisposing to disease, may require special measures of relief.

14. In certain cases special medical arrangements are necessary. For instance, as cholera in this country almost always begins somewhat gradually in the comparatively tractable form of what is called 'premonitory diarrhœa,' it is essential that, where cholera is epidemic, arrangements should be made for affording medical relief without delay to persons attacked, even slightly, with looseness of bowels. So again, where small-pox is the prevailing disease, it is essential that all unvaccinated persons (unless they previously have had small-pox) should very promptly be vaccinated ; and that re-vaccination should be performed in cases properly requiring it.

15. It is always to be desired that the people should, as far as possible, know what real precautions they can take against the disease which threatens them, what vigilance is needful with regard to its early symptoms, and what (if any) special arrangements have been made for giving medical assistance within the district. For the purpose of such information printed hand-bills or placards may usefully be employed, and in cases where danger is great, house-to-house visitation by discreet and competent persons may be of the utmost service, both in quieting unreasonable alarm, and in leading or assisting the less educated and the destitute parts of the population to do what is needful for safety.

16. The present memorandum relates to occasions of emergency. Therefore the measures suggested in it are all of an extemporaneous kind, and permanent provisions for securing the public health have not been in express terms insisted on. It is to remembered, however, that in proportion as a district is habitually well cared for by its Sanitary Authorities, the more formidable emergencies of epidemic disease are not likely to arise in it.

17. Chemical disinfectants are of 2 great classes, and hitherto it is not certain which of the 2 classes acts best. The one class is well represented by chlorine and certain of its compounds, the other is well represented by carbolic acid. Under the former system, the solution of chloride of lime may be used for minor domestic purposes, chloride of lime itself to any masses of filth, and chlorine gas for disinfection of rooms. Under the latter system, carbolic acid may be used for minor domestic purposes, sulphate or perchloride of iron to any masses of filth, and sulphurous acid gas for disinfection of rooms. These systems do not combine well with one another, and in the choice which has to be made between them, it will be convenient that the Sanitary Authority of each district should declare which of the 2 systems it adopts, and that all private disinfection in the district should follow such lead of the Authority. The detail in each case should be carried out under medical advice. In public disinfection establishments for the disinfection of wearing apparel, bedding, curtains, and other large household articles, the most convenient process consists in employment of high degrees of heat.

18. For detailed advice on hospital accommodation and on ambulances, see the office memoranda on those subjects.

Local Government Board,
January, 1878.

EDWARD C. SEATON, M.D.,
Medical Officer.

12.

Applications for Provisional Orders under the "Public Health Act, 1875."

Local Government Board, Whitehall, S.W.,
12th August, 1881.

SIR,

I am directed by the Local Government Board to state that they deem it desirable to follow a course similar to that adopted by them for the last 3 years, and to fix a day before which all applications for Provisional Orders under the "Public Health Act, 1875," or the "Artizans' and Labourers' Dwellings Improvement Act, 1875," must be made, if it is wished that the Order should be confirmed during the Session of 1882. They have accordingly determined that all such applications must be received by them not later than the 1st of January next, subject to this exception, viz. : That where the application is for an Order to put in force the compulsory powers of the "Lands Clauses Consolidation Acts," or to confirm an improvement scheme under the "Artizans' and Labourers' Dwellings Improvement Act," and the advertisements were not published until November, the application may be received not later than the 1st of February.

It should be borne in mind, however, that the dates above mentioned are only fixed as the latest at which applications for Provisional Orders can be received. It is not the intention of the Board to interpose any obstacle in the way of these applications being made at earlier periods. On the contrary, where any Sanitary Authority propose to apply for a Provisional Order, the Board would wish them to make their application as soon as they are in a position to furnish the requisite particulars.

It is particularly important that applications for Provisional Orders to alter Local Acts should be made at the earliest date practicable. The details of these Orders often require much consideration, and the Board are able to give more attention to them in the autumn than is possible during the Session of Parliament. It would prove a material assistance to the Board if all applications for Provisional Orders of this kind were sent in before the 15th of October.

The Board direct me at the same time to refer to the provision in § 176 of the "Public Health Act, 1875," which enables Sanitary Authorities to issue in the months of September and October, or of October and November, the advertisements and notices which are required before they can apply for a Provisional Order to enable them to obtain lands by compulsory purchase. It is very desirable that the Sanitary Authority should avail themselves of this power, if they propose to make an application under the Section in question. The same observation applies to applications under the "Artizans' and Labourers' Dwellings Improvement Act."

The Board have found that in some instances a misapprehension has prevailed as to the period within which the advertisements and notices prescribed by § 176 of the "Public Health Act" must be issued. The Section provides that the advertisements shall be published during 3 successive weeks in the months of September, October or November, and it is necessary that the 3 weeks in which the publication takes place should all be included in the same month, whichever of those above mentioned is selected for the purpose. Moreover, the notice to the owners, lessees, and occupiers of the lands which it is proposed to purchase, must in all cases be given in the month immediately following that in which the advertisements are published.

The Board have also found that in some cases the deposit of a plan of the proposed undertaking, which is required by Sub-section (2) of § 176, has not been made until after the advertisement referred to in that enactment has been published. They are advised that the deposit should always be made at such time as to enable the plan to be seen at all reasonable hours at the prescribed place as soon as the advertisement is issued.

The Board may take this opportunity of observing, that, if the Sanitary Authority intend to apply for a Provisional Order to enable them to purchase lands compulsorily in connection with proposed Works of Sewerage or Water Supply, some of which will lie outside their District, they will probably find it convenient to satisfy the requirements of §§ 32 and 54 of the "Public Health Act," when they are issuing the necessary advertisements in respect of the application for a Provisional Order. If this course is taken, it will have the effect of preventing the delay which is occasioned at a subsequent stage of the proceedings, in cases where, after the Provisional Order is confirmed, advertisements and notices under the Sections in question have to be issued before the works for which the land is required can be commenced. Section 53 also should be complied with, where it is intended to construct a reservoir to hold more than 100,000 gallons of water.

The requirements of the Board with regard to applications for Provisional Orders under the "Public Health Act" are set forth in some instructions which they have issued on the subject, a copy of which is enclosed for the information of the Sanitary Authority. Similar instructions have also been issued with regard to applications under the "Artizans' and Labourers' Dwellings Improvement Act," and these can be obtained on application to the Board, in cases where they are required.

I am directed to add, that where an Urban Sanitary Authority propose to apply for a Provisional Order for Gas purposes under the "Gas and Water Works Facilities Acts," the special Regulations which have been issued by the Board under these Acts must be complied with. Copies of these Regulations can be obtained on application to the Board.

I am, Sir, your obedient Servant,

JOHN LAMBERT, *Secretary.*

The Clerk to the Sanitary Authority.

INSTRUCTIONS AS TO APPLICATIONS FOR PROVISIONAL ORDERS.

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Application for Provisional Orders to put in force the Compulsory powers of the Lands Clauses Consolidation Acts.

1. The application must be made by a petition under the seal of the Sanitary Authority, containing the particulars required by § 176 (3) of the "Public Health Act, 1875." The lands proposed to be purchased should be specified in a Schedule to the petition, which should correspond with the Book of Reference mentioned in Instruction 3.

2. The petition must be presented not later than the 1st January, if the advertisements of the proposal were published in September or October, and not later than the 1st February, if they were published in November.

3. The petition should be accompanied by a plan of the proposed undertaking, by a Book of Reference in duplicate, and by a statutory declaration showing that the requirements of § 176 of the "Public Health Act," with respect to advertisements and notices, have been duly complied with. The declaration must be stamped with a half-crown stamp, and copies of the newspapers containing the advertisements, and also of the form of notice, should be annexed to it as exhibits. It should specify the manner in which the notices were served upon the owners, lessees, and occupiers, and, so far as relates to these notices, it should be made by the persons who served them. It is important that the service should be effected in one of the modes prescribed by § 267 of the Act. The plan should be coloured so as to distinguish the land proposed to be actually purchased, and the several properties should be numbered so as to correspond with the Schedule to the petition and the Book of Reference.

4. The Standing Orders of both Houses of Parliament require that, *at the same time* as the plan of the undertaking and the Book of Reference are deposited with the Board, duplicates thereof shall be deposited with the Clerk of the Parliaments and at the Private Bill Office, unless the deposit with the Board is made after the prorogation of Parliament and before the 30th November, in which case the deposit with the Clerk of the Parliaments, and at the Private Bill Office, must be made on the day last mentioned.

In order that compliance with these requirements may be proved before the Examiners of Standing Orders, the Board should be furnished with an *affidavit*, stamped with a half-crown stamp, and sworn before a Justice of the Peace or a Commissioner for taking affidavits, by the person by whom the deposits have been made.

5. The Board have been advised that 2 or more Sanitary Authorities cannot jointly petition for a Provisional Order to enable them to put in force the compulsory powers of the "Lands Clauses Consolidation Acts." Either each Sanitary Authority must present a separate petition in respect of the particular lands which they require, or else the several Sanitary Authorities must combine under § 285 of the "Public Health Act, 1875," for the purpose of carrying the proposed scheme into execution, and a petition must be presented by one of them with regard to all the land required. If this course is taken, an agreement under the Section should be entered into before application is made for the Provisional Order.

Applications for Provisional Orders to alter the Areas of Sanitary Districts.

6. The application should be made by a resolution of the Sanitary Authority, a copy of which should be forwarded to the Board.

7. The application must be made not later than the 1st January.

8. The application should be accompanied by (*a.*) a statement giving the names of the Sanitary Authorities whose districts are affected by the proposal, and the grounds upon which the application is made, (*b.*) a map showing the present and proposed boundaries of the Districts affected, and (*c.*) a description, without reference to a map, of the boundaries of the part proposed to be added or detached, or formed into a new District, as the case may be. Where part of a Rural Sanitary District is affected, the name of the contributory place should be given.

Applications for Provisional Orders to repeal, alter, or amend Local Acts.

9. The application should be made by a resolution of the Sanitary Authority, asking the Board in general terms to repeal, alter, or amend the Local Act, wholly or partially, as the case may require. A copy of the resolution should be forwarded to the Board.

10. The application must be made not later than the 1st January, and it is very desirable that it should be sent in before the 15th October.

11. The application should be accompanied by a copy of the Local Act, and by a statement showing the particular Sections which it is proposed should be repealed, altered, or amended, and the precise alteration desired. The statement should also show the grounds upon which the application is made.

12. Where the effect of the proposed repeal or alteration of the Local Act will be to extend or diminish the area of a Sanitary District, the particulars referred to in Instruction 8, should also be furnished.

N.B.—It is particularly requested that all petitions, statutory declarations, and other such documents may be written on foolscap paper of the usual size.

JOHN LAMBERT, *Secretary.*

Local Government Board, Whitehall, 12th August, 1881.

13.

Circular of the Local Government Board as to the "Public Health (Interments) Act, 1879."

Local Government Board, Whitehall, S.W.,
19th August, 1879.

SIR,

I am directed by the President of the Local Government Board to request that you will bring under the notice of the Sanitary Authority the provisions of the "Public Health (Interments) Act, 1879," (42 & 43 Vict., c. 31), which received the Royal assent and came into operation on the 21st of July last.

The object of the Act is to enable Sanitary Authorities, Rural as well as Urban, to provide cemeteries for their districts, and for this purpose all the provisions of the "Public Health Act, 1875," with respect to a mortuary are extended to a cemetery.

As the Sanitary Authority are aware § 141 of the "Public Health Act" enables a Sanitary Authority to provide and fit up a proper place as a mortuary for the reception of dead bodies before interment, and to make By-Laws with respect to the management and charges for the use of the same, and it is, moreover, compulsory on a Sanitary Authority to provide a mortuary if they should be required by the Local Government Board to do so.

The effect, therefore, of the Act, which has just been passed, is, in like manner, to empower a Sanitary Authority to provide a cemetery, and to render it compulsory on them to do so if the Local Government Board should require one to be provided.

The Legislature has not specified the cases in which it is incumbent upon the Sanitary Authority to give effect to the provisions of the new Statute; but, seeing that it is incorporated with the "Public Health Act," there can be no doubt that wherever, in the interests of the public health, it is necessary that a cemetery should be provided in any locality, the Legislature contemplated that the Local Authority would exercise the important powers now conferred upon them.

The following may be referred to as circumstances under which it will be incumbent upon the Sanitary Authority to take action:—

1. Where in any burial ground which remains in use there is not proper space for burial, and no other suitable burial ground has been provided;
2. Where the continuance in use of any burial ground (notwithstanding there may be such space) is by reason of its situation in relation to the water supply of the locality, or by reason of any circumstances whatsoever, injurious to the public health;
3. Where, for the protection of the public health, it is expedient to discontinue burials in a particular town, village, or place or within certain limits.

There are other circumstances which might render it necessary or expedient that a cemetery should be provided, such as inconvenience of access from the populous parts of the district to the existing burial ground, or the nature of the site, or the character of the subsoil; and instances may exist where, in deference to the wishes of the inhabitants, it may be expedient to provide, in accordance with the policy of the Burial Acts, a cemetery in which persons of different creeds may be buried with their own religious rites. On all or any of the foregoing grounds the authority of the Local Government Board may be invoked; and if the application should prove well founded, a compulsory Order would necessarily follow.

The question, however, whether a cemetery should be provided for a particular locality will be one for the determination of the Sanitary Authority in the first instance; and it is only in the event of their default to establish a proper cemetery where one is required, or in consequence of a loan being needed to carry out the undertaking, or, if they should determine to construct a cemetery outside their district, of objection being taken to such a proceeding, that the Local Government Board have any authority to interfere.

The President has reason to believe that in numerous localities considerations of public health require that a cemetery should be provided. and with a view of enabling the Authority to determine whether on sanitary grounds it is necessary, or desirable, that a cemetery should be provided for all or any part of their district the Medical Officers of Health should be instructed to report upon the state of the several burial grounds within the area subject to their jurisdiction.

The Statute enables a Sanitary Authority to acquire, construct, and maintain a cemetery either within or without their district. In the latter case, however, at least 3 months before the cemetery is commenced public notice must be given, and, in the event of any objection, the work cannot proceed without the sanction of the Local Government Board after Local Inquiry.

It will be seen, therefore, that a Sanitary Authority are empowered not only to establish a cemetery, but also to purchase an existing one; and it will be competent for the Sanitary Authority, in the event of their failure to acquire a suitable site by agreement, to apply for a Provisional Order enabling them to take lands for the purpose compulsorily.

Moreover, with the sanction of the Central Authority, they will be enabled to borrow money to pay for the purchase of the requisite land, for draining and enclosing the site, and for rendering it otherwise suitable for the object intended.

At the same time, I am to point out that, if the Sanitary Authority should deem it expedient to provide a cemetery without resorting to a loan for the purpose, it is competent for them to do so, and to charge the cost upon the Local Rates.

In the case of an Urban Sanitary Authority the Rate liable for this cost will be the General District Rate, or other Rate applicable to the general purposes of the "Public Health Act" within the District. In the case of a Rural Sanitary Authority the amount would come under the head of general expenses, and be defrayed out of the Rate applicable to the payment of such expenses.

If, however, the cemetery were provided for a separate contributory place, by which is meant a parish or special drainage District, or so much of a parish as is not within an Urban Sanitary District or a special drainage District, it would be competent for the Local Government Board to order the amount to be special expenses, in which event the charge would be borne by the particular contributory place, but with this distinction in the incidence of the Rate, that whereas in the case of general expenses the amount is either paid out of the Poor Rate or levied by a Rate of an equal sum in the pound, in the case of special expenses the amount is raised by a separate Rate to which lands are assessable at only one-fourth. It may be useful to add here that the Rates referred to would in like manner be applicable to the maintenance of the cemetery after it is established, and also that a Rural Sanitary Authority may depute to a parochial committee the exercise of their powers in connection with the management of any cemetery which may be required for any contributory place.

In addition to the powers conferred upon Sanitary Authorities of purchasing land for a cemetery, the recent Act authorises them to accept a donation of land for the purpose, and also a donation of money or other property for enabling them to acquire, construct, or maintain a cemetery.

With regard to the regulation of the cemetery after it has been established, I am to state that the application to a cemetery of § 141 of the "Public Health Act, 1875," will enable the Sanitary Authority to make By-Laws with respect to the management and charges for the use of any cemetery established by them, and in this manner to provide for the orderly conduct of all persons within its limits, for the regulation of graves, and for the payment of reasonable fees for interments therein.

It should be borne in mind, however, that such By-Laws must be made in conformity with the "Public Health Act," and be confirmed by the Central Authority; and the President contemplates that the Department should hereafter frame a series of Model By-Laws to be recommended for adoption.

In order to make further provision for the due maintenance and management of a cemetery the recent Statute incorporates the "Cemeteries Clauses Act, 1847," (10 & 11 Vict, c. 65.)

That Act forms one of a series of Statutes passed in 1847, the object being in each case to comprise in one general Act the provisions usually contained in Acts of Parliament relating to matters of local improvement or administration. Several of these Acts, as well as other Consolidation Acts, were incorporated, either wholly or partly, with the "Public Health Act, 1875," and the particular Act referred to has previously been incorporated with some general and several Local Improvement Acts. Its provisions will now form part of the "Public

Health Act, 1875," and will apply, subject to the necessary qualifications, to all cemeteries acquired, constructed, or maintained by a Sanitary Authority under the new Act.

The President therefore thinks it right to direct the attention of the Sanitary Authority to the following obligations and powers imposed upon and exercisable by them under the incorporated enactments.

With respect to the Making of the Cemetery.

The cemetery is not to be constructed nearer to any dwelling-house than 200 yards, except with the consent of the owner and occupier.

The Sanitary Authority may build such chapels in the cemetery for the performance of burial services as they may think fit, and lay out and embellish the grounds of the cemetery.

The cemetery must be inclosed by substantial walls, or iron railings, of the height of 8 feet at least.

The Sanitary Authority must keep the cemetery and the buildings and fences thereof in complete repair and in good order and condition.

With respect to Burials.

The Sanitary Authority may set apart a portion of the cemetery for burials according to the rites of the Established Church, and the Bishop of the Diocese may, on the application of the Sanitary Authority, consecrate the portion so set apart.

A chapel, to be approved by the Bishop, must be built on the consecrated part for the performance of the burial service of the Established Church.

A salaried chaplain is to be appointed to officiate in the consecrated part of the cemetery, the appointment and salary to be subject to the approval of the Bishop.

The Sanitary Authority may set apart the whole or a portion of the unconsecrated part of the cemetery as a place of burial for persons not being members of the Established Church, and may allow in any chapel built in such unconsecrated part a burial service to be performed according to the rites of any church or congregation other than the Established Church.

With respect to exclusive Rights of Burial and Monumental Inscriptions.

The Sanitary Authority may set apart portions of the cemetery for the purpose of granting exclusive rights of burial therein, and may sell the exclusive right of burial in such portions, and the right of placing any monument or gravestone in the cemetery or any tablet or monumental inscription on the walls of any chapel or other building in the cemetery.

It should be observed that the Act under consideration does not extend to the Metropolis, and it is scarcely necessary to point out that in other parts of the country where suitable cemeteries are in existence there can rarely be need for resorting to its provisions.

The President trusts, however, that in other localities the Sanitary Authorities will not hesitate to avail themselves of the important powers conferred by the Act, having regard to their serious obligations in the interest of the public health and to the responsibilities imposed upon them by the Legislature.

I am, Sir, your obedient Servant,

To the Clerk to the Sanitary Authority. JOHN LAMBERT, *Secretary.*

14.

Circular of the Local Government Board as to § 13 of the "Public Works Loans Act, 1875."

—o—

Local Government Board, Whitehall, 1st November, 1879.

SIR,

I am directed by the Local Government Board to draw the attention of the Sanitary Authority to the 13th Section of the "Public Works Loans Act, 1875," (38 & 39 Vict., c. 89), under which it is necessary that every Local Authority intending to borrow from the Public Works Loan Commissioners during the ensuing financial year, viz., that commencing on the 1st April, 1880, should send to the Commissioners, on or before the 31st December next, a statement of the new loans or instalments of loans already granted, which the Authority may probably apply to borrow from them during that period.

The Board are desirous of reminding the Sanitary Authority of the obligation imposed upon them by the Statute to give notice of their application within the time prescribed, should they contemplate borrowing from the Commissioners in the course of the year in question. Unless this condition is satisfied, the Commissioners are not empowered, except with the permission of the Lords Commissioners of Her Majesty's Treasury, to make the advance desired, and this permission is only given under very exceptional circumstances.

Intending borrowers can obtain, on application in writing to the Public Works Loan Commissioners, at 3, Bank Buildings, London, E.C., the requisite forms for the statement of the sums which will probably be required by them, and the Board believe that the Commissioners are desirous of receiving such applications at the earliest date practicable. It is not necessary that the Sanitary Authority shall have obtained the Board's sanction to the contemplated loan, before they give notice to the Commissioners, nor is it requisite that they should inform the Board that such notice has been given.

The Board may take this opportunity of stating that the Lords Commissioners of Her Majesty's Treasury have issued a Minute with respect to the rate of interest to be charged by the Public Works Loan Commissioners when making advances to Local Authorities under any special enactments empowering them to lend money at a low rate of interest. This Minute, which has been made in consequence of the passing of the "Public Works Loans Act" of the last Session (42 & 43 Vict. c. 77), applies to advances made by the Commissioners to Sanitary Authorities under § 243 of the "Public Health Act, 1875," or § 22 of the Artizans' and Labourers' Dwellings Improvement Act" of that year.

The rates of interest which will now be charged by the Commissioners when lending money under those Sections are as follows :—

When the loan is repayable within a period—

Not exceeding	20 years	... ...	3½ per cent.
"	30 "	... ...	3¾ "
"	40 "	... ...	4 "
Exceeding	40 "	and not exceeding 50 years ...	4¼ "

It will be observed that the rates charged become higher according as the loan is repayable within a longer term, and it will be a question for consideration in many cases whether the Sanitary Authority may not find it desirable to raise the loan for a shorter period than that which the Board have hitherto usually allowed under similar circumstances, in order that the Sanitary Authority may secure the advantages of obtaining the money at a lower rate of interest.

It must be borne in mind that the Commissioners do not make advances, under § 243 of the "Public Health Act," for all the purposes of that Act for which money may be borrowed. It is only where the Sanitary Authority are raising a loan for works of primary sanitary importance, such, *e.g.*, as sewerage, water supply, hospitals and public baths, that the Commissioners are willing to lend money under the Section referred to. If a loan is obtained from them for any purpose of the Act which is not of primary sanitary importance, the rate of interest charged will be 5 per cent., and the term for repayment will not exceed 20 years.

It should be added that the § 3 of the "Public Works Loans Act, 1879," will preclude the Commissioners in future from advancing more than £100,000, in any financial year, to any one Sanitary Authority.

I am, &c.,

To the Clerk to the Sanitary Authority. JOHN LAMBERT, *Secretary.*

[Sent to Urban Sanitary Authorities of Districts having a population of 25,000 and upwards (according to census, 1871).]

15.

The Dairies, Cow-sheds, and Milk-shops Order.

[The following important Order under the "Contagious Diseases (Animals) Act, 1878," appeared in the *London Gazette* of July 11, 1879.]

Preliminary.—1. This Order may be cited as the Dairies, Cow-sheds, and Milk-shops Order of July, 1879.

2. This Order extends to England and Wales and Scotland only.

3. In this Order words have the same meaning as in the "Contagious Diseases (Animals) Act, 1878."

Revocation of former Orders.—4. The "Dairies, Cow-sheds, and Milk-shops Order of 1879," and the "Dairies, Cow-sheds, and Milk-shops Amendment Order of 1879." are hereby from the making of this Order revoked: but nothing herein shall invalidate or make unlawful anything done under those Orders, or either of them, before the making of this Order, or interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty incurred under, those Orders, or either of them.

Construction and Water Supply of New Dairies and Cow-Sheds.—5.—(1.) It shall not be lawful for any person following the trade of cow-keeper or dairyman to begin to occupy as a dairy or cow-shed any building not so occupied at the making of this Order, unless and until he first makes provision, to the reasonable satisfaction of the Local Authority, for the lighting and the ventilation, including air space, and the cleansing, drainage, and water supply of the same, while occupied as a dairy or cow-shed.

(2.) It shall not be lawful for any such person to begin so to occupy any such building without first giving one month's notice in writing to the Local Authority of his intention so to do.

Sanitary State of all Dairies and Cow-sheds.—6. It shall not be lawful for any person following the trade of cow-keeper or dairyman to occupy as a dairy or cow-shed any building, whether so occupied at the making of this Order or not, if and as long as the lighting, and the ventilation including air-space, and the cleansing, drainage, and water supply thereof are not such as are necessary or proper (*a.*) for the health and good condition of the cattle therein; and (*b.*) for the cleanliness of milk vessels used therein for containing milk for sale; and (*c.*) for the protection of the milk therein against infection and contamination.

Cleansing of Dairies, Cow-sheds, Milk-stores, Milk-shops, and Milk-vessels.—7. A Local Authority may, from time to time, make regulations for prescribing and regulating the cleansing of dairies and cow-sheds in the occupation of persons following the trade of cow-keepers or dairymen, and the cleansing of milk-stores, milk-shops, and milk-vessels used for containing milk for sale by such persons.

Contamination of Milk.—If at any time disease exists among the cattle in a dairy or cow-shed, or other building or place, the milk of a diseased cow therein—(*a.*) shall not be mixed with other milk; and (*b.*) shall not be sold or used for human food; and (*c.*) shall not be sold or used for food of swine, or other animals, unless and until it has been boiled.

6. It shall not be lawful for any person following the trade of cow-keeper or dairyman, or purveyor of milk, or being the occupier of a milk-store or milk-shop—

(1.) To allow any person suffering from a dangerous disorder, or having recently been in contact with a person so suffering, to milk cows or to handle vessels used for containing milk for sale, or in any way to take part or assist in the conduct of the trade or business of the cow-keeper or dairyman, purveyor of milk, or occupier of a milk-store or milk-shop, as far as regards the production, distribution, or storage of milk; or

(2.) If himself so suffering or having recently been in contact as aforesaid, to milk cows, or handle vessels used for containing milk for sale, or in any way take part in the conduct of his trade or business, as far as regards the production, distribution, or storage of milk—until in each case all danger therefrom of the communication of infection to the milk or of its contamination has ceased.

10. It shall not be lawful for any person following the trade of cow-keeper or dairyman or purveyor of milk, or being the occupier of a milk-store or milk-shop, to use a milk-store or milk-shop in his occupation, or permit the same to be used, for any purpose incompatible with the proper preservation of the cleanliness of the milk-store or milk-shop, and of the milk-vessels and milk therein, or in any manner likely to cause contamination of the milk therein.

Keeping of Swine.—11. It shall not be lawful for any person following the trade of cow-keeper or dairyman or purveyor of milk to keep any swine in any cow-shed or other building used by him for keeping cows, or in any milk-store or other place used by him for keeping milk for sale.

Registration of Dairymen and others.—12.—(1.) Every Local Authority shall keep a register of persons from time to time carrying on in the district of the Local Authority the trade of cow-keepers, dairymen, or purveyors of milk, and shall from time to time revise and correct the register.

(2.) The Local Authority shall from time to time give public notice by advertisement in a newspaper circulating in their district, and, if they think fit, by placards, hand-bills, or otherwise, of registration being required, and the mode of registration.

(3.) It shall not be lawful for any person to carry on in the district of any Local Authority the trade of cow-keeper, dairyman, or purveyor of milk unless he is registered as such therein.

(4.) A person who carries on the trade of cow-keeper or dairyman for the purpose only of making and selling butter or cheese, or both, and who does not carry on the trade of purveyor of milk, shall not, for the purpose of registration, be deemed to be a person carrying on the trade of cow-keeper or dairyman, and need not be registered.

(5.) A person who sells milk of his own cows in small quantities to his workmen or neighbours, for their accommodation, shall not, for the purposes of registration, be deemed, by reason only of such selling, to be a person carrying on the trade of cow-keeper, dairyman, or purveyor of milk, and need not, by reason thereof, be registered.

Acts of Local Authorities.—13.—(1.) All Orders and Regulations made by a Local Authority under the "Dairies, Cow sheds, and Milk-shops Order of 1879," and in force at the making of this Order, shall, as far as the same are not varied by or inconsistent with this Order, remain in force until altered or revoked by the Local Authority.

(2.) Forms of registers and other Forms which have been before the making of this Order prepared for use by a Local Authority under the "Dairies, Cow-sheds, and Milk-shops Order of 1879," may be used, as far as they are suitable, for the purpose of this Order.

Scotland.—14. Nothing in this Order shall be deemed to interfere with the operation of the "Cattle Sheds in Burghs (Scotland) Act, 1866."

C. L. PEEL.

16.

Regulations as to Medical Officers of Health, whose Salaries are partly repaid out of Moneys voted by Parliament.[a]

GENERAL ORDER (URBAN SANITARY AUTHORITIES).—MARCH 8, 1880.

To the several Urban Sanitary Authorities, for the time being, in England and Wales ;—

And to all others whom it may concern.

Whereas by a General Order dated the 11th day November, 1872, addressed to "The several Urban Sanitary Authorities in England and Wales constituted by the Public Health Act, 1872," the Local Government Board, acting under the Authority conferred upon them by § 10 of that Act, prescribed Regulations with respect to the qualification, appointment, duties, salary, and tenure of office of Medical Officers of Health appointed by Urban Sanitary Authorities, in all cases where any portion of the salary of any such officer was paid out of moneys voted by Parliament ;

And whereas it is required by § 189 of the "Public Health Act, 1875," that every Urban Sanitary Authority shall from time to time appoint a Medical Officer or Officers of Health, and by § 191 of that Act it is enacted that a person shall not be appointed Medical Officer of Health under that Act unless he is a legally qualified Medical Practitioner ; and that the Local Government Board shall have the same powers as it has in the case of a District Medical Officer of a Union, with regard to the qualification, appointment, duties, salary, and tenure of office of a Medical Officer of Health of a Local Authority, any portion of whose salary is paid out of moneys voted by Parliament ;

And whereas Urban Sanitary Authorities are Local Authorities within the meaning of the last-named Section ;

Now, therefore, we, the Local Government Board, hereby order that the above-cited Order shall not apply to any Medical Officer of Health appointed or re-appointed by any Urban Sanitary Authority after the 25th day of March, 1880.

And we hereby Order as follows with respect to the qualification, appointment, duties, salary, and tenure of office of every Medical Officer of Health, any portion of whose salary is paid out of moneys voted by Parliament, and who may be appointed by any Urban Sanitary Authority after the 25th day of March, 1880, or who, having been appointed by such Authority under the provisions of the above-cited Order, may be re-appointed by them after that date.

Qualification.

Art. 1. A person shall not be qualified to be appointed unless he shall be registered under "The Medical Act" of 1858, and shall be qualified by Law to practise both medicine and surgery in England and Wales, such qualification being established by the production to the Sanitary Authority of a diploma, certificate of a degree, license, or other instrument granted or issued by competent legal authority in Great Britain or Ireland, testifying to the medical or surgical, or medical and surgical, qualification or qualifications of the candidate for such office.

Provided that the Local Government Board may, upon the application of the Sanitary Authority, dispense with so much of this Regulation as requires that the Medical Officer of Health shall be qualified to practise both medicine and surgery, if he is duly registered under the said Act to practise either medicine or surgery.

(*a*) With respect to this and the 2 following Orders it may be remarked that Orders almost identical in terms were issued in March, 1880, to Rural Sanitary Authorities.

Appointment.

Art. 2. A statement shall be submitted to the Local Government Board, in a Form to be supplied by them, showing the population and area of the District of the Sanitary Authority, together with the salary intended to be assigned to the officer, and such other particulars as may be prescribed by such Form.

Provided that where any such statement has been submitted to the said Board under the said Order of the 11th day of November, 1872, or under this Order, no further statement under this Article shall be necessary, unless required by the said Board.

Art. 3. When the approval of the Local Government Board has been given to the proposals contained in the statement so submitted to them, the Sanitary Authority shall proceed to the appointment of a Medical Officer of Health accordingly.

Art. 4. An appointment of a Medical Officer of Health shall not be made unless an advertisement specifying the amount of salary proposed to be assigned, and the day fixed for such appointment, shall have appeared in some public newspaper circulating in the District at least 7 days before the day so fixed.

Art. 5. Every such officer shall be appointed by a majority of the members present at a meeting of the Sanitary Authority, and voting on the question.

Art. 6. Every appointment shall, within 7 days after it is made, be reported to the Local Government Board by the Clerk to the Sanitary Authority.

Art. 7. Upon the occurrence of a vacancy in the office of Medical Officer of Health, the Sanitary Authority shall proceed to make a fresh appointment, which shall be reported to the Local Government Board as required by Art. 6 of this Order:

Provided always as follows:—

(1.) If the Sanitary Authority desire to make any fresh arrangement with respect to the terms of the appointment, they shall, before filling up the vacancy, supply the particulars of the arrangement to the Local Government Board in the manner prescribed by Art. 2 of this Order in regard to the first appointment, and if the approval of the Local Government Board be given, absolutely or with modifications, the Sanitary Authority shall then proceed to fill up the vacancy according to the terms of the approval so given.

(2.) If the vacancy arise from notice given by an officer of an intended resignation to take effect on a future day, the Sanitary Authority may elect a successor to such officer in conformity with the above Regulations, at any time subsequent to such notice.

(3.) If the Sanitary Authority deem it advisable that the vacancy should not be filled up forthwith, they may appoint a person to act temporarily, subject to the approval of the Local Government Board.

(4.) In the case of an officer who may have been appointed for a specified term, the Sanitary Authority may provide for the continuance of such officer, or appoint his successor, within 3 calendar months next before the expiration of such term.

Art. 8. If in the case of an officer who may have been appointed for a specified term, the Sanitary Authority should desire to renew his appointment for a further term or otherwise in conformity with the provisions of this Order, and no fresh arrangement should be proposed with respect to the terms of the appointment, it shall not be necessary for that purpose that Articles 2, 3, and 4 of this Order should be complied with, but it shall be sufficient if the Sanitary Authority, at a meeting held after notice given at one of their 2 ordinary meetings next preceding such meeting, pass a resolution renewing the appointment accordingly on the expiration of the term for which it was made, and the Local Government Board sanction such resolution.

Art. 9. If any officer be at any time prevented by sickness or accident, or other sufficient reason, from performing his duties, the Sanitary Authority may appoint a person qualified as aforesaid to act as his temporary substitute, and may pay him a reasonable compensation for his services; and it shall not be necessary in any such case that Arts. 2, 3, and 4 of this Order shall be complied with, but Arts. 5 and 6 of this Order shall apply in every such case.

Tenure of Office.

Art. 10. Every officer shall continue to hold office for such period as the Sanitary Authority may, with the approval of the Local Government Board, determine, or until he die, or resign, or be removed by such Authority, with the assent of the Local Government Board, or by the Local Government Board, or be proved to be insane by evidence which that Board shall deem sufficient.

Art. 11. The Sanitary Authority may at their discretion suspend any officer from the discharge of his duties, and shall, in case of every such suspension, forthwith report the same, together with the cause thereof, to the Local Government Board; and if the Local Government Board remove the suspension of such officer by the Sanitary Authority, he shall forthwith resume the performance of his duties.

Art. 12. Where any change in the duties or salary of any officer, may be deemed necessary, and he shall decline to acquiesce therein, the Sanitary Authority may, with the consent of the Local Government Board, but not otherwise, and after 6 months' notice in writing, signed by their Clerk, given to such officer, determine his office.

Art. 13. A person shall not be appointed who does not agree to give one month's notice previous to resigning the office, or to forfeit such sum as may be agreed upon as liquidated damages.

Salary.

Art. 14. The Sanitary Authority shall pay to every officer such salary as may be approved by the Local Government Board.

Provided always, that the Sanitary Authority, with the approval of the Local Government Board, may pay to any officer a reasonable compensation on account of extraordinary services, or other unforeseen or special circumstances connected with his duties or the necessities of the District.

Art. 15. The salary of every officer shall be payable up to the day on which he ceases to hold the office, and no longer, subject to any deduction which the Sanitary Authority may be entitled to make in respect of Art. 13 of this Order; and in case he shall die whilst holding such office, the proportion of salary (if any) remaining unpaid at his death shall be paid to his personal representatvies.

Provided that an officer who may be suspended, and who may, without the previous removal of such suspension, resign or be removed under Art. 10 of this Order shall not be entitled to any salary from the date of such suspension.

Art. 16. The salary assigned to every officer shall be payable quarterly, according to the usual feast days in the year, namely, Lady Day, Midsummer Day, Michaelmas Day, and Christmas Day; but the Sanitary

Authority may pay to him at the expiration of every calendar month such proportion as they may think fit, on account of the salary to which he may become entitled at the termination of the quarter.

Art. 17. All salaries shall be considered as accruing from day to day, and be apportionable in respect of time accordingly, in pursuance of the provisions of the "Apportionment Act, 1870."

Duties.

Art. 18. The following shall be the duties of a Medical Officer of Health in respect of the District for which he is appointed :—

(1.) He shall inform himself as far as practicable respecting all influences affecting or threatening to affect injuriously the public health within the District.

(2.) He shall inquire into and ascertain by such means as are at his disposal the causes, origin, and distribution of diseases within the District, and ascertain to what extent the same have depended on conditions capable of removal or mitigation.

(3.) He shall by inspection of the District, both systematically at certain periods, and at intervals as occasion may require, keep himself informed of the conditions injurious to health existing therein.

(4.) He shall be prepared to advise the Sanitary Authority on all matters affecting the health of the District, and on all sanitary points involved in the action of the Sanitary Authority ; and in cases requiring it, he shall certify, for the guidance of the Sanitary Authority or of the Justices, as to any matter in respect of which the certificate of a Medical Officer of Health or a Medical Practitioner is required as the basis or in aid of sanitary action.

(5.) He shall advise the Sanitary Authority on any question relating to health involved in the framing and subsequent working of such By-laws and Regulations as they may have power to make.

(6.) On receiving information of the outbreak of any contagious, infectious, or epidemic disease of a dangerous character within the District, he shall visit the spot without delay and inquire into the causes and circumstances of such outbreak, and in case he is not satisfied that all due precautions are being taken, he shall advise the persons competent to act as to the measures which may appear to him to be required to prevent the extension of the disease, and, so far as he may be lawfully authorised, assist in the execution of the same.

(7.) Subject to the instructions of the Sanitary Authority, he shall direct or superintend the work of the Inspector of Nuisances in the way and to the extent that the Sanitary Authority shall approve, and on receiving information from the Inspector of Nuisances that his intervention is required in consequence of the existence of any nuisance injurious to health, or of any overcrowding in a house, he shall as early as practicable, take such steps authorised by the "Public Health Act, 1875," in that behalf as the circumstances of the case may justify and require.

(8.) In any case in which it may appear to him to be necessary or advisable, or in which he shall be so directed by the Sanitary Authority, he shall himself inspect and examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, or milk exposed for sale, or deposited for the purpose of sale or of preparation for sale, and intended for the food of man which is deemed to be diseased, or unsound, or unwholesome, or unfit for the food of man ; and if he finds that such animal or article is diseased, or unsound, or unwholesome, or unfit for the food of man, he shall give such directions as may be necessary for causing the same to be seized, taken, and carried away, in order to be dealt with by a Justice according to the provisions of the Statutes applicable to the case.

(9.) He shall perform all the duties imposed upon him by any By-laws and Regulations of the Sanitary Authority, duly confirmed, in respect of any matter affecting the public health, and touching which they are authorised to frame By-laws and Regulations.

(10.) He shall inquire into any offensive process of trade carried on within the District, and report on the appropriate means for the prevention of any nuisance or injury to health therefrom.

(11.) He shall attend at the office of the Sanitary Authority, or at some other appointed place, at such stated times as they may direct.

(12.) He shall from time to time report in writing to the Sanitary Authority his proceedings, and the measures which may require to be adopted for the improvement or protection of the public health in the District. He shall in like manner report with respect to the sickness and mortality within the District, so far as he has been enabled to ascertain the same.

(13.) He shall keep a book or books, to be provided by the Sanitary Authority, in which he shall make an entry of his visits, and notes of his observations and instructions thereon, and also the date and nature of applications made to him, the date and result of the action taken thereon, and of any action taken on previous reports ; and shall produce such book or books, whenever required, to the Sanitary Authority.

(14.) He shall also prepare an annual report, to be made to the end of December in each year, comprising a summary of the action taken during the year for preventing the spread of disease, and an account of the sanitary state of his District generally at the end of the year. The report shall also contain an account of the inquiries which he has made as to conditions injurious to health existing in his District, and of the proceedings in which he has taken part or advised under the "Public Health Act. 1875," so far as such proceedings relate to those conditions, and also an account of the supervision exercised by him, or on his advice, for sanitary purposes over places and houses that the Sanitary Authority have power to regulate, with the nature and results of any proceedings which may have been so required and taken in respect of the same during the year. It shall also record the action taken by him, or on his advice, during the year, in regard to offensive trades, and to factories and workshops. The report shall also contain tabular statements (on Forms to be supplied by the Local Government Board or to the like effect) of the sickness and mortality within the District, classified according to diseases, ages, and localities.

(15.) He shall give immediate information to the Local Government Board of any outbreak of dangerous epidemic disease within the District, and shall transmit to the Board a copy of each annual and of any special report.

(16.) In matters not specifically provided for in this Order, he shall observe and execute the instructions of the Local Government Board on the duties of Medical Officers of Health, and all the lawful orders and directions of the Sanitary Authority applicable to his office.

(17.) Whenever the Local Government Board shall make regulations for all or any of the purposes specified in § 134 of the "Public Health Act, 1875," and shall declare the regulations so made to be in force within any area comprising the whole or any part of the District he shall observe such regulations, so far as the same relate to or concern his office.

Given under the Seal of Office of the Local Government Board, this 8th day of March, in the year 1881.

JOHN LAMBERT, *Secretary.* G. SCLATER-BOOTH, *President.*

17.

Regulations as to Medical Officers of Health, no portion of whose Salaries is repaid out of Moneys voted by Parliament.

GENERAL ORDER (URBAN SANITARY AUTHORITIES).— March 9, 1880.

To the several Urban Sanitary Authorities, for the time being, in England and Wales ;—

And to all others whom it may concern.

Whereas by § 189 of the "Public Health Act, 1875," it is enacted that every Urban Sanitary Authority shall from time to time appoint a Medical Officer of Health, and by § 191 of that Act it is enacted as follows :—

"A person shall not be appointed Medical Officer of Health under this Act unless he is a legally qualified "Medical Practitioner ; and the Local Government Board shall have the same powers as it has in the case of a "District Medical Officer of a Union, with regard to the qualification, appointment, duties, salary, and tenure "of office of a Medical Officer of Health or other officer of a Local Authority, any portion of whose salary "is paid out of moneys voted by Parliament, and may by Order prescribe the qualification and duties of other "Medical Officers of Health appointed under this Act."

Now therefore, we, the Local Government Board, hereby order as follows with respect to the qualification and duties of every Medical Officer of Health, no portion of whose salary is paid out of moneys voted by Parliament, and who may be appointed or re-appointed by any Urban Sanitary Authority after the 25th day of March, 1880.

Qualification.

[This is stated in the same terms as in the previous Order.]

Duties.

Art. 2. The following shall be the duties of a Medical Officer of Health in respect of the District for which he is appointed :—

(1.) He shall, within 7 days after his appointment, report the same in writing to the Local Government Board.

[The remainder of the Duties of the Medical Officer of Health are stated in the same terms as in the previous Order.]

Given under the Seal of Office of the Local Government Board, this 9th day of March, in the year 1880.

John Lambert, *Secretary.* G. Sclater-Booth, *President.*

18.

Regulations as to Inspectors of Nuisances, whose Salaries are partly repaid out of moneys voted by Parliament.

GENERAL ORDER (URBAN SANITARY AUTHORITIES).—March 10, 1880.

To the several Urban Sanitary Authorities, for the time being, in England and Wales ;—

And to all others whom it may concern.

Whereas by a General Order dated the 11th day of November, 1872, addressed to "The several Urban Sanitary Authorities in England and Wales, constituted by the Public Health Act, 1872," the Local Government Board, acting under the authority conferred upon them by § 10 of that Act, prescribed Regulations with respect to the appointment, duties, salary, and tenure of office of Inspectors of Nuisances appointed by such Authorities, in all cases where any portion of the salary of any such officer was paid out of moneys voted by Parliament ;

And whereas it is required by § 189 of the "Public Health Act, 1875," that every Urban Sanitary Authority shall from time to time appoint an Inspector of Nuisances, and by § 191 of that Act it is enacted that the Local Government Board shall have the same powers as it has in the case of a District Medical Officer of a Union, with regard to the qualification, appointment, duties, salary, and tenure of office of any officer of a Local Authority, any portion of whose salary is paid out of moneys voted by Parliament ;

And whereas Urban Sanitary Authorities are Local Authorities within the meaning of the last-named Section :

Now therefore, we, the Local Government Board, hereby order that the above-cited Order shall not apply to any Inspector of Nuisances appointed or re-appointed by the Urban Sanitary Authority after the 25th day of March, 1880.

And we hereby order as follows with respect to the appointment, duties, salary, and tenure of office of every Inspector of Nuisances, any portion of whose salary is paid out of moneys voted by Parliament, and who may be appointed by any Urban Sanitary Authority after the 25th day of March, 1880, or who, having been appointed by such Authority under the provisions of the above-cited Order, may be re-appointed by them after that date.

Appointment, Tenure of Office, Salary.

[The Provisions as to APPOINTMENT, TENURE OF OFFICE, and SALARY are stated in the same terms as in the Order applicable to Medical Officers of Health whose salaries are partly repayable out of moneys voted by Parliament.]

Duties.

Art. 17. The following shall be the duties of an Inspector of Nuisances in respect of the District for which he is appointed :—

(1.) He shall perform, either under the special directions of the Sanitary Authority, or (so far as authorised by the Sanitary Authority) under the directions of the Medical Officer of Health, or in cases where no such directions are required, without such directions, all the duties specially imposed upon an Inspector of Nuisances by the "Public Health Act, 1875," or by the Orders of the Local Government Board, so far as the same apply to his office.

(2.) He shall attend all meetings of the Sanitary Authority when so required.

(3.) He shall by inspection of the District, both systematically at certain periods, and at intervals as occasion may require, keep himself informed in respect of the nuisances existing therein that require abatement under the "Public Health Act, 1875."

(4.) On receiving notice of the existence of any nuisance within the District, or of the breach of any By-laws or Regulations made by the Sanitary Authority for the suppression of nuisances, he shall, as early as practicable, visit the spot, and inquire into such alleged nuisance or breach of By-laws or Regulations.

(5.) He shall report to the Sanitary Authority any noxious or offensive businesses, trades, or manufactories established within the District, and the breach or non-observance of any By-laws or Regulations made in respect of the same.

(6.) He shall report to the Sanitary Authority any damage done to any works of water supply, or other works belonging to them, and also any case of wilful or negligent waste of water supplied by them, or any fouling by gas, filth, or otherwise, of water used for domestic purposes.

(7.) He shall from time to time, and forthwith upon complaint, visit and inspect the shops and places kept or used for the sale of butchers' meat, poultry, fish, fruit, vegetables, corn, bread, flour, or milk, or as a slaughter-house, and examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, or milk which may be therein ; and in case any such article appear to him to be intended for the food of man, and to be unfit for such food, he shall cause the same to be seized, and take such other proceedings as may be necessary in order to have the same dealt with by a Justice : Provided, that in any case of doubt arising under this clause, he shall report the matter to the Medical Officer of Health, with the view of obtaining his advice thereon.

(8.) He shall, when and as directed by the Sanitary Authority, procure and submit samples of food, drink, or drugs suspected to be adulterated, to be analysed by the analyst appointed under the "Sale of Food and Drugs Act, 1875," and upon receiving a certificate stating that the articles of food, drink, or drugs are adulterated, cause a complaint to be made, and take the other proceedings prescribed by that Act.

(9.) He shall give immediate notice to the Medical Officer of Health of the occurrence within the District of any contagious, infectious, or epidemic disease ; and whenever it appears to him that the intervention of such officer is necessary in consequence of the existence of any nuisance injurious to health, or of any overcrowding in a house, he shall forthwith inform the Medical Officer thereof.

(10.) He shall, subject to the directions of the Sanitary Authority, attend to the instructions of the Medical Officer of Health with respect to any measures which can be lawfully taken by an Inspector of Nuisances under the "Public Health Act, 1875," for preventing the spread of any contagious, infectious, or epidemic disease of a dangerous character.

(11.) He shall enter from day to day, in a book to be provided by the Sanitary Authority, particulars of his inspections and of the action taken by him in the execution of his duties. He shall also keep a book or books, to be provided by the Sanitary Authority, so arranged as to form, as far as possible, a continuous record of the sanitary condition of each of the premises in respect of which any action has been taken under the "Public Health Act, 1875," and shall keep any other systematic records that the Sanitary Authority may require.

(12.) He shall at all reasonable times, when applied to by the Medical Officer of Health, produce to him his books, or any of them, and render to him such information as he may be able to furnish with respect to any matter to which the duties of Inspector of Nuisances relate.

(13.) He shall, if directed by the Sanitary Authority to do so, superintend and see to the due execution of all works which may be undertaken under their direction for the suppression or removal of nuisances within the district.

(14.) In matters not specifically provided for in this Order, he shall observe and execute all the lawful orders and directions of the Sanitary Authority, and the Orders of the Local Government Board which may be here after issued, applicable to his office.

Given under the Seal of Office of the Local Government Board, this 10th day of March, in the year 1880.

JOHN LAMBERT, *Secretary.* G. SCLATER-BOOTH, *President*

PART V.

Digest of Cases.

THE following explanations as to the objects aimed at in this Digest may conveniently be given as a guide to the reader consulting it.

Where a decision was appealed against, references to Reports of the Case in its earlier stages are usually omitted unless the facts and arguments were not set forth with satisfactory fulness at the final stage.

Much confusion often arises in citing references to periodicals running over a long term of years, where there exists an "Old" and a "New" Series of each. Having considered this matter in connection with the *Law Journal* and *Law Times*, and bearing in mind that the "New Series" of each of these periodicals has now been going on for many years, and that references to the "Old Series" are not only few, but cannot increase, it has been decided on reflection to suppress the letters "N. S." usually appended to references to the above-named periodicals, and to do the converse thing, that is, append the letters "O. S." to such references as apply to the "Old Series" of each respectively. This arrangement, it is to be understood, is limited to the *Law Journal* and *Law Times*, and does not extend to any other works, so that the *Common Bench Reports*, for instance, are cited in the usual way, "*Common Bench*" and "*Common Bench, New Series*," and so on in other instances.

The ample Index appended, coupled with a little ingenuity on the part of the reader in always turning to more heads than one, will, it is hoped, render reference to the Cases a task free from serious difficulty.

Though the *Weekly Reporter* is not as a rule cited, many of the Cases will be found therein. The dates appended will facilitate search. The *Weekly Reporter* and the *Jurist* are usually only cited in instances where no other Report was to be had, but this has not been from any distrust of the *Weekly Reporter* at any rate, because that is a very trustworthy and useful publication. It was necessary, however, to draw the line somewhere, or there would have been a superfluity of references in many places.

Cases which are obsolete by reason of subsequent legislation, or because they have been over-ruled, are usually suppressed altogether. If in a few instances the titles of such Cases have been given with an asterisk prefixed, this has been done because it was judged convenient for some reason or other that these Cases should not be entirely lost from record.

It must of course be understood that the Cases have been taken very much as they were found reported. It has been no part of my duty to comment on them here, still less, save in very exceptional instances, to attempt to reconcile contradictions, of which not a few will be found.

The reader who concerns himself with such details will find that great pains have been taken to exhibit the references not only correctly but methodically. Every reference has been specially verified and very carefully read at press. It should be stated, however, that this remark does not apply to the *Justice of the Peace*, for the Library of my Inn (the Inner Temple) does not contain a file of that periodical, the Benchers judging it unworthy of a place on their Library shelves. The *J. P.* references are therefore mostly second-hand, and I have no means of guaranteeing the accuracy of the earlier ones.

Care has been taken in the Index to distinguish Cases of the same name from one another, and it is hoped that in no instance has the same Case been printed by mistake, under two or more names, though many instances may be met with in leading publications of duplicate and triplicate entries thus made, doubtless inadvertently, but to the great inconvenience of inexperienced readers.

ACCOUNTANT.

1. 1858. *Haigh* v. *North Bierley Union.* A Board of Guardians by resolution employed an Accountant; his appointment was not by a contract under seal, but he was held entitled to recover for work done. (28 L. J., Q. B., 62: E. B. & E., 873: 31 L. T., (o. s.) 213.)

2. 1857. *Reg.* v. *Worksop L. B.* Accountant—Held that the Court of Quarter Sessions was entitled to decide whether a Local Board was justified in incurring the expense of employing an accountant. (21 J. P., 451.)

ADOPTION OF THE "PUBLIC HEALTH ACT."

3. 1857. *Barber* v. *Jessopp.* Validity of application of the "Public Health Act, 1848"—Inexact use by Inspector in his Report of the terms "parish," "town," and "township"—Application held valid—Highway Rate over the whole Parish held invalid. (26 L. J., Ex., 186: 1 H. & N., 578: 28 L. T., (o. s.), 306.)

4. 1859. *Bird, Ex parte.* Adoption of the "Local Government Act, 1858"—Appeal to Secretary of State who confirmed the adoption—His Order held binding and conclusive and beyond the interference of the Court, and this though on the face of the Order it was doubtful whether it was good—*Mandamus* for a Poll of the Ratepayers refused as too late. (28 L. J., Q. B., 223: 1 E. & E., 931: 33 L. T., (o. s.), 162.)

5. 1871. *Driver* v. *Kingston H. B.* Adoption of "Local Government Act, 1858"—Repair of highways—Outstanding contract with the Highway Board—Contractor held entitled to recover on his contract for work done during 2 months following Adoption of Act. (24 L. T., 480: 20 W. R., 20.)

6. 1870. *Littleborough L. B., Ex parte.* Meeting to adopt "Local Government Act, 1858"—Chairman takes the show of hands, but if a Poll is demanded, the Summoning Officer is to conduct it. (22 L. T., 437.)

7. 1862. *Matlock Bath District, Ex parte.* "Local Government Act, 1858," §§ 12, 14, and 16—Though a place has boundaries assigned to it, it cannot adopt the above Act until the parish in which it is situated has refused to do so—*Mandamus* to Secretary of State to publish boundaries, refused, because the parish meanwhile had resolved to adopt the Act. (31 L. J., Q. B., 177: 2 B. & S., 543: 6 L. T., 243.)

8. 1864. *Reg.* v. *Bird.* Proposed adoption of the "Local Government Act, 1858"—If the Chairman has improperly refused to cause a Poll to be taken, the Meeting is abortive and a new Meeting is necessary—*Mandamus* refused. (39 L. T. Newsp., 286.)

9. 1873. *Reg.* v. *Grasmere L. B.* "Local Government Act, 1858," §§ 12 and 17—Adoption—Place having "a known or defined boundary"—Township containing detached portion of other Townships—Order by Local Government Board for adoption held valid. (42 L. J., Q. B., 131: [*Reg.* v. *Local Government Board*] L. R., 8 Q. B., 227.)

10. 1868. *Reg.* v. *Hardy* (Secretary of State for the Home Department). Adoption of the "Local Government Act, 1858" by a Parish which included a Corporate Borough but not the whole of Parliamentary Borough of the same name—Adoption held valid. (38 L. J., Q. B., 9: L. R., 4 Q. B., 117: 9 B. & S., 926: 19 L. T., 352.)

11. 1866. *Reg.* v. *Northowram & Clayton Ratepayers.* "Local Government Act, 1858," §§ 12–14 and 16—Adoption—An Ecclesiastical District under 6 & 7 Vict., c. 37, is a place having "a known and defined boundary." (35 L. J., Q. B., 90: L. R., 1 Q. B., 110: 7 B. & S., 110.)

12. 1861. *Todmorden, In re.* "Local Government Act, 1858," § 16 [Repealed]—*Certiorari* to quash Secretary of State's Order as to boundaries refused as applied for too late—*Per* Cockburn, C. J.; It is "very doubtful" whether it is competent for a Secretary of State to enlarge the boundaries suggested in a petition. (30 L. J., Q. B., 305: 4 L. T., 509: [*Smith, Ex parte*] 1 B. & S., 412.)

ADULTERATION OF FOOD.

13. 1878. *Barnes* v. *Chipp.* "Food and Drugs Act, 1875," §§ 14 and 20.—It is a condition precedent to a summary conviction that the purchaser should notify to the vendor his intention to have the article analysed by the *public* analyst. (47 L. J., M. C., 85: L. R. 3 Ex. D., 176: 38 L. T., 570.)

14. 1873. *Fitzpatrick* v. *Kelly.* "Adulteration of Food Act, 1872," §§ 2-3—Sale of adulterated butter—Guilty knowledge need not be proved. (42 L. J., M. C., 132: L. R., 8 Q. B., 337: 28 L. T., 558: 38 J. P., 55.)

15. 1881. *Harrison* v. *Richards.* "Sale of Food Act, 1875," §§ 6 and 21. Certificate by Analyst that certain Milk was adulterated with 20 per cent. of Water—Nevertheless summons dismissed by Magistrate, partly because the milk was shown to have been standing some hours; can had been largely taken from at top; but sample analysed taken from near bottom, and therefore bottom portion might be expected to be thin without having been adulterated—Magistrate's decision held bad; he ought not to have ignored Analyst's Certificate. (45 J. P., 552.)

16. 1880. *Horder* v. *Meddings.* "Sale of Food Act, 1875," § 6—Coffee adulterated with 75 per cent. of chicory—"Coffee" asked for by purchaser—After sale but before delivery vendor labelled it "a mixture" &c.—On proof of which fact the Magistrate refused to convict—Case remitted to Magistrate because he had not found whether the statement of the mixture was for the purpose of concealing "fraudulent" increase in the "bulk" of the article—*Semble* that it was—Otherwise, vendor's defence good. (44 J. P., 234.)

17. 1880. *Horder* v. *Scott.* "Sale of Food Act, 1875," §§ 6, 12, 13—Although an Inspector employs a deputy to purchase samples for him and does not do it himself directly, yet the Inspector may in his own name summon the vendor—The purchaser need not himself deliver the sample to the Analyst. (49 L. J., Q. B., 78: L. R., 5 Q. B. D., 552: 42 L. T., 660: 44 J. P., 520.)

18. 1879. **Hoyle* v. *Hitchman.* (48 L. J., M. C., 97.) [The Act 42 & 43 Vict., c. 30, terminates the conflict of opinion connected with this case.]

19. 1879. *Liddiard* v. *Reece.* "Sale of Food Act, 1875," § 8—Appellant convicted of selling coffee adulterated with 40 per cent. of chicory—Held that though the package was labelled as a "mixture," yet it was not protected, the addition of the chicory being in fraud, because the full price of pure coffee was charged, and the purchaser's attention was not called to the label before the sale. (44 J. P., 233.)

20. 1876. *Pashler* v. *Stevenitt.* "Food and Drugs Act, 1875," § 6—A customer asking for "Gin" held to demand Gin as ordinarily sold, not Gin weakened by water—Conviction affirmed. (35 L. T., 862: 41 J. P., 136.) [See now 42 & 43 Vict., c. 30, § 6.]

21. 1874. *Pope* v. *Tearle.* "Adulteration of Food Act, 1872," §§ 2-3—Admixture—A declaration of the bare fact suffices—The Vendor is not required to give details of the nature of the admixture. (43 L. J., M. C., 129: L. R., 9 C. P., 499: 30 L. T., 789.)

22. 1877. *Reg.* v. *Foster.* Indictment for false pretences—Adulterated tea—Three-fourths of the mixture not tea—Defence that it was simple exaggeration, and not misrepresentation of material fact—Conviction affirmed. (46 L. J., M. C., 128: L. R., 2 Q. B. D., 301: 41 J. P., 295.)

23. 1879. *Reg.* v. *White.* "Public Health Act, 1875," §§ 116-7—Unsound meat seized and condemned—No notice to owner to appear before the Justice who condemned the meat—Nevertheless, conviction held good. (49 L. J., M. C., 19; [*W.* v. *Redfern*] L. R., 5 Q. B. D., 15: 41 L. T., 524: 44 J. P., 87.)

24. 1874. *Roberts* v. *Egerton.* "Adulteration of Food Act, 1872"—A custom of the trade to colour tea is not to be supposed to be known to the public—Conviction affirmed. (43 L. J., M. C., 135: L. R., 9 Q. B., 494: 30 L. T., 633.)

25. 1878. *Rook* v. *Hopley,* "Food and Drugs Act, 1875," § 6.—Lard adulterated with 15 per cent. of water—Retail dealer held liable, and not protected by the "bought-note" invoice which he had with the lard, such invoice not being a written warranty within § 25. (47 L. J., M. C., 118: L. R., 3 Ex. D., 209: 38 L. T., 649: 42 J. P., 551.)

26. 1880. *Rouch* v. *Hall.* "Sale of Food Act, 1875:" "Amendment Act, 1879"—§ 14 of former Act does not apply to cases within § 3 of the latter Act. (50 L. J., M. C., 6: L. R., 6 Q. B. D., 17: 44 J. P., 748.)

27. 1877. *Sandys* v. *Markham.* "Food and Drugs Act, 1875," § 6 (1)—Mustard "Condiment"—Case remitted to Justices to state more fully the facts as to usage with respect to mixing flour with mustard. (41 J. P., 52.)

28. 1878. *Sandys* v. *Small.*—"Food and Drugs Act, 1875," §§ 6 and 8—A publican who had put up a conspicuous notice "all spirits sold here are mixed" held protected. (47 L. J., M. C., 115: L. R., 3 Q. B. D., 449: 39 L. T., 118: 42 J. P., 550.)

29. 1880. *Smith* v. *Stace.* Adulterated butter purchased by Inspector's deputy, Inspector waiting outside—Purchase divided, notice given, and summons obtained by Inspector—Held that the proceedings were regular, and that it was not necessary for the Deputy to have taken the later steps. (44 J. P., 796.)

30. 1880. *Warren* v. *Phillips.* "Sale of Food Act, 1875," § 3—Baking Powder held not an article of Food—Therefore, selling such powder with alum admixed is not selling an adulterated article of food. (At Q. Sess.) (44 J. P., 61.)

31. 1877. *Webb* v. *Knight.* "Food and Drugs Act, 1875," § 6—Gin adulterated with 43 per cent. of water—Custom of the trade to adulterate gin set up as a defence—Held, that the question was one of fact what a purchaser buying "gin" would reasonably expect to receive—Conviction affirmed. (46 L. J., M. C., 264: L. R., 2 Q. B. D., 530: 36 L. T., 791: 41 J. P., 726.)

AGGRIEVED PARTY.

32. 1856. *Harrop* v. *Bayley.* Local Act—Right of appeal for "an aggrieved party"—A Commissioner present at a meeting and concurring in a resolution, is thereby debarred from claiming *quâ* ratepayer to be an aggrieved party. (25 L. J., M. C., 107: 6 E. & B., 218.)

33. 1858. **Hollis* v. *Marshall.* (27 L. J., Ex., 236.) [See *Verdin* v. *Wray.*]

34. 1876. *Rochfort* v. *Atherley.* "Public Health Act, 1875," § 253—Action for penalty without consent of the Attorney-General—Special circumstances—Held that the plaintiff, the late Clerk of a Board, was not an "aggrieved party." (L. R., 1 Ex. D., 511.)

35. 1876. *Smith* v. *Fieldhouse.*—"Public Health Act, 1875," Sched. II. (1), 70.—The consent of the Attorney-General must be obtained before an Action for penalty under this enactment. (35 L. T., 602.) [Overruled in *Fletcher* v. *Hudson.*]

36. 1877. *Verdin* v. *Wray.* "Public Health Act, 1875," § 253—Held that a defeated candidate was an "aggrieved party" entitled to proceed without the consent of the Attorney-General against a person for fabricating Voting-papers—*Per* Lush, J.:—"I think a candidate would be aggrieved by a fabricated vote being given against him, whether the election would have been turned by such fabricated vote or not." (46 L. J., M. C., 170: L. R., 2 Q. B. D., 608: 35 L. T., 942: 41 J. P., 484.)

APPOINTMENT OF OFFICERS.

*** See also "Seal."

37. 1874. *Austin* v. *St. Matthew's, Bethnal Green, Guardians.* Clerk to Master of Workhouse—Such an appointment must be under seal. (43 L. J., C. P., 100: L. R., 9 C. P., 91: 29 L. T., 807: 38 J. P., 248.)

38. 1872. *Dyte* v. *St. Pancras Guardians.* Ap-

pointment of Medical Officer—An appointment of this character involves a contract which should be under seal. (27 L. T., 342.)

39. 1861. *Eales* v. *Cumberland Black Lead Mine Co.* If Directors of a Company appoint one of themselves to a salaried office, such appointment is not void—*Quære*, Is it a breach of trust? (30 L. J., Ex., 141 : 6 H. & N., 481 : 3 L. T., 861.)

40. 1838. *Reg.* v. *Dolgelly Union.* Election of a Clerk—Allegation that the successful candidate was elected by the votes of Guardians not themselves duly elected—*Mandamus* to admit the unsuccessful candidate as having the majority of valid votes, refused, no public inconvenience being shown. (7 L. J., M. C., 99 : 8 A. & E., 561 : 3 N. & P., 542.)

41. 1851. *Reg.* v. *Griffiths.* "Art. 155 of C. O., 1847"—Election by Guardians of a Clerk—If a Guardian be present he must, whether willing or not, be counted in ascertaining if a "majority of the guardians present" concur. (17 Q. B., 164.)

42. 1857. *Reg.* v. *Griffiths.* Appointment of an Officer in a certain month fixed by Statute—Held that an appointment some months later was good. (26 L. J., Q. B., 313 : 7 E. & B., 953 : 29 L. T., (o. s.) 196.) [Glen relied on this case to show that a casual vacancy in a Local Board might (Public Health Act, 1848," § 12) be filled up *after* a month had elapsed : *sed quære?*]

43. 1847. *Reg.* v. *Grimshaw.* "Municipal Corporations Act, 1835," § 69—Meeting convened to appoint a Coroner—An appointment without any writing save the entry in the minutes, held good after the appointee had been in actual exercise of the office. (16 L. J., Q. B., 385 : 10 Q. B., 747 : 9 L. T., (o. s.), 221.)

44. 1846. *Reg.* v. *Welch.* Salaried Treasurer to Board of Guardians under a Local Act—Held that such an appointment required a stamp. (2 C. & K., 296.)

45. 1805. *Rex* v. *Bedford Level Corporation.* Election to an office—Majority made up of bad votes—*Mandamus* granted to admit another candidate who had a majority of good votes. (6 East., 356.)

46. 1878. *Richards, Ex parte.* By-Law requiring a month's notice of a resolution to revoke or rescind a prior resolution—Clerk dismissed at a meeting convened in the usual way, but without a month's notice to the members of a motion to rescind his appointment—Held, nevertheless, that the dismissal was valid, he holding office only during pleasure, the motion to dismiss being an independent one, and not a rescinding motion—*Quo warranto* by the old Clerk against the new one—Such process not applicable to an office held during pleasure—*Rex* v. *Wrexham Roads Trustees* not followed. (47 L. J., Q. B., 498 : L. R., 3 Q. B. D., 368 : 38 L. T., 684 : [*Reg* v. *Jones*] 42 J. P., 614.)

47. 1856. *Smart* v. *West Ham Union.* Poor Rate Collector—Action for poundage—Appointment not under seal—Guardians held not liable—Action should have been against the parish in default. (25 L. J., Ex., 210 : 10 Ex., 867 : 11 Ex. 867 : 3 C. L. R., 696 : 26 L. T., (o. s.), 285.)

APPORTIONMENT.

*** See also "Paving Expenses."

48. 1878. *Bradley* v. *Greenwich B. W.* "Metropolis Management Amendment Act 1862," § 52—Delay of 8 years in apportioning the expenses of a sewer—Held nevertheless that the apportionment was good, the Statute containing no express limitation of time. (47 L. J., M. C., 111 : L. R., 3 Q. B. D., 384 : 38 L. T., 849 : 42 J. P., 725.)

49. 1863. *Jacomb* v. *Dodgson.* "Local Government Act, 1858," §§ 62 and 63 [="Public Health Act, 1875," § 257]—Sewering, &c., a street—Apportionment—Limitation—The time for proceeding summarily to recover apportioned expenses runs from the end of the 3 months within which the amount may be disputed. (32 L. J., M. C., 113 : 3 B. & S., 461 : 7 L. T., 674 : 27 J. P., 548.)

50. 1880. *Mair* v. *Greenwich B. W.* "Metropolis Management Act, 1855," § 227—Summonses for expenses of sewer—Notice of apportionment served in 1876—First demand for payment in December 1878—Held that the 6 months' limitation ran from December 1878, and therefore summons was served in time. (44 J. P., 424.)

51. 1870. *Sawyer* v. *Paddington Vestry.* Sewers rate—Definition of new street—Apportionment—Owner held liable. (Metrop.) (40 L. J., M. C., 8 : L. R., 6 Q. B., 164 : 23 L. T., 662 : 34 J. P., 756.)

52. 1880. *Shanklin L. B.* v. *Miller.* "Public Health Act, 1875," §§ 150 and 257—Expenses apportioned—Alleged irregularities which might have avoided the apportionment—Held that apportionment not having been appealed against was binding and that the defendant was too late in raising his objections, inasmuch as he did not appeal within the statutory 3 months. (49 L. J., C. P., 512 : L. R., 5 C. P. D., 272 : 42 L. T., 738 : 44 J. P., 635.)

53. 1876. *Sheffield* v. *Fulham B. W.* New sewer—Non-compliance with statute as to division of expenses between Board and owner, and no charge apportioned upon owners at the ends of certain streets—Apportionment held bad. (L. R., 1 Ex. D., 395.)

ARBITRATION.

54. 1868. *Barnett* v. *Great Eastern Railway Co.* "Lands Clauses Act, 1845," § 76—Money payable under an Award—Defendants dissatisfied with Title, therefore *Mandamus* for payment into the Bank, granted. (18 L. T., 408 : 16 W. R., 793.)

55. 1866. *Beckett* v. *Midland Railway Co.* "Lands Clauses Act, 1845," § 68—Damages awarded by Arbitrator—Action on the Award—Plea, that Arbitrator had made a mistake and that no damage had been done—Plea held good in spite of the Award. (35 L. J., C. P., 163 : L. R., 1 C. P., 241 : 13 L. T., 672.) Again before the Court in 1868—It being shown by evidence that permanent injury had been caused to the freehold, Damages held recoverable. (37 L. J., C. P., 11 : L. R., 3 C. P., 82 : 17 L. T., 499.)

56. 1856. *Blagrave* v. *Bristol Waterworks Co.* An arbitration clause in a Local Water Act held not to extend to a claim for compensation for damage caused by the interruption of a drain by the Company's works. (26 L. J., Ex. 57 : 1 H. & N., 369.)

57. 1855. *Bradby* v. *Southampton L. B. H.* "Public Health Act, 1848," § 144 [="Public Health Act, 1875," § 308]—Construction of a Sewer—Where a Local Board denies simply that damage is done, this involves a dispute as to an amount and not as to liability, and therefore is a matter for arbitration. (24 L. J., Q. B., 239 : 4 E. & B., 1014 : 19 J. P., 644.)

58. 1872. *Buccleuch (Duke of)* v. *Metropolitan B. W.* "Lands Clauses Act, 1845," § 63—Lands injuriously affected—Arbitration—Admissibility of the Umpire's Evidence as to what matters he had taken into consideration. (41 L. J., Ex., 137 : L. R., 5 H. L., 418 : 27 L. T., 1.)

59. 1877. *Burgess* v. *Northwich L. B.* "Public Health Act, 1875," §§ 179-80, 308—Injury to private property by works of street improvement—Matter referred to arbitration—Refusal of the Board to take part therein—Award given against the Board—Motion to set aside the Award refused—If a Board should be dissatisfied with an Award on the ground of non-liability, they can raise that question when an Action on the Award is brought—Arbitrator's jurisdiction is not ousted by the other party denying liability and refusing to appear. (37 L. T., 355.)

60. 1851. *Collins* v. *South Staffordshire Railway Co.* "Lands Clauses Act, 1845"—Arbitration—Award thereunder—Strict compliance with all the preliminary forms is not indispensable where the arbitration is by agreement and is not compulsory. (21 L. J., Ex., 247 : 7 Ex., 5.)

61. 1869. *East London Union* v. *Metropolitan*

Railway Co. "Lands Clauses Act, 1845," § 76-7—When the price of land taken compulsorily has been settled by Arbitration, the execution of the conveyance is a condition precedent to the right of Action for the purchase money. (38 L. J., Ex., 225: L. R., 4 Ex., 309.)

62. 1863. *Holdsworth* v. *Wilson.* "Public Health Act, 1848," §§ 125 and 127 [= "Public Health Act, 1875," § 180]—Appointment of Umpire not prompt—*Per* Erle, C. J.:—"We follow the rule . . . that Arbitrators 'may appoint an Umpire at any time, before the time for making the umpirage has expired'"—Costs awarded held recoverable notwithstanding the Non-Taxation thereof, no attempt having been made to dispute them. (32 L. J., Q. B., 289: 4 B. & S., 1: 8 L. T., 434.)

63. 1867. *Hopper, In re.* Though both Arbitrators must sign the appointment of an Umpire they need not sign at the same time—Circumstances which will avoid an Award on the ground of corruption. (36 L. J., Q. B., 97: L. R., 2 Q. B., 367.)

64. 1874. *Jacomb* v. *Huddersfield Corporation.* Local Act—The Act gave power to Corporation to take more land than was described in the Parliamentary Notice—Held that the Act was not controlled by the Notice—Compulsory purchase of land—Arbitration—Form of Notice to treat. (43 L. J., Ch., 748: 44 L. J., Ch., 96: L. R., 10 Ch. App., 92: 31 L. T., 466.)

65. 1864. *Kellet* v. *Tranmere L. B. H.* Arbitration under the "Public Health Act, 1848"—A Court cannot enlarge the time for making an award. (34 L. J., Q. B., 37: 11 L. T., 457.) [Dissented from in *Warburton* v. *Haslingden.*]

66. 1875. *Leicester Water-works Co.* v. *Cropstone Overseers.* Disputed Assessment—Reference to Arbitration—If parties agree to abide by an Award but when they find it is against them refuse to be bound the Court will interfere to make them. (44 L. J., M. C., 92: 32 L. T., 567 and 752: 40 J. P., 165.)

67. 1876. *McBryde, Ex parte: Metropolitan Building Act, In re.* "Metropolitan Building Act, 1855," § 85—The Court [and presumably the Local Government Board, under the "Public Health Act, 1875," § 180 (7)] has power to appoint an umpire to act with surveyors appointed by "the building owner" and "the adjoining owner," on their refusal to nominate an umpire, notwithstanding that an Action is pending between the parties as to an ancient light in the party wall. (46 L. J., Ch., 153; L. R., 4 Ch. D., 200: 35 L. T., 543.)

68. 1878. *Rayner, Ex parte.* Compulsory purchase of Land under the "Lands Clauses Act, 1845"—Arbitration under the "Public Health Act, 1875," § 176—Award silent as to Costs—Landowner held entitled to his Costs under the former Act notwithstanding the "Public Health Act, 1875," § 180—The procedure in such cases is wholly governed by the first-named Act. (47 L. J., Q. B., 660: L. R., 3 Q. B. D., 446: 42 J. P., 807.)

69. 1860. *Reg.* v. *Burslem L. B.* "Public Health Act, 1848," § 144—Compensation—Denial of Liability—*Mandamus*—Arbitrator or Justices only to deal with disputes as to amount and not as to liability. (29 L. J., Q. B., 242: 1 E. & E., 1077: 2 L. T., 667.)

70. 1878. *Reg.* v. *Darlington Corporation.* Proposed purchase of Land for Sewer—Notice to take compulsorily—Arbitration—Award—*Mandamus* to Corporation to take up Award—Return, that the notice to treat had been revoked, and that all subsequent proceedings had been under protest—Application for a Rule to take this return off the file as untrue and no answer, discharged with Costs. (*Times*, May 17 and June 8, 1878.)

71. 1853. *Reg.* v. *Metropolitan Commissioners of Sewers.* Compensation for Damage—Arbitration *Ex parte*—Arbitration only applicable where amount is in dispute; not where liability is denied. (Metropolis.) (22 L. J., Q. B., 234: 1 E. & B., 694: 21 L. T., (o. s.), 58.)

72. 1863. *Reg.* v. *West Midland Railway Co.* "Lands Clauses Act, 1845," § 25—Where a landowner has agreed to accept a definite sum as compensation in full for injury done to him, and has been paid the amount, he cannot afterwards have recourse to arbitration in respect of the same property—And if he only appoints an Arbitrator (the other party refusing to do so) and that Arbitrator proceeds *ex parte*, the other party cannot be compelled to take up the Award, which is void. (11 W. R., 857.)

73. 1863. *Ringland* v. *Lowndes.* "Public Health Act, 1848," §§ 124-5 [= "Public Health Act, 1875," § 180]—Construction of Sewer—Damage—Arbitration—Attendance under protest—Held that an Award in such case cannot be enforced. (33 L. J., C. P., 25 and 337: 17 C. B., (N. S.), 514.)

74. 1874. *Uttley* v. *Todmorden L. B.* "Public Health Act, 1848," § 144—Land taken for Sewer—Powers of Arbitrator in assessing compensation—He is not only entitled but, *per* Lush J., "bound," to take into consideration prospective as well as present damage. (44 L. J., C. P., 19: 31 L. T., 445: 39 J. P., 56.)

75. 1879. *Warburton* v. *Haslingden L. B.* "Public Health Act, 1875," § 180—The reference to arbitration of a dispute as to compensation is a submission to arbitration by consent within the "Common Law Procedure Act, 1854," and the Court may (under § 8) remit the Award back to Arbitrator for consideration—But proposed remittance refused under the circumstances. *Kellett* v. *Tranmere* dissented from. (48 L. J., C. P., 451.)

ARTISANS' AND LABOURERS' DWELLINGS.

76. 1877. *Bouffler*, v. *St. Mary, Islington, Vestry.* Appeal against an Order of Vestry to demolish houses built on the site of a Burial Ground—Ground effectively concreted so as to be impervious to noxious gases—Probability that a settlement of the soil might hereafter impair the protection afforded by the concrete—Held that as it was not shown that there was any present injury to health to be feared the Order was bad. (*Times*, August 1, 1877.) Some comments on this case gave rise to an Action for Libel against the *Daily Telegraph*, but a verdict for the plaintiff Bouffler was set aside in the Q. B. D. on the ground of privilege. (*Times*, May 6, 1881.)

77. 1880. *Carr* v. *Metropolitan B. W.* "Artizans' Dwellings Act, 1875," Sched. sub.-§ 8, 11, 12—Compensation to owner—Omission of owner's interest from provisional award—Powers of Arbitrator to award compensation. (49 L. J., Ch., 272: L. R., 14 Ch. D., 807: 42 L. T., 354.)

78. 1871. *Flight* v. *St. George's, Southwark, Vestry.* "Artisans' and Labourers' Dwellings Act, 1868," §§ 5-6—Held that under the particular circumstances, reports by Medical Officer and Surveyor might include a row of houses in one statement, all the houses being defective. (25 L. T., 24.)

79. 1880. *Jones, Ex parte.* "Artisans' Dwellings Act, 1875"—Purchase of Lands—Limitation of Costs payable by Local Authority in respect of Moneys paid into Court. (L. R., 14 Ch. D., 624: 43 L. T., 84: W. N., 1880, p. 134.)

BANKRUPTCY.

80. 1873. *Hardwicke* v. *Brown.* "Municipal Corporations Act, 1835," § 52—Town Councillor—Disqualification *ipso facto* by bankruptcy—Not purged—Election void. (L. R., 8 C. P., 406: 28 L. T., 502: 37 J. P., 407.)

81. 1879. *Leftley* v. *Monnington.* "Metropolis Management Act, 1855," § 54—Member of Vestry *ex officio* as Churchwarden—Disqualification by Bankruptcy—Defendant held liable to penalty for acting as member of Vestry. (48 L. J., Ex., 543: L. R., 4 Ex. D., 307: 40 L. T., 850.)

82. 1863. *Saberton, In re.* "Bankruptcy Act,

1861," § 156—Local Rates due from a bankrupt—Order made for the payment in full of one year's Rates. (9 L. T., 267.) [See the "Bankruptcy Act, 1869," § 32.]

BATHING.

83. 1821. *Blundell* v. *Catterall.* The King's subjects have no Common Law right to bathe on the Seashore and to pass over it for *that* purpose on foot or in vehicles. (5 B. & Ald., 268: Hall, *On Seashores*, 2nd ed., p. 156.)

84. 1864. *Mace* v. *Philcox.* "Public Health Act, 1848:" Local Acts—A License for Bathing Machines granted by a Board does not confer a right to use a foreshore without the consent of the owner of the soil. (33 L. J., C. P., 124: 15 C. B., (N. S.), 600: 9 L. T., 766.)

85. 1871. *Reg.* v. *Read.* To bathe so near a public foot-path that exposure to Passers-by is unavoidable renders a bather indictable for indecency. (12 Cox, C. C., 1.)

86. 1809. *Rex* v. *Crunden.* It is an indictable offence to bathe on the Seashore within distinct view of inhabited houses. (2 Camp., 89.)

BATHS AND WASH-HOUSES ACTS.

87. 1861. *Cowley* v. *Sunderland, Mayor.* "Baths and Wash-houses Acts"—Steam Wringing Machine unfenced—Action for compensation maintainable. (30 L. J., Ex., 127: 6 H. & N., 565: 4 L. T., 120.)

88. 1859. *Mulholland* v. *Belfast Corporation.* Baths and Wash-houses—Site—Sub-lease—Proposed purchase of site held a breach of Trust. [This is an Irish case, but cited because decided upon a Section similar to 9 & 10 Vict., c. 74, § 27.] (9 Irish Chan. R., 204 and 292.)

BOROUGH FUND.

89. 1878. *A.-G.* v. *Brecon, Mayor.* "Municipal Corporations Act, 1835," § 92—Bill promoted by a Market Company which infringed on the Statutory privileges of the Corporation—Held, that both under the Act of 1835 and under the general law authorising trustees to employ Trust funds in defence of their property, the Corporation were justified in the action they took to resist the passing of the Market Bill—The "Borough Funds Act, 1872," § 4, does not take away previously existing powers. (48 L. J., Ch., 153: L. R., 10 Ch. D., 204: 40 L. T., 52: 43 J. P., 366.)

90. 1879. *Reg.* v. *Leamington Corporation.* Held that the proceeds of the sale of sewage ought to be carried to the General District Rate, to relieve the Rate, and not to the Borough Fund. (*Times*, Dec. 16, 1879.)

91. 1872. *Reg.* v. *Liverpool, Mayor.* "Municipal Corporations Act, 1835," § 82—Action by a Board's officer for libel on him—Expenses paid out of Borough Fund disallowed. (41 L. J., Q. B., 175: [*Wilmer* v. *Liverpool*,] 26 L. T., 101.)

92. 1850. *Reg.* v. *Prest.* Municipal Corporation—Salaried Clerk also an Attorney—Irregular retainer for extra services—Fees for obtaining Counsel's opinion—Borough Fund held chargeable. (20 L. J., Q. B., 17: 16 Q. B., 32: 16 L. T., (O. S.), 210.)

93. 1868. *Reg.* v. *Tamworth, Mayor.* "Municipal Corporations Act, 1835," § 92—Held, that the Costs of litigation for the defence of corporate rights incurred on reasonable grounds, might be charged to the Borough Fund. (19 L. T., 433: 17 W. R., 231.)

94. 1878. *Sunderland Corporation, In re.* "Municipal Corporations Act, 1835"—Borough Fund and Borough Rate charged with expenses for fireworks, bell-ringing, &c., in connection with the visit of a distinguished foreigner—The resolution of the Town Council authorising the charge quashed on *Certiorari* as *ultra vires*, the Borough Rate having been drawn upon in the absence of a surplus from the Borough Fund; but Costs refused. (*Times*, June 24 and July 2, 1878.)

BORROWING.

95. 1853. *Arnold* v. *Rigge.* "Municipal Corporations Act, 1835," § 92—Powers of a Creditor against a Corporation in respect of an old debt. (22 L. J., C. P., 235: [*A.* v. *Ridge*] 13 C. B., 745: 21 L. T., (O. S.) 141.)

96. 1850. *Pallister* v. *Gravesend, Mayor.* "Municipal Corporations Act, 1835," § 92—Validity of a Bond securing money advanced to pay an old debt. (19 L. J., C. P., 358: 9 C. B., 774: 15 L. T., (O. S.), 253.)

97. 1874. *Reg.* v. *Wigan Churchwardens.* 5 Geo. IV., c. 36, § 1—Loan by Public Works Commissioners on security of Rates—Neglect by borrowers for 20 years to repay any Principal or Interest—Held that the Commissioners had lost their remedy. (L. R., 1 App. Cas., 611: 35 L. T., 381: 41 J. P., 132.)

98. 1870. *Webb* v. *Herne Bay Commissioners.* Assignment of Debentures of a Corporation—Corporation estopped from alleging that the Debentures had been illegally issued—*Mandamus* granted to compel moneys raised by Rates to be applied in discharge of the Debenture debt. (39 L. J., Q. B., 221: L. R., 5 Q. B., 642: 22 L. T., 745.)

BOUNDARY.

99. 1854. *A.-G.* v. *Chambers.* In the absence of evidence of particular usage the extent of the right of the Crown to the seashore landwards is *prima facie* limited by the line of the medium high tides between the Spring and Neap high tides. (23 L. J., Ch., 662: 4 De G. M. and G., 206: 23 L. T., (O. S.) 238.)

100. 1859. *Reg.* v. *Gee.* "Nuisances Removal Act, 1855," § 6 [Repealed]—Where the seashore is the boundary of a Parish the part below high water mark of Medium tides and low water mark is "extra-parochial" within this Section and therefore within the jurisdiction of the Authority for Nuisance purposes. [See 31 & 32 Vict., c. 122, § 27, and various Rating Cases.] (28 L. J., Q. B., 298: 1 E. & E., 1068: 33 L. T., (O. S.), 183.)

101. 1864. *Reg.* v. *Strand B. W.* Paving expenses borne by two parishes—Where a highway is employed to define the boundary of a district, the *medium filum viæ* must (in the absence of contrary evidence) be deemed the actual boundary. (Metropolis). (33 L. J., Q. B., 299: 4 B. & S., 551: 11 L. T., 183.)

102. 1834. *Rex* v. *Landulph Inhabitants.* When two Parishes are separated by a river the *medium filum* is the presumptive boundary between them. (1 Mood. and Rob., 393.)

BUILDING LINE.

103. 1872. *Auckland* (*Lord*) v. *Westminster B. W.* Local Act—"Vacant Ground" does not include the site of buildings recently pulled down—Such a site must so far as a Building Line is concerned be treated as if still occupied by houses and if line is required to be set back Local authority must pay compensation. (41 L. J., Ch. 732: L. R., 7 Ch. App., 598: 26 L. T., 961.)

104. 1867. *Bauman* v. *St. Pancras Vestry.* Building Line—Held that the Magistrate had jurisdiction to order demolition. (36 L. J., M. C., 127: L. R., 2 Q. B., 528: 8 B. & S., 446.) [*St. George's, Hanover Square, Vestry* v. *Sparrow*, questioned, but see *Simpson* v. *Smith*.]

105. 1873. *Bermondsey Vestry* v. *Johnson.* "Metropolis Management Amendment Act, 1862"—Building Line—There is no limitation of time for a complaint as to an infringement—§ 107 which prescribes a limitation of 6 months for recovery of a penalty or forfeiture does not apply to an order for demolition under § 75. (Metropolis.) (42 L. J., M. C., 67: L. R., 8 C. P., 441: 28 L. T., 665: 37 J. P., 392.) [*Brutton* v. *St. George's, Hanover Square, Vestry*, commented on as regards the limitation of time for proceedings.]

106. 1871. *Brutton* v. *St. George's, Hanover Square, Vestry.* Building Line—The owner or occupier ought to be summoned for an infringement of a Building Line

if the work is completed—Time limited for penalties runs from the discovery of the offence and not from the completion. (41 L. J., Ch., 134: L. R., 13 Eq., 339: 25 L. T., 552.) [But see *Bermondsey Vestry* v. *Johnson.*]

107. 1861. *Ecclesiastical Commissioners* v. *Clerkenwell Vestry.* A Local Authority may control the Ecclesiastical Commissioners in the erection of a Church at any rate as regards the infringement of a Building Line. (30 L. J., Ch., 454: 3 De G., F. & J., 688: 4 L. T., 599.)

108. 1872. *Folkestone Corporation* v. *Woodward.* Local Act, 18 & 19 Vict., c. cxlvii. § 50—Building Line—Delay in prescribing the same—Injunction refused—"House" includes a Church—A Perpetual Curate in whom a site is vested is an "owner" within the meaning of the Local Act in question. (42 L. J., Ch., 782: L. R., 15 Eq., 159: 27 L. T., 574: 37 J. P., 324.)

109. 1878. *Fort William Commissioners* v. *Kennedy.* 25 & 26 Vict., c. 101, § 162 (Scotch)—Forecourt proposed to be built upon—Railing removed—The "railing" held not to be a building within the Statute, and therefore, notwithstanding its removal, no right arose on the part of the Commissioners to interfere with the new works. (W. N., 1878, p. 177.)

110. 1880. *Goldstraw* v. *Duckworth.* 5 Vict., c. xliv., § 2—Local Act prohibiting projection in or over streets—Oriel window projecting 2½ ft. but 14 ft. above the ground, held not to contravene the Act, as such a window could not inconvenience foot-passengers the object of the Section not being to secure free passage of light and air. (49 L. J., Q. B., 73: L. R., 5 Q. B. D., 275: 42 L. T., 441: 44 J. P., 410.)

111. 1877. *Inglis* v. *St. Giles, Camberwell, Vestry.* Building Line duly prescribed—Order by Magistrate authorising Board to demolish an encroachment—Subsequent re-erection of the encroachment by the present plaintiff, and an application by him for an Injunction to restrain the Board from again interfering—Application refused. (*Times*, April 17, 1877.)

112. 1876. *Kerr* v. *Preston Corporation.* "Public Health Act, 1875," §§ 156 and 251—Wrongful encroachment on a Building Line by plaintiff—Threat of proceedings against him—Injunction to restrain such possible proceedings on the ground of acquiescence, refused—A Local Authority has no power to acquiesce; it can only give assent by writing—The Court has no jurisdiction to restrain criminal proceedings for breaches of the Statute Law. (46 L. J., Ch., 409: L. R., 6 Ch. D., 463.)

113. 1879. *Poplar B. W.* v. *North Metropolitan Tramways Co.* "Metropolis Management Amendment Act, 1862," § 75—It is an offence to encroach on the Building Line of a street, even although the street may not have been completely dedicated as a public highway. (Metropolis.) (43 J. P., 590.)

114. 1876. *Read* v. *Perrett.* Projecting Sign-board—Held that the Magistrate was right in refusing to hear witnesses called to prove that the Sign-board was no obstruction—Conviction affirmed. (Metropolis.) L. R., 1 Ex. D., 349: 41 J. P., 135.)

115. 1866. *Reg.* v. *Nicholson.* 24 & 25 Vict., c. 61, § 28 [Repealed = "Public Health Act, 1875," § 156.]—Building Line—Erection of Porch—Verdict of "Not Guilty," directed, no actual nuisance or inconvenience to the public being proved. (41 L. T. Newspaper, 657.)

116. 1874. *Reg.* v. *Wolstenholme.* 24 & 25 Vict., c. 61, § 28 [="Public Health Act, 1875," § 156]—Building Line—Erection of Shop front in a fore-court—Houses facing the sea—Defendant fined 100*l.* (*Loc. Gov. Chro.*, Oct. 31, 1874, & Jan. 16, 1875.)

117. 1871. *Simpson* v. *Smith.* Building Line—A Magistrate is not bound by the decision of the Architect of the Metropolitan Board of Works, but may exercise his own judgment as to whether the line fixed by the Architect is the true line. (40 L. J., C. P., 89: L. R., 6 C. P., 87: 24 L. T., 100: 35 J. P., 310.)

118. 1864. *St. George's, Hanover Square, Vestry* v. *Sparrow.* Building Line—Held that it is for the Magistrate to decide whether a structure complained of is within the Act—Held also that the Architect's certificate as to the line is not final. (Metropolis.) (33 L. J., M. C., 118: 16 C. B., (N. S.), 209: 10 L. T., 504.) [Questioned in *Bauman* v. *St. Pancras Vestry*, but upheld in *Simpson* v. *Smith.*]

119. 1858. *Tear* v. *Freebody.* A Building Line need not be a strict mathematical line, but a substantially regular line suffices—"Old Building" defined to be a building the walls of which were carried higher than the footings—Voting at Meetings. (Metropolis.) (4 C. B., (N. S.), 228: [*Sear* v. *F.*] 31 L. T., (O. S.), 131).

120. 1878. *Thomas* v. *Roberts.* "Public Health Act, 1875," § 156—A road is none the less within the Section for the fixing of a Building Line merely because it is a Turnpike road. (43 J. P., 574.)

121. 1868. *Wandsworth B. W.* v. *Hall.* A New Building must be erected within the existing Building Line if erected without consent, and this notwithstanding that the Building Line has not been prescribed—A Magistrate may order a Building thus improperly erected to be demolished. (Metropolis.) (38 L. J., M. C., 69: L. R., 4 C. P., 85: 19 L. T., 641.)

122. 1874. *Wilson* v. *Cunliffe.* Local Act—Building Line—A greengrocer's tray when let down had for 30 years projected beyond the wall of the house—Held that the line of the tray, and not the line of the wall, must be taken as the Building Line, and that, therefore, there was no encroachment. (29 L. T., 913: 38 J. P., 231.)

"BUILDINGS," DEFINITION OF.

123. 1854. *Arnell* v. *Regents Canal Co.* Local Act—Repair of a Bridge over Canal—A parapet wall held not to be a "Building." (23 L. J., C. P., 155: 14 C. B., 564: 23 L. T., (O. S.), 95.)

124. 1863. *Ashby* v. *Woodthorpe.* Two adjacent houses with an opening in a party wall held to be one "Building" for the purposes of the building regulations of the Metropolitan Building Act. (33 L. J., M. C., 68: 9 L. T., 409.)

125. 1870. *Bowes* v. *Law.* Meaning of the word "Buildings" in a covenant not to erect "Buildings"—*Quære*, Is a wall a "Building?" *Semble* that it is, if of excessive height beyond what is necessary merely for boundary purposes. (39 L. J., Ch. 483: L. R., 9 Eq., 636: 22 L. T., 267.)

126. 1873. *Hobbs* v. *Dance.* By-Laws—Old Stable pulled down and re-built partly on a different site, held to be a "new Building"—Held also that the Question was properly raised as one of law and was not merely one of fact. (43 L. J., M. C., 21: L. R., 9 C. P., 30: 29 L. T., 687: 38 J. P., 56.)

127. 1879. *Knight* v. *Purssell.* "Metropolitan Building Act," 18 & 19 Vict., c. 122—Definition of "party" wall—A wall with a shed on one side and closets on the other held to be a party wall to the extent in height and width that the closets and shed were conterminous. (48 L. J., Ch., 395: L. R., 11 Ch. D., 412: 40 L. T., 391: 43 J. P., 622. On appeal, appeal dismissed, W. N. 1880, p. 104. Costs; 49 L. J., Ch., 120: 41 L. T., 581.)

128. 1875. *Manners* (*Lord*) v. *Johnson.* The erection of a bay window held a breach of a covenant not to erect a "building"—Such a window may be an encroachment on a Building Line. (45 L. J., Ch., 404: L. R., 1 Ch. D., 673.)

129. 1865. *Morish* v. *Harris.* "Reform Act, 1832," § 27—A roofed store-house with walls and door held to be a "building." (L. R., 1 C. P., 155.)

130. 1858. *Poplar B. W.* v. *Knight.* A Marsh Wall held to be an essential part of the "Sewer" of a Level—A house built on the surface of the ground without any excavation is, nevertheless, a "Building" as to which notice must be given. (Metropolis.) (28 L. J., M. C., 37: E. B. & E., 408: 31 L. T., (O. S.), 175.)

131. 1833. *Rex* v. *Gregory.* Local Act prohibiting a building within 10 ft. of a road—Footpaths declared to be part of the road—Held that a building within 10 ft. of the footpath was within the prohibition—Open shop erected on old foundations immediately adjoining a footpath and connected by a roof with a house behind which was beyond the statutory distance—Held that such open shop was a "building." (3 L. J., M. C., 25: 5 B. & Ad., 555: 2 N. & M., 478.)

132. 1859. *Stevens* v. *Gourley.* A large and substantial wooden structure, though erected without footings or masonry foundations, held to be a "Building." (29 L. J., C. P., 1: 7 C. B., (N. S.), 99: 1 F. & F., 498: 1 L. T., 33.)

133. 1847. *Watson* v. *Cotton.* "Reform Act, 1832," § 27—Shed formed of six posts let into the ground—Tarpaulin roof—One side boarded up with boards nailed to the posts—Such shed held to be a "warehouse" or "other building." (17 L. J., C. P., 68: 5 C. B., 51: 2 Lutw., Reg. Cas., 53.)

BURIALS.

134. 1867. *Foster* v. *Dodd.* A dead body is under the protection of the public—An indecent disinterment, even by an order of a Secretary of State, is indictable. (37 L. J., Q. B., 28: L. R., 3 Q. B., 67: 8 B. & S., 842: 17 L. T., 614.)

135. 1873. *Greenwood* v. *Wadsworth.* 18 & 19 Vict., c. 128, § 9—The prohibition of Burial Grounds within 100 yards of a house applies to all such grounds, whether public or private. (43 L. J., Ch. 78: L. R., 16 Eq., 288: 29 L. T., 88: 38 J. P., 116.)

136. 1880. *Reg.* v. *Jacobson.* Disturbance of a disused unconsecrated Burial Ground with a view to building operations, by digging up same and indecently exposing human remains—Held that defendant was guilty of a "serious offence" against the law in submitting human remains to disturbance and indignity—Fine of 25*l.* inflicted. (*Times*, Dec. 21, 1880.)

137. 1840. *Reg.* v. *Stennett.* Held that the Overseers of a Parish are not responsible for the burial of a pauper dying in a hospital. (10 L. J., M. C., 40: [*Reg. v. Stewart*] 12 A. & E., 773: 4 P. & D., 349.)

BY-LAWS.

(1.) BUILDING.

138. 1872. *Adams* v. *Bromley L. B.* "Local Government Act, 1858," § 34 [="Public Health Act, 1875," §§ 157, 159]—By-Law as to open space—Dwarf fence held to be an "Erection" infringing the By-Law. (37 J. P., 662.)

139. 1863. *Anderton* v. *Birkenhead.* "Local Government Act, 1858," § 34. By-Laws—Breadth of open space in rear of a building to be everywhere at least the minimum specified. (32 L. J., M. C., 137: [*Anderton* v. *Rigby*] 13 C. B., (N. S.), 603.)

140. 1877. *Baker* v. *Portsmouth, Mayor.* "Local Government Act, 1858," § 34—By-Laws requiring notice of intention to lay out new street; and authorising the pulling down of work improperly erected—Street laid out and houses built without notice being given to the Local Authority—Whereupon, after notice, houses pulled down by the Authority—Held that the By-Law was valid, and that the pulling down was justifiable, provided that no unnecessary destruction of property took place—More force having been used than was shown to be necessary, a verdict for a small amount against defendant Corporation allowed to stand. (47 L. J., Ex. 289: L. R., 3 Ex. D., 157: 37 L. T., 822.)

141. 1880. *Brown* v. *Edmonton L. B.* Breach of By-Law—Definition of "person erecting" a new building—Contractor summoned, though a sub-contractor was the person actually guilty—Held that the contractor was not a proper party to be proceeded against. (45 J. P., 553.)

142. 1862. *Brown* v. *Holyhead L. B.* "Local Government Act, 1858," § 34—Validity of a By-Law—Pulling down a wall alleged to have been erected in contravention of a By-Law—By-Law held invalid because *ultra vires* as regards the pulling down powers which it claimed for the Board. (32 L. J., Ex., 25: 1 H. & C., 601: 7 L. T., 332.)

142 a. 1881. *Bull* v. *Southampton JJ.* Temporary wooden shed erected to shelter workmen and their tools, the former being at work on buildings close by, held not within the Building By-Laws of a Corporation—Conviction quashed. (At Q. Sess.) (45 J. P., 541.)

143. 1864. *Burgess* v. *Peacock.* "Local Government Act, 1858," § 34—By-Law designed to apply to buildings erected before the constitution of the District, held invalid. (16 C. B., (N. S.), 624: 10 L. T., 617.)

144. 1863. *Cooper* v. *Wandsworth B. W.* Statutory right to demolish on neglect by a Builder to give notice of intention to build—On an alleged breach of a By-Law it is the duty of a Local Authority in all cases to give an offender an opportunity of being heard before pulling down his work. (Metropolis.) (32 L. J., C. P., 185: 14 C. B., (N. S.), 180: 8 L. T., 278.)

145. 1877. *Crosby, Ex parte.*—"Public Health Act, 1875," §§ 157-8—Plans duly deposited—No decision given by the Local Authority within the statutory time—Approval eventually withheld, on the ground that the applicant was going to build on land that did not belong to him—Rule *nisi* granted for a *Mandamus* to Local Authority to pass the plans—A Sanitary Authority has no jurisdiction to deal with questions of title in connection with building plans. (41 J. P., 740.)

146. 1863. *Felkin* v. *Berridge.* Legal proceedings to enforce Building By-Laws—Old By-Laws replaced by new ones—Sufficiency of notices. (15 C. B., (N.S.), 257: 9 L. T., 333.)

147. 1878. *Fielding* v. *Rhyl Improvement Commissioners.*—"Public Health Act, 1848": Local Act—Building By-laws—A brick-kiln and a tool-house, 12 yards square, both erected for the temporary convenience of a builder, held not "buildings" within the By-Laws, because *bonâ fide* temporary only—*Semble* that had the By-laws been intended to apply to temporary as well as permanent structures, it would have been bad—*Quære*, How far an excessive delegation of the powers of a Local Authority to a town Surveyor would invalidate By-Laws conferring such powers? (L. R., 3 C. P. D., 272: 38 L. T., 223: 42 J. P., 311.)

148. 1875. *Hall* v. *Nixon.* "Local Government Act, 1858," § 34—Building By-Law to enforce, under a penalty, the deposit of plans held good—Justices ought to have convicted. (44 L. J., M. C., 51: L. R., 10 Q. B., 152: 32 L. T., 87: 39 J. P., 341.)

149. 1866. **Hattersley* v. *Burr.* (4 H. & C., 523.)

150. 1876. *Hill* v. *Hall.* "Chimney Sweepers Act," 3 & 4 Vict. c. 85; Local Act—Partition of Chimney Flue of insufficient thickness—Two Acts somewhat inconsistent—Held that the Local Act was not intended to over-ride the General Act. (45 L. J., M. C., 153: L. R., 1 Ex. D., 411: 35 L. T., 860: 41 J. P., 183.)

151. 1857. *Jay* v. *Hammon.* Building intended as a Militia Store-House held exempt. (Metrop.) (27 L. J., M. C., 25: 30 L. T., (O.S.), 133: [*Reg.* v. *Jay*] 8 E. & B., 469.)

152. 1873. **Marshall* v. *Smith.* Continuing offence. (42 L. J., M. C., 108.)

153. 1878. *Masters* v. *Pontypool L. B. H.*—"Public Health Act, 1875," §§ 158 and 176—House partly pulled down for rebuilding—Attempt by Board to acquire part of site compulsorily—Refusal to sell—Action to restrain Board from interfering after having approved the plan for rebuilding—Judgment for plaintiff on the ground that the Board had acquiesced in the rebuilding and took, too late, objections as to plans which might have been good if taken in time. (47 L. J., Ch., 797; L. R., 9 Ch. D., 677.)

154. 1858. *North Kent Railway Co.* v. *Badger.* Railway arches walled up and used as stables held ex-

empt from the control of the Local Authority as being still Railway buildings. (Metropolis.) (27 L. J., M. C., 109: [*Badger, In re.*] 8 E. & B., 728: 30 L. T. (o.s.), 285.)

155. 1879 *Parsons* v. *Timewell.* "Metropolitan Building Act," 18 & 19 Vict., c. 122, § 46—Skating Rink sanctioned on condition that owner removed it within 2 years—Undertaking to do this given by owner—On breach of the undertaking, held that no summary power was vested in a Magistrate to order its removal as an unauthorised building—The statutory powers to that effect only applied to buildings which were in course of erection and without due authority. (44 J. P., 296.)

156. 1865. *Pearson* v. *Kingston-upon-Hull L. B. H.* "Local Government Act, 1858," § 34: Local Act—Building before plans were approved—Using a building without the consent of the Board—Meaning of "back-yard or other vacant ground or area" as used in the Local Act. (35 L. J., M. C., 36: 3 H. & C., 921: 13 L. T., 180.)

157. 1864. *Reg.* v. *Carruthers.* "Metropolitan Building Act, 1855," § 30—Rules under Act as to the construction of Public Buildings—Church held exempt from such Rules and the subject of special discretion. (Metropolis.) (33 L. J., Ex., 107: 4 B. & S., 804: 9 L. T., 825.)

158. 1870. *Reg.* v. *London Commissioners of Sewers.* Local Act—Application for a license to erect a hoarding round a work likely to occupy 2 years, and abutting on 4 streets—Conditions that there must be 4 licenses: that their duration was to be limited to 2 months, and that no bills were to be posted—All held unreasonable—The duration of a license should be proportionate to the magnitude of the works. (22 L. T., 582.)

159. 1881. *Reg.* v. *Thompson.* By-Law that every new street should be 30 ft. wide—Plans deposited and sanctioned for 8 new houses, plan shewing a 30 ft. new street therewith—Houses built within 9 ft. of owner's boundary and no provision made by him for a 30 ft. roadway—Conviction for breach of By-Law—Conviction quashed—*Semble*, that a man building an isolated row of houses is not bound in all cases to shew a roadway of full width appurtenant to the houses, but that the width of the roadway must stand over till some one else proposes to build opposite to the houses. (45 J. P., 420: *Times*, June 16, 1881.)

160. 1856. *Reg.* v. *Tunstall Turnpike Road Trustees,* "Public Health Act, 1848," § 53 [Repealed]: Turnpike Act—Erection of a Toll-house—Held that the Trustees were subject to the provisions of the first named Act as regards Building and Sanitary matters. (27 L. T., (o.s.), 184: [*Tunstall &c.* v. *Lowndes*] 20 J. P., 374.)

161. 1859. *Robins* v. *Merry.* Building unlawfully erected on a fore-court at the time when the main building was being re-erected, held lawfully pulled down by a Board. (Metropolis.) (32 L. T., (o.s.), 256.)

162. 1875. *Robshaw* v. *Leeds, Mayor.* Local Act—By-Laws—Houses back to back—Restrictions on number to be erected in a block—Insufficient open space—Conviction affirmed. (39 J. P., 149.)

163. 1877. *Scott* v. *Legg.* By-Law that no building should comprise more than 216,000 cubic ft. without a party wall, but this not to apply to old buildings—Held that adding a wing to an old building, whereby the joint content of the whole would be greater than 216,000 ft., was not within the prohibition, because the addition was by itself less than 216,000 ft. (46 L. J., M. C., 267: L. R., 2 Ex. D., 39: 36 L. T., 456: 41 J. P., 773.)

164. 1861. *Shiel* v. *Sunderland, Mayor.* "Local Government Act, 1858," § 34—By-Law—Coach-house and stables appurtenant to an hotel pulled down in order that an additional wing to be tacked on to the hotel might occupy the site—Held that such erection was not a "New Building"—Back Street. (30 L. J., M. C., 215: 6 H. & N., 796: 25 J. P., 647.)

165. 1863. *Slee* v. *Bradford, Mayor.* "Local Government Act, 1858," § 34—Building By-Laws—Setting back line of street—Approval of plans—Injunction granted under the circumstances to restrain the defendants from interfering with the plaintiff's building—After a Local Authority has sanctioned plans for rebuilding premises, and the premises have been pulled down, it cannot insist on conditions as to an alteration of the Building Line. (4 Giff., 462: 8 L. T., 491.)

166. 1880. *Sunderland, Mayor* v. *Brown.* New Street—Infringement of By-Law prescribing minimum width—Held on the facts that the owner was the person who had "laid out" the street, and that as the builder of the houses had had nothing to do with the laying out a summons against him for alleged breach of the By-Law was rightly dismissed. (44 J. P., 831.)

167. 1861. *Tucker* v. *Rees.* "Local Government Act, 1858," § 34—By-Law requiring an open space of a stated area to be left belonging to a building, held bad as regards old buildings—Conviction quashed. (7 Jur., (N.S.), 629.)

168. 1867. *Waite* v. *Garston L. B. H.* "Local Government Act, 1858," § 34—By-Law that no house should be erected without a back roadway communicating with some adjoining public street, held unreasonable. (37 L. J., M. C., 19: L. R., 3 Q. B. 5: 17 L. T., 201.)

169. 1880. *Watson* v. *Gray.* Adjacent owners—Meaning of the word "Party wall"—The most ordinary and primary meaning is a wall of which the two adjoining owners are tenants in common. (49 L. J., Ch., 243: L. R., 14 Ch. D., 192: 44 J. P., 537.)

170. 1874. *Weston* v. *Arnold.* Local Act.—Party Wall—Ancient lights—Held that a wall might be a party wall near its base and an outer wall above, each portion having its own legal attributes independent of the other. (43 L. J., Ch., 123: 22 W. R., 284.)

171. 1879. *Workington L. B., In re.* "Public Health Act, 1875," § 158—Plans for new street in a certain direction duly deposited under a Building By-Law—Disapproval by Local Authority, and refusal to state the grounds on which the disapproval was based, otherwise than that the Board wished the proposed street to run in a different direction—*Mandamus* granted to compel the Board to give its reasons, but doubts expressed by the Court (1) whether the Act required reasons to be assigned by the Board for its refusal; and (2) whether the Board could insist on the direction of a street being altered. (*Times*, April 9, 1879.)

172. 1864. *Young* v. *Edwards.* "Local Government Act, 1858," § 34—Local Act—Building By-Laws—By-Law respecting non-compliance with the requirements of the Board, held *ultra vires*, and a conviction under it bad. (33 L. J., M. C., 227: 11 L. T., 424.) [Questioned in *Hall* v. *Nixon.*]

(2.) MARKET.

173. 1864. *De Caux* v. *Powley.* By-Law—Market Place—Leaving a cart there for an unreasonable period—Conviction. (28 J. P., 806.)

174. 1863. *Savage* v. *Brook.* "Markets and Fairs Clauses Acts, 1847," § 42—By-Laws restricting the deposit of articles, held good, notwithstanding a long-existing local usage. (33 L. J., M. C., 42: 15 C. B., (N.S.), 264: [*Savage* v. *Savage*] 9 L. T., 334.)

(3.) VARIOUS.

175. 1845. *Calder and Hebble Navigation Co.* v. *Pilling.* By-Laws must be within the scope of the Act under which they are made. (14 L. J., Ex. 223: 14 M. & W., 76.)

176. 1875. * *Drew* v. *Harlow.* (39 J. P., 420.) [Effect of decision set aside by 36 & 37 Vict., c. 33.]

177. 1844. *Ellwood* v. *Bullock.* By-Law—Fair—A By-Law prohibiting the erection of a Booth without the license of the Mayor; and that any such license given, save in respect of Fair-time, might be revoked at the instigation of householders, is unreasonable and therefore bad, although the By-Law was duly published and not disallowed by the Secretary of State. (13 L. J., Q. B., 330: 6 Q. B., 383: 8 J. P., 473.)

178. 1824. *Harrison* v. *Williams.* Corporate Town

—A resident inhabitant has a right even though he be not a member of the corporation, to inspect and have a copy of a By-Law for a breach of which an Action against him is pending—*Mandamus* granted. (4 D. & R., 820.)

179. 1839 and 1841. *Hopkins* v. *Swansea, Mayor.* Municipal Corporation—Annual distribution of rents—By-Law. (8 L. J., Ex., 121: 4 M. & W., 621: Affirmed 8 M. & W., 901.)

180. 1875. *Mayer* v. *Burslem L. B.* "Public Health Act, 1848," § 87 [="Public Health Act, 1875," § 207, &c.]—District divided for rating purposes—Subsequent By-Law that resolutions of the Board should not be altered, except (1), after one month's notice, and (2), unless as many members were present when the resolution was altered, as when it was originally passed—Rating arrangements altered without the month's notice—Rate held therefore bad. (39 J. P., 437.) [*Quære*, Is Condition No. 2 now invalid in consequence of Sched. I. (1), 7, of "Public Health Act, 1875?"]

181. 1840. *Poulters' Co.* v. *Phillips.* An omission in a By-Law may be supplied by implication from the subject-matter of the By-Laws—A By-Law is to receive a reasonable construction. (9 L. J., C. P., 190: 6 Bing., (N. S.), 314: 4 Jur., 124.)

182. 1862. *Reg.* v. *Lundie.* Local Act—Common—A By-Law, unreasonable in part, may be divisible and may be good as to that part which is not unreasonable. (31 L. J., M. C., 157: 5 L. T., 830.)

183. 1855. *Reg.* v. *Rose.* Local Boards have no *general* powers to make By-Laws, but may only make such By-Laws as are authorised by Statute. (24 L. J., M. C., 130: [*Reg.* v. *Wood*] 5 E. & B., 49: 3 C. L. R., 1134: [*Reg.* v. *Staffordshire JJ.*] 25 L. T., (O. S.), 127.)

184. 1810. *Rex* v. *Ashwell.* A municipal By-Law may be repealed by the Body which made it. (12 East., 22.)

185. 1799. *Rex* v. *Faversham Fishermen.* A By-Law may be good in part and bad in part, if the two parts are entire and distinct. (8 T. R., 352 and 356.)

186. 1867. *Ryde Pier Co.* v. *Porter.* Local Act—By-Laws to control persons using the pier held reasonable and of general application. (31 J. P., 355.)

187. 1834. *Shaw* v. *Poynter.* Municipal By-Law—When a person is sued for breach of a By-Law to which there is a proviso making certain exemptions, it is unnecessary to aver that the case was not within the exceptions: such fact if it exist must be proved by the Defendant by way of excuse. (3 L. J., K. B., 110: 4 N. & M., 290: 2 A. & E., 312.)

188. 1840. *Sills* v. *Brown.* Evidence of a practice in contravention of a By-Law is not admissible by way of defence at proceedings for an alleged breach of the By-Law. (9 C. & P., 601.)

CLERK.

189. 1869. *Deeks* v. *Bailey.* "Public Health Act, 1848," § 138: "Sanitary Act, 1866," § 46 [="Public Health Act, 1875," § 7]—A Clerk to a Local Board must answer a Bill in Chancery in his official capacity if made defendant. (21 L. T., 581.)

190. 1879. *Meredith* v. *Radcliffe L. B.* Law stationers employed by Local Board Clerk to do certain work which, as Clerk, it was his duty to do himself—Plaintiffs held not entitled to recover from the Board, there being no proof of agency. (43 J. P., 819.)

191. 1879. *Newington L. B.* v. *Eldridge.* Defendant a solicitor and late Clerk to Local Board—Defendant being dismissed, refused to deliver up various papers, claiming a lien on them in respect of an unpaid Bill of Costs—Ordered that the Board should pay into Court 1000*l.*, which done, defendant was to have the same lien, if any, on the money as upon the papers, but that the latter must be delivered up to plaintiffs. (L. R., 12 Ch. D., 349.)

192. 1874. *Reg.* v. *Wilts & Berks Canal Co.* Application by a Shareholder for a *Mandamus* to allow inspection of Books—Objected, that the Shareholder was Clerk of a Local Board against which a suit had been instituted by the Company—*Mandamus* granted with Costs. (30 L. T., 498.)

193. 1879. *Swansea, Mayor* v. *Quirk.* Interrogatories—Corporation answering by their Town Clerk as Solicitor—Privilege—Held that under the circumstances the privilege claimed for the Town Clerk could not be allowed. (49 L. J., C. P., 157: L. R., 5 C. P. D., 106: 41 L. T., 758: 44 J. P., 378.)

COAL DUTY.

194. 1876. *Margate Pier Co.* v. *Perry.* Local Act dating from 1812, authorising a duty on all coals brought into the district—Held that railway-borne coal was not exempt. (*Times*, March 18, 1876.)

195. 1873. *Vaux* v. *Chapman.* Local Act—Coal Duty—Drawback authorised on coal landed but sent beyond the town limits—Held that the drawback did not apply to coal sold in the town by retail although for consumption outside. (27 L. T., 758.)

196. 1866. *Wilson* v. *Hull L. B. H.* Local Act—Coals—To convey coals in one vessel and tranship them into another for coal-owner's use within the jurisdiction of a taxing Authority is evidence of "dealing with" them so as to render them taxable. (12 Jur., (N. S.), 706: 14 W. R., 638.)

COMPENSATION.

*** See also "Lands' Clauses Act, 1845."

197. 1876. *Baker* v. *St. Marylebone Vestry.* Local Acts—Road raised to detriment of Houses—Held that under the circumstances no compensation was payable—*Semble*, that the Legislature committed an oversight. (Metropolis.) (35 L. T., 129.)

198. 1873. *Bigg* v. *London Corporation.* New street constructed under Parliamentary powers—Held that compensation was payable for the direct injury to a cellar by an unauthorised interference therewith, but not for the indirect injury resulting from a diversion of the traffic. (L. R., 15 Eq., 376: 28 L. T., 336: 37 J. P., 564.)

199. 1857. *Bold* v. *Williams.* "Public Health Act, 1848," § 68 [="Public Health Act, 1875," § 149]—Altering the level of a highway—Damages for private injury held not recoverable. (21 J. P., 84.)

200. 1824. *Boulton* v. *Crowther.* Powers under a Turnpike Act—Raising and lowering a road with the result that the access of the plaintiff to his property was interfered with—Held that the Turnpike Trustees were not liable they not having exceeded their powers, and Parliament not having created any right to compensation. (2 L. J., K. B., (O. S.), 139: 2 B. & C., 703: 4 D. & R., 195.)

201. 1858. *Bradford L. B. H.* v. *Hopwood.* "Public Health Act, 1848," § 123 [="Public Health Act, 1875," §§ 179-80]—Compensation for damage done by works—§ 123 of the aforesaid Act cannot be distinguished from § 25 of the "Lands Clauses Act, 1845," (22 J. P., 561.)

202. 1880. *Burgess* v. *Northwich L. B.* "Public Health Act, 1875," §§ 144, 149, 179, 308—Highway—Houses abutting—Road raised by Board to obviate inconvenience from floods—Houses raised by owners—Compensation for cost of this not payable by Board as the alteration in the level of the road had not been done under the "Public Health Act"—§ 308 refers to powers created by that Act and not to powers created under the "Highway Act, 1835," and merely transferred. (50 L. J., C. P. D., 219: L. R., 6 Q. B. D., 264: 44 L. T., 154: 45 J. P., 256.)

203. 1880. *Grainger* v. *Dudley, Mayor.* "Public Health Act, 1875,"—Subsidence of road and of house abutting thereon—Road raised again by Local Authority to same level as before the building of the house—House

only 10 years old—Action on an Award—Held that no compensation was payable Local Authority being entitled to restore road to level existing before house was built. (*Times*, Nov. 11. 1880.)

204. 1876. *Great Western Railway Co.* v. *Smith.* "Railways Clauses Act, 1845," § 78—Coal Mine—Compensation paid to lessee for loss of right to work—Compensation held not payable to reversioner. (45 L. J., Ch., 235: L. R., 2 Ch. D., 235: 34 L. T., 267.)

205. 1867. *Hall* v. *Bristol, Mayor.* "Public Health Act, 1848," § 144 [="Public Health Act, 1875," § 308]—Construction of Sewer—In order to be entitled to compensation a person must show actionable damage —"Damage" does not include inconvenience. (36 L. J., C. P., 110: L. R., 2 C. P., 322: 15 L. T., 572.)

206. 1851. *Lawrence* v. *Great Northern Railway Co.* Injury to property by works constructed—The compensation covers all damage known or contingent which was apparent and capable of being ascertained and estimated when the compensation was awarded, but does not include contingent damage which could not have been foreseen—Action for further damages held sustainable notwithstanding that compensation had once been paid. (20 L. J., Q. B., 293: 16 Q. B., 643.)

207. 1837. *Lister* v. *Lobley.* Compulsory purchase of premises—Compensation is payable to a lessee as well as to the freeholder. (6 L. J., K. B., 200: 7 A. & E., 124: 6 Nev. & M., 340: 2 Harr. & Woll., 12.)

208. 1865. *Pentney* v. *Lynn Paving Commissioners.* "Towns Improvement Clauses Act, 1847," §§ 22 and 25 —Tidal Watercourse illegally arched over by Commissioners in excess of their powers—This done, plaintiff held entitled to compensation, the facts not disclosing any acquiescence on his part. (12 L. T., 818.)

209. 1865. *Pettiward* v. *Metropolitan B. W.* Land taken for a sewer by a Board—Supersession of that Board by another Board—Transfer of liabilities—The making of compensation held not to be a condition precedent to the taking of land, but to be an obligation incurred after the act is done. (34 L. J., C. P., 301: 19 C. B., (N. S.), 489: 12 L. T., 764.)

210. 1865. *Reg.* v. *Darlington L. B. H.* "Public Health Act, 1848," §§ 45 and 144 [="Public Health Act, 1875," §§ 15, 16, 18, 308]: "Local Government Act, 1858," § 73 [=*Ibid.*, § 332]—Construction of Sewer —Injury by abstraction of water—Held that as the work complained of had been done without proper authority the remedy was by Action at Law and not by proceedings for compensation under the first named Act. (35 L. J., Q. B., 45: 6 B. & S., 562: 29 J. P., 419.)

211. 1845. *Reg.* v. *Lancaster & Preston Railway Co.* 7 Will. IV. & 1 Vict., c. xxii.—A jury summoned to assess compensation are entitled to find that no damage has been done. (14 L. J., Q. B., 84: 6 Q. B., 759.)

212. 1876. *Reg.* v. *Postmaster-General.* Compensation for loss of office—"Emolument"—What is a subject for compensation—Principle of computation in determining the pension value of a lost salary. (45 L. J., Q. B., 609: L. R., 1 Q. B. D., 658: 35 L. T., 241.)

213. 1869. *Reg.* v. *Wallasey L. B. H.* "Public Health Act, 1848," §§ 69 and 144 [="Public Health Act, 1875," §§ 150, 308]—When a Local Board executes works on default of an owner and causes damage, compensation is payable in the usual way to that owner. (38 L. J., Q. B., 217: L. R., 4 Q. B., 351: 10 B. & S., 428: 21 L. T., 90.)

214. 1826. *Rex* v. *Watts.* Nuisance—Indictment —Conviction—Local Act—Compensation held not payable for the compulsory removal under a Statute of a noxious trade, there being a Common Law Nuisance clearly proved to arise at the place where it had been previously carried on, and which rendered it at any time liable to removal after an Indictment. (2 C. & P., 486.)

215. 1876. *Rhodes* v. *Airedale Drainage Commissioners.* Local Act, 24 & 25 Vict., c. clx.—Arbitration— "Sustaining any damage"—Interpretation of a Statute which made special provision for the assessment of compensation for damage done under it. (45 L. J., C. P., 861: L. R., 1 C. P. D., 402: 35 L. T., 46.)

216. 1857. *Stainton* v. *Woolrych.* Interference with Water—Works planned by public Boards may be executed, though they tend to inflict injury on property —Compensation payable—Injunction refused. (26 L. J., Ch., 300: 23 Bea., 225: 23 L. T., (O. S.), 333.)

CONTRACT.

*** See also "Seal."

217. 1858. *Bateman* v. *Ashton-under-Lyne, Mayor.* Water supply—Engineer's plans—Validity of a Contract entered into by a Corporation—Generally speaking, a Corporation is as much bound by its contract as an individual where the seal is affixed in a binding manner. (27 L. J., Ex., 458: 3 H. & N., 323: 31 L. T., (O. S.), 299.)

218. 1852. *Clark* v. *Cuckfield Union.* Erection of Water-closets—Contract not under seal—Action held to be maintainable—*Per* Wightman, J.:—"Goods purchased and work done in accordance with the legitimate objects of a Corporation must be paid for even where there is no sealed contract to pay." (21 L. J., Q. B., 349: 1 Bail Ct. Cas., 81: 19 L. T., (O. S.), 207.) [Decision questioned and Wightman's remarks dissented from by the Judges in *Smart* v. *West Ham.*]

219. 1860. *Cobham* v. *Holcombe.* "Public Health Act, 1848," § 138—Contract "on behalf of" a Local Board—Suit by Clerk for the enforcement of the Contract held maintainable. (8 C. B., (N. S.), 815.) [See now "Public Health Act, 1875," § 259.]

220. 1833. *Curling* v. *Johnson.* Contract with a Board—Condition that the Contractor should pay the Law expenses thereof—Held that when the Contractor refused to pay unreasonable charges the Clerk suing *quâ* Clerk could not recover, his remedy being personal against the Contractor. (10 Bing., 89: 3 Moo. & S., 496.)

221. 1853. *Davies* v. *Swansea, Mayor.* "Public Health Act, 1848," § 139 [="Public Health Act, 1875," § 264.]—Neglect to complete Works—Construction of a Contract as regards the right to enforce a forfeiture clause—Notice of Action held not necessary as regards contracts; only in cases of Tort. (22 L. J., Ex., 297: 8 Ex., 808: 21 L. T., (O. S.), 143.)

222. 1880. *Eaton* v. *Basker.* "Public Health Act, 1875," § 174—Contract not under seal between Local Authority and Medical Man to attend fever patients at so much a head—Doctor's Bill eventually exceeded 50*l.* and payment resisted by the Local Authority—Held that the section did not apply for the said contract when entered into did not amount to 50*l.* and therefore the Local Authority was liable. (50 L. J., Ex., 444: 44 L. T., 703: 45 J. P., 616.)

223. 1878. *Ellis* v. *Aberystwith, Mayor.* Action by Contractor against a Corporation for labour and materials provided for street paving—Rise in price of materials, and contract completed at a loss—Verdict for the defendant Corporation on the ground that it had not consented to any release of the contract terms. (*Times*, June 25, 1878.)

224. 1865. *Goodyear* v. *Weymouth, Mayor.* Building Contract for a Market—Extras—Architect's certificate held final. (35 L. J., C. P., 12: Harr. & Ruth., 67.)

225. 1874. *Harrison* v. *Enfield L. B. H.* Contract for 25 years to receive sewage—Sewage alleged to be worthless because too watery—Motion for a decree to keep back subsoil water, refused. (*Times*, Mar. 27, 1874.)

226. 1878. *Hunt* v. *Wimbledon L. B.* "Public Health Act, 1875," §§ 173-4—Employment of Architect by Board's surveyor on the authority of the Board— Plans for offices duly prepared but not used, and not paid for—Action held not maintainable, the amount

exceeding 50*l.* and there being no contract under seal—§ 174 is imperative and not directory. (48 L. J., C. P., 207: L. R., 4 C. P. D., 48: 40 L. T., 115: 43 J. P., 284.)

227. 1873. *Kidderminster, Mayor* v. *Hardwick.* Market Tolls let by auction—A Contract not under seal nor signed by an Agent expressly appointed under seal for the purpose, cannot be enforced—Payment of a month's rent is not such part performance as would support a Bill for specific performance. (43 L. J., Ex., 9: L. R., 9 Ex., 13: 29 L. T., 611.)

228. 1854. *Kingston-upon-Hull Guardians* v. *Petch.* Tender for supplies—Held that an acceptance by Guardians of a Tender was not binding until a written agreement had been signed, there having been a stipulation that there was to be such an agreement. (24 L. J., Ex., 23: 10 Ex., 610.)

229. 1848. *Kirk* v. *Bromley Union.* Erection of a Workhouse—Builder's Contract—Extras—Absence of written contract held fatal. (2 Phillips, 640: 11 L. T., (o. s.), 429.)

230. 1849. *Lamprell* v. *Billericay Union.* Corporation—Parol Contract with a Builder—Held that the Architect had no authority to cause the erection of additional works. (18 L. J., Ex., 282: 3 Ex., 283: 12 L. T., (o. s.), 533.)

231. 1874. *Mountstephen* v. *Lakeman.* Construction of Sewer by a Contractor—Verbal Contract with the Chairman of the Board—Judgment for the plaintiff (the contractor) against the Chairman in his *private* capacity. (43 L. J., Q. B., 188: 30 L. T., 437: L. R., 7 H. L., 17: 38 J. P., 452.)

232. 1866. *Nicholson* v. *Bradfield Union.* Purchase money of necessaries (*e. g.* coals) held recoverable, although there was no contract under seal. (35 L. J., Q. B., 176: L. R., 1 Q. B., 620: 7 B. & S., 774: 14 L. T., 830.)

233. 1854. *Nowell* v. *Worcester, Mayor.* "Public Health Act, 1848," § 85 [="Public Health Act, 1875," §§ 173-4]—Contract—Condition precedent—A Contract duly entered into may be enforced, although no estimate or report from the Surveyor has been previously obtained—This omission, however, might affect the levy of a Rate. (23 L. J., Ex., 139: 9 Ex., 457: 2 C. L. R., 981: 22 L. T., (o. s.), 244: 18 J. P., 88.)

234. 1846. *Paine* v. *Strand Union.* Contract with a Surveyor under seal—Additional work not under seal—Payment for the latter item held not recoverable. (15 L. J., M. C., 89: 8 Q. B., 326.)

235. 1855. *Pauling* v. *Dover, Mayor.* Construction of sewerage works—Defective work—A particular notice to contractor to cancel his contract held sufficiently specific in its indications as to what was expected of the plaintiff. (24 L. J., Ex., 128: 10 Ex., 753.)

236. 1870. *Roberts* v. *Bury Improvement Commissioners.* Contract for a Cemetery—Right to determine the same on an unfavourable certificate from Architect—One of 2 contracting parties is exonerated from the performance of a contract when the performance is prevented or rendered impossible by the wrongful act of the other. (39 L. J., C. P., 129: L. R., 5 C. P., 310: 22 L. T., 132.)

237. 1865. *Russell* v. *Trickett.* Contract with Local Board—Specification acted upon although unsigned—Contractor's Sureties held not released. (13 L. T., 280.)

238. 1861. *Rutledge* v. *Farnham L. B. H.* Contract to employ an Engineer at a salary—Board held not liable for extra work not contracted for by deed. (2 F. & F., 406.)

239. 1846. *Sanders* v. *St. Neot's Union.* Erection of necessary gates—Contract not under seal—Notwithstanding this, Action held maintainable. (15 L. J., M. C., 104: 8 Q. B., 810.) [See however the remarks of Parke, B., in *Smart* v. *West Ham Union.*]

240. 1858. *Scott* v. *Liverpool Corporation.* Construction of Waterworks—Contract—Engineer's certificate withheld—Contract determined—When a contract refers possible disputes to the decision of a particular person, no rights, enforceable in law, arise, till he has spoken. (28 L. J., Ch., 236: 3 De G. & J., 334: 32 L. T., (o. s.), 265.)

241. 1869. *South of Ireland Colliery Co.* v. *Waddle.* A Contract with Corporation may be enforceable even if it be not under seal, if the subject-matter is closely related to the functions of the Corporation in the way of trade. (38 L. J., C. P., 338: L. R., 4 C. P., 617: 18 L. T., 405, affirmed on appeal.)

242. 1875. *Thorn* v. *London, Mayor.* A Local Authority in entering into a contract based on certain plans and estimates, does not thereby so guarantee that the plans are capable of execution as that a contractor has a remedy against the Authority if the contract cannot be carried out according to the plans. (44 L. J., Ex., 62: L. R., 10 Ex., 112: 31 L. T., 455.)

243. 1877. *Waghorn* v. *Wimbledon L. B.* Resolution of Board that its Surveyor should procure tenders for works—Plaintiff employed by Surveyor as a "quantity surveyor"—Tenders not accepted by Board—Held that the plaintiff had impliedly been employed by the authority of the Board, and that he was entitled to be paid his proper fees. (*Times*, June 4, 1877.)

244. 1880. *Wakefield, &c., Banking Co.* v. *Normanton L. B.* Contract for Reservoir to be paid for by instalments after certificate by Engineer—Reservoir found faulty and further payments refused—Action by Contractor against Board for balance—The debt assigned to a Bank—Action by Bank against Board—Defence that the original certificates had been obtained by fraud and conspiracy—This being proved, held that the Board was not liable to the assignees of the debt. (44 L. T., 697: 45 J. P., 601.)

245. 1862. *Worthington* v. *Sudlow.* "Public Health Act, 1848," § 69 [="Public Health Act, 1875," § 150]—Contract between a Local Board and a Paving Contractor—Condition that payment was to be made as the money was recovered from the owners—No money recovered—Held that under the circumstances the Contractor could recover from the Board irrespective of the condition. (31 L. J., Q. B., 131: 2 B. & S., 508: 6 L. T., 283.)

CONTRACT, DISQUALIFICATION FROM.

246. 1853. *Boyce* v. *Higgins.* "Public Health Act, 1848," §§ 19 and 133 [="Public Health Act, 1875," scheds. and §§ 253-4]—Member of a Local Board voting on a matter affecting a Company in which he was interested—Action for Penalty—Consent of A.-G. not obtained—Action held not maintainable. (23 L. J., C. P., 5: 14 C. B., 1: 22 L. T., (o. s.), 103.) [The authority of this case has been much shaken by later cases, especially by *Fletcher* v. *Hudson.*]

247. 1874. *Davies* v. *Harvey.* "Poor Law Amendment Act, 1834," § 77—Guardian held liable to a penalty for the supply of goods to a Relieving Officer by Guardian's partner. (43 L. J., M. C., 121: L. R., 9 Q. B., 433: 30 L. T., 629: 38 J. P., 661.)

248. 1866. *Dyer* v. *Best.* Local Act—Commissioner interested in a Contract—Action for penalties—An Action by a common informer must be brought within one year. (35 L. J., Ex., 105: L. R., 1 Ex., 152: 4 H. & C., 189: 13 L. T., 753.)

249. 1880. *Fletcher* v. *Hudson.* "Public Health Act, 1875," § 253, Schd. II., Rules 64 and 70—Member disqualified by participation in profits of work done for Board—The Rule in question is an "express provision" of the Act within the Section in question, so that *any person* may sue for the penalty mentioned in Rule 70 without consent of the A.-G. [But see remarks of Brett, L. J.] (49 L. J., Ex., 793: L. R., 5 Ex. D., 287: 43 L. T., 404: 45 J. P., 5.) Penalty held payable even though member had resigned. (W. N., 1881, p. 128.)

250. 1853. *Foster* v. *Oxford, Worcester, & Wolverhampton Railway Co.* "Companies Clauses Conso-

lidation Act, 1845," §§ 85-6—A Contract with a Director is not void because he is interested therein, but he vacates his office. (22 L. J., C. P., 99: 13 C. B., 200: 20 L. T., o. s.), 224.)

251. 1861. *Greenhow* v. *Parker.* 55 Geo. III., c. 137, § 6: "Poor Law Amendment Act, 1834," § 51—A Guardian supplying goods for a Workhouse is liable even although the Master gives the order in his own discretion without the authority of his Board. (31 L. J., Ex. 4: 6 H. & N., 882: [*Greenough* v. &c.] 4 L. T., 473.)

252. 1854. *Le Feuvre* v. *Lankester.* A contract with a Town Council acting as a Sanitary Authority, operates as a disqualification under the "Municipal Corporations Act"—But a Contractor may purchase of a member without by so doing causing that member to be disqualified. (23 L. J., Q. B., 254: 3 E. & B., 530: 2 C. L. R., 1426: 22 L. T., (o. s.), 87.

253. 1876. *Lewis* v. *Carr.* "Municipal Corporations Act, 1835," § 28—Goods bought over the counter at the shop of an Alderman, the order being given when the defendant was not present—Held that there was no continuing contract, and that he was not disqualified from being re-elected, and having been re-elected was not liable to the penalty. (46 L. J., Ex., 314: L. R., 1 Ex. D., 484: 36 L. T., 44: 40 J. P., 692.)

254. 1862. *Nicholson* v. *Fields.* "Commissioners Clauses Act, 1847," § 9—Bills receipted by the defendant held to be evidence of his being concerned in a Contract with a Board—Defendant further held to be disqualified thereby, and liable to a penalty. (31 L. J., Ex., 233: 7 H. & N., 810.)

255. 1880. *Reg.* v. *Gaskarth.* "Public Health Act, 1875," Sched. II., (1), Rule 64—Annual Election of Local Board—One successful candidate the lessee of Board's sewage farm—Whereupon the Returning Officer refused to declare him duly elected—*Mandamus* granted to Returning Officer to do so—A lessee as aforesaid is not to be deemed interested in a contract with the Board, or the holder of a place of profit even though the lease contains covenants by Board to supply him with the sewage; on the contrary, he is within the exceptions specified in the Rule. (49 L. J., Q. B., 509: L. R., 5 Q. B. D., 321: 42 L. T., 688: 44 J. P., 507.)

256. 1837. *Rex* v. *St. Margaret's, Westminster, Paving Commissioners.* Commissioners accepting a tender put in by one of themselves—Held that the Contract arising was not of necessity void—*Mandamus* to advertise for new tenders refused. (1 Jur., 104.)

257. 1875. *Tanfield* v. *Reynolds.* "Education Act, 1870," §§ 20 and 34—Member of a Board interested in a printing contract relating to the Board held rightly convicted, though the contract was not made with the Board but with the Mayor as statutory Returning Officer. (39 J. P., 293.)

258. 1826. *Towsey* v. *White.* "General Turnpike Act, 1822," § 65—A Turnpike Trustee who let a horse and cart to a Contractor, held liable to a penalty as a person interested—Where a Notice of Action is required it must be given in strict form. (4 L. J., (o. s.), Q. B., 61: 5 B. & C., 125: 7 D. & R., 810.)

259. 1822. *West* v. *Andrews.* 55 Geo. III., c. 137, § 6—Master of a Workhouse purchasing goods from a Guardian—Guardian held liable to the penalty. (2 D. & R., 184: 1 B. & C., 77: 5 B. & Ald., 128.)

260. 1856. *Woolley* v. *Kay.* Local Act—Disqualification by reason of interest in a Contract—Defendant contracted to sell Land to a Board of which he afterwards became a member, before the completion of the purchase—Held that he was not disqualified, for the Contract was not of a continuing character. (25 L. J., Ex., 351: 1 H. & N., 307: 27 L. T., (o. s.), 205.)

DANGEROUS STRUCTURES.

261. 1875. *Cheetham* v. *Manchester, Mayor.* Local Acts—Dangerous structures—Value of repairs executed at the instance of the Town Clerk recovered from the plaintiff—Action by plaintiff to recover back the amount, the building falling down in spite of the repairs—Judgment for the defendants, it being held that the Surveyor's certificate was conclusive—Notice as to a building held to be good for adjoining premises with which there was internal communication. (44 L. J., C. P., 249: L. R., 10 C. P., 249: 32 L. T., 28: 39 J. P., 343.)

262. 1858. *Labalmondiere* v. *Addison.* "Metropolitan Building Act, 1855," 18 & 19 Vict. c. 122, §§ 73, 97—Dangerous structure—Expenses chargeable on Owner—Time runs from the demand of re-payment and not from the completion of the works. (Metropolis.) (28 L. J., M. C., 25: 1 E. & E., 41: 23 J. P., 26.)

263. 1859. *Labalmondiere* v. *Frost.* "Metropolitan Building Act, 1855," 18 & 19 Vict. c. 122, § 73—Dangerous structure—What an Order for Removal ought to show on its face—When proceedings are taken to recover expenses due under an Order, the Justices to whom the application is made may consider whether the Order is valid. (Metropolis.) (28 L. J., M. C., 155: 1 E. & E., 527.)

264. 1861. *Mourilyan* v. *Labalmondiere.* "Owner"—"Lessee"—Expenses relating to a "dangerous structure" held to be recoverable from a lessee for 21 years. (Metropolis.) (30 L. J., M. C., 95: 1 E. & E., 533: [*Reg.* v. *Mourilyan*] 3 L. T., 668.)

DISQUALIFICATION.

*** See also "Contract, Disqualification from."

265. 1834. *Charlesworth* v. *Rudgard.* Local Act—Action for a penalty against a Commissioner alleged to be interested—Held that proof of the defendant speaking in favour of a footpath opposite his own house was evidence for a jury of *acting* as a Commissioner, although interested, and disqualified accordingly. (4 L. J., Ex., 89: 1 C. M. & R., 498: 4 Tyr., 824.)

266. 1844. *Dumelow* v. *Lees.* Local Act—Pecuniary qualification of a Commissioner—The words "above all charges and incumbrances" do not mean beyond payment of debts, but only apply to specific charges on the property in respect of which he claims his qualification—As regards the latter, the *onus probandi* lies upon the person impugning the candidate's qualification. (1 C. & K., 408.)

267. 1877. *Goodhew* v. *Williams.*—Election of Vestryman—Qualification by rating—Candidate not rated, elected and acting—Subsequent offer to be rated to pay Rates accepted by the Rate Collector—Held, that the candidate had been duly convicted of acting without a qualification—The decision of the Returning Officer held not to be conclusive. (Metrop.) (47 L. J., Q. B., 313: L. R. 3 C. P. D., 382: 37 L. T., 454: 42 J. P., 199.)

268. 1878. *Reg.* v. *Turmine.* "Education Act, 1870," § 12—Member becoming disqualified from neglecting to attend for 6 months—Resulting vacancy filled up—Same person elected again on another vacancy—*Quo Warranto* to question the validity of his re-election refused, it being clear that no perpetual disqualification attached to a man disqualified once merely by efflux of time, but re-elected. (48 L. J., Q. B., 5: L. R., 4 Q. B., 79: 43 J. P., 6: [*Re Turmine*] 39 L. T., 255.)

269. 1853. *Tupper* v. *Newton.* Alleged disqualification of a member of a Board—Held that the defendant was not bound to prove that he had taken the oath, the oath not being part of the qualification. (14 C. B., 114: 22 L. T., (o. s.), 103.)

DISTANCES, MEASUREMENT OF.

270. 1856. *Jewel* v. *Stead.* A distance of "three miles" named in a Turnpike Act, means three miles in a straight line. (25 L. J., Q. B., 294: 6 E. & B., 350: 27 L. T., (o. s.), 101.)

271. 1855. *Lake* v. *Butler.* A distance of "20 miles," named in an Act of Parliament, means 20 miles measured

in a straight line. (24 L. J., Q. B., 273: 5 E. & B., 92: 3 C. L. R., 1124: 25 L. T., (O. S.), 128.)

272. 1872. *Mouflet* v. *Cole.* Trade covenant—"Half-a-mile" means half-a-mile in a straight line, measured from the point of nearest approach, in a straight line as on a map. (42 L. J., Ex., 8: L. R., 8 Ex., 32: 27 L. T., 678.)

273. 1846. *Reg.* v. *Saffron Walden Inhabitants.* "Ten miles" in a Statute means ten miles measured in a straight line. (15 L. J., M. C., 115: 9 Q. B., 76: 2 New Sess. Cas., 360.)

274. 1854. *Stokes* v. *Grissell.* A distance of "20 miles" named in an Act of Parliament, means 20 miles measured in a straight line. (23 L. J., C. P., 141: 14 C. B., 678: 2 C. L. R., 729: 23 L. T., (O. S.), 114.)

DITCH.

275. 1864. *Felkin* v. *Herbert* (*Lord*). Suit by a Local Board for filling up a ditch and obstructing an ancient easement—Bill dismissed, the proper remedy being under the "Public Health Act, 1848," § 63. [Since repealed.] (11 L. T., 173.) [A contempt by a newspaper arising out of this matter is reported 33 L. J., Ch., 294: 12 W. R., 241 and 332: 10 Jur., (N. S.), 62.]

276. 1873. *Tutill* v. *West Ham L. B.* Ditch adjoining a highway—Dispute as to Board's right to fill up the same—Judgment for the plaintiff, presumption being that the ditch was his. (L. R., 8 C. P., 447: 28 L. T., 597: 37 J. P., 455.)

DIVISION OF DISTRICTS.

277. *Farr* v. *Boston.* "Public Health Act, 1848," § 89 [="Public Health Act, 1875," §§ 210-11]—Division of a District and Assessment on part thereof. (Glen, 205, 8th Ed.)

DRAINS.

278. 1858. *Austin* v. *St. Mary's, Lambeth, Vestry.* "Metropolis Local Management Act, 1855," 18 & 19 Vict. c. 120, § 76—Drain pipes—Vestry entitled to prescribe pattern—Injunction to restrain removal by Vestry of pipes not according to pattern, refused. (Metropolis.) (27 L. J., Ch., 388 and 677: 4 Jur., (N. S.), 274 and 1032: 30 L. T., (O. S.), 300.)

279. 1875-7. *Baker* v. *Wisbeach, Mayor.* Drain pipes laid through private land maliciously broken by the land-owner—Conviction for malicious injury affirmed—Such a mode of questioning the acts of a public Board held highly improper. (*Times,* Nov. 18, 1875.) Again before the High Court (Ch. Div.) on a motion for Injunction to restrain flow of sewage so as to be nuisance to a water-course—Injunction granted—No Notice of Action required. (W. N., 1877, p. 56.)

280. 1874. *Bolingbroke* (*Lord*) v. *Swindon L. B.* Sewage Farm—Trespass by Manager on plaintiff's land to pare away edges of a ditch between the two properties—Master and Servant—Verdict for the defendants held good, it not being within the scope of the manager's employment, and therefore there being no implied authority to him to commit a trespass. (43 L. J., C. P., 287: 30 L. T., 723.)

281. 1879. *Bowes* v. *Watson.* "Land Drainage Act, 1847," 10 & 11 Vict. c. 38, §§ 14-5—The words "drain, stream, or water-course," include an underground drain, and are not necessarily limited to an open drain. (42 L. T., 27: 44 J. P., 364.)

282. 1856. *Cawkwell* v. *Russell.* Obstruction of a Drain—Plea, limited right of use only, whereas the plaintiff had sought to assert an absolute right. (26 L. J., Ex., 34.)

283. 1844. *Coulton* v. *Ambler.* "Public or Parish Drain"—Navigable river or cut held not to be a "drain." (14 L. J., Ex., 10: 13 M. & W., 403: 3 Rail. Cas., 724, n.)

284. 1861. *Ewart* v. *Cochrane.* Adjacent properties held by one owner drained by one drain—On severance a grant of an easement as to the drain held to go with the Conveyance of the property though not actually named. (4 Macq., H. L. Cas., 117: 5 L. T., 1: 10 W. R., 3.)

285. 1875. *Finlinson* v. *Porter.* "Public Health Act, 1848," § 49: [="Public Health Act, 1875," §§ 23, 25]: "Local Government Act, 1858," § 34, [=Ibid. §§ 157, 159] —Conveyance of rights as to a drain—Drain altered by defendants on the demand of the Local Board—Action of Trespass—Judgment for the defendants, the conveyance operating to give them an interest in the drain which they had not altered in any material manner. (44 L. J., Q. B., 56: L. R., 10 Q. B., 188: 32 L. T., 391: 39 J. P., 661.)

286. 1877. *Humphries* v. *Cousins.* Easement—Drain—Injury to plaintiff's goods by overflow of sewage from defendant's premises—Held that the plaintiff was entitled to recover, although the defendant was only tenant, and did not know that some part of the drain passed under the plaintiff's premises, and was out of repair. (46 L. J., C. P., 438: L. R., 2 C. P. D., 239: 41 J. P., 280.)

287. 1857. *Pyer* v. *Carter.* Rights of the owners of 2 adjacent houses to a Drain common to each—Easement. (26 L. J., Ex., 258: 1 H. & N. 916: 28 L. T., (O. S.), 371.) [Not accepted as of authority by Westbury, C., in *Suffield* v. *Brown,* (33 L. J., Ch., 249.) But Lord Westbury's views dissented from by James and Mellish, L.JJ. in *Watts* v. *Kelson,* (40 L. J., Ch., 126.) "*Pyer* v. *Carter* is good sense and good law."]

288. 1842. *Russell* v. *Shenton.* Nuisance—The cleansing and repair of drains is *prima facie* the duty of the occupier and does not devolve on the owner merely as such. (11 L. J., Q. B., 289: 3 Q. B., 449: 2 G. & D., 573.)

ELECTION BUSINESS.

289. 1875. *Aberdare L. B. H.* v. *Hammett.* Filling up of a voting-paper by voter's wife with his authority—Held that this was not "fabricating" a voting-paper, and therefore that no offence had been committed. (44 L. J., M. C., 49: L. R., 10 Q. B., 162: 32 L. T., 20: 39 J. P., 598.)

290. 1789. *Anthony* v. *Seger.* Parochial Election—Show of hands—Poll—One candidate elected, afterwards declared disqualified—Effect of this decision on the other candidates. (1 Hagg., C. C. C., 13.)

291. 1879. *Bell* v. *Morson.* Filling up voting-paper without Voter's Authority—Held that though there might have been evidence to convict of fabricating the voting-paper, the Appellant was wrongly convicted of assuming to act, as it was not proved that the voter did not afterwards agree to what had been done. (40 L. T., 128: 43 J. P., 638.)

292. 1867. *Bennett* v. *Brumfitt.* The use by a person of a *fac-simile* stamp of his signature in place of affixing his signature with a pen held good. (37 L. J., C. P., 25: L. R., 3 C. P., 28: 17 L. T., 213.)

293. 1862. *Buckmaster* v. *Reynolds.* 18 & 19 Vict. 120, § 21—Riotous conduct in a room where a poll is being taken is within the words "by a contrivance attempting to obstruct." (Metrop.) (13 C. B., (N. S.), 62.)

294. 1836. *Campbell* v. *Maund.* Parochial Election—The common Law right to demand a poll can only be abrogated by express Law or custom. (6 L. J., M. C., 145: 5 A. & E., 865: 1 N. & P., 558: 2 H. & W., 457.)

295. 1872. *Davies* v. *Stone.* Election of Guardians—Filling up a Marksman's paper otherwise than according to his wishes—Conviction for "Fabrication" held good. (36 J. P., 390.)

296. 1861. *Easton* v. *Alce.* Local Act—Qualification depending on being "rated by one or more Rate or Rates" to a specified minimum amount, held to refer to the annual rateable value, and not to the money payable annually. (31 L. J., Ex., 115: 7 H. & N., 452: 5 L. T., 323.)

297. 1874. *Fox* v. *Dally.* 30 & 31 Vict. c. 132, § 3—A Militia Sergeant held to occupy not as "tenant"—Vote disallowed. (44 L. J., C. P., 42: L. R., 10 C. P., 285: 31 L. T., 478.)

298. 1876. *Howes* v. *Turner.* "Municipal Elections Act, 1875," 38 & 39 Vict., c. 40—A Contraction in signing a nomination paper, thus "Fred^{k}" for "Frederick" held not to invalidate the paper. (45 L. J., C. P., 550: L. R., 1 C. P. D., 670: 35 L. T., 58.)

299. 1856. *Howitt* v. *Manfull.* "Public Health Act, 1848"—Local Board—Three members were disqualified by non-attendance, and the Board decided that they should be the members to retire by rotation—Held that a Rate subsequently made by the Board re-constituted was good. (25 L. J., Q. B., 411: 6 E. & B., 736: 27 L. T., (o. s.) 183.)

300. 1872. *Jones, In re.*—School Board Election—The Returning Officer a Solicitor—Bill of Costs, which included business connected with both Election and Meeting of the Board, sent in by him in the form of a Solicitor's Bill—Held that as he had by the form of his account treated himself as Solicitor of the Board the Bill was liable to taxation. (41 L. J., Ch., 367: L. R., 13 Eq. 336: 20 W. R., 395.)

301. 1862. *Lambe* v. *Grieves.* Vestry—In calculating the votes to which a voter is entitled his assessments must be taken in the aggregate and not singly. (8 Jur., (N. S.), 288.)

302. 1876. *Mather* v. *Brown.* "Municipal Corporations Act, 1835," § 142: "Municipal Elections Act, 1875"—Held that in signing a name, where a Christian name is required to be mentioned, the initial thereof is not sufficient. (45 L. J., C. P. D., 547: L. R., 1 C. P. D., 596: 34 L. T., 869: 40 J. P., 616.)

303. 1856. *Metcalfe, Ex parte.* "Public Health Act, 1848," § 30 [="Public Health Act, 1875," Sched. II., (1), 67]—A Local Board has an absolute discretion as to the remuneration to be paid to a Returning Officer. (6 E. & B., 287: 27 L. T., (o. s.), 78.)

304. 1852. *Reg.* v. *Avery.* "Municipal Corporations Act, 1835," § 32—A Voting-paper signed with the Voter's usual signature is good: *e.g.* Initials and Surname. (21 L. J., Q. B., 428: 18 Q. B., 576: 19 L. T., (o. s.), 164.)

305. 1866. *Reg.* v. *Backhouse.* An Election of a Local Board conducted in the usual manner, save that the Chairman was absent and no deputy was appointed, is void, and his certificate of the result a nullity. (36 L. J., Q. B., 7: L. R., 2 Q. B., 16: 7 B. & S., 911: 15 L. T., 240.)

306. 1858. *Reg.* v. *Beckwith.* Election of Guardians—Forgery of Voting-papers—Practice at Trial as to reply by Counsel. (7 Cox, C. C., 505.)

307. 1866. *Reg.* v. *Blanshard.* "Public Health Act, 1848," §§ 28 [="Public Health Act, 1875," Sched. II., (1), 68; §§ 253-4 and 133]—Local Board Election—Prosecution of a Returning Officer by a member of a Board, but without the consent of the A.-G. or Local Board—Held that the Justices had no jurisdiction to convict. (30 J. P., 280.)

308. 1866. *Reg.* v. *Blizard.* Municipal Corporation.—*Quo Warranto*—Where a successful Candidate is not qualified, he cannot by resigning his seat deprive of his rights an opponent who claims his seat. (36 L. J., Q. B., 18: L. R., 2 Q. B., 55: 7 B. & S., 922: 15 L. T., 242.) [See *Reg.* v. *Tewkesbury, Mayor.*]

309. 1861. *Reg.* v. *Bradley.* "Municipal Corporations Act, 1835," § 14—A contraction of a Christian name which is well-known and in ordinary use may be employed in a Voting-paper. (30 L. J., Q. B., 180: 3 E. & E., 634: 3 L. T., 853.)

310. 1864. *Reg.* v. *Briggs.* Local Act—*Quo Warranto* against a Commissioner—Interest of Relator—An owner of rateable property held qualified to be a Relator—Promise by agent of candidate to pay the Rates of ratepayers in arrear does not render their votes good if Act requires actual pre-payment. (11 L. T., 372: 29 J. P., 423.)

311. 1880. *Reg.* v. *Clerk of Bury Guardians.* 7 & 8 Vict. c. 101, § 15—A Clerk of Guardians sitting to revise a list of voters is not entitled to insist on a claimant appearing in person if he sends a suitable representative or agent. (44 J. P., 216.)

312. 1876. *Reg.* v. *Collins.* Local Board Election—Error in casting up votes discovered some time after the declaration of the Poll—*Quo Warranto*—A Chairman's certificate is not conclusive as to mere mechanical errors of casting up, but it is conclusive as regards the validity of votes—Bad votes not rejected at the proper time cannot afterwards be questioned. (46 L. J., Q. B., 257: L. R., 2 Q. B. D., 30: 36 L. T., 192.)

313. 1851. *Reg.* v. *Coward.* "Municipal Corporations Act, 1835," § 142—A Candidate long resident in one street and well known, moved to a new address a few days before an election—Old address given in the Voting-papers—Held a fatal variance and Candidate not duly elected—*Quo Warranto* issued. (20 L. J., Q. B., 359: 16 Q. B., 819: 17 L. T., (o. s.), 71.)

314. 1852. *Reg.* v. *Cross.* "Public Health Act, 1848"—A Returning Officer exercises judicial functions; his certificate is, therefore, conclusive and cannot be questioned under a *Quo Warranto*—The defendant may be a witness on his own behalf. (19 L. T., (o. s.), 35: 16 J. P., 215.) [See *Reg.* v. *Collins.*]

315. 1844. *Reg.* v. *Deighton.* "Municipal Corporations Act, 1835"—*Quo Warranto*—Election of Alderman—To describe a Candidate as of a place where he daily transacts business, instead of giving his residence, is a misdescription sufficient to avoid his election. (13 L. J., Q. B., 241: D. & M., 682: 5 Q. B., 896.)

316. 1858. *Reg.* v. *Eddows.* Local Act—Qualification by Rating—Candidate rateable but not rated, held ineligible. (28 L. J., Q. B., 84: 1 E. & E., 330.)

317. 1880. *Reg.* v. *Ellis.* Local Board Election—Candidate elected who was not qualified because not rated passed over by Returning Officer who returned candidate who was in minority—Rule for *Quo Warranto* against minority candidate discharged; and Returning Officer exonerated. (44 J. P., 748.)

318. 1864. *Reg.* v. *Hague.* "Municipal Corporations Act, 1859," § 9—The offence of personation is complete when a person not the voter hands in a nomination paper to the officer—The conviction need not show that the election was duly held. (33 L. J., M. C., 81: 4 B. & S., 715: 9 Cox, C. C., 412: 9 L. T., 648.)

319. 1852. *Reg.* v. *Hammond.* "Municipal Corporations Act, 1835," § 32—Voting-papers—A Candidate's place of business, if he does not reside there, is not his "place of abode"—*Quo Warranto*—Election void. (21 L. J., Q. B., 153: 17 Q. B., 772: 19 L. T., (o. s.), 21.)

320. 1873. *Reg.* v. *Harrald.* "Municipal Corporations Act, 1835," § 44—*Quo Warranto*—If a Voter votes in two wards, his first vote is to stand and the second is a nullity. (42 L. J., Q. B., 211: L. R. 8 Q. B., 418: 28 L. T., 767: 38 J. P., 40.)

321. 1853. *Reg.* v. *Hartshorn.* "Public Health Act, 1848," § 25 [="Public Health Act, 1875," Sched. II, (1), 45]—Held that to fill up Voting-papers on behalf of Marksmen, with their consent, but without obtaining their marks and attesting the same, is not forgery at Common Law—*Quære*, Is this an indictable misdemeanour? (6 Cox, C. C., 395.)

322. 1877. *Reg.* v. *Hazley.* "Commissioners Clauses Act, 1847," § 19—Casual vacancy in a Board filled up by names being written on slips of paper thrown into a hat and then counted—The papers destroyed, and no scrutiny possible—The Court intimated an opinion that such a mode of election was invalid, but no formal order made, the parties consenting to a new election. (Ir. R., 11 C. L., 360: 26 W. R. Digest, 242.)

323. 1838. *Reg.* v. *Hiorns.* "Municipal Corporations Act, 1835"—*Semble* that where an unqualified person is a candidate, notice of disqualification must be given at the time of election, or votes recorded for such candidate cannot be deemed thrown away. (7 A. & E., 960: 3 N. & P., 148.)

324. 1868. *Reg.* v. *Ireland.* "Municipal Corporations Act, 1835," § 9 (1)—*Quo Warranto*—Parochial

relief to a father is not relief to a son, so as to disqualify the latter. (37 L. J., Q. B., 73: L. R., 3 Q. B., 130: 9 B. & S., 19: 17 L. T., 466.)

325. 1861. *Reg.* v. *Kirby.* "Vestries Act, 1818," § 3—Right to vote as Executor—Claim held good—Held also that it was immaterial that the claimant was not entered by name as an Executor; and that the testator's property was available for adding to the executor's private property so as to confer additional votes. (31 L. J., Q. B., 3: 1 B. & S., 647: 5 L. T., 280.)

326. 1866. *Reg.* v. *Lofthouse.* "Public Health Act, 1848," § 24 [="Public Health Act, 1875," Sched. II, (1), 43]—A Voting-paper issued without the number of Votes allotted being stated thereupon is not on that account invalid—A relator who has acquiesced in the mode of voting to which he afterwards objects is disqualified from applying for a *Quo Warranto.* (35 L. J., Q. B., 145: L. R., 1 Q. B., 433: 7 B. & S., 447: [*Reg.* v. *Lockhouse*] 14 L. T., 359.)

327. 1871. *Reg.* v. *Morgan.* "Public Health Act, 1848," § 24 [="Public Health Act, 1875," Sched. II, (1), 40]—A Voting-paper need not state any qualification for the Nominator—*Quo Warranto*—Relator held not entitled to costs, the office of member of Local Board not being within 9 Anne, c. 20. (41 L. J., Q. B., 55: L. R., 7 Q. B., 26: 25 L. T., 930: 37 J. P., 165: [Question of Costs] 26 L. T., 790.)

328. 1859. *Reg.* v. *Owens.* "Municipal Corporations Act, 1835," § 25, &c.—A Mayor, if a Returning Officer, cannot be a Candidate. (28 L. J., Q. B., 316: 2 E. & E., 86: 33 L. T., (O. S.), 257.)

329. 1867. *Reg.* v. *Parkinson.* Municipal Corporation—Ward Election—A Nominator must be entitled to vote in the Ward for which he nominates, or a nomination by him will be invalid. (37 L. J., Q. B., 52: L. R., 3 Q. B., 11: 8 & B. S., 769: 17 L. T., 169.)

330. 1869. *Reg.* v. *Plenty.* "Municipal Corporations Act, 1835," § 32—*Quo Warranto*—A Voting-paper naming the Candidates only by their Initials and Surnames is good. (38 L. J., Q. B., 205: L. R., 4 Q. B., 346: 9 B. & S., 386: 20 L. T., 521.)

331. 1876. **Reg.* v. *Rippon.* "Public Health Act, 1848," § 23 [="Public Health Act, 1875," Sched. II., (1), 36, 66]—Ordinary vacancies and a casual vacancy filled up at one election, no notice being given as to a distinction—Election held to be void. (45 L. J., Q. B., 188: L. R., 1 Q. B. D., 217: 34 L. T., 444: 40 J. P., 536.) [Effect of decision modified by legislation.]

332. 1857. *Reg.* v. *St. Pancras Inspectors of Votes.* Parochial Election—A Returning Officer is not to return an unqualified Candidate even though he have a majority of votes. (7 E. & B., 954: [*Ross, Ex parte*] 26 L. J., Q. B., 312: 29 L. T., (O. S.), 197.)

333. 1872. *Reg.* v. *Strachan.* Municipal Election—Stamp Act—Held that a Voting-paper used at an election of Alderman does not require a stamp. (41 L. J., Q. B., 210: L. R., 7 Q. B., 463: 26 L. T., 835.)

334. 1859. *Reg.* v. *Tart.* "Municipal Corporations Act, 1835," § 32—A Voting-paper must be properly signed, so as to connect the Voter's address with his name. (28 L. J., Q. B., 173: 1 E. & E., 618: 32 L. T., (O. S.), 314.)

335. 1868. *Reg.* v. *Tewkesbury, Mayor.* "Municipal Corporations Act, 1835," § 35—Though the vote of an elector knowingly and wilfully voting for a disqualified candidate is lost, yet knowledge of facts that constitute a legal disqualification is not necessarily knowledge that the candidate is legally disqualified, so as to give the candidate next on the poll a "majority of good votes." (37 L. J., Q. B., 288: L. R., 3 Q. B., 629: 9 B. & S., 683: 18 L. T., 851.)

336. 1853. *Reg.* v. *Thwaites.* "Municipal Corporations Act, 1835," § 142—A voter named *Joseph* C. was entered on the Burgess Roll as *James* C. and therefore signed his name as *James* C. though it was not correct—Vote held good—*Semble* that the vote would also have been good had he signed as *Joseph* C., the misnomer being capable of rectification under the Statute. (22 L. J., Q. B., 238: 1 E. & B., 704: 21 L. T., (O. S.), 72.)

337. 1874. *Reg.* v. *Tong Street L. B.* Neglect to hold the customary annual election—*Mandamus* granted to compel the Board to do so six months after the proper time. (38 J. P., 756.)

338. 1868. *Reg.* v. *Tugwell.* "Municipal Corporations Act, 1835,"—*Quo Warranto*—Defective Voting-paper—A Burgess rated in two wards may vote in either without selecting one in which to be enrolled. (37 L. J., Q. B., 275: L. R., 3 Q. B., 704: see also 38 L. J., Q. B., 12: 9 B. & S., 367.)

339. 1873. *Reg.* v. *Ward.* "Public Health Act, 1848," § 21 [="Public Health Act, 1875," Sched. II., (1), 32]—Local Board Election—When the Chairman is a candidate, he ought to take no part in the conduct of an election even during the preliminary stages—But a *Quo Warranto* refused under the particular circumstances. (42 L. J., Q. B., 126: L. R., 8 Q. B., 210: 28 L. T., 118: 37 J. P., 453.)

340. 1867. *Reg.* v. *White.* "Municipal Corporations Act, 1835," § 36—*Quo Warranto*—Delegation by Mayor of his duties as Returning Officer when he is a candidate, valid. (36 L. J., Q. B., 267: L. R., 2 Q. B., 557: 8 B. & S., 587: 16 L. T., 828.)

341. 1836. *Rex* v. *Arnold.* "Municipal Corporations Act, 1835," § 35—Inspection of Voting-papers—Extent of the discretion vested in Town Clerk to restrict applicants in their operations—He may make such regulations to control applicants as may be necessary to obviate confusion and delays. (5 L. J., M. C., 54: 4 A. & E., 657: 6 N. & M., 152.)

342. 1829. *Rex* v. *London, Mayor.* Change of Returning Officer during an election—Successor can complete predecessor's unfinished work. (9 B. & C., 1.)

343. 1855. *Robinson, Ex parte.* "Public Health Act, 1848"—Alleged void Election—Rule *nisi* for *Quo Warranto.* (19 J. P., 724.) [Rule absolute: 26 L. T., (O. S.), 105, *nom.*, *Reg.* v. *Robinson:* this Report useless.]

344. 1877. *Soper* v. *Basingstoke, Mayor.* "Municipal Elections Act, 1875"—Address of a nominator—Name of street lately changed—Old name on nomination paper; new name on Burgess Roll—Nomination paper held improperly rejected. (46 L. J., C. P., 422: L. R., 2 C. P. D., 440: 36 L. T., 468: 41 J. P., 535.)

345. 1868. *Summerhill* v. *Coley.* "Public Health Act, 1848"—Attestation of Voting-papers—Voting-papers held valid. (32 J. P., 821.)

346. 1857. *Tozer* v. *Child.* An Action does not lie against a Returning Officer for rejecting a vote unless it be proved that the vote was maliciously rejected. (26 L. J., Q. B., 151: 7 E. & B., 377: 28 L. T., (O. S.), 309.)

347. 1872. *Turner, Ex parte.* Local Board Election—Accidental neglect to add up votes on the proper day—Held that it might be done on a subsequent day. (36 J. P., 744.)

348. 1854. *Westbury-on-Severn Union, In re.* Election of Guardians—Delivery of a Nomination Paper on a Sunday treated as a delivery on the day following. (4 E. & B., 314: 18 J. P., 758: [*Reg.* v. *Poor Law Commissioners*] 1 Jur., (N. S.), 251: 24 L. T., (O. S.), 156.)

349. 1868. *Whitely* v. *Chappell.* 14 & 15 Vict., c. 105, § 3—Voting at an Election of Guardians in the name of a deceased Voter is not personating anyone "entitled to vote." (38 L. J., M. C., 51: L. R., 4 Q. B., 147: 9 B. & S., 1019: 19 L. T., 355: 33 J. P., 244.)

ESTIMATE.

350. 1857. *Cunningham* v. *Wolverhampton L. B. H.* "Public Health Act, 1848," §§ 85 and 69 [="Public Health Act, 1875," §§ 173-4; § 150]—Execution of Works—Estimate and Report from Surveyor are only requisite when a Local Board will have hereafter to maintain works which it may execute. (26 L. J., M. C., 33: 7 E. & B., 107: as to Costs, 28 L. T., (O. S.), 252.)

FENCES.

351. 1850. *Barnes* v. *Ward.* Occupier bound to fence an excavation near a public way; on default and an accident happening, "Lord Campbell's Act" (9 & 10 Vict. c. 93) is applicable. (19 L. J., C. P., 194: 2 C. & K., 661: 9 C. B., 392.)

352. 1855. *Cornwell* v. *Metropolitan Commissioners of Sewers.* An ancient Tidal Sewer running along a highway—Held that the right to the highway was subject to the Sewer, and the owner of the Sewer was not bound to fence. (10 Ex., 771: 3 C. L. R., 417: 19 J. P., 313.)

353. 1878. *Firth* v. *Bowling Iron Co.* Iron fence which defendants were bound to maintain, allowed to become defective and decayed—Fragment thereof eaten by plaintiff's cow, which died—Action held maintainable—The defendants were acquainted with the bad condition of their fence. (47 L. J., C. P., 358: L. R., 3 C. P. D., 254: 38 L. T., 568: 42 J. P., 470.)

354. 1864. *Ohrby* v. *Ryde Commissioners.* "Towns Improvement Clauses Act, 1847," § 52—Neglect to fence a dangerous footpath—Defendants held liable—Commissioners acting gratuitously are liable for breach of duty without proof that they possess funds or the means of raising funds. (33 L. J., Q. B., 296: 5 B. & S., 743.)

355. 1868. *Wilson* v. *Halifax, Mayor.* "Towns Improvement Clauses Act, 1847," § 83: "Public Health Act, 1848," §§ 68 and 139 [="Public Health Act, 1875," §§ 149, 264]—An ancient open water-course alongside a public foot-path is not a "hole or other place near a street" which a Local Board is bound to fence—Duty as to erection of posts or rails—The alleged cause of Action being the continued non-performance of a duty imposed by the "Public Health Act, 1848," and therefore a thing "done or intended to be done" under the Act, the defendants were entitled to Notice of Action. (37 L. J., Ex., 44: L. R., 3 Ex., 114: 17 L. T., 660.)

FIRE-ENGINE.

356. 1873. *Drighlington L. B. H.* v. *Bower.* "Towns Police Clauses Act, 1847," § 32—Claim for use of Fire-Engine within the District—Held that a Local Board could not recover more than the amount paid out of pocket for hire of men—The power to charge for extinguishing fires outside a District impliedly negatives the right to charge within it. (W. N., 1873, p. 220: 22 W. R., 165: 38 J. P., 73.)

357. 1875. *Lewis* v. *Arnold.* "Towns Police Clauses Act, 1847," § 33—Expenses of Fire-Engine attending a hay-stack on fire—Held that the owner of the stack, being the occupier of the land, was to be deemed for the purpose of the Act, "the owner of the land"—A hay-stack is not a "building." (44 L. J., M. C., 69: L. R., 10 Q. B., 245: 32 L. T., 553: 39 J. P., 519.)

FOOD, UNWHOLESOME.

358. 1847. *Burnby* v. *Bollitt.* A public dealer is criminally liable for selling unwholesome food: not so, a private person selling. (17 L. J., Ex., 190: 16 M. & W., 644.)

359. 1870. *Daly* v. *Webb.* "Nuisances Removal Act, 1863," § 2 [="Public Health Act, 1875," §§ 116-7]—A cart conveying diseased meat is "a place"—Meat so being conveyed to a Food Factory is being "exposed for sale." (4 Ir. Rep., C. L., 309: [*Webb* v. *Daly*] 18 W. R., 631.)

360. 1862. *Emmerton* v. *Matthews.* The sale of meat in a market does not imply a warranty that it is sound and fit for human food—A purchaser has no remedy against a vendor in the absence of fraud. (31 L. J., Ex., 139: 5 L. T., 681.)

361. 1862. *Hartley, In re.* "Public Health Act, 1848," § 63 [="Public Health Act, 1875," §§ 116-7]—Unwholesome Meat—The Court has no discretion to refuse a Rule to issue distress warrants if the proceedings are regular. (31 L. J., M. C., 232: [*Reg.* v. *Hartley, In re Over Darwen*] 26 J. P., 438.)

362. 1880. *Moody* v. *Leach.* "Public Health Act, 1875," §§ 116-7, 119—These sections include live animals—But in the particular case the evidence was held sufficient to show that a live cow found in a building adjacent to a slaughter-house was not placed there intended to be killed for food. (Q. Sess.) (44 J. P., 459.)

363. 1879. *Reg.* v. *Blount.* "Public Health Act, 1875," §§ 116-7—Summons against a butcher for exposing unsound meat for sale—Summons dismissed on proof that defendant did not know the meat had been brought upon his premises—Whereupon second summons for the offence of having the meat on his premises—Conviction—Conviction quashed as irregular, the offence charged under each summons being substantially the same. (43 J. P., 383.)

364. 1862. *Reg.* v. *Crawley.* A person is not indictable for sending unwholesome meat to market if he does not intend it to be sold for human food, nor send it for that purpose. (3 F. & F., 109.)

365. 1862. *Reg.* v. *Jarvis.* A carrier can be indicted and convicted at Common Law for knowingly taking to market meat unfit for human food. (3 F. & F., 108.)

366. 1862. *Reg.* v. *Stephenson.* A meat salesman can be indicted and convicted at Common Law for knowingly sending or exposing meat for sale in a public market as fit for human food which was not so. (3 F. & F., 106.)

367. 1875. *Shillito* v. *Thompson.* By-Law under "Municipal Corporations Act, 1835," § 90—Exposure for sale of putrid cheese is a nuisance at Common Law—By-Law held good, and therefore conviction affirmed. (45 L. J., M. C., 18: L. R., 1 Q. B. D., 12: 33 L. T., 506: 40 J. P., 535.)

368. 1878. *Smith* v. *Baker.* In a sale of butcher's meat in a market there is no warranty, and therefore if meat proves to be unsound a purchaser has no remedy where there is no fraud—*Caveat Emptor.* (*Times*, Dec. 20, 1878.)

FOOTPATH.

369. 1873. *Hamilton* v. *St. George's, Hanover Square, Vestry.* The owner of a cellar over which there exists a paved public foot-way is not bound to keep the foot-way in repair if the cellar existed before the foot-way was dedicated. (Metropolis.) (43 L. J., M. C., 41: L. R., 9 Q. B., 42: 29 L. T., 428: 38 J. P., 405.)

370. 1879. *Reg.* v. *Wigan, JJ.* Conviction by Justices of a householder for obstructing a footway by furniture—Allegation that no part of the *public* footway was obstructed; merely an open forecourt—Conviction quashed by *Certiorari.* (43 J. P., 220.)

GAS COMPANY, POWERS, &c., OF.

371. 1868. *A.-G.* v. *Cambridge Consumers' Gas Co.* Breaking up streets for Gas pipes without authority—Injunction refused, under the circumstances—The disturbance of a pavement by a Gas Company without authority, for laying pipes is not a nuisance so serious that a Court of Equity will prevent it. (38 L. J., Ch., 94: L. R., 4 Ch. App., 71: 19 L. T., 508.)

372. 1877. *A.-G.* v. *Gas-Light and Coke Co.* "Gasworks Clauses Act, 1847," § 29—Nuisance from gas refuse during its removal from place to place—No defence to proceedings for abatement of nuisance to allege that gas cannot be made of requisite purity without creating such nuisance—Injunction granted to restrain the Company from carrying on their operations so as to be a nuisance. (47 L. J., Ch., 534: L. R., 7 Ch. D., 217: 37 L. T., 746: 42 J. P., 391.)

373. 1853. *A.-G.* v. *Sheffield Gas Consumers' Co.* Breaking up of Streets—Held not to be such a nuisance

as to afford sufficient ground for an Injunction—For a continuing nuisance the Court will not refuse an Injunction merely because the actual damage is slight. (22 L. J., Ch., 811: 3 De G., M. & G., 304: 21 L. T., (o. s.), 49.)

374. 1879. *Birmingham Corporation, In re.* Gas-works Undertaking extending over the districts of several Local Authorities sold to one Local Authority, with a right to each Authority affected to repurchase its own portion—Principle of valuation for such repurchase. (*Times*, May 30, 1879.)

375. 1870. *Burrows* v. *March Gas & Coke Co.* Escape of gas from a defective meter pipe supplied by the defendants—Explosion caused by the act of a third party—Held that the defendants were liable for the consequential damage. (39 L. J., Ex., 33: L. R., 5 Ex., 67: 22 L. T., 24.)

376. 1875. *Commercial Gas Co.* v. *Scott.* "Gas-works Acts, 1847, 1860, 1871"—Unjustifiably cutting off supply of gas—Penalty—Company held rightly convicted. (44 L. J., M. C., 171: L. R., 10 Q. B., 400: 32 L. T., 765: 40 J. P., 214.)

377. 1855. *Dover Gas-light Co.* v. *Dover, Mayor.* A permission to break up a Street for a specified purpose of public advantage should receive a wide construction. (7 De G. M. & G., 545: 1 Jur., (N. S.), 812: 25 L. T., (o. s.), 277.)

378. 1874. *Edgware Highway Board* v. *Harrow Gas Co.* Agreement for permission to the defendants to open a road, they to make good the same or pay money—Action for breach—Defence that the agreement was invalid as authorising a nuisance—Judgment for the plaintiffs. (44 L. J., Q. B., 1: L. R., 10 Q. B. 92: 31 L. T., 402.)

379. 1853. *Ellis* v. *Sheffield Gas Consumers' Co.* Company without Parliamentary powers—Contractor—Digging a trench in a street—Where a person is employed to do an unlawful act by which an injury is done to a third party, the employer is liable, although he himself is not the immediate author of the injury. (23 L. J., Q. B., 42: 2 E. & B., 767: 22 L. T., (o. s.), 84.)

380. 1876. *Gas-light & Coke Co.* v. *Mead.* Special Act—Out-going and in-coming tenant—Payment for good-will—Held that the Company had no remedy against the incoming tenant. (45 L. J., M. C., 71: 33 L. T., 729: 40 J. P., 662.)

381. 1872. *Gas-light & Coke Co.* v. *St. George's, Hanover Square, Vestry.* Local Acts—Quality of Gas—Interpretation of Statutes imposing conditions. (42 L. J., Q. B., 51: 28 L. T., 281.)

382. 1872. *Hawkins* v. *Robinson.* "Highway Act, 1835," § 72—Injury to a highway by a Gas Company not established by Act of Parliament unlawfully opening the same to lay gas pipes—Held that the consent of the Local Board was no answer; such consent being *ultra vires*. (37 J. P., 662.)

383. 1877. *Hill, Ex parte; Roberts, In re.* "Gas-works Clauses Act, 1847": Special Act: "Bankruptcy Act, 1869"—Warrant of Distress issued for non-payment of gas "rent" after notice that debtor had filed a petition—Held that the Company were not landlords to whom "rent" was due within the "Bankruptcy Act, 1869," § 34, notwithstanding that the word "rent" was used in the Special Act.—Injunction to restrain proceedings granted. (37 L. T., 46; 25 W. R., 784.)

384. 1860. *London Gas-light Co.* v. *Chelsea Vestry.* Contract for Street Lights—Alleged breaches—Judgment for the plaintiffs, on the ground that the performance of all the several stipulations by the plaintiffs was not a condition precedent to their right to receive the money. (8 C. B., (N. S.), 215: 2 L. T., 217.)

385. 1862. *Meek* v. *Langdon.* A Local Board cannot fix a Gas-lamp to a private tenement without leave. (37 L. T. Newspaper, 181.)

386. 1864. *Mose* v. *Hastings & St. Leonard's Gas Co.* Action for damages—A Gas Company is bound to keep up such a systematic inspection of its mains as shall enable it to detect a serious escape of gas likely to lead to an explosion—Verdict for the plaintiff. (4 F. & F., 324.)

387. 1873. *Pudsey Coal Gas Co.* v. *Bradford, Mayor.* Rival Gas Companies—Invasion by one (a Municipal Corporation) of the district of the other—Whereupon Injunction sought—Demurrer for want of Equity, allowed. (42 L. J., Ch., 293: L. R., 15 Eq., 167: 28 L. T., 11: 37 J. P., 340.)

388. 1877. *Reg.* v. *Colne Valley Gas Co.* Indictment for obstructing highway by making trenches—Verdict of "Guilty"—Rule absolute for a new trial on the ground that the Judge had mis-directed the jury as to the effect of *Reg.* v. *Longton Gas Co.* (*Times*, May 19, 1877.)

389. 1862. *Reg.* v. *Lambeth Vestry.* Private Bridge Act—Bridge transferred to a public Board—Whereupon the Board became liable for the Lighting. (31 L. J., Q. B., 252: 3 B. & S., 1: 6 L. T., 644.)

390. 1860. *Reg.* v. *Longton Gas Co.* Obstruction to highway—Commissioners for Lighting possessed powers to lay down mains for public lighting but not for private supply—Held that a Company which, possessing no Parliamentary powers, had under the authority of the Commissioners properly laid down mains for public purposes, had no power to obstruct the highways for the purpose of supplying private persons. (29 L. J., M. C., 118: 2 E. & E., 651: 8 Cox, C. C., 317: 2 L. T., 14.)

391. 1853. *Reg.* v. *White.* Fraudulent consumption of gas by means of pipe surreptitiously affixed between main and meter—Prisoner held rightly convicted of larceny. (22 L. J., M. C., 123.)

392. 1877. *Thompson* v. *Sunderland Gas Co.* "Gas-works Clauses Act, 1847," § 6—Laying of pipes under a highway—Damage to arches belonging to plaintiff—Held that an arch was a "building," and that compensation was payable. (46 L. J., Ex., 710: L. R., 2 Ex. D., 429: 37 L. T., 30: 42 J. P., 198.)

393. 1873. *Worksop Gas Co., In re; Worksop L. B. H. Ex parte.* Local Gas Act—*Mandamus* to Gas Co. to erect lamps, &c., refused, as it would be necessary to lay 738 yards of otherwise unproductive main—Compulsion limited to 25 yards. (Q. B., Jan., 1873; MS.)

GUARDIANS, BOARD OF.

394. 1877. *Luckraft* v. *Pridham.* Local Poor Law Act—The "Mortmain Act" has a general application, and Guardians of the Poor are incapable of taking officially the benefit of a gift by will of land. (46 L. J., Ch. 744: L. R., 6 Ch. D., 205: 37 L. T., 204.)

395. 1839. *Reg.* v. *St. Andrew's, Holborn, Guardians.* The validity of an election of Guardians cannot be questioned on a *Mandamus* to enforce a Contribution. (10 A. & E., 736.)

396. 1873. *Walker* v. *Nottingham Guardians.* Guardians acting officially are entitled to Notice of Action in respect of official acts, unless it be shown that they have acted *malâ fide*—The presumption is to be that they have acted *bonâ fide*. (28 L. T., 308.)

HACKNEY CARRIAGES.

397. 1871. *Allen* v. *Tunbridge.* Unlicensed Hackney Carriage, to wit, a Brougham, plying for hire in a Railway Station—Magistrate ought to have convicted for plying for hire without a license. (Metropolis.) (40 L. J., M. C., 197: L. R., 6 C. P., 481: 24 L. T., 796: [*A.* v. *Trowbridge*] 35 J. P., 695.)

398. 1874. *Bateson* v. *Oddy.* Local Act—Hackney Carriage—License duly revoked—A Carriage is a Hackney Carriage if it is offered for common use for any one who chooses to engage it, even though it actually stands in a private place—Held that there ought to have been a conviction. (43 L. J., M. C., 131: 30 L. T., 712: 38 J. P., 598.)

399. 1859. *Blackpool L. B. H.* v. *Bennett.* "Public

Health Act, 1848"—Local Act—A By-law need not specify the exact localities of Hackney Carriage Stands—The sea-shore between high and low water mark was held to be within the jurisdiction of the Board. (28 L. J., M. C., 203: 4 H. & N., 127: 23 J. P., 198: [*Reg.* v. *Bennett*] 32 L. T., (o. s.), 299.)

400. 1870. **Bocking* v. *Jones.* Hackney Carriages—Flag inscribed with Fares. (Metropolis.) (40 L. J., M. C., 19: L. R., 6 C. P., 29: 23 L. T., 739.)

401. 1864. *Buckle* v. *Wrightson.* A Hackney Carriage license under "Towns Police Clauses Act," §§ 37 and 45, is necessary in a Local Board District, notwithstanding that a proprietor holds a Revenue license. (34 L. J., M. C., 43: 5 B. & S., 854: 11 L. T., 341: 29 J. P., 326.)

402. 1869. *Case* v. *Storey.* Hackney Carriage—A Railway Station is not a "Public Street" or "Place." (Metropolis.) (38 L. J., M. C., 113: L. R., 4 Ex., 319: 20 L. T., 618: 33 J. P., 470.) [After this decision the law as regards the Metropolis was altered by the Act 32 & 33 Vict., c. 115, § 4; hence later decisions to a different effect.]

403. 1871. *Clarke* v. *Stanford.* Unlicensed Hackney Carriage plying for hire in a Railway Station—Conviction affirmed. (Metropolis.) (40 L. J., M. C., 151: L. R., 6 Q. B., 357: 24 L. T., 389: 35 J. P., 662.)

404. 1865 *Cousins* v. *Stockbridge.* "Towns Police Clauses Act, 1847," § 38—A Local Act provided that the Section of the above named General Act should apply also to Stage Coaches, &c., but it was held that the proviso in the General Act defeated such application, there being no express exception. (30 J. P., 166.)

405. 1872. *Curtis* v. *Embrey.* "Towns Police Clauses Act, 1847," §§ 45 and 3—Hackney Carriages—A Vehicle when on the premises of a Railway Company is not "plying for hire" in a "Street," a "Street" being a place over which the public have a right of passage—Conviction quashed. (42 L. J., M. C., 39: L. R., 7 Ex., 369.)

406. 1877. *Foinett* v. *Clark.* Private vehicle plying for hire at a Railway Station—Hiring effected by negociation at an office—Summons for plying for hire without a license—Conviction affirmed. (41 J. P., 359.)

407. 1872. *Foulger* v. *Steadman.* Hackney Carriage—Railway Station—Driver refusing to leave at the request of the Company held to be a trespasser—Claim of Right—(42 L. J., M. C., 3: L. R., 8 Q. B., 65: 26 L. T., 395: 37 J. P., 660.)

408. 1880. *Marks* v. *Ford.* Cab plying for hire on an open space visibly forming part of a public street but legally belonging to an hotel adjacent—Driver in employ of hotel-keeper held properly convicted of plying for hire not at an appointed stand. (45 J. P., 158.)

409. 1856. *Powles* v. *Hider.* Hackney Carriage—Loss of Luggage—Proprietor held liable on the facts for driver's negligence. (25 L. J., Q. B., 331: 6 E. & B., 207: 27 L. T., (o. s.), 77.)

410. 1812. *Rex* v. *Cross.* It is an indictable offence for stage carriages to loiter about in the public streets for an unreasonable time—"The King's Highway is not to be used as a stable-yard." (3 Camp., 224.)

411. 1826. *Rex* v. *Rawlinson.* Local Act empowering Commissioners to "direct and regulate" Hackney Carriage Stands—Held that this included a power to appoint stands, and to declare that any place in their judgment unsuitable for the purpose should not be used as a stand. (6 B. and C., 23: 9 D. & R., 7.)

412. 1853. *Rogers* v. *Macnamara.* A Stage Carriage Proprietor has no right to depreciate the license of a Conductor in his employ by endorsing it with words injurious to the Conductor's character. (Metropolis.) (23 L. J., C. P., 1: 14 C. B., 27: 2 C. L. R., 569.)

413. 1872. *Skinner* v. *Usher.* Hackney Carriage plying for hire on an open space which was private property—Conviction held bad. (Metropolis.) (41 L. J., M. C., 158, L. R., 7 Q. B., 423: 26 L. T., 430: 36 J. P., 693.)

HIGHWAY CASES HAVING SOME SPECIAL REFERENCE TO URBAN DISTRICTS (*a*).

414. 1877. *Ashworth* v. *Hebden Bridge L. B.* Motion to restrain a Local Board from levying a Rate to repair a Road until the Queen's Bench Division had disposed of a Special case stated to ascertain whether the road was a highway or not—Injunction granted till the question had been decided, but plaintiff meanwhile to pay into Court the amount in dispute. (47 L. J., Ch., 195: W. N., 1877, p. 247: 37 L. T., 496.)

415. 1875. *Bagshaw* v. *Buxton L. B.* Strip of highway wrongfully enclosed—Lapse of many years—Held that the Board was entitled to require the surrender of the land—No lapse of time, in fact nothing but legal process, can bar the public right as to what can clearly be proved to have been once a highway. (45 L. J., Ch., 260: L. R., 1 Ch. D., 220: 34 L. T., 112: 40 J. P., 197.)

416. 1862. *Cooper* v. *Walker.* Obstruction of Highway—Projecting stone steps—Held that though in fact an obstruction they were no obstruction in law, it being a fair presumption that the street was dedicated subject to the right to continue the inconvenience. (31 L. J., Q. B., 212: 2 B. & S., 770: 6 L. T., 711.)

417. 1862. *Fisher* v. *Prowse.* Obstruction of Highway—Projecting Cellar-flap—If land with an obstruction on it is dedicated to the public, such dedication is subject to the risk arising from such obstruction. (31 L. J., Q. B., 212: 2 B. & S., 770: 6 L. T., 711.)

418. 1880. *Fritz* v. *Hobson.* Public nuisance by obstruction of highway by building materials—Interference with access to house—Loss of custom in trade—Held on proof of the fact of excessive obstruction, plaintiff was entitled to damages in respect of the time during which the wrong continued. (49 L. J., Ch., 735: L. R., 14 Ch. D., 542: 42 L. T., 225.)

419. 1870. *Greenwich B. W.* v. *Maudsley.* Right of way along a Sea Wall—Dedication may be presumed so far as is not inconsistent with the purpose of the Wall. (39 L. J., Q. B., 205: L. R., 5 Q. B., 397: 23 L. T., 121: 35 J. P., 8.)

420. 1870. *Hirst* v. *Halifax L. B. H.* "Public Health Act, 1848," § 69: Local Acts—Paving expenses—Construction. (40 L. J., M. C., 169: L. R., 6 Q. B., 181.)

421. 1872. *North London Railway Co.* v. *St. Mary's, Islington, Vestry.* A bridge may be a "street" within 18 & 19 Vict., c. 120, § 109—Railway bridge held to have been dedicated as a Highway, and Company liable to a Paving Rate. (Metropolis.) (27 L. T., 672: 37 J. P., 341: 21 W. R., 226.)

422. 1878. *Nutter* v. *Accrington L. B.* "Public Health Act, 1848," § 144: "Local Government Act, 1858," § 41 [repealed].—Footway belonging to a Turnpike road raised by Local Board and injury inflicted on plaintiff—Held that damage done by a Local Board in repairing a Turnpike road which was also a "Street" can be compensated for by arbitration under the "Public Health Act, 1848." (48 L. J., Q. B. 487: L. R., 4 Q. B. D., 375: 43 L. T., 710: 43 J. P., 635.)

423. 1863. *Reg.* v. *Dukinfield Township.* "Highway Act, 1835," § 23: "Public Health Act, 1848," §§ 69–70: [="Public Health Act, 1875," §§ 150, 152]—Highway—Dedication—In places where a Local Board are Surveyors the "Highway Act, 1835," is constructively superseded so far as regards the steps to be taken to secure the "adoption" of a road, and therefore the road must be made to the satisfaction of the Board. (32 L. J., M. C., 230: 4 B. & S., 158.)

424. 1880. *Reg.* v. *Platts.* A Local Board has no power *mero motu* to authorise encroachments on a highway by a landowner, even to a very small extent, and

(*a*) These cases are chiefly selected from my *Law relating to Highways and Bridges*, to which book of course they more properly belong.

with a view of improving the line of the road—Such powers can only be had by resort to the formalities of the "Highway Acts"—Indictment by a neighbour, who conceived himself prejudiced by Board's action—Verdict of "Guilty" against encroaching landowner held good. (49 L. J., Q. B., 849: 43 L. T., 159: 44 J. P., 765.)

425. 1879. *Reg.* v. *Ward.* Indictment for obstructing an alleged Right of Way over a causeway leading to sea-shore—Powers of a Local Board—Question of evidence of dedication—New trial granted on the ground that the verdict for the Crown was against the evidence. (*Times*, June 28, 1879.)

426. 1812. *Rex* v. *Jones.* Obstruction of street—A tradesman unloading goods must not occupy the public highway for an unreasonable time—"He is not to eke out the inconvenience of his own premises by taking in the public highway into his yard . . . he must remove to a more commodious situation." (3 Camp., 229.)

427. 1863. *Robbins* v. *Jones.* Defective flagging and grating—Dedication to the public of a Highway with a feature which afterwards became dangerous—No Action will thereafter lie against the dedicator for an injury caused thereby—The dedication must be treated as accepted by the public, subject to the inconvenience or risk, if any. (33 L. J., C. P., 1: 15 C. B., (N. S.), 221: 9 L. T., 523.)

428. 1881. *Rochdale, Mayor* v. *Lancaster JJ.* "Towns Improvement Clauses Act, 1847," §§ 47–50: "Highway Act, 1878," § 13—By latter Act roads disturnpiked between 1870 and 1878 to be "main roads"—Boundaries of Borough enlarged in 1872 by Local Act and portions of Turnpike roads thereby incidentally disturnpiked in virtue of Act of 1847—Held that such portions of Turnpike roads so incidentally disturnpiked did not become "main roads" under the Act of 1878. (50 L. J., M. C., 97: L. R., 6 Q. B. D., 525: 44 L. T., 316: 45 J. P., 471.)

429. 1880. *Rolls* v. *St. George's, Southwark, Vestry.* "Metropolis Management Act, 1855," § 96—Meaning of the word "vest" as applied to the interest of Vestries in the soil of highways—A street on becoming stopped up and disused held to revert to the owner of the land on whose property it had been made—*Coverdale* v. *Charlton* (48 L. J., Q. B., 128) explained. (49 L. J., Ch., 691: L. R., 14 Ch. D., 785: 43 L. T., 140: 44 J. P., 680.)

430. 1875. *Spice* v. *Peacock.* Obstruction of a partly paved footway by goods exhibited for sale—Held that the appellant was rightly convicted. (39 J. P., 581.)

431. 1874. *St. Mary, Islington, Vestry* v. *Barrett.* Paving expenses—The evidence of dedication of the carriage-way being insufficient defendant held liable to his quota of the expenses. (Metropolis.) (43 L. J., M. C., 85: L. R., 9 Q. B., 278: 30 L. T., 11: 38 J. P., 198.)

432. 1879. *Swansea Improvement Co.* v. *Glamorganshire County Roads Board.* "South Wales Turnpike Act, 1844," 7 & 8 Vict., c. 91: "Public Health Act, 1848"—A road not repairable by inhabitants at large, held not vested in the Urban but in the County Authority—*Nutter* v. *Accrington* distinguished. (41 L. T., 583: 43 J. P., 798.)

432 a. 1881. *Whittaker* v. *Rhodes.* Local Act—Draper's goods exposed for sale on footway—No right so to expose goods found to exist or to have been reserved when street was dedicated—Conviction held good. (45 J. P., 452.)

433. 1862. *Willes* v. *Wallington.* "Public Health Act, 1848," § 61 [Repealed]—Local Acts—Question as to whether on the facts, a certain street was or was not a "highway." (32 L. J., C. P., 86: 13 C. B., (N. S.), 865: [*Wallington* v. *White*] 4 L. T., 290.)

434. 1878. *Yarmouth Corporation* v. *Simmons.* "General Pier and Harbour Act, 1861," 24 & 25 Vict., c. 45, § 11—Pier erected under a Provisional Order, duly confirmed—Alleged public Right of Way obstructed—Held that as the statutory powers authorised the erection of the pier so as to render the existence of the way inconsistent with that of the pier, the Right of Way must be deemed abolished by Statute. (L. R., 10 Ch. D., 518: 38 L. T., 881: 26 W. R., 802.)

"HOUSE," DEFINITION OF.

435. 1845. *Daniel* v. *Coulsting.* 2 Will. IV., c. 45, § 27. "House"—The word, "House," may include a building capable of being used as a dwelling house, though not so used. (14 L. J., C. P., 70: 7 M. & G., 122: 8 Scott, N. R., 949.)

436. 1866. *Halligan* v. *Ganly.* Irish Local Act—Non-resident landlord of small tenements held to be the "keeper" of a Common Lodging-house. (19 L. T., 268.)

437. 1867. *Hole* v. *Milton Commissioners.* Local Act—Rating of "House"—"House" includes curtilage, &c. (31 J. P., 804.)

438. 1877. *Langdon* v. *Broadbent.* "Public Health Act, 1875"—Lodging-house receiving lodgers, chiefly hawkers and pedlars, at 6*d.* a night Held, a house which ought to have been registered as a "common" lodging-house—Whether a house is kept as a common lodging-house so as to require registration is a question of fact for the determination of Justices on proceedings under § 86. (L. J. *Notes of Cases*, 1877, p. 203: 37 L. T., 434: 42 J. P., 56.)

439. 1869. *Marson* v. *London, Chatham & Dover Railway Co.* "Lands Clauses Act, 1845," § 92—Curtilage—A strip of ground in front of a Public-House held part of the house. (37 L. J., Ch., 483: 38 L. J., Ch., 371: L. R., 6 Eq., 101, and 7 Eq., 546: 18 L. T., 317.)

440. 1844. *Nunn* v. *Denton.* Stable with living rooms over held to be a "house," within 2 Will. IV., c. 45, § 27. (14 L. J., C. P., 43: 8 Scott, N. R., 794.)

441. 1851. *Reg.* v. *Warwickshire JJ.* Local Act—Paving Expenses—Stables held part of a "house" and therefore chargeable. (17 L. T., (O. S.), 183: 15 J. P., 417.)

442. 1845. *Surman* v. *Darley.* Local Act—"House" *primâ facie* means "dwelling-house"—Theatre held not rateable. (14 L. J., M. C., 145: 14 M. & W., 181.)

INCOME TAX.

443. 1871. *A.-G.* v. *Black.* Coal dues levied under a Local Act by a Municipal Corporation held chargeable with Income Tax. (40 L. J., Ex., 89 and 194: L. R., 6 Ex., 78 and 308: 24 L. T., 370.)

INFECTIOUS DISEASES, HOSPITALS, MORTUARIES.

444. 1881. *A.-G.* v. *Fulham B. W.* Motion for Injunction to restrain the erection of a temporary Small-Pox Hospital—Motion to stand over, the balance of public convenience being in favour of the hospital—Liberty to plaintiffs to apply again to the Court after the Hospital was opened—Undertaking by defendants not to receive more than 50 patients at a time. (*Times*, May 23, 1881.)

445. 1872. *Best* v. *Stapp.* Liability for taking into a Lodging-house a person suffering from an infectious disease whereby the plaintiff's children became diseased—Verdict for the plaintiff. (*Times*, Nov. 7, 1872: L. R., 2 C. P. D., 191 n.)

446. 1879. *Bramwell* v. *Lacy.* A covenant not to carry on any trade, business, or dealing whatsoever, in a house, is broken by using such a house as a hospital for out-patients. (48 L. J., Ch., 339: L. R., 10 Ch. D., 691: 40 L. T., 361.)

447. 1878. *Hansard* v. *St. Matthew, Bethnal Green.* Application by Vicar and Churchwardens for Faculty to erect a Mortuary and Rooms for Coroner's Inquests on a part of a closed Churchyard opposed by a Non-resident Freeholder of neighbouring property as contrary to Ecclesiastical Law—Application granted. (L. R., 4 P. D., 46.)

448. 1879. *Metropolitan Asylums Managers* v. *Hill.* "Metropolitan Poor Act, 1867," 30 Vict., c. 6—Infectious Hospital built under the Act, and at the instance of Local Government Board—Action by adjacent landowners—Held that the Act did not make the defendants irresponsible agents exempt from liability—And that they were not exempt on the ground that they only obeyed the directions of the Local Government Board, and acted *bonâ fide* in the discharge of a duty cast upon them by Statute. (50 L. J., Q. B., 353: L. R., 6 App. Cas., 193: 44 L. T., 653: 45 J. P., 664.)

449. 1880. *Margrie* v. *Westminster* (*Duke of*). Application by one Churchwarden for Faculty to erect a Mortuary in a disused London Churchyard—Application opposed by the Rector, the other Churchwarden, and an adjacent landowner, on the ground that the proposed site was too near inhabited houses—Decision on the main question postponed to enable suggested alternative sites to be considered. (Consist. Ct. Lond.) (*Times*, Aug. 23, 1880; July 26, 1881.)

450. 1879. *Portman* (*Visct.*) v. *Home Hospitals Association.* Covenant in lease not to use premises for carrying on any art, trade, or business, occupation or calling, held to prohibit user of house for hospital purposes, even although without a view to profit to the managers. (W. N., 1879, p. 196.)

451. 1815. *Rex* v. *Burnett.* Indictment for exposing in a Street a child suffering from Small-pox—Conviction. (4 Maule & S., 272.)

452. 1815. *Rex* v. *Vantandillo.* Carrying a Child suffering from Small-pox along a Highway—Offender held indictable—Three months' imprisonment. (4 Maule & S., 73.)

453. 1879. *St. George's Hanover Square Burial Board* v. *Hall.* Application by Burial Board for faculty to erect Mortuary and *Post Mortem* Room in consecrated Burial Ground closed for Burials—Application granted subject to conditions, as to use of disinfectants, hours of reception, &c. (L. R., 5 P. D., 42.)

454. 1877. *Tunbridge Wells L. B.* v. *Bisshopp.* "Public Health Act, 1875," § 126—A medical man walking with a patient through a public street in order to secure his admission to a Hospital, held not in charge of the person suffering, so as to be liable to penalties for exposing him. (46 L. J., C. P., 314: L. R., 2 C. P. D., 187.)

455. 1880. *Watson* v. *Leamington College.* Proposed conversion of a villa into a Sanitarium—Covenant in lease not to do anything which should be a "nuisance" or "annoyance" to the neighbourhood—Held that to use a house as a Sanitarium would be to make it if not a "nuisance," certainly an "annoyance"—Injunction granted. (*Times*, Nov. 8, 1880.)

JURISDICTION.

456. 1844. *Flight* v. *Clarke.* Local Act—A Local Authority can only take cognizance of nuisances within its own District. (13 L. J., Ex., 309: 13 M. & W., 155.)

457. 1858. *Rex.* v. *Warner.* "Nuisances Removal Act, 1855," § 22 [Repealed]—A Local Authority has no power to assess property outside its jurisdiction, even although such property derives benefit from the sewer in respect of which a rate is contemplated. (27 L. J., M. C., 144: [*Reg.* v. *Tatham*] 8 E. & B., 915: [*Hornsey* v. *Middlesex JJ.*] 30 L. T., (o. s.), 272.)

LANDLORD AND TENANT.

458. 1842. *Baker* v. *Greenhill.* Lands charged with liability to repair a bridge, *ratione tenuræ*—Occupier held primarily responsible, but entitled to recover from Landlord notwithstanding terms of lease. (11 L. J., Q. B., 161: 3 Q. B., 148: 2 G. & D., 435.)

459. 1868. *Bird* v. *Elwes.* Landlord and Tenant—Agreement by Landlord to pay "Rates" and "Charges"—Foul Mud in Pond—Expenses under "Nuisances Removal Act, 1855," § 19 [="Public Health Act, 1875," § 104]—Tenant held liable, such expenses not being a "Charge." (37 L. J., Ex., 91: L. R., 3 Ex., 225: 18 L. T., 727: 32 J. P., 694.)

460. 1879. *Budd* v. *Marshall.* "Public Health Act, 1875," § 104—Plaintiff charged as landlord with the expenses of certain drain communications—Action against tenant under a lease, to refund—Covenant to pay "all Taxes, Rates, Duties and Assessments"—Held that under the Covenant of the lease the tenant was liable. (50 L. J., C. P., 24: L. R., 5 C. P. D., 481: 42 L. T., 792: 44 J. P., 584.)

461. 1879. *Castleberg* v. *Kenyon.* House with defective drains and water supply—Notices to abate nuisance served by Local Authority on occupier, and proceedings against same—Work done by occupier, who claimed repayment from owner in County Court—Occupier held entitled to reimbursement by owner. (*Times*, June 16, 1879.)

462. 1874. *Crosse* v. *Raw.* "Sanitary Act, 1866," § 10 [="Public Health Act, 1875," § 23]—Landlord and Tenant—Covenant that the tenant should pay all "out-goings" held to include the expense of making a drain for which the "owner" might have been made liable. (43 L. J., Ex., 144: L. R., 9 Ex., 209.)

463. 1877. *Devonshire (Duke of)* v. *Barrow Hæmatite Steel Co.* "Rating Act, 1874," § 8—Lease dated 1864, in which Lessees covenanted to pay all Rates—Held that the clause in the lease was not "a specific contract" within the exemption in § 8, and that the defendants as Lessees were entitled to make a deduction from their rent and royalties in consideration of the new burden imposed by the "Rating Act, 1874." (46 L. J., Q. B., 435: L. R., 2 Q. B. D., 286: 36 L. T., 355.)

464. 1869. *Ecclesiastical Commissioners* v. *Merral.* A tenant of corporate property holding under an agreement for a demise for years, to which the Common Seal had not been attached, is to be considered a yearly tenant. (38 L. J., Ex., 93: L. R., 4 Ex., 162: 20 L. T., 573.)

465. 1864. *Gandy* v. *Jubber.* Accident owing to a defective street grating—*Semble* that to allow a tenant to remain such, year after year, on a yearly tenancy, is not equivalent to a re-letting so as to make the reversioner liable as for letting premises with a nuisance existing at the time of letting. (9 B. & S., 15: 13 W. R., 1022.)

466. 1879. *Hartley* v. *Hudson.* "Public Health Act, 1848," § 69 [="Public Health Act, 1875," § 150]—Covenant to pay Rates, Taxes, Charges and Assessments charged on the premises or on any person in respect thereof—Plaintiff lessor of premises—Notice to him to pave, &c.—On default, work done by Local Board and recovered from plaintiff—Held that the outlay was one which the landlord was entitled to recover from his tenant under covenants in the lease. (48 L. J., C. P., 751: L. R., 4 C. P. D., 367: 43 J. P., 784.)

467. 1881. *Kinnaird* v. *Smith.* House hired by plaintiff, on defendant's guarantee that the drains were carried outside and were in good order—After entry drains found to run inside and to be choked with sewage causing serious illness to inmates—Action to rescind contract of hiring and for damages in respect of defendant's misrepresentations—Agreement set aside by the Court and damages to be assessed. (*Times*, May 16, 1881.)

468. 1858. *Lee* v. *Stevenson.* Landlord and Tenant—Power reserved by lease to former to make a covered Sewer across the demised land—Right of the landlord to the exclusive use of a Sewer upheld by the Court. (27 L. J., Q. B., 263: E. B. & E., 512.)

469. 1880. *May* v. *Verity.* Action by assignee of a lease against intending assignee for specific performance of agreement to take a house—Defence that the drains were defective; and that the house was subject to an easement not clearly disclosed in the lease, to wit a duty

to receive and transmit the drainage of adjoining houses —Judgment for defendant on last named ground. (*Times*, Dec. 22, 1880.)

470. 1879. *Midgley* v. *Coppock*. Vendor and purchaser—Agreement to pay outgoings up to date of completion—Sewering and paving expenses demanded after completion, but in respect of works executed before, held to be an "outgoing" which the vendor was liable to pay under his agreement. (48 L. J., Ex., 674: L. R., 4 Ex. D., 309: 40 L. T., 870: 43 J. P., 683.)

471. 1881. *Muspratt* v. *Hussey*. Action for damages—House taken on lease by plaintiff of defendant—Allegations that verbal guarantees were given about drains being in good order—Subsequently, bad smells, followed by typhoid fever, after about a year's possession —Drains found partly obstructed, presumably however by negligence of plaintiff's household—Verdict for defendant. (At Nisi Prius.) (*Times*, June 17, 1881.)

472. 1844. *Payne* v. *Burridge*. Paving Expenses under a Local Act held, on the construction of a covenant in a lease, to be payable by a tenant. (13 L. J., Ex., 190: 13 M. & W., 727.)

473. 1873. *Pretty* v. *Bickmore*. House leased with a defective street coal-plate—Lessee to repair—Accident to passer-by—Defendant as lessor held not liable—Where premises are let to a tenant the landlord cannot be made liable for a nuisance existing on them unless it is shown that he could have removed it and did not. (L. R., 8 C. P., 401: 28 L. T., 704: 37 J. P., 552.)

474. 1878. *Rawlins* v. *Biggs*. Covenant by tenant to pay all "Rates, Charges, Assessments, and Impositions"—Notice by Local Authority on landlord to make drains, in order to remove a nuisance, which he did—Held that he could not recover the outlay from his tenant, as the charge was imposed by the "Public Health Act, 1875," § 94, not on the premises but on the landlord personally. (47 L. J., C. P., 487: L. R., 3 C. P. D., 368: 42 J. P., 791.)

475. 1834. *Rex* v. *Pedley*. Landlord and Tenant —Nuisance from Privies—Indictment—Landlord held liable *quâ* Landlord. (3 L. J., M. C., 119: 1 A. & E., 822: 3 N. & M., 627.)

476. 1868. *Ryan* v. *Thompson*. Distress by Landlord after notice to Tenant by a Vestry requiring the payment to them of money due for work to be deducted from rent due to Landlord—Held that as the Tenant had not actually paid to the Vestry, he was not protected. (37 L. J., C. P., 134: L. R., 3 C. P., 144: 17 L. T., 506: 32 J. P., 135.)

477. 1873. *Sheffield Water Co.* v. *Bennett*. Water Rate varying with the "Rent"—Local Rates paid by a landlord to be deducted in calculating a Water Rate which depends on "Rent." (42 L. J., Ex., 121: L. R., 8 Ex., 196: 28 L. T., 509.)

478. 1854. *Smith* v. *Humble*. Illustrates the principle on which a tax chargeable on an owner is to be deducted from rent paid to him—Held that though the value of the land was improved by lessee's building operations, yet no more than the Sewer's Rate on the original rent was to be deducted. (15 C. B., 321: 18 J. P., 760.)

479. 1857. *St. Pancras Vestry* v. *Batterbury*. Paving Expenses which are to be deducted from rent—Held that no Action lies against an owner—Where a remedy is prescribed by a Statute, it alone must be resorted to. (Metropolis.) (26 L. J., C. P., 243: 2 C. B., (N. S.), 477: 29 L. T., (O. S.), 198.)

480. 1857. *Sweet* v. *Seager*. Landlord and Tenant —Sewer's Rates—Construction of a covenant to pay Rates—Tenant held liable. (Metropolis.) (2 C. B., (N. S.), 119: 29 L. T., (O. S.), 109: 3 Jur., (N. S.), 588.)

481. 1868. *Thompson* v. *Lapworth*. Landlord and Tenant—Covenant by tenant to pay taxes, &c.—Tenant held entitled to recover from his landlord money paid to a Vestry for paving a street. (Metropolis.) (37 L. J., C. P., 74: L. R., 3 C. P., 149: 17 L. T., 507: 32 J. P., 184.)

482. 1867. *Tidswell* v. *Whitworth*. Local Act—Landlord and Tenant—Paving Expenses—Landlord held liable. (36 L. J., C. P., 103: L. R., 2 C. P., 326: 15 L. T., 574.)

483. 1838. *Waller* v. *Andrews*. Agreement to pay all out-goings whatsoever, Rates, Taxes, and Scots—A special assessment for permanent works levied by Commissioners of Sewers held within the agreement, and tenant therefore liable. (7 L. J., Ex., 67: 3 M. & W., 312.)

484. 1877. *Wilson* v. *Finch-Hatton*. Action for breach of agreement for hire of furnished house—Defence, that the defective drains rendered the house unfit for habitation—Defence held good—In the case of a furnished house there is an implied condition that it shall be fit for habitation. (46 L. J., Ex., 489: L. R., 2 Ex., D., 336: 36 L. T., 473: 41 J. P., 583.)

"LANDS CLAUSES ACT, 1845."

*** See also "Arbitration" and "Compensation."

485. 1866. *Balls* v. *Metropolitan B. W.* "Lands Clauses Act, 1845," §§ 68 and 51—An offer of compensation must be unconditionally for the injury done—Offer of one sum for compensation and costs held bad. (35 L. J., Q. B., 101: L. R., 1 Q. B., 337: 7 B. & S., 177: 13 L. T., 702.)

486. 1875. *Bedford* (*Duke of*) v. *Dawson*. Local Act—Interference with an easement held not to be restrainable by an Injunction—Remedy: compensation under § 68 of "Lands Clauses Act." (44 L. J., Ch., 549: L. R., 20 Eq., 353: 33 L. T., 156.)

487. 1863. *Bourne* v. *Liverpool, Mayor*. "Lands Clauses Act, 1845,"—Local Act—Street Improvement—Principle of assessing compensation for a Public-House owned by a Brewer and leased with a restrictive covenant—Special compensation held payable. (33 L. J., Q. B., 15: 8 L. T., 573.)

488. 1857. *Broadbent* v. *Imperial Gas Co.* "Lands Clauses Act, 1845," § 68—"Injuriously affected by the execution of the works" means by the actual construction of such works, not the user thereof. (26 L. J., Ch., 276: 7 De G. M. & G., 436: 28 L. T., (O. S.), 329.)

489. 1874. *Clark* v. *London School Board*. In the case of lands purchased under compulsory powers, unpurchased easements to which they are subject are the subject of compensation. (43 L. J., Ch., 421: L. R., 9 Ch. App., 120: 29 L. T., 903.)

490. 1870. *Cranwell* v. *London, Mayor*. "Lands Clauses Act, 1845," § 121—A Tenant from year to year is entitled to compensation. (Metropolis.) (39 L. J., Ex., 193: L. R., 5 Ex., 284: 22 L. T., 760.)

491. 1863. *Croft* v. *London & North Western Railway Co.* "Lands Clauses Act, 1845," § 68—When in proceedings for compensation points entitling to compensation are left out of consideration through want of forethought no redress can be had subsequently by Action for damages, or *semble* in any other way. (32 L. J., Q. B., 113: 3 B. & S., 436: 7 L. T., 741.)

492. 1867. *Delany* v. *Metropolitan B. W.* "Metropolis Management Amendment Act, 1862"—Sewerage Works—Claim for Compensation—Award under the "Lands Clauses Act"—Such proceedings are not within § 106 of the first-named Act so as to be subject to the "6 months" limit there mentioned. (37 L. J., C. P., 59: L. R., 3 C. P., 111: 17 L. T., 262.)

493. 1874. *Dowling* v. *Pontypool, &c., Railway Co.* Deposited plans of land—Construction of the word "delineated." (43 L. J., Ch., 761: L. R., 18 Eq., 714.)

494. 1879. *Eccleshill, L. B. In re*. Land let to tenants purchased for sewage farm—Price settled by Jury—Possession not taken until termination of existing tenancies—Held that interest was payable from date of Jury's verdict. (49 L. J., Ch., 214: L. R., 13 Ch. D., 365.)

495. 1871. *Edwards, Ex parte; Marylebone Improvement Act*, 1868, *In re*. "Lands Clauses Act,

1845," § 68—An interest in property created by an agreement entered into by an owner after a notice to treat has been served on him does not confer on his tenant any right to compensation. (40 L. J., Ch., 697: L. R., 12 Eq., 389: 25 L. T., 149.)

496. 1873. *Falkner* v. *Somerset & Dorset Railway Co.* "Lands Clauses Act, 1845," §§ 92-3—Market garden with cottage—Severance by tunnel—Extent of liability to purchase—Premises held not to be within a "town" although within the Municipal Boundary. (42 L. J., Ch., 851: L. R., 16 Eq., 458.)

497. 1869. *Ferrar* v. *Commissioners of Sewers of London.* Local Act incorporating parts of "Lands Clauses Act, 1845"—Compensation—Construction of Local Act. (38 L. J., Ex., 102: L. R., 4 Ex., 227: 21 L. T., 295.)

498. 1874. *Great Western Railway Co.* v. *May.* "Lands Clauses Act, 1845," § 127—"Lands acquired . . . . but not required for the purposes" for which they were acquired—"Required" means "necessary," and when the land ceases to be necessary it becomes "superfluous land." (43 L. J., Q. B., 233: L. R., 7 H. L., 283: 31 L. T., 137.)

499. 1857. *Grosvenor* (*Lord*) v. *Hampstead Junction Railway Co.* "Lands Clauses Act, 1845," § 92—Alms-houses partly built—Compulsory purchase of whole of site—Land held to be part of a house. (26 L. J., Ch., 731: 1 De G. & J., 446: 29 L. T., (O. S.), 319.)

500. 1874. *Harvie* v. *South Devon Railway Co.* "Lands Clauses Act, 1845," § 92—Held that a pair of semi-detached Villas could not be treated as one House, so as to involve purchase of both. (32 L. T., 1.)

501. 1865. *Herring* v. *Metropolitan B. W.* "Lands Clauses Act, 1845"—Damage caused by the erection of a temporary hoarding for a public purpose, *e. g.* during the construction of a sewer, is not such damage as will carry compensation. (Metrop.) (34 L. J., M. C., 224: 19 C. B., (N. S.), 510.)

502. 1877. *Hooper* v. *Bourne.* "Lands Clauses Act, 1845, § 127—Superfluous lands—Progressive increase in the traffic of a railway, such as to render it probable that the whole of the surplus land would at no distant period be required for the purposes of the undertaking—Held, on the evidence, that the adjoining owners were not entitled to recover possession of their land—Burden of proof that land is superfluous lies on claimant—*G. W. R.* v. *May* distinguished. (49 L. J., Q. B., 370: L. R., 5 App. Cas., 1: 42 L. T., 97: 44 J. P., 327.)

503. 1878. *Littler* v. *Rhyl Improvement Commissioners.* "Lands Clauses Act, 1845," § 92—Notice to treat for land—Lapse of and subsequent revival of the compulsory powers—House built on land after the lapse and before new notice to treat was given—Held nevertheless that the position of matters at the time of the first notice fixed the relative rights of the parties, and that the Commissioners could not be required to take more than they originally gave notice for, namely, a certain plot of land as unenclosed and unbuilt on—Second notice held unnecessary. (W. N., 1879, p. 30.)

504. 1864. *Macey* v. *Metropolitan B. W.* "Lands Clauses Act, 1845"—Injury to a Wharf-owner by construction of an embankment—Practice. (33 L. J., Ch., 377: 10 L. T., 66.)

505. 1874. *M'Carthy* v. *Metropolitan B. W.* "Lands Clauses Act, 1845," § 68—Private Dock injuriously affected by the formation of an embankment—Compensation held payable. (43 L. J., C. P., 385: 31 L. T., 183: 38 J. P., 820.)

506. 1869. *Metropolitan B. W.* v. *Metropolitan Railway Co.* "Lands Clauses Act, 1845"—Damage to Sewer—Right to lateral support of adjoining land—Action held not maintainable. (38 L. J., C. P., 172: L. R., 4 C. P., 192: 19 L. T., 744.)

507. 1878. *Morgan* v. *Swansea Urban Authority.* "Land Transfer Act, 1875," § 48—Purchase of land by a Local Authority—Death of vendor—A trustee with a beneficial interest in the Trust estate is not a "bare trustee." (L. R., 9 Ch. D., 582.)

508. 1859. *North London Railway Co.* v. *Metropolitan B. W.* Construction of sewer through land not scheduled for purchase, held *intra vires.* (28 L. J., Ch., 909: 1 Johns., 405: 33 L. T., (O. S.), 383.)

509. 1854. *Pinchin* v. *London & Blackwall Railway Co.* "Lands Clauses Act, 1845," § 92—*Quære,* Is an easement "land?" [*Semble,* that it is not. See *Macey* v. *Met. B. W.*] (24 L. J., Ch., 417: 5 De G. M. & G., 851: 24 L. T., (O. S.), 196.)

510. 1874. *Quinton* v. *Bristol, Mayor.* "Lands Clauses Act, 1845"—Street Improvement—An Urban Sanitary Authority empowered to acquire lands, &c., compulsorily may take whatever it includes in its notice, whether required or not: the restrictions put upon a railway company do not apply. (43 L. J., Ch., 783: L. R., 17 Eq., 524: 30 L. T., 112: 38 J. P., 516.)

511. 1848. *Ramsden* v. *Manchester, South Junction & Altrincham Railway Co.* "Lands Clauses Act, 1845"—Trespass—A public body must make compensation *before* entry, whether they purchase the land itself, or permanently occupy it. (1 Ex. 723: 5 Rail. Cas., 552: 10 L. T., (O. S.), 464.)

512. 1862. *Reddin* v. *Metropolitan B. W.* "Lands Clauses Act, 1845," § 92—The sorting place of a Dust Contractor is not such "a part" of a "Manufactory" as to come within this Section. (31 L. J., Ch., 660: 4 De G. F. & J., 532: 7 L. T., 6.)

513. 1863. *Reg.* v. *Combe.* "Lands Clauses Act, 1845," § 121—Compensation to annual Tenant—Justices may decide verbally and need not put their decision into writing. (32 L. J., M. C., 67: [*Combe* v. *L. C. D. R.*] 11 W. R., 441.)

514. 1876. *Reg.* v. *Great Northern Railway Co.* "Lands Clauses Act, 1845," §§ 68 and 121—A tenancy which, whatever may have been the term, has less than one year to run is to be treated as a tenancy for less than a year. (46 L. J., Q. B., 4: L. R., 2 Q. B. D., 151: 35 L. T., 551: 41 J. P., 197.)

515. 1874. *Reg.* v. *Hannay.* "Lands Clauses Act, 1845"—Injury prospective because land not actually yet taken—An adjudication of two Justices under § 22 is not an Order to pay money within 11 & 12 Vict. c. 43, § 11, and a summons to determine compensation is not out of time if issued after 6 months from notice to treat being given. [*R.* v. *Leeds, &c.,* distinguished and somewhat questioned.] (44 L. J., M. C., 27: 31 L. T., 702.)

516. 1852. *Reg.* v. *Leeds & Bradford Railway Co.* "Lands Clauses Act, 1845," §§ 22 and 24—"Jervis's Act," § 11—Compensation under 50*l.*—Order of Justices—Limitation of time—Order bad if based on complaint made more than 6 months after cause of complaint arose. (21 L. J., M. C., 193: 19 L. T., (O. S.), 86: 16 J. P., 631: [*Edmundson, In re*] 17 Q. B., 67.)

517. 1869. *Reg.* v. *Metropolitan B. W.* "Lands Clauses Act, 1845," § 68—Premises injuriously affected—Injury to a public landing place, and obstruction of access to a public place where there was a right to dip for water—Held that neither injury was a case for compensation. (38 L. J., Q. B., 201: L. R., 4 Q. B., 358: 10 B. & S., 391.)

518. 1872. *Reg.* v. *St. Luke's, Chelsea, Vestry.* Raising level of a Street—When a Local Act incorporates the whole of the "Lands Clauses Act, 1845," the right of compensation to parties whose lands are taken follows as a matter of course. (41 L. J., Q. B., 81: L. R., 7 Q. B., 148: 25 L. T., 914.)

519. 1878. *Richards* v. *Swansea Improvement Company.* "Lands Clauses Act, 1845," § 92—Establishment consisting of cottages, yards, shops, bakery, corn-mills, stables, &c., all within a circumscribed ambit, and with internal communication and in one occupation, and user held to be a "house," so that the whole property must be purchased if the owner required it. (L. R., 9 Ch. D., 425: 38 L. T., 833: 43 J. P., 174.)

520. 1867. *Rickett* v. *Metropolitan Railway Co.* "Lands Clauses Act, 1845," § 68—Construction of Works—A temporary obstruction of Highway although involving loss of trade does not entitle to compensation—There must be an injury to land or to an interest in land. (36 L. J., Q. B., 205: L. R., 2 H. L., 175: 16 L. T., 542.)

521. 1873. *Souch* v. *East-London Railway Co.* "Lands Clauses Act, 1845"—A *cul-de-sac* dedicated to the public is for this purpose a public street, and there need be neither notice nor compensation. (42 L. J., Ch., 477: L. R., 16 Eq., 108.)

522. 1870. *Stebbing* v. *Metropolitan B. W.* "Lands Clauses Act, 1845"—Closed Grave-yard—Compensation is payable on the actual value of land considered as depreciated by the purpose to which it is applied, and is not to be estimated at what would be the value of such land supposing it had been secularised. (40 L. J., Q. B., 1: L. R., 6 Q. B., 37: 23 L. T., 530.)

523. 1877. *Syer* v. *Metropolitan B. W.* "Lands Clauses Act, 1845," § 18—A quarterly tenant held not entitled to compensation. (W. N., 1877, p. 41: 36 L. T., 277.)

524. 1871. *Tyson* v. *London, Lord Mayor.* "Lands Clauses Act, 1845," § 121—Compensation—Tenant's interest in property is to be computed according to what it was when the notice was given. (41 L. J., C. P., 6: L. R., 7 C. P., 18: 25 L. T., 640.)

525. 1858. *Ware* v. *Regent's Canal Co.* "Lands Clauses Act, 1845"—Compensation—An occasional flooding of lands caused by the proper execution of Parliamentary powers is within § 68. (28 L. J., Ch., 153: 3 De G. & J., 212: 32 L. T., (O. S.), 136.)

526. 1862. *Wedmore* v. *Bristol, Mayor.* Local Acts incorporating the "Lands Clauses Act, 1845"—Raising of footway—Injunction to stop the alterations refused, as Corporation was only carrying out its statutory powers, but the plaintiff to have damages awarded him. (1 New Rep., 120 and 187: 7 L. T., 459: 11 W. R., 136.)

527. 1880. *Wells* v. *Chelmsford L. B.* "Lands Clauses Act," §§ 76-7—Action by vendors for specific performance of agreement for purchase of Lands by a Board—Complicated state of facts—Failure of vendors to make a good title to part of the land whereupon defendant executed a Deed Poll under § 77—Payment of the whole purchase money into Court held under the circumstances improper and specific performance decreed under conditions. (49 L. J., Ch., 827: L. R., 15 Ch., D., 108: 43 L. T., 378: 45 J. P., 6.)

528. 1877. *Wombwell* v. *Barnsley Corporation.* "Lands Clauses Act, 1869," § 1—Proposal to purchase land referred to arbitration—Settlement before the Award—Terms that the Corporation should pay the costs—Held that there having been a special contract the section did not apply as regards Taxation; but that the costs might be taxed in Chancery under 6 & 7 Vict. c. 73, § 38. (36 L. T., 708: 41 J. P., 502.)

LEGAL PROCEEDINGS.

(1) GENERAL.

529. 1874. *Andrews* v. *Ryde, Mayor.* "Local Government Act, 1858," § 24 [=Public Health Act, 1875," Scheds.]—Municipal Corporation acting as a Local Board—Action for work and labour as a professional witness—Held that as the action was against the Corporation *quâ* Local Board, the Corporation was liable without being otherwise or more expressly described. (43 L. J., Ex., 174: L. R., 9 Ex., 302.)

530. 1846. *A.-G.* v. *Pearson.* Circumstances under which the costs and damages in an Action against Officers of a Parish Trust may be defrayed out of the Trust Funds. (2 Coll., Ch. C., 581: 10 Jur., 651.)

531. 1857. *Bedford* v. *Sutton Coldfield Society.* Local Inclosure Act—A Rent-charge held not recoverable by Action against the landowner. (27 L. J., C. P., 105: 3 C. B., (N. S.), 449.)

532. 1865. *Bermondsey Vestry* v. *Brown.* Vestry empowered by Statute to indict or take other proceedings as to obstructed rights of way—Held that it must nevertheless indict in the name of the Queen and sue in Equity in the name of the Att.-Gen. (L. R., 1 Eq., 204: 35 Bea., 226: 13 L. T., 574.)

533. 1873. *Bolingbroke* (*Lord*) v. *Townsend.* If a plaintiff by inadvertence sues the Clerk of a Local Board instead of the Board, the writ may be amended. (42 L. J., C. P., 255: L. R., 8 C. P., 645: 29 L. T., 430: 38 J. P., 7.)

534. 1862. *Brine* v. *Great Western Railway Co.* Negligent execution of works sanctioned by Parliament—Action held maintainable. (31 L. J., Q. B., 101: 2 B. & S., 402: 6 L. T., 50.)

535. 1879. *Bryant* v. *Lefever.* Easement—Obstruction of air by adjacent building—Prescription—The free circulation of air round a chimney is not a privilege which the law protects, and an obstruction thereto is not actionable—Observations by the Court on Rights of air. (48 L. J., C. P., 380: L. R., 4 C. P. D., 172: 40 L. T., 579: 43 J. P., 478.)

536. 1836. *Cane* v. *Chapman.* Annuity chargeable on Rates under a Local Act—Form of Action on failure to make a quarterly payment that was due. (6 L. J., K. B., 49: 1 N. & P., 104: 5 A. & E., 647: 2 H. & W., 355.)

537. 1862. *Caswell* v. *Cook.* "Markets and Fairs Clauses Act," § 13—Local Act—Construction—Costs not given against the appellant in an arguable case. (31 L. J., M. C., 185: 11 C. B., (N. S.), 637: [Costs] 12 C. B., (N. S.), 242.)

538. 1878. *Day* v. *Brownrigg.* A person may give his house any name he pleases, even although his next door neighbour has made use of the same name for many years previously—*Per* Jessel, M.R.:—"In our law, in order to support an Action, there must be injury as well as damage; the two things must co-exist." (48 L. J., Ch., 173: L. R., 10 Ch. D., 294: 39 L. T., 553.)

539. 1866. *Derriman's Settlement, In re.* Local Act—"Public Health Act, 1848"—A Local Board which has taken land compulsorily, must pay the costs of a petition for payment out of Court of the purchase money of such land where it is settled property. (W. N., 1866, p. 269.)

540. 1852. *Edwards* v. *Lowndes.* Local Act—Special Trust—Statutory payment in arrear—Action by an Organist against a Local Board—Action held not maintainable, the remedy being in Equity. (22 L. J., Q. B., 104: 1 E. & B., 81: 25 L. T., (O. S.), 154.)

541. 1853. *Egginton, Ex parte.* "Municipal Corporations Act, 1835," § 60—Where an Officer refuses to account, his commitment is in the nature of a Civil process and his arrest on a Sunday illegal, but he may be detained at the instance of a third party under a *ca. sa.* subsequently issued. (23 L. J., M. C., 41: 2 E. & B., 717: 2 C. L. R., 385: 22 L. T., (O. S.), 118.)

542. 1871. *Gill* v. *Bright.* Seizure of Liquors—A man's property must not be declared forfeited until he has had an opportunity of being heard. (41 L. J., M. C., 22: 25 L. T., 591.) [See observations on this case in 42 J. P., 401.]

543. 1878. *Glossop* v. *Heston L. B.* A witness giving evidence by affidavit may supplement orally his evidence in chief if he is in court unless the agreement between the parties that the evidence shall be taken by affidavit says "by affidavit only." (47 L. J., Ch., 536: 26 W. R., 433.)

544. 1844. *Hall* v. *Swansea, Mayor.* An Action lies against a Corporation aggregate to recover moneys wrongfully received by it in respect of fees payable to the holder of an office improperly abolished. (13 L. J., Q. B., 107: 5 Q. B., 526: D. & M., 475.)

545. 1867. *Harring* v. *Stockton, Mayor.* Violation of a By-Law—Convicting Justices held not to be

disqualified because members of the Board—Held also that the Information did not require to be laid by a person appointed under seal, and by consent of the Attorney-General. (31 J. P., 420.)

546. 1854. *Harrison* v. *Southampton, Mayor.* 8 & 9 Vict., c. 43, extended by 13 & 14 Vict., c. 65, [and further extended by 18 & 19 Vict., c. 70]—A Statute authorising a devise of land for a public purpose will be taken to include a bequest of money for the purchase of land—The Court will put a liberal construction on an Act which legalises the gift of property for laudable purposes. (23 L. J., Ch., 919: 2 Sm. & G., 387: 23 L. T., (o. s.), 330.)

547. 1858. *Itchen Bridge Co.* v. *Southampton L. B. H.* The Common Law right of a Judge to change the Venue in an Action, is not taken away by the "Public Health Act, 1848," § 139. (27 L. J., Q. B., 128: 8 E. & B., 803 (n): 30 L. T., (o. s.), 151.) An Action may be supported against a Local Board for a tort, notwithstanding the compensation clause of the above Act, § 144. (28 L. J., Q. B., 41: 8 E. & B., 801: 30 L. T., (o. s.), 256.)

548. 1873. *Jolliffe* v. *Wallasey L. B.* Negligence—Management of a landing stage vested in Local Board—The plaintiffs might have recovered damages if they had not omitted to give the Notice of Action required by the "Public Health Act." (43 L. J., C. P., 41: L. R., 9 C. P., 62: 29 L. T., 582: 38 J. P., 40.)

549. 1860. *Mason* v. *Birkenhead Improvement Commissioners.* Negligence of Servants—Commissioners held entitled to Notice—Attorney's letter not a sufficient Notice. (29 L. J., Ex., 407: 6 H. & N., 72: 2 L. T., 632.)

550. 1842. *Maund* v. *Monmouthshire Canal Co.* Trespass as well as Trover lies against a Corporation aggregate for an act done by their agent within his authority. (11 L. J., C. P., 317: 4 M. & G., 452: 3 Rail. Cas., 159: 5 Scott, N. R., 457.)

551. 1875. *Mill* v. *Hawker.* "Highway Act, 1862," § 9 (6) and § 16—Obstruction—Liability of members of a Board for acts that are *ultra vires*—Officer obeying orders of that character—Certain members of a Highway Board, and the Surveyor, held liable personally for a trespass. (44 L. J., Ex., 49: L. R., 10 Ex., 92: 33 L. T., 177: 39 J. P., 181.)

552. 1857. *Reg.* v. *Fairie.* 16 & 17 Vict., c. 128, § 1—Nuisance—Smoke—Evidence of a prior summary conviction is not receivable on an Indictment. (8 E. & B., 486: 8 Cox, C. C., 66: 30 L. T., (o. s.), 131.)

553. 1875. *Reg.* v. *Foulkes.* The son of a Clerk to a Local Board living at home and receiving no salary held duly convicted of embezzling the moneys of the Board although not directly employed by the Board. (44 L. J., M. C., 65: L. R., 2 C. C. R., 150: 39 J. P., 501.)

554. 1856. *Reg.* v. *Halifax L. B. H.* Damage to premises by drainage works—Compensation—A public body should be careful not to spend money recklessly. If two legal remedies are available the less expensive should be chosen. (20 J. P., 51.)

555. 1871. *Reg.* v. *Lovibond.* "Metropolis Management Amendment Act, 1862"—Building Line—Encroachment—Indictment—Held that an Indictment did not lie, for the Statute had prescribed a particular remedy. (24 L. T., 357: 36 J. P., 20: 19 W. R., 753.)

556. 1759. *Rex* v. *Robinson.* Where a statute creates a new offence, and appoints a specific remedy, that and no other must be pursued. (2 Burr., 799 and 803.)

557. 1864. *Saunders* v. *Slack.* Local Act—Action against the Clerk of Commissioners—Judgment and *fi. fa.*—Rule *nisi* to set aside the same discharged on the ground that the Commissioners if in the right might obtain redress otherwise, *e.g.* by Action of Trespass. (11 L. T., 484.)

558. 1876. *Scarborough, Mayor* v. *Scarborough Union.* "Public Health Act, 1875," § 91—Town refuse deposited in a field in the Rural District, with the consent of a farmer—Nuisance—Order made on Corporation to "discontinue and abate"—Order held good as regards discontinuance, but bad as regards abatement, Corporation possessing no power to enter in order to abate. (L. R., 1 Ex., D., 344: 34 L. T., 768: 40 J. P., 726.)

559. 1876. *Skeet* v. *Bishop Stortford L. B.* Suit pending as to the rights of a Board—Abusive language by the Clerk and a member towards a witness—Alleged contempt—Circumstances under which the Court would interfere. (*Times*, June 24, 1876.) Proceedings to try a right-of-way. (*Times*, June 5, 1877.)

560. 1875. *Small* v. *Bickley.* "Nuisances Removal Act, 1863," § 3 [="Public Health Act, 1875," § 118]—Search for diseased meat—Held that refusing to send a key ½ mile to admit an Inspector was not an offence within the Act, as such refusal did not amount to obstructing an officer. (32 L. T., 726: 40 J. P., 119.)

561. 1878. *St. Leonard's, Shoreditch, Guardians,* v. *Franklin.* Action for penalties—A Corporation cannot sue as a common informer unless expressly authorised by Statute to do so. (47 L. J., C. P., 727: L. R., 3 C. P. D., 377: 39 L. T., 122: 42 J. P., 727.)

562. 1859. *Ward* v. *Lowndes.* "Public Health Act, 1848," § 89 [="Public Health Act, 1875," §§ 210-11]—Action by an Architect for work done, &c., for an Authority whose powers had been transferred to another Authority—Claim of *Mandamus* to levy a Rate—Plea of Limitation of time—Judgment for the plaintiff. (29 L. J., Q. B., 40: 1 E. & E., 940: 1 L. T., 268.)

563. 1864. *Wednesbury L. B. H.* v. *Stephenson.* "Public Health Act, 1848," § 38 [="Public Health Act, 1875," § 192]; "Local Government Act, 1858," § 63 [=Ibid. § 257]—Appeal to Q. B.—Judgment for appellants—Held that though the respondent did not appear, yet he was liable to the Costs of the appeal—Surveyor interested in a patent for bricks—Held that notwithstanding this, he was entitled to represent the Board which was suing for Paving expenses. (33 L. J., M. C., 111: [*Reg.* v. *Wednesbury*] 9 L. T., 731: 27 J. P., 741.)

564. 1865. *Williams* v. *Golding.* Local Act—Persons entitled to Notice of Action—The words "district surveyor or other persons" mean "other official persons" and do not include a builder guilty of negligence. (Metrop.) (35 L. J., C. P., 1: L. R., 1 C. P., 69: 13 L. T., 291.)

565. 1805. *Wootton* v. *Harvey.* "Militia Act, 1802," 42 Geo. III., c. 90, § 61—Distress Warrant may issue after a single demand even though there may have been an appeal to Sessions against the demand and the appeal have been dismissed—A person who is bound to pay money to another is required to find out his creditor, if in England, and to tender him the money. (6 East, 75.)

(2.) "CERTIORARI."

566. 1857. *Reg.* v. *Dickenson.* "Municipal Corporations Act, 1835," § 132—By-Law—Projection of a Shop Front—By consent of the parties, the Court may have cognizance of a Special Case, although *Certiorari* has been taken away. (26 L. J., M. C., 204: 7 E. & B., 831: 29 L. T., (o. s.), 180.)

567. 1860. *Reg.* v. *Gosse.* "Nuisances Removal Act, 1855," § 39 [="Public Health Act, 1875," § 262]—If Justices have acted without jurisdiction, *Certiorari* may be had notwithstanding § 39. (30 L. J., M. C., 41: 3 E. & E., 277: 3 L. T., 404.)

568. 1867. *Reg.* v. *Staffordshire JJ.* "Public Health Act, 1848," § 63 [="Public Health Act, 1875," §§ 116-17]—A conviction can only be removed by *Certiorari* where there is excess or refusal of jurisdiction—The "Railway Clauses Consolidation Act, 1845," is so incorporated with the "Towns Improvement Clauses Act, 1847," as to take away *Certiorari.* (16 L. T., 430.)

(3.) COUNTY COURT.

569. 1877. *Hall* v. *Pritchett: Huddersfield Corporation, Garnishees.* Judgment summons for debt obtained in County Court against defendant, a Medical

Officer of Health—Garnishee summons on the Corporation (his employers) set aside on the ground that the current instalment of the officer's salary before it was actually payable was not a debt due or owing or accruing at the time when the summons was issued, within the County Court Rules, 1875, Order XXIV., Rule 4. (47 L. J., Q. B., 15: L. R., 3 Q. B. D., 215: 37 L. T., 671.)

570. 1879. *Reg.* v. *Harrington.* Nuisance—Jurisdiction of County Court—A County Court Judge, where he can entertain an Action for damage owing to a nuisance, has power to grant an Injunction to restrain such nuisance, and can enforce it by Attachment. (43 J. P., 829.)

571. 1855. *Taylor* v. *Crowland Gas & Coke Co.* A Corporation may be sued in a County Court, and "dwells" at the place where its business is carried on. (24 L. J., Ex., 233: 11 Ex., 1: 3 C. L. R., 865: 24 L. T., (o. s.), 118.)

572. 1876. *Tottenham L. B.* v. *Rowell.* "Public Health Act, 1848," §§ 69 and 129 [="Public Health Act, 1875," §§ 150, 251]—The limitation of 6 months in 11 & 12 Vict., c. 43, § 11, applies to proceedings in County Courts as well as to proceedings before Justices. (46 L. J., Q. B., 432: L. R., 1 Ex. D., 514: 35 L. T., 887.)

573. 1876. *West-Ham L. B.* v. *Maddams.* "Public Health Act, 1848," § 69 [="Public Health Act, 1875," § 150]: 24 & 25 Vict., c. 61, § 24 [=Ibid. § 261] —Paving expenses recoverable summarily or in a County Court—The limitation of 6 months for proceedings applies also in a County Court. (33 L. T., 809: 40 J. P., 470.)

(4.) "ELEGIT."

574. 1866. *Worral Water-works Co.* v. *Lloyd.* Land conveyed to a Local Board for the purposes of the "Public Health Acts" held liable to be taken under an *elegit.* (L. R., 1 C. P., 719.)

(5.) EVIDENCE.

575. 1845. *Doe d. Hopley* v. *Young.* Acting in an official capacity may be proved by evidence of the person having exercised the office before or after. (15 L. J., Q. B., 9: 8 Q. B., 63.)

576. 1836. *Meeker* v. *Van Kensselaer.* Parol evidence of the acts of a Board of Health in directing the abatement of Nuisances is not admissible: written minutes or orders should be produced. (15 Wendell, 397.) [American.]

577. 1838. *Merrick* v. *Wakley.* "Poor Law Amendment Act, 1834," § 15—A register of attendances kept by a Medical Officer in obedience to an order of the Poor Law Commissioners is not admissible in evidence on behalf of the author as a public official book. (7 L. J., Q. B., 190: 8 A. & E., 170: 8 C. & P., 283.)

578. 1846. *Slater* v. *Hodgson.* A Work-house is not an improper repository for documents belonging to a parish within the Union so as to make them inadmissible in evidence when produced from thence. (2 New Sess. Cas., 488: 9 Q. B., 727: 8 L. T., (o. s.), 160.)

579. 1879. *Weymouth L. B. H., In re.* Nuisance on property belonging to a Town Council—Proceedings against Council—Appeal dismissed, proceedings being informal, it being shown that the Council were not owners *qua* Local Board and did not occupy. (*Times*, May 27, 1879.)

580. 1876. *Witney* v. *Wycombe Union.* "Public Health Act, 1875"—"Special" Expenses—A well, constructed by private individuals for public use, repaired by the Local Authority—Held that this evidence justified the enforcement of a precept for money. (40 J. P., 149.)

(6.) INJUNCTION.

581. 1866. **A.-G.* v. *Staffordshire Copper Extracting Co.* Nuisance under the "Nuisances Removal Act, 1855"—Bill filed by a Local Board of Health—Question as to the frame of the suit. (W. N., 1866, p. 258.)

582. 1867. *Cooke* v. *Forbes.* Where an accidental escape of noxious vapour on 3 occasions inflicted injury on a neighbouring manufacturer, held that an Injunction was not an appropriate remedy. (37 L. J., Ch., 178: L. R., 5 Eq., 166: 17 L. T., 371.)

583. 1877. *Flower* v. *Leyton L. B.* Action for damage to crops by overflow of sewage, and application for Injunction to restrain—Held that application for an Injunction was the chief part of the plaintiff's case and the claim for damages only subsidiary, and therefore that the Board was not entitled to Notice of Action under § 264 of the "Public Health Act, 1875." (46 L. J., Ch., 621: L. R., 5 Ch. D., 347: 36 L. T., 760.) Action brought; damages assessed by the Court. (W. N., 1878, p. 91.)

584. 1865. *Grindley* v. *Booth.* Action for nuisance—Boiling offal—*Ex parte* Injunction under the "Common Law Procedure Act, 1854," § 82, granted pending the trial—Practice as to costs. (34 L. J., Ex., 135: 3 H. & C., 669: 12 L. T., 469.)

585. 1875. *Hardinge* v. *Southborough L. B.* Pollution of Stream by Sewage—Injunction granted against a Board, though all the members had resigned office. (W. N., 1875, p. 78: 32 L. T., 250.)

586. 1865. *Lingwood* v. *Stowmarket Co.* The right to an Injunction is founded in the fact of injury, and this must, therefore, be averred. (L. R., 1 Eq., 77: 13 L. T., 540.)

587. 1834. *Ripon (Earl of)* v. *Hobart.* Fen Drainage—Anticipated damage to banks of river—Injunction refused on the ground that there was no antecedent certainty of a nuisance arising. (3 L. J., Ch., 145: 3 Myl. & K., 169.)

588. 1864. *Swaine* v. *Great Northern Railway Co.* Nuisance—Railway Sidings used for Manure Trucks—An Injunction will not be granted against a temporary and occasional nuisance. (33 L. J., Ch., 399: 4 De G. J. & S., 211: 9 L. T., 571 and 745.)

589. 1873. *Thorpe* v. *Brumfitt.* Street Obstruction—The Court will restrain a nuisance caused by several persons, though the mischief caused by any one of them would by itself be inappreciable. (L. R., 8 Ch. App., 650: 37 J. P., 742.)

(7.) JUSTICES.

590. 1880. *Debenham* v. *Metropolitan B. W.* Default in taking down dangerous party wall ordered by Magistrate to be taken down by owner—Whereupon wall removed by contractor employed by the Board for the purpose—Refusal by owner to reimburse Board on ground that the Board had incurred needless expense—Held that a magistrate had no power to review the reasonableness of the outlay, but that on proof of the fact that it had been incurred he must order owner to refund. (50 L. J., M. C., 29: L. R., 6 Q. B. D., 112: 43 L. T., 596: 45 J. P., 190.)

591. 1877. **Diss Urban Authority* v. *Aldrich.* "Public Health Act, 1875," § 305—Application to Justices for an Order to enter premises to make a sewer. (46 L. J., M. C., 183: L. R., 2 Q. B. D., 179: 36 L. T., 663: 41 J. P., 549.) [See now 42 & 43 Vict., c. 49, § 33.]

592. 1863. *Hargreaves* v. *Taylor.* "Public Health Act, 1848," § 54 [="Public Health Act, 1875," §§ 40-1] —Nuisance—The nature and extent of the works to be done are in the discretion of a Local Board—At proceedings before Justices for the recovery of penalties, such Justices cannot review the determination of the Board. (32 L. J., M. C., 111: 3 B. & S., 613: 8 L. T., 149.)

593. 1862. *Leamington L. B. H., Ex parte.* Complaint to Justices on behalf of a Local Board by a Superintendent of Police—Justices not bound to adjudicate

unless the Clerk appears either in person, or by Counsel or Attorney. (26 J. P., 84.) [See "Public Health Act, 1875," § 259.]

594. 1876. *Morant* v. *Taylor.* Local Act—Order to demolish building—Limitation of time—11 & 12 Vict. c. 43, § 11—Held that all kinds of Orders are subject to the 6 months' limitation. (45 L. J., M. C., 78: L. R., 1 Ex. D., 188: 34 L. T., 139: 40 J. P., 501.)

595. 1851. *Newbold* v. *Coltman.* 2 & 3 Vict., c. 84, § 1—Order on Overseers for contribution—Consideration of the circumstances which will justify refusal to pay. (20 L. J., M. C., 149: 6 Ex., 189: 15 J. P., 372.)

596. 1860. *Newman* v. *Baker.* "Metropolitan Building Act, 1855," § 46—"Street"—There being no question of Law involved, the Magistrate's decision held not liable to be reviewed. (8 C. B., (N. S.), 200.)

597. 1863. *Reg.* v. *Brodhurst.* "Public Health Act, 1848," §§ 2, 129, and 148 [="Public Health Act, 1875," §§ 251, 306]—"Justices acting for the place" means, in the case of a County, acting and also sitting within the Petty Sessional Division in which the case arises—Justices not so acting or sitting have no jurisdiction. (32 L. J., M. C., 168: 11 W. R., 425.) [But see Paley, *Summary Convictions*, 6th ed., 1879, p. 38.]

598. 1880. *Reg.* v. *Gibbon.* Local Act—Interest of Justices—Information laid before a Justice who was a member of Corporation prosecuting—Penalty payable to Corporation—Held that the Justice had an interest sufficient to disqualify him, and therefore *Mandamus* to 2 other Justices to hear the summons issued by the first Justice refused though they were not interested—*Reg.* v. *Weymouth JJ.* extended. (L. R., 6 Q. B. D., 168: 29 W. R., 442.)

599. 1845. *Reg.* v. *Hertfordshire JJ.* If a Justice hearing a case at Sessions is interested in the result the Court is improperly constituted—No answer, that there was a majority without counting the interested party—Nor that he withdrew before the decision if he had assisted in discussing the matter. (14 L. J., M. C., 73: 6 Q. B., 753: 1 New Sess. Cas., 470.)

600. 1879. *Reg.* v. *Huntingdon JJ.* "Dogs Act, 1871"—Three Justices, Members of a Town Council, having assisted in making an Order, afterwards sat to hear a complaint of non-observance of the Order—Held that they had no such interest as to oust their jurisdiction. (L. R., 4 Q. B. D., 522; 43 J. P., 767.)

601. 1862. *Reg. v. Jenkins.* "Nuisances Removal Act, 1855," § 14 [="Public Health Act, 1875," § 98]—When a penalty is imposed under this Section and remains unsatisfied, the Justices, before they can enforce it, must summon the defendant. (32 L. J., M. C., 1: 3 B. & S., 116: 7 L. T., 272.)

602. 1880. *Reg.* v. *Lancashire JJ.* Justices members of an Urban Sanitary Authority held justified in declining to hear an Information laid before them for breach of a law in the vindication of which they were *ex officio* interested. (*Times*, Dec. 22, 1880.)

603. 1875. *Reg.* v. *Meyer.* Alleged default by two Sanitary Authorities; a third party prosecutes H. who is convicted; one of the Justices present at the conviction was chairman of one of the Sanitary Authorities concerned—Conviction quashed on the ground of interest in one of the Justices though he took no active part in the conviction. (L. R., 1 Q. B. D., 173: [*Reg.* v. *Myers*] 34 L. T., 247: 40 J. P., 645.)

604. 1866. *Reg.* v. *Pollard.* A defendant charged with obstructing the works of a Local Board is not necessarily entitled to have the case dismissed by Justices because he justifies the obstruction by claim of private right—Justices required to state a Case. (14 L. T., 599.)

605. 1873. *Reg.* v. *Pollard.* "Nuisances Removal Act, 1855" [Repealed]—Proceedings for abatement of a nuisance—Defence that a public sewer must first be made—Complaint dismissed on the ground that construction of a sewer was a condition precedent to making of an Order of abatement—Justices ordered to state a Case on this point. (37 J. P., 309.)

606. 1870. *Reg.* v. *Pratt.* Costs awarded by Sessions in respect of an appeal and which are enforceable by distress and commitment are within the exception in § 4 (2) of the "Debtors Act, 1869," and the defaulter may therefore be imprisoned. (39 L. J., M. C., 73: L. R., 5 Q. B., 176: [*Cole, Ex parte*] 21 L. T., 750.)

607. 1866. *Reg.* v. *Rand.* A Justice pecuniarily interested is disqualified from acting judicially; but possibility of bias does not suffice. (35 L. J., M. C., 157: L. R., 1 Q. B., 230: 7 B. & S., 297.)

608. 1877. *Reg.* v. *Trimble.* "Public Health Act, 1875," § 96—Nuisance from stagnant water—Nuisance caused by A, but actually occurring on the land of his neighbour B—Order to abate involving an entry by A on the land of B held bad. (36 L. T., 508: [*Reg.* v. *Cumberland*] 41 J. P., 454.)

609. 1879. *Reg.* v. *Weymouth JJ.* "Public Health Act, 1875," § 258—Proceedings by a Local Authority against a person for a nuisance—Conviction—Of the Magistrates sitting on the Bench when the case was heard, 2 were members of the Local Authority—Held that they were interested—Accordingly, Rule absolute for *Certiorari* to quash the conviction. (48 L. J., M. C., 139: [*Reg.* v. *Milledge*] L. R., 4 Q. B. D., 332: 40 L. T., 748: 43 J. P., 606.)

610. 1833. *Rex* v. *Cheshire JJ.* When Justices have signed and sealed an Order they cannot afterwards amend it. (5 B. & Ad., 439: 2 N. & M., 827.)

611. 1865. *Wakefield L. B. H.* v. *West Riding & Grimsby Railway Co.* Summary Conviction—If a Justice is interested, the parties may waive the objection; if this is done, the proceedings will not on that account be afterwards avoided by the Superior Court. (L. R., 1 Q. B., 84: 6 B. & S., 794: 10 Cox, C. C., 162: 13 L. T., 590.)

612. 1858. *Yorkshire Tyre and Axle Co.* v. *Rotherham L. B. H.* Case stated under 20 & 21 Vict., c. 43, § 2—Material document omitted to be set out—Case sent back for amendment before it came on for argument. (27 L. J., C. P., 235; 4 C. B., (N. S.), 362.)

(8.) "MANDAMUS."

613. 1857. *Ham L. B., In re; Bassett Ex parte.* "Nuisances Removal Act, 1855," § 14 [="Public Health Act, 1875," § 98]—If a Sanitary Authority does not think fit to enforce an Order of Justices obtained by its own officer, it cannot be made to do so by *Mandamus.* (26 L. J., M. C., 64: 7 E. & B., 280: [*Reg.* v. *Ham*] 28 L. T., (O. S.), 267.)

614. 1876. *Harrogate Medical Officer* v. *Harrogate L. B. H.* Application for *Mandamus* to compel a Board to allow a duly appointed officer to discharge his duties—Application refused—*Mandamus* only the remedy for non-performance of public duties—A Board not being required to perform medical officer's duties, *Mandamus* does not lie—His remedy under the circumstances is an Action for non-payment of salary. (*Times*, Nov. 22, 1876.)

615. 1864. *Reg.* v. *Boteler.* 2 & 3 Vict., c. 84, § 1—Contribution Order on an Overseer—On refusal to pay, application to Justices to issue Warrant—On their refusal, *Mandamus*—The discretion of Justices in such cases is not absolute; they must not refuse to act merely for frivolous reasons. (33 L. J., M. C., 101: 4 B. & S., 959: 8 L. T., 514.)

616. 1859. *Reg.* v. *Burleigh* [*Burley*] *L. B.* Payment made by a Board under the protection of a *Mandamus*, which was deemed necessary because of long delay—On a further delay in asking for Costs, Costs refused. (1 L. T., 92.)

617. 1875 and 1876. *Reg.* v. *Keighley Guardians.* Refusal to enforce vaccination—Rule absolute for *Mandamus* at the instance of Local Government Board. (39 J. P., 309 and 360.) [Subsequently an application

to quash the *Mandamus* was refused: and see the Return thereto discussed, 40 J. P., 70. Finally a Rule absolute was granted for an Attachment against the Guardians for disobeying the *Mandamus*. *Times*, July 4, 1876.]

618. 1875. *Reg.* v. *Peterborough, Mayor.* "Borough Funds Act, 1872"—Application for *Mandamus* for a Poll refused, applicant, though a ratepayer, being personally interested as Solicitor for the Bill, respecting which he desired a Poll—On such an application it is essential to show who is the real applicant, and that he is *bonâ fide* interested. (44 L. J., Q. B., 85: 23 W. R., 343.)

619. 1862. *Reg.* v. *St. Luke's, Chelsea, Vestry.* "Metropolis Management Act, 1855," § 69—*Mandamus* ordering the construction of a sewer held defective—It should have shewn some particular reason why one locality was to be singled out, and that the Metropolitan Board had given its consent. (31 L. J., Q. B., 50: 1 B. & S., 903: 5 L. T., 744.)

620. 1837. *Rex* v. *Nottingham Old Water-works Co.* Interference with Water rights—A *Mandamus* will only be issued when there is a specified legal right and an absence of an effectual remedy; or if there is a doubt whether there be a remedy. (6 L. J., K. B., 89: 1 Nev. & P., 480: 6 A. & E., 355: W. W. & D., 166.)

621. 1865. *Worthington* v. *Hulton.* Where a Judgment has been obtained against a Local Board on a contract, a *Mandamus* may be issued within 6 months of the Judgment, though the Action was more than 6 months after the claim accrued, if the delay is explained. (35 L. J., Q. B., 61: L. R., 1 Q. B., 63: 6 B. & S., 943: 13 L. T., 463.)

(9.) SESSIONS.

622. 1876. *Reg.* v. *Barnet Union.* "Public Health Act, 1875," §§ 48 and 269—Appeal "within 14 days"—The "14 days" must be computed from the date of the Order of Justices. (45 L. J., M. C., 105: L. R., 1 Q. B. D., 558: [*Reg.* v. *St. Albans*] 35 L. T., 362: 41 J. P., 6.)

623. 1862. *Reg.* v. *Hampshire JJ.* "Nuisances Removal Act, 1855," § 40 [="Public Health Act, 1875," § 269]—Where an Order of Quarter Sessions is removed to the Q. B. and quashed generally, a Court of Quarter Sessions cannot afterwards order the costs to be taxed. (32 L. J., M. C., 46: [*Isle of Wight Ferry Co.* v. *Ryde Commissioners*] 7 L. T., 391: 25 J. P., 454.)

624. 1881. *Reg.* v. *Middlesex JJ.* Prosecution of Local Board by Thames Conservators for alleged pollution of river Colne by sewage—Complaint dismissed by Justices—Whereupon Conservators appealed to Sessions—Prohibition issued to Sessions forbidding the Appeal being heard—Only where there has been a conviction can there be an Appeal—An unsuccessful prosecutor has no right of Appeal. (45 J. P., 420.)

(10.) "QUO WARRANTO."

625. 1871. *Bradley* v. *Sylvester.* Clerk of School Board alleged to have been improperly elected—In the case of any Office held at the pleasure of a Board, application should be made to the Board itself to remedy an impropriety in Election, before applying for a *Quo warranto*. (25 L. T., 459.)

626. 1846. *Darley* v. *The Queen. Quo Warranto* will lie for usurping any Office of a public nature. (12 C. & F., 520.)

627. 1851. *Haydock, Ex parte.* "Public Health Act, 1848"—Election—Allegation that votes had been improperly admitted and rejected—*Quo Warranto*. (15 J. P., 384.)

628. 1854. *Reg.* v. *Coaks.* "Municipal Corporations Act, 1835," § 51—Election of Councillor—*Quo Warranto*. (23 L. J., Q. B., 133: 3 E. & B., 249: 2 C. L. R., 947: 22 L. T., (o. s.), 239.)

629. 1873. *Reg.* v. *Cousins. Quo Warranto*—Annual Office—Application delayed for 8 months—Application refused it not being shown that the result of the election would probably have been different had a better mode of election been adopted. (42 L. J., Q. B., 124: L. R. 8 Q. B., 216: 28 L. T., 116: 37 J. P., 470.)

630. 1869. *Reg.* v. *Diplock.* Election of Coroner—A declaration by Returning Officer of the name of the successful candidate cannot be disturbed by *Quo Warranto*. (38 L. J., Q. B. 297: L. R., 4 Q. B., 549: 10 B. & S., 613: 21 L. T., 24.)

631. 1865. *Reg.* v. *Hampton.* "Municipal Corporations Act, 1835"—*Quo Warranto* is applicable to the office of Guardian. (6 B. & S., 923: 13 L. T., 431.)

632. 1873. *Reg.* v. *Jones.* The Chairman as such of a Vestry declared himself elected a member of a Burial Board, but afterwards refrained from acting on the Board—*Quo Warranto* is not applicable where a person has neither acted in an office nor claimed to do so. (28 L. T., 270: 37 J. P., 453.)

633. 1851. *Reg.* v. *St. Martin's-in-the-Fields Guardians. Quo Warranto* lies in respect of the office of Clerk of Guardians—*Mandamus* not appropriate. (20 L. J., Q. B., 423: 17 Q. B., 149: 15 J. P., 371.)

634. 1867. *Reg.* v. *Staples.* Adoption of the "Local Government Act, 1858"—Application by an individual for a *Quo Warranto* against all the members of a newly formed Board, refused—The Att.-Gen. should have intervened. (9 B. & S., 928, n.)

(11.) TAXATION OF COSTS.

635. 1849. *Lumb* v. *Simpson.* Action for injury to a watercourse—Costs of scientific experiments disallowed on Taxation. (18 L. J., Ex., 377: 4 Ex. 85: 13 L. T., (o. s.), 260.)

LIABILITY FOR ACCIDENTS, &c.

*** See also "Gas Company" and "Water Company."

636. 1845. *Allen* v. *Hayward.* Navigation commissioners—Failure of an earth-work—Contractor and not the Commissioners held under the circumstances liable for damage caused by negligent construction. (15 L. J., Q. B., 99: 7 Q. B., 960: 4 Rail. Cas., 104.)

637. 1854. *Alston* v. *Grant.* Landlord and Tenant—Bursting of a Sewer improperly constructed—Damage to goods—Verdict for the Lessee in an Action against his Landlord. (23 L. J., Q. B., 163: 3 E. & B., 128: 2 C. L. R., 933: 22 L. T., (o. s.), 221.)

638. 1857. *Arthy* v. *Coleman.* "Public Health Act, 1848," § 140 [="Public Health Act, 1875," § 265]—A contractor employed by a Local Board on a highway held liable to a third party for his negligence. (30 L. T., (o. s.), 101: 6 W. R., 34.)

639. 1861. *Backhouse* v. *Bonomi.* Excavations under houses causing sinkage and damage—Statute of Limitations held to run not from date of excavation but date of actual injury becoming manifest. (34 L. J., Q. B., 181: 9 H. L. C., 503: 4 L. T., 754.)

640. 1879. *Bathurst, Borough of,* v. *Macpherson.* "New South Wales Acts"—Non-repair of highway—Accident to horse—Many English cases reviewed and commented on. (48 L. J., P. C., 61: L. R., 4 App. Cas., 256: 41 L. T., 778: 43 J. P., 827.)

641. 1863. *Blake* v. *Thirst.* Construction of sewer—Absence of fence and lights—Accident—Defendant, the contractor, held liable though a sub-contractor was the party in default. (32 L. J., Ex. 188: 2 H. & C., 20: 8 L. T., 251.)

642. 1824. *Boulton* v. *Crowther.* Turnpike Act authorising the improvement of a Road—Held that the Trustees were justified in lowering hills, and raising hollows, and were not liable for consequential injury resulting from an act which they were authorised to do. —*British Plate Manufacturers* v. *Meredith* followed. (2 L. J., (o. s.), K. B., 139: 2 B. & C., 703: 4 D. & R., 195.)

643. 1876. *Bower* v. *Peate.* Rebuilding of a house—Defective shoring—Damage to adjacent land—Held that the contractors employed were liable. (45 L.

J., Q. B., 446: L. R., 1 Q. B. D., 321: 35 L. T., 321: 40 J. P., 789.)

644. 1879. *Box* v. *Jubb.* Water stored in reservoir—Overflow of, on neighbour's premises, from causes beyond owner's control, namely the act of a third party—Owner held not liable for the damage done—*Fletcher* v. *Rylands* distinguished: *Nicholls* v. *Marsland* followed. (48 L. J., Ex., 417: 41 L. T., 97.)

645. 1792. *British Cast Plate Manufacturers* v. *Meredith.* Paving Commissioners acting *intra vires* held not liable for consequential damage. (4 T. R., 794.)

646. 1858. *Brown* v. *Sargent.* Bursting of a sewer constructed by a Local Board whereby a Bake-house was damaged—Plea that an extraordinary storm was the cause—Evidence to support such a plea must extend over a considerable range of years—Proof of compensation having been paid on former occasions, with proof (even slight) of negligent construction will suffice to show liability—Verdict for plaintiff. (1 F. & F., 112.)

647. 1862. *Clothier* v. *Webster.* "Metropolis Management Act, 1855," §§ 135, 220—Construction of a sewer—Negligence of a Contractor—Statutory provision as to compensation—If negligence can be shown a party is not tied down to a statutory remedy designed to afford compensation for injury necessarily inflicted by the due execution of works. (Metropolis.) (31 L. J., C. P., 316: 12 C. B., (N. S.), 790: 6 L. T., 461.)

648. 1866. *Coe* v. *Wise.* Drainage Commissioners — Negligence — Bursting of a Sluice — Commissioners liable for the default of their servants. (37 L. J., Q. B., 262: L. R., 1 Q. B., 711: 7 B. & S., 831: 14 L. T., 891.)

649. 1869. *Collins* v. *Middle Level Commissioners.* Local Act, 7 & 8 Vict., c. cvi.—Circumstances under which a public body are liable for negligence where the act of a third party done to obviate some of the consequences of the negligence is the immediate cause of the injury to the plaintiff—Plaintiff held entitled to sue the Commissioners. (38 L. J., C. P., 236: L. R., 4 C. P., 279: 20 L. T., 442.)

650. 1869. *Cracknell* v. *Thetford, Mayor.* Local Navigation Act—Duty to dredge—Liability for injury from the overflowing of a river—Corporation not being the owners of the soil of the river, held not liable. (38 L. J., C. P., 353: L. R., 4 C. P., 629.)

651. 1881. *Dixon* v. *Metropolitan B. W.* Flood-gates of Sewer opened to permit the flow of a great quantity of storm water—Damage to plaintiff's wharf and barges by the sudden rush of water—Held that the Board had not exceeded its statutory powers and had only used the sewer-gates as it was entitled to do. (L. R., 7 Q. B. D., 418.)

652. 1871. *Foreman* v. *Canterbury, Mayor.* "Public Health Act, 1848," § 117—Highway—Obstruction by stones—A Local Board is liable for an injury caused by its servants negligently leaving a heap of stones on a highway. (40 L. J., Q. B., 138: L. R., 6 Q. B., 214: 24 L. T., 385: 35 J. P., 629.)

653. 1878. *Geddis* v. *Bann Reservoirs Proprietors.* Local Water Act—Persons possessing statutory powers to execute works likely to cause inconvenience and injury to others may be treated as under an obligation to take from time to time measures to prevent the occurrence of such inconvenience and injury.—*Cracknell* v. *Thetford* distinguished. (L. R., 3 App. Cas., 430.)

654. 1870. *Gibson* v. *Preston, Mayor.* "Public Health Act, 1848," § 68—A Local Board is not liable to an Action for injuries received owing to the non-repair of a highway. (39 L. J., Q. B., 131: L. R., 5 Q. B., 218: 10 B. & S., 942: 22 L. T., 293: 34 J. P., 342.

655. 1865. *Gordon* v. *St. James's, Westminster, Vestry.* Leakage of water from a drain into a cellar—Conflicting evidence of negligence—Judgment for the defendants. (13 L. T., 511.)

656. 1864. *Gray* v. *Pullen.* "Metropolis Management Act, 1855," §§ 77, 110-11—Construction of Drain resulting in injury to a highway—Accident to a foot passenger—A person is liable for an injury arising through negligent performance of a statutory obligation, whether performed by himself or by a contractor employed by him. (34 L. J., Q. B., 265: 5 B. & S., 970: 11 L. T., 560.)

657. 1875. *Gwinnell* v. *Eamer.* Injury to plaintiff from the giving way of a defective coal-grating in a public highway—Premises under lease, Lessee to repair—Held that the plaintiff had no right of Action against the defendant as Lessor. (L. R., 10 C. P., 658: 32 L. T., 835.)

658. 1877. *Hall* v. *Batley, Mayor.* "Public Health Act, 1875," § 23—Damage to a wall owing to negligence in making excavations for drains—Verdict for the plaintiff notwithstanding that the work was being done at the request of the plaintiff, he having waived his right to do it himself. (47 L. J., Q. B., 148: 42 J. P., 151.)

659. 1824. *Hall* v. *Smith.* Local Act—Commissioners acting gratuitously held not individually liable for injury caused by the negligence of their workmen. (2 L. J., C. P., (O. S.), 113: 9 Moo. 226: 2 Bing. 156.)

660. 1874. *Hammond* v. *St. Pancras Vestry.* Overflow of a sewer vested in defendants—Damage to property—Held that a public body is not liable for omissions to fulfil its duty unless negligence can be shown—When a statute imposes a duty on a public body in terms by no means clear, such duty is not absolute, but reasonable care is implied. (43 L. J., C. P., 157: L. R., 9 C. P., 316: 30 L. T., 296.)

661. 1863. *Hartnell* v. *Ryde Commissioners.* "Towns Improvement Clauses Act," §§ 47 and 49—Non-repair of a Highway—Commissioners held liable to an action at the suit of a person who had suffered damage—The provisions of the "T. I. C. Act" herein differ from those of the "Public Health Act, 1848," § 68. [Repealed, but re-enacted as regards this detail in the same words; see § 149.] (33 L. J., Q. B., 39: 4 B. & S., 361: 8 L. T., 574.)

662. 1868. *Hill* v. *New River Co.* Spouting up of water from a main, whereby plaintiff's horses were frightened and fell into an unfenced excavation in a highway made by a contractor for sewers—Held that the water company and not the contractor was liable—The misuse of the water main was the *causa causans.* (9 B. & S., 303: 18 L. T., 355.)

663. 1861. **Holliday* v. *St. Leonard's, Shoreditch, Vestry.* (30 L. J., C. P., 361.) [Overruled by *Mersey Docks* v. *Gibbs*—Blackburn, J.; in *Foreman* v. *Canterbury.*]

664. 1868. *Hyams* v. *Webster.* Construction of Sewer—Subsidence of soil of road—Injury to a horse—Contractor held not liable, he having finished off the job and left it in proper condition. (38 L. J., Q. B., 21: L. R., 4 Q. B., 138: 9 B. & S., 1016: [In Court below, affirmed on appeal] 16 L. T., 118: 31 J. P., 439.)

665. 1881. *Kennett* v. *East London Water Co.* Stand-pipe erected during frost—Negligence in fixing whereby great quantities of water escaped on to surface of highway and froze—Accident to plaintiff in crossing the highway—Verdict for plaintiff; damages £200. (At *Nisi Prius.*) (*Times*, April 2, 1881.)

666. 1874. *Letts* v. *Oldbury L. B. H.* Alleged obstruction of Highway with heaps of Road Material—Accident to a vehicle—Man killed—Verdict for the defendants. (38 J. P., 203.)

667. 1830. *Lloyd* v. *Wigney.* Local Act requiring certain Actions to be brought within 6 months—Injury to house by negligent construction of sewer, to meet which, in part, the house was shored up by Local Authority—Action brought more than 6 months after cracks commenced, but within 6 months of the shore standing—Plaintiff nonsuited; the Action was in respect of the cracks and not of the shores, and the plaintiff was barred by time in respect of the cracks, they not being a "continuing damage," for the damage was the same at the end of the 6 months as at the beginning. (8 L. J., (O. S.), 161: 6 Bing., 489: 4 M. & P., 222.)

668. 1860. *Meek* v. *Whitechapel B. W.* A Board held liable for a Sewer becoming choked, whereby it overflowed into the premises of the plaintiff. (2 F. & F., 144.) [See the observations of Brett, J., in *Hammond* v. *St. Pancras.*]

669. 1866. *Mersey Docks & Harbour Board* v. *Gibbs.* A Corporation created by a Statute for certain purposes is liable for the negligent acts of its servants, though deriving no benefit from the execution of its powers. (35 L. J., Ex., 225 : L. R., 1 H. L., 93 : 14 L. T., 677.)

670. 1855. *Newton* v. *Ellis.* "Public Health Act, 1848," § 139 [="Public Health Act, 1875," § 264] —Digging a Well—Injury—Negligence—A Contractor to a Local Board held entitled to Notice of Action. (24 L. J., Q. B., 337 : 5 E. & B., 115 : 25 L. T., (o. s.), 140.) [But see *Stringer* v. *Barker.*]

671. 1876. *Nichols* v. *Marsland.* Overflow of reservoir owing to an unprecedented flood held to be an instance of *vis major*, for the injurious consequences of which the owner was not liable, all reasonable ordinary precautions having been taken. (46 L. J., Ex., 174 : L. R., 2 Ex. D., 1 : 35 L. T., 725 : 41 J. P., 500.)

672. 1856. *Ogilvy* v. *Caledonian Railway Co.* Indirect damage to property by public works—Damage common to all the Queen's subjects is not a matter for which any individual legal remedy exists. (2 Macq., H. L. C., 229.)

673. 1852. *Overton* v. *Freeman.* Contract for Paving—Stones left in street by a sub-contractor—Accident—Held that the Action was not rightly brought against defendant (the head contractor). (21 L. J., C. P., 52 : 11 C. B., 867 : 18 L. T., (o. s.), 224.)

674. 1853. *Peachey* v. *Rowland.* If A employs B to do a lawful act and B in doing it, commits a nuisance A is not liable—Defendants contracted with one Ansell that he should fill in an opening in a highway made to permit a drain to be connected with a sewer—The earth was left by Ansell heaped up so as to be a nuisance, and Plaintiff in driving suffered hurt—Held that Defendants were not liable for Ansell's negligence. (22 L. J., C. P., 81 : 13 C. B., 182 : 20 L. T., (o. s.), 208.)

675. 1875. *Pendlebury* v. *Greenhalgh.* Partial obstruction of a highway during repairs—Accident—Defendant, the Surveyor of Highways, held liable—Surveyor had only given the contractor part of the duty, and the duty of lighting and fencing by night remained with the Surveyor—*Taylor* v. *Greenhalgh* distinguished. (45 L. J., Q. B., 3 : L. R., 1 Q. B. D., 36 : 33 L. T., 372 : 40 J. P., 36.)

676. 1878. *Pocock* v. *Brighton, Mayor.* Fracture of gas and water pipes in a street by the passage of a steam roller—Accident—Gas explosion—Verdict for the plaintiff, on the ground that the street and the roller being alike under the management of the Corporation, they had the means of preventing a roller of dangerous weight being sent along the street, and failed to do so. (*Times*, March 11, 1878.)

677. 1867. *Poulsum* v. *Thirst.* Construction of Sewer—Injury to House—Contractor when sued held entitled to Notice of Action. (Metropolis.) 36 L. J., C. P., 225 : L. R., 2 C. P., 449 : 16 L. T., 324.)

678. 1851. *Reg.* v. *Pocock.* Trustees under a Local Paving Act are not chargeable with Manslaughter if one of their roads be out of repair and a person using it is accidentally killed in consequence, such a case not being one of personal negligence. (17 Q. B., 34 : 17 L. T., (o. s.), 91.)

679. 1880. *Reg.* v. *Ware Guardians.* Sewer grating improperly laid—Injury to a horse—Claim of compensation—*Mandamus* to Board to pay compensation awarded by Arbitrator—Held that the injury was not a matter for compensation at all, the facts disclosing neglect which was actionable, not a mischance arising necessarily from carrying out statutory powers. (*Times*, March 15, 1880.)

680. 1860. *Rowell* v. *Hartlepool B. H.* Accident at a Sewer—Man killed—*Mandamus* granted to levy a Rate to provide compensation to widow. (34 L. T., Newspaper, 232.)

681. 1858. *Ruck* v. *Williams.* Negligent construction of a Sewer—Damage to property—Paving Commissioners under Local Act held liable, great negligence being proved. (27 L. J., Ex., 357 : 3 H. & N., 308 : 31 L. T., (o. s.), 167.)

682. 1857. *Scott* v. *Manchester, Mayor.* Laying of Gas Pipes—Accident—Compensation held payable, a Corporation being liable for the negligence of its workmen. (26 L. J., Ex., 132 and 406 : 2 H. & N., 204 : 29 L. T., (o. s.), 233.)

683. 1834. *Smith* v. *Birmingham & Staffordshire Gas-light Co.* A Corporation is liable for the tortious act of its agent, though not appointed by seal, if such act be an ordinary service—If the Corporation adopt the act, a Jury may infer agency. (1 A. & E., 526 : 3 N. & M., 771.)

684. 1878. *Smith* v. *West Derby L. B.* Sewers laid along a road by the Contractor of a Board—Subsequent subsidence of the road—Accident to a vehicle—Held that the Board was liable for the negligent restoration of the road in its joint capacity as Highway Authority and Sewer Authority—What particulars in a statutory Notice of Action are sufficient. (47 L. J., C. P., 607 : L. R., 3 C. P. D., 423 : 38 L. T., 716 : 42 J. P., 615.)

685. 1881. *Southard* v. *Eton Urban Authority.* Accident to a horse through falling into a hole in a road caused by sinkage of surface into a cavity—Cavity apparently connected with a drain—Verdict for plaintiff. (*Times*, June 23, 1881.)

686. 1879. *Stringer* v. *Barker.* "Public Health Act, 1875," § 264—Sewer constructed by contractor—Accident to horse—Contractor held not entitled to Notice of Action because not an officer or person acting in his aid—The enactment in question is narrower in its tenour than the corresponding enactment in the "Public Health Act, 1848." (W. N., 1879, p. 127.)

687. 1815. *Sutton* v. *Clarke.* Persons who execute public functions without pay, and act to the best of their judgment, and without malice, are not liable for consequential damage. (6 Taunt. 29 : 1 Marsh., 429.)

688. 1876. *Tarry* v. *Ashton.* Fall of a lamp projecting over a footway and injury to a passer-by—Held that it was the duty of the owner to keep it in repair, and that he was liable to anybody suffering hurt in consequence of its non-repair. (45 L. J., Q. B., 260 : L. R., 1 Q. B. D., 314 : 34 L. T., 97.)

689. 1874. *Taylor* v. *Greenhalgh.* "Highway Act, 1835," § 56—Highway—Negligence by a contractor in carrying out repairs—Held that no Action lay against Surveyor. (43 L. J., Q. B., 168 : L. R., 9 Q. B., 487 : 31 L. T., 184 : 38 J. P., 599.)

690. 1860. *Todd* v. *Flight.* An Action lies against the *owner* of premises who lets them on lease when in a dangerous condition, and permits them to remain so until by reason of the want of repair they fall and injure the property of an adjoining owner. (30 L. J., C. P., 21 : 9 C. B., (N. S.), 377.)

691. 1857. *Ward* v. *Lee.* Metropolitan Commissioners of Sewers—Contractors held not personally liable for damage done by them in executing works; the liability, if any, was on the Commissioners as a body—Expenses of defending action. (26 L. J., Q. B., 142 : 7 E. & B., 426 : 28 L. T., (o. s.), 355.)

692. 1864. *West Riding & Grimsby Railway Co.* v. *Wakefield L. B. H.* "Railway Clauses Consolidation Act, 1845," § 58—Damage to Road by the carts of a Railway Contractor—Held that the Justices had power to make an Order on the Company which employed the Contractor. (33 L. J., M. C., 174 : 5 B. & S., 478.)

693. 1875. *White* v. *Hindley L. B.* Street grating out of repair—Accident to a horse—Board held liable, it being a case of non-repair of sewer, not non-repair of highway. (44 L. J., Q. B., 114 : L. R., 10 Q. B., 219 : 32 L. T., 460 : [*W.* v. *Wigan*] 39 J. P., 533.)

694. 1857. *Whitehouse* v. *Birmingham Canal Co.* An Action for injury arising out of the ordinary user of works constructed under an Act of Parliament must be founded on negligence. (27 L. J., Ex., 25: 30 L. T., (O. S.), 156.)

695. 1861. *Whitehouse* v. *Fellows.* "General Turnpike Act, 1822," § 147—Negligent formation of a drain by the side of a road—Trustees held liable for consequential damage though they had acted *bonâ fide*—Where a Statute limits a time for Actions such time runs from the act done, unless there be a continuing trespass or a consequential injury, in which latter cases the time runs only from the cessation of the trespass, or the happening of the injury. (30 L. J., C. P., 305: 10 C. B., (N. S.), 765: 4 L. T., 177.)

696. 1877. *Whiteley* v. *Pepper.* Negligent opening of a coal-plate in a highway—Accident—Defendant, the coal merchant, held liable for the negligence of his carman. (46 L. J., Q. B., 436: L. R., 2 Q. B. D., 276: 36 L. T., 588.)

697. 1868. *Whitman* v. *Pearson.* Contractor under a Board—Accident owing to horse being left unattended and running away with a cart during driver's dinner-hour, driver having also disobeyed orders in driving home for his dinner—Master held liable, nevertheless—Notice of Action not required. (Metropolis.) (37 L. J., C. P., 156: L. R., 3 C. P., 422: 18 L. T., 290.)

698. 1872. *Winch* v. *Conservators of the Thames.* Negligence—Towing-path out of repair—Accident to horses—Defendants held liable. (41 L. J., C. P., 241: L. R., 7 C. P., 458: 27 L. T., 95.)

LIBEL.

699. 1842. *A.-G.* v. *Compton.* To pay out of the Poor Rate the Law Expenses of a medical officer of a Board of Guardians who had been libelled held to be a breach of trust. (1 Younge & Coll., ch., 417.)

700. 1881. *Baldry* v. *Fletcher.* Action of Libel by an assistant overseer—Libel contained in letter from one ratepayer to another, imputing to plaintiff long habit of mismanaging accounts—Defence: (1) No Libel, (2) Privilege, (3) No Malice—Verdict in favour of plaintiff held good by Divisional Court, and afterwards by the Court of Appeal. (MS.)

701. 1877. *Haviland, Ex parte.* Alleged libel on a Poor-Law Medical Officer—Whereupon a correspondence between the parties—Rule for a Criminal Information refused—*Per* Cockburn, C. J.:—"If a party chooses, instead of coming direct to this Court, to enter into a correspondence, and receive explanations, it is not usual for this Court to give leave to file a Criminal Information." (41 J. P., 789.)

702. 1879. *Keight* v. *Hill.* Complaint in writing to Guardians by the defendant, their Clerk, that the plaintiff, an assistant clerk, had neglected his duty—Whereupon plaintiff dismissed—Action of slander—Held that the complaint made by the defendant was a privileged communication if he was acting in the course of his duty, and without malice. (43 J. P., 176.)

703. 1862. *Popham* v. *Pickburn.* Action for Libel—A newspaper in giving an account of a Vestry Meeting at which there is read a Medical Officer's Report containing libellous matter, is not justified in reprinting such Report. (31 L. J., Ex., 133: 7 H. & N., 891: 5 L. T., 846.) [But see now 44 & 45 Vict., c. 60.]

704. 1877. *Purcell* v. *Sowler.* Action by Medical Officer of a Union against a newspaper for libel, the libel being a report of a meeting of Guardians where libellous words were spoken—Action held maintainable, such report not being privileged. (46 L. J., C. P. D., 308: L. R., 2 C. P. D., 215: 36 L. T., 416: 41 J. P., 789.) [But see now 44 & 45 Vict., c. 60.]

705. 1881. *Reg.* v. *Farrant.* Letter published by dismissed Medical Officer of Health imputing "individual and collective immorality, commercial and otherwise," to the Town Council, his former employers—Defendant pleading "Guilty" to a Criminal Information was fined 100*l.* (In the Q. B. D., June, 1881. MS.)

LICENSES.

706. 1872. *Antony* v. *Brecon Markets Co.* "Towns Improvement Clauses Act," §§ 125 and 129—Interpretation of Statutes—A consent to erect a slaughter-house held to carry with it a license to use it when erected—Local Act. (41 L. J., Ex., 201: L. R., 7 Ex., 399: 26 L. T., 979.)

707. 1867. *Brighton L. B. H.* v. *Stenning.* Extent of a Slaughter-house License—Alteration of Premises—Held on the facts that the License as granted was sufficiently extensive to authorise the premises being used as they were used after the alterations. (15 L. T., 567.)

708. 1876. *Hanman* v. *Adkins.* Licensed slaughter-house pulled down and rebuilt—Held that a new license was not necessary. (40 J. P., 744.)

709. 1862. *Howarth* v. *Manchester, Mayor.* Local Act—Slaughter-house License—A resolution of a committee communicated to an applicant operated as a license. (6 L. T., 683.)

710. 1867. *Liverpool New Cattle Market Co.* v. *Hodson.* "Public Health Act, 1848," § 64 [="Public Health Act, 1875," §§ 112-13]—"Newly establishing" the business of slaughtering Cattle—Conviction affirmed, the company allowing its premises to be used by others, though not using them by its own servants. (36 L. J., M. C., 30: L. R., 2 Q. B., 131: 8 B. & S., 184: 15 L. T., 534.)

711. 1866. *Reg.* v. *Heyworth.* "Towns Improvement Clauses Act, 1847," § 126—A Slaughter-house License applies to a place; not to a person—A person who pays the owner for leave to use an unlicensed place, cannot himself be convicted. (14 L. T., 600: 30 J. P., 423.)

LOCAL GOVERNMENT BOARD, &c.

712. 1856. *Arnold* v. *Gravesend, Mayor.* "Municipal Corporations Act, 1835," § 94—The Consent of the Treasury is sufficiently expressed by a letter signed by the Secretary. (25 L. J., Ch., 776: 2 K. & J., 574: 27 L. T., (O. S.), 97.)

713. 1867. *A.-G.* v. *Manchester, Bishop.* Remarks by Stuart, V. C., on the Acts of a Public Department [such as Local Government Board]. (L. R., 3 Eq., 436, 455: 15 L. T., 646, 650.)

714. 1870. *Darlington Town Council* v. *Secretary of State for the Home Department.* "Sanitary Act, 1866," § 49 [="Public Health Act, 1875" § 299]. Failure to provide sewerage—On default, Order by Secretary prescribing the execution of works, to wit, the establishment of a sewage farm—Order quashed by consent, the A.-G. on behalf of the Secretary admitting that it was *ultra vires.* (*Times,* Nov. 15, Rule *nisi,* afterwards, *absolute.* MS.)

715. 1838. *Frewin* v. *Lewis.* Remarks by Cottenham, C., on the jurisdiction of the Courts to review the acts of a Public Department, in this case the Poor Law Board (4 Myl. & C., 249.)

716. 1871. *Reg.* v. *Cockerell.* "Sanitary Act, 1866," § 49 [="Public Health Act, 1875," § 299]—Default of Sewer Authority—Order of Secretary of State held valid. (40 L. J., M. C., 153: L. R., 6 Q. B., 252.)

717. 1876. *Reg.* v. *Lincoln Corporation.* "Public Health Act, 1875," § 299—Neglect to execute Order of Local Government Board as to drainage works—*Mandamus* granted against Corporation. (*Times,* Feb. 23, 1876.)

718. 1873. *Reg.* v. *Local Government Board.* Local Act—Salaried Solicitor—Right to compensation on abolition of office. (43 L. J., Q. B. 49: L. R., 9 Q. B., 148: 29 L. T., 769: 38 J. P., 165.)

719. 1878. *Reg.* v. *Local Government Board.*

Default of Sanitary Authority to Provide Sewerage—Refusal of Local Government Board to issue an Order under the "Public Health Act, 1875," § 299—Proceedings at the instance of an adjoining Authority prejudiced by the default alike of the Local and of the Central Authority—*Mandamus* refused, the Court being unwilling to interfere, without strong cause, with the discretion of the Local Government Board. (In the Q. B. D., March 4, 1878. MS.)

720. 1878. *Reg.* v. *Local Government Board, Ireland.* "Towns Improvement Act, 1854"—An Order constituting a District may be quashed by *Certiorari* if it appears that the District ought not to have been constituted because not falling within the Statute. (2 L. R., Ir. 316: 26 W. R. Dig., 242.)

721. 1837. *Reg.* v. *Poor Law Commissioners.* Powers of the Commissioners [now Local Government Board]—An Order held invalid. (6 A. & E., 1: 6 L. J., K. B., 41.)

722. 1851. *Reg.* v. *Robinson.* An Order of the Poor Law Commissioners [now Local Government Board may be quashed in part on *Certiorari* if the parts are sufficiently divisible. (17 Q. B., 466.)

723. 1875. *Reg.* v. *Walker.* "Epping Forest Act, 1872"—Waste by digging marl and clay, &c.—Order issued by Commissioners acting under Statute—Disobedience—Held that the defendant by disobeying an Order duly made was guilty of a misdemeanour. (L. R., 10 Q. B., 355: 33 L. T., 167.)

724. 1850. *Teather, In re.* "Poor Law Amendment Act, 1834," § 48—Poor Law Commissioners may remove a Relieving Officer at their discretion, without giving him notice, or hearing him—Where there is a discretionary power to remove, they may remove without assigning grounds, or calling on the party to defend himself—*Reg.* v. *Darlington School* (6 Q. B., 682) followed. (19 L. J., M. C., 70: 1 L. M. & P., 7.)

725. 1864. *Wallington* v. *Willes.* "Public Health Act, 1848," §§ 69 and 129: "Local Government Act, 1858," §§ 62, 65, and 81 [="Public Health Act, 1878," §§ 150, 251, 257, 294-5]—Paving expenses—Appeal to the Secretary of State—The adjudication of the Secretary of State may cover both claim and interest. [*Wallingford* v. *W.*] (33 L. J., M. C., 233: 16 C. B., (N. S.), 797: 10 L. T., 784.)

MARKET.

726. 1869. *Ashworth* v. *Heyworth.* "Markets and Fairs Clauses Act, 1847," § 13—"Dwelling-place or shop"—Infringement of Market—Question of fact. (38 L. J., M. C., 91: L. R., 4 Q. B., 316: 10 B. & S., 309: 20 L. T., 439: 33 J. P., 565.)

727. 1863. *A.-G.* v. *Aberavon Corporation.* Powers of a Corporation as to letting on lease its Market rights. (3 De G. J. & Sm., 637: 2 N. R., 564: 9 L. T., 187.)

728. 1873. *A.-G.* v. *Cambridge, Mayor.* Local Act—Held that under powers to "enlarge and improve" a market it might be extended to streets not actually forming parts of its original sides. (L. R., 6 H. L., 303.)

729. 1869. *Black* v. *Sackett.* Local Act—Tolls duly paid by wholesale dealer—Re-sale in a street held to be an infringement of Market. (10 B. & S., 639: 33 J. P., 420.)

730. 1858. *Bourne* v. *Lowndes.* "Markets and Fairs Clauses Act, 1847," § 13—Infringement of Market—Sale outside Market limits of an article chargeable, but delivery within—Conviction quashed. (31 L. T., (O. S.), 114: 22 J. P., 354.)

731. 1862. *Brecon, Mayor* v. *Edwards.* Evidence of the sale by sample in a Shop near a Corn Market of Corn on a Market Day is not *per se* evidence of an infringement of the Market. (31 L. J., Ex., 368: 1 H. & C., 51: 6 L. T., 293.)

732. 1870. *Carter* v. *Parkhouse.* Local Act—Market Tolls—Selling goods without paying the toll is an offence which cannot be condoned by a subsequent payment, and Justices should have convicted. (22 L. T., 788: 34 J. P., 438.)

733. 1876. *Collier* v. *Worth.* Local Act—Sale in a part of a town not built when the Act was passed—Held nevertheless, that a prohibition against selling in a town applied to the town as extended in course of time. (L. R., 1 Ex. D., 464: 40 J. P., 808: [*C.* v. *North*] 35 L. T., 345.)

734. 1836. *De Rutzen* v. *Lloyd.* Infringement of Market—A market may be moved without loss of exclusive rights, for it is not a necessary legal inference that an immemorial market within a manor is limited to any particular place. (5 L. J., K. B., 202: 5 A. & E., 456: 6 N. & M., 764.)

735. 1869. *Dorchester, Mayor* v. *Ensor.* Disturbance of Market—A Corporation does not forfeit its ancient right of Market merely by moving the Market to a new site in the new part of the Borough when an extension of the municipal boundaries takes place. (39 L. J., Ex., 11: L. R., 4 Ex., 335: 21 L. T., 145: 34 J. P., 167.)

736. 1861. *Draper* v. *Sperring.* "Nuisances Removal Act, 1855," § 12 [="Public Health Act, 1875," § 95]—Owner of a Market held liable for a Nuisance arising from sheep droppings. (30 L. J., M. C., 225: 10 C. B., (N. S.), 113: 4 L. T., 365.)

737. 1858. *Elias* v. *Nightingale.* "Markets and Fairs Clauses Act," § 19: Local Act—Held that to slaughter cattle on private premises, unless for *sale* as human food, is no offence within the Act.—Definition of "slaughter-house." (27 L. J., M. C., 151: 8 E. & B., 698: 30 L. T., (O. S.), 285.)

738. 1861. *Ellis* v. *Bridgenorth Corporation.* A Corporation which owns a Market may at Common Law move the same, but if it sets up a new Market under the "Local Government Act, 1858," § 50, [="Public Health Act, 1875," § 166], it must abide by the restrictions of that Act—A right of Stallage must be decided at Law before an Injunction will be granted to restrain an interference therewith, the right not being admitted. (2 Johns. & H., 67: 4 L. T., 112.)

739. 1863. *Ellis* v. *Bridgenorth, Mayor.* Disturbance of Market—Removal held to be illegal having regard to the proviso in the "Local Government Act, 1858," § 50—Judgment for the plaintiff. (32 L. J., C. P., 273: 15 C. B., (N. S.), 52: 8 L. T., 668.)

740. 1879. *Elwes* v. *Payne.* Exclusive market rights vested in plaintiff and predecessors in title for 150 years and longer—Interlocutory Injunction to restrain proposed weekly sales by auction in same place, but on a different day, refused on the ground of the difficulty in ascertaining the compensation to which defendants would be entitled if successful at the trial; but defendant to keep an account of his sales till the trial of the Action. (48 L. J., Ch., 831: 41 L. T., 118: L. R., 12 Ch. D., 468.)

741. 1877. *Exeter, Mayor* v. *Heaman.* Local Market Act—Infringement of market—Carcases delivered at purchaser's door, and then and there weighed and paid for—Plea, that this transaction was in fulfilment of a contract entered into on a previous day—Summons therefore dismissed by Justices—Held that, as these facts showed a distinct breach of the Local Act, the Justices ought to have amended the date of the summons and have convicted. (37 L. T., 534: 42 J. P., 503.)

742. 1872. *Fearon* v. *Mitchell.* "Markets and Fairs Clauses Act, 1847," § 13—"Own dwelling-place or shop" within the limits of a Market—A large Agricultural Hall not such—Setting up a business with the sanction of a Local Board confers no "right, power, or privilege," within the "Local Government Act, 1858," § 50. (41 L. J., M. C., 170: L. R., 1 Q. B., 690: 27 L. T., 33: 36 J. P., 804.)

743. 1858. *Fox* v. *Palmer.* Local Act—"Towns Police Clauses Act, 1847," § 21—Market—Obstruction

caused by exposing horses for sale in a street. (22 J. P., 449.)

744. 1812. *Hill* v. *Smith.* Sale by sample—Where samples are brought into a market tolls cannot be levied on bulk which is not brought in. (4 Taunt., 520.)

745. 1877. *Hooper* v. *Kenshole.* "Markets and Fairs Clauses Act, 1847," § 13: Local Act—Infringement of market by sale in covered skittle-ground—Held that such a place was not a "shop," and that the defendant ought to have been convicted. (46 L. J., M. C., 160: L. R., 2 Q. B. D., 127: 36 L. T., 111: 41 J. P., 182.)

746. 1875. *Howard* v. *Lupton.* "Markets and Fairs Clauses Act, 1847," § 13: "Pedlars Act, 1871," § 6—Held that a licensee under the second Act was exempt from the penalties of the first Act. (44 L. J., M. C., 150: L. R., 10 Q. B., 598: 40 J. P., 7.)

747. 1877. *Hughes* v. *Trew.* "Markets and Fairs Clauses Act, 1847," § 19: Local Act—Slaughter-houses —Consent of Local Authority how to be signified—Copy of a minute sent appended to a letter by the Clerk held to convey a valid consent—Consent to one site particularly named, held not to cover another site to which the slaughter-houses had been removed—Summons for infringement of exclusive rights held properly dismissed. (36 L. T., 585: 41 J. P., 453.)

748. 1878. *Lax* v. *Darlington Corporation.* Plaintiff a stall-holder in Corporation Market—Iron railing there dangerous to restive cattle—Accident to cow—Judgment for the Plaintiff, on the ground that a market is a place to which the public are invited, and which therefore must be kept in a reasonably safe condition. (49 L. J., Q. B., 105: L. R., 5 Ex. D., 28: 41 L. T., 489: 44 J. P., 312.)

749. 1860. *Llandaff & Canton District Market Co.* v. *Lyndon.* Local Act—Infringement of Market—A horse is an "article." (30 L. J., M. C., 105: 8 C. B., (N. S.), 515: 2 L. T., 771.)

750. 1879. *London, Mayor* v. *Low.* Ancient Market—New Market—Disturbance—Smithfield Market removed under Parliamentary authority, but all privileges preserved—Held on the facts proved that the defendant's system of sales was an infringement of the plaintiff's rights. (49 L. J., Q. B. D., 144: 42 L. T., 16.)

751. 1875. *McHole* v. *Davies.* Local Act incorporating "Markets and Fairs Clauses Act," 1847, § 13 —Infringement of market—Held that, for the purposes of the Act, a yard adjoining a dwelling-house was not included under "dwelling-place or shop" — Conviction affirmed. (45 L. J., M. C., 30: L. R., 1 Q. B. D., 59: 33 L. T., 502: 40 J. P., 548.)

752. 1875. *Morgan* v. *Kingdon.* Local Act—Market—Alleged infringement—Held that gingerade was not a "marketable commodity," within the meaning of the Act. (39 J. P., 471.)

753. 1877. *Newtonards Commissioners* v. *Woods.* "Markets and Fairs Clauses Act, 1847," § 13—A sale of goods on Market day within "prescribed limits" is not within the Statute unless the bulk of the goods sold is at time of the sale, also substantially within said limits. (Ir. R., 11 C. L., 506.)

754. 1746. *Northampton, Mayor* v. *Ward.* Erecting a stall in a market is not of common right, and Trespass is the proper remedy for so doing. (2 Stra., 1238.)

755. 1878. *Penryn, Mayor* v. *Best.* Alleged right of a Corporation to levy on market days a toll or stallage, not only on inhabitants who sell in market, but on those who sell in their shops—Verdict for plaintiffs held good there being ample evidence of the prescriptive right claimed. (48 L. J., Ex. 103: L. R., 3 Ex. D., 292: 38 L. T., 805: 42 J. P., 629.)

756. 1873. *Perkins* v. *Arber.* Local Market Act —Infringement of Market by selling pigs in the yard of an Inn not belonging to the Vendor—Conviction affirmed. (37 J. P., 406.)

757. 1865. *Pope* v. *Whalley.* "Markets and Fairs Clauses Act, 1847," § 13—Points to be taken into consideration in order to determine whether a place is a person's "own shop." (34 L. J., M. C., 76: 6 B. & S., 303: 11 L. T., 769: 29 J. P., 134.)

758. 1837. *Rex* v. *Starkey.* Right of Market on a Highway—Town market removed to a new site—Removal held improper on the ground that the rights enjoyed by the public on the new site were less than those on the old—Old site on the King's Highway held still available for a lawful market. (6 L. J., K. B., 202: 7 A. & E., 95.)

759. 1872. *Swindon Market Co.* v. *Panting.* Market held under Royal Letters Patent in open street—Claim of stallage held not maintainable. (27 L. T., 578.)

760. 1841. *Thompson* v. *Gibson.* Action for continuing a nuisance to the plaintiff's Market by a building which excluded the public from a part of the space on which the Market was lawfully held—Held that the defendants were liable for continuing the nuisance although they had no right to enter on the land to remove it—Action therefore maintainable. (10 L. J., Ex., 330: 7 M. & W., 456.)

761. 1875. *Webber* v. *Adams.* Local Act—Corn sold at an office, but not brought within the market limits, held not liable to toll. (Irish.) (Ir. R., 9 C. L., 304.)

762. 1821. *Wells* v. *Miles.* There can be no toll for goods not actually brought into market. (4 B. & Ald., 559.)

763. 1861. *Wiltshire* v. *Baker.* "Markets and Fairs Clauses Act, 1847:"—Local Act—Exemption in favour of a "Dwelling-house, or shop attached to *any* dwelling-house"—Held that a Vessel in a canal, moored to a wharf, was not a "Shop." (31 L. J., M. C., 10 (n.): 11 C. B., (N. S.), 237: 5 L. T., 355.)

764. 1861. *Wiltshire* v. *Willett.* "Markets and Fairs Clauses Act, 1847"—Local Act—Exemption in favour of a "Dwelling-house or shop attached to *any* dwelling-house"—Held that a sale (even by auction) in a shop was lawful, although the dwelling-house to which the shop was attached did not belong to the seller. (31 L. J., M. C., 8: 11 C. B., (N. S.), 240: 5 L. T., 355: 26 J. P., 312.)

765. 1869. *Wortley* v. *Nottingham L. B.* "Markets and Fairs Clauses Act, 1847," § 42: "Local Government Act, 1858," § 50 [="Public Health Act, 1875," § 166.] Removal of part of a Market to another locality held legal—By-Law unduly restrictive held invalid. (21 L. T., 582: 33 J. P., 806.)

766. 1862. *Yarmouth Mayor,* v. *Groom.* Market —Stallage held payable on a wicker basket, which, having a lid was convertible into a sort of table—Any erection designed to facilitate the sale of goods is a "stall;" whether it be fixed or not is immaterial. (32 L. J., Ex., 74: 1 H. & C., 102: 7 L. T., 161.)

MINUTE BOOK.

767. 1871. *A.-G.* v. *Whitwood L. B.* A Minute Book ordered to be produced for the inspection of the Agent of a plaintiff. (40 L. J., Ch., 592: 19 W. R., 1107.)

767 a. 1853. *Taylor* v. *Addyman.* Account Books &c. wrongfully detained—A County Court has jurisdiction under the "County Court Acts," 9 & 10 Vict., c. 95, and 13 & 14 Vict., c. 61 in Actions of *Detinue.* (22 L. J., C. P., 94: 13 C. B., 309.)

MORTGAGE.

768. 1858. *De Winton* v. *Brecon, Mayor.* Local Act—Power to mortgage land does not extend to surplus land when surplus land has been directed by Statute to be sold—Power to borrow on debentures—Default in payment of interest—Appointment of Receiver. (28 L. J., Ch., 598: 26 Bea., 533: 33 L. T., (O. S.), 296.)

769. 1876. *Derby Municipal Estates, In re.* "Lands Clauses Act, 1845," § 69: "Baths and Wash-houses Act, 1847," § 21—Circumstances under which moneys received by a Municipal Corporation for sale of lands may be used to redeem mortgages. (L. R., 3 Ch. D., 289: 24 W. R., 729.)

770. 1858. *Payne* v. *Brecon, Mayor.* Though a mortgage to secure money advanced to a Municipal Corporation may be void, yet a covenant therein to pay is good. (27 L. J., Ex., 495: 3 H. & N., 572: 31 L. T., (O. S.), 328.)

NOTICES.

771. 1868.* *Amys* v. *Creed.* (38 L. J., M. C., 22.)

772. 1864. *Bayley* v. *Wilkinson.* "Public Health Act, 1848," § 69 [="Public Health Act, 1875," § 150]—Notice to pave—Held that a Notice which, though vague in itself, yet stated where particulars of the work to be done could be ascertained, was good and sufficient. (33 L. J., M. C., 161: 16 C. B., (N. S.), 161: 10 L. T., 543.) [*Quære* not now applicable having regard to the language of the "Public Health Act, 1875," reading § 150 with Form G. of Sched. IV.]

773. 1874. *Caballero* v. *Lewis.* "Public Health Act, 1848," § 76 [="Public Health Act, 1875," § 62]: "Local Government Act, 1858," § 51—Non-compliance with an Order to lay on water—An informality in the delivery of a Notice held cured by an admission that the Notice had reached the defendant. (38 J. P., 614.)

774. 1869. *Cocker* v. *Cardwell.* "Nuisances Removal Act, 1860," § 13 [="Public Health Act, 1875," § 105]—There is no necessity for a Notice to be given by an inhabitant before he lays a complaint. (39 L. J., M. C., 28: L. R., 5 Q. B., 15: 10 B. & S., 797: 21 L. T., 457.)

775. 1827. *Cook* v. *Leonard.* Local Act requiring Notice of Action for anything done under the Act—Held that Notice was necessary only in cases in which the defendant-designate had reasonable ground for supposing himself entitled to act as he had done—Where there is a total absence of authority to do what has been done, the party is not entitled to the protection of a Statute. (6 B & C., 351: 9 D. & R., 339.)

776. 1827. *Cortis* v. *Kent Water-works Co.* Service of a Notice addressed to a Corporation by personal delivery of the same publicly at a meeting to the authorised chairman thereof, held good. (7 B. & C., 714.)

777. 1855. *Danvers* v. *Morgan.* "Metropolitan Police Act," 2 & 3 Vict., c. 47—Plaintiff given into custody for throwing down Oyster shells in a thoroughfare by defendant a person employed to keep the place clean—Held that in an Action for false imprisonment he was entitled to Notice of Action. (1 Jur., (N. S.), 105.)

778. 1869. *Doust* v. *Slater.* A person who having received notice to drain, commits a trespass on another's land, is not entitled to Notice of Action before being sued for the trespass. (38 L. J., Q. B., 159: 10 B. & S., 400: 20 L. T., 525.)

779. 1869. *Hall* v. *Potter.* "Public Health Act, 1848," § 69 [=Public Health Act, 1875," § 150]—A Notice to an owner to pave, &c., a street which is not a highway, if valid as regards part of a property specified therein and invalid as regards the rest, may be enforced *pro tanto.* (39 L. J., M. C., 1: 21 L. T., 454.)

780. 1861. *Hardwick* v. *Moss.* "Highway Act, 1835," § 109—Erection of Weighing-machine—Excavation left unlighted—Accident to Vehicle—A surveyor who has reasonable grounds for believing that he is acting "under the authority of the Act," is entitled to Notice of Action. (31 L. J., Ex., 205: 7 H. & N., 127: 4 L. T., 802.)

781. 1843. *Jones* v. *Williams.* Nuisance—Trespass—An entry without notice on land to abate a nuisance is lawful, if the owner of the land is the original wrongdoer. (12 L. J., Ex., 249: 11 M. & W., 176.)

782. 1878. *Lewis* v. *Cardiff Urban Authority.* "Public Health Act, 1875," § 150—Notice to owners to pave—Notice endorsed by an owner that he wished the Local Authority to do the work at his expense—Held that by such endorsement the owner waived the necessity of the Local Authority proving compliance with the preliminaries to the Notice—But such waiver would not have conferred jurisdiction if none legally existed. (47 L. J., M. C., 101.)

783. 1874. *Lewis* v. *Evans.* A Notice served by Post will not be deemed to be duly served "in the ordinary course of Post" if it be shown that the intended receiver lives where there is no delivery of letters by the P. O. Authorities, and that he has to fetch his letters from an office at some other place. (44 L. J., C. P., 41; L. R., 10 C. P., 297: 31 L. T., 487.)

784. 1857. **Liverpool, Mayor, Ex parte.* (27 L. J., M. C., 89.)

785. 1864. *Mason* v. *Bibby.* "Public Health Act, 1848," §§ 69 and 150 [="Public Health Act, 1875," §§ 150, 267]—Service of a Notice at the owner's place of business by reading it and delivering it to his Clerk, held good—"Place of abode" for this Statute includes "Place of business," and a Clerk is an "inmate." (33 L. J., M. C., 105: 2 H. & C., 881: 9 L. T., 692.)

786. 1858. *Parkinson* v. *Blackburn, Mayor.* Local Act—A Notice to repair or pave a Street must specify the required works. (33 L. T., (O. S.), 119: 22 J. P., 418.) [And see 1 E. & E., 71.] [See now "Public Health Act, 1875," Sched. IV. Form G.]

787. 1846. *Rawlins* v. *West Derby Overseers.* Where a certain day of the month is fixed as the latest day for the delivery of a Notice, and that day happens to be a Sunday, a Notice served on that day is good. (15 L. J., C. P., 70: 2 C. B., 72.)

788. 1853. *Read* v. *Coker.* Things done "in pursuance of" or "in the execution of" a Statute—It is not necessary that a defendant who under a Statute is entitled to a Notice of Action should when he does the things complained of be conscious of his right to a Notice. (22 L. J., 201: 13 C. B., 850: 1 C. L. R., 746.)

789. 1852. *Reg.* v. *Slawstone Inhabitants.* Notices served by Post are to be considered as in time if they would have been in time but for default on the part of the postal authorities. (21 L. J., M. C., 145: 18 Q. B., 388: 19 L. T., (O. S.), 105.)

790. 1848. *Watson* v. *Pitt.* 6 Vict., c. 18, § 17—Service of a Notice by thrusting it into a house between 9h. and 10h. p.m., without any personal interview with an inmate held insufficient, the mode and time being unreasonable. (17 L. J., C. P., 143: 5 C. B., 77: 10 L. T., (O. S.), 418.)

NUISANCES.

(1.) ANIMALS.

791. 1858. *Digby* v. *West-Ham.* "Public Health Act, 1848," § 59 [="Public Health Act, 1875," §§ 47, 49]—Keeping of Pigs so as to be a Nuisance—Conviction held good, the evidence shewing a Nuisance. (22 J. P., 304.)

792. 1861. *Everett* v. *Grapes.* A Municipal By-Law imposing a Fine for keeping Pigs within a Borough held bad. (3 L. T., 669: 25 J. P., 644.) [Virtually overruled by *Wanstead L. B.* v. *Wooster.*]

793. 1705. *Reg.* v. *Wigg.* Keeping swine in a city is a nuisance at Common Law. (Salk., 460.)

794. 1874. *Tong Street L. B.* v. *Seed.* By-Law—Dung—Default as to removal—Held that the Justices ought to have convicted. (39 J. P., 278.)

795. 1873. *Wanstead L. B.* v. *Wooster.* "Local Government Act, 1858," § 34 [="Public Health Act, 1875," §§ 157, 159]—By-Laws prohibiting the keeping of pigs within 100 ft. of a house, and requiring special provision to be made for the removal of dung and refuse, held reasonable. (38 J. P., 21.)

(2.) BRICK-BURNING.

796. 1862. *Bamford* v. *Turnley.* Nuisance—Burn-

ing of Bricks—If nuisance be sufficiently great, an Action will lie, although carefulness be shown. (31 L. J., Q. B., 286: 3 B. & S., 62: 6 L. T., 721.)

797. 1870. *Bareham* v. *Hall.* Nuisance—Burning of Bricks—Injunction granted. (22 L. T., 116.)

798. 1862. *Beardmore* v. *Tredwell.* Nuisance—Burning of Bricks in such a place as unnecessarily to injure the plaintiff's trees—Injunction granted. (31 L. J., Ch., 892: 3 Giff., 683: 7 L. T., 207.)

799. 1863. *Cavey* v. *Lidbetter.* Nuisance—Burning of Bricks—Allegation of convenient place no answer to an Action. (32 L. J., C. P., 104: 13 C. B., (N. S.), 470: 3 F. & F., 14.)

800. 1861. *Cleeve* v. *Mahany.* Nuisance—Burning of Bricks—Whether a nuisance or not, depends on circumstances—No general rule as to distance can be laid down. (25 J. P., 819.)

801. 1876. *Crawford* v. *Hornsea Steam Brick Co.* Nuisance—Bill for Injunction; damages not asked for—Held that the plaintiff might nevertheless have damages instead of an Injunction, the award to be endorsed on the title-deeds to protect defendants from future proceedings. (45 L. J., Ch., 432: W. N., 1876, p. 132: 34 L. T., 923.)

802. 1867. *Evans* v. *Smith.* Nuisance—Burning of Bricks—*Per* Wood, V. C.:—It is now clearly settled that the fumes of a brick kiln are, if they reach dwelling-houses, a nuisance, which the Court will restrain without requiring any scientific evidence. (*Times*, June 7, 1867.)

803. 1858. **Hole* v. *Barlow.* (27 L. J., C. P., 207.) [Over-ruled by *Bamford* v. *Turnley.*]

804. 1867. *Luscombe* v. *Steer.* Nuisance—Burning of Bricks—The nuisance must be a material injury, either to property or to personal comfort—Injunction refused. (17 L. T., 229: 15 W. R., 1191.)

805. 1868. *Roberts* v. *Clarke.* Nuisance—Burning of Bricks at a distance of 240 yards—Injunction granted. (18 L. T., 49.)

806. 1881. *Smith* v. *Taylor.* Burning of Bricks in a Rural locality where manufacturing processes were not usual—Comfort of occupiers of houses interfered with and therefore Injunction granted. (*Times*, May 6, 1881.)

807. 1851. *Walter* v. *Selfe.* Nuisance—Burning of Bricks—Injunction granted. (20 L. J., Ch., 433: 4 De G. & Sm., 315: 17 L. T., (O. S.), 103.)

808. 1863. *Wanstead L. B.* v. *Hill.* "Public Health Act, 1848," § 64 [="Public Health Act, 1875," §§ 112-13]—Brick-making is not necessarily within this section. (32 L. J., M. C., 135: 13 C. B., (N. S.), 479: 7 L. T., 744.)

(3.) NOXIOUS TRADES.

809. 1874. *A.-G.* v. *Francis.* Nuisance—Smoke and Vapour from Lime and Cement Works—Held that it was sufficient if substantial discomfort were proved to arise—Injunction granted. (*Times*, Nov. 10, 1874.)

810. 1875. *A.-G.* v. *Hyde Chemical Co.* Nuisance—Chemical Works—Sulphuretted hydrogen—Injunction granted. (*Times*, Dec. 4, 1875.)

811. 1860. *Bankart* v. *Houghton.* Nuisance—Copper Smoke—A person who acquiesces in the erection of works where a noxious trade is to be carried on, does not forfeit his right to prevent such subsequent extension as will cause serious injury. (28 L. J., Ch., 473: 27 Bea., 425.)

812. 1876. *Bigsby* v. *Dickinson.* Nuisance from Chemical Works—Injunction granted—Reported on points of practice, but see the Judgment, which reviews the facts. (46 L. J., Ch., 280: L. R., 4 Ch. D., 24: 35 L. T., 679.)

813. 1838. *Bliss* v. *Hale.* Nuisance—Tallow-melting—Action—Plea, that defendant possessed his messuage and carried on his business before plaintiff acquired the adjoining messuage—Plea, held bad—The plaintiff came to his house with all the rights which the Common Law affords, and wholesome air is one of such rights—The Defendant could only justify his nuisance by proving a prescriptive right. (7 L. J., C. P., 122: 4 Bing., N. C., 183: 5 Scott, 500: 6 Dowl., P. C., 442.)

814. 1878. *Brooke* v. *Wigg.* Nuisance from Chemical Works—Order by Vice-Chancellor on the appeal of the plaintiff that the case should be tried before himself without a Jury, held good on appeal—Subsequently Injunction granted, the evidence of nuisance being very conclusive, but no order for inquiry as to damage, as damage had arisen from other works besides the defendants. (47 L. J., Ch., 749: L. R., 8 Ch. D., 510; 38 L. T., 549 and 732: and *Times*, July 29, 1878.)

815. 1875. *Cardell* v. *Newquay L. B.* The business of a manure merchant is not necessarily an offensive trade under the "Public Health Act." (39 J. P., 742.)

816. 1879. *Flux* v. *Cumming.* Two tenants occupying a house with a common staircase—Application for an Injunction by the upper tenant against the lower one (a bath proprietor) to restrain the discharge of noxious fumes and hot vitiated air, which ascended the staircase and caused a nuisance—Injunction granted. (*Times*, Aug. 5, 1878.) Subsequently, question at issue sent to a Jury—*Per* Coleridge, J.: "The trade being a lawful one, in a lawful place, it was for plaintiff to prove that it was exerc'sed in an unlawful way"—Verdict for defendant—New trial refused. (*Times*, May 30 and June 24, 1879.)

817. 1860. *Houghton* v. *Bankart.* Nuisance—Copper Smoke—Damage to farm—Principle of valuation. (3 L. T., 266 and 666: 8 W. R., 689.)

818. 1869. *Knight* v. *Gardner.* Nuisance—Manufacture of Manure from night-soil—Injunction granted. (19 L. T., 673.)

819. 1879. *Malton Urban S. A.* v. *Malton Farmers Manure Co.* "Public Health Act, 1875," §§ 112 and 114—An offensive trade causing effluvia is within § 114 if the effluvia though not injurious to persons in sound health cause sick persons to become worse—*Per* Stephen, J.: "It is not necessary in order to bring a nuisance within this section to prove injury to health"—*G. W. R.* v. *Bishop* considered. (49 L. J., M. C., 90: L. R., 4 Ex. D., 302: 40 L. T., 755: 44 J. P., 155.)

820. 1879. *Passey* v. *Oxford L. B.* "Public Health Act, 1875," § 112—A place where bones were deposited after collection held within the Act, on proof of offensive smells proceeding therefrom, notwithstanding that the bones were not subjected to any manufacturing process—Conviction affirmed. (43 J. P., 622.)

821. 1861. *Pinckney* v. *Ewens.* Action for Nuisance—Fellmonger's trade—Verdict for the plaintiff. (4 L. T., 741.)

822. 1851. *Reg.* v. *Garland.* Nuisance—Arsenic Works—Evidence of death of cattle held admissible in support of an Indictment charging noisome smells. (5 Cox, C. C., 165: 15 J. P., 260.)

823. 1878. *Reg.* v. *Wallace.* Nuisance from Chemical Works—Indictment—Bankruptcy of Defendant—Fine of £3000 imposed, to include the prosecutor's costs—Fine not to be levied unless default were made in the payment of the costs, or the Works creating the nuisance were resumed. (*Times*, Nov. 15, 1878.)

824. 1826. *Rex* v. *Cross.* Nuisance—Slaughter-house—If a man sets up a noxious trade remote from habitations and roads, and afterwards houses are built and roads made, he may continue his trade though it be a nuisance. (2 C. & P., 483.) [But see *Bliss* v. *Hale.*]

825. 1805. *Rex* v. *Davey.* Nuisance—Coke ovens—An offensive trade to be indictable as a nuisance must be destructive to health or render dwelling-houses uncomfortable or untenantable—Defendant acquitted. (5 Espinasse, 217.)

826. 1826. *Rex* v. *Neil.* Nuisance—Varnish Factory—To support an Indictment for a nuisance it is not necessary that the smells should be injurious to health: it suffices that they are offensive to the senses. (2 C. & P., 485.)

827. 1791. *Rex* v. *B. Neville.* Nuisance—Grease Melting—A man setting up a noxious business in a neighbourhood where such business has long been carried on is not Indictable unless the nuisance is much increased—Defendant acquitted. (Peake 91.)

828. 1791. *Rex* v. *S. Neville.* Nuisance—Grease Melting—As the noxious trade had been carried on for "near 50 years," Kenyon, C. J., directed an acquittal. (Peake 93.) [In *Weld* v. *Hornby* (7 East., 199), Lord Ellenborough laid it down that though an acquiescence of 20 years may determine private rights, "yet the public have an interest in the suppression of public nuisances though of longer standing."]

829. 1827. *Rex* v. *Watts.* Nuisance—Horse Boiling—A man carrying on a long established noxious business is nevertheless indictable if the mischief is increased by alterations in the manner in which the business is carried on; but an increase of mischief due simply to an increase of business will not justify a conviction—Defendant convicted. (Moody & M., 281.)

830. 1874. *Salvin* v. *North Brancepeth Coal Co.* Nuisance—Coke ovens—Nature and extent of damage necessary to sustain suit—Injunction refused. (44 L. J., Ch., 149: L. R., 9 Ch. App., 705: 31 L. T., 154.)

831. 1876. *St. Helen's Chemical Co.* v. *St. Helen's Corporation.* "Nuisances Removal Act, 1855," § 12 [="Public Health Act, 1875," § 95]—Discharge through separate drains of chemicals which, when they became mixed in the public sewers, emitted noxious fumes—Defence that the Corporation had not flushed the sewer—Held that the appellants were rightly convicted. (45 L. J., M. C., 150: L. R., 1 Ex. D., 196: 34 L. T., 397: 40 J. P., 471.)

832. 1875. *Umfreville* v. *Johnson.* Nuisance—Cement Works—Bill filed by two plaintiffs in respect of properties at unequal distances from the Works—Injunction granted as to one plaintiff, but refused as to the other—Bill filed before the Works were open, and therefore when the nuisance was only in anticipation. (44 L. J., Ch., 752: L. R., 10 Ch. App., 580.)

(4.) SMOKE.

833. 1872. *Barnes* v. *Akroyd.* "Sanitary Act, 1866," § 19 [="Public Health Act, 1875," § 91 (7)]—Black smoke from chimney—Master is liable although his servant is in default. (41 L. J., M. C., 110: L. R., 7 Q. B., 474: 26 L. T., 692: 37 J. P., 116.)

834. 1876. *Barnes* v. *Norris.* "Public Health Act, 1875," § 91—Nuisance—Smoke—Several chimneys—Summons dismissed by Justices on the ground that the particular chimney complained of should have been specified—Held that the Justices were wrong; they ought to have heard the case on the merits. (41 J. P., 150.)

835. 1867. *Cooper* v. *Woolley.* "Towns Improvement Clauses Act, 1847," § 108: Local Act—To consume "as far as possible all" Smoke, means "consistently with carrying on the trade in which the furnace is employed." (36 L. J., M. C., 27: L. R., 2 Ex., 88: 15 L. T., 539.)

836. 1867. *Crump* v. *Lambert.* Nuisance—Smoke without noise or noxious vapour; noise alone; and offensive odours alone, though not injurious to health, may severally constitute a nuisance—The material question is whether the annoyance materially interferes with the ordinary comfort of human existence—Injunction granted. (L. R., 3 Eq., 409: Affirmed on Appeal, 17 L. T., 133.)

837. 1875. *Eddleston* v. *Barnes.* "Nuisances Removal Act, 1855," §§ 12–14 [="Public Health Act, 1875," §§ 95–8]—Separate Orders for abatement and for prohibition of nuisance—Convictions on two informations, the offence constituting the breach of both Orders being but one offence—Held that only one conviction could stand. (45 L. J., M. C., 73: L. R., 1 Ex. D., 167: 34 L. T., 497: 40 J. P., 88.)

838. 1874. *Gaskell* v. *Bayley.* "Sanitary Act, 1866," § 19 [="Public Health Act, 1875," § 91 (7)]—Nuisance—Smoke—If the quantity of dense black smoke evolved is great, a conviction may be had—It is not necessary to prove direct injury to health. (30 L. T., 516: 38 J. P., 293.)

839. 1870. *Higgins* v. *Northwich Union.* "Nuisances Removal Act, 1855," §§ 13–14: "Sanitary Act, 1866," § 19—Nuisance—Black smoke from Salt-works—Order for abatement—Disobedience thereto—Conviction affirmed—The existence of a nuisance is a question of fact peculiarly within the province of a Court of Summary Jurisdiction. (22 L. T., 752: 34 J. P., 806.)

840. 1874. *Hutton* v. *Lancashire & Yorkshire Railway Co.* Nuisance—Smoke from Locomotive Engine—31 & 32 Vict., c. 119, § 19—Prosecution by a passenger—Defendants convicted. (38 J. P., 731.)

841. 1859. *Manchester, Sheffield, & Lincolnshire Railway Co.* v. *Wood.* 8 Vict., c. 20, § 114—Nuisance from smoke—Held that the penalty only attaches where the engine is not constructed so as to consume its own smoke; and, therefore, where an engine is duly constructed as aforesaid, and the nuisance is due only to careless user, there is no liability under the section. (29 L. J., M. C., 29: 2 E. & E., 344: 1 L. T., 31: 24 J. P., 38.)

842. 1872. *Norris* v. *Barnes.* "Sanitary Act, 1866," §§ 14 and 19: Proviso in the "Nuisances Removal Act, 1855," § 44 [="Public Health Act, 1875," §§ 91 (7), 332, 334]—Black smoke—Manufacture of Bichrome—Held that Justices had no jurisdiction to order abatement. (41 L. J., M. C., 124: L. R., 7 Q. B., 537: 26 L. T., 622: 37 J. P., 246.)

843. 1872. *Reg.* v. *Waterhouse.* "Sanitary Act, 1866," § 19 (3)—Black smoke—19 Summonses on the same person—Held that the convictions were right. (41 L. J., M. C., 115: L. R., 7 Q. B., 545: 26 L. T., 761: 36 J. P., 471.)

844. 1812. *Rex* v. *Dewsnap.* Proceedings by Indictment—Persons dwelling near a smoke nuisance and specially affected are parties grieved so as to be entitled to special consideration. (16 East, 194.)

845. 1757. *Rex* v. *White.* Nuisance—Sulphur Works—An Indictment lies for impregnating the air near a highway with noisome and offensive stinks: it is not necessary that they should be unwholesome. (1 Burr., 333.)

846. 1847. *Rich* v. *Basterfield.* Nuisance from smoke emanating from a chimney—Action against landlord on the ground that as he built the chimney and let the premises with the chimney which caused the nuisance, he was liable—Action held not maintainable. (16 L. J., C. P., 273: 4 C. B., 783. [Commented on and distinguished in *Harris* v. *James.*]

847. 1872. *Savile* v. *Kilner.* Nuisance—Smoke and vapour from Glass-works—Injunction granted. (26 L. T., 277.)

848. 1856. *Simpson* v. *Savage.* Nuisance from smoke of Factory chimney—Causing smoke to issue from a chimney (the erection of the chimney itself not being a nuisance) is not ground for an Action by the reversioner of adjoining premises, though his tenants have given notice to quit in consequence, and the saleable value of his premises is deteriorated—To entitle a reversioner to maintain an Action for injury to his reversion the injury must be of a permanent character. (26 L. J., C. P., 50: 1 C. B., (N. S.), 347.)

849. 1877. *Smith* v. *Midland Railway Co.* Nuisance from smoke and soot of Locomotive engines—Engines cleaned and lighted in the open air—Held that the Statutes authorising the working of the railway gave no authority for the continuance of a nuisance not necessarily connected with the working of the railway: the engine-shed might be moved to a better place—Injunction granted. (W. N., 1877, p. 200: 37 L. T., 224: 25 W. R., 861.)

850. 1865. *St. Helen's Smelting Co.* v. *Tipping.* Nuisance—Copper Smoke—A distinction is to be drawn

between mere personal discomfort and material injury to property—Verdict for plaintiff (deft. in error). (11 H. L. C., 642: 12 L. T., 779.) [An Injunction was afterwards granted by the Court of Chancery, *Nom. Tipping* v. *St. Helen's, &c.* L. R., 1 Ch. App., 66.]

(5.) VARIOUS.

851. 1866. *A.-G.* v. *Bradford Canal Proprietors.* Nuisance—Appeal at Law pending—Injunction granted. (35 L. J., Ch., 619: L. R., 2 Eq., 71: 14 L. T., 248: 15 L. T., 9. For the proceedings at Law see 34 L. J., Q. B., 191: 6 B. & S., 631.)

852. 1752. *Baines* v. *Baker.* Proposed construction of a Small-pox Hospital near inhabited houses—A nuisance must be a nuisance at Law and not a mere fear—Injunction refused. (Amb., 159: Atk., 750.)

853. 1867. *Baxendale* v. *Mc. Murray.* Nuisance—Discharge into a Stream of Refuse from a Paper Mill—The onus lies on the plaintiff of proving an increase in the amount of the pollution. (L. R., 2 Ch. App., 790: 16 W. R., 32.)

854. 1874. *Benjamin* v. *Store.* Obstruction of highway by vans—Action by occupier of adjoining house, because of the interference with his trade—In actions for damage from a public nuisance, the plaintiff must show that the injury is (1) particular, special: (2) direct, not merely consequential; and (3) substantial, not merely temporary or evanescent—Evidence of unpleasant smells admitted. (43 L. J., C. P., 162: L. R., 9 C. P., 400: 30 L. T., 362.)

855. 1879. *Brown* v. *Biggleswade Union.* "Public Health Act, 1875," §§ 91, 97-8—House unfit for habitation—Order of Justices that the Local Authority might abate the nuisance (the owner having failed to do so)—Whereupon Authority pulled down the house—Action in County Court by owner against the Authority—Nonsuit—Held that the Authority was justified in pulling down the house on the Justices being satisfied that it was unfit for habitation, and the owner refusing to repair. (*Times*, May 19, 1879.)

856. 1868. *Brown* v. *Bussell.* "Nuisances Removal Act, 1855," § 12 [="Public Health Act, 1875," § 95]—Nuisance caused by one person but visibly arising on the premises of another person—Order for abatement rightly made on the former. (37 L. J., M. C., 65: L. R., 3 Q. B., 251: 18 L. T., 19: 32 J. P., 196.)

857. 1835. *Dawson* v. *Moore.* In an Action for nuisance where the Defendant pleads Not Guilty the Plaintiff must not only prove the existence of the nuisance but that the Defendant caused it. (7 C. & P., 25.)

858. 1845. *Fay* v. *Prentice.* Erection of a cornice which projected over plaintiff's garden so as to throw rain water into the garden—Held that the cornice might be assumed to be a nuisance in respect of which the plaintiff might maintain an Action. (14 L. J., C. P., 298: 1 C. B., 828.)

859. 1839. *Flight* v. *Thomas.* Action for nuisance from offensive manure heap—Plea, 20 years' right of user—Held, nevertheless that plaintiff was entitled to judgment for the plea did not state that the stench complained of had for 20 years passed over plaintiff's land. (8 L. J., Q. B., 337: 10 A. & E., 590: 2 P. & D., 591: 7 Dowl., P. C., 741.)

860. 1868. *Francomb* v. *Freeman.* "Nuisances Removal Act, 1855," § 12 [="Public Health Act, 1875," § 95]—Watercourse fouled by sewage conveyed thither by a drain from certain cottages belonging to the appellant, but nuisance not on appellant's land—Held that he was nevertheless rightly convicted. (37 L. J., M. C., 65: L. R., 3 Q. B., 251: 18 L. T., 19: 32 J. P., 196.)

861. 1872. *Great Western Railway Co.* v. *Bishop.* Rain-water dripping through a Bridge not a nuisance under one of the "Sanitary Acts," [="Public Health Act, 1878," § 91]—because not a nuisance injurious to health. (41 L. J., M. C., 120: L. R., 7 Q. B., 550: 26 L. T., 905: 37 J. P., 5.)

862. 1876. *Harris* v. *James.* A landlord who lets premises for a purpose which may be expected to be a nuisance is liable for the nuisance jointly with his tenant. (45 L. J., Q. B., 545: 35 L. T., 240.)

863. 1868. *Hendon Guardians* v. *Bowles.* "Nuisances Removal Act," 1855," § 12 [="Public Health Act, 1875," § 95]—Joint and several liability for nuisance—Person "by whose act, default, or sufferance"—Held that an Order might be made upon each party whose sewage assisted in causing the nuisance. (17 L. T., 597: 16 W. R., 510: 20 L. T., 609.)

864. 1855. **Hertford Union* v. *Kimpton.* (25 L. J., M. C., 41.)

865. 1876. *Home* v. *Kelso Local Authority.* "Public Health (Scotland) Act, 1867," 30 & 31 Vict. c. 101, § 1, subs. F.—Nuisance from overcrowding—Where a landlord lets a cottage which comes under the control of the tenant, without restriction, the landlord is not, in the sense of the Statute, the author of the nuisance, nor jointly liable for the act or default of his tenant in allowing overcrowding on the part of a sub-tenant. (3 Couper, 239.)

866. 1881. *Learoyd* v. *Halifax Corporation.* Action to restrain slaughter-houses being carried on so as to create a nuisance—On undertaking being given that system should be changed, Motion for Injunction directed to stand over till trial of Action. (*Times*, July 8, 1881.)

867. 1823. *Lonsdale (Earl of)* v. *Nelson.* *Per* Best J.—"The security of lives and property may sometimes require so speedy a remedy as not to allow time to call on the person on whose property the mischief has arisen to remedy it. In such cases an individual would be justified in abating a nuisance from omission without notice." (2 B. & C., 302: 3 D. & R., 556.)

868. 1857. *Reg.* v. *Bateman.* 12 & 13 Vict. c. 45. Indictment for nuisance—§ 18 of this Act for removing Orders of Quarter Sessions for the purpose of enforcing them by Attachment does not apply to an Order to abate a nuisance of which a defendant has been found guilty on an Indictment which can be enforced in the ordinary way. (27 L. J., M. C., 95: 8 E. & B., 584: 30 L. T., (o. s.), 157.)

869. 1703. *Reg.* v. *Watts.* Where a house is so ruinous that it is likely to fall down on a highway, the occupier may be indicted for a nuisance irrespective of the owner. (1 Salk., 357: [*R.* v. *Watson*] 2 L. Ray., 856.)

870. 1835. *Rex* v. *Curwood.* Pollution of river by gas refuse—A prosecutor in an Indictment for nuisance may be compelled to give a particular of the acts of nuisance intended to be relied on. (3 A. & E., 815: 5 N. & M., 369: 1 H. & W., 310.)

871. 1802. *Rex* v. *Lloyd.* An Indictment will not lie for that which is a nuisance only to a few inhabitants of a particular place—Indictment for a nuisance affecting only 3 houses—Lord Ellenborough said that the defendant must be acquitted for the nuisance was not sufficiently general. (4 Esp., 200.)

872. 1832. *Rex* v. *Pease.* Where Parliament authorises a nuisance an Indictment against its authors will not lie. (2 L. J., M. C., 26: 4 B. & Ad., 30.)

873. 1868. *Richmond Union* v. *St. Paul's, Dean and Chapter of.* "Nuisances Removal Act, 1855," § 12 [="Public Health Act, 1875," § 95]—Pond which had become a nuisance on a Common managed by Conservators—Respondents held not liable, because not the parties by whose act, default, permission, or sufferance, the nuisance arose. (18 L. T., 522: 32 J. P., 374.)

874. 1875. *Rye Union* v. *Paine.* "Sanitary Act, 1866," § 19 [="Public Health Act, 1875," § 91 (5)]—Overcrowding—Held that this enactment extends the "Nuisances Removal Act, 1855," and that there may be a conviction for overcrowding though only one family be concerned. (44 L. J., M. C., 148: W. N., 1875, p. 119: 32 L. T., 757: 40 J. P., 166.)

875. 1863. *Smith* v. *Waghorn.* Local Act—Nuisance from Stable Dung—Conviction. (27 J. P., 744.)

876. 1865. *Tomlins* v. *Great Stanmore Nuisances Removal Committee.* "Nuisances Removal Act, 1855," §§ 13-14 [="Public Health Act, 1875," §§ 97-8]—An owner who does not comply with an Order to abate a nuisance may be fined, although the Order was directed not only to him, but also to the Nuisances Committee. (12 L. T., 118: 29 J. P., 117.)

877. 1874. *White* v. *Jameson.* Brick-burning—Where an occupier grants a license to another to do certain acts on the land, and the licensee commits a nuisance, the occupier may be made a co-defendant in a suit to restrain the nuisance, for he is bound to see that his property is so managed that other persons are not injured. (L. R., 18 Eq., 303: 22 W. R., 761.)

"OCCUPIER," DEFINITION OF.

878. 1870. *Roads* v. *Trumpington Churchwardens.* —Poor Rate—Exclusive occupation—Land let from year to year under reservation of right of entry for inspection—Minerals—Tenant to be deemed "Occupier." (40 L. J., M. C., 35: L. R., 6 Q. B., 56: 23 L. T., 821.)

"OWNER," DEFINITION OF.

*** See also Paving Expenses.

879. 1863. *Blything Union* v. *Warton.* "Nuisances Removal Act, 1855," §§ 2 and 19 [="Public Health Act, 1875," § 104]—Order of Justices—Meaning of "Owner"—Execution of Works—Issue subsequent to the execution of the works, of a Power of Attorney to receive rents—Attorney not liable—No personal liability attaches to one who becomes owner after the making of the order. (32 L. J., M. C., 132: 3 B. & S., 352: 7 L. T., 672.)

880. 1871. *Bowditch* v. *Wakefield L. B. H.* "Public Health Act, 1848," §§ 2 and 69 [="Public Health Act, 1875," § 150]—"Owner"—Paving a Street—Trustees of a School-house and Buildings held liable. (40 L. J., M. C., 214: L. R., 6 Q. B., 567: 25 L. T., 88.)

881. 1871. *Canwell* v. *Hanson.* "Owner—Fees payable to Surveyor—On default of owner his successor in title held not liable. (Metropolis.) (41 L. J., M. C., 8: [*Caudwell* v. *H.*] 25 L. T., 595: L. R., 7 Q. B., 55.)

882. 1842. *Chorlton-upon-Medlock Constables* v. *Walker.* Local Paving Act charging the owners of "hereditaments," &c.—Church built and consecrated—Various rents and profits assigned to defendant by the Incumbent in satisfaction of a debt—Held that the defendant as mortgagee was not rateable, not being an "Owner." (12 L. J., Ex., 88: 10 M. & W., 742.)

883. 1872. *Cook* v. *Montague.* "Nuisances Removal Act, 1855," § 2—A Leaseholder for 21 years who sub-let, and not the Freeholder held to be "Owner," where the sub-tenant was author of the nuisance. (41 L. J., M. C., 149: L. R., 7 Q. B., 418: 26 L. T., 471: 37 J. P., 53.)

884. 1863. *Cowen* v. *Phillips.* A tenant, having only an equitable interest under an agreement for a lease, held to be "adjoining owner" and privileged accordingly. (Metropolis.) (33 Bea., 18: 8 L. T., 622.)

885. 1858. *Evelyn* v. *Whichcord.* Surveyor's Fees—Held that a lessee for 81 years was the "Owner" liable, and not the freeholder. (27 L. J., M. C., 211: E. B. & E., 126: 31 L. T., (O. S.), 96.)

886. 1867. *Holland (Lady)* v. *Kensington Vestry.* Paving new street—Land agreed to be let on building leases but leases not actually executed—"Owner"—Construction—Freeholder held liable. (Metropolis.) (36 L. J., M. C., 105: L. R., 2 C. P., 565: 17 L. T., 73.)

887. 1865. *Hunt* v. *Harris.* Expense of repairing a dangerous party wall—Premises sub-let—Lessee for 99 years held to be an "Owner." (Metropolis.) (34 L. J., C. P., 249: 19 C. B., (N. S.), 13: 12 L. T., 421.)

888. 1863. *Peek* v. *Waterloo and Seaforth L. B. H.* "Public Health Act, 1848," § 69 [="Public Health Act, 1875," § 150]—Service of a notice on a person who *de facto* receives the rent is service on the "Owner." (33 L. J., M. C., 11: 2 H. & C., 709: 9 L. T., 338.)

889. 1878. *Reg.* v. *Lee.* "Metropolitan Building Act, 1855, 18 & 19 Vict., c. 122—Church in dangerously dilapidated state—Certain urgent repairs executed by the Local Authority, who thereupon sought to recover from the Incumbent, as being the "Owner" within the Statute—*Mandamus* to Magistrate to issue a Distress Warrant for these expenses refused, for the Incumbent had no such beneficial interest in the fabric as to make him an "Owner" within the Statute. (48 L. J., M. C., 22: L. R., 4 Q. B. D., 75: 39 L. T., 605: 43 J. P., 302.)

890. 1879. *Reg.* v. *Swindon L. B.* "Public Health Act, 1875," §§ 150 and 257—When works are executed by a Local Authority because the owner makes default in complying with an Order, and the property changes hands during the proceedings, the Owner at the time when the works are completed is the person to be sued—Practice as to Appeals. (49 L. J., Q. B., 522: L. R., 4 Q. B. D., 305: [*Hinton* v. *S.*] 42 L. T., 614: 44 J. P., 505.)

891. 1870. *Tubb* v. *Good.* Surveyor's Fees—By whom payable—"Owner." (Metropolis.) (39 L. J., M. C., 135: L. R., 5 Q. B., 443: 22 L. T., 885.)

PARLIAMENTARY EXPENSES.

[Some of the Cases which follow need to be considered in connection with the "Borough Funds Act, 1872," (35 & 36 Vict., c. 91), and with the Cases decided thereunder.]

892. 1850. *A.-G.* v. *Andrews.* Improvement Commissioners—Application of Rates to defray the expenses of a Bill in Parliament to extend Powers—Injunction granted. (20 L. J., Ch., 467: 2 Mac. & G., 225: 2 Hall & T., 431: 15 L. T., (O. S.), 322.)

893. 1853. *A.-G.* v. *Eastlake.* Proposed application of moneys raised for defined Paving, &c., purposes to the cost of promoting a Bill in Parliament—Proposal held improper. (2 Eq. R., 145: 11 Hare, 205.)

894. 1878. *A.-G.* v. *Hull, Mayor.* "Borough Funds Act, 1872"—Alleged irregularities in the statutory public meeting which authorised a Parliamentary opposition to a Dock Bill—Held that, under the circumstances, the Corporation ought not to be restrained by Injunction.—*Semble,* that the Act is an enlarging Act, and does not interfere with the ordinary powers of Municipal Corporations to spend money in Parliamentary contests. (*Times,* March 18, 1878.)

895. 1879. *A.-G.* v. *Lower Thames Valley Sewerage Board.* Board constituted under Provisional Order—Funds raised under aforesaid powers employed in expenses of a Bill in Parliament to extend powers—*Per* Jessel, M.R.:—Funds intrusted by Parliament to a public body for a definite purpose must not be used for another purpose only auxiliary or incidental to the specific purpose—Held that Defendant Board had no right to apply to Parliament without the sanction of the Local Government Board—Injunction granted to restrain application of funds to payment of Parliamentary expenses. (*Times,* July 19, 1879.)

896. 1851. *A.-G.* v. *Norwich, Mayor.* Payment of expenses of application to Parliament for a Bill out of Borough Fund—Injunction granted. (21 L. J., Ch., 139: 16 Simons, 225: 18 L. T., (O. S.), 58.)

897. 1849. *A.-G.* v. *Southampton Guardians.* Proposed payment out of the Poor Rate of the expenses of a rejected Bill in Parliament—Injunction granted. (18 L. J., Ch., 393: 17 Simons, 6: 13 L. T., (O. S.), 503.)

898. 1872. *A.-G.* v. *Tottenham L. B. H.* Costs of promoting a Bill in Parliament—Certain members held personally liable—But a member who proved he had not concurred was exonerated. (27 L. T., 440: W. N., 1872, p. 205.)

899. 1870. *A.-G.* v. *West Hartlepool Improvement Commissioners.* Local Act—Proposed payment out of the Rates, of the expenses of a Bill in Parliament to extend the District and powers of Commissioners—Injunction granted. (39 L. J., Ch., 624: L. R., 10 Eq., 152: 22 L. T., 510.)

900. 1854. *A.-G.* v. *Wigan, Mayor.* Proposed payment of expenses of a partially successful opposition to a Bill in Parliament out of surplus of Borough Fund—Such payment held not a proceeding to be restrained by an interlocutory Injunction. (23 L. J., Ch., 429: Kay, 268: 5 De G. M. & G., 52: 23 L. T., (o. s.), 43.)

901. 1858. *Bailey* v. *Cuckson.* Action against four members of a Local Board for services in opposing, on behalf of the Board, a Gas Bill in a case where a Rate out of which plaintiff would have been paid had been declared void—Held that the plaintiff could not recover against individual members. (32 L. T., (o. s.), 124: 7 W. R., 16.)

902. 1869. *Bower* v. *Sligo Commissioners.* A Corporation is justified, if acting *bonâ fide*, in applying funds in opposing Parliamentary Bills which would affect their existence, and materially injure their powers as a Corporation, even though no such power is expressly given by their Incorporating Act. (4 Ir., R., C. L., 489.)

903. 1847. *Brighton* v. *North.* Application of Trust Funds held by Commissioners for maintenance of river banks towards opposing a Bill in Parliament which threatened to injure the property of the Trust held legal. (16 L. J., Ch. 255: [*Bright* v. *North*] 2 Phillips, 216: 8 L. T., (o. s.), 154, in the Court below.)

904. 1850. *Reg.* v. *Norfolk Commissioners of Sewers.* Cost of opposing a Bill in Parliament likely to injure the property of a Board held payable out of the Board's funds. (15 Q. B., 549: 15 L. T., (o. s.), 391.)

905. 1871. *Reg.* v. *Sheffield Corporation.* "Municipal Corporations Act, 1835," § 92—Expenses incurred in certain Legal and Parliamentary proceedings held not chargeable to the Borough Fund. (40 L. J., Q. B., 247: L. R., 6 Q. B., 652: [*Roberts* v. *Sheffield, &c.*] 24 L. T., 659.) [But see now 35 & 36 Vict., c. 91.]

906. 1817. *Vauxhall Bridge Co.* v. *Spencer (Earl).* Securities given in consideration of withdrawing an opposition to a Bill in Parliament, are, on grounds of public policy, illegal. (2 Maddock, 356.)

PAVING EXPENSES.

907. 1868. *Angell* v. *Paddington Vestry.* Paving new street—Church and land appurtenant not rateable. (Metropolis.) (37 L. J., M. C., 171: L. R., 3 Q. B., 714: 9 B. & S., 496: 32 J. P., 742.)

908. 1877. *A.-G.* v. *Wandsworth B. W.* Paving expenses paid by mistake 3 years previously out of a Rate, when they ought to have been charged to owners—Held that the Court could interfere and order the Board to levy on the owners, and recoup the current Rate with the proceeds. (46 L. J., Ch., 771: L. R., 6 Ch. D., 539.)

909. 1871. *Bermondsey Vestry* v. *Ramsay.* Local Act—An unsatisfied judgment against a former owner is no bar to an Action for Paving expenses against a tenant under a succeeding owner. (Metrop.) (40 L. J., C. P., 206: L. R., 6 C. P., 247: 24 L. T., 429.)

910. 1876. *Birkenhead Improvement Commissioners* v. *Sansom.* Local Act—Making and sewering of street laid out and thrown open to the public 17 years previously but not formally dedicated as a highway—Held that the defendant, a frontager, was, nevertheless, liable. (34 L. T., 175: 40 J. P., 406.)

911. 1858. *Blackburn, Mayor* v. *Parkinson.* "Towns Improvement Clauses Act," §§ 149 and 210: Local Act—Paving a Street—Recovery of "damages"—Action not maintainable, but proceedings to be before Justices. (28 L. J., M. C., 7: 1 E. & E., 71: 32 L. T., (o. s.), 91.)

912. 1875. *Bowles* v. *St. Mary's, Islington.* Paving expenses—Definition of "new street"—This is a question of fact for the Sessions. (Metrop.) (39 J. P., 757.)

913. 1881. *Caiger* v. *St. Mary's Islington, Vestry.* "Metropolis Management Act, 1855," §§ 105, 250—"Baptist Chapel" on leasehold land held a "house," there being no dedication of it in perpetuity as a place of Worship—Trustees liable for Paving Expenses. (50 L. J., M. C., 59: 44 L. T., 605: 45 J. P., 570.)

914. 1870. *Chelsea Vestry* v. *Evans.* Paving expenses—Held that if the necessary formalities had been complied with, the magistrate could not consider the expediency or excessive cost of the work. (35 J. P., 23.)

915. 1871. *Cook* v. *Ipswich L. B. H.* "Public Health Act, 1848," § 69: "Local Government Act, 1858," § 64 [="Public Health Act, 1875," §§ 150, 181]—Apportionment of Paving expenses—If a Surveyor's apportionment is found to be bad, he has a right to make another one—Neither arbitrators nor Justices are entitled to enquire whether an amount alleged to have been expended has actually been so expended—The remedy would be by a memorial to Local Government Board. (40 L. J., M. C., 169: L. R., 6 Q. B., 45: 24 L. T., 579.)

916. 1869. *Dodd* v. *St. Pancras Vestry.* Liability of Owner—Back Alley held to be a New Street. (Metropolis.) (34 J. P., 517.)

917. 1876. *Dryden* v. *Putney Churchwardens.* An old public highway gradually built upon and made into a new street—Held that it was technically a "new street" and that the paving expenses must be charged at the outset on the Owners. (Metropolis.) (L. R., 1 Ex. D., 223: 34 L. T., 69: 40 J. P., 263.)

918. 1881. *Gould* v. *Bacup L. B. H.* "Public Health Act, 1848," § 69 [="Public Health Act, 1875," § 150]—Paving, &c., expenses—Notice by Board that it intends to treat unpaid expenses as Private Improvement Expenses binds the Board so that it cannot recover afterwards by summary process. (50 L. J., M. C., 44: 44 L. T., 103: 45 J. P., 325.)

919. 1877. *Grece* v. *Hunt.* "Local Government Act, 1858," § 62 [="Public Health Act, 1875," § 257]—Paving expenses—A notice of apportionment is not a "demand," and is essentially different from a "demand"—The Section contemplates that some document be served which shall pointedly remind the person in default that such is the case, and time runs from the service of this Notice. (46 L. J., M. C., 202: L. R., 2 Q. B. D., 389: 36 L. T., 404: 41 J. P., 356.)

919 a. 1881. *Hall* v. *Bootle Corporation.* Building Land—Intended road marked out—6 houses built abutting thereupon—Abandonment by landowner of her intentions, and rest of property, including site of proposed road, sublet for other purposes—Road occasionally used by the Public for 15 years—Notice by Local Authority to landowner to sewer, pave, &c.—Notice ignored, whereupon Local Authority did the Work—Held that the mere setting out of an intended road is not such an irrevocable act as that the person who does it is to be deemed to have dedicated the road to the Public; and therefore Paving &c. Expenses held not recoverable from Lessee. (44 L. T., 873.)

920. 1875. *Healey* v. *Batley Corporation.* "Public Health Act, 1848," § 69—Piece of land alleged to be a street which the Corporation was entitled to have paved—Injunction granted against the Corporation doing any paving—Circumstances which amount to an interruption to prevent a right of way being acquired by user. (44 L. J., Ch., 942: L. R., 19 Eq., 375.)

921. 1873. *Hesketh* v. *Atherton L. B.* "Public Health Act, 1848," § 69—Paving expenses—In a dispute as to an apportionment the question of liability remains open, even though notice has not been given within 3 months, but the apportionment is conclusive as to amount. (43 L. J., M. C., 37: L. R., 9 Q. B., 4: 29 L. T., 530: 38 J. P., 149.)

922. 1872. *Higgins* v. *Harding.* Paving ex-

penses—Strips of land abutting on a street and used only to facilitate the repair of Railway Arches, held chargeable. (Metropolis.) (42 L. J., M. C., 31 : L. R., 8 Q. B., 7 : 27 L. T., 483 : 37 J. P., 677.)

923. 1859. *Illingworth* v. *Montgomery.* "Public Health Act, 1848," § 69—Street dedicated to the public—Long user—Owners held not liable for Paving expenses, for the facts showed a dedication to, and adoption by, the Public. (2 L. T., 726 : 24 J. P., 101.)

924. 1870. *Jarrow L. B.* v. *Kennedy.* A Local Board cannot recover apportioned Paving expenses unless it can prove the service of the preliminary notice required by the "Public Health Act." (L. R., 6 Q. B., 128 : 19 W. R., 275.)

925. 1878. *Lister* v. *Hebden Bridge L. B.* Order of Justices for the payment of apportioned Paving expenses quashed by the Quarter Sessions as void because it adjudged the defaulter to be imprisoned for 6 months with hard labour in event of insufficient distress—Whereupon new Information and new Order omitting the words "hard labour"—Held that the first Order having failed on a technical point, and being a nullity, the Justices might properly make a new Order, and that no Prohibition lay. (42 J. P., 119.)

926. 1868. *London & North Western Railway Co.* v. *St. Pancras Vestry.* Local Act—Paving Expenses—Owners of a Railway in a cutting contiguous to a street held liable. (17 L. T., 654.)

927. 1879. *London, Brighton & South Coast Railway Co.* v. *St. Giles, Camberwell, Vestry.* "Metropolis Management Amendment Act, 1862," § 77—Land "abutting" on "new street"—Road public up to a railway bridge and private beyond, railway being in a cutting below—Held under the circumstances that the Railway Company were not liable to contribute to the paving of the new public road by reason of being owners of the slopes of the cutting. (48 L. J., M. C., 184 : L. R., 4 Ex. D., 239 : 41 L. T., 162.)

928. 1875. *London School Board* v. *St. Mary's, Islington, Vestry.* Paving expenses—School-house not fronting a street, but connected therewith by a passage held chargeable according to its assessment, and not according to the frontage of the passage. (45 L. J., M. C., 1 : L. R., 1 Q. B. D., 65 : 33 L. T., 504 : 39 J. P., 741.)

929. 1868. *Manchester, Mayor* v. *Chapman.* Local Act—Owner of ground at the end of a street which was a *cul-de-sac,* held liable for Paving expenses. (37 L. J., M. C., 173 : 18 L. T., 640 : 32 J. P., 582.)

930. 1876. *Mile End Vestry* v. *Whitechapel Union.* "New Street"—A Decision to pave half a street in width is valid, but the expenses cannot be charged only on premises on the side adjacent to the paving. (Metrop.) (46 L. J., M. C., 138 : L. R., 1 Q. B. D., 680 : 35 L. T., 354 : 41 J. P., 20.)

931. 1854. *Mills* v. *Rydon.* Local Act making Churches, &c., liable to Paving Rates—Newly-erected District Church liable though the Wardens have no funds. (23 L. J., Ex., 305 : 10 Ex., 67 : 2 C. L. R., 1045 : 23 L. T., (o. s.), 221.)

932. 1875. *Nisbet* v. *Greenwich B. W.* Paving Expenses—An apportionment by a District Board is conclusive, and a Magistrate cannot review the principle on which it is made. (Metrop.) (44 L. J., M. C., 119 : L. R., 10 Q. B., 465 : 32 L. T., 762 : 39 J. P., 582.)

933. 1880. *Paddington* v. *Bramwell.* House with back garden bounded by dead wall—New street made at back of house to which the garden dead wall became an abutting wall—Held that the garden so abutted on the new street that the Owner became liable for share of the Paving expenses of the new street. (44 J. P., 815.)

934. 1875. *Plumstead B. W.* v. *British Land Co.* Paving expenses—Land set out for roads—Ownership of land at the intersection of streets bounding properties. (44 L. J., Q. B., 38 : 32 L. T., 94 : 39 J. P., 376.)

935. 1873. *Plumstead B. W.* v. *Ingoldby.* Paving expenses—Apportionment—Expenses held chargeable on the land and therefore recoverable against present or future Owners, as the case may be. (Metropolis.) (42 L. J., Ex., 50 and 136 : L. R., 8 Ex., 174 : 29 L. T., 375 : 37 J. P., 759 : [*Plumstead B. W.* v. *Planet Building Society*] 27 L. T., 656.)

936. 1874. *Poplar B. W.* v. *Love.* Paving Expenses—Under this head a Board may include such incidental matters as the cost of serving notices and the cost of advertisements—"Owner." (Metropolis.) (29 L. T., 915 : 38 J. P., 246.)

937. 1871. *Pound* v. *Plumstead B. W.* An old narrow lane repairable as such by the public may under certain circumstances become a "New street," so that adjacent Owners may become liable for Paving expenses. (Metropolis.) (41 L. J., M. C., 51 : L. R., 7 Q. B., 183 : 25 L. T., 461 : 36 J. P., 468.)

938. 1881. *Reg.* v. *Hutchins.* "Public Health Act, 1875," § 150—Summons for apportioned expenses dismissed on the ground that the street was a highway repairable by the public—5 years after, an additional outlay, a second apportionment and a second summons against the same party—Whereupon Justices made the Order to pay—Held that they were entitled to make the Order if they thought fit, for the first decision that the street was a highway involved a declaration which the former Justices had no jurisdiction to make; and that therefore the matter was not *res judicata,* so that the legal character of the street might not again be considered. (50 L. J., M. C., 35 : L. R., 6 Q. B. D., 300 : 44 L. T., 364 : 45 J. P., 504.)

939. 1870. *Reg.* v. *Livesey.* "Public Health Act, 1848," § 69—Held that an owner on whom a Notice to pave was served, and who had not given Notice of objection, was estopped from showing that the Street was a highway repairable by the public. (22 L. T., 470 : 34 J. P., 645. [But see *Hesketh* v. *Atherton L. B.,* which is at variance with this case.]

940. 1863. *Reg.* v. *Newport L. B. H.* "Public Health Act, 1848," § 69—Railway alongside of Road—Expenses are to be apportioned according to frontage, even when there is no direct access from the road to the land charged. (32 L. J., M. C., 97 : 3 B. & S., 341.)

941. 1873. *Rolls* v. *St. Mary's, Newington, Vestry.* Notice to pave private forecourts in front of houses voluntarily set back by Owner—Injunction granted on the ground that there had been no dedication to the public. (W. N., 1873, p. 168.)

942. 1846. *Salford, Mayor,* v. *Ackers.* Local Act—Default in paving a street—Proof of Notice to pave held a condition precedent to an Action. (16 L. J., Ex., 6 : 16 M. & W., 85.)

943. 1860. *Stockport, Mayor,* v. *Cheetham.* Local Acts—Action for Paving Expenses—Plea that the street was a common highway held, under the circumstances, bad, it being the evident intention that the Local Acts should apply to all highways. (1 L. T., 541 : 24 J. P., 196.)

944. 1853. *Sunderland, Mayor,* v. *Herring.* "Public Health Act, 1848," §§ 68-9 : 15 & 16 Vict., c. 42, § 13—Paving expenses—Highway repairable by the public at large—Judgment for the plaintiff. (22 L. T., (o. s.), 98 : 17 J. P., 741.)

945. 1880. *Tottenham L. B. H.* v. *Rowell.* Rate for works of sewering—Delay of several years in enforcing payment—Action to make the amount a charge on the property under the "Public Health Act, 1875"—Held that this power was independent of the summary remedy, and that the statutory limitation of 6 months for summary proceedings did not apply to this remedy, but that the Board could only enforce the charge in respect of unpaid instalments—*Wilson* v. *Bolton* distinguished. (50 L. J., Ch. 99 : L. R., 15 Ch. D., 378 : 43 L. T., 616.)

946. 1879. *Tunbridge Wells L. B.* v. *Akroyd.* "Public Health Act, 1875," §§ 150, 257—Paving expenses apportioned, and defendant's share paid—Subsequently another Owner appealed against the apportionment with the result, *inter alia,* that the arbitrator found the defendant under-charged—On proceeding to

compel the defendant to make a supplementary payment of the difference—Held that he was not bound to pay the extra amount, not having been a party to the later proceedings. (49 L. J., Ex. 403 : L. R., 5 Ex. D., 199 : 42 L. T., 640 : 44 J. P., 504.)

947. 1876. *Wakefield L. B. H.* v. *Lee.* "Public Health Act, 1848," § 69—Premises separated from an unpaved street by a small stream but accessible from the street by a private bridge, held chargeable. (45 L. J., M. C., 54 : L. R., 1 Ex. D., 336 : 35 L. T., 481 : 41 J. P., 54.)

948. 1880. *Wakefield Urban Authority* v. *Mander.* "Public Health Act, 1875," § 150—Foot pavement on one side of street made good in the terms of the Statute and expenses apportioned only on owners on that side to the entire exemption of owners on the other side—Held that such restricted apportionment was good. (L. R., 5 C. P. D., 248 : 28 W. R., 922 : 44 J. P., 522.) [This case is to be distinguished from *Mile End* v. *Whitechapel*, and *Whitchurch* v. *Fulham*, the Statutes differing somewhat.]

949. 1880. *West* v. *Downman.* "Public Health Acts"—Expenses of repairing roads—Death of owner—Demand on executors—Refusal by them to pay on ground that the roads were highways and the amount excessive—Arbitration—Refusal by executors to attend—Held that as the executors disputed their liability as well as the amount claimed, the Board's proper remedy was by Summons before Justices, who in such a case had jurisdiction as to the amount—Summary proceedings not having been resorted to within the time limited by "Jervis's Act" all remedy was gone. (L. R., 14 Ch. D., 111 : 42 L. T., 340.)

950. 1866. *Whitchurch* v. *Fulham B. W.* Paving Expenses—Street divided into sections—Apportionment of each section on the owners thereof—Apportionment held invalid : the street should have been dealt with as a whole. (Metropolis.) (35 L. J., M. C., 145 : L. R., 1 Q. B., 233 : 7 B. & S., 212 : 13 L. T., 631 : 30 J. P., 229.)

951. 1871. *Wilson* v. *Bolton, Mayor.* "Public Health Act, 1848," § 69—Paving Expenses—Where a Local Board apportions expenses and treats the amount as a debt, it cannot turn round and proceed as for Private Improvement Expenses—Limitation of time. (41 L. J., M. C., 4 : 25 L. T., 597 : 36 J. P., 405. [For the converse of this see *Gould* v. *Bacup.*]

PETROLEUM.

952. 1871. *Beck* v. *Stringer.* "Petroleum Act, 1868"—Method of testing—Method adopted held a compliance with the Act. (40 L. J., M. C., 174 : L. R., 6 Q. B., 497 : 25 L. T., 122.)

953. 1873. *Burslem L. B.* v. *Shropshire Union Railway Co.* Storage of petroleum in illegal places and quantities. (37 J. P., 154.)

954. 1879. **Coleman* v. *Goldsmith.* (43 J. P., 718.) [Effect of decision set aside by 44 & 45 Vict., c. 67.]

955. 1871. *Jones* v. *Cook.* "Petroleum Act, 1868"—Keeping without a license—Conviction affirmed—All Petroleum proper is within the Act. (40 L. J., M. C., 179 : L. R., 6 Q. B., 505 : 24 L. T., 806.)

POUND.

956. 1860. *Bignell* v. *Clarke.* Distrainer bound to provide a proper pound. (5 H. & N., 485 : 2 L. T., 189.)

957. 1877. *Dargan* v. *Davies.* Cruelty to animals in a pound, arising from neglect to feed them—The distrainer and not the pound-keeper held liable. (46 L. J., M. C., 122 : L. R., 2 Q. B. D., 118 : 35 L. T., 810 : 41 J. P., 468.)

POWERS OF LOCAL BOARDS.

958. 1881. *A.-G.* v. *Loughborough L. B.* When a Recreation Ground is acquired by a Local Board for public purposes the Board has no power to let it to private individuals for special festivities to which the public will only have access by payment — Injunction granted. (*Times*, May 31, 1881.)

959. 1881. *Haworth* v. *Oswaldtwisle L. B.* Money lent to Board on security of Bonds forged by the Clerk—About 200 Actions against Board and about 150 Actions against individual members for recovery of various sums amounting to about £40,000—All Actions except 8 "Test" Actions to be stayed pending reference of these to Arbitrator; he to decide all questions of liability in these "Test" Actions, costs in each case to abide the event and be apportioned in his discretion. (*Times*, June 25, 1881.) [Compromise afterwards entered into, to be ratified by Special Act, 1882.]

960. 1878. *Newington L. B.* v. *North Eastern Railway Co.* Application by a Local Board to the Railway Commissioners for an Order to compel a Railway Company to erect a station where none existed—Judgment in part for the Board, with half the costs. (*Times*, Nov. 27, 1878.)

PROVISIONAL ORDER.

961. 1856. *Clayton* v. *Fenwick.* "Public Health Act, 1848"—Provisional Order—Local Act—Powers of Local Boards as to Turnpike Gates. (25 L. J., Q. B., 226 : 6 E. & B., 114 : 27 L. T., (o. s.), 119.)

962. 1854. *Elmer* v. *Norwich L. B. H.* "Public Health Act, 1848" : Local Acts—Several parishes united to form a Local Government District—Effect of Provisional Order—Repair of Streets—District Rates. (23 L. J., Q. B., 203 : 3 E. & B., 517 : 2 C. L. R., 886.)

963. 1865. *Frewen* v. *Hastings L. B.* "Public Health Act, 1848," § 73 : "Local Government Act, 1858," § 75 [= "Public Health Act, 1875," §§ 154, 176]—A Provisional Order has no validity till confirmed by Parliament, and cannot be removed by *Certiorari* with a view to its being quashed. (34 L. J., Q. B., 159 : [*Reg.* v. *H.*] 6 B. & S., 401 : 12 L. T., 346 : 29 J. P., 711.)

964. 1867. *Frewen* v. *Hastings L. B. H.* Extent of the authority conferred by a Provisional Order for the acquisition of land. (16 L. T., 553.)

965. 1875. *Morley, In re.* "Tramways Act, 1870"—The Costs of solicitors employed in obtaining a Provisional Order are to be on the Chancery, not the Parliamentary, Scale. (L. R., 20 Eq., 17 : 32 L. T., 524.)

966. 1868. *North Eastern Railway Co.* v. *Tynemouth, Mayor.* A Provisional Order applying the "Public Health Act, 1848," but excepting so much of § 88 [repealed, and not *as a whole* re-enacted in the "Public Health Act, 1875," § 211] as provided that Railways, &c., should only be assessed at one-fourth, &c., held void. (37 L. J., M. C., 183 : L. R., 3 Q. B., 723 : 9 B. & S., 616 : 32 J. P., 822.)

SALARY, &c.

967. 1852. *Addison* v. *Preston, Mayor.* A Salary chargeable on the Borough Fund cannot be recovered by Action of debt, but possibly a *Mandamus* might lie to make a Rate for the purpose. (21 L. J., C. P., 146 : 12 C. B., 108 : 19 L. T., (o. s.), 184.)

968. 1851. *Bogg* v. *Pearse.* Commissioners under a Local Act—Appointment of Officer not a contract—Salary to be paid out of Rates—Refusal to pay Salary—Remedy not by *Indebitatus* Action, but by *Mandamus*, or Action on the case. (20 L. J., C. P., 99 : 10 C. B., 534 : 16 L. T., (o. s.), 462.)

969. 1862. *Bush* v. *Beavan.* Salary of Clerk in arrear—A claim for a *Mandamus* under the "Common Law Procedure Act, 1854," § 68, is not sustainable if any other equally effectual remedy is available. (32 L. J., Ex. 54 : 1 H. & C., 500 : 7 L. T., 106.)

970. 1863. *Bush* v. *Martin.* Salary of a Clerk in arrear—A report by a Committee is not such an acknowledgment as would take a case out of the Statute of

Limitations. (33 L. J., Ex., 17: 2 H. & C., 311: 8 L. T., 509.)

971. 1868. *Hall* v. *Taylor.* Local Act—Action by an attorney against Commissioners for his salary as Clerk to be paid out of the Rates held maintainable. (27 L. J., Q. B., 311: E. B. & E., 107: 31 L. T., (o. s.), 151: 23 J. P., 20.)

972. 1863. *Mellish, Ex parte.* Local Act—A gratuity paid out of the Rates to a Vestry Clerk held illegal. (8 L. T., 47.) [But, as regards Poor Law Officers, otherwise; if the sanction of the Local Government Board be had. (C. O. 1847, art. 172.)

973. 1859. *Reg.* v. *Gloucester, Mayor.* "Public Health Act, 1848"—*Certiorari*—Gratuity to Surveyor for special services auxiliary to, but beyond the scope of his prescribed duties as Surveyor held legal. (33 L. T., (o. s.), 145: 23 J. P., 709.)

974. 1871. *Reg.* v. *Poor Law Board.* Dissolution of Union—Loss of office of Clerk of Guardians—Profits made by an officer in performing extra duties authorised by his employers held properly taken into account as enhancing the value of his office. (41 L. J., M. C., 16: L. R., 6 Q. B., 785.)

975. 1838. *Reg.* v. *Norwich, Mayor.* "Municipal Corporations Act, 1835," § 66—Office not legally held for life, but usually so held and accepted on that understanding—Compensation for loss of office held payable accordingly on a higher scale. (8 A. & E., 633.)

976. 1878. *Slattery* v. *Bean.* "Metropolis Management Act, 1855"—Action by a member of a Board of Works against the Board's Surveyor for accepting from the Board fees for special services over and above his salary—Held that no Action lay, the fees not being received from private parties. (Metropolis.) (*Times,* April 11, 1878.)

SCAVENGING.

977. 1879. *Collins* v. *Paddington Vestry.* "Metropolis Management Act, 1855," § 125—Contract with Local Authority that plaintiff should remove "Dust" and "Refuse"—Miscellaneous metal and other articles of value abstracted from the dust-carts by the dustmen, and retained by them for their own profit—Held that such articles were not *ejusdem generis* with "dust," &c., which the contractor was entitled to have, or for the detention of which he was entitled to compensation. (48 L. J., Q. B., 345: 40 L. T., 843: 43 J. P., 367: See also 49 L. J., Q. B., 612: L. R., 5 Q. B. D., 368: 42 L. T., 573.)

978. 1837. *Filby* v. *Combe.* Scavenging—Refuse—A Scavenger cannot claim dust, ashes, &c., which the owner does not desire to get rid of. (Metropolis.) (2 M. & W., 677: 1 Jur., 721.)

979. 1877. *Gay* v. *Cadby.* Ashes from engine at a Piano Factory held to be trade refuse notwithstanding that they were simply coal ashes unmixed with any foreign material. (46 L. J., M. C., 260: L. R., 2 C. P. D., 391: 36 L. T., 410: 41 J. P., 503.)

980. 1880. *General Ice Well Co.* v. *Clerkenwell Vestry and Stubbs.* Premises used by defendants for storage of Dust, Refuse, and Manure—Injunction to restrain such user refused it being shewn that every possible precaution had been taken to avoid a nuisance and it not being shown that any nuisance did exist—Plaintiffs left to their remedy by Action. (*Times,* Oct. 7, 1880.)

981. 1876. *Holborn Guardians* v. *St. Leonard's, Shoreditch, Vestry.* Workhouse rated by Statute at a specially low figure—Held that this did not disentitle the Guardians to have their dust removed just as an ordinary householder. (46 L. J., Q. B. D., 36: L. R., 2 Q. B. D., 145: 35 L. T., 400: 40 J. P., 740.)

982. 1848. *Law* v. *Dodd.* Ashes from a brass-founder's furnace are not claimable by a Scavenger. (Metropolis.) (17 L. J., M. C., 65: 1 Ex., 845: 10 L. T., (o. s.), 286, 309.)

983. 1879. *London General Omnibus Co.* v. *Mead.* Action against a scavenger for storing and sifting dust and refuse so as to be a nuisance—Proceedings before Jessel, M.R. abandoned on defendant undertaking not to carry on his business so as to be a nuisance, and agreeing to pay costs. (*Times,* Dec. 10, 1879.)

984. 1857. *Lyndon* v. *Standbridge.* "Towns Improvement Clauses Act, 1847," § 87—Commissioners held not bound to remove ashes and rubbish produced at a manufactory. (26 L. J., Ex., 386: 2 H. & N., 45: 29 L. T., (o. s.), 111.)

985. 1869. *Margate Pier Co.* v. *Margate L. B. H.* "Nuisances Removal Act, 1855," § 12 [="Public Health Act, 1875," § 95]—Nuisance—Seaweed—Held that the Company was an "occupier" and bound to remove drifted seaweed. (20 L. T., 564: 33 J. P., 437.)

986. 1858. *Sinnott* v. *Whitechapel B. W.* Scavenging contract—Transfer of powers of Commissioners—Action properly brought against the substituted Authority. (Metropolis.) (27 L. J., C. P., 177: 3 C. B., (N. S.), 674: 31 L. T., (o. s.), 84.)

987. 1879. *Williamson* v. *St. Mary's, Islington, Vestry.* Contract to remove house-refuse at stated intervals—One condition, a fine for every instance of default, the Vestry being sole judges—Such fines to be deducted from contract money—Held that on the evidence the Vestry was entitled to enforce the penalties for breach of contract. (*Times,* June 19, 1879.)

SEAL.

*** See also "Accountant," "Appointment of Officers," and "Contracts."

988. 1867. *Barnsley L. B.* v. *Sedgwick.* Appointment of Committees by a Local Board—Neither the recommendations of a Committee, if acted upon by the Board, nor the Acts of the Board generally, need to be sealed and signed by five Members. (36 L. J., M. C., 65: L. R., 2 Q. B., 185: 8 B. & S., 202: 15 L. T., 569: 31 J. P., 165.) [As regards the signatures this question could not now arise since the passing of the "Public Health Act, 1875," § 7.]

989. 1858, 1861. *Frend* v. *Dennet.* "Public Health Act, 1848," § 85 [="Public Health Act, 1875," §§ 173-4]—A contract by a Local Board is void if not under seal—All contracts under a Statute must be made in the mode prescribed by the Statute—Powers to be strictly construed. (27 L. J., C. P., 314: 4 C. B., (N. S.), 576: In Equity, 5 L. T., 73.)

990. 1830. *Ludlow, Mayor,* v. *Charlton.* A contract by a Municipal Corporation to pay money out of the Corporate Funds for Improvements must be under seal. (6 M. & W., 815: 9 C. & P., 242: 10 L. J., Ex., 75.)

991. 1870. *Smith* v. *Hirst.* "Public Health Act, 1848," § 149—The seal of a Local Board is only needed to acts which sanction the acts of others—Appointments of officers need not be under seal. (23 L. T., 665: 35 J. P., 247.)

992. 1864. *Sutton* v. *Spectacle-Makers Co.* A retainer of an Attorney by a Corporation to conduct an opposition to a Bill in Parliament must be under the common seal. (10 L. T., 411: 12 W. R., 742.)

993. 1875. *Wells* v. *Kingston-upon-Hull, Mayor.* Circumstances under which a contract with a Corporation need not be under seal set out with some fulness. (44 L. J., C. P., 257: L. R., 10 C. P., 402: 32 L. T., 615.)

993 a. 1881. *Young* v. *Leamington Corporation.* Contract under seal to construct Waterworks—On default of contractor new contract not under seal with plaintiffs to finish the job—Job finished to the satisfaction of defendant's Engineer and various sums paid—Contracts made by a Town Surveyor within the scope of his authority are not binding on his employers unless under seal in accordance with the "Public Health Act, 1875," § 174, and therefore the unpaid balance claimed for extras &c. held not recoverable. (45 J. P., 536.)

SEA-SHORE.

994. 1880. *A.-G.* v. *Tomline.* Injunction granted to restrain removal of shingle on sea-shore, so as to endanger land—An obligation lies on every subject to do nothing to destroy the natural banks of a river or of the sea—Redress may in such cases be obtained by an adjacent owner prejudiced. (49 L. J., Ch., 377: L. R., 14 Ch. D., 58: 42 L. T., 880: 44 J. P., 617.)

995. 1866. **Bridgewater Trustees* v. *Bootle-cum-Linacre Surveyors of Highways.* Assessment of Docks—In the absence of evidence it is not to be presumed that land between the high and low water mark of a tidal river belongs to the adjoining parish. (36 L. J., Q. B., 41: L. R., 2 Q. B., 4: 15 L. T., 351.) [But the Act 31 & 32 Vict., c. 122, § 27, passed since this case was decided, provides that the soil as far as low water mark inclusive, shall be deemed to belong to the adjacent parish.]

996. 1860. *Embleton* v. *Brown.* The sea-shore between high and low water mark is within the jurisdiction of Justices of the adjoining County. (30 L. J., M. C., 1: 3 E. & E., 234.)

997. 1880. *Laird* v. *Briggs.* Action to restrain removal of sand, shingle, and chalk from a Foreshore, and the use of the same as a Bathing-machine station—Practice—Statute of Limitations—A Tenant of a Reversioner suing within 3 years of death of Reversioner, held nevertheless not entitled to Judgment, being merely the owner of an easement. (W. N. 1881, p. 120.)

998. 1880. *London & North Western Railway Co.* v. *Fleetwood L. B.* Application for Injunction to restrain defendants from removing stones and shingle from a harbour shore—Dispute as to jurisdiction over the *locus in quo*—Order by consent; plaintiffs to supply defendants on demand annually with a prescribed maximum quantity of stones from other sources; defendants not to interfere with the *locus in quo.* (*Times*, Dec. 8, 1880.)

999. 1871. *Pitts* v. *Kingsbridge Highway Board.* "Highway Act, 1835," §§ 51-2—A Highway Board must not take shingle from a beach below high water mark so as to cause an increased risk of encroachment by the sea. (25 L. T., 195: 19 W. R., 884.)

1000. 1878. *Reg.* v. *Commissioners of Sewers for Sussex.* 3 & 4 Vict., c. 22—Sea-bank partly washed away—Default of Commissioners to repair, on the ground that the cost would be out of all proportion to the public benefit—*Mandamus* granted for the Commissioners to repair, the merits of the case to be argued on the return of the writ. (*Times*, June 25, 1878.)

SEWER.

1001. 1876. *A.-G.* v. *General Sewage Co.* Sewage works leased from a Local Board by a Company—Default in performance of covenants to remove sewage. (*Times*, July 28, 1876.)

1002. 1877. *Barrow* v. *Yorkshire, W. R., JJ.* "Public Health Act, 1875," §§ 94-6 and 255—Dispute between an owner and a tenant as to the right to use a private sewer.—An existing connection cut by former—Stoppage of the sewage, and a nuisance the result—Order for abatement of the nuisance by renewing the connection held good. (41 J. P., 716.)

1003. 1863. *Biddulph* v. *St. George's, Hanover Square, Vestry.* Erection of a urinal—Injunction refused, the evidence not shewing a probable nuisance, or any excess of powers, or improper motive. (33 L. J., Ch., 411: 8 L. T., 558: 2 N. R., 212.)

1004. 1866. *Chambers* v. *Reid.* "Metropolis Management Act, 1855," §§ 88 and 106—Erection of a Urinal at joint cost of Defendant and a Local Authority against plaintiff's wall—Action for trespass—Defendant held entitled to Notice of Action as a person acting under the direction of the Local Authority. (Metropolis.) (13 L. T., 703: 14 W. R., 370.)

1005. 1859. *Clarke* v. *Paddington Vestry.* Construction of a Sewer along a New Street by a landowner under a misapprehension of his liability—No obligation on him to extend the length of such Sewer when he extends the length of the Street. (Metropolis.) (32 L. T., (O. S.), 238: 5 Jur., (N. S.), 138.)

1006. 1866. *Cleckheaton Industrial S. H. Society* v. *Jackson.* "Public Health Act, 1848," § 45 [="Public Health Act, 1875," § 16]—Construction of Sewer—Notice as to an intended Sewer is "reasonable" when it specifies the object and describes the direction to be taken—Map not necessary. (14 W. R., 950.)

1007. 1874. *Clegg* v. *Castleford L. B. H.* Bricking up of a Sewer to stop passage of Refuse from Malt Kilns—Injunction to remove obstruction granted: "it was a wanton and outrageous act." (W. N., 1874, p. 229.)

1008. 1869. *Derby (Earl of)* v. *Bury Improvement Commissioners.* "Nuisances Removal Act, 1855," § 22 [="Public Health Act, 1875," § 16]—A Local Authority in laying down a new Sewer is not bound to follow the line of an old water-course. (38 L. J., Ex., 100: L. R., 4 Ex., 222: 20 L. T., 927.)

1009. 1878. *Ellissen* v. *Lawrie.* Action against an architect for neglect properly to superintend, in accordance with an agreement, the erection of sewer pipes, &c.,—Pipes improperly laid by builder—Escape of foul gas—Illness of family—Expenses incurred by owner in further repairs and for medical attendance—Verdict for the plaintiff. (*Times*, Feb. 19, 1878.)

1010. 1881. *Fleming* v. *Manchester, Mayor.* Bursting during a storm of an old Sewer, out of repair, whereby cellars under a house were flooded, foundations were undermined, and house fell down—Verdict for plaintiff held good, the evidence shewing that the Local Authority had entirely neglected to inspect the sewer, and that due inspection would have disclosed before the accident the imminency of the danger—Remarks by the Court on the duty of inspecting sewers from time to time. (44 L. T., 517: 45 J. P., 423.)

1011. 1876. *Fulham B. W.* v. *Goodwin.* Public Sewer constructed at the cost of owners, taken up after the lapse of years and reconstructed—Held that the subsequent outlay could not be apportioned on the adjacent owners, but must be charged to the Rates. (L. R., 1 Ex. D., 400: 35 L. T., 907: 41 J. P., 134.)

1012. 1879. *Glossop* v. *Heston and Isleworth L. B.* Stream polluted by sewage, which it was alleged that the Local Authority ought to have excluded from the stream by sewers constructed for the purpose—Injunction to restrain the continuance of the user of the stream as a sewage outfall refused, the Board having itself done nothing to create or increase the nuisance—The plaintiff might have proceeded by way of application for a Prorogative *Mandamus* to enforce the construction of sewers. (49 L. J., Ch., 89: L. R., 12 Ch. D., 102: 40 L. T., 736: 44 J. P., 36.)

1013. 1859. *Hayward* v. *Lowndes.* A Local Board has no power to go out of its District to make Sewers. (28 L. J., Ch., 400: 4 Drew., 454: 32 L. T., (O. S.), 366.) [Such a power is, however, for purposes of outfall or distribution, now given by the "Public Health Act, 1875," § 16.]

1014. 1870. *Holt* v. *Rochdale, Mayor.* Local Act—New Sewer—A Corporation prohibited from making a new sewer into a river is not permitted to enlarge an old one—Injunction granted. (39 L. J., Ch., 761: L. R., 10 Eq., 354: 23 L. T., 43: 35 J. P., 6.)

1015. 1861. *Hughes* v. *Metropolitan B. W.* When forming a sewer a Board need not of necessity do more than make compensation to the landowner—Purchase of land or of easement is not essential. (Metrop.) (4 L. T., 318: 9 W. R., 517.)

1016. 1880. *Lamacraft* v. *St. Thomas's Rural Sanitary Authority.* "Public Health Act, 1875," §§ 16, 19, 27, 305—Proposed sewer—Refusal by plaintiff, a landowner, to permit entry—Whereupon forcible entry

—Injunction to restrain works granted, it being shewn that such works when finished must of necessity create a nuisance—§ 305 allowing entry under Justice's Order does not apply to entry to construct sewers under § 16. (42 L. T., 365: 44 J. P., 441.)

1017. 1855. *Maidenhead L. B. H., In re.* Application for *Mandamus* to make sewers refused, as there had been no formal demand upon or refusal by the Board. (26 L. T., (o. s.), 104.)

1018. 1876. *Mason* v. *Wallasey L. B.* Proposed erection of urinal—Injunction to restrain refused, no *mala fides* being shown—A Local Board must be considered as elected to settle such questions and to be well able to know what is requisite. (L. J., Notes of Cases, 1876, p. 212: *Times*, Dec. 9, 1876.)

1019. 1881. *Metropolitan B. W.* v. *London & North-Western Railway Co.* "Metropolis Management Act, 1862," 25 & 26 Vict., c. 102, § 61—Houses outside the jurisdiction of a Board allowed to use the sewers of the Board—Held that this privilege did not extend to new buildings erected subsequently, although forming part of the first-named block—Injunction granted—*Semble* that if Board had given written consent and fixed the size of the drain, the defendants might then have used it to the full extent of its capacity. (50 L. J., Ch., 409: L. R., 17 Ch. D., 246: 44 L. T., 270.)

1020. 1879. *Newington L. B.* v. *Cottingham L. B.* Agreement dated 1874 between two Local Boards that the sewage of the C. District should be allowed to enter the sewers of the N. District, subject to the restriction that no sewage from any third district should be admitted—Claim by outside landowners to use the C. sewers in accordance with the provisions of the "Public Health Act, 1875," § 22—Held that they might do so, § 22 operating to repeal the conditions of the agreement of earlier date. (48 L. J., Ch., 226: L. R., 12 Ch. D., 725: 40 L. T., 58.)

1021. 1875. *Nuneaton L. B.* v. *General Sewage Co.* Lease of Sewage and Works to a Public Company—Neglect to perform the Covenants—Injunction granted to restrain the Defendants from keeping Sewage matter in the Town Sewers, followed by a second Injunction to restrain them pouring Sewage into a river. (44 L. J., Ch., 561: L. R., 20 Eq., 127.)

1022. 1858. *Parsons, Ex parte.* Alleged necessity that a sewer ought to be constructed—*Mandamus* to a Local Board refused—Applicant to make a simple demand that a duty be discharged. (22 J. P., 68.)

1023. 1879. *Reg.* v. *Clutton Union.* "Public Health Act, 1875," § 35—Whether rebuilt cottages shall each have a separate privy, or whether one shall be deemed sufficient for 2 cottages, is a fit matter for the discretion of Justices. (48 L. J., M. C., 135: 43 J. P., 332: [*Clutton* v. *Pointing*] L. R., 4 Q. B. D., 340: 40 L. T., 845.)

1024. 1866. *Reg.* v. *Godmanchester L. B. H.* Natural Watercourse, receiving a little Sewage held not to be a "Sewer" within the "Public Health Act, 1848," § 43 [="Public Health Act, 1875," § 13]—*Mandamus* under § 58 [repealed] held not enforceable, as it did not show that the person causing the nuisance had failed to comply with a notice to abate it. (35 L. J., Q. B., 125: L. R., 1 Q. B., 328: 5 B. & S., 936: 14 L. T., 104.)

1025. 1879. *Riddell* v. *Spear.* "Public Health Act, 1875," §§ 91-111—Sewer constructed by landlord through land leased by him to tenant, but without tenant's consent, and without compensation being made to him—Sewer became vested in Local Authority—Sewer stopped up by tenant—Nuisance thereupon created—Held that the tenant was rightly convicted as the person by whose Act the nuisance arose or continued, and this, although the *locus in quo* of the nuisance was elsewhere. (40 L. T., 130: 43 J. P., 317.)

1026. 1877. *Roderick* v. *Aston L. B.* "Public Health Act, 1875," § 16—Held that the words "into, through, or under" entitled a Local Authority to carry a sewer along an artificial embankment above the ground level—Injunction refused—Remedy, proceedings for compensation. (46 L. J., Ch., 802: L. R., 5 Ch. D., 328: 36 L. T., 328: 41 J. P., 516.)

1027. 1877. *Searle* v. *Barnet L. B.* Forcible entry on land by workmen of a Local Board in order to connect the drain of a house with a public sewer—Allegation that, owing to the carelessness of the workmen, a well of good water had been injured—Action for damages—Verdict for plaintiff, the owner of the house and land. (*Times*, Dec. 1. 1877.)

1028. 1835. *Soady* v. *Wilson.* Sewers Rate—Properties may be liable even though the benefit may not be immediate. (3 A. & E., 248: 4 N. & M., 777: 1 H. & W., 256.)

1029. 1869. *St. Giles's, Camberwell, Vestry* v. *Weller.* Sewering a "New Street" where Sewer Rates have already been levied. (20 L. T., 756: 17 W. R., 973.) [Dissented from in *Sawyer* v. *Paddington.*]

1030. 1865. *St. Marylebone Vestry* v. *Viret.* Unnecessary New Sewer and connections—Board and not owner held liable for the expenses. (34 L. J., M. C., 214: 19 C. B., (N. S.), 424: 12 L. T., 673.)

1031. 1879. *Swanston* v. *Twickenham L. B.* Sewer constructed along public road with man-hole on plaintiff's land—Man-hole erected without leave, and yielding noxious smells—If such a structure is necessary, the Board may construct it without purchasing a site for it, the landowner being entitled to compensation only. (48 L. J., Ch., 623: L. R., 11 Ch. D., 838: 40 L. T., 734.)

1032. 1867. *Thornton* v. *Nutter.* A Sewer is merely an easement, and to make it, proceedings under the "Lands Clauses Act, 1845," to acquire land are not requisite. (31 J. P., 419.)

1033. 1880. *Vernon* v. *St. James's Vestry.* Action to restrain erection of a Urinal on a site alleged to be detrimental to plaintiff's property—Injunction granted. (50 L. J., Ch., 81: L. R., 16 Ch. D., 449: 44 L. T., 229.)

1034. 1877. *Whitford L. B.* v. *Castleford L. B.* Agreement between two Boards for joint sewerage works—Injunction granted to delay the cutting off of the sewer connections. (Jan., 1877.)

1035. 1834. *Woodward* v. *Cotton.* Local Act—Construction of drain smaller in size than the Local Authority required and authorised—Action for penalty—Verdict for the plaintiff—Where one man directs another to commit a misdemeanour and the other does so, both are equally guilty. (3 L. J., Ex., 300: 1 C. M. & R., 44: 4 Tyr., 689.)

STATUTES, INTERPRETATION OF.

1036. 1859. *A.-G.* v. *Birmingham Council.* Public Works ordered by Statute must not be executed so as to interfere with private rights—Injunction granted. (4 K. & J., 528: 22 J. P., 561.)

1037. 1846. *A.-G.* v. *Worcester Corporation.* The way to apply an Interpretation Clause is, when the word is used in other enactments, to follow the direction of the Interpretation Clause and according to the subject-matter to read it as if it contained the other words, which by the Clause it is meant to include. (15 L. J., Ch., 398, at p. 399.)

1038. 1876. *Barnes* v. *Eddleston.* "Public Health Act, 1875," § 343—Offence punishable under an Act repealed during the progress of the proceedings—Held that the repealed Act remained available. (45 L. J., M. C., 162: L. R., 1 Ex. D., 102: 33 L. T., 822: 40 J. P., 663.)

1039. 1871. *Bath, Mayor* v. *Commissioners of Inland Revenue.* "Public Health Act, 1848," § 151 [repealed]—Exemptions from Stamp Duty—Construction of Local Act. (40 L. J., Ex., 181: 25 L. T., 28.)

1040. 1876. *Bentley* v. *Rotherham L. B. H.* Local Act "extended" by subsequent Act—Where the operative part of a Statute is clear it is not to be controlled by the recitals, but where it is ambiguous the

recitals may be referred to. (46 L. J., Ch. 284: L. R., 4 Ch. D., 588.)

1041. 1859. *Cardiff, Mayor* v. *Cardiff Waterworks Co.* Construction of the word "Port" used in a Local Act—Held to be not necessarily identical with a "Port" as defined for Customs purposes, but limited by the general context of the Act. (33 L. T., (O. S.), 104: 5 Jur., (N. S.), 953.)

1042. 1790. *Castle* v. *Burditt.* Where computation of time is to be made from an act done the day on which it is done is to be included in the reckoning—Therefore in the case of a month's Notice of Action the month begins with the day on which the notice is served. (3 T. R., 623.)

1043. 1862. *Clarke* v. *Higgins.* "Towns Police Clauses Act, 1847," § 28—"Wilful and wanton" disturbance by ringing a Door Bell—"Wanton" means "without reasonable cause." (11 C. B., (N. S.), 545.)

1044. 1862. *Daw* v. *Metropolitan B. W.* Right to alter numbers on houses—If two Acts contain inconsistent provisions the later is to prevail. (31 L. J., C. P., 223: 12 C. B., (N. S.), 161: 6 L. T., 353.)

1045. 1861. *Fitzgerald* v. *Champneys.* A Local Act is not in the absence of expressed intention on the part of the Legislature repealed or superseded by a Public General Act. (30 L. J., Ch., 777: 2 Johns. & H., 31: 5 L. T., 233.)

1046. 1860. *Gough* v. *Hardman.* Local Act—Unqualified person acting as a Commissioner—Two Local Acts to be read together when the one amends the other. (1 L. T., 375: 5 H. & N., 112.)

1047. 1866. *Hereford, Mayor* v. *Morton.* Damage to gas lamp—A corporation held to be within the designation of "person or persons" used in a Local Gas Act. (15 L. T., 187: 15 W. R., 110.)

1048. 1841. *Home* v. *Grimble.* Merely to ring gently for a business purpose a front door bell accessible from a public street is not within the words "wilfully and wantonly" ringing a door bell used in the "Metropolitan Police Act," 2 & 3 Vict., c. 47, and does not warrant the person ringing being given into custody for creating a disturbance. (Carr. & M., 17.)

1049. 1856. *London & Blackwall Co.* v. *Limehouse B. W.* Powers conferred for an object of public benefit by a Special Act are not affected by a subsequent Act giving for another public purpose general powers inconsistent with them. (26 L. J., Ch., 164: 3 K. & J., 123: 28 L. T., (O. S.), 140.)

1050. 1840. *Queen (The)* v. *Burrell.* "Municipal Corporation Act, 1835," § 48 [which the "Public Health Act, 1875," § 247 (5) resembles]—Omission of Overseer's Signature from Burgess List—Penalty for omission, held incurred though the neglect was neither wilful nor corrupt—"Neglect is the omission to do some duty which the party is able to do." (9 L. J., Q. B., 337: [*King* v. *Burrell*] 12 A. & E., 460.)

1051. 1860. *Reg.* v. *Bodkin.* "Nuisances Removal Act, 1855," § 22 [Repealed as to the point here raised]—Sewerage—Division into Districts—Reassessment on an extension of the Sewerage—Defendant held chargeable as an occupier of a house "using" the sewer. (30 L. J., M. C., 38: 3 E. & E., 271.)

1052. 1863. *Reg.* v. *Epsom Union.* "Nuisances Removal Act, 1855," § 22 [=Public Health Act, 1875," § 15]—Requisition to "Repair" does not cover reconstruction *de novo* of a work defectively made originally—Return to a *Mandamus* that sewer was defectively made and could not be repaired, held good. (8 L. T., 383: 11 W. R., 593.)

1053. 1858. *Reg.* v. *Rotherham L. B. H.* "Public Health Act, 1848, § 89 ["Public Health Act, 1875," §§ 210-11]—"Charges and Expenses"—A judgment against a Local Board is a "Charge," to defray which a Rate may be made—"Six months" runs from date when execution might first have issued, even in cases where execution has been stayed by consent—*Mandamus* granted. (27 L. J., Q. B., 156: 8 E. & B., 906: 30 L. T., (O. S.), 271.)

1054. 1825. *Rex* v. *Washbrook Inhabitants.* Private Inclosure Act—Award found to be at variance with statutory newspaper advertisement of boundaries—Order of Sessions based on the award, quashed—Where a special limited authority is given by Statute, it must be pursued strictly throughout all its conditions and qualifications, and is not to be considered merely directory. (4 B. & C., 732: 7 D. & R., 221.)

1055. 1866. *Smith* v. *Redding.* 3 & 4 Vict., c. 61, § 15—Meaning of the words "Parish or place"—Held that a Hamlet within a Parish was not a "place" so as to govern a qualification depending on number of population. (35 L. J., M. C., 202: L. R., 1 Q. B., 489: 6 B. & S., 617 and 621: 14 L. T., 358.)

1056. 1876. *Stone* v. *Yeovil, Mayor.* Local Act: "Waterworks Clauses Act, 1847," §§ 6 and 12: "Lands Clauses Act, 1845," § 9—A word which makes a Statute unintelligible may be disregarded. (46 L. J., C. P., 137: L. R., 2 C. P. D., 99: 36 L. T., 279: 42 J. P., 212.)

1057. 1866. *Swinford* v. *Keble.* "Municipal Corporations Act, 1835," § 142—A Local Board under the "Public Health Act, 1848," are not Paving, &c. Trustees within the meaning of the "Municipal Corporations Act." (35 L. J., Q. B., 185: L. R., 1 Q. B., 549: 7 B. & S., 573: 14 L. T., 770.)

1058. 1876. *Taylor* v. *Oldham Corporation.* Local Act—Powers of a Local Authority to construct a sewer under a private road—"Street" in the Local Act interpreted to include any "road"—The preamble of an Act cannot be resorted to in order to ascertain its intention unless there is an ambiguity in its enacting part—General provisions do not override special provisions—Clauses in Local Acts vesting sewers in a Local Authority confer an absolute property in the subsoil occupied by the sewers, not a mere easement. (46 L. J., Ch., 105: L. R., 4 Ch. D., 395: 35 L. T., 696.)

1059. 1870. *Thorpe* v. *Adams.* A General Act is not to be construed as repealing a previous Local Act, unless there are express words; or unless there is a necessary inconsistency in the two Acts standing together. (40 L. J., M. C., 45: L. R., 6 C. P., 125: 23 L. T., 810.)

1060. 1866. *Triggs* v. *Lester.* Local Act—Carrying cattle in a van is not "driving or conducting" cattle. (L. R., 1 Q. B., 259: 13 L. T., 701: 30 J. P., 228.)

1061. 1879. *Walsall Overseers* v. *London & North Western Railway Co.* "Public Health Acts, 1872 and 1875"—Local Acts—Rating privilege created by Statute—Statute repealed in part, but no mention made of the Rating privilege in question—A privilege granted by Statute ought not to be deemed to be taken away without a direct repeal of the Statute, or an inference so strong as to authorise a Court to say that the 2 Statutes cannot stand together—Rule quashed. (48 L. J., M. C., 166: L. R., 4 App. Cas., 467: 41 L. T., 106: 43 J. P., 748.)

1062. 1876. *Williams* v. *Evans.* *Per* Grove, J.: "Statutes are to be construed according to the strict grammatical meaning of the language used, unless such a construction leads to an absurd result." (L. R., 1 Ex. D., 277.)

1063. 1868. *Young* v. *Gattridge.* "Nuisances Removal Act, 1863," [="Public Health Act, 1875," §§ 116-18]—Seizure of diseased meat—A butcher's yard held to be a "place." (38 L. J., M. C., 67: L. R., 4 Q. B., 166.)

STREET.

*** See also "Building Line," and "Lands Clauses Act."

1064. 1847. *Baddeley* v. *Gingell.* Local Act—A Yard having a frontage on a Street, and the sole access thereto being from such Street, is "within the Street" for rating purposes. (1 Ex., 319: 10 L. T., (O. S.), 114.)

1065. 1874. *Ball* v. *Ward.* "Towns Police Clauses Act, 1847," § 28—Obstruction of street, owing to persons crowding round a caravan lawfully placed away from the street—Held that the proprietor ought not to have been convicted. (33 L. T., 170: 40 J. P., 213.)

1066. 1857. *Beaver* v. *Manchester, Mayor.* Construction of a bridge—Plea of justification under a statute—A "bridge" may be a street within the meaning of a statute. (26 L. J., Q. B., 311 : 8 E. B., 44 : 29 L. T., (o. s.), 226.)

1067. 1830. *Bouverie* v. *Miles.* Local Act—Powers of a Board with respect to projections over a public way. (8 L. J., (o. s.), K. B., 338 : 1 B. & Ad., 31.)

1068. 1842. *Bradbee* v. *London, Mayor.* Rebuilding of House in a street—Hoarding to inclose materials—Powers of a public Authority to sanction such an inclosure—Action by adjoining owner suffering injury held maintainable only for injury accruing from negligence in the work of pulling down. (11 L. J., C. P., 209 : 5 Scott, (N. S.), 79 : 4 M. & G., 714.)

1069. 1851. *Brown* v. *Clegg.* Lowering the level of a new street under a provision in a Local Act similar to "Towns Improvement Clauses Act," § 51—Proceedings of commissioners held *ultra vires.* (16 Q. B., 681 : 17 L. T., (o. s.), 122.)

1070. 1864. *Cary* v. *Kingston-upon-Hull.* "Public Health Act, 1848," § 69—The power of a Local Board to compel the levelling, &c., of a Street is limited to work needed in a particular Street looked at as an isolated one, and does not extend to work needed to bring that Street to a level with other adjoining Streets. (34 L. J., M. C., 7 : [*Caley* v. *K.*] 5 B. & S., 815 : 11 L. T., 339 : 29 J. P., 116.)

1071. 1875. *Challenger* v. *Bristol.* "Tramways Act, 1870," § 9 : "Public Health Act, 1848," § 68 [= "Public Health Act, 1875," § 149]—Alleged evasion of former enactment—Injunction to restrain the widening of a roadway at the expense of the adjacent footway, refused. (*Times*, Feb. 10, 1875.)

1072. 1845. *Davey* v. *Warne.* "Metropolitan Paving Act," 57 Geo. III., c. 29, § 75—Held that a Surveyor had no right to remove a ladder placed against a house by a whitewasher ; the section only applied to the erection of hoards or posts or rails, &c., by which an inclosure is made. (15 L. J., Ex., 253 : 14 M. & W., 199.)

1073. 1859. *Gabriel* v. *St. James's, Westminster, Vestry.* "Metropolis Management Act, 1855," § 119—Projecting Lamp-iron—Whether such be an annoyance justifying a conviction or not, is a fit matter for the discretion of a magistrate. (23 J. P., 372.)

1074. 1866. *Galloway* v. *Commonalty of London ; Metropolitan Railway Co. London* v. *Galloway.* The powers entrusted to Public Bodies for purposes of Public Improvements are not subject to a strict and restrictive construction—The word "street" means not a mere roadway, but "a thoroughfare with houses on both sides." (35 L. J., Ch., 492 : L. R., 1 H. L., 34 : 14 L. T., 865.)

1075. 1874. *Hoare* v. *Metropolitan B. W.* "Metropolitan Commons Act, 1866," 29 & 30 Vict., c. 122, § 15—Long existent right to maintain a Sign-post in front of a Public-house—Held that such a Post was renewable from time to time, and that no offence had been committed by replacing a dilapidated Post by a new one. (43 L. J., M. C., 65 : L. R., 9 Q. B., 296 : 29 L. T., 804 : 38 J. P., 535.)

1076. 1858. *Le Neve* v. *Mile End Old Town Vestry.* Open space between houses and pavement used for the deposit of goods by a shopkeeper—Held that such space was not part of a "street," so as to render the shopkeeper guilty of an obstruction. (Metropolis.) (27 L. J., Q. B., 208 : 8 E. & B., 1054 : 31 L. T., (o. s.), 81.)

1077. 1868. *London, Chatham & Dover Railway Co.* v. *London, Mayor.* Local Acts—The strict meaning of the word "street" is confined to the roadway and foot-ways. (19 L. T., 250.)

1078. 1877. *Mackett* v. *Herne Bay Commissioners.* Local Act—Project for laying out land for building and for roads—Question of title—Injunction granted to restrain the defendants interfering with the sites of the roads, except in a few cases where dedication was shown. (W. N., 1877, p. 221 : 37 L. T., 812.) [In connection with this case an Injunction was granted to restrain a Commissioner from preaching a sermon on it *pendente lite.* 24 W. R., 845.]

1079. 1868. *Metropolitan B. W.* v. *Clever.* "Metropolis Management Amendment Act, 1862," § 98—Laying out road for building—Width of Street—Fence set back—Held that the landowner had not, by what he had done, brought himself within the Section. (Metropolis.) (37 L. J., M. C., 126 : L. R., 3 C. P., 531 : 18 L. T., 723.)

1080. 1865. *Metropolitan B. W.* v. *Cox.* An enactment that a roadway shall not be laid out for building, unless at least 40 feet wide, held not to apply where the buildings abutted *in the rear* on an old lane of less than the width in question. (Metropolis.) (19 C. B., (N. S.), 445.)

1081. 1873. *Milward* v. *Redditch L. B.* "Public Health Act, 1848," § 68 [= "Public Health Act, 1875," § 149]—Alteration of Street level—Accumulation of storm water—Damage to premises—Mandatory Injunction granted—Paving not to remain in such a condition that water was necessarily dammed up against plaintiff's house. (21 W. R., 429.)

1082. 1876. *Montreal, Mayor* v. *Drummond.* Canadian Law—The permanent closing of one end of a street, whereby access to houses was rendered inconvenient, held no such interference with the rights of the owners as to entitle them to compensation. (45 L. J., P. C., 33 : L. R., 1 App. Cas., 384 : 35 L. T., 106.)

1083. 1864. *Reg.* v. *Fullford.* 24 & 25 Vict., c. 61, § 28 [= "Public Health Act, 1875," § 156]—Misdemeanour—Indictment for bringing forward a house in a Street without the consent of a Local Board—Meaning of the word "Street"—Street seems only to apply to a row of houses in some degree continuous, but this is a question of fact for a Jury. (33 L. J., M. C., 122 : 10 L. T., 346 : 9 Cox, C. C., 453 : 28 J. P., 357.)

1084. 1859. *Reg.* v. *Great Western Railway Co.* "Towns Improvement Clauses Act, 1847," § 53—Paving of Street—The word "theretofore" refers to any time before the passing of the Special Act—A street which was a public highway at the passing of the Special Act, and had been but was not then sufficiently paved, was not within the Section. (28 L. J., M. C., 246 : [*G. W. R. Co.* v. *West Bromwich Commissioners*] 1 E. & E., 806.)

1085. 1873. *Reg.* v. *Hackney B. W.* "Metropolis Management Act, 1855," § 105—Barrier erected by owners in a New Street—When a Board compels owners to form a New Street, the Board is bound to repair notwithstanding the barrier—*Mandamus* granted. (42 L. J., M. C., 151 : L. R., 8 Q. B., 528.)

1086. 1852. *Reg.* v. *Ingham.* Projection in Street—*Mandamus*—Costs. (Metropolis.) (21 L. J., M. C., 125 : 17 Q. B., 884 : 18 L. T., (o. s.), 303.)

1087. 1877. *Reg.* v. *Metropolitan B. W.* Local Act embodying an Agreement with a Landowner that a "Roadway" should be made 25 ft. wide—Question whether this meant 25 ft. of carriage-way, exclusive of footways, or 25 ft. of roadway, inclusive of footways—Held that "roadway" meant "carriage-way," and that the width of the footways would have to be added to the 25 ft. (*Times*, Nov. 13, 1877.)

1088. 1859. *Reg.* v. *Sidebotham.* Local Act—Width of Street—A prescribed minimum distance between houses held not to apply to houses not in a street. (28 L. J., M. C., 189 : Bell, C. C., 171 : 33 L. T., (o. s.), 187.)

1089. 1858. *Reg.* v. *St. Mary's, Islington, Vestry.* A certain unfinished road held not to be a "Street" which the Vestry was bound to light. (E. B. & E., 743 : 22 J. P., 383.)

1090. 1697. *Rex* v. *Webb.* To rebuild a house on a larger scale whereby the street becomes darker than before is not a public nuisance. (1 Ld. Raym., 737.)

1091. 1860. *Sarrett* v. *Bradshaw.* "Highway Act,

1835"—Obstruction to street by hoarding authorised by a Surveyor appointed under the "Local Government Act, 1858"—Conviction on the ground that the hoarding projected unnecessarily, affirmed, the Court being inclined to be equally divided. (*Times*, May 3, 1860.)

1092. 1867. *Taylor* v. *Metropolitan B. W.* "Metropolis Management Amendment Act, 1862," § 98—Removal of an old fence and erection of a permanent wall held to be "laying out" of a new road so that widening to the dimensions prescribed by the Act became obligatory. (36 L. J., M. C., 53: L. R., 2 Q. B., 213: 31 J. P., 581.)

1093. 1866. *Thomas* v. *Daw.* Local Act, 57 Geo. III., c. 29, § 80—Improvement of Street—Commissioners held entitled to take only so much of a site as was necessary for their purpose. (36 L. J., Ch., 201: L. R., 2 Ch. App., 1: 15 L. T., 200.)

SURETY.

1094. 1852. *Benham* v. *United Guarantee & Life Assurance Co.* Consideration of what would vitiate a policy of guarantee obtained by the employer of a clerk. (21 L. J., Ex., 317: 7 Ex., 744: 19 L. T., (O. S.), 206.)

1095. 1862. *Black* v. *Ottoman Bank.* Principles of Law respecting the liability or the non-liability of a Surety—A Surety guarantees the honesty of the person employed, and he is not entitled to relief from his obligation merely because the employer fails to use all means in his power to provide against the dishonesty of the person in respect of whom the bond is given. (15 Moo., P. C., 472: 6 L. T., 763.)

1096. 1875. *Hawkins* v. *Aldershot School Board.* Contract by builder—Bankruptcy of Builder—Substituted contractor—Contract varied—Original surety held released. (*Times*, April 22, 1875.)

1097. 1870. *Malling Union* v. *Graham.* 7 & 8 Vict., c. 101, § 61-2—Principal and Surety—Acceptance of a new office—Sanction of Poor Law Board obtained—Held nevertheless that the surety was discharged. (39 L. J., C. P., 74: L. R., 5 C. P., 201: 22 L. T., 789.)

1098. 1872. *Phillips* v. *Foxall.* Surety—Dishonesty—If a master finds his servant dishonest and condones the offence, he cannot afterwards call upon the surety to make good a subsequent loss. (L. R., 7 Q. B., 666: 27 L. T., 231: 37 J. P., 37.)

1099. 1873. *Sanderson* v. *Aston.* Neglect by an employer to dismiss a servant found guilty of irregularities which would justify dismissal discharges the Surety. (42 L. J., Ex., 64: L. R., 8 Ex., 73: 28 L. T., 35.)

1100. 1867. *Skillet* v. *Fletcher.* Collector of Poor Rate—Additional duties—Bond of Surety held not void because of the alteration of office. (36 L. J., C. P., 206: L. R., 2 C. P., 469: 16 L. T., 426.)

1101. 1869. *Stiff* v. *East-Bourne L. B.* Sewerage Works—Bond—Failure of Contractor—*Semble* that a Surety from whom a material fact has been concealed is not liable. (19 L. T., 408: 20 L. T., 339: 17 W. R., 68 and 428.)

1102. 1862. *Towle* v. *National Guardian Assurance Society.* Bond of Suretyship—Numerous inaccuracies in the answers to preliminary questions—Bond held void. (30 L. J., Ch., 900: 5 L. T., 193.)

SURVEYOR.

1103. 1873. *Metropolitan B. W.* v. *Flight.* Dangerous premises—Fees of Surveyor chargeable to the Owner—An Item in the Board's Bill, "office expenses, 2*s.* 6*d.*" disallowed. (Metropolis.) (43 L. J., M. C., 46: L. R., 9 Q. B., 58: 29 L. T., 608: 38 J. P., 503.)

1104. 1872. *Power* v. *Wigmore.* Surveyor's Fees—Fifty-one Arches held to be so many separate buildings, on each of which a fee was payable. (Metropolis.) (L. R., 7 C. P., 386: 27 L. T., 148.)

1105. 1863. *Westwick, Ex parte; Nottingham Corporation, In re.* Surveyor appointed by order of Borough Justices to value property required for a street improvement—Order quashed by *Certiorari* on the ground of interest, the Justices being ratepayers. (38 L. T. Newspaper, 203.)

TIME, COMPUTATION OF.

1106. 1863. *Baker* v. *Billericay Union.* An action against Guardians for money due, where no extension has been obtained from Local Government Board must be commenced within the current half-year or within 3 months afterwards. (33 L. J., M. C., 40: 2 H. & C., 642: 9 L. T., 486.)

1107. 1846. *Beenlen* v. *Hockin.* In notices and documents required to be dated, mention of the year is an essential part of such date. (16 L. J., C. P., 49: 4 C. B., 19: 8 L. T., (O. S.), 143.)

1108. 1860. *Eddleston* v. *Francis.* "Public Health Act, 1848," §§ 51 and 129 [="Public Health Act, 1875," §§ 35-6, 251]—Proceedings for the recovery of money due for works executed must be commenced within 6 months of the completion of the works, and not within 6 months of the demand for payment—*Quære*, Is a Receiver appointed by the Court of Chancery an "owner?" (7 C. B., (N. S.), 568: 3 L. T., 270: 25 J. P., 135.)

1109. 1803. *Glassington* v. *Rawlings.* Where time is to be computed from an Act done the day in which it is done is to be included. (3 East, 407.)

1110. 1878. *Kay* v. *Atherton L. B.* Local Board acting as Surveyors of highways—Accident to plaintiff through negligent deposit of stones in a road—The limit of time within which a plaintiff must bring his Action against a Local Board is not the 3 months prescribed by the "Highway Act, 1835," § 109, but the 6 months prescribed by the "Public Health Act, 1875," § 264. (42 J. P., 792.)

1111. 1879. *Migotti* v. *Colville.* A sentence of one calendar month expires on the day preceding the same numerical day in the following month; if the following month has not sufficient days, then on the last day of the following month—Such a sentence passed on October 31 expires on November 30. (48 L. J., C. P., 695: L. R., 4 C. P. D., 233: 40 L. T., 747: 43 J. P., 620.)

1112. 1829. *Pellew* v. *Wonford Inhabitants.* General principles of computing limits of time named in Statutes. (7 L. J., (O. S.), M. C., 84: 9 B. & C., 134: 4 M. & R., 130.)

1113. 1858. *Reg.* v. *Middleton Nuisances Committee.* "Nuisances Removal Act, 1855," § 16 [="Public Health Act, 1875," § 99]—§ 16 refers only to Nuisances on private premises. (28 L. J., M. C., 41: 1 E. & E., 98: 32 L. T., (O. S.), 124.)

1114. 1838. *Reg.* v. *Shropshire JJ.* Where an act is to be done so many days *at least* before a given event, the time must be reckoned excluding both the day of the act and that of the event itself. (7 L. J., M. C., 56: 8 A. & E., 173: 2 N. & P., 286: 1 W. W. & H., 158.)

1115. 1833. *Rex* v. *Yorkshire (W. R.) JJ.* Where a Statute requires "Ten days' notice" of an appeal, one day is to be inclusive and the other exclusive. (4 B. & Ad., 685.)

1116. 1859. *Simpkin, Ex parte.* "Nuisances Removal Act, 1855," § 40 [="Public Health Act, 1875," § 269]—Circumstances under which Sunday will be counted against an appellant who seeks to enter into a recognizance. (29 L. J., M. C., 23: 2 E. & E., 392: [*Reg.* v. *Leicestershire JJ.*) 1 L. T., 92.)

1117. 1859. *Swire* v. *Burley L. B. H.* "Public Health Act, 1848," § 89 [="Public Health Act, 1875," §§ 210-11]—Judgment debt due to a Contractor—Six months to be calculated from Judgment, not from date of debt—*Mandamus* to make a Rate granted. (33 L. T., (O. S.), 222: 23 J. P., 420.)

1118. 1821. *Zouch* v. *Empsey.* "Fourteen days at least" means 14 clear intervening days. (4 B. & Ald., 522.)

"TOWN," DEFINITION OF.

1119. 1848. *Elliott* v. *South Devon Railway Co.* "Railway Clauses Act, 1845," § 11—"Town" here means a collection of inhabited houses so near each other that they may reasonably be said to be continuous; and the term will include a space of open ground surrounded by houses; and, *Semble*, all open spaces occupied as mere accessories to such houses, although not so surrounded. (17 L. J., Ex., 262: 2 Ex., 725: 5 Rail. Cas., 500.)

1120. 1870. *London & South-Western Railway Co.* v. *Blackmore.* "Lands Clauses Act, 1845," § 128—Definition of "Town:" Continuous occupancy of ground by houses. (38 L. J., Ch., 713: L. R., 4 H. L., 610 and 615: 23 L. T., 504.)

1121. 1867. *Milton Commissioners* v. *Faversham Highway Board.* Local Act—Held that the word "town" meant not as it existed when the Act was passed, but as extended from time to time—A highway is within a town where there is a continuous series of contiguous houses. (10 B. & S., 548, n.: 31 J. P., 341.)

1122. 1851. *Reg.* v. *Charlesworth.* "Beerhouse Act, 1840," § 15—Definition of the word "place:" "An aggregation of houses and inhabitants which has received a separate name"—And this where the "place" in question had no defined boundaries or legal rights of its own. (20 L. J., M. C., 181.)

1123. 1851. *Reg.* v. *Cottle.* Local Act—A "town" is a spot "surrounded by houses so reasonably near that the inhabitants may be fairly said to dwell together"—The fact that the houses are separated by gardens is not of importance. (20 L. J., M. C., 162: 16 Q. B., 412, 416: 17 L. T., (o. s.), 15.)

1124. 1872. *Rice* v. *Slee.* "Beerhouse Act, 1840," § 15—Definition of the word "place"—*Reg.* v. *Charlesworth* followed. (L. R., 7 C. P., 378.)

"TOWNS POLICE CLAUSES ACT, 1847."

1125. 1859. *Martin* v. *Pridgeon.* "Towns Police Clauses Act, 1847," § 29—"Drunk" and "riotous"—Latter charge not proved—Justices convicted for simple drunkenness under 21 Jas. I., c. 7 [Repealed]—Conviction quashed, the charge being under one Statute and the punishment under another. (28 L. J., M. C., 179: 1 E. & E., 778: 33 L. T., (o. s.), 119.)

TRAMWAYS.

1126. 1873. *Edinburgh Street Tramways Co.* v. *Black.* "Tramways Act, 1870": Special Act—General Act varied by special Act—Held that the aggrieved parties had no legal redress—When an Act directs compliance with deposited plans and sections, they are to be regarded as embodied in the Act. (L. R., 2 Sc. App. Cas., 336.)

1127. 1876. *Liverpool Tramways Co.* v. *Toxteth Park L. B.* Arbitrary powers to remove a tramway—Private Act—Injunction to restrain Board from requiring the removal of the tramway, refused. (W. N., 1876, p. 145.)

1128. 1879. *Murdoch* v. *London Street Tramways Co.* "Tramways Act, 1870," § 56: Special Act, "London Street Tramways Act, 1877," 40 & 41 Vict., c. ccxix., § 24—Tramway out of repair—Held that a private individual could not sue for the penalty. (*Times*, May 30, 1879.)

1129. 1876. *St. Luke's Vestry* v. *North Metropolitan Tramways Co.* "Tramways Act, 1870," §§ 26 and 28—Merely to raise and readjust the level of rails is not an act needing the "superintendence" of the Vestry. (L. R., 1 Q. B. D., 760: 35 L. T., 329: 40 J. P., 806.)

1130. 1879. *Val de Travers Asphalt Co.* v. *London Tramways Co.* Contract between Asphalt Co. and Parish to keep road in repair for a term of years—Road damaged by tramways—Suit by Asphalt Co. against Tramway Co.—It being doubtful whether the former body was entitled to sue, the Court allowed the Parish to be added as plaintiffs, though the Parish had not consented, Parish, however, to be fully indemnified against the costs. (48 L. J., C. P., 312: 40 L. T., 133: 43 J. P., 462.)

TREASURER.

1131. 1881. *Capital & Counties Bank* v. *Ventnor L. B.* Manager of Branch Bank the Treasurer of the Local Board—Cheque belonging to Board passed to Treasurer who turning it into money at his Bank absconded with the proceeds—Held that Board must bear the loss on the ground that the cheque and the money was in Treasurer's hands *quâ* Treasurer—Verdict for Plaintiffs for amount of cheque and interest. (At *Nisi Prius.*) (*Times*, May 26, 1881.)

1132. 1829. *Delane* v. *Hillcoat.* Treasurer to a Board—An office is an "office of profit" if it is capable of yielding a profit irrespective of whether the holder chooses to make it do so or not. (9 B. & C., 310: 4 M. & R., 175.)

1133. 1875. *Halifax Union* v. *Wheelwright.* Negligence in drawing Cheques—Alteration of amounts—Cheques payable to Order—Forged Endorsements—Held that the defendant, as Treasurer and Bank Manager, was not liable. (44 L. J., Ex., 121: L. R., 10 Ex., 183: 32 L. T., 802: 39 J. P., 823.)

1134. 1839. *Hawkings* v. *Newman.* Local Act somewhat similar to "Public Health Act, 1875," §§ 189 and 192—Clerk's Clerk made Assistant Treasurer—Action for penalties. (8 L. J., Ex., 82: 4 M. & W., 613.) [§ 192 as it now stands probably meets the evasion attempted in this case.]

1135. 1832. *Rex* v. *Pattison.* 12 Geo. II., c. 29, § 6—*Quo Warranto*—Appointment of an Alderman as Treasurer—Held that an appointment of Treasurer was complete though the appointee had not given security. (2 L. J., K. B., 33: 4 B. & Ad., 9.)

TURNPIKE.

1136. 1840. *Northam Bridge Co.* v. *London & Southampton Railway Co.* A road on which Toll-gates are erected and tolls lawfully taken is a "Turnpike Road." (9 L. J., Ex., 165: 6 M. & W., 428: 1 Rail. Cas., 665.)

1137. 1868. *Sims* v. *Matlock Bath L. B.* "Towns Police Clauses Act, 1847"—§ 45 applies to offences on a Turnpike Road within the district under the Act, although the road is not under the management of the Local Board. (32 J. P., 134.)

1138. 1858. *Swinburne* v. *Robinson.* Local Act—Agreement between 2 Turnpike Trusts for the repair of a Turnpike Road held not affected by the adoption of the "Public Health Act, 1848." (28 L. J., Q. B., 4: 1 E. & E., 80: 32 L. T., 123.)

WATER COMPANY, POWERS, &c., OF.

1139. 1877. *Atkinson* v. *Newcastle & Gateshead Waterworks Co.* "Water-works Clauses Act, 1847," § 42—Water Company held not liable in damages for not keeping their pipes duly charged with water, whereby plaintiff's premises were burnt down—In such a case a Company is only subject to a penalty for its neglect. (46 L. J., Ch., 775: L. R., 2 Ex. D., 441: 36 L. T., 761: 42 J. P., 183.)

1140. 1860. *Bayley* v. *Wolverhampton Water-works Co.* Non-repair of a fire-plug—Horse lamed—Plugs belonging to a Board, but kept in order by the Water Company—Held that the Company was liable. (30 L. J., Ex., 57: 6 H. & N., 241.)

1140 a. *Bingham* v. *Sheffield Water-works Co.*

Dispute as to whether Company could insist on a certain scale of payment for baths or that otherwise their customers must pay by meter—On plaintiff refusing to erect meter at his own expense Company gave notice that water would be cut off—Motion to restrain cutting off granted till Action tried: meanwhile account to be kept on Company's scale, excess to be refunded if decision at trial adverse. (*Times*, Sept. 12, 1881.) [See No. 1248.]

1141. 1856. *Blyth* v. *Birmingham Water-works Co.* Bursting of a fire-plug during an extraordinary frost—Damage to cellar—Company held not liable—The frost was severe beyond what was to be expected and no negligence was shown. (25 L. J., Ex., 212: 11 Ex., 781: 26 L. T., (O. S.), 261.)

1142. 1858. *Busby* v. *Chesterfield Water-works and Gas-light Co.* Supply of water—The use of water for a horse and carriage in the stable of a Private Dwelling House is a "domestic use." (27 L. J., M. C., 174: E. B. & E., 176: 31 L. T., (O. S.), 98.)

1143. 1875. *Bush* v. *Trowbridge Water-works Co.* Abstraction of Water—"Water-works Clauses Act, 1847," § 8—An owner's remedy for loss of water is compensation under the "Lands Clauses Act, 1845," § 68—He cannot compel the purchase of a portion of a stream. (44 L. J., Ch., 645: L. R., 10 Ch. App., 459: 33 L. T., 137: 39 J. P., 660.)

1144. 1872. *Campbell* v. *East London Water-works Co.* Statutory duty to supply Water—Failure—Fire—Plea that another fire occurring contemporaneously for which water was being taken was the cause of a deficiency—Plea good. (26 L. T., 475.)

1145. 1877. *Edgeware Highway Board* v. *Colne Valley Water Co.* "Water-works Clauses Act, 1847": Local Act—Injunction granted to restrain the opening of roads by the Company before furnishing to the Highway Authority "plans" of the proposed works, although notices had been given—A "plan" held to mean not merely a statement of the general manner in which it was proposed to lay the mains, but something in the nature of a map of the line intended to be followed. (46 L. J., Ch., 889: W. N., 1877, p. 154.)

1146. 1868. *Glover* v. *East London Water Co.* "Water-works Clauses Act, 1847," § 52—House-owner breaking up Street to allow Company to connect—Owner held liable for careless re-instatement of Street—"Pavement" includes roadway. (17 L. T., 475: 16 W. R., 310.)

1147. 1874. *Goodson* v. *Richardson.* Water-pipes laid in soil of highway without consent of owner of soil—Injunction to restrain continuance of pipes granted, although no inconvenience or damage shown to arise to owner. (43 L. J., Ch., 790: L. R., 9 Ch. App., 221: 30 L. T., 142.)

1148. 1861. *Gwatkin* v. *Chepstow Water-works Co.* Private Act—Tariff of Charges—Construction of terms. (25 J. P., 180.)

1149. 1860. *Hildreth* v. *Adamson.* "Water-works Clauses Act, 1847," § 59: Local Act—Special charge for persons keeping horses—Held that a person who, to evade this charge, habitually took horses to a public Drinking Fountain, kept up for a limited purpose, ought to have been convicted by Justices. (30 L. J., M. C., 204: 8 C. B., (N. S.), 587: 2 L. T., 359.)

1150. 1878. *Leamington Corporation* v. *Oldham.* Contract for the supply to a town of filtered water—Neglect to filter some of the water so supplied—Action properly commenced, and defendants to pay the costs. (*Times*, February 22, 1878.)

1151. 1881. *Liskeard Union* v. *Liskeard Water-works Co.* Guardians held entitled to demand a supply of Water for their workhouse as for a "domestic use," the workhouse being a "house," and the officers and inmates a "family" within the special Act. (45 J. P., 436.)

1152. 1875. *Low* v. *Lambeth Water Co.* Bill to restrain the defendant Company from cutting off water used in a garden—Bill dismissed, the proper remedy being at Law, and watering a garden not a "domestic purpose." (*Times*, July 7, 1875.)

1153. 1877. *Metropolitan B. W.* v. *New River Co.* Special Act, 15 & 16 Vict., c. clx, § 41—Claim of Board to be supplied at statutory low rate with water for watering streets—Judgment for the Company. (37 L. T., 124: 41 J. P., 790.)

1154. 1875. *New River Co.* v. *Mather.* "Water-works Clauses Act, 1847," § 68: Special Act—Held that as the "annual value" was disputed, no Court had jurisdiction until 2 Justices had determined the value—Decision reversed. (44 L. J., M. C., 105: L. R., 10 C. P., 442: 32 L. T., 658: 39 J. P., 614.)

1155. 1861. *Purnell* v. *Wolverhampton Water-works Co.* Special Act antecedent to the "Water-works Clauses Act, 1847": Second Special Act—Water at high-pressure held not obligatory. (10 C. B., (N. S.), 576: 4 L. T., 513.)

1156. 1876. *Richmond Water Co. & Southwark Water Co.* v. *Richmond Vestry.* "Public Health Act, 1875," § 52—Failure of the Water Company of the district and transfer to an outside Company—Held that the first Company being unable, and the second Company not having Parliamentary authority to supply water, neither was entitled to the privilege accorded by § 52. (45 L. J., Ch. 441: L. R., 3 Ch. D., 82: 34 L. T., 480.)

1157. 1879. *Sheffield Water-works Proprietors* v. *Wilkinson.* "Water-works Clauses Act, 1847," § 74—Water cut off because late tenant in arrear—Proceedings by new tenant to compel the Company to make a new connection and resume supply—Judgment for Company, there being no such obligation on Company as the plaintiff contended—Held that Company had no right to refuse to allow the restoration of the connecting pipe and the supply of water till the bygone Rates were paid. (48 L. J., C. P., 145: L. R., 4 C. P. D., 410: 41 L. T., 254: 43 J. P., 703.)

WATER, POLLUTION OF.

(1.) BY GAS.

1158. 1860. *Hipkins* v. *Birmingham & Staffordshire Gas-light Co.* Special Act—"Suffer to flow"—Pollution of well by percolation of Gas washings—Company held liable, though such percolation was due to the working of a mine by strangers. (1 L. T., 303: affirmed; 30 L. J., Ex., 60: 6 H. & N., 250.)

1159. 1874. *Millington* v. *Griffiths.* Pollution of well by Gas Company—Where noxious matter percolates through soil from Gas-works, such percolation renders Gas owners liable to penalty prescribed by "Lighting Act, 1833," § 50—A well does not cease to be entitled to protection merely because out of use—Judgment for plaintiff. (30 L. T., 65.)

1160. 1863. **Parry* v. *Croydon Commercial Gas & Coke Co.* "Gas-works Clauses Act, 1847," § 21. (15 C. B., (N. S.), 568.) [Part of decision rendered nugatory by "Public Health Act, 1875," § 340.]

1161. 1834. *Rex* v. *Medley.* Pollution of River by Gas-washings—Indictment against the chairman and officers of a Company—Verdict of "Guilty" against several of the defendants. (6 C. & P., 292.)

(2.) BY SEWAGE.

1162. 1872. *Askew* v. *Ulverstone L. B.* Pollution of Stream by Sewage—Complaint not supported by the evidence—Injunction refused, without costs. (W. N., 1872, p. 81.)

1163. 1873. *A.-G.* v. *Aylesbury L. B. H.* Pollution of Stream by Sewage—Injunction granted and temporarily suspended. (*Times*, Dec. 18, 1873.)

1164. 1874. *A.-G.* v. *Barnsley, Mayor.* Pollution of River by Sewage—Offensive smells in hot weather—Case fully established—Injunction granted—*Per* James, L. J.: "There could be no prescriptive right to justify a public nuisance." (W. N., 1874, p. 37.)

1165. 1876. *A.-G.* v. *Basingstoke, Mayor.* Pollution of disused canal by Corporation sewage—Injunction granted, though Corporation derived no advantage from the practice which caused the nuisance. (45 L. J., Ch., 726: 24 W. R., 817.)

1166. 1871. *A.-G.* v. *Birmingham Council.* Nuisance—Sewage—Injunction granted, and considerable sustension of it refused because Council had been remiss in adopting remedial expedients. (4 K. & J., 528: 24 L. T., 224: 19 W. R., 561.)

1167. 1881. *A.-G.* v. *Birmingham, Mayor.* Decree made restraining the pollution of a stream by sewage, but its operation suspended for 5 years to permit remedial works—On a different Authority being created, with a different area, but clothed with the powers &c. of the Authority against which the Decree had been originally made, held, that the Bill could not be amended after final Decree by adding the new Authority as parties, and that the Decree could only be enforced by an Action brought for the purpose. (L. R., 15 Ch. D., 423: 43 L. T., 77.) A fresh Action having been brought (*nom. A.-G.* v. *Birmingham, Tame, & Rea Drainage Board*) a demurrer was allowed, the proper remedy being an entirely fresh Action on fresh proof of nuisance—§ 275 of the "Public Health Act 1875" only relates to obligations under the Act, and does not extend to independent proceedings or Decrees or Orders made thereunder—The Injunction granted in the original suit would not run with the land so as to affect a transferee or purchaser. (L. R., 17 Ch. D., 685: 44 L. T. 906.)

1168. 1872. *A.-G.* v. *Castleford L. B.* Suit to restrain pollution of River—Proof of plaintiff's title—Practice—Affidavits as to documents. (27 L. T., 644: 21 W. R., 117.)

1169. 1874. *A.-G.* v. *Cockermouth L. B.* Information by the Attorney-General and Bill by one Local Board against another—Pollution of river by sewage—Bill dismissed, the evidence of nuisance being insufficient, but Injunction granted on the information, on ground of infringement of 24 & 25 Vict., c. 61 [="Public Health Act, 1875," §§ 16-17]. (44 L. J., Ch. 118: L. R., 18 Eq., 172: 30 L. T., 590: 38 J. P., 660.)

1170. 1868. *A.-G.* v. *Colney Hatch Lunatic Asylum.* Nuisance from overflow of sewage—Principles on which the Court will proceed when applied to for an Injunction—If a public Body with Statutory Powers for a particular object exercises its Powers so as to injure property it is responsible for the injury unless the act done was absolutely necessary to carry out the Statutory duty. (38 L. J., Ch. 265: L. R., 4 Ch. App., 146: 19 L. T., 708.)

1171. 1875. *A.-G.* v. *Darlington, Mayor.* Pollution of river by refuse from sewage deodorisation works—Injunction granted. (*Times*, March 24, 1875.) Extension of time allowed. (*Times*, Nov. 26, 1875.) Further extension allowed. (*Times*, May 26, 1876.)

1172. 1881. *A.-G.* v. *Dorking Union.* Pollution of Watercourse by town Sewage flowing through certain Sewers made by a Highway Board—Neglect of Sanitary Authority to provide drainage not a ground of Action by an individual for damages or an Injunction—Remedy *Mandamus*—*Glossop* v. *Heston L. B.* followed. (*Times*, Jan. 25, 1881.) Subsequently, on a Local Board being established for the District, and an Appeal against the above decision being lodged, an application was made to the Court that the Local Board should be added as defendants—Application refused—New proceedings must be taken if desired—*A.-G.* v. *Birmingham, Mayor*, followed. (*Times*, May 26, 1881.)

1173. 1870. *A.-G.* v. *Gee.* Nuisance—Pollution of Stream by Sewage—Injury trifling—Injunction refused—Consideration of circumstances under which the Court will interfere. (L. R., 10 Eq., 131: 23 L. T., 299: 34 J. P., 596.)

1174. 1875. *A.-G.* v. *Hackney B. W.* Pollution of watercourse by sewage—Defence that the watercourse was a sewer held bad—Injunction. (44 L. J., Ch., 545: L. R., 20 Eq., 626: 33 L. T., 245.)

1175. 1869. *A.-G.* v. *Halifax Corporation.* Nuisance—Pollution of Stream—Injunction granted. (39 L. J., Ch., 129: 21 L. T., 52: [Costs] L. R., 12 Eq., 262.) [It was intimated by the Court in *N. S. R.* v. *Tunstall* that the Order here made would be treated as a "Model Order."]

1176. 1865. *A.-G.* v. *Kingston-on-Thames, Mayor.* Nuisance by discharge of Sewage into a river—Information dismissed without prejudice to a future application. (34 L. J., Ch., 481 (*bis*): 12 L. T., 665: 29 J. P., 515.)

1177. 1870. *A.-G.* v. *Leeds, Mayor.* Local Act—Pollution of river by sewage—If a nuisance is proved the relators must be protected whatever may be the consequences—Injunction granted. (39 L. J., Ch., 254: L. R., 5 Ch. App., 583: 22 L. T., 330.)

1178. 1856. *A.-G.* v. *Luton L. B. H.* Pollution of River—Increase of population no answer—Injunction granted. (27 L. T., (o. s.), 212: 20 J. P., 163.)

1179. 1863. *A.-G.* v. *Metropolitan B. W.* Pollution of River—Statutory powers—Modified Injunction granted—General remarks on the dealings of public Bodies with individuals affected, as regards courtesy in correspondence, &c.—(1 H. & M., 298: 9 L. T., 139.)

1180. 1875. *A.-G.* v. *Newcastle-under-Lyne Corporation.* Non-compliance with an Injunction issued 16 years previously to stop flow of sewage—Sequestration issued. (*Times*, Dec. 10, 1875.)

1181. 1866. *A.-G.* v. *Richmond.* "Nuisances Removal Acts" [Repealed]—Highway Board the Local Authority—Pollution of a brook—Injunction granted. (35 L. J., Ch., 597: L. R., 2 Eq., 306: 14 L. T., 398: 30 J. P., 708.)

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1188. 1864. *Cator* v. *Lewisham B. W.* Pollution of Stream by new system of Sewers—Action for Nuisance held maintainable—No remedy by compensation. (34 L. J., Q. B., 74: 5 B. & S., 115: 13 L. T., 212.)

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1192. 1866. *Goldsmid* v. *Tunbridge Wells Improvement Commissioners.* Nuisance—Sewage—A prospective nuisance is not in itself a ground for interference, but if some present nuisance exists the Court will consider its probable increase; a prescriptive right to pollute a stream can only be acquired by the continuance of a perceptible amount of injury for 20 years—*Per* Turner, L. J.:—"It is not in every case of Nuisance that the Court will interfere. I think it ought not to do so where the injury is merely temporary and trifling." (35 L. J., Ch., 382: L. R., 1 Ch. App., 349: 14 L. T., 154: 30 J. P., 419.)

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1196. 1877. *Londonderry (Marquis of,)* v. *Rhoswydol Lead Mining Co.* Fish poisoned by refuse from Lead Works—Injunction granted. (*Times*, Aug. 3, 1877.)

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1231. 1881. *Leadgate L. B.* v. *Bland.* Public pond, naturally formed, used from time immemorial for watering cattle by any body who liked to use it—Wall erected by Board to protect one side of pond—Wall partly pulled down by adjacent landowner to give him access to pond on that side—Action for damages for the Trespass—Held that the pond was vested in the Board under the "Public Health Act, 1875," § 64—*Per* Kay, J. :—"The purpose of the Act was undoubtedly to enable the Local Board to take the management and control of the water supply of the village or district, and to improve it; to make it pure if impure, and to maintain it and prevent it being made impure. That being the purpose of the Section, he thought it wrong to say that it should only apply to artificial reservoirs. He therefore held that a natural reservoir if used from time immemorial for public purposes, came within the section." Verdict for plaintiffs for 40*s.*, with Injunction to restrain defendant from interfering with any part of the wall. (At *Nisi Prius* : Durham Assizes, July 1881.) (45 J. P., 526.)

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1235. 1861. *Medway Navigation Co.* v. *Romney (Earl of).* Company held entitled to sue persons, who, not being Riparian proprietors, abstracted water which the special Act vested in the Company. (30 L. J., C. P., 236 : 9 C. B., (N. S.), 575 : 4 L. T., 87.)

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1241. 1867. *Norbury (Earl of)* v. *Kitchin.* (3.) An obstruction to a Stream will be enjoined against at the suit of a Riparian owner irrespective of actual damage. (15 L. T., 501.)

1242. 1866. *Nuttall* v. *Bracewell.* Watercourse —Abstraction of Water—General principles—Action held maintainable. (36 L. J., Ex., 1 : L. R., 2 Ex., 2 : 4 H. & C., 714 : 15 L. T., 313 : 31 J. P., 8.)

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1244. 1855. *Rawstron* v. *Taylor.* Right to Surface Water—Diversion—A landowner has an unqualified right to drain his own land, even to the detriment of a neighbour who otherwise would have derived benefit from the water finding its own course. (25 L. J., Ex., 33 : 11 Ex., 369.)

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1246. 1863. *Reg.* v. *Metropolitan Board of Works.* Construction of Sewer resulting in the abstraction of underground water from plaintiff's ponds—No Right to compensation, the damage occurring underground. (32 L. J., Q. B., 105 : 3 B. & S., 710 : 8 L. T., 238.)

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1249. 1880. *Smith* v. *Archibald.* "Public Health (Scotland) Act, 1867," § 89, subs. 4—Right of Local Authority as representing the inhabitants to repair a public well situated on private ground, and to erect a pump, held established. (L. R., 5 App. Cas., 489: 28 W. R. Dig., col. 136.)

1250. 1862. *Stockport Water-works Co.* v. *Manchester, Mayor.* Rival Water Companies—A suit by one rival Company against another alleging proceedings *ultra vires* will not be entertained if the plaintiffs show no private injury. (7 L. T., 545: 9 Jur., (N. S.), 266.)

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*** This Index deals with the Cases scattered here and there throughout this volume which, though they are cited, have only an incidental bearing on the general subject of the work. These Cases may be recognised by the fact that full references to the Reports are appended to them. But certain cases relating to Rates are omitted here for the reason mentioned in Note (*a*), page 89.

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General Index.

Some difficulty has been experienced in determining the best form of Index for a Book so complicated in its contents as this.

Part I. is itself, in effect, an Index to the Four Parts which follow, and the problem to be solved was to frame an alphabetical Index which should be useful to the reader and not mystify him by a multiplicity of details.

Considering that the pivot of the whole volume is the "Public Health Act, 1875," that Act has been indexed by Sections, and where the first entry in a line is preceded by a "§" or the word "Sched." the entry in question refers, in particular, to the "Public Health Act, 1875."

Next follow in numerical sequence (but separated by a semi-colon and a wide interval of space) figures indicating the pages running through Parts I., II., III., and IV., where the subject of the entry may again be met with. It follows from this that the "Public Health Act" is indexed three times over. The labour which this has involved will it is hoped be appreciated by the Reader. The colon, where there is one, *precedes* a reference to some Section of an Act which is incorporated by the "Public Health Act, 1875."

Part V., the "Digest of Cases" is not dealt with here, there being two separate Indexes to that Part. (See *ante*).

The few Cases cited in various Parts, but not themselves digested in Part V., are brought together in a special Index by themselves. These Cases are few in number and most of them will be found "digested" in one or other of the companion volumes.

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