The Public Health (London) Act, 1891 : with an introduction notes, and an index / by E. Lewis Thomas.

Contributors

Great Britain.
Thomas, E. Lewis.

Publication/Creation

London : Knight, 1891.

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THE

PUBLIC HEALTH (LONDON) ACT, 1891,

WITH FULL EXPLANATORY NOTES

COMPARATIVE TABLES OF SECTIONS OF REPEALED ACTS AND EXISTING ENACTMENTS,

AN

APPENDIX

CONTAINING THE ENACTMENTS APPLIED AND THE ORDERS AND MODEL BYE-LAWS OF THE LOCAL GOVERNMENT BOARD

AND A

COPIOUS INDEX

10/6

BY

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OF LINCOLN'S INN AND THE MIDLAND CIRCUIT, BARRISTER-AT-LAW.

LONDON:
KNIGHT AND CO., 90, FLEET STREET.
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PREFACE.

THE Public Health (London) Act, 1891, which received the Royal Assent, on the 5th August, 1891, provides for London a Sanitary Code similar to that which in 1875 was provided for the rest of England and Wales by the provisions of the Public Health Act, 1875. Since the year 1875, several attempts have been made to codify the Sanitary Enactments in force in London; in 1877, a Bill with that object was introduced into the House of Commons by Lord Basing (then Mr. Sclater-Booth), the President of the Local Government Board; a similar Bill was introduced into the House of Lords in 1885 by the Marquis of Salisbury. Both these attempts to deal with the matter were unsuccessful, and it was not until 1891 that there was accomplished for sanitary administration in London what had been done sixteen years before for the remainder of the country.

The Public Health (London) Act, 1891, is not only a codifying Act, but also an amending Act. It is the result of the consolidation, by the Standing Committee on Law, of two Bills introduced into the House of Commons by Mr. Ritchie, the President of the Local Government Board. The first Bill was a Bill to amend the law as it then was, the second Bill was to codify and consolidate the then existing enactments. The second Bill repealed and re-enacted more than thirty Acts, or portions of Acts, which applied to London, and which were variously known as the Nuisances Removal Acts, the Sanitary Acts, the Metropolis

Management Acts, the Police Acts, Smoke Acts, Michael Angelo Taylor's Act, &c.

The Act applies to the whole of the Administrative County of London, as defined by the Local Government Act, 1888, the City of London being in the same position as other sanitary districts within the Metropolis, except in some few instances (as appeals to the County Council, and the intervention of the County Council in the case of non-performance of its duty by a Sanitary Authority). In the case of Woolwich, in which the Sanitary Authority is the Local Board of Health, the old Public Health Acts (although repealed generally) still applied; these are now repealed entirely, and certain necessary provisions of the Public Health Act, 1875, are extended to Woolwich, and the sanitary provisions of the Metropolis Management Act, 1855, which are repealed by and re-enacted in the Public Health (London) Act, 1891, are extended by the latter Act to Woolwich.

The only Acts of a sanitary nature, besides the Housing of the Working Classes Act, 1890, which applied to London, and are not dealt with in the Public Health (London) Act, 1891, are the Common Lodging Houses Acts, 1851 and 1853.

The various amendments in the law effected by the Act, are pointed out in the notes to the several sections where they occur. The principal alterations are the express declaration in the Act of the duty of the Sanitary Authority to enforce the law in their district; the assimilation of procedure for the abatement, &c. of nuisances to the procedure under the Metropolis Management Act, 1885, thus enabling legal proceedings for neglect of the Sanitary Authority's notices and orders to be more speedily taken, and a fine to be imposed for such neglect; the power to make bye-laws for various purposes; the transfer (from the owner or occupier of the adjacent premises) to the Sanitary Authority of the duty of keeping side walks cleaned.

The plan of giving the notes to each section of the

Act immediately following the words of the section has been adopted, as the one which experience has shown to be the most convenient. The section has, in each case, been printed in its entirety, and the notes have not been interspersed after the various sub-sections, as it often occurs that in such arrangement, in reading a note to a sub-section, the reader forgets the remaining sub-sections of the section, and is under the impression that the whole section has been read, or fails to note that the various sub-sections are governed or limited by the introductory words at the beginning of the section.

A comparative table of the repealed enactments, and the sections of the Public Health Act, 1875, which correspond to the various sections of the Public Health (London) Act, 1891, has been prepared, which it is hoped will be found useful to those engaged in the administration of the Act, who, having become familiar with the sections of the repealed Acts, will be enabled readily to find the similar provisions in the existing Act.

The index, which has been prepared by Mr. Ernest Gardner, Barrister-at-Law, of Lincoln's Inn, will be found most exhaustive, and serve as a ready means of reference to the provisions of the Act. In the table of cases cited are given references to all the reports, where such cases will be found reported; this plan has been adopted to avoid repeating each time a case is cited in the text all the references to the case.

I have to thank my friend, Mr. Walter C. Ryde, Barrister-at-Law, for undertaking the labour of revising the proof sheets, and for many valuable suggestions while the book was passing through the press.

E. LEWIS THOMAS.

4, ELM COURT,
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CONTENTS.

PAGE

PREFACE v

COMPARATIVE TABLE OF SECTIONS OF ACTS REPEALED, AND OF THE "PUBLIC HEALTH ACT, 1875," CORRESPONDING TO SECTION OF THE "PUBLIC HEALTH (LONDON) ACT, 1891" xvii

CASES CITED xxv

STATUTES CITED xxxv

THE PUBLIC HEALTH (LONDON) ACT, 1891.

SECTION

1. Sanitary Authority to inspect District for detection of Nuisances. 1

NUISANCES (GENERAL).

2. What Nuisances may be abated summarily. 2
3. Information of Nuisances to Sanitary Authority 14
4. Notice requiring abatement of Nuisance 14
5. On non-compliance with Notice, Order to be made . . . 21
6. Provision as to Appeal against Order 24
7. Provision in case of Two Convictions for Overcrowding . . 26
8. In certain Cases Order may be addressed to Sanitary Authority . 27
9. Power to sell Manure, &c. 27
10. Power of Entry 28
11. Costs of Execution of Provisions relating to Nuisances . . 29
12. Power of Individual to complain to Justice of Nuisance . . 32
13. Proceedings in High Court for abatement of Nuisances . . 33
14. Power to proceed where cause of Nuisance arises without District 34
15. Penalty for injuring Closet, &c., so as to cause a Nuisance . . 35

PENALTIES IN RESPECT OF PARTICULAR NUISANCES.

16. Bye-Laws by Sanitary Authority and County Council as to Cleansing Streets and Prevention of Nuisances 36
17. Penalty for keeping Swine in Unfit Place 40
18. Power to prohibit keeping of Animals in Unfit Place . . . 40

OFFENSIVE TRADES.

SECTION PAGE
19. Prohibition and Regulation of Establishing anew certain Offensive Businesses, and Bye-Laws as to Offensive Businesses . . 41
20. Licensing of Cow-houses and Slaughter-houses 45
21. Duty of Sanitary Authority to complain to Justice of Nuisance arising from Offensive Trade 48
22. Provision as to Nuisance created by Sanitary Authority in dealing with Refuse 50

SMOKE CONSUMPTION.

23. Furnaces and Steam Vessels to Consume their own Smoke . 52
24. Summary Proceedings for abatement of Nuisance caused by Smoke 54

WORKSHOPS AND BAKEHOUSES.

25. Limewashing and Washing of Workshops 56
26. Enactments respecting Bakehouses 57
27. Notice to Factory Inspector respecting Child or Woman in Workshop 58

DAIRIES.

28. Orders and Regulations for Dairies 58

REMOVAL OF REFUSE.

29. Duty of Sanitary Authority to Clean Streets 60
30. Removal of House Refuse 62
31. Sanitary Authority to appoint Scavengers 63
32. Disposal of Refuse 64
33. Owners, &c., to pay for Removal of Refuse of Trades . . 64
34. Provision on neglect of Scavengers to remove Dust . . . 66
35. Removal of Filth on Requisition of Sanitary Inspector . . 67
36. Removal of Refuse from Stables, Cow-houses, &c. . . . 68

REGULATIONS AS TO WATER-CLOSETS, &C.

37. Obligation to provide Water-Closets, &c. 69
38. Sanitary Conveniences for Manufactories, &c. 72
39. Bye-Laws as to Water-Closets, &c. 73
40. Power for Sanitary Authority to authorize Examination of Water-Closets, &c. 74
41. Penalty on Persons improperly Making or Altering Water-Closets, &c. 75
42. Improper Construction or Repair of Water-Closet or Drain . 77
43. Sanitary Authority to cause Offensive Ditches, Drains, &c., to be Cleansed or Covered 78
44. Power to Sanitary Authority to provide Public Conveniences . 80
45. Regulations as to Public Sanitary Conveniences 84
46. Sanitary Conveniences used in Common 85

UNSOUND FOOD.

SECTION PAGE
47. Inspection and Destruction of Unsound Meat, &c. 86

PROVISIONS AS TO WATER.

48. Provisions as to House without Proper Water Supply . . 91
49. Notice to Sanitary Authority of Water Supply being Cut Off . 92
50. Cleansing of Cisterns 93
51. Power of Sanitary Authority as to Public Fountains . . . 94
52. Penalty for causing Water to be Corrupted by Gas Washings . 95
53. Penalty for Fouling Water 96
54. Power to close Polluted Wells, &c. 97

INFECTIOUS DISEASES.—NOTIFICATION.

55. Notification of Infectious Disease 97
56. Power of Sanitary Authority to add to Number of Infectious Diseases of which Notification is required 101
57. Non-Disqualification of Medical Officer by Receipt of Fees . 102

INFECTIOUS DISEASES.—PREVENTION.

58. Application of Special Provisions to Certain Infectious Diseases 102
59. Provision of Means for Disinfecting of Bedding, &c. . . 103
60. Cleansing and Disinfecting of Premises, &c. 104
61. Disinfection of Bedding, &c. 107
62. Infectious Rubbish thrown into Ashpits, &c., to be Disinfected. 107
63. Penalty on Letting Houses in which Infected Persons have been Lodging 108
64. Penalty on Persons Letting Houses making False Statements as to Infectious Disease 109
65. Penalty on ceasing to Occupy House without Disinfection or Notice to Owner, or making False Answer 110
66. Removal to Hospital of Infected Persons without Proper Lodging 111
67. Detention of Infected Person without Proper Lodging in Hospital 112
68. Penalty on Exposure of Infected Persons and Things . . 113
69. Prohibition on Infected Person carrying on Business . . . 114
70. Prohibition on Conveyance of Infected Person in Public Conveyance 115
71. Inspection of Dairies, and Power to Prohibit Supply of Milk . 116
72. Prohibition of Retention of Dead Body in certain Cases . . 118
73. Body of Person dying of Infectious Disease in Hospital, &c., to be removed only for Burial 119
74. Disinfection of Public Conveyances if used for carrying Corpses 120

HOSPITALS AND AMBULANCES.

75. Power of Sanitary Authority to provide Hospitals . . . 121
76. Recovery of Cost of Maintenance of Non-Infectious Patient in Hospital 122
77. Power to provide Temporary Suppy of Medicine . . . 123
78. Provision of Conveyance for Infected Persons 123

SECTION PAGE

79. Power for Metropolitan Asylum Board to provide Landing-Places, Vessels, Ambulances, &c. 124
80. Reception of Non-Pauper Fever and Small-Pox Patients into Hospital in Metropolitan District. 125
81. Reception into Hospital in Metropolitan District of Child from School outside London 126

PREVENTION OF EPIDEMIC DISEASES.

82. Sanitary Authority to execute Epidemic Regulations . . 127
83. Poor-Law Medical Officers entitled to Costs of Attendance on board Vessels 128
84. Local Government Board may combine Sanitary Authorities . 129
85. Metropolitan Asylum Managers a Sanitary Authority for Prevention of Epidemic Diseases 129
86. Power to Let Hospitals, &c. 130
87. Repayment to Sanitary Authorities of certain Expenses . . 130

MORTUARIES, &C.

88. Power of Local Authority to provide Mortuaries . . . 131
89. Power of Justice in certain Cases to Order removal of Dead Body to Mortuary 132
90. Power of Sanitary Authority to provide Places for Post-Mortem Examinations 134
91. Power to Sanitary Authority to unite for providing Mortuary . 134
92. Place for holding Inquests 135
93. Mortuary for unidentified Bodies 135

BYE-LAWS AS TO HOUSES LET IN LODGINGS.

94. Power of Sanitary Authority to make Bye-Laws as to Lodging-Houses 136

TENTS AND VANS.

95. Tents and Vans used for Human Habitation 141

UNDERGROUND ROOMS.

96. Provisions as to the Occupation of Underground Rooms as Dwellings 142
97. Enforcement of Provisions as to Underground Rooms . . 146
98. Provision in Case of Two Convictions for Unlawfully Occupying Underground Room 147

AUTHORITIES FOR EXECUTION OF ACT.

99. Definition of Sanitary Authority 147
100. Power of County Council to Prosecute on Default of Sanitary Authority 149
101. Proceedings on Complaint to Local Government Board of default of Sanitary Authority 150

SECTION PAGE
102. Application of Public Health Acts to Woolwich . . . 153
103. Expenses of Execution of Act 154
104. Expenses of Metropolitan Asylum Board 155
105. Power of Vestries and District Boards to Borrow . . . 156
106. Appointment of Medical Officers of Health 158
107. Appointment of Sanitary Inspectors 160
108. Provisions as to Medical Officers and Sanitary Inspectors . 162
109. Temporary Arrangement for Duties of Medical Officer or Sanitary Inspector 165
110. Jurisdiction as to Ships 166

PORT SANITARY AUTHORITY OF PORT OF LONDON.

111. Port Sanitary Authority of Port of London 167
112. Powers of Port Sanitary Authority of Port of London . . 168

APPLICATION OF PUBLIC HEALTH ACTS AS TO CHOLERA, &C.

113. Powers of Local Government Board as to Epidemic Diseases . 169

BYE-LAWS.

114. Bye-Laws 170

LEGAL PROCEEDINGS.

115. General Provisions as to Powers of Entry 171
116. Penalty on Obstructing Execution of Act 174
117. Summary Proceedings for Offences, Expenses, &c. . . . 175
118. Evidence by Defendant 177
119. Application of Fines and Disposal of Things Forfeited . . 177
120. Proceedings in certain Cases against Nuisances . . . 178
121. Recovery of Expenses by Sanitary Authority from Owner or Occupier 180
122. Justice to Act though Member of Sanitary Authority or liable to Contribute 181
123. Appearance of Sanitary Authority in Legal Proceedings . . 184
124. Protection of Sanitary Authority and their Officers from personal Liability 184

APPEAL.

125. Appeal to Quarter Sessions 185
126. Provisions as to Appeals to County Council 188

NOTICES.

127. Authentication of Notices, &c. 189
128. Service of Notices 190

MISCELLANEOUS PROVISIONS.

129. Inquiries by Local Government Board 191
130. Forms 191

SECTION PAGE

131. Provision for Apportionment of certain Expenses between Hamlet of Penge and remainder of Lewisham District . . 191
132. Extent of Act 192

CITY OF LONDON.

133. Application of Act to City 193
134. Power of City Police to Proceed in certain Cases against Nuisances 194
135. Proceedings on Complaint to Local Government Board of Default of Commissioners of Sewers 195

SAVING CLAUSES.

136. Saving for Water Rights 197
137. Saving for Thames Conservators 199
138. Powers of Act to be Cumulative 200

TEMPORARY PROVISIONS.

139. Existing Officers 200
140. Term of Office of existing Members of Woolwich Board . 202

INTERPRETATION.

141. Interpretation of Terms 202

REPEAL.

142. Repeal of Enactments in Schedule 208
143. Commencement of Act 211
144. Short Title 211

SCHEDULES.

I. Enactments Applied 213
II. Provisions of Public Health Acts extended to Woolwich . . 220
III. Forms 223
IV. Enactments Repealed 227

APPENDIX.

The Metropolis Local Management Act, 1855 233
Schedules 245
The Lands Clauses Consolidation Act, 1845, ss. 25–37 . . . 248
The Lands Clauses Consolidation Act, 1869 250
The Local Government Act, 1888, ss. 17, 19 251
The Sanitary Act, 1866, ss. 51, 52 252
The Public Health Act, 1872, ss. 34–36 253
The Factory and Workshop Act, 1878 254

PAGE

The Factory and Workshop Act, 1883, ss. 15–18 264
The Factory and Workshop Act, 1891 266
Dairies, Cowsheds and Milk-shops Order, 1885 271
Dairies, Cowsheds and Milk-shops Amending Order, 1886 . . 278
Regulations as to Medical Officers of Health 284
Precautions against Cholera, 1885 292
Cholera Regulations for Ports, 1890 298
Model Bye-laws for Houses Let in Lodgings 303
Model Byelaws for Mortuaries 319

INDEX 327

COMPARATIVE TABLE OF SECTIONS OF ACTS REPEALED, AND OF THE "PUBLIC HEALTH ACT, 1875," CORRESPONDING TO SECTIONS OF THE "PUBLIC HEALTH (LONDON) ACT, 1891."

Sections of former Acts repealed.	Section of Public Health (London) Act, 1891.	Remarks.	Section of Public Health Act, 1875.
(Slaughter Houses) 26 Geo. 3 c. 71	20.		
(M. A. Taylor's Act.)		... ...	
57 Geo. 3. c. xxix. s. 57	41.		41.
59	29, 30, 31, 32.		
60, 61	34.		
63	29.	Repealed by 1891 Act	
64	16.	... ...	44.
67	17–19, 21.		
68	17.	... ...	47.
73, 74	16.	... ...	44.
(Metropolitan Police Act.) 2 & 3 Vict. c. 47. s. 60	16, 17, 29.	... ..	47.
(Slaughter Houses) 7 & 8 Vict. c. 87	20.		
(Smoke.) 16 & 17 Vict. c. 128. ss. 1–6	23.		
(Diseases Prevention.)			
18 & 19 Vict. c. 116. s. 1	...	Short title.	
4	82.	... ...	137.
5, 6, 7	113.	... ...	134, 135.
8, 9	82.	... ...	136.
10	...	Omitted, on precedent of Public Health Act, 1875	
11	113.	... ...	134.
12	83.	... ...	138.
14	113.	... ...	140.
15	117, 127, 128.		
(Metropolis Management, 1855.)			
18 & 19 Vict. c. 120. s. 81	37.	... ...	35–38.
82	40.	... ...	40, 41.
83	41.	... ...	41.
84	40.	... ...	40, 41.

Sections of former Acts repealed.	Section of Public Health (London) Act, 1891.	Remarks.	Section of Public Health Act, 1875.
(Metropolis Management, 1855.)			
18&19 Vict. c. 120. s. 85	41	... ...	41
86	43.		
88	44.	... ...	39.
103	96.	... ...	71-74.
104	97.		
116	51.	... ...	64.
117	29.		
125	31, 29.		
126	116.		
127	32.		
128, 129	33.		
132	106, 108, 139.		
133	107, 108, 139.		
134	99		
198	106.		
202	16.	... ...	44.
211	37, 41, 43, 126.	... ...	35–38, 41.
(Nuisances Removal, 1855.)			
18 & 19 Vict. c. 121. s. 1	...	Repeal of former Acts.	
2	141.		
4	...	Inapplicable.	
5	99, 123.	... ...	200.
8	2.	... ...	91.
10	3.	... ...	93.
11	10, 40, 115.	... ...	40, 41, 102.
12, 13, 14	5.	... ...	95–98.
15, 16	6, 125.	... ...	99.
17	8.	... ...	100.
18	9.	... ...	101.
19	11.	... ...	104.
20	117.		
21, 22	43.		
23–25	52.	... ...	68.
27	21.	... ...	114.
28	...	Omitted, on precedent of Public Health Act, 1875.	
29	4.	... ...	
30	13, 21.	... ...	107, 114.
31	128.		267.
32	127.	... ...	266
33–35	120.	... ...	255.
36	115, 116.	... ...	103, 306.
37	116.		306.
38	117, 119.	... ...	
39	...	Unnecessary.	255, 262.
40	125.	... ...	269.
41	130.		317.
42	124.	... ...	265.
43	138.	... ...	341.
44, 45	136.	... ...	332, 334.
46	...	Short title	

Sections of former Acts repealed.	Section of Public Health (London) Act, 1891.	Remarks.	Section of Public Health Act, 1875.
(Smoke Abatement.)			
19 & 20 Vict. c. 107. ss. 1–3	23.		
(Nuisances Removal and Diseases Prevention.)			
23 & 24 Vict. c. 77. s. 1	...	Repeal of former enactments.	
2	99.		
4	103.		
5	99.		
6	99, 103.		
7	51.	... ...	64.
8	53.		
9	107, 108.		
10	...	Repeal of certain enactments.	
11	99, 103.		
12	78.	... ...	
13	12.	... ...	123.
14	...	Omitted.	105.
15	141.	Interpretation.	
(Metropolis Management.)			
25 & 26 Vict. c. 102. s. 43	106.		
62	96, 97.	... ...	71–74.
64	37. 41, 43.	... ...	35–38, 41
67	48.		
70	51.	... ...	64.
89	34.		
91	17, 18.	... ...	47.
93, 94	20.		
95	36	... ...	50
105	119.		
(Nuisance Removal.)			
26 & 27 Vict. c. 117. s. 2	47.	... ...	116, 117.
3	115.	... ...	118.
4, 5	...	Construction and short title of Act.	
(Nuisance Removal.)			
29 & 30 Vict. c. 41. s. 2	122.		
3	...	Short title.	258.
(Sanitary.)			
29 & 30 Vict. c. 90. ss. 1–13	...	These sections did not apply to London.	
14	...	Interpretation and Construction of Act.	
15	99		
15, 16	100, 134.	... ...	106.
17	99.		
18	21.	... ...	114.
19	2, 24.	... ...	91.

Sections of former Acts repealed.	Section of Public Health (London) Act, 1891.	Remarks.	Section of Public Health Act, 1875.
(Sanitary.)			
29 & 30 Vict. c. 90. s. 20	1, 10, 23.	... ...	92, 102.
21	4.	... ...	94.
23	59, 61.	... ...	122.
24	78.	... ...	123.
25	70, 74.	... ...	126, 127.
26	66.	... ...	124.
27	88, 89.	... ...	141, 142.
28	90.	... ...	143.
29	66, 67.	... ...	125.
30	110.	... ...	110.
31	10.	... ...	102.
32	110.	... ...	110.
33	...	Did not apply to London.	104.
34	121.	... ...	90.
35	94.	... ...	75, 109.
36	7, 98.	... ...	131.
37	75.	... ...	126, 127.
38	68, 70, 74.	... ...	128.
39	63.	... ...	139.
40	84.	... ...	
42–44	...	These sections did not apply to London.	
45	116.	... ...	307.
46, 47	...	These sections did not apply to London.	
48	123.	... ...	259.
49	101, 135.	... ...	299.
50	...	Did not apply to London.	
51	142.	... ...	Sch. v. Pt. iii.
52	113, 142.	... ...	Sch. v. Pt. iii.
53	36.	... ...	50.
54	117.		
55	138.	... ...	341.
(Sanitary.)			
31 & 32 Vict. c. 115. ss. 1, 2	...	Short title and extent of Act.	
3–7	...	These sections did not apply to London.	
8	101, 135.	... ...	300.
9	...	Unnecessary.	
10	77.	... ...	133.
11	...	Interpretation.	
(Sanitary Loans.)			
32 & 33 Vict. c. 100. ss. 1–3	...	Short title, extent, and intepretation.	
4–10	101, 135.	... ...	294, 299, 301, 302.
(Sanitary.)			
33 & 34 Vict. c. 53. s. 1	...	Short title.	
2	66.		
3, 4	...	Inapplicable.	

Sections of former Acts repealed.	Section of Public Health (London) Act, 1891.	Remarks.	Section of Public Health Act, 1875.
(Public Health.)			
35 & 36 Vict. c. 79. ss. 1, 2	...	Short title and extent of Act.	
3–19	...	Repealed, except as to Woolwich.	
20	111, 112.	... ..	287, 289, 291, 325.
21–50	...	Repealed, except as to Woolwich.	
51	59-61.	... ...	121.
52	113.	... ...	130.
53–58	...	Repealed, except as to Woolwich.	
59	...	Unnecessary.	
60	141.	Definitions.	
(Slaughter-houses.)			
37 & 38 Vict. c. 67. s. 1	...	Short title.	
2–4	19.		
5	19, 117.		
6	125.		
7, 8	114.		
9	19.		
10	20.		
12	19, 141.		
13	19.		
15	...	Continuance of existing bye-laws.	
16	19.		
17	138.		
(Sanitary.)			
37 & 38 Vict. c. 89. ss. 1–18	...	Repealed, except as to Woolwich.	
19	100, 134.	... ...	106.
20	102, 135.	... ...	299.
21–46	...	Repealed, except as to Woolwich.	
47	94.	... ...	90.
48, 49	...	Repealed, except as to Woolwich.	
50	54.	... ...	61.
51	66.	... ...	124.
52	59–61, 113.	... ...	130.
53	12.	... ...	105.
54	47.	... ...	116, 117.
37 & 38 Vict. c. 89. s. 55	115.	... ...	119.
56	64.	... ...	129.
57–59	...	Interpretation, extent, and short title.	
(Public Health.)			
38 & 39 Vict. c. 55. s. 108	14.		
115	21.		
291	111.		
(Contagious Diseases, Animals.)			
41 & 42 Vict. c. 74, s. 34.	28.		

Sections of former Acts repealed.	Section of Public Health (London) Act.	Remarks.	Section of Public Health Act, 1875.
(Poor Law, 1879.)			
42 & 43 Vict. c. 54. s. 15.	76.		
16	79, 104.		
(Diseases Prevention.)			
46 & 47 Vict. c. 35. s. 1	...	Short title.	
2	85.		
3	86.		
4	87, 104.		
5	105.		
6	79.		
7	80.		
8	112.		
9	...	Unnecessary.	
10, 12	85.		
13	...	Duration of Act.	
(Factory and Workshop.)			
46 & 47 Vict. c. 53, s. 17 (1)	26.		
17 (2)	27.		
(Metropolitan Asylum.)			
47 & 48 Vict. c. 60. s. 1	...	Short title.	
2	104.		
(Housing Working Classes.)			
48 & 49 Vict. c. 72. s. 7	1.		
9	95, 115.		
(Contagious Disease, Animals.)			
49 & 50 Vict. c. 32, s. 9.	28.		
(Local Government Act, 1888. Public Health.)			
51 & 52 Vict. c. 41. s. 45.	20.		
88	106, 108, 109, 139.		
(Poor Law Act, 1889.)			
52 & 53 Vict. c. 56. s. 3	80.		
6	79.		
7	104.		
(Sanitary.)			
52 & 53 Vict. c. 64. s. 1, 2	113.		
(Notification of Disease.)			
52 & 53 Vict. c. 72. s. 2	55, 56, 57.		
7	56.		
10	55.		
11	57.		
12	99, 100, 102, 134.		
13	55, 90.		
16	99.		

Sections of former Acts repealed.	Section of Public Health (London) Act, 1891.	Remarks.	Section of Public Health Act, 1875.
(Infectious Disease.)			
53 & 54 Vict. c. 34. ss. 2, 3, 5	58, 60–62, 65, 67, 71–74, 89.		
6	61.		
7	65.		
8	72.		
9	73.		
10	89.		
11	74.		
12	67.		
13, 14	62.		
16	71, 89, 116.		
4, 18, 24	71, 119.		
(County Council.)			
53 & 54 Vict. c. ccxliii. s. 22	93.		
24	105.		

CASES CITED.

PAGE

Acton (Local Board for) *v.* Lewsey (1886), 11 App. Cas. 93; 55 L.J. Q.B. 404; 54 L.T. 657; 34 W.R. 745; 50 J.P. 708 . 19
Adamson, Hildreth *v.* 95
Akroyd, Barnes *v.* 17, 54, 55
Aldridge *v.* Ferne (1886), 17 Q.B.D. 212; 55 L.J. Q.B. 587; 34 W.R. 578 181
Amys *v.* Creed (1868), L.R. 4, Q.B. 122 22
Angell *v.* Paddington Vestry (1868), L.R. 3, Q.B. 714; 37 L.J. M.C. 171; 16 W.R. 1167; 9 B. & S. 496 207
Archibald, Smith *v.* 95
Ashwell, Reg. *v.* 216
Attorney-General *v.* Clerkenwell (1891), W.N. 152 . . . 77
Attorney-General *v.* Logan (1891), 2 Q.B. 100 . . . 13, 34
Avery *v.* Wood (1891), 65 L.T. (N.S.) 122 96

Bacup, Corporation of *v.* Smith (1890), 44 Ch. Div. 395; 59 L.J. Ch. 518; 63 L.T. 195; 38 W.R. 697 208
Ballard *v.* Tomlinson (1885), 29 Ch. D. 115; 54 L.J. Ch. 454; 52 L.T. 942; 33 W.R. 533; 49 J.P. 692 198
Banbury Sanitary Authority *v.* Page (1881), 8 Q.B.D. 97; 51 L.J. M.C. 21; 45 L.T. 759; 30 W.R. 415; 46 J.P. 184 . . 4, 40
Barker, Harding *v.* 175
Barlow *v.* Terrett (1891), 2 Q.B. 107 90
Barnes *v.* Akroyd (1872), L.R. 7, Q.B. 474; 41 L.J. M.C. 110; 26 L.T. 692; 20 W.R. 671 . . . . . 17, 54, 55
Barnes *v.* Eddlestone (1876), 1 Ex. D. 102; 45 L.J. M.C. 162; 33 L.T. 822 210
Barnes, Eddlestone *v.* (1875) 24
Barnes, Norris *v.* 55
Bassett *ex parte*, *In re* Ham Local Board (1857), 7 E. & B. 280; 26 L.J. M.C. 64; 3 Jur. 136; 28 L.T. (O.S.) 267; 21 J.P. 85 24, 174
Batchelor *v.* Bigger (1889), W.N. 52; 60 L.T. 416 . . . 181
Baylis, Bradley *v.* 138
Beaumont, Roots *v.* 139
Beckett *v.* Corporation of Leeds (1871), L.R. 7, Ch. 421; 26 L.T. 375; 20 W.R. 454 82
Benham, Tod-Heatley *v.* 121
Benjamin *v.* Storr (1874), L.R. 9, C.P. 400; 43 L.J. C.P. 162; 30 L.T. 362; 22 W.R. 631 13
Bentley *v.* Rotherham Local Board (1876), 4 Ch. D. 588; 46 L.J. Ch. 284 137
Beresford-Hope *v.* Lady Sandhurst (1889), 23 Q.B.D., at p. 88, 58 L.J. Q.B. 316; 61 L.T. 150; 37 W.R. 548; 53 J.P. 805; 5 T.L.R. 472 (C.A.) 66
Bermondsey Vestry *v.* Ramsey (1871), L.R. 6, C.P. 247; 40 L.J. C.P. 206; 24 L.T. 429; 19 W.R. 774 . . . . 32, 180
Best *v.* Stapp (1872) 2 C.P.D. 191*n* 114
Bickley, Small *v.* 29, 89, 90, 112, 175

PAGE

Biddulph *v.* St. George, Hanover Square (1864), 3 De.G.J. & S. 493; 33 L.J. Ch. 411; 9 Jur. N.S. 434; 8 L.T. 44; 11 W.R. 524 13, 81
Bigger, Batchelor *v.* 181
Birmingham, &c., Gas Light Company, Hipkins *v.* 96
Bishop Auckland Iron Company, Bishop Auckland L. B. *v.* . . 4, 6
Bishop Auckland L. B. *v.* Bishop Auckland Iron Co. (1882), 10 Q.B.D. 138; 52 L.J. M.C. 38; 48 L.T. 223; 31 W.R. 288; 47 J.P. 389 . . . . . 4, 6
Bishop, Great Western Railway *v.* 4
Bisshopp, Tunbridge Well's Local Board *v.* 114
Bland, Leadgate Local Board *v.* 94
Bliss, Dean of Ely *v.* 210
Blything (Guardians of) *v.* Warton (1863), 32 L.J. M.C. 132; 3 B & S. 352; 9 Jur. N. S. 867; 7 L.T. 672; 11 W.R. 306 . . . 30
Bowles, Guardians of Hendon *v.* 18, 179
Boyton, Braintree Local Board *v.* 44
Bradley *v.* Baylis (1881), 8 Q.B.D. 195; 51 L. J. Q.B. 183; 46 L.T. 253; 30 W.R. 823; 45 J.P. 847; 1 Colt 863 (C.A.) . . 138
Bradley, Burton *v.* 90
Braintree Local Board *v* Boyton (1885), 52 L.T. (N.S.) 99; 48 J.P. 582 44
Brand, Hammersmith Railway Company *v.* 138
Bridge, Reg. *v.* 63, 66
Bridle, Torquay Local Board *v.* 39
British, &c., Steam Navigation Company, General Steam, &c., Company *v.* 167
Broadbent, Langdon *v.* 138
Brown *v.* Bussell (1868), L.R. 3 Q.B. 251; 37 L.J. M.C. 65; 18 L.T. (N.S.) 19; 16 W.R. 511; 32 J.P. 196; 9 B. & S. 1 17, 179
Brown, Richardson *v.* 207
Burnett, Reg. *v.* 113
Burnley Union, Heap *v.* 37
Burton *v.* Bradley, 51 J.P. 118 90
Bussell, Brown *v.* 17, 179

Caiger *v.* St. Mary, Islington Vestry (1881), 50 L.J. M.C. 59; 44 L.T. 605; 29 W.R. 538; 45 J.P. 570 207
Cadby, Gay *v.* 65
Cardiff Manure Company *v.* Cardiff Union (1890), 54 J.P. 661 . 43
Cardiff Union, Cardiff Manure Company *v.* 43
Cardwell, Cocker *v.* 23, 33
Cardwell *v.* New Quay Local Board, 39 J.P. 742. 44
Carr, Mallinson *v.* 90
Champneys, Fitzgerald *v.* 210
Charlton, Coverdale *v.* 83, 205
Chasemore *v.* Richards, 7 H.L. Cas. 349; 5 Jur. N.S. 873; 29 L.J. Exch. 81; 26 L.J. Exch. 393, and Exch. Cham. 2 H. & N. 168; 3 Jur. N.S. 984 198
Chester, Bishop of, Reg. *v.* 152
Chibnall *v.* Paul & Son (1881), 29 W.R. 536 . . . . . 5, 85
Chisholm *v.* Doulton (1889), 22 Q.B.D. 736; 58 L.J. M.C. 133; 60 L.T. 966; 37 W.R. 749; 53 J.P. 550; 5 T.L.R. 250, 437 . . . . . 17, 54, 56
Clarke, Great Central Gas Consumers *v.* 210
Clarke, Huth *v.* 48
Clerkenwell, Attorney-General *v.* 77
Clerkenwell, Vestry of, *v.* Feary (1890), 24 Q.B.D. 703; 59 L.J. M.C. 82; 62 L.T. 697; 54 J.P. 676 . . . . . 71, 219
Clutton, Guardians of, *v.* Pointing (1879), 4 Q.B.D. 340; 48 L.J. M.C. 135; 40 L.T. 844; 27 W.R. 658 71
Cocker *v.* Cardwell (1869), L.R. 5 Q.B. 15; 39 L.J. M.C. 28; 21 L.T. 457; 18 W.R. 212; 10 B. & S. 797 . . . . 23, 33

PAGE

Cockerell, Reg. *v.* 152
Colam *v.* Hall (1871), L.R. 6 Q.B. 206; 40 L.J. M.C. 100; 23 L.T. 802; 19 W.R. 563 208
Collins *v.* Paddington Vestry (1880), 5 Q.B.D. 368; 48 L.J. Q.B. 345; 40 L.T. 843; 27 W.R. 504 67
Collyer, Wilkison *v.* 181
Cook *v.* Montagu (1872), L.R. 7 Q.B. 418; 41 L.J. M.C. 149; 26 L.T. (N.S.) 471; 37 J.P. 53; 20 W.R. 624 . . 18, 30, 181, 207
Cooper *v.* Woolley (1867), L.R. 2 Ex. 88; 36 L.J. M.C. 27; 15 L.T. 539; 15 W.R. 450 56
Cotton, Reg. *v.* 35
Coverdale *v.* Charlton (1878), 4 Q.B.D. 104; 48 L.J. Q.B. 128; 40 L.T. 88; 27 W.R. 257; Affirming S.C. 3 Q.B.D. 376; 47L.J. Q.B. 446; 26 W.R. 687 . . . . . 83, 205
Creed, Amys *v.* 22
Croydon, Fenwick *v.* 206
Croydon, Mayor of, Johnson *v.* 39, 216, 217
Crush *v.* Turner (1878), Ex. D. 303; 47 L.J. Ex. 639; 39 L.T. 192; 26 W.R. 900; 3.A. Affirmed 4 App. Cas. 228; 28 L.J. Ex. 481; 40 L.T. 661; 27 W.R. 553 66

Darlington Local Board, Reg. *v.* 199
Daw *v.* Metropolitan Board of Works (1862), 12 C.B. N.S. 161; 31 L.J. C.P. 223; 8 Jur. N.S. 1040; 6 L.T. 353 . . . 210
Denton, Reg. *v.* 211
Derby, Lord, Winterbottom *v.* 13
Derby, Urban, &c., Authority, Whitaker *v.* 19
Digby *v.* West Ham (1858), 22 J.P. 304 41
Dodd, Law *v.* 67
Doulton, Chisholm *v.* 17, 54, 56
Draper *v.* Sperring (1861) 10 C.B. (N.S.) 113 . . . 6, 16, 22, 179

Eastern Counties Railway Company *v.* Marriage, L.R. 9 H.L. 31 . 138
Eddlestone *v.* Barnes (1875), 1 Ex. D. 67; 45 L.J. M.C. 73; 34 L.T. 497 24
Edwards *v.* Roberts (1891), 1 Q.B. 302 188
Edwards, Reg. *v.* 80
Elias *v.* Nightingale 8 E. & B. 698; 27 L.J. M.C. 151 . . 47, 208
Ely, Dean of, *v.* Bliss, 5 Beav. at p. 582 210
Evans, Walker *v.* 54
Everett *v* Grapes, 3 L.T. (N.S.) 669 . . . . . 38, 216

Farrant, Reg. *v.* 183
Faversham, Reg. *v.* 216
Feary, St. James, &c. (Clerkenwell) Vestry of *v.* 71, 219
Fenwick *v.* Rural Sanitary Authority of Croydon (1891), 2 Q.B. 216 206
Ferne, Aldridge *v.* 181
Fitzgerald *v.* Champneys, 2 John & H. 31; 30 L.J. Ch. 777; 7 Jur. N.S. 1006; 5 L.T. 233; 9 W.R. 850 210
Finch-Hatton, Wilson *v.* 108, 109
Fletcher & Musgrave *v.* Smith (1877), 2 App. Cas. 781; 47 L.J. Ex. 4; 37 L.T. 367; 26 W.R. 83; H.L. Affirm. S.C. L.R. 7 Ex. 305; 41 L.J. Ex. 193; 27 L.T. 164; 20 W.R. 987 . 198
Flight, Todd *v.* 13
Florence, Sandys *v.* 109
Francomb *v.* Freeman (1868), L.R. 3 Q.B. 251; 37 L.J. M.C. 65; 18 L.T. (N.S.) 19; 16 W.R. 511; 32 J.P. 196 . . 17
Freeman, Francomb *v.* 17

Gateshead (Mayor of); Reay *v.* 39
Gattridge, Young *v.* 89

PAGE

Gay *v.* Cadby (1877), 2 C.P.D. 391 ; 46 L.J. M.C. 260 ; 36 L.T. 410 65
General Council of Medical Education, Leeson *v.* 183
General Steam Navigation Company *v.* British, &c., Steam Navigation Company Limited (1869), L.R. 4 Ex. 238 ; 38 L.J. Ex. 97; 20 L.T. 581 ; 17 W.R. 741 ; Ex. Ch. 167
Gibbon, Reg. *v.* 183
Gibson, Reeve *v.* 96
Glamorganshire J.J., Reg. *v.* 187, 188
Goole, Local Board of, Reg. *v.* 206
Gordon, St. Martin's Vestry *v.* 63, 65, 207
Gough *v.* Gough (1891), 65 L.T. N.S. 112 205
Gracey, Wallasey Local Board *v.* 34
Grand Junction Canal Company *v.* Shugar (1871), L.R. 6 Ch. 483 ; 24 L.T. 402 ; 19 W.R. 569 199
Grapes, Everett *v.* 38, 216
Great Central Gas Consumers *v.* Clarke, 11 C.B. N.S. 814; Affirmed. 13 C.B. N.S. 838 ; 32 L.J. C.P. 41 ; 11 W.R. 123 ; Ex. Ch. . 210
Great Stanmore, Tomlins *v.* 24
Great Western Railway *v.* Bishop (1872), L.R. 7 Q.B. 550 ; 41 L.J. M.C. 120 ; 26 L.T. 905 ; 20 W.R. 969. 4
Greaves, Niven *v.* 56
Griffiths, Millington *v.* 96

Hall, Colam *v.* 208
Hall, Hill *v.* 210
Ham Local Board, *In Re*, *Exparte* Bassett 7 E. & B. 280 ; 26 L.J. M.C. 64, 3 Jur. 136, 28, L.T. (O.S.) 267, 21 J.P. 85 24, 174
Hammersmith Rail. Co. *v.* Brand (1868), L.R. 4. H.L. 171, 38 L.J. Q.B. 265, 21 L.T. 238 ; 18 W.R. 12 138
Hampstead Vestry *v.* Hoopel (1885), 15 Q.B.D. 653 ; 54 L.J. M.C. 147 ; 33 W.R. 903, 49 J.P. 741 206
Handsley, Reg. *v.* 183
Harden, Reg. *v.* 177
Harding *v.* Barker & Sons (1889), 5 T.L. R. 42 175
Harrison *v.* Southwark and Vauxhall Water Co. (1891), 2 Ch. 409 . 13
Heap *v.* Burnley Union (1884), 12 Q.B.D. 617 ; 53 L.J. M.C. 76 ; 32 W.R. 661 ; 48 J.P. 359 37
Hendon (Guardians of) *v.* Bowles (1869), 20 L.T. (N.S.), 609 ; 34 J.P. 19 . . . . . 18, 179
Hertford Union *v.* Kimpton (1855), 11 Ex. 295 ; 25 L.J. M.C. 41 . 177
Heyworth, Reg. *v.* 47
Hildreth *v.* Adamson (1860), 8 C.B. (N.S.) 587 ; 30 L.J. M.C. 204 ; 8 W.R. 470 95
Hill *v.* Hall (1876) 1 Ex. D. 411 210
Hill, Metropolitan Asylum District *v.* . . 13, 51, 82, 114, 121, 206
Hind, Vinter *v.* 89
Hipkins *v.* Birmingham & Staffordshire Gas Light Co., 29 L.J. Ex. 169 and 30 L.J. Ex. 60, 1 L.T. 303 ; 24 J.P. 438 . . 96
Hitchcock *v.* Way, 6 A. and E. 943 ; 2 N. & P. 72 ; W.W & D. 491. 211
Hobbs, Walker *v.* 109
Hoddinott, Sampson *v.* 198
Hodson, Liverpool Cattle Market *v.* 43, 47
Holborn (Guardians of,) *v.* Shoreditch Vestry (1876), 2 Q.B. D. 145 ; 46 L.J. Q.B. 36 ; 35 L.T. 400 ; 25 W.R. 40 . . 65, 153
Holland, Lady, *v.* Kensington Vestry (1867), L.R. 2 C.P. 565 ; 36 L.J. M.C. 105 ; 17 L.T.N.S. 73 ; 15 W.R. 1045 ; 31 J.P. 758. 208
Holmes, St. Leonards Vestry *v.* 16
Hoopel, Hampstead Vestry *v.* 206
Howarth *v.* Mayor of Manchester 6 L.T. (N.S.) 683 47

PAGE
Huntington, J.J., Reg. *v.* 182
Huth *v.* Clarke (1890), 25 Q.B.D. 391; 59 L.J. (M.C.) 120; 63 L.T. 348; 38 W.R. 655; 6 T.L.R. 373 48

Inge, Parker *v.* 16, 22
Ingle, Wright *v.* 207
Ingoldby, Plumstead Board, &c., *v.* 32

Jenkins, Reg. *v.* 24
Johnson *v.* Mayor &c., of Croydon (1886), 16 Q.B.D. 708; 55 L.J. M.C. 117; 54 L.T. 295; 50 J.P. 487 . . . 39, 216, 217

Keepers of the Peace, &c., of London, Reg. *v.* 187
Kelly, Thomas *v.* 66
Kensington Vestry, Lady Holland *v.* 208
Kimpton, Hertford Union *v.* 177
King, Weekes *v.* 56

Lacy, Thompson *v.* 109
Landrock *v.* Metropolitan District Railway (1886), W.N. 195 . 83
Langdon *v.* Broadbent (1877), 37 L.T. (N.S.) 434 138
Lapworth, Thompson *v.* 181
Law *v.* Dodd (1848), 1 Ex. 845; 17 L.J. M.C. 65 67
Leadgate Local Board *v.* Bland (1881), 45 J.P. 526 94
Lee, Reg. *v.* 208
Lee, R. *v.* 183
Leech, Moody *v.* 89
Leeds, Corporation of, Beckett *v.* 82
Leeson *v.* General Council of Medical Education (1889), 43 Ch.D. 366; 59 L.J. Ch. 233; 61 L.T. 849; 38 W.R. 303 . . 183
Leigh *v.* Jack (1879) 5 Ex. D. 264; 49 L.J. Ex. 220; 28 W.R. 452. 83
Lewis, St. Luke's Vestry *v.* 71, 77
Lewsey, Local Board for Acton *v.* 19
Line *v.* Warren (1885), 14 Q.B.D. 73, 548; 54 L.J. (Q.B.), 146, 291; 52 L.T. 258; 53 L.T. 446; 33 W.R. 212; 48 J.P. 454; 49 J.P. 516 66
Liverpool (*Exparte* Corporation of) 8 E. & B. 537; 27 L.J. M.C. 89 . . . . . 24, 25
Liverpool Cattle Market *v.* Hodson (1867), L.R. 2 Q.B. 131; 36 L.J. M.C. 30; 15 L.T. 534; 15 W.R. 563 . . . 43, 47
Llewellyn, Reg. *v.* 18, 72
Logan, Attorney-General *v.* 13, 34
London & S. W. Ry., Restall *v.* 211
London & S. W. Ry. Co., Wandsworth Board of Works *v.* . . 82
Lowe, Reg. *v.* 215
Lundie, Reg. *v.* 216
Lyndon *v.* Standbridge (1857) 2 H. & N. 45; 26 L.J. Ex. 386 . 67

Mackenzie, Reg. *v.* 211
Mallinson *v.* Carr (1891), 1 Q.B. 48; 60 L.J. M.C. 34; 63 L.T. 459, 39 W.R. 270; 55 J.P. 270 90
Malton L.B. *v.* Malton Manure Co. (1879), 4 Ex. D. 302; 49 L.J. M.C. 90; 44 J.P. 155 . . . . . 4, 50
Malton Manure Co., Malton L.B. *v.* 4, 50
Manchester, Mayor of, Howarth *v.* 47
Margate Pier (Proprietors of) *v.* Margate Town Council (1869), 20 L.T. 564; 33 J.P. 437 . . . . . 6, 16
Margate Town Council, Margate Pier (Proprietors) *v.* . . . 6, 16
Marrable, Smith *v.* 108, 109
Marriage, Eastern Counties Rail. Co. *v.* 138
Matlock Bath, Local Board, &c., for, Sellors *v.* 82

PAGE

Melbourne Harbour Commissioners, Union Steamship Company *v.* . 138
Metropolitan Asylums District *v.* Hill (1881), 6 App. Cas. 193; 50 L.J. Q.B. 353; 44 L.T. 653; 29 W.R. 617; 45 J.P. 664. 13, 51, 82, 114, 121, 206
Metropolitan Board of Works, Daw *v.* 210
Metropolitan District Railway, Landrock *v.* 83
Meyer, Reg. *v.* 22, 182
Middlesex Justices, Reg. *v.* 210
Middlesex Justices, Reg. *v.* 187
Milledge, Reg. *v.* 182
Miller's case 1 Wm. Bl. 451 211
Millington *v.* Griffiths (1874), 30 L.T. (N.S.) 65 96
Monkcom, Newton *v.* 89
Montagu, Cook *v.* 18, 30, 181, 207
Moody *v.* Leech, 44 J.P. 459 89
Munro *v.* Watson (1887), W.N. 60; 57 L.T. 366; 51 J.P. 660 39, 216

Naylor, Slattery *v.* 38
New Quay Local Board, Cardwell *v.* 44
Newton *v.* Monkcom (1888), 58 L.T. 231; 52 J.P. 692; 16 Cox C.C. 382 89
Nightingale, Elias *v.* 47, 208
Niven *v.* Greaves (1890), 54 J.P. 548 56
Norris *v.* Barnes (1872), L.R. 7 Q.B. 537; 41 L.J. M.C. 154; 26 L.T. 622; 20 W.R. 703 55

Oxford Local Board, Passey *v.* 44

Paddington Vestry, Angell *v.* 207
Paddington Vestry, Collins *v.* 67
Page, Banbury Sanitary Authority *v.* 4, 40
Paget, Reg. *v.* 31, 54, 57
Paine, Westmore *v.* 188
Parker *v.* Inge (1886), 17 Q.B.D. 584; 55 L.J. M.C. 149; 55 L.T. 300; 51 J.P. 20 . . . . . 16, 22
Parlby, Reg. *v.* 17
Parlby, Reg. *v.* 23
Passey *v.* Oxford Local Board (1879), 43 J.P. 622 44
Paul & Son, Chibnall *v.* 5, 85
Payne, Rye, Guardians of, *v.* 6
Plumstead Board of Works *v.* Ingoldby (1872), L.R. 8, Ex. 63, 174; 42 L.J. Ex. 50; 27 L.T. 656; 21 W.R. 77; Affirmed 8 L.R. Ex. 174; 42 L.J. Ex. 136; 29 L.T. 375; 21 W.R. 817 . . 32
Pointing, Guardians of Clutton *v.* 71
Pollard, Reg. *v.* 175
Portsmouth, Corporation of *v.* Smith (1883), 13 Q.B.D. at p. 195, 184; 46 L.T. 552 Affirmed 46 J.P. 23 . . . . 205, 206
Potter, Stockport Water Company *v.* 198
Powell, Reg. *v.* 216

Ramsey, Bermondsey Vestry *v.* 32, 180
Reay *v.* Mayor of Gateshead (1886), 55 L.T. (N.S.) 92 . . . 39
Redfern, White *v.* 90
Reeve *v.* Gibson (1891), 1 Q.B. 652 & 2 Q.B. 297 . . . 96
R. *v.* Ashwell 12 East 22 216
—— *v.* Bishop of Chester, 1 T.R. 396 152
—— *v.* Bridge (1890), 24 Q.B.D. 609; 59 L.J. M.C. 49; 62 L.T. 297; 38 W.R. 464; 54 J.P. 629 . . . . . 63, 66
—— *v.* Burnett (1815), 4 M. & S. 272 113
—— *v.* Cockerell (1871), L.R. 6 Q.B. 252; 40 L.J. M.C. 153; 19 W.R. 1,133 152

PAGE

R. *v.* Cotton (1858), 1 E. & E. 203; 28 L.J. M.C. 22; 5 Jur. N.S. 311; 7 W.R. 62 35
—— *v.* Darlington Local Board (1865) 6 B. & S. 562; 35 L.J. Q.B. 45; 13 W.R. 789; 29 J.P. 419 199
—— *v.* Denton, 18 Q.B. 761; 6 Q.B. 832; 1 Dears C.C. 3; 21 L.J. M.C. 207; 17 Jur. 453 211
—— *v.* Edwards (1884), 13 Q.B.D. 586 80
—— *v.* Farrant (1887), 20 Q.B.D. 58; 57 L.J. M.C. 17; 57 L.T. 880; 36 W.R. 184; 52 J.P. 116 183
—— *v.* Faversham 8 T.R. 352 216
—— *v.* Gibbon (1880), 6 Q.B.D. 168; 8 Cox C.C. 436 183
—— *v.* Glamorganshire Justices (1889), 22 Q.B.D. 628; 58 L.J. M.C. 93; 60 L.T. N.S. 536; 37 W.R. 493; 53 J.P. 294; 16 Cox C.C. 593; 5 T.L.R. 403 187
—— *v.* Glamorganshire Justices (1890), 24 Q.B.D. 675; 59 L.J. M.C. 150; 62 L.T. 730; 38 W.R. 640 188
—— *v.* Goole, Local Board of (1891), 2 Q.B. 212; 64 L.T. (N.S.) 595; 39 W.R. 608 206
—— *v.* Handsley (1881), 8 Q.B.D. 383; 51 L.J. M.C. 137; 30 W.R. 368; 46 J.P. 119 183
—— *v.* Harden 2 E. & B. 128; 22 L.J. Q.B. 299; 17 Jur. 804 . 177
—— *v.* Heyworth 14 L.T. (N.S.), 600 47
—— *v.* Huntingdon, J.J. (1879), 4 Q.B.D. 522 182
—— *v.* Jenkins (1862) 3 B. & S. 116; 32 L.J. M.C. 1 24
—— *v.* Keepers of the Peace, &c., of County of London (1890), 25 Q.B.D. 357; 59 L.J. M.C. 146; 63 L.T. 243; 39 W.R. 11; 6 T.L.R. 389; 55 J.P. 56 187
—— *v.* Lee (1878), 4 Q.B.D. 75; 48 L.J. M. C. 22; 39 L.T. (N.S.) 605; 43 J.P. 302. 208
—— *v.* Lee (1882), 9 Q.B.D. 394; 30 W.R. 750; 47 J.P. 118 . 183
—— *v.* Llewellyn (1884), 13 Q.B.D. 681; 55 L.J. M.C. 9n.; 33 W.R. 150; 49 J.P. 101 . . . . . 18, 72
—— *v.* Lowe (1883) 52 L.J. M.C. 122; 48 L.T.N.S. 768; 47 J.P. 535; 15 Cox C.C. 286 215
—— *v.* Lundie (1862), 31 L.J. M.C. 157; 8 Jur. N.S. 640; 5 L.T. 830; 10 W. R. 267 216
—— *v.* Mackenzie R. & R.C.C. 429 211
—— *v.* Meyer (1875), 1 Q.B.D. 173 . . . . . 22, 182
—— *v.* Middlesex Justices 2 B. & Ad. 818 210
—— *v.* Middlesex Justices (1881) 45 J.P. 420. 187
—— *v.* Milledge (1879), 4 Q.B.D. 332; 48 L.J. M.C. 139; 40 L.T. 748; 27 W.R. 659 182
—— *v.* Paget 1881), 8 Q.B.D. 151 . . . . . 31, 54, 57
—— *v.* Parlby (1889), 22 Q.B.D. 520; 58 L.J. M.C. 49; 60 L.T. 422; 37 W.R. 335; 53 J.P. 327; 5 T.L.R. 257 17
—— *v.* Parlby (1889), W.N. 190 23
—— *v.* Pollard 14 L.T. 599 175
—— *v.* Powell 54 L.J. M.C. 26; 51 L.T.N.S. 713; 48 J.P. 740 . 216
—— *v.* Rose 24 L.J. M.C. 130; 1 Jur. N.S. 802; 19 J.P. 676 . 216, 217
—— *v.* Rymer (1877), 2 Q.B.D. 136; 46 L.J. M.C. 108; 35 L.T. 774; 25 W.R. 415; 13 Cox C.C. 378 109
—— *v.* Shingler (1886), 17 Q.B.D. 49; 55 L.J. M.C. 147; 54 L.T. 759; 34 W.R. 490. 187
—— *v.* Stephens (1866), L.R. 1 Q.B. 702; 35 L.J. Q.B. 251; 14 L.T. 593; 14 W.R. 859; 7 B. & S. 10 17
—— *v.* Vantandillo (1815), 4 M. & S. 73 113
—— *v.* Waterhouse (1872), L.R. 7 Q.B. 545; 41 L.J. M.C. 115; 26 L.T. 761; 20 W.R. 712 . . . . . 24, 56
—— *v.* Wheatley (1885), 16 Q.B.D. 34; 55 L.J. M.C. 11; 54 L.T. 680; 34 W.R. 257; 50 J.P. 424 . . . . . 19, 72
—— *v.* Whitchurch (1881), 7 Q.B.D. 534; 50 L.J. M.C. 99; 45 L.T. 379; 29 W.R. 922; 45 J.P. 617; 46 J.P. 134; C.A . 23

PAGE

R. *v.* Wigan L.R. 9 Q.B. 317 153
—— *v.* Wigg 2 Salkeld 460 40
—— *v.* Wood 5 E. & B. 49 . . . . . 216, 217
Restall *v.* L. & S. W. Railway Company L.R. 3 Ex. 141 ; 37 L.J. Ex. 89 211
Richards, Chasemore *v.* 198
Richardson *v.* Brown (1885), 49 J.P. 661 207
Richmond (Guardians of) *v.* Dean of St. Paul's (1868), 18 L.T. (N.S.) 522 ; 32 J.P. 374 18
Riley, Mayor of St. Helen's *v.* 208
Roberts, Edwards *v.* 188
Rolls *v.* Vestry of St. George the Martyr (1880), 14 Ch.D. 785 ; 49 L.J. Ch. 691 ; 43 L.T. 140 ; 28 W.R. 867 ; 44 J.P. 680 . . 84
Roots *v.* Beaumont (1887), 51 J.P. 197 139
Rose, Reg. *v.* 216, 217
Rotherham Local Board, Bentley *v.* 137
Rudland *v.* Mayor of Sunderland (1885), 52 L.T. N.S. 617 ; 33 W.R. 164 ; 49 J.P. 359 39
Ryan *v.* Thompson (1868), L.R. 3 C.P. 144 181
Rye (Guardians of) *v.* Payne (1875), 44 L.J. M.C. 148 ; 32 L.T. (N.S.) 757 ; 23 W.R. 692 ; 40 J.P. 166 6
Rymer, Reg. *v.* 109

St. George, Hanover Square, Biddulph *v.* 13, 81
St. George the Martyr, Vestry of, Rolls *v.* 84
St. Helen's Chemical Company *v.* St. Helen's Corporation (1876), 1 Ex.D. 196 ; 45 L.J. M.C. 150 ; 34 L.T. 397 . . . 5
St. Helen's (Mayor of) *v.* Riley (1883), 47 J.P. 471 . . . 208
St. Helen's Corporation, St. Helen's Chemical Works *v.* . . 5
St. James and St. John (Clerkenwell), Vestry of, *v.* Feary (1890), 24 Q.B.D. 703 ; 59 L.J. M.C. 82 ; 62 L.T. 697 ; 54 J.P. 676 71, 219
St. James (Westminster), &c. Vernon *v.* 13, 81
St. Leonard's Vestry *v.* Holmes (1886), 50 J.P. 132 16
St. Luke's Vestry *v.* Lewis 1 B. & S. 65 ; 31 L.J. M.C. 73 . 71, 77
St. Martin's Vestry *v.* Gordon (1891), 1 Q.B. 61 . . 63, 65, 207
St. Mary, Islington, Vestry of, Caiger *v.* 207
St. Paul's (Dean of), Guardians of Richmond *v.* 18
Sampson *v.* Hoddinott 1 C.B. N.S. 590 ; 3 Jur. N.S. 243 ; 26 L.J. C.P. 148 198
Sandhurst, Lady, Beresford-Hope *v.* 66
Sandys *v.* Florence 47 L.J. C.P. 598 109
Saunders, *Exparte* (1883), 11 Q.B.D. 191 ; 52 L.J. M.C. 89 ; 31 W.R. 918 ; 47 J.P. 584 . . . . . 18, 19, 72
Scarborough, Mayor of, *v.* Rural Sanitary Authority of Scarborough (1876), 1 Ex. D. 344 ; 34 L.T. 768 ; 40 J.P. 343, 726 . . 16
Scarborough, Rural Sanitary, &c., of, Scarborough, Mayor of, *v.* . 16
Schofield, *In re* (1891), W.N. 127 23
Sellors, *v.* The Local Board of Health for Matlock Bath (1885), 14 Q.B.D. 928 ; 52 L.T. 762 82
Shillito *v.* Thompson (1875), 1 Q.B.D. 12 ; 45 L.J. M.C. 18 ; 33 L.T. 506 ; 24 W.R. 57, 40 J.P. 535 89
Shingler, Reg. *v.* 187
Shoreditch Vestry, Guardians of Holborn *v.* 65, 153
Shugar, Grand Junction Canal Company *v.* 199
Slattery *v.* Naylor (1888), 13 App. Cas. 446 ; 57 L.J. P.C. 73 ; 59 L.T. 41 ; 36 W.R. 897 38
Small *v.* Bickley (1875), 32 L.T. (N.S.) 726 ; 39 J.P. 422 . . 29, 89, 90, 112, 175
Smith *v.* Archibald (1880), 5 App. Cas. 489 95
Smith, Corporation of Bacup *v.* 208
Smith, Fletcher & another *v.* 198
Smith *v.* Marrable, 11 M. & W. 5 ; 12 L.J. Ex. 223 . . 108, 109

PAGE

Smith, Corporation of Portsmouth *v.* 205, 206
Smith *v.* Waghorn (1863), 27 J.P. 744 6
Sperring, Draper *v.* 6, 16, 22, 179
Standbridge, Lyndon *v.* 67
Stapp, Best *v.* 114
Stephens, Reg. *v.* 17
Stockport Water Company *v.* Potter, 3 H. & C. 300; 10 Jur. N.S. 1005; 10 L.T. N.S. 748; 7 H. & N. 160; 31 L.J. Ex. 9; 7 Jur. N.S. 880 198
Storr, Benjamin *v.* 13
Sunderland, Mayor of, Rudland *v.* 39
Sutton *v.* Sutton (1882), 22 Ch. D. 513; 32 L.J. Mat. 156 . . 137

Terrett, Barlow *v.* 90
Thomas *v.* Kelly (1888), 13 App. Cas. 506; 57 L.J. Q.B. 330; 58 L.T. 263; 36 W.R. 363 66
Thompson *v.* Lacy, 3 B. & A. 283 109
Thompson *v.* Lapworth (1868), L.R. 3 C.P. 149; 37 L.J. C.P. 74; 17 L.T. 507; 16 W.R. 312 181
Thompson, Ryan *v.* 181
Thompson, Shillito *v.* 89
Thompson, Waye *v.* 90
Tinkler *v.* The Wandsworth Board of Works, 27 L.J.Ch. 342 71, 72
Todd *v.* Flight (1860), 30 L.J. C.P. 21 13
Tod-Heatley *v.* Benham (1888), 40 Ch. D. 80. 121
Tomlins *v.* Great Stanmore, 12 L.T. (N.S.) 118; 29 J.P. 117 . . 24
Tomlinson, Ballard *v.* 198
Torquay Local Board *v.* Bridle (1883), 47 J.P. 183 39
Tunbridge Wells Local Board *v.* Bisshopp (1877), 2 C.P.D. 187 . 114
Turner, Crush *v.* 66

Union Steamship Company *v.* Melbourne Harbour Commissioners (1884), 9 App. Cas. 365 138
United Telephone Company, Wandsworth Board of Works *v.* . . 84

Vantandillo, Reg. *v.* 113
Venour, *In re* (1876), 2 Ch. D 525; 45 L.J. Ch. 409; 24 W.R. 752. 137
Vernon *v.* St. James Westminster Vestry (1880), 16 Ch. D. 449; 50 L.J. Ch. 81; 44 L.T. 229; 29 W.R. 222 C.A. . . 13, 81
Vinter *v.* Hind (1882), 10 Q.B.D. 63; 52 L.J. M.C. 93; 48 L.T. 359; 31 W.R. 198; 47 J.P. 373 89

Waghorn, Smith *v.* 6
Walker *v.* Evans (1859), 2 E. & E. 356; 29 L.J. M.C. 22; 1 L.T. (N.S.) 59 54
Walker *v.* Hobbs (1889), 23 Q.B.D. 458; 38 W R. 63; 5 T.L.R. 640. 109
Wallasey Local Board *v.* Gracey (1887), 36 Ch. D. 593; 56 L J. Ch. 739; 57 L.T. 51; 35 W.R. 694; 51 J.P 740 34
Wandsworth Board of Works *v.* London and South Western Railway Company (1862), 31 L.J. Ch. 854; 8 Jur. N.S. 691 . . 82
Wandsworth Board of Works *v.* United Telephone Company (1884), 13 Q.B.D. 904; 53 L. J. Q.B. 449; 51 L.T. 148; 32 W.R. 776; 48 J.P. 676 84
Wandsworth Board of Works, Tinkler *v* 71, 72
Wanstead Local Board *v.* Wooster, 37 J.P. 403; 38 J.P. 21 . 37, 41
Warren, Line *v.* 66
Warton, Guardians of Blything *v.* 30
Waterhouse, Reg. *v.* 24, 56
Watson, Munro *v.* 39, 216
Way, Hitchcock *v.* 211

PAGE

Waye *v.* Thompson (1885), 15 Q.B.D. 342; 54 L.J. M.C. 140; 53 L.T. 358; 33 W.R. 733; 49 J.P. 693; 15 Cox C.C. 785 . 90
Weekes *v.* King (1885), 53 L.T. (N.S.) 51; 49 J.P. 709; 15 Cox C.C. 723 56
West Ham, Digby *v.* 41
Westmore *v.* Paine (1891) 1 Q.B. 482 188
Wheatley, Reg. *v.* 19, 72
Whitaker *v.* Derby Urban Sanitary Authority (1885), 55 L.J. M.C. 8; 50 J.P. 357; (1885) W.N. 201 19
Whitchurch *Ex parte* (1881), 6 Q.B.D. 545; 50 L.J. M.C. 41; 29 W.R. 507; 45 J.P. 392 . . . . . 18, 19, 72, 79
Whitchurch, Reg. *v.* 23
White *v.* Redfern (1879), 5 Q.B.D. 15; 49 L.J. M.C. 19; 41 L.T. 524; 28 W.R. 168; 44 J.P. 87 90
Wigan, Reg. *v.* 153
Wigg, Reg. *v.* 40
Wilkinson *v.* Collyer (1884), 13 Q.B.D. 1; 53 L.J. Q.B. 278; 51 L.T. 299; 32 W.R. 614; 48 J.P. 791 181
Wilson *v.* Finch Hatton (1877), 2 Ex. D. 366; 46 L.J. Ex. 489; 36 L.T. 473 . . . . . 108, 109
Winterbottom *v.* Lord Derby (1867), L.R. 2 Ex. 316; 36 L.J. Ex. 194; 16 L.T. 771; 16 W.R. 15 13
Woolley, Cooper *v.* 56
Wood, Reg. *v.* 216, 217
Wooster, Wanstead Local Board *v.* 37, 41
Wright *v.* Ingle (1885), 16 Q.B.D. 379 207

Young *v.* Gattridge (1868), L.R. 4.Q. B. 166; 38 L.J. M.C. 67 . 89

STATUTES CITED.

	PAGE
43 Eliz. c. 2, s. 6	123
14 Geo. iii. c. 91	200
26 Geo. iii. c. 71	45
33 Geo. iii. c. 13	1
57 Geo. iii. c. xxix.	
s. 59	62, 64
s. 60	67
s. 61	67
s. 63	39, 61
s. 64	37, 69, 210
s. 68	40
s. 73	37
s. 74	37
3 & 4 Will. iv. c. 90, s. 50	96
5 & 6 Will. iv. c. 76	38
2 & 3 Vict. c. 47, s. 60	37, 39, 40, 61, 69, 210
2 & 3 Vict. c. 71	178
s. 50	185
2 & 3 Vict. c. xciv. s. 41	37, 61
7 & 8 Vict. c. 87	45
8 Vict. c. 18	80
ss. 25–37	80
s. 37	80
10 & 11 Vict. c. 14	208
s. 19	47
10 & 11 Vict. c. 17, s. 74	92
10 & 11 Vict. c. 34, ss. 125–131	47
11 & 12 Vict. c. 43	177
s. 8	22
s. 11	22, 177
11 & 12 Vict. c. 63	43, 191
s. 68	83, 84
11 & 12 Vict. c. 123, s. 3	177
14 & 15 Vict. c. 6	46, 48
14 & 15 Vict. c. 28	139
14 & 15 Vict. c. 75	53, 54
15 & 16 Vict. c. 85	53
16 & 17 Vict. c. 41	139
16 & 17 Vict. c. 128	17, 53, 54
s. 5	53
s. 7	54
16 & 17 Vict. c. cxli	53
18 & 19 Vict. c. 116.	
s. 4	127
s. 5	169
s. 6	169
18 & 19 Vict. c. 116.	
s. 7	169
s. 8	127
s. 9	127
s. 11	169
s. 12	129
s. 15	189, 190
18 & 19 Vict. c. 120	48, 68, 78, 81
s. 42	189
s. 43	190
s. 44	84
s. 58	149
s. 59	149
s. 75	70
s. 81	70, 71
s. 82	74, 75
s. 83	76
s. 84	74
s. 85	76
s. 86	79
s. 88	81
s. 96	82, 83, 84
s. 103	145, 146
s. 104	146
s. 105	207
s. 106	185
s. 116	94
s. 117	60
s. 125	61, 63, 65
s. 126	63, 210
s. 127	64
s. 128	65
s. 129	65, 66
s. 132	158, 159, 165
s. 133	161
s. 134	148, 154
s. 139	159, 162
s. 141	75
ss. 149–156	80, 85, 121
s. 150	94
ss. 158–161	79, 153, 154
ss. 183–191	157
s. 198	160
s. 202	37, 210
ss. 206–209	175

PAGE

18 & 19 Vict. c. 120.
s. 211 70, 72, 76, 79, 188, 193
s. 212 72, 188, 193
s. 221 . . 190
s. 222 . . 189
s. 225 . 79, 176
s. 226 . 79, 80, 176
s. 227 . . 176
s. 229 . . 37
s. 231 . . 185
s. 238 . 149, 154
s. 246 . . 127
s. 250 . . 206
Schedules . 147, 149, 205
18 & 19 Vict. c. 121 . . 5, 25
s. 2 . . 18
s. 5 . . 184
s. 8 . . 4, 6
s. 10 . 14, 68
s. 11 28, 74, 75, 172
s. 12 . 17, 22
s. 13 . 22, 23
s. 14 . 22, 24
s. 15 23, 25, 185
s. 16 . 25, 185
s. 17 . . 27
s. 18 . . 28
s. 19 . . 30
s. 20 . . 176
s. 21 . . 79
s. 22 . . 79
s. 23 . . 96
s. 24 . . 96
s. 25 . . 96
s. 27 . . 49
s. 28 . . 49
s. 29 . . 20
s. 30 . . 33
s. 31 . . 190
s. 32 . . 189
ss. 33–35. . 179
s. 36 . 172, 175
s. 37 . . 175
s. 38 . . 178
s. 40 . . 185
s. 41 . . 191
s. 42 . . 184
s. 43 . . 200
s. 44 . 55, 197
s. 45 . . 197
19 & 20 Vict. c. 107, s. 2 . 53
20 & 21 Vict. c. 43, s. 2 . 187
20 & 21 Vict. c. cxxv. . 46, 48
20 & 21 Vict. c. cxlvii. . 200
21 & 22 Vict. c. 90, s. 34 50, 165
21 & 22 Vict. c. 98, s. 73 . 199
23 & 24 Vict. c. 77 . . 33
s. 2 . . 148
s. 3 . . 68
s. 4 . . 154
s. 5 . . 148

PAGE

23 & 24 Vict. c. 77.
s. 6 . 148, 154
s. 7 . . 94
s. 8 . . 96
s. 9 . 68, 161
s. 11 . 148, 154
s. 12 . 104, 123
s. 13 . 23, 32
25 & 26 Vict. c. 102.
s. 43 . . 160
s. 62 . 145, 146
s. 64 . 70, 76, 79
s. 67 . . 91
s. 70 . . 94
s. 73 . . 37
s. 89 . . 67
s. 90 . . 175
s. 91 . 40, 41
s. 93 . 45, 46
s. 94 . . 45
s. 95 . . 69
s. 96 . . 180
s. 105 . . 178
s. 112 . . 206
26 & 27 Vict. c. 93, s. 21 . 93
26 & 27 Vict. c. 117 . . 68
s. 2 . 88, 89, 90
s. 3 89, 172, 174
29 & 30 Vict. c. 41, s. 2 . 181
29 & 30 Vict. c. 89 . . 200
29 & 30 Vict. c. 90 . 17, 29, 33
s. 14 . . 55
s. 15 . . 148
s. 16 . 150, 194
s. 17 . . 148
s. 18 . . 49
s. 19 4, 6, 10, 17, 55
s. 20 . 2, 28, 173
s. 21 . 16, 23
s. 23 . 104, 105
s. 24 . 104, 123
s. 25 . . 115
s. 26 . . 111
s. 27 . 131, 133
s. 28 . . 134
s. 29 . . 111
s. 30 . . 166
s. 31 28, 75, 173
s. 34 . . 180
s. 35 . 137, 139
s. 36 . 26, 147
s. 37 . . 121
s. 38 . 113, 115
s. 39 . . 108
s. 40 . . 129
s. 45 . . 175
s. 48 . . 184
s. 49 . 152, 197
s. 51 . 209, 211
s. 52 169, 209, 211
s. 53 . . 69
s. 54 . . 176

PAGE

29 & 30 Vict. c. 90, s. 55 . 200
29 & 30 Vict. c. 118 . . 127
s. 12 . . 126
30 Vict. c. 6 81, 124, 130, 155
s. 5 . . 100, 124
s. 6 . . . 100
s. 17 . . . 156
s. 31 . . 131, 156
s. 32 . . . 156
s. 55 . . . 156
ss. 61–72 . 126, 131
30 & 31 Vict. c. 101, s. 89 . 94
30 & 31 Vict. c. 115 . . 22
30 & 31 Vict. c. ci. . . 200
31 & 32 Vict. c. 115.
s. 8 . 152, 197
s. 10 . . 123
31 & 32 Vict. c. 122, s. 35 . 156
32 & 33 Vict. c. 41, s. 3 . 109
32 & 33 Vict. c. 63, s. 1 100, 124
32 & 33 Vict. c. 67, s. 4 . 208
32 & 33 Vict. c. 100 152, 197
33 & 34 Vict. c. 53, s. 2 . 111
34 & 35 Vict. c. 56 . . 182
33 & 34 Vict. c. 75, s. 28 . 126
33 & 34 Vict. c. cxlix. . 199, 200
34 & 35 Vict. c. 113, s. 33 3, 4, 6, 15, 91
35 & 36 Vict. c. 79.
s. 20 . . 167
s. 51 104, 105, 107
s. 52 . . 170
ss. 34–36 209, 211
36 & 37 Vict. c. 86, s. 10 . 126
37 & 38 Vict. c. 67 . . 45
s. 5 . . 43
s. 7 . . 43
s. 8 . . 43
s. 10 . 43, 45, 46
s. 17 . . 43
37 & 38 Vict. c. 89.
s. 6 . . 185
s. 19 . 150, 194
s. 20 . 152, 197
s. 47 . . 137
s. 50 . . 97
s. 51 . . 111
s. 52 . 105, 107
s. 53 . . 32
s. 54 . . 88
s. 55 . . 173
s. 56 . . 109
38 & 39 Vict. c. 55 . 18, 53, 56, 68, 79, 89
s. 4 5, 83, 153, 205
s. 5 . . 153
s. 27 . . 17
ss. 35–37 . . 70
s. 38 . 70, 73
s. 39 . 81, 82
s. 40 . . 74
s. 41 . 74, 76

PAGE

38 & 39 Vict. c. 55.
s. 44 . . 37
s. 47 . . 4, 40
s. 50 . . 69
s. 62 . . 91
s. 64 . . 94
s. 68 . . 96
s. 70 . . 97
ss. 71–74 . . 145
s. 75 . . 147
s. 90 . 137, 139
s. 91 4, 6, 10, 17, 55
s. 92 . . 2, 17
s. 93 . 14, 17
s. 94 16, 17, 18, 72
s. 95 17, 18, 22, 72
s. 96 17, 18, 20, 22, 24, 55, 72
s. 97 . . 22
s. 98 . 22, 24
s. 99 . . 25
s. 100 . . 27
s. 101 . . 28
s. 102 . 28, 173
s. 103 . 30, 173
s. 104 . 30, 180
s. 105 . . 33
s. 106 . . 150
s. 107 . . 33
s. 108 34, 35, 192
s. 109 . . 26
s. 110 . . 166
s. 111 . . 200
s. 112 . 43, 44
s. 114 . . 4, 49
s. 115 . 49, 192
s. 116 . 88, 89
s. 117 . . 88
s. 118 . . 90
ss. 121, 122 . 105
s. 123 . 104, 123
ss. 124, 125 . 111
s. 126 . 113, 115
s. 127 . . 115
s. 128 . . 108
s. 129 . . 109
s. 131 . . 121
ss. 132, 133 . 123
ss. 134–137 . 127
ss. 138, 139 . 129
s. 140 . . 128
s. 141 . . 131
s. 142 . . 133
s. 143 . . 134
s. 149 . 82, 83, 84
s. 150 . . 19
s. 157 . . 73
s. 169 . . 47
ss. 182–186 37, 39, 45, 74, 85, 94, 112, 132, 138
s. 191 . 164, 165

	PAGE
38 & 39 Vict. c. 55.	
s. 251	176
s. 254	178
s. 255	179
s. 258	181, 183
s. 259	184
s. 261	176
s. 265	184
s. 266	189
s. 267	190
s. 268	25
s. 269	25, 185, 188
s. 286	159, 160
s. 287	167, 168
ss. 288, 289	168
s. 291	167
ss. 293–296	152, 162, 191, 197
ss. 295–297	169
ss. 299–302	152, 197
ss. 306, 307	175
s. 317	191
s. 332	197
s. 341	200
s. 343	139, 210
39 & 40 Vict. c. 36, ss. 11–16	167
39 & 40 Vict. c. 61, s. 40	100, 124
39 & 40 Vict. c. 79, s. 15	126
41 & 42 Vict. c. 16	3, 7, 56, 57, 58, 73
s. 3	9, 10
s. 4	9, 57
s. 34	57, 58
s. 35	57, 58
s. 81	57, 58
s. 87	77
s. 93	7
s. 96	7, 58
s. 101	10
Schedule IV.	9, 207
41 & 42 Vict. c. 25, s. 6	91
41 & 42 Vict. c. 74	60, 117, 118
s. 34	59
s. 42	118
41 & 42 Vict. c. 77.	
s. 27	84
s. 30	54
41 & 42 Vict. c. ccxvi.	200
42 & 43 Vict. c. 48, s. 4	127
42 & 43 Vict. c. 49	177, 191
s. 6	30
s. 19	185
s. 29	191
s. 31	186
s. 33	63, 66, 188
s. 35	31
s. 117	44
42 & 43 Vict. c. 54.	
s. 15	122, 126
s. 16	124, 155
42 & 43 Vict. c. 73	200
43 & 44 Vict. c. 15	127
44 & 45 Vict. c. 24	177
45 & 46 Vict. c. 50, s. 250	190
45 & 46 Vict. c. 75.	
s. 20	123
s. 21	123
46 & 47 Vict. c. 35.	
s. 2	130
s. 3	130
s. 4	131, 155
s. 5	157
s. 6	124
s. 7	125
s. 10	130
s. 12	130
46 & 47 Vict. c. 53	73
ss. 15, 16	57
s. 17	58
46 & 47 Vict. c. 59	158
46 & 47 Vict. c. lxxix.	200
47 & 48 Vict. c. 13	118
47 & 48 Vict. c. 43	177
47 & 48 Vict. c. 48	118
47 & 48 Vict. c. 60, s. 2	155
48 & 49 Vict. c. 33	147
48 & 49 Vict. c. 35, s. 2	166
48 & 49 Vict. c. 72	
s. 7	2
s. 8	137
s. 9	142, 173
48 & 49 Vict. c. 76	200
49 & 50 Vict. c. 32	118
s. 9	59
49 & 50 Vict. c. 48.	
ss. 2, 3	50, 165
s. 21	163, 165
50 & 51 Vict. c. 17	147
50 & 51 Vict. c. 21.	
ss. 4, 5	93
50 & 51 Vict. c. 71.	
s. 18	136
s. 24	134
51 & 52 Vict. c. 41	1
s. 1	205
s. 2	190
s. 3	118
s. 10	59
s. 17	159
s. 18	158, 164, 165
s. 19	158, 160
s. 24	162, 164
s. 28	47
s. 35	118
s. 40	118, 190, 205
s. 41	118
s. 45	45, 46
s. 68	47
s. 79	190
s. 82	48
s. 88	158, 164
s. 100	205
52 & 53 Vict. c. 56.	
s. 3	125

	PAGE
52 & 53 Vict. c. 56.	
s. 6	124
s. 7	155
52 & 53 Vict. c. 63.	
s. 1	96
s. 3	206
s. 11	210
s. 13	22, 30, 34, 45, 147, 177
s. 19	96
s. 20	173, 189
52 & 53 Vict. c 64	170
52 & 53 Vict. c. 72	100
s. 3	100
s. 7	102
s. 9	154
s. 12	148, 159
s. 16	148
53 Vict. c. 8 s. 26	159
53 & 54 Vict. c. 34.	
s. 2	103
s. 4	118
s. 5	105, 106
s. 6	107
s. 7	110
s. 8	118
s. 9	119
s. 10	133
s. 11	116, 120
s. 12	112
s. 13	108
s. 14	108, 110
s. 15	105, 106

	PAGE
53 & 54 Vict. c. 34.	
s. 16	118, 133, 175
s. 17	105, 106
s. 18	110, 118, 178
s. 24	118
53 & 54 Vict. c. 59.	
s. 20	85
s. 21	86
s. 22	73
s. 23	73
s. 28	88
s. 48	175
53 & 54 Vict. c. 70.	
s. 5	160
s. 10	150
s. 29	23
ss. 30, 31	160
s. 32	2, 23, 139
s. 38	160
s. 52	168
s. 55	150
s. 72	160
s. 73	150, 160
s. 76	108, 160
s. 85	150
53 & 54 Vict. c. ccxliii. s. 22	136, 157
54 & 55 Vict. c. 75	57, 58, 73
s. 1	10
s. 2–3	11
s. 4	12, 56
s. 5	12
s. 31	8
s. 39	10

THE

PUBLIC HEALTH (LONDON) ACT, 1891.

54 & 55 VICT. CAP. 76.

An Act to consolidate and amend the Laws relating to Public Health in London.

[5*th August*, 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Sect. 1.

Sanitary authority to inspect district for detection of nuisances.

1.—It shall be the duty of every sanitary 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 for the purpose of abating the same, and otherwise to put in force the powers vested in them relating to public health and local government, so as to secure the proper sanitary condition of all premises within their district.

The Act comes into force on January 1st, 1892 ; *see* s. 143, *infra*.

There must be on every Act, immediately after its title, an endorsement of the day, month and year when the Act was passed and received the Royal Assent : such endorsement is a part of the Act, and where no other commencement is in the Act provided, it is the date of the commencement of the Act (33 Geo. 3, c. 13). *See* also note to s. 94 of this Act, *infra*.

Sanitary Authority.—The authority for the execution of this Act is defined by s. 99 ; and the Act will (save as otherwise expressly provided) apply only to the administrative County of London as constituted by the Local Government Act, 1888 ; *see* ss. 132, 141.

Sect. 1.

The section reproduces s. 20 of the Sanitary Act, 1866 (29 & 30 Vict. c. 90), which was repeated in effect in s. 7 of the Housing of the Working Classes Act, 1885. The corresponding section to this is s. 92 of the Public Health Act, 1875 (38 & 39 Vict. c. 55).

The Sanitary Authority are to make and enforce bye-laws for the purpose of inspection of houses let in lodgings, s. 94 (1) (*c*), *infra*.

Duty.—On failure of a Sanitary Authority to do its duty, power to act is given to the County Council in certain cases; *see* s. 100.

The County Council can complain to the Local Government Board, who may make an order limiting the time for the performance of its duty by the Sanitary Authority; *see* s. 101.

On failure the Local Government Board may appoint the County Council to perform the duty; or the order of the Local Government Board may be enforced by a Writ of Mandamus, s. 101.

Cause to be made.—As to the power of a Sanitary Authority to appoint, and act by, committees, *see* s. 99 (3). As to the appointment of medical officers of health and sanitary inspectors, *see* ss. 106 and 107. The Sanitary Authority have the right to enter premises to inspect, s. 10, *infra*: the person claiming the right to enter shall, if required, produce some written document, properly authenticated on the part of the Sanitary Authority, s. 115 (2), *infra*. The term "premises" is defined in s. 141.

See similar provision as to inspection in the Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70), s. 32.

District.—What purports to be a definition of district is given in s. 99 (2).

As to power of a Sanitary Authority to act outside its own district, *see* s. 14.

Nuisances (General).

What nuisances may be abated summarily.

2.—(1.) For the purposes of this Act,—

(*a.*) Any premises in such a state as to be a nuisance or injurious or dangerous to health;

(*b.*) Any pool, ditch, gutter, watercourse, cistern, water-closet, earth-closet, privy, urinal, cesspool, drain, dung-pit, or ash-pit so foul or in such a state as to be a nuisance or injurious or dangerous to health;

(*c.*) Any animal kept in such place or manner as to be a nuisance or injurious or dangerous to health;

(*d.*) Any accumulation or deposit which is a nuisance or injurious or dangerous to health;

(*e.*) Any house or part of a house so overcrowded as to be injurious or dangerous to the health of the inmates, whether or not members of the same family;

(*f.*) Any such absence from premises of water fittings as is a nuisance by virtue of section thirty-three of the Metropolis Water Act, 1871, set out in the First Schedule to this Act; and 34 & 35 Vict. c. 113.

(*g.*) Any factory, workshop, or workplace which is not a factory subject to the provisions of the Factory and Workshop Act, 1878, relating to cleanliness, ventilation, and overcrowding, and 41 & 42 Vict. c. 16.

(i.) is not kept in a cleanly state and free from effluvia arising from any drain, privy, earth-closet, water-closet, urinal, or other nuisance, or

(ii.) is 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 or dangerous to health, or

(iii.) is so overcrowded while work is carried on as to be injurious or dangerous to the health of those employed therein,

shall be nuisances liable to be dealt with summarily under this Act.

(2.) Provided that—

(i.) Any accumulation or deposit necessary for the effectual carrying on of any business or manufacture shall not be punishable as a nuisance under this section, if it is 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; and

(ii.) In considering whether any dwelling-house or part of a dwelling-house which is used also as a factory, workshop, or workplace, or whether any factory, workshop, or workplace used also as a dwelling-house, is a nuisance by reason of overcrowding, the court shall have regard to the circumstance of such other user.

Sect. 2.

This section in sub-secs. (1) (*a*) (*b*) (*c*) (*d*) and (2) (i) reproduces with amendments s. 8 of the Nuisances Removal Act, 1855 (18 & 19 Vict. c. 121); and in sub-secs. (*e*) and (*g*), s. 19 of the Sanitary Act, 1866 (29 & 30 Vict. c. 90).

Sub-sec. (1) (*f*) simply for the purpose of codification reenacts a part of s. 33 of the Metropolis Water Act, 1871, set out in Schedule I., *infra*.

Premises.—This term is defined, *infra*, s. 141. Any premises used by a Sanitary Authority for the treatment or disposal of any street refuse or house refuse which are a nuisance are liable to be dealt with under this section, and the County Council are for that purpose deemed to be a Sanitary Authority.

As to tents, vans and sheds, *see* s. 95, *infra*.

Nuisance, or injurious or dangerous to health.—The word "nuisance" must be read in conjunction with the word "health"; it is only nuisances in relation to health, and not nuisances generally which can be dealt with under this Act. *See Great Western Railway* v. *Bishop*, (1872) L.R. 7 Q.B. 550, where water dripping through a railway bridge was held not to be within the Nuisances Removal Act, 1855. The words "injurious to health" were thought by some to mean not that actual injury to health had been caused, but only that injury was likely to be caused. Any doubt, however, which may have existed is removed by the insertion of the word "dangerous," which is an amendment. The word was used in s. 19 of the Sanitary Act, 1866, but not in s. 8 of the Nuisances Removal Act, 1855, nor in the corresponding sections of the Public Health Act, 1875.

Under similar words in s. 114 of the Public Health Act, 1875, in the case of *Malton Local Board* v. *Malton Manure Co.*, (1879) 4 Ex. D. 302, which was a case of effluvia from bones, &c., being manufactured into manure, it was held, per Stephen, J., that it was not necessary to show that the matter complained of was injurious to health if it amounted to a nuisance affecting public health.

In *Banbury Sanitary Authority* v. *Page*, (1881) 8 Q.B.D. 97, decided upon the words "nuisance to any person" in s. 47 of the Public Health Act, 1875, and which was a case of keeping swine; it was held that "nuisance" in that section was used irrespective of health, and in its ordinary general legal sense.

In *Bishop Auckland Local Board* v. *Bishop Auckland Iron Co.*, (1882) 10 Q.B.D. 138, decided upon s. 91 (4) of the Public Health Act, 1875, it was held that the words "nuisance or injurious to health" mean "a nuisance either interfering with personal comfort or injurious to health," per Stephen J., and that the respondents were liable under the section for effluvia emitted from heaps of smouldering cinders and refuse from the manufacture of iron, although injury to health had not been caused.

Any pool, urinal.—In *Chibnall* v. *Paul and Son*, (1881) 29 W.R. 536, the owner of a public-house erected a urinal in a private passage leading out of the street, and enclosed it between doors which he kept locked every night. There was a space between the line of area-railings in the street, and the urinal door nearest to the street, which space he shut off from the street with an iron gate placed flush with the line of railings. This gate was never locked. It being proved that persons habitually used the space between the door and the gate in such a manner as to cause the neighbours a nuisance, which he took no steps to prevent, it was held that he was responsible for such user, it being a probable consequence of the manner in which he had arranged the premises.

Water-closets and ash-pits.—As to provision of water-closets and ash-pits in the case of a house rebuilt after the commencement of the Act, *see* s. 37 (1), and in the case of a house built before or after the commencement of the Act, s. 37 (3).

Earth-closet.—The introduction of the word "earth-closet" after the word "water-closet" is an amendment throughout the Act.

Privy, cesspool.—The Sanitary Authority must employ a sufficient number of scavengers to properly cleanse ash-pits, earth-closets, privies and cesspools in their district, *see* ss. 30 and 31.

Drain.—This term is not defined in this Act. In the Public Health Act, 1875, s. 4, "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. And by the same section "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 that Act.

In the case of *St. Helen's Chemical Co.* v. *Corporation of St. Helen's*, (1876) 1 Ex. D. 196, decided upon the Nuisances Removal Act, 1855, "drain" was held to include a public sewer. The company in that case were owners of chemical works, and were entitled to discharge refuse by two separate drains into a public sewer; by one drain they discharged liquid containing muriatic acid, and by the other liquid containing sulphur. No nuisance existed in their drains, but upon combination in the sewer of the liquids separately discharged into it, sulphuretted hydrogen was generated, and escaped in quantities, so as to be injurious to the public health. It was held that although the Corporation

Sect. 2.

might have contributed to the existence of the nuisance by absence of flushing and defective construction or trapping of the sewer, the company were liable, and that the escape of the sulphuretted hydrogen gas from the sewer was a nuisance within the meaning of s. 8 of the Nuisances Removal Act, 1855.

Dung-pit.—As to removal of dung on the requisition of a Sanitary Inspector, *see* s. 35, and as to a Sanitary Authority removing manure, &c., by agreement with the occupier of any stables, &c., *see* s. 36.

Any animal.—The Sanitary Authority are to make bye-laws for the prevention of the keeping of animals so as to be a nuisance, or injurious or dangerous to health under s. 16 (1) (*c*).

As to the restriction on keeping swine, *see* s. 17.

Power is given in s. 18 to prohibit for the future the keeping of animals in an unfit place.

As to cowhouses and dairies, *see* ss. 20 and 28.

Accumulation.—Where dung was accumulated by a stableman, so that people near had to keep the windows of their houses shut, he was held liable under a local Act, by which a penalty was imposed on keeping offensive matter so as to be a nuisance. *Smith* v. *Waghorn*, (1863) 27 J.P. 744. As to accumulation of seaweed, *see Proprietors of Margate Pier* v. *Town Council of Margate*, (1869) 20 L.T. 564, 33 J.P. 437. As to cinders, *see Bishop Auckland Local Board* v. *Bishop Auckland Iron Co.*, *supra*, p. 4; as to droppings from sheep, *Draper* v. *Sperring*, (1861) 10 C.B. (N.S.) 113.

See also as to removal of accumulations, s. 35 (1), *infra*.

Overcrowding.—The Sanitary Authority must make bye-laws for houses let in lodgings, for fixing the number of occupants, the registration, inspection, cleansing, &c.; *see* s. 94, *infra*.

It had been decided under the previous enactment, s. 19, of the Sanitary Act, 1866 (29 & 30 Vict. c. 90), that a house could be overcrowded although occupied by members of only one family. *Guardians of Rye* v. *Payne*, (1875) 44 L.J.M.C. 148, 32 L.T. (N.S.) 757, 23 W.R. 692, 40 J.P. 166. Sec. 19 of the Sanitary Act, 1866, did not, but the corresponding section of the Public Health Act, 1875 (s. 91), does contain the words "whether or not members of the same family."

If two convictions for overcrowding occur in respect of the same house within three months, the house may be ordered to be closed (s. 7, *infra*).

As to overcrowding in tents and vans, *see* s. 95, *infra*.

A vessel will be included within the term "house," *see* s. 110, *infra*: for definition of house and vessel, *see* s. 141, *infra*.

Absence of water fittings.—The section of the Metropolis Water Act, 1871 is set out, *infra*.

The absence of the prescribed fittings renders the house

primâ facie unfit for human habitation. *See*, as to absence of water being a nuisance, ss. 48 to 50, *infra*.

Power to inspect water supply and its apparatus is contained in s. 40, *infra*, and if found defective a fine may be inflicted under s. 41, *infra*.

Any factory.—The factories and workshops to which the Factory and Workshop Act, 1878 (41 & 42 Vict. c. 16), applies are textile and non-textile factories and workshops, as defined by s. 93 of that Act. The factories and workshops named in the Fourth Schedule of the Act are referred to in that Act by the names assigned to them in that Schedule, s. 96. By s. 93 of that Act,—

"The expression 'textile factory' in this Act means any premises wherein or within the close or curtilage of which steam, water, or other mechanical power is used to move or work any machinery employed in preparing, manufacturing, or finishing, or in any process incident to the manufacture of, cotton, wool, hair, silk, flax, hemp, jute, tow, china-grass, cocoa-nut fibre, or other like material, either separately or mixed together, or mixed with any other material, or any fabric made thereof:

"Provided that print works, bleaching and dyeing works, lace warehouses, paper mills, flax scutch mills, rope works and hat works shall not be deemed to be textile factories.

"The expression 'non-textile factory' in this Act means—

(1.) any works, warehouses, furnaces, mills, foundries, or places named in Part One of the Fourth Schedule to this Act,

(2.) also any premises or places named in Part Two of the said schedule wherein, or within the close or curtilage or precincts of which, steam, water or other mechanical power is used in aid of the manufacturing process carried on there,

(3.) also any premises wherein, or within the close or curtilage or precincts of which, any manual labour is exercised by way of trade or for purposes of gain in or incidental to the following purposes, or any of them; that is to say—

(*a.*) in or incidental to the making of any article or of part of any article, or

(*b.*) in or incidental to the altering, repairing, ornamenting, or finishing of any article, or

(*c.*) in or incidental to the adapting for sale of any article,

and wherein, or within the close or curtilage or precincts of which, steam, water, or other mechanical power is used in aid of the manufacturing process carried on there.

Sect. 2.

"The expression 'factory' in this Act means textile factory and non-textile factory, or either of such descriptions of factories.

"The expression 'workshop' in this Act means—

(1.) any premises or places named in Part Two of the Fourth Schedule to this Act, which are not a factory within the meaning of this Act.

(2.) also any premises, room, or place not being a factory within the meaning of this Act, in which premises, room, or place, or within the close or curtilage or precincts of which premises, any manual labour is exercised by way of trade or for purposes of gain in or incidental to the following purposes or any of them; that is to say—

(*a.*) in or incidental to the making of any article or of part of any article, or

(*b.*) in or incidental to the altering, repairing, ornamenting, or finishing of any article, or

(*c.*) in or incidental to the adapting for sale of any article.

and to which or over which premises, room, or place the employer of the persons working therein has the right of access or control.

"A part of a factory or workshop may for the purposes of this Act be taken to be a separate factory or workshop; and a room solely used for the purpose of sleeping therein shall not be deemed to form part of the factory or workshop for the purposes of this Act.

"Where a place situate within the close, curtilage or precincts forming a factory or workshop is solely used for some purpose other than the manufacturing process or handicraft carried on in the factory or workshop, such place shall not be deemed to form part of that factory or workshop for the purposes of this Act, but shall, if otherwise it would be a factory or workshop, be deemed to be a separate factory or workshop, and be regulated accordingly.

"Any premises or place shall not be excluded from the definition of a factory or workshop by reason only that such premises or place are or is in the open air.

"This Act shall not apply to such workshops, other than bakehouses, as are conducted on the system of not employing any child, young person, or woman therein, but save as aforesaid applies to all factories and workshops as before defined, inclusive of factories and workshops belonging to the Crown; provided that in case of any public emergency a Secretary of State may exempt a factory or workshop belonging to the Crown from this Act to the extent and during the period named by him" (as amended by 54 & 55 Vict. c. 75, s. 31).

The Fourth Schedule to the Factory and Workshop Act, 1878, contains the following list of factories and workshops :—

PART ONE.

Non-textile Factories.

Print works.
Bleaching and dyeing works.
Earthenware and china works.
Lucifer-match works.
Percussion-cap works.
Cartridge works.
Paper-staining works.
Fustian-cutting works.
Blast furnaces.
Copper mills.
Iron mills.
Foundries.
Metal and indiarubber works.
Paper mills.
Glass works.
Tobacco factories.
Letter-press printing works.
Bookbinding works.
Flax scutch mills.

PART TWO.

Non-textile Factories and Workshops.

Hat works.
Rope works.
Bakehouses.
Lace warehouses.
Shipbuilding yards.
Quarries.
Pit-banks.

By s. 3 of the Factory and Workshop Act, 1878, "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."

And by s. 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, ash-pit, 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 purpose of this section, take with him into a factory or workshop a

Sect. 2.

medical officer of health, inspector of nuisances, or other officer of the sanitary authority."

And by s. 101 :—"The provisions of s. 91 of the Public Health Act, 1875, with respect to a factory, workshop, or workplace 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, or workplace.

"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 a like manner as it applies to buildings where more than twenty are employed."

At the time of the passing of the Factory and Workshop Act, 1878, the following provision of section 19 of the Sanitary Act, 1866, was in force as to London : "The word 'nuisance,' under the Nuisance Removal Acts, shall include (2) any factory, workshop, or workplace *not already under the operation of any general Act for the regulation of factories or bakehouses* not kept in a cleanly state, or not ventilated in such 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 or dangerous to health, or so overcrowded while work is carried on as to be dangerous or prejudicial to the health of those employed therein."

The words in italics in that section were repealed by the Factory and Workshop Act, 1878, so that the section was read as though the words in italics were not in it. The effect of this was to leave the sanitary inspection of factories and workshops under a dual control, *i.e.* both of the factory inspectors under the control of the Home Office, and of the local sanitary authorities. In 1891 was passed the Factory and Workshop Act, 1891 (54 & 55 Vict. c. 75), which by section 39 repealed the words in italics in sections 3 and 101 of the Factory and Workshop Act, 1878. The effect of which is to take from the factory inspectors the duty in the first instance of sanitary inspection of workshops, while leaving them responsible for, and taking from the sanitary authorities, the duty of sanitary inspection of factories.

In the case of default in enforcing the law as to sanitary provisions in workshops the Home Secretary has power to intervene and order the factory inspectors to take the necessary steps.

These amendments of the law are effected by sections 1 to 5 of the Factory and Workshop Act, 1891, which are as follows :—

"1.—(1.) If the Secretary of State is satisfied that the provisions of the law relating to public health as to effluvia arising from any drain, privy, or other nuisance, or with

respect to cleanliness, ventilation, overcrowding, or lime-washing, are not observed in any workshops or class of workshops (including workshops conducted on the system of not employing any child, young person, or woman therein) or laundries, he may, if he thinks fit, by order, authorize and direct an inspector or inspectors under the principal Act to take, during such period as may be mentioned in the order, such steps as appear necessary or proper for enforcing the said provisions.

"(2.) An inspector authorized in pursuance of this section shall, for the purpose of his duties, have the same powers with respect to workshops and laundries to which this section applies, as he has under the principal Act as amended by this Act with respect to factories, and may for the same purpose take the like proceedings for punishing or remedying any default in compliance with the said provisions of the law relating to public health as might be taken by the sanitary authority of the district in which the workshops or laundries are situate, and shall be entitled to recover from that sanitary authority all such expenses in and about any proceedings in respect of such workshops or laundries as he may incur and are not recovered from any other person, and have not been incurred in any unsuccessful proceedings.

"2.—(1.) Section four of the principal Act shall apply to workshops conducted on the system of not employing any child, young person, or woman therein, and to laundries.

"(2.) Where notice of an act, neglect, or default is given by an inspector under the said section four, as amended by this Act, to a sanitary authority, and proceedings are not taken within a reasonable time for punishing or remedying the act, neglect, or default, the inspector may take the like proceedings for punishing or remedying the same as the sanitary authority might have taken, and shall be entitled to recover from the sanitary authority all such expenses in and about the proceedings as the inspector incurs and are not recovered from any other person, and have not been incurred in any unsuccessful proceedings.

"3.—(1.) Sections three and thirty-three of the Factory and Workshop Act, 1878 (which relate to cleanliness, ventilation, and overcrowding in, and lime-washing of, factories and workshops), shall cease to apply to workshops.

"(2.) For the purpose of their duties with respect to workshops (not being workshops to which the Public Health (London) Act, 1891, applies), a sanitary authority and their officers shall, without prejudice to their other powers, have all such powers of entry, inspection, taking legal proceedings or otherwise, as an inspector under the principal Act.

"(3.) If any child, young person, or woman is employed in a workshop, and the medical officer of the sanitary authority becomes aware thereof, he shall forthwith give written notice thereof to the factory inspector of the district.

Sect 2.

"4.—(1.) Every workshop as defined by the principal Act (including any workshop conducted on the system of not employing any child, young person, or woman therein), and every workplace within the meaning of the Public Health Act, 1875, shall be kept free from effluvia arising from any drain, water-closet, earth-closet, privy, urinal, or other nuisance, and unless so kept shall be deemed to be a nuisance liable to be dealt with summarily under the law relating to public health.

"(2.) Where on the certificate of a medical officer of health or inspector of nuisances it appears to any sanitary authority that the lime-washing, cleansing, or purifying of any such workshop, or of any part thereof, is necessary for the health of the persons employed therein, the sanitary authority shall give notice in writing to the owner or occupier of the workshop to lime-wash, cleanse, or purify the same or part thereof, as the case may require.

"(3.) If the person to whom notice is so given fails to comply therewith within the time therein specified, he shall be liable to a fine not exceeding ten shillings for every day during which he continues to make default, and the sanitary authority may, if they think fit, cause the workshop or part to be lime-washed, cleansed, or purified, and may recover in a summary manner the expenses incurred by them in so doing from the person in default.

"(4.) This section shall not apply to any workshop or workplace to which the Public Health (London) Act, 1891, applies.

"5.—In section three of the principal Act, for the word 'privy,' shall be substituted the words 'water-closet, earth-closet, privy, urinal,' and for the words 'injurious to the health of the persons employed therein' shall be substituted the words 'dangerous or injurious to the health of the persons employed therein.'"

The other sections material are set out *infra* in the Appendix.

By the definition of *house* in s. 141 of this Act, the expression includes factories and other buildings in which persons are employed.

Proper sanitary conveniences, with separate accommodation for persons of each sex employed in any factory, workshop, or workplace, are to be provided, by s. 38, *infra*.

For the provisions of this Act as to workshops and as to those factories which are within the operation of this Act, *see* ss. 25 to 27, *infra*.

Nuisances liable to be dealt with summarily. — The summary procedure given by this Act is in addition to, and not in substitution for, or derogation of, any other method of procedure existing under any Statute (other than those referred to by this Act) or at Common Law.

As has been pointed out *supra*, this Act only deals with nuisances relating to health.

A common nuisance (*nocumentum*, *nuire*, nuisance) is an offence against public convenience and the economical regimen of the State; and it consists in either doing a thing to the annoyance of all the lieges, or neglecting to do some good which the common welfare requires. Stephen's "Commentaries," bk. vi., and Hawk, P.C., bk. i., c. 75, s. 1. Examples of Common Law nuisances are the obstruction or neglect to repair highways, the carrying on of offensive or dangerous trades or manufactures, even without injury to health. Exposing a person infected with a contagious disease in a public thoroughfare is a Common Law nuisance. *R.* v. *Neil*, 2 C. & P. 485.

The remedy for a nuisance is by indictment of the person causing it, or by action for damages or injunction by any person who suffers substantial damage beyond that suffered by the rest of the public. *See Benjamin* v. *Storr*, L.R. 9 C.P. 400; *Winterbottom* v. *Lord Derby*, L.R. 2 Ex. 316.

Ruinous premises adjoining a highway are a public nuisance. *Todd* v. *Flight*, 30 L.J. C.P. 21.

The power conferred by Statute to do works and erect buildings will not be an answer if the works or buildings amount to a nuisance, unless the Statute is imperative as to the manner and place. *See Metropolitan Asylum District* v. *Hill*, (1881) 6 App. Cas. 193; *Vernon* v. *Vestry of St. James, Westminster*, 16 Ch. D. 449; and *Biddulph* v. *St. George's Vestry*, 3 D.J. & S. 493; 33 L.J. Ch. 411.

But compare *Harrison* v. *Southwark and Vauxhall Water Company*, [1891] 2 Ch. 409, where the defendants were carrying out a work authorized by their Special Act in the ordinary manner and without negligence.

The fact that certain businesses are excluded from summary proceedings for nuisances under the Public Health Act, 1875, s. 334, does not relieve their proprietors from liability for a public nuisance in a suit by the Attorney-General for its abatement, nor from their ordinary Common Law liability to an owner whose property is injuriously affected by it. *See Attorney-General* v. *Logan*, [1891] 2 Q.B. 100, in which case it was held the local authority may act as relators in an action brought by the Attorney-General for the purpose of abating a public nuisance, and may themselves maintain an action for damages for a nuisance affecting property of which they are the actual owners.

Any accumulation of trade.—The powers of this Act as to offensive trades are contained in ss. 19 to 22, *infra*.

The Court to be satisfied that the accumulation has not been kept longer than is necessary is the Petty Sessional Court mentioned in s. 5, *infra*.

As to what is a defence in the case of nuisances arising from offensive trades, *see* s. 21.

Dwelling-House used also as a Factory.—The meaning of

Sect. 2.

this sub-section (2) (ii) appears to be that if a dwelling-house were used only as a dwelling-house, and as such would not be overcrowded by its ordinary occupants, yet it may be held to be overcrowded if used also as a factory, although only the same number occupy it. More cubic space per person is required in a room occupied both by day and by night than would be required if only occupied by day or by night.

As to proceedings by a sanitary authority for a nuisance created outside the authority's district, and affecting inhabitants within the district, *see* ss. 14 and 21 (4), *infra*.

Information of nuisances to sanitary authority.

3.—Information of a nuisance liable to be dealt with summarily under this Act in the district of a sanitary authority may be given to that authority by any person, and it shall be the duty of every officer of that authority and of every relieving officer, in accordance with the regulations of the authority having control over him, to give that information ; and it shall be the duty of the said authority to make the said regulations, and also the duty of the sanitary authority to give such directions to their officers as will secure the existence of the nuisance being immediately brought to the notice of any person who may be required to abate it, and the officer shall do so by serving a written intimation.

This section reproduces s. 10 of the Nuisances Removal Act, 1855, with the amendment that any person, instead of any person aggrieved, is enabled to give notice.

The corresponding section of the Public Health Act, 1875, is s. 93.

Instead of giving information to the sanitary authority any person may make complaint to a court of summary jurisdiction, and take proceedings therein in the same manner as the sanitary authority may ; s. 12.

The information, as a matter of convenience, should be given in writing, though this is not essential.

The proper person to whom to direct the notice is the clerk, *see* s. 128.

As to the power of a justice to grant a warrant to any person other than a sanitary authority's officer who is refused admission to premises suspected to be illegally occupied as underground rooms, *see* s. 97 (2), *infra*.

Notice requiring abatement of nuisance.

4.—(1.) On the receipt of any information respecting the existence of a nuisance liable to be dealt with summarily under this Act the sanitary authority shall, if satisfied of the existence of a nuisance, serve a notice on the person by whose act, default, or sufferance the nuisance arises or continues, or, if such person can-

not be found, on the occupier or owner of the premises on which the nuisance arises, requiring him to abate the same within the time specified in the notice, and to execute such works and do such things as may be necessary for that purpose, and, if the sanitary authority think it desirable (but not otherwise) specifying any works to be executed.

(2.) The sanitary authority may also by the same or another notice served on such occupier, owner, or person require him to do what is necessary for preventing the recurrence of the nuisance, and, if they think it desirable, specify any works to be executed for that purpose, and may serve that notice notwithstanding that the nuisance may for the time have been abated, if the sanitary authority consider that it is likely to recur on the same premises.

(3.) Provided that—

(*a.*) where the nuisance arises from any want or defect of a structural character, or where the premises are unoccupied, the notice shall be served on the owner:

(*b.*) 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 occupier or owner of the premises, the sanitary authority may themselves abate the same and may do what is necessary to prevent the recurrence thereof:

(*c.*) where the medical officer of health certifies to the sanitary authority that any house or part of a house in their district is so overcrowded as to be injurious or dangerous to the health of the inmates, whether or not members of the same family, the sanitary authority shall take proceedings under this section for the abatement of such nuisance:

(*d.*) where the nuisance is such absence of water-fittings as is declared a nuisance by section thirty-three of the Metropolis Water Act, 1871 (set out in the First Schedule to this Act), such absence shall be deemed to render the premises unfit for human habitation unless and until the contrary is shown to the satisfaction of the court. 34 & 35 Vict. c. 113.

(4.) Where a notice has been served on a person under this section, and either—

Sect. 4.

(*a.*) the nuisance arose from the wilful act or default of the said person; or

(*b.*) such person makes default in complying with any of the requisitions of the notice within the time specified,

he shall be liable to a fine not exceeding ten pounds for each offence, whether any such nuisance order as in this Act mentioned is or is not made upon him.

This section reproduces, with amendments, s. 21 of the Sanitary Act, 1866, and corresponds to s. 94 of the Public Health Act, 1875.

Sub-sections (2) and (4) and provisoes (*c*) and (*d*) of sub-section (3) are not in the Public Health Act, 1875.

Notice.—The duty imposed upon the sanitary authority by this section is imperative. As to proceedings by the County Council or Local Government Board in case of default by the sanitary authority, *see* ss. 100 and 101, *infra*.

A form of notice is given in Schedule III., Form A, *infra*. The word "serve" indicates that the notice must be in writing, and this is specially provided for by s. 127. It must be signed by the clerk of the sanitary authority, or by the officer by whom it is given or served. *Cf. St. Leonard's Vestry* v. *Holmes*, (1886) 50 J.P. 132.

It can be served by delivering it or a copy at the last known residence of the person to whom it is addressed, or by sending the same by post. If it is addressed to the owner or occupier of any premises, the description "owner of" or "occupier of," followed by the address of the premises will be sufficient without any name, and it may be served upon any person on the premises, or by post, or if there is no person on the premises, by affixing it to a conspicuous part of the premises; s. 128.

Person by whose act, default, &c.—As to this see the case of *Draper* v. *Sperring*, 10 C.B. (N.S), 113. In that case the owner of a market was held liable for the nuisance arising from the droppings of sheep in the market, although other persons had been accustomed to remove them. *See* also as to neglect to remove seaweed, *Proprietors of Margate Pier* v. *Town Council of Margate*, (1869) 20 L.T. 564; 33 J.P. 437. As to deposit of ashes, *Mayor of Scarborough* v. *Rural Sanitary Authority of Scarborough*, (1876) 1 Ex. D. 344, in which case a prohibition order was held good, but an abatement order was held bad, as it prescribed the doing an act which might involve the committal of a trespass.

But that case was not followed in *Parker* v. *Inge*, (1886) 17 Q.B.D. 584, in which case a local authority served a notice under s. 94 of the Public Health Act, 1875, upon the owner of premises, requiring him within seven days to abate a nuisance arising from defective construction of a structural

convenience, and for that purpose to execute certain specified works. Having failed to comply with the notice, the owner was summoned under s. 95 before a court of summary jurisdiction, and on the hearing it was proved that the premises in question were occupied by a tenant to the owner under a lease for twenty-one years, containing the usual covenants. It was held that the owner, even although he could not enter upon the premises and execute the works without the tenant's permission, had made default in complying with the requisitions of the notice within the meaning of s. 95, and that therefore the Justices had jurisdiction to make an order requiring him to abate the nuisance; *see* s. 116 (2), *infra*.

The provisions of ss. 91 to 96 of the Public Health Act, 1875, do not apply to a nuisance arising from sewage tanks and works constructed under s. 27 of that Act, by a local board of health, and a court of summary jurisdiction has therefore no power on proof of a nuisance so caused to make an order for the abatement of such nuisance under s. 96 of the Public Health Act, 1875, *R.* v. *Parlby*, (1889) 22 Q.B.D. 520.

In *Barnes* v. *Akroyd*, (1872) L.R. 7 Q.B. 474; 41 L.J. M.C. 110, it was held that for a smoke nuisance under s. 19 of the Sanitary Act, 1866, the occupier of the premises was liable to be charged under s. 12 of the Nuisances Removal Act, 1855, and to have an order made upon him for the abatement of the nuisance, although it may have arisen or have been continued by the act of the servant employed by him. But in *Chisholm* v. *Doulton*, (1889) 22 Q.B.D. 736, where proceedings were taken under the Smoke Nuisance (Metropolis) Act, 1853, and not under the Sanitary Act, 1866, it was held that the owner was not responsible for the negligence of a servant, and could not be convicted.

The owner of works carried on for his profit by his agents is liable to be indicted for a public nuisance committed by his workmen, though done by them without his knowledge, and contrary to his general orders, *R.* v. *Stephens*, (1866) L.R., 1 Q.B. 702.

In the cases of *Brown* v. *Bussell* and *Francomb* v. *Freeman*, (1868) L.R. 3 Q.B. 251; 37 L.J., M.C. 65, 18 L.T. (N.S.) 19, 16 W.R. 511, 32 J.P. 196; A. was the owner of a brewery, the refuse from which, after being conveyed a considerable distance along a drain, mingled with the sewage from other premises, and flowed into an open ditch on land not belonging to or occupied by A., and where a nuisance in consequence arose. The refuse from A.'s brewery was the principal cause of the nuisance. B. was owner of houses occupied by his tenants, and had constructed a drain to carry off the refuse from the houses under a private road not belonging to B. into a stream, which the refuse polluted and converted into a nuisance. B. claimed the right to run the refuse from the houses

Sect. 4

into this stream. *Held* that A. and B. were respectively liable for the nuisances created.

The Dean and Chapter of St. Paul's were lords of the manor of Barnes, Surrey, in which manor there is a common managed and regulated by Conservators. It was held that the Dean and Chapter were not liable for a pond on the common which was a nuisance. *Guardians of Richmond* v. *Dean of St. Paul's*, 18 L.T. (N.S.) 522; 32 J.P. 374.

Where sewage flowed from the premises of several persons on to the land of A., and became there a nuisance, although not a nuisance while on the several premises of the respective owners, it was held an order might be made upon each party whose sewage assisted in causing the nuisance. *Guardians of Hendon* v. *Bowles*, (1869) 20 L.T. (N.S.) 609; 34 J.P. 19.

The Owner.—This means the person receiving the rackrent, either on his own account or as agent or trustee, or who would receive it if the premises were let at a rackrent; *see* s. 141.

This definition is the same as that in the Public Health Act, 1875, but differs from that in s. 2 of the Nuisances Removal Act, 1855, as it omits the words "receives from the occupier." *Cook* v. *Montagu*, L.R., 7 Q.B. 418; 41 L.J. M.C. 149; 26 L.T. (N.S.) 471; 37 J.P. 53, is therefore no longer binding upon this point.

Notice to abate the nuisance.—Provisions as to the making of bye-laws for the *prevention* of nuisances are contained in ss. 16 to 18, *infra*.

Specifying any works to be executed.—The words at the end of sub-section (1) do not appear in s. 94 of the Public Health Act, 1875. Considerable doubt was felt whether under that section the Sanitary Authority could specify the works required to be done for the abatement of the nuisance.

In *Ex parte Whitchurch*, (1881) 6 Q.B.D. 545, the Sanitary Authority, when giving notice to abate a nuisance caused by a privy and ash-pit, required the ash-pit to be filled up and the privy abolished and a pail-closet substituted. On default, the Court made an order specifying similar works. It was held that the order was bad, as the owner could not be compelled to do particular work.

But in *Ex parte Saunders*, (1883) 11 Q.B.D. 191, where the Sanitary Authority had required by their notice that a water-closet in the centre of a house should be removed for the purpose of ventilation, so as to be against an external wall, it was held that the owner could be made to do the specified work.

In *R.* v. *Llewellyn*, (1884) 13 Q.B.D. 681, decided upon ss. 94–96 of the Public Health Act, 1875, a privy openly discharged night-soil and offensive matter on the bank of a river. The sanitary authority served the owner of the premises with a notice to abate the nuisance, and for that pur-

pose "to remove the present pipes and pan, level the floor under the seat of the privy, and provide a galvanized double-handle pail under the seat, the cover of which said seat to be moveable, so that the premises should no longer be a nuisance or injurious to health." And the justices at Sessions made an order in the terms of the notice. It was held that they had jurisdiction to make the order; and *Ex parte Saunders* (*supra*) was followed, and *Ex parte Whitchurch* dissented from.

In *Whitaker* v. *Derby Urban Sanitary Authority*, (1885) 55 L.J. M.C. 8; 50 J.P. 357; (1885) W.N. 201, decided upon the same sections of the Public Health Act, 1875, the respondents served upon the appellant, who was owner of certain houses to which were attached privies and ash-pits which were a nuisance, a notice requiring him to abate the nuisance, "and for that purpose to deodorize and fill in the privies, privy vaults and ash-pits, convert the same to proper pan water-closets and connect them with the main sewer." The notice was not complied with. An order was thereupon made by two justices in the terms of the notice. It was held a valid order.

In *R.* v. *Wheatley*, (1885) 16 Q.B.D. 34, decided upon the same sections of the Public Health Act, 1875, an order of justices upon the complaint of a local authority required the owner to abate a nuisance from untrapped drains, "and to execute such works and do such things as may be necessary for that purpose, so that the same shall no longer be a nuisance or injurious to health." The order was held bad because it did not specify what work and things the owner should execute and do for the purpose of abating the nuisance.

In *The Local Board for Acton* v. *Lewsey*, (1886) 11 App. Cas. 93, under s. 150 of the Public Health Act, 1875, an urban sanitary authority gave notice to the owner of premises to pave part of a street upon which his premises abutted, specifying the materials and mode and (*inter alia*) requiring him to lay down concrete. The owner having failed to comply, the sanitary authority did the work themselves, but, finding that concrete would be an unnecessary expense, omitted it. The House of Lords held that the omission to follow strictly the terms of their own notice did not prevent the sanitary authority from recovering from the owner his proportion of the expenses incurred. In that case Lord Bramwell said: "I desire to add upon the point which occurred to me, namely, that the Board had no right to order the way in which the work should be done. I still have sufficient doubt to recommend local boards, when they do give orders that work shall be done, not to prescribe the mode in which it shall be done, but to content themselves with saying that if done in a particular way it will be satisfactory to them."

Sect. 4.

Any doubt under this section of the Act is removed by the words of sub-section (2); *see* also section 37, *infra*, p. 69, and notes, and s. 43, *infra*.

A nuisance order under s. 5, if it is either an abatement or prohibition order, may specify the works to be executed.

Sanitary Authority may abate.—The nuisance order may be addressed to and executed by the Sanitary Authority under s. 8, *infra*; as to the power of a Sanitary Authority to sell any matter removed in abating nuisances, *see* s. 9, *infra*, and as to costs, *see* s. 11.

Sect. 4 (3) (*c*) (*d*). It would seem that these sub-sections, (*c*) (*d*), are superfluous in view of s. 2 (1) (*e*) and (*f*).

The corresponding section of the Nuisances Removal Act, 1855, was s. 29. That section provided that if there were no medical officer of health, any two medical practitioners might certify. This provision is omitted, as under s. 106 of this Act the appointment of a medical officer of health is compulsory.

The penalty under sub-section 4 is ten pounds, whereas under s. 29 of the Nuisances Removal Act, 1855, the maximum penalty for overcrowding was forty shillings.

Sect. 4 (3) (*d*). Another effect of the absence of water fittings being a nuisance which renders a house unfit for human habitation, is that a liability to a penalty of twenty pounds is incurred before the nuisance order of s. 5 is disobeyed, and before it is even made.

The use of the word "shall" renders it necessary that proceedings for overcrowding should be taken under this section.

Sect. 4 (4). This sub-section (4) is new. The effect of it is to render the persons mentioned in the sub-section liable to a penalty for disobeying the notice of the Sanitary Authority, and also, if his *de facto* act is wilful, for causing or allowing the nuisance. A similar provision for a penalty occurs in s. 96 of the Public Health Act, 1875. The penalty there is five pounds. The form of order in Schedule III. to this Act makes no provision for this. The form may be varied as circumstances may require; *see* s. 130.

Nuisance Order.—This is the summary order made by a Petty Sessional Court under the powers of s. 5. It is of three kinds: either an abatement order, requiring the abatement of a nuisance; a prohibition order, prohibiting the recurrence of a nuisance; or a closing order, requiring a house to be closed.

As to the costs and expenses of serving the notice under section 4, *see* s. 11 (1), *infra*.

Even if no nuisance order is made under s. 5 by the Court, if the nuisance is proved to have existed at the date of the abatement notice, the person by whose act or default the nuisance was caused will be liable for the costs.

Sect. 5.

5.—(1.) If either—

On non-compliance with notice, order to be made.

(*a.*) the person on whom a notice to abate a nuisance has been served as aforesaid makes default in complying with any of the requisitions thereof within the time specified ; or

(*b.*) the nuisance, although abated, since the service of the notice, is, in the opinion of the sanitary authority, likely to recur on the same premises,

the sanitary authority shall make a complaint, and the petty sessional court hearing the complaint may make on such person a summary order (in this Act referred to as a nuisance order).

(2.) A nuisance order may be an abatement order, a prohibition order, or a closing order, or a combination of such orders.

(3.) An abatement order may require a person 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.

(4.) A prohibition order may prohibit the recurrence of a nuisance.

(5.) An abatement order or prohibition order shall, if the person on whom the order is made so requires, or the court considers it desirable, specify the works to be executed by such person for the purpose of abating or preventing the recurrence of the nuisance.

(6.) A closing order may prohibit a dwelling-house from being used for human habitation.

(7.) A closing order shall only be made where it is proved to the satisfaction of the court that by reason of a nuisance a dwelling-house is unfit for human habitation, and if such proof is given the court shall make a closing order, and may impose a fine not exceeding twenty pounds.

(8.) A petty sessional court, when satisfied that the dwelling-house has been rendered fit for human habitation, may declare that it is so satisfied and cancel the closing order.

(9.) If a person fails to comply with the provisions of a nuisance order with respect to the abatement of a nuisance, he shall, unless he satisfies the court that he has used all due diligence to carry out such order, be liable to a fine not exceeding twenty shillings a day during his default ; and if a person knowingly and wilfully acts contrary to a prohibition or closing order

Sect. 5.

he shall be liable to a fine not exceeding forty shillings a day during such contrary action; moreover the sanitary authority may enter the premises to which a nuisance order relates, and abate or remove the nuisance, and do whatever may be necessary in execution of such order.

This section reproduces ss. 12, 13, 14 of the Nuisances Removal Act, 1855, and corresponds to ss. 95–98 of the Public Health Act, 1875.

Notice.—As to notice necessary, *see Amys* v. *Creed*, (1868) L.R. 4. Q.B. 122.

Default.—Where the owner of premises had been served with a notice to abate a nuisance arising from the defective structure of a structural convenience, and had failed to comply therewith, it was held that although he could not enter the premises without the tenant's permission, he had "made default." *Parker* v. *Inge*, (1886) 17 Q.B.D. 584. *See* now s. 116 (2), *infra*.

Likely to recur.—As to what is a recurring nuisance *see Draper* v. *Sperring*, 10 C.B. (N.S.) 113; 30 L.J. M.C. 225.

Shall make complaint.—The words are imperative, and on default of the Sanitary Authority the County Council may proceed under s. 100 or 101.

Complaint.—Unless the Act under which the proceeding is taken so requires, a complaint need not be in writing. (*See* 11 & 12 Vict. c. 43, s. 8.)

The form of summons is given in Form B. in Schedule III., *infra*.

In legal proceedings the Sanitary Authority may appear by their clerk, or any officer or member duly authorized, s. 123. Under the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), s. 11, complaint must be made within six months of the nuisance.

The Sanitary Authority may take proceedings in the High Court if summary proceedings would afford an inadequate remedy, s. 13. The proceedings if summary are to be taken in manner directed by the Summary Jurisdiction Acts; *see* s. 117, *infra*.

Petty Sessional Court.—This is defined by the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 13.

If proceedings are taken by a Sanitary Authority for a nuisance occurring outside its district under s. 14 of this Act it must proceed in the Court having jurisdiction in the district where the nuisance arises.

A Justice may act under this Act although he is a member of a Sanitary Authority or a ratepayer of the district, s. 122. But see that section and *R.* v. *Meyer*, (1875) 1 Q.B.D. 173, decided on 30 & 31 Vict. c. 115.

Nuisance order.—The form of the order is given in Schedule III., Form C., *infra*.

The specification of works to be executed under the abatement of prohibition order is only to be made if the defendant requires it or the Court considers it desirable. *See* note on s. 4, *supra*.

The Court can only make a nuisance order upon a person who has been served with an abatement notice under s. 4. It would seem, however, that if a private individual takes proceedings under s. 12, *infra*, to ground such proceedings he need not previously give a notice under s. 4, as if a complaint was made by an inhabitant under s. 13 of the Nuisances Removal Act, 1860, it was not necessary to have previously served a notice upon the defendant under s. 21 of the Sanitary Act, 1866. *See Cocker* v. *Cardwell*, (1869) L.R. 5 Q.B. 15.

The proceedings under this section are criminal proceedings, *R.* v. *Whitchurch*, [1881] 7 Q.B.D. 534; *R.* v. *Parlby*, [1889] W.N. 190; *re Schofield*, [1891] W.N. 127.

Although no nuisance order is made by the Court, the costs of the abatement notice and of the complaint may be recovered under s. 11, *infra*, if the nuisance existed at date of notice. It is important, therefore, for the Court to decide that point if no order is made.

Unfit for human habitation.—If the complaint is one respecting absence of water fittings, and is proved to be correct, the house is to be deemed unfit for human habitation, until the contrary is shown to the satisfaction of the Court; s. 4. (3) (*d*).

Closing order.—*See* the Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70): by s. 29 it defines a closing order, by reference to the enactments now repealed, for which this Act is to be substituted, *vide infra*, s. 142 (7); by s. 32, local authorities are to inspect their district to find out houses unfit for human habitation, and to take proceedings to obtain a closing order against such houses, whether occupied or not. The penalty of twenty pounds is imposed by the Housing of the Working Classes Act, 1890, and is therefore retained in s. 5 (7) of this Act.

There is an appeal, as to which *see* ss. 6 and 125 of this Act.

If a case is stated for the opinion of the High Court of Justice, its decision will be final, as the matter is a criminal proceeding. *See R.* v. *Whitchurch*, *supra*; *R.* v. *Parlby*, *supra*; *re Schofield*, *supra*. Although the proceedings are criminal, the defendant or the defendant's husband or wife can give evidence; s. 118.

There was no appeal against an order made under s. 13 of the Nuisances Removal Act, 1855 (18 & 19 Vict. c. 121), for abatement of a nuisance, but under s. 15 there was an appeal

Sect. 5.

against a prohibition order. *Ex parte Corporation of Liverpool*, 8 E. & B. 537; 27 L.J. M.C. 89.

Where an order for abatement of a nuisance had been made, and subsequently another order prohibiting the recurrence of the nuisance, and two informations were laid, one in respect of each order, it was held there could not be two convictions, as the act was the same in both cases. *Eddleston* v. *Barnes*, (1875) 1 Ex. D. 67.

Under the Public Health Act, 1875, s. 96, the Court may impose a fine of five pounds on the person against whom a nuisance order is made for failure to abate or prevent the recurrence of a nuisance, or apparently for having allowed the nuisance to exist at all.

Under this Act, s. 5 (7), a penalty of twenty pounds may similarly be imposed in a case where a house is unfit for human habitation.

The fine imposed under subs. (7) must be distinguished from the fines under subs. (9); the latter are for disregarding the nuisance order made by the Court.

Before the penalties under subs. (9) can be inflicted, the defendant will of course have to be brought again before the Court upon a summons for having disobeyed the nuisance order. *R.* v. *Jenkins*, (1862) 3 B. & S. 116; 32 L.J. M.C. 1; *R.* v. *Waterhouse*, (1872) L.R. 7. Q.B. 545.

The penalties under the last sub-section are double those under the repealed section (s. 14) of the Nuisances Removal Act, 1855, and those under the corresponding section (s. 98) of the Public Health Act, 1875.

As to the recovery of fines, *see* note to s. 11, *infra*, p. 30.

The Sanitary Authority may enter.—But if there is an appeal, not till the appeal is determined, s. 6 (1), unless the Sanitary Authority are specially authorized immediately to abate the nuisance under s. 6 (4).

If the Sanitary Authority do not enter and do the work, a *mandamus* to compel them to do so at the suit of a person aggrieved will not be ordered. *Re Ham Local Board, Ex parte Basset*, (1857) 7 E. & B. 280; 26 L.J. M.C. 64.

The default of the Sanitary Authority to enter and do the work will not exempt the person upon whom the nuisance order is made from liability to be fined. *Tomlins* v. *Great Stanmore*, 12 L.T. (N.S.) 118; 29 J.P. 117.

The costs and expenses of the Sanitary Authority if they enter and do the work are provided for in s. 11.

As to proceedings where a nuisance arises outside the district of the Sanitary Authority, *see* s. 14, *infra*.

Provision as to appeal against order.

6.—(1.) Where a person appeals to the court of quarter sessions against a nuisance order, no liability to a fine shall arise, nor, save as in this section mentioned, shall any proceedings be taken or work done under

such order until after the determination or abandonment of such appeal.

(2.) There shall be no appeal to quarter sessions against a nuisance order, unless it is or includes a prohibition or closing order, or requires the execution of structural works.

(3.) Where a nuisance order is made and a person does not comply with it and appeals against it to the court of quarter sessions, and such appeal is dismissed or is abandoned, the appellant shall be liable to a fine not exceeding twenty shillings a day during the non-compliance with the order, unless he satisfies the court before whom proceedings are taken for imposing a fine that there was substantial ground for the appeal, and that the appeal was not brought merely for the purpose of delay, and where the appeal is heard by the court of quarter sessions, that court may, on dismissing the appeal, impose the fine as if the court were a petty sessional court.

(4.) Where a nuisance order is made on any person and appealed against, and the court which made the order is of opinion that the continuance of the nuisance will be injurious or dangerous to health, and that the immediate abatement thereof will not cause any injury which cannot be compensated by damages, the court may authorize the sanitary authority immediately to abate the nuisance; but the sanitary authority, if they do so, and the appeal is successful, shall pay the cost of such abatement and the damages (if any) sustained by the said person by reason of such abatement; but, if the appeal is dismissed or abandoned, the sanitary authority may recover the cost of the abatement in a summary manner from the said person.

Sub-sections (1) and (2) correspond to ss. 15 and 16 in the Nuisances Removal Act, 1855; and to s. 99 in the Public Health Act, 1875. Sub-sections (3) and (4) are new.

Under the Nuisances Removal Act, 1855, there was no appeal against an abatement order, *see Ex parte Corporation of Liverpool*, 8 E. & B. 537, but there was an appeal against a prohibition order.

Under the Public Health Act, 1875, there is a right of appeal in all cases, *see* ss. 268, 269 of that Act.

Appeals to Quarter Sessions.—Any person aggrieved by a conviction or order made by a Court of Summary Jurisdiction under this Act, save as otherwise provided in this Act (s. 125, which see), may appeal to a Court of Quarter Sessions. Under

Sect. 6.

ss. 37 (5) and 41 (3) appeals are given to a person aggrieved under those sections to the County Council.

Appeal is dismissed or abandoned. — If the appeal is dismissed the Court of Quarter Sessions would seem to be the proper tribunal to apply to for the imposition of the fine mentioned in subs. (3). If the appeal is abandoned, it would appear better to apply for the imposition of the fine to the Court of Summary Jurisdiction which made the order in respect of which the appeal has been abandoned.

This sub-section (3) is designed to prevent frivolous appeals merely for the purpose of delay, with its consequent immunity from fine by the operation of subs. (1).

Damages sustained by the person. — These would be recoverable as a civil debt. No provision is made in the Act for the recovery of them summarily, as in the case of the expenses of the sanitary authority under s. 11 (2).

Provision in case of two convictions for overcrowding.

7.—Where two convictions for offences relating to the overcrowding of a house or part of a house in any district have taken place within a period of three months (whether the persons convicted were or were not the same), a petty sessional court may, on the application of the sanitary authority, order the house to be closed for such period as the court may deem necessary.

This corresponds to s. 36 of the Sanitary Act, 1866, and to s. 109 of the Public Health Act, 1875.

Overcrowding, *see* as to this s. 2 (1) (*e*), *supra*, p. 6; s. 2 (1) (*g*), (iii), *supra*, p. 3; s. 2. (2) (ii), *supra*, p. 13; s. 4 (3) (*c*), *supra*, p. 15.

Similar provisions to those contained in this section are made as to unlawfully occupying underground rooms; s. 98, *infra*.

As to power to make bye-laws to prevent overcrowding in houses let in lodgings, *see* s. 94, *infra*.

House, or part of a house.—It is clear that the two convictions with regard to a house must be in regard to the same house. It is not quite clear whether, in the case of convictions with regard to a part of a house, both convictions must be in regard to the same part of the house, though it seems clear that the parts must be parts of the same house. "House" includes schools, factories and other buildings in which persons are employed, and a house erected under Statutory authority; s. 141, *infra*.

Petty Sessional Court.—*See* note to s. 5, *supra*, p. 22.

May order.—The words in the Public Health Act, 1875, s. 109, are "may direct."

It has been thought that under the Public Health Act this closing order may be made at the time of the second con-

viction, but it would seem that the proper procedure would be to make a separate application upon an information, so that the attendance at the hearing of all persons who will be affected by the order may be secured by summons. The duration of the closing order is left entirely to the Court. What the word "necessary" refers to is uncertain, probably necessary to inflict upon the owner a sufficient pecuniary punishment in the way of loss of rent. The effect of the closing order is to prohibit the house from being used for human habitation. *See* s. 5 (6) (7), *supra*, p. 21, and note, p. 23.

In certain cases order may be addressed to sanitary authority.

8.—Whenever it appears to the satisfaction of the petty sessional court that the person by whose act, default, or sufferance, a nuisance liable to be dealt with summarily under this Act arises, or the owner or occupier of the premises is not known or cannot be found, then the nuisance order may be addressed to, and if so addressed shall be executed by, the sanitary authority.

This section reproduces s. 17 of the Nuisances Removal Act, 1855, and corresponds to s. 100 of the Public Health Act, 1875.

Petty Sessional Court.—*See* note to s. 5, *supra*, p. 22.

Person by whose act, default, &c.—*See* note to s. 4, *supra*, p. 16.

Owner.—*See* note to s. 4, *supra*, p. 18.

Nuisance order.—*See* note to s. 4 (4), *supra*, p. 20, and note to s. 5, *supra*, p. 23. The form of order is Form D, Schedule III., *infra*.

As to the costs of the sanitary authority, *see* s. 11. It seems that if the person causing the nuisance or the owner or occupier of the premises is not known, the order is to be made on the sanitary authority under s. 8; and if the order is made on the sanitary authority, then, under s. 11, the expenses shall be deemed money paid for the use and at the request of the person by whose act, default, or sufferance the nuisance was caused, *i.e.*, for the person not known.

Under s. 9 there is power to sell anything removed in abating a nuisance, and to keep the proceeds in payment of expenses.

Under s. 4 (3) (*b*) the sanitary authority have the power to do the work without an order in the circumstances mentioned in that sub-section.

Owner not known.—If the occupier refuses to state name of owner, he is liable to penalty of five pounds, s. 116 (3).

Power to sell manure, &c.

9.—Any matter or thing removed by the sanitary authority in abating, or doing what is necessary to prevent the recurrence of, a nuisance liable to be dealt

Sect. 9.

with summarily under this Act may be sold by public auction or, if the authority think the circumstances of the case require it, may be sold otherwise, or be disposed of without sale; and the money arising from the sale may be retained by the sanitary 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.

This section reproduces s. 18 of the Nuisances Removal Act, 1855, and corresponds to s. 101 of the Public Health Act, 1875.

Under the former Act the sale had to be by public auction after five days' notice, unless the delay was prejudicial to health, and then on an order by the justices.

Power of entry.

10.—The sanitary authority shall have a right to enter from time to time any premises—

(*a.*) for the purpose of examining as to the existence thereon of any nuisance liable to be dealt with summarily under this Act, at any hour by day, or in the case of a nuisance arising in respect of any business, then at any hour when that business is in progress or is usually carried on, and

(*b.*) where under this Act a nuisance has been ascertained to exist, or a nuisance order has been made, then at any such hour as aforesaid, until the nuisance is abated, or the works ordered to be done are completed, or the closing order is cancelled, as the case may be, and

(*c.*) where a nuisance order has not been complied with, or has been infringed, at all reasonable hours, including all hours during which business therein is in progress or is usually carried on, for the purpose of executing the order.

The corresponding sections to this were s. 11 of the Nuisances Removal Act, 1855, and ss. 20 and 31 of the Sanitary Act, 1866. *Compare* s. 102 of the Public Health Act, 1875.

Subs. (*a*) is for the purpose of inspecting to ascertain the existence of nuisances; subs. (*b*) to inspect works ordered to be done; and subs. (*c*) for the purpose of the sanitary authority executing works.

Day.—This is defined by s. 141, *infra*, as the period from

6 A.M. to 9 P.M. Under the Nuisances Removal Act, 1855, the time specified was 9 A.M. to 6 P.M., and under the Sanitary Act, 1866, during business hours.

Right to enter.—Where the sanitary authority have a right to enter, they may enter by any member of the authority (apparently without any authorization), and by any officer authorized generally or in a particular case; *see* s. 115 (1), *infra*.

Although possibly the member of the authority will require no authorization, he will require (if it is demanded of him), as will every authorized person, a written document, properly authenticated, showing his right to enter, which must be produced if required; s. 115 (2).

The proper persons to be appointed are the Medical Officer of Health and the Sanitary Inspectors. The former has all the powers of the latter by s. 106 (4).

As to penalties for refusing or failing to admit, *see* s. 115.

If entry is refused, a justice may grant a warrant under s. 115 (3), *infra*.

The form of such warrant is set out in Schedule III., Form E, *infra*.

As to obstruction of officers in the execution of this Act, *see* s. 116 (1).

For power of entry in execution of other provisions of the Act, *see* as to slaughter-houses, s. 20 (7), as to bake-houses. s. 26 (2), as to dairies, s. 28 (2), as to water-closets, s. 40 (1), as to unsound food, s. 47 (1), as to disinfection, s. 60 (3), as to tents and vans, s. 95 (3), as to underground rooms, s. 97 (2), as to smoke nuisances, s. 23 (6).

Nuisance liable to be dealt with summarily.—This refers to s. 2 (1).

Any business.—The provisions as to these are contained in ss. 19 to 22, and 25 to 28, *infra*.

Nuisance order.—*See* s. 5 (1), *supra*, p. 21.

As to what are reasonable hours, *see Small* v. *Bickley*, 32 L.T. (N.S.) 726, where it was held that Sunday was not an unreasonable time.

Costs of execution of provisions relating to nuisances.

11.—(1.) All reasonable costs and expenses incurred in serving notice, making a complaint, or obtaining a nuisance order, or in carrying the order 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 sanitary authority, or, if no order is made, but the nuisance is proved to have existed when the notice was served or the complaint made, then of the person by whose act, default, or sufferance, the nuisance was caused; and in case of nuisances caused by the act or default of the owner of

Sect. 11.

premises such costs and expenses may be recovered from any person who is for the time being owner of such premises.

(2.) Such costs and expenses, and any fines incurred in relation to any such nuisance, may be recovered in a summary manner or in the county court or High Court, and the court shall have power to divide costs, expenses, and fines between persons by whose acts, defaults, or sufferance a nuisance is caused, as to it may seem just.

This section reproduces s. 19 of the Nuisances Removal Act, 1855, with the addition of the word "sufferance" after the words act or default when they first occur. Compare with it s. 104 of the Public Health Act, 1875, under which Act (as was the case under the Nuisances Removal Act), the costs and expenses cannot exceed one year's rackrent of the premises.

Order made on Sanitary Authority.—*See* s. 8.

If no order made.—Although no nuisance order is made, yet, if the nuisance existed when notice requiring abatement was served, the Sanitary Authority would be entitled to costs up to and including the hearing of the complaint. It will therefore be desirable to get a decision as to the existence of the nuisance at the hearing, though if proceedings are taken under subsection (2) in the County Court, or High Court, proof of the existence could be given to that Court.

Owner.—See the definition in s. 141, *infra*. If the occupier refuses to give or wilfully misstates the name of the owner, he is liable to a fine of five pounds, s. 116 (3). Expenses recoverable from the owner may be recovered from the occupier, who may deduct the same from his rent. The amount recoverable in this manner from the occupier cannot be more than the amount of rent which is for the time being due, or which after notice not to pay his rent shall become due, s. 121, *infra*. *See Cook* v. *Montagu*, (1872) L.R. 7 Q.B. 418, and *Guardians of Blything* v. *Warton*, (1863) 32 L.J. M.C. 132, and the note on s. 4, *supra*, p. 18.

High Court.—This is defined by the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 13.

The County Court.—As to jurisdiction in recovery of fines, &c., *see* s. 117. Under the Public Health Act, 1875, s. 104, the costs, &c., were recoverable in *any* County Court.

Summary manner.—*See* s. 117.

By the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), s. 6: "Where under any Act, whether past or future, a sum of money claimed to be due is recoverable on complaint to a Court of Summary Jurisdiction, and not on information, such sum shall be deemed to be a civil debt, and if recovered

before a Court of Summary Jurisdiction shall be recovered in the manner in which a sum declared by this Act to be a civil debt recoverable summarily is recoverable under this Act, and not otherwise, and the payment of any costs ordered to be paid by the complainant or defendant in the case of any such complaint shall be enforced in a like manner as such civil debt and not otherwise."

And by s. 35 of the same Act: "Any sum declared by this Act, or by any future Act, to be a civil debt which is recoverable summarily, or in respect of the recovery of which jurisdiction is given by such Act to a Court of Summary Jurisdiction shall be deemed to be a sum for payment of which a Court of Summary Jurisdiction has authority by law to make an order on complaint in pursuance of the Summary Jurisdiction Acts: provided as follows:—(1.) A warrant shall not be issued for apprehending any person for failing to appear to answer any such complaint; and (2.) an order made by a Court of Summary Jurisdiction for the payment of any such civil debt as aforesaid or of any instalment thereof, or for the payment of any costs in the matter of any such complaint, whether ordered to be paid by the complainant or defendant, shall not, in default of distress or otherwise, be enforced by imprisonment, unless it be proved to the satisfaction of such Court or of any other Court of Summary Jurisdiction for the same county, borough, or place, that the person making default in payment of such civil debt instalment or costs, either has, or has had since the date of the order, the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same, and in any such case the Court shall have the same power of imprisonment as a County Court would for the time being have under the Debtors Act, 1869, for default of payment if such debt had been recovered in that Court, but shall not have any greater power. Proof of the means of the person making default may be given in such manner as the Court to whom application is made for the committal to prison think just, and for the purposes of such proof the person making default and any witnesses may be summoned and examined on oath, according to the rules for the time being in force under this Act in relation to the summoning and examination of witnesses, or if no such rules are in force, to the rules for the like purpose made in pursuance of the Employers and Workmen Act, 1875."

As to what debts are within this section, *see R.* v. *Paget*, (1881) 8 Q.B.D. 151.

But a fine or penalty, whoever is to receive it, is not a civil debt under the above section. It is a matter of criminal proceeding. *R.* v. *Paget, ibid.*

Fines are to be paid to the Sanitary Authority and applied by them in aid of their expenses under this Act; s. 119, *infra.*

Sect. 11.

In *Bermondsey Vestry* v. *Ramsey*, (1871) L.R. 6 C.P. 247, under the words "present or any future owner," in the 25 & 26 Vict. c. 102, s. 77, it was held that the power to recover from the occupier was not barred by an unsatisfied judgment against a former owner. *See* also under the same section *Plumstead Board of Works* v. *Ingoldby*, (1872) L.R. 8 Ex. 63, 174.

Power to divide costs.—Power is given to the Court to apportion costs between two or more persons liable, who may be proceeded against jointly; if some only are proceeded against they may recover a proportionate part of the costs in a summary manner from the persons liable who are not proceeded against, s. 120.

As to recovery of expenses of maintenance of non-pauper patient in a hospital, *see* s. 76.

Power of individual to complain to justice of nuisance.

12.—(1.) Complaint of the existence of a nuisance liable to be dealt with summarily under this Act on any premises within the district of any sanitary anthority may be made by any person, and thereupon the like proceedings shall be had with the like incidents and consequences as to making of orders, fines for disobedience of orders, appeal, and otherwise, as in the case of a like complaint by the sanitary authority.

(2.) Provided that the court may, if it thinks fit,

(*a.*) adjourn the hearing or further hearing of the complaint for the purpose of having an examination of the premises where the nuisance is alleged to exist, and may authorize the entry into such premises of any constable or other person for that purpose; and

(*b.*) authorize any constable or other person to do all necessary acts for executing an order made on a complaint under this section, and to recover the expenses from the person on whom the order is made in a summary manner.

(3.) Any constable or other person authorized under this section shall have the like powers, and be subject to the like restrictions as if he were an officer of the sanitary authority authorized under the foregoing provisions of this Act to enter any premises and do any acts thereon.

This section reproduces with amendment s. 13 of the Nuisances Removal Act, 1860 (23 & 24 Vict. c. 77), which empowered an inhabitant of a parish to complain as to nuisances in the same parish on private premises, and s. 53 of the

Sect. 12.

Sanitary Act, 1874 (37 & 38 Vict. c. 89), which extended the right to any person aggrieved, or injuriously affected, or to an inhabitant or an owner of premises in the parish, and whether the nuisance was upon public or private premises.

The corresponding section of the Public Health Act, 1875, is s. 105, which reproduces the effect of the above two sections, and in that respect differs from s. 12 of this Act, which applies to *any* person.

Under the Nuisances Removal Acts, 1855 and 1860, and the Sanitary Act, 1866, it was held that a private complainant need not serve the previous notice required from a sanitary authority (now under s. 4 of this Act) before complaint to a petty sessional court. *Cocker* v. *Cardwell*, (1869) L.R. 5 Q.B. 15.

Complaint.—*See* note to s. 5, *supra*, p. 22. Information of nuisances may be given by any person to the sanitary authority under s. 3.

Under s. 21, *infra*, any ten inhabitants of a district can certify to the sanitary authority of the district that any premises used for trade are a nuisance, upon which certificate the sanitary authority must take legal proceedings.

Nuisances dealt with summarily.—These are set out in s. 2, *supra*, p. 2, where see the notes.

Like proceedings shall be had.—These are regulated by s. 5, *supra*, p. 21.

May authorize the entry.—See ss. 115 and 116 for general provisions as to powers of entry; and in the case of underground rooms, s. 97 (2), *infra*. For form of warrant to enter, *see* Schedule III., Form E, *infra*.

Fine.—This will be paid to the sanitary authority, s. 119.

Proceedings in High Court for abatement of nuisances.

13.—The sanitary authority may, if in their opinion summary proceedings would afford an inadequate remedy, cause any proceedings to be taken against any person in the High Court to enforce the abatement or prohibition of any nuisance liable to be dealt with summarily under this Act, or for the recovery of any fines from, or for the punishment of, any persons offending against the provisions of this Act relating to such nuisances, and may pay as expenses of the execution of this Act their expenses of an incident to all such proceedings.

This section reproduces s. 30 of the Nuisances Removal Act, 1855, and corresponds to s. 107 of the Public Health Act, 1875.

Summary proceedings.—These are regulated by s. 5, *supra*, p. 21, and ss. 117–120.

Sect. 13.

Any proceedings.—The proceedings must be ordinary proceedings known to the law, so that in the absence of special damage a sanitary authority cannot sue in respect of a public nuisance except with the sanction of the Attorney-General by action in the nature of an information. *Wallasey Local Board* v. *Gracey*, (1887) 36 Ch. D. 593.

High Court.—This is defined in the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 13. A judge or justice is not incapable of acting if a member of a sanitary authority, or if a ratepayer; *see* s. 122 of this Act, *infra*. The sanitary authority may appear by their clerk or authorized officer, s. 123.

Recovery of fines.—These may be recovered summarily, or in the county court, s. 11.

All fines will be paid to the sanitary authority, s. 119.

A sanitary authority may act as relators in an action in the High Court brought by the Attorney-General for the purpose of abating a public nuisance, and may themselves maintain an action for damages for a nuisance affecting property, of which they are the owners. *Attorney-General* v. *Logan*, [1891] 2 Q.B. 100.

Power to proceed where cause of nuisance arises without district.

14.—(1.) Where a nuisance liable to be dealt with summarily under this Act appears to be wholly or partially caused by some act, default, or sufferance committed or taking place without the district the inhabitants of which are affected by the nuisance, the sanitary authority for that district may take or cause to be taken against any person in respect of such act, default, or sufferance any proceedings in relation to nuisances by this Act authorized with the same incidents and consequences as if such act, default, or sufferance 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, default, or sufferance is alleged to be committed or take place.

38 & 39 Vict. c. 55.

(2.) Section one hundred and eight of the Public Health Act, 1875, set out in the First Schedule to this Act, shall continue to extend to London, with the substitution of a sanitary authority under this Act for any nuisance authority mentioned in the said section, and any reference in that section to a nuisance in the metropolis shall include a nuisance within the meaning of this Act.

This section in effect re-enacts in this Act s. 108 of the Public Health Act, 1875, which always applied to London, although that Act generally did not so apply.

Sect. 14.

It might be contended that sub-section (1) of s. 14 of this Act only enabled one sanitary authority to take proceedings as to nuisances within the section which arise within the district of another sanitary authority within London only, as the Act only applies to London. Sub-section (2) makes it clear that a sanitary authority within London can take proceedings as to nuisances arising or caused without London, and which affect the inhabitants of that district. Section 108 of the Public Health Act, 1875, is set out *infra* in Schedule I.

The section was necessary, as it had been held that under the Acts now repealed a sanitary authority could not proceed against offences outside the district. *R.* v. *Cotton*, (1858) 1 E. & E. 203, 28 L.J. M.C. 22, which case is no longer of force.

Nuisance liable to be dealt with.—These are set out in s. 2, *supra*, p. 2.

Act of default or sufferance.—The word "sufferance" does not appear in s. 108 of the Public Health Act, 1875. *See* note to s. 4, *supra*, p. 16.

District.—*See* s. 99 (2), *infra*.

Proceedings by this Act authorized.—As to serving abatement notice, *see* s. 4, *supra*, p. 16. As to summary proceedings, *see* s. 5, *supra*.

Proceedings in the High Court can be taken under s. 13, *supra*.

As to power to proceed against nuisances caused by offensive trades outside their district, *see* s. 21, *infra*.

Penalty for injuring closet, &c., so as to cause a nuisance.

15.—If a person causes any drain, water-closet, earth-closet, privy, or ash-pit to be a nuisance or injurious or dangerous to health by wilfully destroying or damaging the same, or any water-supply, apparatus, pipe, or work connected therewith, or by otherwise wilfully stopping up, or wilfully interfering with, or improperly using the same, or any such water-supply, apparatus, pipe, or work, he shall be liable to a fine not exceeding five pounds.

This section is an amendment of the law, and is directed against nuisance and destruction of sanitary fittings and appliances by tenants. The matters mentioned in the section all come within the nuisances enumerated in s. 2. But this section imposes a fine, as does s. 4 (4) (*a*); under this section, however, no notice need be served as required by s. 4 (4).

Sect. 16.

Penalties in respect of particular Nuisances.

Bye-laws by sanitary authority and county council as to cleansing streets and prevention of nuisances.

16.—(1.) Every sanitary authority shall make bye-laws—

(*a.*) for the prevention of nuisances arising from any snow, ice, salt, dust, ashes, rubbish, offal, carrion, fish, or filth, or other matter or thing in any street; and

(*b.*) for preventing nuisances arising from any offensive matter running out of any manufactory, brewery, slaughter-house, knacker's yard, butcher's or fishmonger's shop, or dunghill, into any uncovered place, whether or not surrounded by a wall or fence; and

(*c.*) for the prevention of the keeping of animals on any premises in such place or manner as to be a nuisance or injurious or dangerous to health; and

(*d.*) as to the paving of yards and open spaces in connexion with dwelling-houses.

(2.) The county council shall make bye-laws—

(*a.*) for prescribing the times for the removal or carriage by road or water of any fœcal or offensive or noxious matter or liquid in or through London, and providing that the carriage or vessel used therefor shall be properly constructed and covered so as to prevent the escape of any such matter or liquid, and as to prevent any nuisance arising therefrom; and

(*b.*) as to the closing and filling up of cesspools and privies, and as to the removal and disposal of refuse, and as to the duties of the occupier of any premises in connexion with house refuse, so as to facilitate the removal of it by the scavengers of the sanitary authority.

(3.) It shall be the duty of every sanitary authority to observe and enforce any bye-laws made under this section.

(4.) Except as otherwise provided by the bye-laws, a constable may arrest without warrant and take before a justice any person whom he finds committing an offence against such bye-laws and who refuses to give his true name and address.

(5.) Provided that the bye-laws shall not make it an offence to lay sand or other material in any street in

time of frost to prevent accidents, or litter or other matter to prevent the freezing of water in pipes, or in case of sickness to prevent noise, if the same is laid, and when the occasion ceases duly removed, in accordance with the bye-laws.

The matters in respect of which bye-laws under this section are to be made were made offences under ss. 64, 73 and 74 of Michael Angelo Taylor's Act (57 Geo. III. c. xxix) which was a local Act, afterwards applied to London generally, as to its provisions for regulating streets and suppressing nuisances, by the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102), s. 73. *See*, as to its repeal on the coming into force of bye-laws, s. 142, *infra*.

Similar provisions are contained in s. 60 of the Police (Metropolitan) Act, 1839 (2 & 3 Vict. c. 47), and in s. 41 of the City Police Act, 1839 (2 & 3 Vict. c. *xciv*). *See* s. 29, *infra*, p. 60.

The power to seize without a warrant is taken in a modified form from the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), s. 229.

Under s. 202 of the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), the London County Council had power to make bye-laws "for the emptying, cleansing, closing, and filling up of cesspools and privies, and for other works of cleansing and of removing and disposing of refuse." These words in that section are repealed by the schedule to this Act.

Similar powers to those contained in this section are provided in the Public Health Act, 1875, s. 44.

As to power to make bye-laws for tents and vans, *see* s. 95 (2) *infra*; and as to lodgings, s. 94, *infra*.

Sanitary Authority shall make bye-laws.—By s. 114, all bye-laws must be made in accordance with the provisions as to bye-laws in ss. 182 to 186 of the Public Health Act, 1875, which sections are set out in Schedule I., *infra*, where see the notes. Sanitary Authorities are to receive from the County Council copies of any of that Council's proposed bye-laws two months before the Council applies for the Local Government Board's confirmation; s. 114, *infra*. *See* also s. 39, *infra*, for powers to make bye-laws with respect to water-closets, &c.

Where there are at the commencement of this Act no bye-laws in force for any purpose, they must be submitted to the Local Government Board within six months of the commencement of the Act; s. 142 (3), *infra*.

The bye-laws must be reasonable; in a rural district a bye-law was held unreasonable and bad which prohibited the keeping of swine within fifty feet from a dwelling-house, *Heap* v. *Burnley Union*, (1884) 12. Q.B.D. 617; but in *Wanstead Local Board* v. *Wooster*, 38. J.P. 21, Blackburn, J., said: "The local board exercised the right given by the Statute

Sect. 16.

of making the bye-law as to pigs, and the intention was that the keeping of pigs within 100 feet of a house was so likely to be a nuisance that it should be prohibited altogether. Such a rule may well be most reasonable in a populous place, and if it were necessary in each case to prove that the pig was so kept as to be actually a nuisance, it would defeat altogether such a bye-law." And the Court held the bye-law reasonable. A bye-law under 5 & 6 Wm. IV. c. 76 (Municipal Corporation Act, 1835), imposed a fine upon every person who shall keep or suffer to be kept any swine within the said borough from the first day of May to the 31st day of October inclusive in any year. It was held, bad as it was general against keeping pigs. *Everett* v. *Grapes*, 3 L.T. (N.S.) 669.

These cases, except as bearing on bye-laws generally, have no application under this Act as to swine, as to which *see* s. 17.

In *Slattery* v. *Naylor*, (1888) 13 App. Cas. 446, the Privy Council, in a case on appeal from the Supreme Court of New South Wales, held that a bye-law made in pursuance of s. 153 of the Municipalities Act, 1867, empowering municipal councils to make bye-laws for regulating the interment of the dead, is not *ultra vires* by reason of prohibiting interment altogether in a particular cemetery and thereby destroying the private property of the owners of burial-places therein.

In which case Lord Hobhouse, delivering the judgment of the Privy Council, said : "It is possible that if we were now discussing how the bye-law should be framed, it might seem more wise and prudent to make it less absolute. . . . But supposing that to be so, it is quite a different question whether a bye-law like the present one is to be held unreasonable because such considerations have been overlooked or rejected by its framers. The jurisdiction of testing bye-laws by their reasonableness was originally applied in such cases as those of manorial bodies, towns and corporations having inherent powers or general powers conferred by charter of making such laws. As new corporations or local administrative bodies have arisen, the same jurisdiction has been exercised over them. But in determining whether or no a bye-law is reasonable, it is material to consider the relation of its framers to the locality affected by it, and the authority by which it is sanctioned. It is quite a different question whether a bye-law can be treated as unreasonable merely because it does not contain qualifications which commend themselves to the minds of judges. . . . Their lordships feel strong reluctance to question the reasonable character of bye-laws made under such circumstances [*i.e.*, as to confirmation, &c.], and doubt whether they ought to be set aside as unreasonable by a Court of Law, unless it be in some very extreme case, such as has been indicated."

The above judgment is set out fully, as it appears to lay

down a different rule from that followed by the Court as to its discretion in over-ruling a bye-law in the case of *Johnson* v. *Mayor of Croydon*, (1886) 16 Q.B.D. 708, and *Munro* v. *Watson*, (1887) W.N. 60. *See* also *Torquay Local Board* v. *Bridle*, (1883) 47 J.P. 183; *Rudland* v. *Mayor of Sunderland*, (1885) 52 L.T. (N.S.) 617, 33 W.R. 164, 49 J.P. 359; *Reay* v. *Mayor &c. of Gateshead*, (1886) 55 & L.T. (N.S.) 92.

The penalties, &c., under these bye-laws will be paid to the Sanitary Authority, s. 119.

The prosecution for offences against these bye-laws will be conducted in manner directed by the Summary Jurisdiction Acts; *see* s. 117, *infra*.

Prevention of nuisances.—As to abatement of nuisances, *see* s. 2 to 5, *supra*, pp. 2–24.

Snow, ice, salt.—By s. 63 of Michael Angelo Taylor's Act (57 Geo. III. c. xxix.) occupiers of houses, &c., were required, under a penalty of ten shillings, to sweep and cleanse once a day, at all times before 10 A.M. in the day, the footway in front of the house, &c., during the continuance of frost and after a fall of snow from time to time.

Under s. 60 (6) of the Police (Metropolitan) Act, 1839 (2 & 3 Vict. c. 47), every occupier of a house who did not keep sufficiently swept and cleansed the footways adjoining his premises was liable to a fine of forty shillings.

These sections are repealed by s. 142 of this Act, and also by s. 29 (3), *infra*.

Street.—This term is defined in s. 141, *infra*.

Offensive matter.—This sub-section (*b*) is taken from s. 60 (3) of the Police (Metropolitan) Act, 1839, by which Act offenders were liable to a fine of forty shillings; that section is now repealed expressly by s. 142, *infra*.

The obligation upon occupiers or owners to cause footways adjoining their premises to be swept and cleansed is removed by s. 29 (3), *infra*.

Slaughter-house, knacker's-yard.—For provisions relating to these and other offensive businesses, *see* ss. 19 to 22, *infra*.

Keeping of animals.—As to the keeping of swine, *see* s. 17, *infra*.

A petty sessional court has power to prohibit the keeping of animals in unfit places; s. 18, *infra*.

Laying sand in street.—This provision is taken from s. 60 (3) of the Police (Metropolitan) Act, 1839 (2 & 3 Vict. c. 47), which section is repealed by s. 142 of this Act.

The County Council shall make bye-laws.—By s. 114 these bye-laws are subject to the provisions of ss. 182 to 186 of the Public Health Act, 1875, which are set out in Schedule I., *infra*.

The County Council must send a copy of their proposed bye-laws to every Sanitary Authority, which will have to observe

Sect. 16.

them two months before applying to the Local Government Board for their confirmation; *see* s. 114.

The bye-laws made by the County Council under this Act will not apply to the City of London; *see* s. 133 (*b*), *infra*.

As to bye-laws by the County Council for regulating offensive trades, *see* s. 19, *infra*, and as to water-closets, &c., s. 39, *infra*.

Penalty for keeping swine in unfit place.

17.—(1.) A person shall not—

(*a.*) feed or keep any swine in any locality, premises, or place which is unfit for the keeping of swine, or in which the feeding or keeping of swine may create a nuisance or be injurious to health, or

(*b.*) permit any swine to stray or go about in any street or public place.

(2.) If any person acts in contravention of this section he shall be liable to a fine not exceeding forty shillings, and to forfeit the swine, and to a further fine not exceeding ten shillings for every day during which he continues such offence after notice from the sanitary authority to discontinue the same.

(3.) Any swine found straying or going about in any street or public place may be seized and removed by any constable.

(4.) Any premises within forty yards of any street or public place shall be deemed for the purposes of this section to be a place unfit for keeping swine.

This section corresponds to s. 91 of the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102), and s. 68 of Michael Angelo Taylor's Act (57 Geo. III. c. xxix), and to s. 60 (5) of the Police (Metropolitan) Act (2 & 3 Vict. c. 47). *See* also s. 47 of the Public Health Act, 1875.

Keep swine.—Any animal improperly kept will be a nuisance under s. 2 (1) (*c*), *supra*, p. 2, where see note. The sanitary authority may make bye-laws as to keeping any animals under s. 16, *supra*, p. 37, where see cases and notes.

As to power to prohibit keeping in future animals in improper places, *see* s. 18, *infra*.

The keeping of pigs in a city is a Common Law nuisance, and is indictable as such. *R.* v. *Wigg*, 2 Salkeld 460.

Under s. 47 of the Public Health Act, 1875, which does not contain the words *injurious to health*, it was not necessary to prove injury to health. *Banbury Sanitary Authority* v. *Page*, (1881) 8 Q.B.D. 97.

Power to prohibit keeping of animals in unfit place.

18.—Where it is proved to the satisfaction of a petty sessional court that any locality, premises, or place are or

is unfit for the keeping of any animal, the court may by summary order prohibit the using thereof for that purpose for the future.

This section is a reproduction of a part of s. 91 of the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102). In that Act the provision only applied to swine, and not to a place where *any animal* is kept, as in this Act.

There is no penalty imposed in this Act for disobedience of the order under this section. There was a penalty of ten shillings a day imposed by s. 91 of the Metropolis Management Act, 1862. To recover penalties it would seem that the sanitary authority will have to serve notice under s. 17 (2), and recover penalties under that section. A bye-law prohibiting the keeping of pigs within 100 feet of a dwelling-house has been held not unreasonable. *Wanstead* v. *Wooster*, 37 J.P. 403, 38 J.P. 21. *See* also *Digby* v. *West Ham*, 22 J.P. 304.

Offensive Trades.

Prohibition and regulation of establishing anew certain offensive businesses, and bye-laws as to offensive businesses.

19.—(1.) If any person—

(*a.*) establishes anew the following businesses, or any of them; that is to say, the business of blood boiler, bone boiler, manure manufacturer, soap boiler, tallow melter, or knacker; or

(*b.*) establishes anew, without the sanction of the county council, the following businesses, or any of them; that is to say, the business of fellmonger, tripe boiler, slaughterer of cattle or horses, or any other business which the county council may declare by order confirmed by the Local Government Board and published in the London Gazette to be an offensive business,

he shall be liable to a fine not exceeding fifty pounds in respect of the establishment thereof, and any person carrying on the same when established shall be liable to a fine not exceeding fifty pounds for every day during which he so carries on the same:

(2.) Provided that this enactment shall not render any person liable to a fine for establishing anew with the sanction of the county council, or carrying on, the business of soap boiler, if and as long as that business is a business in which tallow or any animal fat or oil other than olein is not used by admixture with alkali for the production of soap.

(3.) The county council shall give their sanction by

Sect. 19.

order, but, at least fourteen days before making any such order, shall make public the application for it, by serving on the sanitary authority within whose district the premises on which the business is proposed to be established are situate, and by advertising, notice of the application and of the time and place at which they will be willing to hear all persons objecting to the order, and by causing a copy of the notice to be affixed in a conspicuous part of the said premises; and they shall consider any objections made at that time and place, and shall grant or withhold their sanction as they think expedient.

(4.) The county council may make bye-laws for regulating the conduct of any businesses specified in this section, which are for the time being lawfully carried on in London, and the structure of the premises on which any such business is being carried on, and the mode in which the said application is to be made.

(5.) Any such bye-law may empower a petty sessional court by summary order to deprive any person, either temporarily or permanently, of the right of carrying on any business to which such bye-law relates, as a punishment for breaking the same, and any person disobeying such order shall be liable to a fine not exceeding fifty pounds for every day during which such disobedience continues.

(6.) Any sanitary authority or person aggrieved by any proposed bye-law under this section, or by any proposed alteration or repeal of a bye-law, may forward notice of his objection to the Local Government Board, who shall consider the same.

(7.) There shall be charged for an order of the county council under this section, and carried to the county fund, such fee not exceeding forty shillings as the county council may fix.

(8.) For the purposes of this section a business shall be deemed to be established anew not only if it is established newly, but also if it is removed from any one set of premises to any other premises, or if it is renewed on the same set of premises after having been discontinued for a period of nine months or upwards, or if any premises on which it is for the time being carried on are enlarged without the sanction of the county council; but a business shall not be deemed to be established anew on any premises by reason only that the ownership of such premises is wholly or partially changed, or that the building in which it is established having been wholly

or partially pulled down or burnt down has been reconstructed without any extension of its area.

(9.) Nothing in this section shall render an order of the county council necessary to authorize the slaughter of cattle at the Metropolitan Cattle Market, or at the cattle market at Deptford, or shall authorize the making of bye-laws affecting either of those markets or the slaughter-houses erected thereat either before or after the commencement of this Act.

(10.) In the application of this section to the City of London, the commissioners of sewers shall be substituted for the county council, and the consolidated rate for the county fund.

This section reproduces the Slaughter Houses, &c. (Metropolis) Act, 1874 (37 & 38 Vict. c. 67), with necessary modifications, and corresponds to s. 112 of the Public Health Act, 1875.

Section 5 of the Act of 1874 is provided for in s. 125 of this Act; ss. 7, 8 of the Act of 1874 in s. 114 of this Act. For s. 10, *see* s. 20 of this Act.

Under s. 17 of the Act of 1874 it was enacted that the powers of that Act were not to affect the law of nuisances, or make legal what would have been illegal if it had not been passed. As to this, *see* s. 138 of this Act, *infra*.

Establishes anew.—A cattle-market company, cattle having never been slaughtered in the market, after the Public Health Act, 1848, had been applied to the district, erected a building in which they allowed persons to slaughter cattle on payment, the company finding the tackle attached to the building, but the persons slaughtering bringing their own implements. It was held the company were liable for having established a new business. *Liverpool Cattle Market* v. *Hodson*, (1867) L.R. 2 Q.B. 131, and 36 L.J. M.C. 30. The appellants, without the leave of the sanitary authority, carried on a business of steaming bones by placing them in metal cylinders hermetically sealed, and introducing dry steam, which stripped the bones and caused no offensive smell, no water being used in the process. It was held that the appellants could not be convicted under s. 112 of the Public Health Act, 1875, for establishing the offensive trade of bone-boiling. *Cardiff Manure Co.* v. *Cardiff Union*, (1890) 54 J.P. 661.

Subs. (2) is an amendment on the Act of 1874.

In subs. (8) the words *not only if it is established newly* are an amendment introduced to remove a doubt which existed whether the words *established anew* would apply to an absolutely new business.

Manure manufacturer.—These words do not occur in s. 112

Sect. 19.

of the Public Health Act, 1875. *See Cardwell* v. *New Quay Local Board*, 39 J.P. 742.

Knacker.—See definition, s. 141, *infra.*

Slaughterer of cattle or horses.—The words *or horses* are new. For definition, *see* s. 141, *infra.*

Soap-boiler.—It would seem that soap-boiling is not an offensive trade provided that tallow or other animal oils, other than olein, are not used. So that if only vegetable oils and fats and olein are used in the business, the soap-boiling will not be an offensive trade, but where tallow or other animal fats are used with an admixture of alkali for the direct production of soap, there would be an offensive trade. One might therefore make soap with cocoanut oil, palm oil, cottonseed oil, olive oil, nut oil, and the like, whilst it would be an offence to use the most refined animal fat or oil, except olein.

By "olein" is probably meant "fatty acids," or refined fat produced from crude animal fat. It is defined in "Webster's Dictionary" (1890) as "a fat, liquid at ordinary temperatures, but solidifying at temperatures below 0° C., found abundantly in both the animal and vegetable kingdoms. It dissolves solid fats, especially at 30–40° C. Chemically olein is a glyceride of oleic acid; and as three molecules of the acid are united to one molecule of glyceryl to form the fat, it is technically known as triolein. It is also called *elain.*" The offensiveness of soap-boiling arises from the process of refining the crude animal fats and oils. So that it is not allowed to make "olein" by treating the crude fat or tallow in order to decompose it into fatty acids and glycerine. It has been suggested to the editor that making soap direct from tallow need not be more offensive than making it from vegetable fats and oils, except where fish oils are used, and that tallow rendering may or may not be offensive, according to the methods employed. But under this Act it clearly would be an offensive trade.

Any other business.—What these are is left to the County Council to declare, subject to the confirmation of the Local Government Board, so that the difficulty which arises under the words *any other noxious or offensive trade* in s. 112 of the Public Health Act, 1875, will not occur. But they must be offensive and *ejusdem generis* with those specified in the section. *Passey* v. *Oxford Local Board*, 43 J.P., 62. *See* also *Braintree Local Board* v. *Boyton*, (1885) 52 L.T. (N.S.) 99, 48 J.P. 582

Liable to fine.—To be recovered as directed in the Summary Jurisdiction Acts, *see* s. 117.

Sanction by order.—This must be in writing under the Seal of the Council, duly authenticated, s. 127.

The notice must be in writing, signed by the Clerk of the Council, s. 127.

Copy to be affixed to premises.—This is an amendment.

Council may make bye-laws.—The bye-laws of the County Council, under any powers of this Act, will not apply to the City of London; *see* s. 133 (*b*).

Under subs. (10) in the application of this section to the City of London the Commissioners of Sewers will be the controlling authority as under the Slaughter Houses, &c. (Metropolis) Act, 1874. *See* also s. 28 (4), *infra*.

As to the powers of the Council to make bye-laws for regulating the removal of matters arising from offensive trades, *see* s. 16 (2) (*a*), *supra*.

All bye-laws will be subject to ss. 182 to 186 of the Public Health Act, 1875, set out *infra*; *see* s. 114 of this Act.

Petty Sessional Court.—This is defined by the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 13 (12).

As to appeals from the decision of a petty sessional court, *see* s. 125, *infra*.

Sanction or Licence.—After the Metropolitan Board of Works, which the London County Council replaced, had given its order, the Justices, as a matter of course, under s. 10 of the Slaughter Houses, &c., Act, 1874, had to grant a licence, as directed under s. 93 of the Metropolis Management Act, 1862. This power of granting licences was transferred to the County Council by s. 45 of the Local Government Act, 1888 (51 & 52 Vict. c. 41), and will be exercised by that body now under that section and s. 20 of this Act, *infra*.

Under s. 94 of the Metropolis Management Act, 1862, a month's notice had to be given before applying for a knacker's licence, to be granted under 26 Geo. III. c. 71, or 7 & 8 Vict. c. 87, or the amending Acts. Both these Acts are repealed by this Act.

Metropolitan Cattle Market.—*See* s. 20 (8), *infra*.

Licensing of cow-houses and slaughter-houses.

20.—(1.) A person carrying on the business of a slaughterer of cattle or horses, knacker, or dairyman, shall not use any premises in London (outside the City of London) as a slaughter-house, or knacker's yard, or a cow-house or place for the keeping of cows, without a licence from the county council, and if he does he shall for each offence be liable to a fine not exceeding five pounds, and the fact that cattle have been taken into unlicensed premises shall be *primâ facie* evidence that an offence under this section has been committed.

(2.) A licence under this section shall expire on such day in every year as the county council fix, and when a licence is first granted shall expire on the day so fixed

Sect. 20.

which secondly occurs after the grant of the licence, and a fee not exceding five shillings to be carried to the county fund may be charged for the licence.

(3.) Not less than fourteen days before a licence for any premises is granted or renewed under this section, notice of the intention to apply for it shall be served on the sanitary authority of the district in which the premises are situate, and that sanitary authority, if they think fit, may show cause against the grant or renewal of the licence.

(4.) An objection shall not be entertained to the renewal of a licence under this section, unless seven days previous notice of the objection has been served on the applicant, save that, on an objection being made of which notice has not been given, the county council may, if they think it just so to do, direct notice thereof to be served on the applicant, and adjourn the question of the renewal to a future day, and require the attendance of the applicant on that day, and then hear the case, and consider the objection, as if the said notice had been duly given.

(5.) Where a committee of the county council determine to refuse, or to recommend the council to refuse, the renewal of any licence under this section, the county council shall, on written application made within seven days after such determination is made known to the applicant, hear the applicant against such refusal.

(6.) For the purposes of this section a licence shall be deemed to be renewed where a further licence is granted in immediate succession to a prior licence for the same premises.

(7.) The sanitary authority shall have a right to enter any slaughter-house or knacker's yard at any hour by day or at any hour when business is in progress or is usually carried on therein, for the purpose of examining whether there is any contravention therein of this Act or of any bye-law made thereunder.

(8.) Nothing in this section shall extend to slaughter-houses erected before or after the commencement of this Act in the Metropolitan Cattle Market under the authority of the Metropolitan Market Act, 1851, or the Metropolitan Market Act, 1857.

This section reproduces with amendments s. 93 of the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102); s. 10 of the Slaughter Houses, &c. (Metropolis), Act, 1874, and s. 45 of the Local Government Act, 1888.

Sect. 20.

Under the Public Health Act, 1875, s. 169, urban authorities may, if they think fit, provide slaughter-houses and make bye-laws for the same; if they do, the Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34), applies, as to which, *see* ss. 125–131 of that Act.

Slaughterer of cattle or horses, &c.—These terms are defined, s. 141, *infra*; the word "horses" is an addition to the terms of the earlier Act; "dairyman" includes (under s. 141) cow-keeper, so that word is omitted in this section.

Carrying on business.—*See* as to what amounts to this, *Liverpool Cattle Market* v. *Hodson*, set out in note to s. 19, *supra*, p. 43. Where by a clause in a local Act, which closely followed the language of the Markets and Fair Clauses Act, 1847 (10 & 11 Vict. c. 14, s. 19), it was enacted that "no person shall slaughter any cattle or dress any carcase for sale as human food in any place within the limits other than a slaughter-house," it was held that to slaughter cattle on the private premises of an inhabitant of the town, unless for sale as human food, was no offence within that clause. *Elias* v. *Nightingale*, 8 E. & B. 698; 27 L.J. M.C. 151.

In *Reg.* v. *Heyworth*, 14 L.T. (N.S.) 600, a conviction for "using" an unlicensed slaughter-house under 10 & 11 Vict., c. 34, s. 126, was not sustained against a person who merely paid the owner of the premises for being allowed to kill animals there.

Licence.—*See* note on s. 19, *supra*, p. 45; and compare *Howarth* v. *Mayor of Manchester*, 6 L.T. (N.S.) 683.

If the occupier of a licensed slaughter-house is convicted under s. 47 of an offence as to sale, exposure or deposit of unsound human food, his licence may be cancelled; s. 47 (5), *infra*.

Fine.—As to method of recovery, *see* s. 117, *infra*; as to their application, *see* s. 119.

County fund.—There is no definition of this term in this Act or in the Local Government Act, 1888; but s. 68 of the latter Act directs that all receipts of the County Council shall be carried to the County fund.

Notice to be served.—This notice must be in writing signed by the clerk, s. 127, *infra*, and may be served on the sanitary authority by delivery at or sending by post to the office of the authority addressed to the sanitary authority or their clerk s. 128 (2), and may be served on the applicant as directed in s. 128 (1), *infra*.

Committee of the Council.—This sub-section (5) is entirely new. The granting of licences is a matter transferred from the Justices to the County Council by the Local Government Act, 1888 (51 & 52 Vict. c. 41), and under that Act s. 28 (1) "the County Council shall as respects the business by this Act

Sect. 20.

transferred to them from quarter sessions or the justices out of session . . . be subject to all the powers, duties and liabilities which the quarter sessions or any *committee* thereof, or any justice or justices had or were subject to in respect of the business so transferred"; and by sub-section (2) of s. 28, "The County Council shall, . . . have power to delegate with or without any restrictions or conditions, as they may think fit, any powers or duties transferred to them."

The committee must submit its acts to the County Council for their approval under s. 82 of the Local Government Act, 1888.

The powers of appointing committees under the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), are extended to purposes under this Act, s. 99 (3), *infra*, and as to the powers of a committee, *see* s. 99 (4), *infra*.

Delegation of powers to a committee will not be equivalent to resignation of those powers by the delegating body; *see* *Huth* v. *Clarke*, (1890) 25 Q.B.D. 391.

Right to enter.—This sub-section (7) is new.

As to power of entry for nuisances and other purposes, *see* note to s. 10, *supra*, p. 29, and for general provisions, *see* ss. 115 and 116, *infra*.

Metropolitan Cattle Market.—*See* s. 19 (9) *supra*, p. 43, as to saving of rights of slaughtering at the Metropolitan Cattle Market.

The Acts referred to in sub-section (8) are 14 & 15 Vict. c. 6 and 20 & 21 Vict. c. cxxxv; the earlier Act is repealed by the latter.

Duty of sanitary authority to complain to justice of nuisance arising from offensive trade.

21.—(1.) Where any manufactory, building, or premises used for any trade, business, process, or manufacture, causing effluvia, is certified to the sanitary authority by their medical officer of health, or by any two legally qualified medical practitioners, or by any ten inhabitants of the district of such authority, to be a nuisance or injurious or dangerous to the health of any of the inhabitants of the district, such authority shall make a complaint, and if it appears to the petty sessional court hearing the complaint that the trade, business, process, or manufacture carried on by the person complained of is a nuisance, or causes any effluvia which is a nuisance or injurious or dangerous to the health of any of the inhabitants of the district, then, unless it is shown that such person has used the best practicable means for abating the nuisance, or preventing or counteracting the 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 fine not exceeding fifty pounds. Sect. 21.

(2.) 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 practicable, and order to be carried into effect, for abating the nuisance, or mitigating or preventing the injurious effects of the effluvia.

(3.) The sanitary authority may, if they think fit, on such certificate as is in this section mentioned, cause to be taken any proceedings in the High Court against any person in respect of the matters alleged in such certificate.

(4.) The sanitary authority may take proceedings under this section in respect of a manufactory, building, or premises situate without their district, so, however, that the summary proceedings shall be had before a court having jurisdiction in the district where the manufactory, building, or premises are situate.

(5.) Section one hundred and fifteen of the Public Health Act, 1875 (set out in the First Schedule to this Act), shall continue to extend to London, with the substitution of a sanitary authority under this Act for a nuisance authority mentioned in the said section, and any reference in that section to a nuisance in the metropolis or to any building, manufactory, or place in the metropolis which is injurious to health, shall include any nuisance within the meaning of this Act, and any manufactory, building, or place which is dangerous to health. 38 & 39 Vict. c. 55.

This section reproduces s. 27 of the Nuisances Removal Act, 1855 (18 & 19 Vict. c. 121), as amended by s. 18 of the Sanitary Act, 1866 (29 & 30 Vict. c. 90), which enabled ten inhabitants to make a complaint.

Certain places specially mentioned in s. 27 of the Nuisances Removal Act, 1855, as candle-house, melting-house, &c., are omitted as sufficiently provided for under the general words of this section or under ss. 19 and 20.

The power given to the defendant to compel the sanitary authority to take proceedings in the High Court, which was contained in s. 28 of the Nuisances Removal Act, 1855, is omitted from this Act, which follows the Public Health Act, 1875.

The corresponding sections of the Public Health Act, 1875, are s. 114 as to the first three sub-sections and s. 115 as to sub-section (4).

Sect. 21.

Building or premises.—Both these terms are defined in s. 141, *infra*.

Effluvia.—*See Malton Local Board* v. *Malton Manure Co.*, (1879) 4 Ex. Div. 302, cited *supra*, p. 4 in note to s. 2. *See* also s. 23, *infra*.

Sanitary authority.—*See* s. 99, *infra*, as to who are the authorities.

If the offensive trade complained of is created by the sanitary authority in dealing with refuse, complaint can be made to the county council, who can proceed as a sanitary authority, s. 22.

Medical officer of health.—*See* as to appointment and duties, ss. 106 and 108, *infra*, and notes thereon.

Legally qualified medical practitioner —This means a person registered under the Medical Act, 1858 (21 & 22 Vict. c. 90), s. 34 : by the Medical Act, 1886 (49 & 50 Vict. c. 48), s. 2, after the 1st June, 1887, "a person shall not be registered under the Medical Acts in respect of any qualification referred to in any of those Acts, unless he has passed such qualifying examination in medicine, surgery, and midwifery as is in this Act mentioned." Section 3 of that Act gives a list of the bodies who are to hold such examinations.

Ten inhabitants.—Under s. 12, *supra*, p. 32, any person can take proceedings for nuisances before justices.

Nuisance or injurious or dangerous to health.—*See* note on these words in s. 2, *supra*.

Shall make a complaint.—The section is imperative. In case of default, the county council can proceed under s. 100, *infra*. In case of default by the commissioners of sewers, complaint can be made to the Local Government Board under ss. 134, 135. *See*, as to *complaint*, note on s. 5, *supra*, p. 22, and as to *Petty Sessional Court*, note to s. 5 *supra*.

Best practicable means of abating or preventing.—This is also a defence under s. 2 (2) (i), *supra*, p. 3. The onus of proof is on the defendant.

The defendant or his wife can give evidence ; *see* s. 118, *infra*.

As to appeal, *see* note on s. 5, *supra*, p. 23.

Proceedings in the High Court.—*See* note to s. 13, *supra*, p. 34 ; as to expenses, *see* ss. 103 and 119.

Premises without their district.—*See* note to s. 14, *supra*, p. 35, as to power to take proceedings for other nuisances.

Provision as to nuisance created by sanitary authority in dealing with refuse.

22.—(1.) The removal of house refuse and street refuse by a sanitary authority when collected or deposited by that authority shall be deemed to be a business carried on by that authority within the meaning of the last preceding section, and a complaint or

Sect. 22.

proceeding under that section in relation to any such business may be made or taken by the county council in like manner as if the council were a sanitary authority.

(2.) Any premises used by a sanitary authority for the treatment or disposal of any street refuse or house refuse, as distinct from the removal thereof, which are a nuisance or injurious or dangerous to health, shall be a nuisance liable to be dealt with summarily under this Act, and for the purpose of the application thereto of the provisions of this Act relating to such nuisances the county council shall be deemed to be a sanitary authority.

This section is an amendment of the law. As to the power of abating a nuisance caused by carrying out works authorized by a statute, see *Managers of Metropolitan Asylum District* v. *Hill*, (1881) 6 Ap. Cas. 193, where it was held that if the terms of a statute are not imperative, but permissive, the discretion as to the use of the powers conferred should be exercised in strict conformity with private rights.

Removal of refuse.—This duty is imposed upon sanitary authorities, as to street refuse by s. 29, *infra*, and as to house refuse by s. 30, *infra*. By s. 32 the sanitary authority have power to dispose of the refuse as they think proper, but in exercising this power they will do so subject to the provisions of this Act as to offensive trades. The authority would not carry on a business if they contracted for the execution of the work under s. 31.

The terms "house refuse" and "street refuse" are defined in s. 141.

The county council.—With regard to a nuisance by a sanitary authority carrying on business, it would seem that the medical officer of health of the county council, any two medical practitioners, or ten inhabitants of the county of London could complain to the county council. It is possible that this would be the case, even if the sanitary authority were the commissioners of sewers, although there is no appeal from the commissioners of sewers to the county council, and the power of the county council under s. 100 to proceed in case of default of a sanitary authority does not extend to the commissioners of sewers; *see* s. 133.

Sanitary authority.—This term is defined in s. 99, *infra*.

Premises.—A sanitary authority can hold land for the purpose of their duties without a licence in mortmain; s. 99 (5).

The term "Premises" is defined by s. 141.

Smoke Consumption.

Sect. 23.

Furnaces and steam vessels to consume their own smoke.

23.—(1.) Every furnace employed in the working of engines by steam, and every furnace employed in any public bath or washhouse, or in any mill, factory, printing house, dyehouse, iron foundry, glasshouse, distillery, brewhouse, sugar refinery, bakehouse, gasworks, waterworks, or other buildings used for the purpose of trade or manufacture (although a steam engine be not used or employed therein), shall be constructed so as to consume or burn the smoke arising from such furnace.

(2.) If any person being the owner or occupier of the premises, or being a foreman or other person employed by such owner or occupier—

(*a*) uses any such furnace which is not constructed so as to consume or burn the smoke arising therefrom ; or

(*b*) so negligently uses any such furnace as that the smoke arising therefrom is not effectually consumed or burnt ; or

(*c*) carries on any trade or business which occasions any noxious or offensive effluvia, or otherwise annoys the neighbourhood or inhabitants, without using the best practicable means for preventing or counteracting such effluvia or other annoyance ;

such person shall be liable to a fine not exceeding five pounds, and on a second conviction to a fine of ten pounds, and on each subsequent conviction to a fine double the amount of the fine imposed on the last preceding conviction.

(3.) Every steam engine and furnace used in the working of any steam vesssel on the River Thames, either above London Bridge, or plying to and fro between London Bridge and any place on the River Thames westward of the Nore light, shall be constructed so as to consume or burn the smoke arising from such engine and furnace ; and if any such steam engine or furnace is not so constructed, or being so constructed is wilfully or negligently used so that the smoke arising therefrom is not effectually consumed or burnt, the owner or master of such vessel shall be liable to a fine not exceeding five pounds, and on a second conviction to a fine of ten pounds, and on every subsequent conviction to a fine of double the amount of the fine imposed on the last preceding conviction.

Sect. 23.

(4.) Provided that in this section the words "consume or burn the smoke" shall not be held in all cases to mean "consume or burn all the smoke," and the court hearing an information against a person may remit the fine if of opinion that such person has so constructed his furnace as to consume or burn, as far as possible, all the smoke arising from such furnace, and has carefully attended to the same, and consumed or burnt, as far as possible, the smoke arising from such furnace.

(5.) It shall be the duty of every sanitary authority to enforce the provisions of this section, and an information shall not be laid for the recovery of any fine under this section except under the direction of a sanitary authority.

(6.) The provisions of this Act with respect to the admission of the sanitary authority into any premises for any purposes in relation to nuisances, and with respect to the giving of information of a nuisance, shall apply in like manner as if they were herein re-enacted, and in terms made applicable to this section.

(7.) This section shall extend to the port of London, and as respects the port shall be enforced by the port sanitary authority.

(8.) Nothing in this section shall alter or repeal any of the provisions of the City of London Sewers Act, 1851, or of the Whitechapel Improvement Act, 1853. 14 & 15 Vict. c. 75. 16 & 17 Vict. c. cxli.

This section reproduces with amendment the Smoke Nuisance Abatement (Metropolis) Act, 1853 (16 & 17 Vict. c. 128), as amended by 19 & 20 Vict. c. 107. The amendment introduced by this Act is that s. 5 of 16 & 17 Vict. c. 128, which enacted that no information was to be laid except by authority of the Secretary of State or the Commissioner of Police of the Metropolis or the City of London, is not re-enacted in this Act, but the duty of enforcing the section is by sub-section (5) laid upon the sanitary authorities to the exclusion of others, whether authorities or private individuals. The operation of the provisions is extended to the whole of London, including the Port of London; before it applied only to the Metropolis as defined in 15 & 16 Vict. c. 85.

This section is directed, as was the Smoke Nuisances Abatement Act, 1853, to the abatement of nuisances from furnaces, and should be compared with s. 24, which also deals with smoke nuisances. There is no section of the Public Health Act, 1875, which exactly corresponds with this section.

Public bath.—By 19 & 20 Vict. c. 107, s. 2, the Act of 1853 was extended to baths and washhouses, although not used for purposes of trade or manufacture. The other buildings must be used for purposes of trade or manufacture.

Sect. 23.

Owner or occupier or foreman.—The defendant in a case was the owner and occupier of certain premises (within the operation of 16 & 17 Vict. c. 128) used for the purpose of manufacture, and was summoned under the Smoke Nuisance Act, 1855, for negligently using a furnace in such premises, so that the smoke arising therefrom was not effectually consumed. The furnace in question was constructed so as to consume its own smoke if carefully used; and the emission of smoke complained of was caused by the carelessness of the stoker employed by the defendant to attend to the furnace. The defendant was not personally guilty of any negligence in connection with the matter. It was held he was not criminally responsible for the negligence of his servant, and could not be convicted for the offence. *Chisholm* v. *Doulton*, (1889) 22 Q.B.D. 736. But see *Barnes* v. *Akroyd*, L.R. 7 Q.B. 474, cited in note to s. 24, *infra*, p 55.

Offensive effluvia.—*See*, as to nuisances by offensive trades, s. 21 and notes, *supra*, p. 48.

Conviction.—*See*, as to the use of this word, note on s. 11, *supra*, p. 31, and *R.* v. *Paget*, (1881) 8 Q.B.D. 151.

Vessel.—This is defined as including a boat and every description of vessel used in navigation; s. 141, *infra*.

Any vessel lying in any river or other water within the district of the sanitary authority is subject to the sanitary authority as if the vessel were a house; s. 110.

Westward of the Nore.—*See*, as to case of conviction of vessel which also went eastward of the Nore, *Walker* v. *Evans*, 2 E. & E. 356; 29 L.J. M.C. 22; 1 L.T. (N.S.) 59.

As to the saving of powers of the Conservators of the Thames, *see* s. 137, *infra*.

Duty of sanitary authority.—Sub-section (5) is imperative. As to neglect of duty by sanitary authority, *see* ss. 100 and 101.

Information.—*See* **Conviction**, *supra*.

Admission of the sanitary authority.—As to the right of entry, *see* s. 10, and note thereon, *supra*, p. 28.

Port of London.—The Port sanitary authority is the Mayor, commonalty and citizens of the City of London; s. 111.

City of London Sewers Act. The saving clause of subs. (8) reproduces 16 & 17 Vict. c. 128 s. 7. As to the saving of other rights and privileges of the commissioners of sewers, *see* s. 133, *infra*.

As to smoke from locomotives on turnpike roads or highways, *see* s. 30 of the Highways and Locomotives Amendment Act, 1878 (41 & 42 Vict. c. 77).

Summary proceedings for abatement of nuisance.

24.—

(*a.*) 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 gas-work, or in any manufacturing or trade process whatsoever; and

(*b.*) Any chimney (not being the chimney of a private dwelling-house) sending forth black smoke in such quantity as to be a nuisance;

shall be nuisances liable to be dealt with summarily under this Act, and the provisions of this Act relating to those nuisances shall apply accordingly:

Provided that the court, hearing a complaint against a person 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, shall hold that no nuisance is created, and dismiss the complaint, if 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.

This section reproduces s. 19 (3) of the Sanitary Act, 1866 (29 & 30 Vict. c. 90), and corresponds to similar provisions contained in s. 91 of the Public Health Act, 1875.

Furnace.—Compare this section with s. 23, where the furnace need not be in connection with a steam-engine.

By s. 44 of the Nuisances Removal Act, 1855 (18 & 19 Vict. c. 121), which is reproduced in s. 136 of this Act, the provisions of the former Act did not apply to mines or affect the smelting of ores, but this saving is omitted from s. 136.

Under the exemption it was held that a nuisance by smoke from furnaces used in the manufacture of bichrome, a product of ore and minerals was included, and could not be dealt with under s. 19 (3) of the Sanitary Act, 1866, which by s. 14 provided that Part II. should be read as one with the Act of 1855. *Norris* v. *Barnes*, (1872) L.R. 7, Q.B. 537, 41 L.J. M.C. 154.

Under the Sanitary Act, 1866, s. 19 (3), it was held that the occupier of the premises was liable to be charged, and to have an order made upon him for the abatement of the nuisance, although it might have arisen or have been continued by the act of a servant employed by him upon the premises. *Barnes* v. *Akroyd*, (1872) L.R. 7, Q.B. 475; 41 L.J. M.C. 110. The chimney of a mill sent forth black smoke. The furnace was properly constructed, and efficient foremen superintended; the stoker's own negligence being the sole cause of the smoke. It was held that the owner of the mill was liable under s. 96

Sect. 24.

of the Public Health Act, 1875. *Niven* v. *Greaves*, (1890) 54 J.P. 548. Compare with this *Chisholm* v. *Doulton*, (1889) 22 Q.B.D. 736, cited, *supra*, p. 54, under s. 23.

See also *R.* v. *Waterhouse*, L.R. 7, Q.B. 545, 41 L.J. M.C. 115, as to what are distinct offences, where nineteen summonses were heard in respect of nineteen infractions of an abatement order on nineteen distinct days.

Consume as far as practicable.—As to what this amounts to, see *Cooper* v. *Woolley*, (1867) L.R. 2 Ex. 88; 36 L.J. M.C. 27. Under the Public Health Act, 1875, it has been held that the proviso applies only to subs. (*a*) and not to subs. (*b*). *Weekes* v. *King*, (1885) 53 L.T. (N.S.) 51, 49 J.P. 709.

Workshops and Bakehouses.

Limewashing and washing of workshops.

25.—(1.) Where, on the certificate of a medical officer of health or sanitary inspector, it appears to any sanitary authority that the limewashing, cleansing, or purifying of any workshop (other than a bakehouse), or of any part thereof, is necessary for the health of the persons employed therein, the sanitary authority shall serve notice in writing on the owner or occupier of the workshop to limewash, cleanse, or purify the workshop or part as the case requires, within the time specified in the notice; and, if the person on whom notice is so served fails to comply therewith, he shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding ten shillings for every day during which he continues to make default after conviction; and the sanitary authority may, if they think fit, cause the workshop or part to be limewashed, cleansed, or purified, and may recover in a summary manner the expenses incurred by them in so doing from the person on whom the notice was served.

41 & 42 Vict. c. 16.

(2.) This section shall apply to any factory which is not subject to the provisions of the Factory and Workshop Act, 1878, and the Acts amending the same, and to any workplace, in like manner as it applies to a workshop.

Provisions similar to those contained in this section are contained in s. 4 of the Factory and Workshop Act, 1891 (54 & 55 Vict. c. 75), which will apply to the districts under the Public Health Act, 1875. *See infra* in the Appendix.

As to what factories and workshops are within the operation of this Act, *see* note to s. 2 (1) (*g*), *supra*, p. 7.

Workshop.—This section will apply to (1) any workshop which is not a bakehouse; (2) any workplace; (3) any factory

which is not subject to the operation of the Factory and Workshop Act, 1878, as amended by the Factory and Work shop Act, 1891. As to the definition of factory and workshop, *see* note to s. 2 (1) (*g*), *supra* p. 7. "Bakehouse" means any place in which are baked bread, biscuits, or confectionery, from the baking or selling of which profit is derived; s. 141, *infra*. *See* also s. 26, *infra*.

Medical officer of health.—The appointment of medical officer of health is required by s. 106, *infra*; his qualifications are set out in s. 108. The sanitary inspector is appointed under s. 107, *infra*, which section prescribes his duties. The medical officer of health has all the powers of the sanitary inspector; s. 106 (4), *infra*.

As to power of entry, *see* s. 10, *supra*, p. 28, and s. 115, *infra*.

Sanitary authority shall serve notice. — This section is imperative, after "*it appears to the sanitary authority*," &c.

As to default on part of the sanitary authority, *see* ss. 100, 101.

For provisions as to authentication and service of notices, *see* ss. 127 and 128, *infra*.

Fine.—For the recovery of fines and penalties and expenses, *see* s. 117; and as to their application, s. 119, *infra*.

The fine for continuing the offence will have to be inflicted on subsequent proceedings. As to the difference between civil and criminal proceedings, *see R.* v. *Paget*, (1881) 8 Q.B.D. 151, and the note to s. 11.

Factory and Workshop Act.—*See* sections which are material set out *infra* in Appendix.

If the factory inspector discovers sanitary defects not remediable under the Factory and Workshop Act, 1878, he must give written notice to the sanitary authority, s. 4 of that Act, *see supra*, p. 9. Sanitary conveniences with proper separate accommodation for persons of each sex, must be provided in every factory and workshop under s. 38, *infra*.

Enactments respecting bakehouses. 41 & 42 Vict. c. 16. 46 & 47 Vict. c. 53.

26.—(1.) Sections thirty-four, thirty-five, and eighty-one of the Factory and Workshop Act, 1878, and sections fifteen and sixteen of the Factory and Workshop Act Amendment Act, 1883 (which relate to cleanliness, ventilation, and other sanitary conditions), shall, as respects every bakehouse which is a workshop, be enforced by the sanitary authority of the district in which the bakehouse is situate, and they shall be the local authority within the meaning of those sections.

(2.) For the purposes of this section, the provisions of this Act with respect to the admission of the sanitary authority and their officers into any premises for any

Sect. 26.

purpose in relation to nuisances shall apply in like manner as if they were herein re-enacted and in terms made applicable to this section; and every person refusing or failing to allow the sanitary authority or their officer to enter any premises in pursuance of those provisions for the purposes of this section shall be subject to a fine.

Under the Factory and Workshop Act, 1878, ss. 34, 35, and 81, bakehouses were to be under the factory inspector's control as to sanitary inspection, &c., but by s. 17 of the Factory and Workshop Act, 1883, the provisions as to retail bakehouses were to be enforced by the sanitary authority. As to factories which are within the provisions of this Act as to nuisances, *see* note to s. 2 (1) (*g*), *supra*, p. 7.

The material sections of the Factory and Workshop Acts, 1878 to 1891, are set out in the Appendix, *infra*.

Entry.—The provisions as to entry are contained in s. 10, *supra*, p. 28 and ss. 115 and 116, *infra*.

Bakehouse.—For definition, *see* s. 141, *infra*.

Notice to factory inspector respecting child or woman in workshop.

27.—If any child, young person, or woman is employed in a workshop, and the medical officer of the sanitary authority becomes aware thereof, he shall forthwith give written notice thereof to the factory inspector for the district.

This section reproduces s. 17 (2) of the Factory and Workshop Act, 1883 (46 & 47 Vict. c. 53). The section is set out in the Appendix, *infra*. Sub-sections (1) and (2) of s. 17 are repealed by this Act; *see* s. 142, and Schedule IV.; and the Factory and Workshop Act, 1891, repeals sub-sections (2) and (3) of s. 17 of the Act of 1883.

Child.—By s. 96 of the Factory and Workshop Act, 1878, "child" means a person under the age of fourteen years; "young person" means a person of the age of fourteen years and under the age of eighteen years; "woman" means a woman of eighteen years of age and upwards.

Dairies.

Orders and regulations for dairies.

28.—(1.) The Local Government Board may make such general or special orders as they think fit for the following purposes, or any of them, that is to say,—

(*a.*) for the registration with the county council of all persons carrying on the trade of dairymen;

(*b.*) for the inspection of cattle in dairies, and for prescribing and regulating the lighting, venti-

lation, cleansing, drainage, and water supply of dairies in the occupation of persons carrying on the trade of dairymen ;

(*c.*) for securing the cleanliness of milk-vessels used for containing milk for sale by such persons ;

(*d.*) for prescribing precautions to be taken for protecting milk against infection or contamination ;

(*e.*) for authorizing the county council to make bye-laws for the purposes aforesaid, or any of them.

(2.) The county council for the purpose of enforcing the said orders and any bye-laws made thereunder shall have the same right to be admitted to any premises as a sanitary authority have under this Act for the purpose of examining as to the existence of a nuisance liable to be dealt with summarily, and the provisions of this Act shall apply accordingly as if they were herein re-enacted and in terms made applicable to this section, and in particular with the substitution of the county council for the sanitary authority.

(3.) The Local Government Board may by any such order impose the like fines for offences against orders made under this section as may be imposed for offences against the bye-laws of a sanitary authority under this Act.

(4.) In the application of this section to the City of London, the mayor, commonalty, and citizens of the city acting by the council shall be substituted for the county council, and their expenses in the execution of this section shall be paid out of the consolidated rate.

This section reproduces s. 34 of the Contagious Diseases (Animals) Act, 1878 (41 & 42 Vict. c. 74), as amended by s. 9 of the Contagious Diseases (Animals) Act, 1886 (49 & 50 Vict. c. 32).

Sub-section (1) is from the former Act, as amended by the latter Act by the substitution of the Local Government Board for the Privy Council.

Sub-sections (2) and (3) reproduce sub-sections (4) and (5) of s. 9 of the Act of 1886.

By the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 10, the Local Government Board may by provisional order transfer to the county council the powers under this section.

General or special orders.—These must be under seal ; they are set out in the Appendix, *infra*.

Under s. 34 of the Act of 1878 the Orders of the Local Government Board were to be "subject and according to the

Sect. 28.

provisions" of that Act. Under that Act "disease" means "cattle-plague (that is to say, rinderpest, or the disease commonly called cattle-plague), contagious pleuro-pneumonia of cattle, foot-and-mouth disease, sheep-pox or sheep-scab." It was therefore thought that "disease" in any order of the Local Government Board was restricted to the definition in the Act, and that the Local Government Board had no power to make orders for other diseases. As the power to make orders is now included in this Act, and repealed in the Contagious Diseases (Animals) Act, 1878, it would seem to be unfettered by the interpretation clause in the latter Act.

Dairyman.—This term includes cow-keeper, purveyor of milk, or occupier of a dairy; s. 141, *infra*. A dairyman will also require a licence under s. 20, *supra*, p. 45. Dairy is defined s. 141, *infra*.

Right to be admitted.—The provisions as to entry of premises are contained in s. 10, *supra*, p. 28, where *see* note, and ss. 115 and 116.

City of London.—The Sanitary Authority for the City of London are the commissioners of sewers, s. 99. For provision as to the City of London, similar to that contained in this section, *see* s. 19 (10), *supra*, p. 43.

Removal of Refuse.

Duty of sanitary authority to clean streets.

29.—(1.) It shall be the duty of every sanitary authority to keep the streets of their district, which are repairable by the inhabitants at large, including the footways, properly swept and cleansed so far as is reasonably practicable, and to collect and remove from the said streets, so far as is reasonably practicable, all street refuse.

(2.) If any such street in the district of any sanitary authority, including the footway, is not properly swept and cleansed, or the street refuse is not collected and removed from any such street, so far as is reasonably pacticable, as required by this section, the sanitary authority shall be liable to a fine not exceeding twenty pounds.

(3.) So much of any Act as requires the occupier or owner of any premises in London to cause the footways and watercourses adjoining the premises to be swept and cleansed is hereby repealed.

This section is a modification of s. 117 of the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120). By that section it was enacted that the sanitary authority "shall cause any *footway* within their parish or district to be scraped, swept, or cleansed in such manner, and at such times, as they

Sect. 29.

think fit; but this enactment shall not relieve any occupier of any house . . . from liability to scrape, sweep, or cleanse any part of such footway, or from any penalty for neglect so to do." By s. 125 of the same Act sanitary authorities had the power, and were required, "to appoint and employ a sufficient number of persons, or to contract with any company or persons, for the sweeping and cleansing of the several streets within their parish or district, and for collecting and removing all dirt, ashes, rubbish, ice, snow, and filth, and for the cleansing out and emptying of privies and cesspools, sewers and drains, in or under houses and places within their parish or district and such company or persons are hereinafter referred to as scavengers, and such scavengers or their servants shall, on such days and at such hours, and in such manner, as the [sanitary authority] shall from time to time appoint, sufficiently execute and perform all such works and duties as they respectively are employed or contract to execute or perform; and if any such company or person fail in any respect properly to execute and perform such works and duties, such company or person shall, for every such offence, forfeit a sum not exceeding five pounds."

Under Michael Angelo Taylor's Act (57 Geo. III. c. xxix), s. 63, occupiers of houses, &c., were required, under a penalty of ten shillings, to sweep and cleanse, once a day, at all times, before 10 A.M. in the day, the footway in front of the house, &c., and from time to time during the continuance of frost and after a fall of snow.

And by s. 60 (6) of the Police (Metropolitan) Act, 1839 (2 & 3 Vict. c. 47), every occupier of a house who did not keep sufficiently swept and cleansed the footways and watercourses adjoining his premises was liable to a fine of forty shillings.

These sections are repealed in effect by subs. (3) and explicitly by s. 142, *infra*. *See* also s. 41 (6) of the City Police Act, 1839 (2 & 3 Vict. c. xciv).

Shall be the duty.—This makes the section imperative even as to footways.

As to remedy in case of neglect, in addition to the penalty imposed by subs. (2), *see* powers of county council in ss. 100 and 101, *infra*.

Street.—This is defined in s. 141, *infra*. It includes footway.

Street refuse.—This means dust, dirt, rubbish, mud, road-scrapings, ice, snow, and filth; s. 141. *See* also s. 16 (1) (*a*), *supra*. For provision as to removal of house refuse, *see* s. 30, *infra*; and as to trade refuse, *see* ss. 33 and 36, *infra*.

The refuse is the property of the sanitary authority; s. 32, *infra*. The dealing with refuse by the sanitary authority will be an offensive trade within ss. 19–22. *See* s. 22.

Sect. 30.

Removal of house refuse.

30.—(1.) It shall be the duty of every sanitary authority—

(*a.*) to secure the due removal at proper periods of house refuse from premises, and the due cleansing out and emptying at proper periods of ash-pits, and of earth-closets, privies, and cesspools (if any), in their district, and the giving of sufficient notice of the times appointed for such removal, cleansing out, and emptying, and

(*b.*) where the house refuse is not removed from any premises in the district at the ordinary period, or any ash-pit, earth-closet, privy, or cesspool in or under any building in the district is not cleansed out or emptied at the ordinary period, and the occupier of the premises serves on the authority a written notice requiring the removal of such refuse, or the cleansing out and emptying of the ash-pit, earth-closet, privy, or cesspool, as the case may be, to comply with such notice within forty-eight hours after that service, exclusive of Sundays and public holidays.

(2.) If a sanitary authority fail without reasonable cause to comply with this section, they shall be liable to a fine not exceeding twenty pounds.

(3.) If any person in the employ of the sanitary authority, or of any contractor with the sanitary authority, demands from an occupier or his servant any fee or gratuity for removing any house refuse from any premises, he shall be liable to a fine not exceeding twenty shillings.

Subs. (1) is an amendment.

Subs. (2) reproduces the effect of s. 59 of 57 Geo. III. c. xxix (Michael Angelo Taylor's Act,), which imposed a fine of forty shillings on the scavengers of the authority for neglect.

Subs. (3) is an amendment.

The object of the section is that sanitary authorities may appoint fixed periodic times for the removal of house refuse, and may give notice of the times so that the occupiers may know them.

Refusing to allow the removal of house refuse would be obstructing the sanitary authority within s. 116 (1), *infra*; *see* also s. 34 (2).

House refuse.—This is defined as ashes, cinders, breeze, rubbish, night-soil and filth, but does not include trade refuse; *see* s. 141.

Sect. 30.

As to what substances would be included in *ashes* is a question of law, and a metropolitan magistrate was required to state a case for the consideration of the High Court under s. 33 of the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49). *R.* v. *Bridge*, (1890) 24 Q.B.D. 609.

The removal of trade refuse must be paid for; s. 33, *infra*.

As to what is trade refuse, *see* s. 141.

The question whether a particular substance is included in *trade refuse* or *house refuse* is a question of law, although the question as to what the substance's nature is, is a question of fact. *R.* v. *Bridge*, *supra*. *See* also *St. Martin's Vestry* v. *Gordon*, (1891) 1 Q.B. 61, cited in note to s. 33, *infra*.

Ash-pit.—This means ash-pit, dust-bin, ash-tub, or other receptacle for the deposit of ashes or refuse matter; *see* s. 141.

Serves on authority written notice.—This will be duly served if delivered at, or sent by post to, the office of the authority, addressed to it or to their clerk; s. 128 (2), *infra*.

Sanitary authority liable to fine.—In addition to the fine which may be inflicted under subs. (2), powers are provided for proceeding by the county council and Local Government Board under ss. 100 and 101.

The fine will be paid to the county council under s. 119 (1); the authority will appear in proceedings by their clerk, or as directed in s. 123; the proceedings will be governed by s. 117.

Under s. 126 of the Metropolis Management Act, 1855, any occupier refusing or failing to permit house refuse to be removed by the scavengers was liable to a fine of five pounds. That section is not re-enacted in this section of the Act; the section of the Act of 1855 is repealed by s. 142, but only as from the date of the coming into operation of a bye-law with the same object.

Sanitary authority to appoint scavengers.

31.—Every sanitary authority shall employ a sufficient number of scavengers, or contract with any scavengers, whether a company or individuals, for the execution of the duties of the sanitary authority under this Act with respect to the sweeping and cleansing of the several streets within their district, and the collection and removal of street refuse and house refuse, and the cleansing out and emptying of ash-pits, earth-closets, privies, and cesspools.

This section reproduces s. 125 of the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), with the omission of the provision as to the "cleansing out and emptying . . . . sewers and drains in or under houses and places."

This requirement is not included in s. 29, which deals with cleaning the streets, or in s. 30, as to house refuse.

Sect. 31.

The penalty of five pounds upon the contractor for failing to perform his duties is also omitted. Such or a larger penalty can be inserted in the contract by the authority.

See s. 36, *infra*, as to power to contract with scavengers for the removal of stable refuse, &c. If the authority does its own scavenging it will be subject to ss. 19 to 22 as to carrying on offensive trades.

Compare with this section, s. 59 of 57 Geo. III. c. xxix.

This section 31 is imperative, and compliance may be enforced under ss. 100 and 101, *infra*.

The terms street, street refuse, house refuse, and ash-pit, are defined in s. 141.

Disposal of refuse.

32.—All street refuse and house refuse collected by or on behalf of a sanitary authority shall be the property of that authority, and the authority shall have full power to sell and dispose of the same for the purposes of this Act as they may think proper, and the person purchasing the same shall have full power to take, carry away, and dispose of the same for his own use, and the money arising from the sale thereof shall be applied toward defraying the expenses of the execution of this Act.

This section reproduces s. 127 of the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), and the last clause of s. 59 of Michael Angelo Taylor's Act (57 Geo. III. c. xxix).

Property of sanitary authority.—Except in case of default of removing the refuse by the sanitary authority, any person other than the sanitary authority or the scavenger removing refuse is liable to a fine of five pounds; s. 34 (2), *infra*. Any manure, etc., not removed within forty-eight hours after notice by the sanitary inspector to do so, will become the property of the sanitary authority; s. 35.

Owners, &c., to pay for removal of refuse of trades.

33.—(1.) If the sanitary authority are required by the owner or occupier of any premises to remove any trade refuse, that authority shall do so, and the owner or occupier shall pay to that authority a reasonable sum for such removal, and such sum, in case of dispute, shall be settled by the order of a petty sessional court.

(2.) If any dispute or difference of opinion arises between the owner or occupier and the sanitary authority as to what is to be considered as trade refuse, a petty sessional court, on complaint made by either party, may by order determine whether the subject matter of dispute is or is not trade refuse, and the decision of that court shall be final.

Sect. 33.

This section reproduces ss. 128 and 129 of the Metropolis Management Act, 1855.

Premises.—This includes messuages, buildings, lands, easements and hereditaments of any tenure, whether open or enclosed, whether built on or not, and whether public or private, and whether maintained or not under statutory authority. These last words are in accordance with *Guardians of Holborn* v. *Shoreditch Vestry*, (1876) 2 Q.B.D. 145, in which it was held that a metropolitan vestry were bound to remove refuse from the plaintiffs' workhouse.

Trade refuse.—Trade refuse is defined, s. 141, *infra*, as the refuse of any trade, manufacture, or business, or of any building materials.

Clinkers produced in the furnaces of boilers belonging to an hotel, used for generating steam for the purpose of supplying power for the electric lighting, and for warming and cooking and other purposes of the hotel, are not refuse of a trade, manufacture, or business within the meaning of this section, and the scavengers are bound to remove them without payment. *See St. Martin's Vestry* v. *Gordon*, (1891) 1 Q.B. 61, which disapproved *Gay* v. *Cadby*, (1877) 2 C.P.D. 391, where it was held that ashes from coal burnt in the furnace of a steam engine used for the purpose of sawing and lifting timber and other materials for carrying on the business of a pianoforte manufacturer are refuse of a trade, business or manufacture.

In *St. Martin's Vestry* v. *Gordon*, it was decided that the clinkers were ashes. Speaking of s. 128 of the Metropolis Management Act, 1855, Lord Esher, M.R., says: "I think the section contemplates different matters from those mentioned in s. 125. The expression used is altogether new. It is refuse of a trade, manufacture or business. It is not 'dirt, ashes, rubbish, &c., caused by any trade, manufacture or business,' nor is it any refuse the result of any trade, manufacture or business. I think that 'refuse of a trade, manufacture or business' is a known business term, and means something different from the things which are contemplated by the preceding sections. I think that the term 'refuse of a manufacture' applies to cases where a material or subject matter is being manufactured into something else, and in the course of manufacture refuse of such material is produced. Cuttings and scrapings of iron produced in the manufacture of iron, for instance, would be refuse of manufacture. . . . Would any one using words in their ordinary significance in the English language say that the ashes from the fires which they [linendrapers] keep up in order to warm the rooms for their employés or customers are refuse of trade? The trade of such a firm is to sell stuffs and articles of wearing apparel, and from the course of their business there are cuttings of stuffs left. These might be refuse of their trade, but not

Sect. 33.

ashes from the fireplaces of their rooms. . . . Is there any difference between 'trade' and 'business' for this purpose? I think the word 'business' was probably inserted to meet the possible suggestion that there could not be a trade except where articles were bought and sold, and to include businesses which were not concerned with buying and selling, but in which refuse might be produced that for the purposes of the section ought to stand on the same footing as refuse of trade."

Lopes, L.J., defined "refuse of any trade, manufacture or business" as "what is discarded after the rest has been utilized for the purpose of working the trade, manufacture or business—refuse, that is the immediate and direct result of the trade, manufacture or business, not a kind of refuse which would arise as much if there was no trade, manufacture or business, and is only increased in quantity by reason of the trade, manufacture or business."

Decision final.—By the Summary Jurisdiction Act, 1879, (42 & 43 Vict. c. 49), s. 33, "any person aggrieved who desires to question a conviction, order, or determination or other proceeding of a court of summary jurisdiction on the ground that it is erroneous in point of law, or is in excess of jurisdiction, may apply to the court to state a special case," and "if the court decline to state the case, may apply to the High Court of Justice for an order requiring the case to be stated." Under the above words it was held, despite the fact that s. 129 of the Metropolis Management Act declares that "the decision of the justices should be final and conclusive," that a case must be stated. *R.* v. *Bridge*, (1890) 24 Q.B.D. 609. As s. 33 of this Act now follows the Act of 1879, the question arises, does this section exclude the operation of s. 33 of the Summary Jurisdiction Act, 1879? On this point compare *Beresford Hope* v. *Lady Sandhurst*, (1889) 23 Q.B.D., at p. 88; *Line* v. *Warren*, (1885) 14 Q.B.D. 548; *Crush* v. *Turner*, (1878) 3 Ex. D. 303; *Thomas* v. *Kelly*, (1888) 13 Ap. Cas. 506.

The nature of the subject matter is a question of fact; but whether the subject matter comes within the words "trade refuse" involves a question of law. *R.* v. *Bridge*, (1890) 24 Q.B.D. 609.

Provision on neglect of scavengers to remove dust.

34.—(1.) If the sanitary authority, or any persons employed by them, neglect for the space of seven days to remove all such house refuse as they are required by or in pursuance of this Act to remove, then an occupier of premises (after twenty-four hours' notice given by him to the sanitary authority requiring them to remove the same), may without prejudice to any other proceeding under this Act give away or sell his house refuse; and any person who in pursuance of such gift or sale removes the said house refuse shall not be liable to any fine for so doing.

Sect. 34.

(2.) Save as aforesaid, if any person other than the sanitary authority or their contractors or servants receives, carries away, or collects any house refuse or street refuse from any premises or street, such person shall be liable to a fine not exceeding five pounds.

This section reproduces s. 89 of the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102), and ss. 60 and 61 of Michael Angelo Taylor's Act (57 Geo. III. c. xxix).

House refuse.—It was held in *Law* v. *Dodd*, [1848] 1 Ex. 845, and 17 L.J. M.C. 65, that where metal fell from a brass-founder's furnace and became mixed with the ashes, the admixture could not be claimed by the scavenger. *See* also *Lyndon* v. *Standbridge*, 2 H. & N. 45, 26 L.J. Ex. 386; *Collins* v. *Paddington Vestry*, (1880) 5 Q.B.D. 368; and also the cases and notes on ss. 30 to 33, *supra*, pp. 62, 65, 66.

Required by this Act to remove. — This provision is contained in ss. 30 and 31, *supra*, p. 62.

Any other proceeding.—The other proceedings here referred to are those authorized by s. 30 (2), *supra*, p. 62, and the powers contained in ss. 100 and 101, *infra*.

Liable to fine.—As to recovery of fines and penalties, *see* s. 117.

Removal of filth on requisition of sanitary inspector.

35.—(1.) Where it appears to a sanitary inspector that any accumulation of any obnoxious matter, whether manure, dung, soil, filth, or other matter, ought to be removed, and it is not the duty of the sanitary authority to remove the same, he shall serve notice on the owner thereof, or on the occupier of the premises on which it exists, requiring him to remove the same, and if the notice is not complied with within forty-eight hours from the service thereof, exclusive of Sundays and public holidays, the matter referred to shall be the property of the sanitary authority, and be removed and disposed of by them, and the proceeds (if any) of such disposal shall be applied in payment of the expenses incurred with reference to the matter removed, and the surplus (if any) shall be paid on demand to the former owner of the matter.

(2.) The expenses of such removal and disposal, so far as not covered by such proceeds, may be recovered by the sanitary authority in a summary manner from the former owner of the matter removed, or from the occupier, or, where there is no occupier, the owner, of the premises.

This section is an amendment of the law as regards

Sect. 35.

London, but similar provision is found in s. 49 of the Public Health Act, 1875, with a limit of time of 24 hours instead of, as in this section, 48 hours.

Sanitary inspector.—This is the designation of this officer throughout the Act, instead of inspector of nuisances, as used in the Public Health Act, 1875, and in the Metropolis Management Act, 1855, and the Nuisances Removal Act, 1863 (26 & 27 Vict. c. 117).

In the Nuisances Removal Act, 1860 (23 & 24 Vict. c. 77), ss. 3, 9, he is called both inspector of nuisances and sanitary inspector, and in the Nuisances Removal Act, 1855 (18 & 19 Vict. c. 121), s. 10, he is called sanitary inspector.

As to the appointment, qualifications, and duties, *see* ss. 107, 108, and 109, *infra*.

The medical officer of health has all the powers of a sanitary inspector, s. 106 (4).

Accumulation.—This may be dealt with as a nuisance under ss. 2, 4, and 5, *supra*, under which sections a penalty for neglect to comply with the notice is imposed. There is no penalty under this section.

Expenses.—As to recovery of these, *see* s. 117.

Notice.—As to notices, *see* ss. 127 and 128.

Removal of refuse from stables, cow houses, &c.

36.—(1.) The sanitary authority, if they think fit, may employ a sufficient number of scavengers, or contract with any scavengers, whether a company or individuals, for collecting and removing the manure and other refuse matter from any stables and cowhouses within their district, the occupiers of which signify their consent in writing to such removal; provided that—

(*a.*) such consent shall not be withdrawn or revoked without one month's previous notice to the sanitary authority, and

(*b.*) no person shall be hereby relieved from any fine to which he may be subject for placing dung or manure upon any footways or carriageways, or for having any accumulation or deposit of manure or other refuse matter so as to be a nuisance or injurious or dangerous to health.

(2.) Notice may be given by a sanitary authority (by public announcement in the district or otherwise) requiring the periodical removal of manure or other refuse matter from stables, cowhouses, or other premises; and, where any such notice has been given, if any person to whom the manure or other refuse matter belongs fails

to comply with the notice, he shall be liable without further notice to a fine not exceeding twenty shillings for each day during which such non-compliance continues. Sect. 36.

Sub-section (1) of this section reproduces s. 95 of the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102), and subs. (2) reproduces s. 53 of the Sanitary Act, 1866, and corresponds to s. 50 of the Public Health Act, 1875.

May employ.—Compare these words with those of s. 31, *supra*, p. 63, which are imperative.

Relieved from fine.—These words referred to s. 64 of Michael Angelo Taylor's Act (57 Geo. III. c. xxix), and s. 60 of the Police (Metropolitan) Act, 1839 (2 & 3 Vict. c. 47). These sections are repealed in part by s. 142, *infra*, but provisions for the same purpose are made in s. 16, *supra*, p. 36. *See* also ss. 2, 4, and 5, *supra*.

For bye-laws or as to receptacles for dung, *see* s. 39 (1), *infra*.

Regulations as to Water-closets, &c.

37.—(1.) 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 ash-pit furnished with proper doors and coverings, and one or more proper and sufficient water-closets according as circumstances may require, furnished with suitable water-supply and water-supply apparatus, and with suitable trapped soil-pan and other suitable works and arrangements, so far as may be necessary to ensure the efficient operation thereof. Obligation to provide water-closets, &c.

(2.) If any person offends against the foregoing enactment of this section, he shall be liable to a fine not exceeding twenty pounds.

(3.) If at any time it appears to the sanitary authority that any house, whether built before or after the commencement of this Act, is without such ash-pit or water-closets as aforesaid, the sanitary authority shall cause notice to be served on the owner or occupier of the house, requiring him forthwith, or within such reasonable time as is specified in the notice, to provide the same in accordance with the directions in the notice; and, if the notice is not complied with, the said owner or occupier shall be liable to a fine not exceeding five pounds, and a further fine not exceeding forty shillings for each day during which the offence continues; or the sanitary authority, if they think fit, in lieu of pro-

Sect. 37.

ceeding for a fine, may enter on the premises and execute such works as the case may require, and may recover the expenses incurred by them in so doing from the owner of the house.

(4.) Provided that—

(*a*) where sewerage or water-supply sufficient for a water-closet is not reasonably available, this section shall be complied with by the provision of a privy or earth-closet; and

(*b*) where a water-closet has before the commencement of this Act been and is used in common by the inmates of two or more houses, and in the opinion of the sanitary authority may continue to be properly so used, they need not require a water-closet to be provided for each house.

(5.) Any person who thinks himself aggrieved by any notice or act of a sanitary authority under this section may appeal to the county council, whose decision shall be final.

This section re-enacts with amendments, ss. 75, 81, 211 of the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), and s. 64 of the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102).

The corresponding sections of the Public Health Act, 1875, are ss. 35 to 38.

In sub-section (1) instead of *a sufficient water-closet or privy*, there is now required, with the exception allowed in sub-section 4 (*a*), *one or more proper and sufficient water-closets*. In sub-section (3) a similar modification is made, and the proviso as to not disturbing a building which was in s. 81 of the Metropolis Management Act, 1855, is removed. In sub-section (4) there is introduced in sub-section (*a*) the exemption above mentioned, and in sub-section (*b*) a privy is no longer allowed to be used in common by the inmates of two houses, and the common user of a water-closet by the inmates of two houses, before the passing of the Act must be in addition, and not alternatively, to the opinion of the sanitary authority, that it may be so used—the word *or* having been changed to *and*.

As to the making of bye-laws for water-closets and ash-pits, *see* s. 39.

Any house.—This includes any school, factory, or other building in which persons are employed, and a house wholly or partly erected under statutory authority; s. 141. As to the provision of sanitary conveniences in factories and workshops, *see* s. 38, *infra*.

Sufficient ash-pit.—This includes dust-bin, ash-tub, or other

receptacle for refuse, s. 141. The sufficiency of the receptacle under sub-section (3) will be determined by the sanitary authority subject to appeal under sub-section (5) to the county council, whose decision is final; and if legal proceedings are taken, the court will decide whether the order of the sanitary authority has been made and disobeyed only, and if in the affirmative the court must fine the defendant. As to whether or not the order of the sanitary authority is right or wrong, is not for the court, but the county council, *Vestry of Clerkenwell* v. *Feary*, (1890) 24 Q.B.D. 703. *See* note, *infra*.

Water-closet.—Under s. 81 of the Metropolis Management Act, 1855, only one water-closet could be required.

The omission of the word *privy* renders unimportant on one point the decision of *Tinkler* v. *The Wandsworth Board of Works*, 27 L.J. Ch. 342, which decided that a district board could not by a general order require all privies to be converted into water-closets; but that the sanitary authority must exercise their discretion in each particular case, and not act upon a general rule as to abolishing privies.

The case of *Vestry of St. Luke's Middlesex* v. *Lewis*, *infra*, is, however, a distinct authority that a sanitary authority could order a water-closet to be constructed instead of a privy if the sanitary authority thought it necessary.

Execute work and recover expenses.—As to power under this Act of recovering expenses, *see* ss. 117, 119, *infra*, and *Vestry of St. Luke's Middlesex* v. *Lewis*, 1 B. & S. 65; 31 L.J. M.C. 73.

Liable to fine.—The court must, under sub-section (2) impose a fine, if it finds that sub-section (1) has been infringed. It would seem that the court under this sub-section (2) will be the judge of the *sufficiency* of the apparatus, though doubtless it would be guided by the opinion of the officers of the sanitary authority. Under sub-section (3) the sanitary authority will be the judge of the sufficiency; *see* note *supra*, and *Vestry of Clerkenwell* v. *Feary*, *supra*, and *see* the *Guardians of Clutton* v. *Pointing*, (1879) 4 Q.B.D. 340.

As to proceedings, *see* s. 117, *infra*; and as to appearance of the sanitary authority by their clerk or duly authorized officer, *see* s. 123, *infra*.

As to application of fines, *see* s. 119.

If it appear to the authority.—As to effect of these words, *see* last note. The authority has power to examine water-closets, &c., under s. 40, and generally to inspect under s. 1. As to powers of entry, *see* s. 10, *supra*, p. 28, and ss. 115, 116, *infra*.

Notice to be served.—As to authentication and service of notices, *see* ss. 127, 128, *infra*.

The directions in the notice.—These must be in accordance

Sect. 37.

with the bye-laws made under s. 39, *infra*. They will probably lead to difficulty as to whether specific works may or may not or must be ordered. Under the Public Health Act, 1875, ss. 94–96, it was held that the order for such specific works was bad in the case of *Ex parte Whitchurch*, (1881) 6 Q.B.D. 545.

Under the same sections a similar order was held good in *Ex parte Saunders*, (1883) 11 Q.B.D. 191; and in *R.* v. *Llewellyn*, (1884) 13 Q.B.D. 681.

Under the same sections an order of justices upon the complaint of a local authority required the owner to abate a nuisance from untrapped drains, "and to execute such works and do such things as may be necessary for that purpose, so that the same shall no longer be a nuisance or injurious to health." The order was held bad because it did not specify what works and things the owner should execute and do for the purpose of abating the nuisance, *R.* v. *Wheatley*, (1885) 16 Q.B.D. 34. *See* also other cases cited in note to s. 4, *supra*, p. 18, and *see* s. 43, *infra*.

Water-closet used in common.—*See* note *supra* as to change in wording of this sub-section. As to punishing joint users for injury, *see* s. 46, *infra*.

Commencement of this Act.—That is January 1st, 1892, *see* s. 143.

Appeal to county council.—The appeal will be regulated by ss. 211 and 212 of the Metropolis Management Act, 1855, set out *infra* in Schedule I.; *see* s. 126 of this Act.

If the sanitary authority serving the notice is the commissioners of sewers, there will be no appeal to the county council, s. 133, *infra*; as s. 211 of Metropolis Management Act, 1855, which gave the appeal, applied only to district boards and vestries, and not to the commissioners of sewers, the provision of s. 133 was required.

This power of appeal does not interfere with the power of the High Court to grant an injunction to restrain the sanitary authority; *see Tinkler* v. *Wandsworth Board of Works*, 27 L.J. Ch. 342, *supra*.

Sanitary conveniences for manufactories, &c.

38.—(1.) Every factory, workshop, and workplace, whether erected before or after the passing of this Act, shall be provided with sufficient and suitable accommodation in the way of sanitary conveniences, regard being had to the number of persons employed in or in attendance at such building, and also where persons of both sexes are, or are intended to be employed, or in attendance, with proper separate accommodation for persons of each sex.

(2.) Where it appears to a sanitary authority that

Sect. 38.

this section is not complied with in the case of any factory, workshop, or workplace, the sanitary authority shall, by notice served on the owner or occupier of such factory, workshop, or workplace, require him to make the alterations and additions necessary to secure such compliance, and if the person served with such notice fails to comply therewith he shall be liable to a fine not exceeding twenty pounds, and to a fine not exceeding forty shillings for every day after conviction during which the non-compliance continues.

Factory.—This section reproduces s. 22 of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59). Compare s. 38 of the Public Health Act, 1875.

As to provisions of this Act, with respect to factories, workshops, workplaces, *see* note to s. 2 (1) (*g*), *supra*, p. 7 and ss. 25 to 27, and the notes thereon, *supra*, pp. 56–58.

The material sections of the Factory and Workshops Acts, 1878 to 1891, will be found set out *in extenso* in the Appendix, *infra*.

Sanitary conveniences.—This expression includes urinals, water-closets, earth-closets, privies, and similar conveniences; s. 141, *infra*.

Fine.—As to recovery of fines, penalties, etc., *see* s. 117, and as to their application, s. 119, *infra*. The continuing penalty under this section will be incurred only after conviction, and not after the sanitary authority's notice as in s. 37, *supra*.

Bye-laws as to water-closets, &c.

39.—(1.) The county council shall make bye-laws with respect to water-closets, earth-closets, privies, ash-pits, cesspools, and receptacles for dung, and the proper accessories thereof in connexion with buildings, whether constructed before or after the passing of this Act.

(2.) Every sanitary authority shall make bye-laws with respect to the keeping of water-closets supplied with sufficient water for their effective action.

(3.) It shall be the duty of every sanitary authority to observe and enforce the bye-laws under this section; and any directions given by the sanitary authority under this Act shall be in accordance with the said bye-laws, and so far as they are not so in accordance shall be void.

This section corresponds, as to subs. (1), to s. 157 (4) of the Public Health Act, 1875, and as to subs. (2), to part of s. 23 of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59).

County council.—The bye-laws of the county council will not extend to the City of London; s. 133, *infra*.

Sect. 39.

As to bye-laws generally, *see* s. 16, and note, *supra*, p. 36. They must be made in accordance with ss. 182 to 186 of the Public Health Act, 1875, set out *infra*. *See* s. 114, *infra*.

Duty of sanitary authority.—This is imperative. As to neglect or default, *see* ss. 100 and 101, *infra*.

Directions.—*See* note to s. 37 (3), *supra*, p. 71.

Power for sanitary authority to authorize examination of water-closets, &c.

40.—(1.) The sanitary authority may examine any of the following works, that is to say, any water-closet, earth-closet, privy, ash-pit, or cesspool, and any water-supply, sink, trap, siphon, pipe, or other works or apparatus connected therewith, upon any premises within their district, and for that purpose, or for the purpose of ascertaining the course of a drain, may at all reasonable times by day, after twenty-four hours' notice has been served on the occupier of the premises, or if they are unoccupied on the owner, or in case of emergency without notice, enter on any premises, and cause the ground to be opened in any place they think fit, doing as little damage as may be.

(2.) If any such work as aforesaid is found on examination to be in accordance with this Act and the bye-laws of the county council and sanitary authority and direction of the sanitary authority given in any notice under this Act, and in proper order and condition, the sanitary authority shall cause the same to be reinstated and made good as soon as may be, and shall defray the expenses of examination, reinstating, and making good the same, and pay full compensation for all damages or injuries done or occasioned by the examination; but if on examination any such work is found not to be in proper order or condition, or not to have been made or provided by any person according to the said bye-laws and directions, or to be contrary to this Act, the reasonable expenses of the examination shall be prepaid to the sanitary authority by the person offending, and may be recovered by that authority in a summary manner.

This section reproduces ss. 82 and 84 of the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), and s. 11 of the Nuisances Removal Act, 1855 (18 & 19 Vict. c. 121), and corresponds to ss. 40 and 41 of the Public Health Act, 1875.

The provisions for the payment of the expenses of the sanitary authority if the works are not satisfactory, and the addition of the words *earth-closet* and *ash-pit* are amendments.

Water-supply.—*See* as to absence of water-supply being a

nuisance, ss. 48 to 50, *infra*, and s. 41 (1) (*c*), *infra*, and s. 2 (1) (*f*), *supra*.

Premises.—This term is defined by s. 141, *infra*.

Day.—This is the period from 6 A.M. to 9 P.M.; *see* s. 141. Under the Metropolis Management Act, 1855, s. 82, the inspection was to be at all reasonable times in the daytime, and under the Nuisances Removal Act, 1855, s. 11, between 9 A.M. and 6 P.M.; and by s. 31 of the Sanitary Act, 1866 (29 & 30 Vict. c. 90), the entry might be made at any hour when business was carried on.

Notice.—As to service and authentication of notices, *see* ss. 127 and 128, *infra*.

Enter.—As to power of entry see note to s. 10, *supra*, p. 28.

Bye-laws and directions.—The bye-laws are those referred to in ss. 39 and 16.

As to directions, *see* note to s. 37, *supra*, p. 71.

Expenses.—The recovery of expenses is provided for by s. 117, and their application by s. 119, *infra*.

If work not in order.—If not in order, the person offending will be liable to a fine of ten pounds, and a continuing penalty of twenty shillings a day while the offence continues; s. 41.

As to procedure after inspection, *see* s. 41 (2).

Penalty on persons improperly making or altering water-closets, &c.

41.—(1.) In any of the following cases—

(*a.*) if on such examination as in the preceding section mentioned, any such work as therein mentioned is found not to have been made or provided by any person according to the bye-laws of the county council and sanitary authority, and the directions of the sanitary authority given in any notice under this Act, or to be contrary to this Act, or

(*b.*) if a person, without the consent of the sanitary authority, constructs or rebuilds any water-closet, earth-closet, privy, ash-pit, or cesspool which has been ordered by them either not to be made, or to be demolished, or

(*c.*) if a person discontinues any water-supply without lawful authority, or

(*d.*) if a person destroys any sink, trap, siphon, pipe, or any connected works or apparatus as aforesaid either without lawful authority or so that the destruction creates a nuisance or is injurious or dangerous to health,

every person so offending shall be liable to a fine not

Sect. 41.

exceeding ten pounds ; and if he does not, within fourteen days after notice is served on him by the sanitary authority, or within any further time allowed by that authority or appearing to a petty sessional court necessary for the execution of the works, cause such water-closet, earth-closet, privy, ash-pit, or cesspool to be altered or reinstated in conformity with the said bye-laws and directions, or, as the case may be, to be demolished, or such water-supply to be renewed, or such sink, trap, siphon, pipe or other connected works or apparatus to be restored, such person shall be liable to a fine not exceeding twenty shillings for each day during which the offence continues ; or the sanitary authority, if they think fit, in lieu of proceeding for a fine, may enter on the premises and cause the work to be done, and the expenses thereof shall be paid by the person who has so offended.

(2.) If, on such examination as aforesaid, any water-closet, earth-closet, privy, ash-pit, or cesspool, or any water-supply, sink, trap, siphon, pipe, or any of the connected works or apparatus as aforesaid, appears to be in bad order and condition, or to require cleansing, alteration, or amendment, or to be filled up, the sanitary authority shall cause notice to be served on the owner or occupier of the premises, upon or in respect of which the inspection was made, requiring him forthwith, or within a reasonable time specified in the notice, to do what is necessary to place the work in proper order and condition ; and if such notice is not complied with, the said owner or occupier shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day during which the offence continues ; or the sanitary authority, if they think fit, in lieu, of proceeding for a fine, may enter on the premises and execute the works, and the expenses incurred by them in so doing shall be paid to them by the owner or occupier of the premises.

(3.) Any person who thinks himself aggrieved by any notice or act of a sanitary authority under this section in relation to any water-closet, earth-closet, privy, ash-pit, or cesspool, may appeal to the county council, whose decision shall be final.

This section reproduces ss. 83, 85 and 211 of the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), and s. 64 of the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102), and corresponds to part of s. 41 of the Public Health Act, 1875.

As to power to interfere by injunction, *see Attorney-General* v. *Vestry of Clerkenwell*, 1891, W.N. 152.

Bye-laws and directions.—The bye-laws are those referred to in ss. 16 and 39 and 40, *supra*, pp. 36, 73, 74. As to directions, *see* note to s. 37, *supra*, p. 71.

Water-supply.—*See* as to absence of water-supply being a nuisance, ss. 48 to 50, *infra*, and s. 2 (1) (*f*), *supra*, p. 3.

Sanitary authority may enter and do the work.—As to power of entry, *see* s. 10, *supra*, p. 28 and s. 40, *supra*, p. 74.

Expenses.—These may be recovered under s. 117, and applied under s. 119.

As to entry, *see Vestry of St. Luke's Middlesex* v. *Lewis* (*ubi supra*, p. 71).

Appeal.—*See* as to provisions for appeals, s. 126. This will not apply to the commissioners of sewers, *see* s. 133, *infra*. The provisions of s. 6 (3), *supra*, p. 25, pending an appeal are not extended to appeals under s. 41.

Improper construction or repair of water-closet or drain.

42.—If a water-closet or drain is so constructed or repaired as to be a nuisance or injurious or dangerous to health, the person who undertook or executed such construction or repair shall, unless he shows that such construction or repair was not due to any wilful act, neglect, or default, be liable to a fine not exceeding twenty pounds:

Provided that where a person is charged with an offence under this section he shall be entitled, upon information duly laid by him, to have any other person, being his agent, servant, or workman, whom he charges as the actual offender, brought before the court at the time appointed for hearing the charge, and if he proves to the satisfaction of the court that he had used due diligence to prevent the commission of the offence, and that the said other person committed the offence without his knowledge, consent, or connivance, he shall be exempt from any fine, and the said other person may be summarily convicted of the offence.

The proviso is an amendment suggested by similar words in s. 87 of the Factory and Workshop Act 1878.

It would seem that the other person brought before the court by the defendant must be his agent, servant or workman, and not any other person.

As to the use of the word "conviction" and recovery of penalties, *see* s. 119, *infra*, and s. 11, *supra*, p. 30.

Sect. 43.

Sanitary authority to cause offensive ditches, drains, &c., to be cleansed or covered.

43.—(1.) Every sanitary authority—

(*a.*) shall drain, cleanse, cover, or fill up, or cause to be drained, cleansed, covered, or filled up, all ponds, pools, open ditches, drains, and places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature, or likely to be prejudicial to health, which may be situate in their district; and

(*b.*) shall cause notice to be served on the person causing any such nuisance, or on the owner or occupier of any premises whereon the same exists, requiring him, within the time specified in such notice, to drain, cleanse, cover, or fill up such pond, pool, ditch, drain, or place, or to construct a proper drain for the discharge of such filth, water, matter, or thing, or to execute such other works as the case may require.

(2.) If the person on whom such notice is served fails to comply therewith, he shall be liable to a fine not exceeding five pounds, and a further fine not exceeding forty shillings for each day during which the offence continues; or the sanitary authority, if they think fit, in lieu of proceeding for a fine, may enter on the premises and execute such works as may be necessary for the abatement of the nuisance, and may recover the expenses thereby incurred from the owner of the premises: Provided that—

(*a.*) the sanitary authority, where they think it reasonable, may defray all or or any portion of the said expenses, as expenses of sewerage are to be defrayed by that authority; and

(*b.*) where any work which a sanitary authority does or requires to be done in pursuance of this section interferes with or prejudicially affects any ancient mill, or any right connected therewith, or other right to the use of water, the sanitary authority shall make full compensation to all persons sustaining damage thereby, in manner provided by the Metropolis Management Act, 1855, or if they think fit, may purchase such mill, or any such right connected therewith, or other right to the use of water; and the provisions of the said Act with respect to purchases by the sanitary

18 & 19 Vict. c. 120.

authority shall be applicable to every such purchase as aforesaid.

(3.) Any person who thinks himself aggrieved by any notice or act of a sanitary authority under this section in relation to the construction, covering, filling up, or other alteration of any drain may appeal to the county council, whose decision shall be final.

This section reproduces s. 86 of the Metropolis Management Act, 1855, as extended by s. 64 of the Metropolis Management Act, 1862. These sections should be compared with ss. 21 and 22 of the Nuisances Removal Act, 1855. Sub-section (3) reproduces s. 211 of the Metropolis Management Act, 1855.

The Public Health Act, 1875, contains no section exactly representing this section, as the sections of the earlier Acts referred to above were not re-enacted in the Act of 1875.

Pool, ditch.—These are nuisances which can be summarily dealt with under s. 2, *supra*, p. 2.

Prejudicial to health.—*See* note on s. 2, *supra*, p. 4, on "nuisance or injurious to health."

Notice to be served.—This will be a written notice; as to service and authentication of notices, *see* ss. 127 and 128, *infra*.

Nuisance.—*See* note on s. 2, *supra*, pp. 4, 12.

Owner, premises.—These expressions are defined in s. 141, *infra*.

Execute works.—As to the necessity of specifying the works, *see Ex-parte Whitchurch*, and the cases cited in note to s. 4, *supra*, p. 18, and to s. 37, *supra*, p. 72.

Enter.—Powers of entry are contained in s. 10, *supra*, p. 28 and s. 115, *infra*; as to obstruction of officers, *see* s. 116, *infra*.

Fine, expenses.—As to the recovery of fines and expenses, *see* s. 117, *infra*.

As to the application thereof, *see* s. 119.

Expenses of sewerage.—The expenses of vestries and district boards are defrayed under ss. 158 and 161 of the Metropolis Management Act, 1855, which are set out in the Appendix, *infra*.

Ancient mill.—By s. 136, *infra*, provision is made for the protection of rights of navigation of any river and of water-supply.

Compensation.—This is provided for by ss. 225, 226 of the Metropolis Management Act, 1855, which are as follows:—

Section 225.—In every case where the amount of any damage, costs or expenses is by this Act directed to be ascer-

Sect. 43.

tained or recovered in a summary manner, or the amount of any damage, costs or expenses is by this Act directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount shall, in case of dispute, be ascertained and determined by, and shall be recovered before, two justices, and the amount of any compensation to be made under this Act by the said Metropolitan Board [now the county council] or any vestry or district board shall, unless herein otherwise provided, be settled in case of dispute by, and shall be recovered before, two justices, unless the amount of compensation claimed exceed £50, in which case the amount thereof shall be settled by arbitration according to the provisions contained in the Lands Clauses Consolidation Act, 1845, which are applicable where questions of disputed compensation are authorized or required to be settled by arbitration.

Section 226.—Where the amount of any compensation or of any damage, costs or expenses is to be determined by, or to be recovered before, two justices, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before two justices at a time and place to be named in such summons, and upon the appearance of such parties, or in the absence of either of them, upon proof of due service of the summons, it shall be lawful for such two justices to hear and determine the matter, and for that purpose to examine such parties, or any of them, and their witnesses, on oath, and make such order, as well as to costs as otherwise, as to them may seem just.

See, as to recovering expenses before two justices, s. 117 of this Act, *infra*. The sections of the Land Clauses Consolidation Act, 1845 (8 Vict. c. 18 ss. 25–37), are set out in the Appendix, *infra*. As to the time within which application for the determination of the amount of compensation must be made to the Justices, *see R.* v. *Edwards*, (1884) 13 Q.B.D. 586.

Provisions as to purchase.—These provisions are contained in ss. 149 to 156 of the Metropolis Management Act, 1855, and are set out in the Appendix, *infra*.

Appeal to the county council.—There is no appeal from the commissioners of sewers to the county council, *see* s. 133, *infra*. As to appeals to the county council, *see* s. 126, *infra*.

Power to sanitary authority to provide public conveniences.

44.—(1.) Every sanitary authority may provide and maintain public lavatories and ash-pits and public sanitary conveniences other than privies, in situations where they deem the same to be required, and may supply such lavatories and sanitary conveniences with water, and may defray the expense of providing such lavatories, ash-pits, and sanitary conveniences, and of

Sect. 44.

any damage occasioned to any person by the erection or construction thereof, and the expense of keeping the same in good order, as if they were expenses of sewerage.

(2.) For the purpose of such provision the subsoil of any road, exclusive of the footway adjoining any building or the curtilage of a building, shall be vested in the sanitary authority.

This section reproduces with amendment, s. 88 of the Metropolis Management Act, 1855, and corresponds to s. 39 of the Public Health Act, 1875.

The sanitary authority may make regulations for, and sublet or make charge for, the use of sanitary conveniences; s. 45, *infra*.

Sanitary conveniences.—These include urinals, water-closets, earth-closets, privies, and similar conveniences; s. 141, *infra*. The term "ash-pit" is defined in the same section.

In situations where required.—The vestry of St. George, Hanover Square, acting under the Metropolis Management Act, 1855, passed a resolution to erect a urinal in Grosvenor Place, adjacent to the wall of Buckingham Palace. Vice-chancellor Stuart granted, on the bill filed by a resident nearly opposed to the site of the proposed urinal, an injunction, till the hearing of the causes, restraining the vestry. Upon appeal it was discharged, on the ground that the evidence did not show that the urinal would be, in point of law, a nuisance. *Biddulph* v. *St. George, Hanover Square*, (1864) 3 De G. J. & S. 493, 33 L.J. Ch. 411.

In *Vernon* v. *Vestry of St. James, Westminster*, (1879) 16 Ch. D. 449, it was held by Malins, V.C., that any question whether one place or another was more fit for the erection of a urinal must be left to the decision of the vestry, but that the vestry would be controlled by the court if they acted in an unreasonable manner and occasioned a nuisance to the owners of adjoining property. It was held in the same case by the Court of Appeal that the erection of a urinal was not necessarily a nuisance, and that the provisions of the Act authorizing the vestry to erect urinals, did not empower them to erect one where it would be a nuisance to the owner of adjoining property, there being no words in the Act which expressly or by necessary implication authorized them to create a nuisance.

The Metropolitan Poor Act, 1867 (30 Vict. c. 6), authorizes the formation of districts for the care of sick poor, creates corporations for that purpose, gives authority to the Local Government Board to issue directions to these corporations, enables them to purchase land and erect buildings, and makes the rates liable for the outlay. It does not, by direct and imperative provisions, order these things to be done; so that, if in doing

Sect. 44.

them a nuisance is created to the injury of health or property, it does not afford a statutory protection, and therefore, where such nuisance was found as a fact, it was held that the district board could not set up the statute, nor the orders of the Local Government Board under it, as an answer to an action, or to prevent an injunction issuing to restrain the board from continuing the nuisance; and that on those who seek to establish that the legislature intended to take away the private rights of individuals lies the burden of showing that such an intention appears by express words or necessary implication. And that where the terms of a statute are not imperative, but permissive, the fair inference is that the legislature intended that the discretion as to the use of general powers thereby conferred should be exercised in strict conformity with private rights.—*Metropolitan Asylum District* v. *Hill*, (1881) 6 Ap. Cas. 193.

In *Sellors* v. *The Local Board of Health for Matlock Bath*, (1885) 14 Q.B.D. 928, a local board, assuming to act under the authority of s. 39 of the Public Health Act, 1875, erected a urinal which was a nuisance to the plaintiff and her tenants and which depreciated the value of her property. It was held the plaintiff was entitled to a mandatory injunction to restrain the board from continuing the urinal, and that it was not a matter in respect of which the plaintiff's remedy was by way of compensation under the Act; and further that notice of such an action was not required.

Defray expense.—As to the manner of defraying the expenses of sewerage, *see* note to s. 43 (2) (*a*), *supra*, p. 78. A sanitary authority, with the consent of the Local Government Board, may borrow for the purpose of providing sanitary conveniences; s. 105 (2) *infra*.

Subsoil of road vested in sanitary authority.—By s. 96 of the Metropolis Management Act, 1855, "all streets being highways, and the pavements, stones and other materials thereof, and all other things provided for the purpose thereof by any surveyor of highways, or by any person serving the office of surveyor of highways, or by any vestry or district board, under this Act, shall vest in and be under the management and control of the vestry or district board of the parish or district in which such highways are situate." The corresponding section in the Public Health Act, 1875, is s. 149.

The effect of vesting in the sanitary authority is only for the public benefit or purposes of the Act; *see*, as to this, *Wandsworth Board of Works* v. *London & South-Western Railway*, (1862) 31 L.J. Ch. 854.; 8 Jurist (N.S.) 691.

At common law the owner of land abutting on a highway has a right to the soil of the highway *ad medium filum viæ*. This is founded on a presumption of law which exists only in the absence of evidence of ownership. Whether such presumption has any application to a street in a town is doubtful. *Beckett* v. *Corporation of Leeds*, (1871) L.R. 7 Ch. 421. See

further, as to the presumption of ownership, *Leigh* v. *Jack*, 5 Ex. D. 264, and *Landrock* v. *Metropolitan District Railway*, (1886) W.N. 195.

In *Coverdale* v. *Charlton*, (1878) 4 Q.B.D. 104, which was decided on ss. 4 and 149 of the Public Health Act, 1875, Lord Justice Bramwell said: "I have misgiving as to the meaning of the word 'vest.' Speaking with all respect of s. 149 of the Public Health Act, 1875, which section is nearly a repetition of s. 68 of the Public Health Act, 1848, I find it very difficult to put a meaning upon that word. . . . I am disposed to hold that this 'street' vests without any property in the freehold of the soil. The word 'vests' may have two meanings: it may mean that a man acquires the property *usque ad cœlum*, and to the centre of the earth, but I do not think that is the meaning here."

And in the same case Lord Justice Brett said: "What is the ordinary legal signification of the words 'vest in' when applied to the subject matter of property? I think its signification is to give a property in . . . . It has been suggested that this meaning is so wide that it would give to the local board cellars which may be under the street, or houses that may be built over the street, or indeed, mines, however deep, lying under the street. But when we have decided that the words 'vest in' mean to give a property in, a further question would be, in what does it give the property? That must depend upon the subject to which those works relate, and that is not land, but street; the section does not say that the land 'shall vest in,' but that the street shall vest in. . . . 'Street' means more than the surface; it means the whole surface and so much of the depth as can be used, not unfairly, for the ordinary purposes of a street. It comprises a depth which enables the urban authority to do that which is done in every street, namely, to raise the street and to lay down sewers, for at the present day there can be no street in a town without sewers, and also for the purpose of laying down gas and water pipes. 'Street,' therefore, in my opinion, includes the surface and so much of the depth as may not be unfairly used as streets are used. It does not include such a depth as would carry with it the right to mines; neither would 'street' include any buildings which happen to be built over the land, because that is not a part of the street within the meaning of such an Act as this. If the enactment gives the local board that property in so much of the land, it gives them the absolute property in everything growing on the surface of the land. The legislature have, because the right of owners to the soil in a 'street' is of so little value, intentionally taken away that right, and have given it to the extent I have mentioned to the local board."

The Metropolis Management Act, 1855, does not by s. 96

Sect. 44.

confer upon a sanitary authority such a property in the streets situate within their district as to entitle them to maintain an action for an injunction against the erection of a telephone wire across a street, the telephone wire being erected at a great height and causing no appreciable danger to the public or to the traffic in the street. *Wandsworth Board of Works* v. *United Telephone Co.*, (1884) 13 Q.B.D. 904.

In *Rolls* v. *Vestry of St. George the Martyr*, (1880) 14 Ch. D. 785, it was held that under s. 96 of the Metropolis Management Act, 1855, all streets being for the time highways are vested in the vestry, but only so long as they are highways, and that when they cease to be highways by being legally stopped up or diverted the interest of the vestry determines; so that it would seem the subsoil would be diverted from the sanitary authority on the purposes of s. 44 of this Act ceasing.

By the Highways and Locomotives (Amendment) Act, 1878, s. 27—"Notwithstanding anything contained in s. 68 of the Public Health Act, 1848, or in s. 149 of the Public Health Act, 1875, all mines and minerals of any description whatsoever under any disturnpiked road or highway which has or shall become vested in an urban sanitary authority by virtue of the said sections, or either of them, shall belong to the person who would be entitled thereto in case such road or highway had not become so vested, and the person entitled to any such mine or minerals shall have the same powers of working and of getting the same or other minerals as if the road or highway had not become vested in the urban sanitary authority, but so, nevertheless, that in such working and getting no damage shall be done to the road or highway."

Whether there is any necessity for extending a similar provision to London to protect rights under this section it is impossible to say. It is probable that the owner of the adjacent land, if he can establish his right to the subsoil of any road, would be entitled, on the sanitary convenience being erected, to compensation for damage under sub-section (1).

Regulations as to public sanitary conveniences.

45.—(1.) Where a sanitary authority provide and maintain any public lavatories, ash-pits, or sanitary conveniences, such authority may—

(*a.*) make regulations with respect to the management thereof, and bye-laws as to the decent conduct of persons using the same; and

(*b.*) let the same for any term not exceeding three years at such rent and subject to such conditions as they may think fit; and

(*c.*) charge such fees for the use of any lavatories or water-closets provided by them as they may think proper.

Sect. 45.

(2.) No public lavatory, ash-pit, or sanitary convenience shall be erected in or accessible from any street without the consent in writing of the sanitary authority, who may give their consent upon such terms as to the use thereof or the removal thereof at any time, if required by the sanitary authority, as they may think fit.

(3.) If any person erects a lavatory, ash-pit, or sanitary convenience in contravention of this section, and after notice to that effect served by the sanitary authority does not remove the same, he shall be liable to a fine not exceeding five pounds, and to a fine not exceeding twenty shillings for every day during which the offence continues after a conviction for the offence.

(4.) Nothing in this section shall extend to any lavatory or sanitary convenience now or hereafter erected by any railway company within their railway station yard or the approaches thereto.

This section reproduces s. 20 of the Public Health Act, 1890 (53 & 54 Vict. c. 59).

Regulations and bye-laws.—The bye-laws will have to be in conformity with ss. 182 to 186 of the Public Health Act, 1875, set out in the First Schedule to this Act, *infra*; s. 114, *infra*.

As to manner in which sanitary authorities may contract, *see* note to s. 43, *supra*, p. 78, and s. 149 of the Metropolis Management Act, 1855, set out, *infra*, in the Appendix.

Accessible from the street.—This must mean directly accessible from the street. *See Chibnall* v. *Paul & Son*, cited in note to s. 2, *supra*, p. 5.

Fine.—As to procedure, *see* 117, *infra*; and as to application of fines, s. 119, *infra*.

The fine for continuing the offence will have to be inflicted upon a proceeding subsequent to the conviction.

Sanitary conveniences used in common.

46.—The following provisions shall have effect with respect to any sanitary convenience used in common by the occupiers of two or more separate dwelling-houses, or by other persons :—

(1.) If any person injures or improperly fouls any such sanitary convenience, or anything used in connexion therewith, he shall for each offence be liable to a fine not exceeding ten shillings ;

(2.) If any such sanitary convenience or the approaches thereto, or the walls, floors, seats, or fittings thereof, is or are in the opinion of

Sect. 46.

the sanitary authority or of their sanitary inspector or medical officer of health in such a state as to be a nuisance or annoyance to any inhabitant of the district for want of the proper cleansing thereof, such of the persons having the use thereof in common as may be in default, or, in the absence of proof satisfactory to the court as to which of the persons having the use thereof in common is in default, each of those persons, shall be liable to a fine not exceeding ten shillings, and to a fine not exceeding five shillings for every day during which the offence continues after a conviction for the offence.

This section reproduces s. 21 of the Public Health Act, 1890 (53 & 54 Vict. c. 59).

Used in common.—It is provided by s. 37 (4) (*b*), *supra*, p. 70, that where a water-closet has before the commencement of this Act been and is used in common, and in the opinion of the sanitary authority may continue to be properly so used, they need not require a separate water-closet for each house. It would seem, therefore, the application of this section as to water-closets will be limited to a case where a water-closet has been used in common before the commencement of this Act (*i.e.*, Jan. 1, 1892; *see* s. 143).

It would seem that the liability to a fine is incurred as soon as it is established to the satisfaction of the court that it is the opinion of the sanitary authority or of their sanitary inspector or medical officer that the sanitary convenience or its approaches are in the condition specified in this section; and that this and who is liable are the only questions of fact for the court, who will not be called upon under this section to decide as to the condition of the sanitary convenience.

The continuing penalty is only incurred after conviction, and will be recovered, therefore, by subsequent proceedings; *see* ss. 117 and 119, *infra*.

As to manner of sanitary authority appearing in legal proceedings, *see* s. 123, *infra*.

Unsound Food.

Inspection and destruction of unsound meat, &c.

47.—(1.) Any medical officer of health or sanitary inspector may at all reasonable times enter any premises and inspect and examine

(*a.*) any animal intended for the food of man which is exposed for sale, or deposited in any place

for the purpose of sale, or of preparation for sale, and

(*b.*) any article, whether solid or liquid, intended for the food of man, and sold or exposed for sale or deposited in any place for the purpose of sale or of preparation for sale,

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 person charged; and if any such animal or article 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.

(2.) If it appears to a justice that any animal or article which has been seized or is liable to be seized under this section 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 sale or exposure for sale, or deposit for the purpose of sale or of preparation for sale, or in whose possession or on whose premises the same was found, shall be liable on summary conviction to a fine not exceeding fifty pounds for every animal, or article, or if the article consists of fruit, vegetables, corn, bread, or flour, for every parcel thereof so condemned, or, at the discretion of the court, without the infliction of a fine, to imprisonment for a term of not more than six months with or without hard labour.

(3.) Where it is shown that any article liable to be seized under this section, and found in the possession of any person was purchased by him from another person for the food of man, and when so purchased was in such a condition as to be liable to be seized and condemned under this section, the person who so sold the same shall be liable to the fine and imprisonment above mentioned, unless he proves that at the time he sold the said article he did not know, and had no reason to believe, that it was in such condition.

(4.) Where a person convicted of an offence under this section has been within twelve months previously convicted of an offence under this section, the court may, if it thinks fit, and finds that he knowingly and

Sect. 47.

wilfully committed both such offences, order that a notice of the facts be affixed, in such form and manner, and for such period not exceeding twenty-one days, as the court may order, to any premises occupied by that person, and that the person do pay the costs of such affixing; and if any person obstructs the affixing of such notice, or removes, defaces, or conceals the notice while affixed during the said period, he shall for each offence be liable to a fine not exceeding five pounds.

(5.) If the occupier of a licensed slaughter-house is convicted of an offence under this section, the court convicting him may cancel the licence for such slaughter-house.

(6.) If any person obstructs an officer in the performance of his duty under any warrant for entry into any premises granted by a justice in pursuance of this Act for the purposes of this section, he shall, if the court is satisfied that he obstructed with intent to prevent the discovery of an offence against this section, or has within twelve months previously been convicted of such obstruction, be liable to imprisonment for any term not exceeding one month in lieu of any fine authorized by this Act for such obstruction.

(7.) A justice may act in adjudicating on an offender under this section, whether he has or has not acted in ordering the animal or article to be destroyed or disposed of.

(8.) Where a person has in his possession any article which is unsound or unwholesome or unfit for the food of man, he may, by written notice to the sanitary authority, specifying such article, and containing a sufficient identification of it, request its removal, and the sanitary authority shall cause it to be removed as if it were trade refuse.

This section reproduces, with important amendments, s. 2 of the Nuisances Removal Act, 1863 (26 & 27 Vict. c. 117), and s. 54 of the Sanitary Law Amendment Act, 1874 (37 & 38 Vict. c. 89). It corresponds to ss. 116 and 117 of the Public Health Act, 1875, as extended by s. 28 of the Public Health Act, 1890 (53 & 54 Vict. c. 59).

In sub-section (1) (*b*) the use of the words *any article* is an extension of the operation of the section to articles other than those included in the former Acts; and the use of the word *sold* is also an extension, as the former Acts only applied to articles exposed for sale or deposited for the purpose of sale or of preparation for sale.

In sub-section (2) the power of a justice to condemn food

Sect. 47.

is extended to goods liable to be seized but which have not been seized. The penalties are increased from three months' imprisonment and twenty pounds fine to six months' imprisonment and fifty pounds fine respectively.

Sub-sections (3) to (8) are new.

Medical officer or sanitary inspector.—These officers are to be appointed under ss. 106, 107, 108, and 109, *infra*, where their qualifications and duties are specified.

The medical officer of health has all the powers of a sanitary inspector; s. 106 (4), *infra*.

Reasonable times.—*See* as to what are reasonable times, note to s. 10, *supra*, p. 28.

In *Small* v. *Bickley*, 32 L.T. (N.S.) 726, 39 J.P. 422, Sunday was held a not unreasonable time.

As to powers of entry, *see* ss. 10, *supra*, and ss. 115 and 116, *infra*. Under s. 115 a warrant may be granted.

Premises.—As to what this includes, *see* s. 141, *infra*. It will include vessels in any river or water within the district of the authority; s. 110, *infra*.

In *Young* v. *Grattridge*, (1868) L.R. 4 Q.B. 166, under ss. 2 and 3 of the Nuisances Removal Act, 1863, two carcases unfit for food were found in a yard at the back of a butcher's house, there being a slaughter-house on one side of the yard. It was held that they were found in a place within the meaning of the Act.

Any animal.—This will include a live animal; *see Moody* v. *Leech*, 44 J.P. 459.

Any article.—*See* note, *supra*.

Sold.—*See* note, *supra*.

Under s. 116 of the Public Health Act, 1875, which corresponds with s. 2 of the Nuisances Removal Act, 1863, in the case of *Vinter* v. *Hind*, (1882) 10 Q.B.D. 63, the respondent exposed for sale a part of a cow which had died of disease, and sold the meat to a customer, who took it home for food, and some days after, at the request of the appellant, an inspector of nuisances, handed it over to him, and it was condemned by a justice as unfit for food of man. It was held the meat was not "so seized" and condemned as prescribed by the Public Health Act, 1875.

The introduction of the word "sold" gets over this difficulty.

In *Shillito* v. *Thompson*, (1875) 1 Q.B.D. 12, it was held that to expose for sale, or to have possession of with intent to sell, things unfit for food was a nuisance at common law.

An under bailiff who merely complied with the orders of the bailiff and sent in his own name carcases of meat which were unsound, was held not liable as the person "to whom the same belonged." *Newton* v. *Monkcom*, (1888) 58 L.T. 231, 52 J.P. 692.

Sect. 47.

It is not necessary that there should be exposure for sale to render a person liable: the possession of the article is enough, although no exposure for sale has taken place. *Mallinson* v. *Carr*, [1891] 1 Q.B. 48.

In *Barlow* v. *Terrett*, [1891] 2 Q.B. 107, the appellant, a farmer in the country, sent to a salesman in London meat which, to his knowledge, was unsound, for the purpose of being sold and used as human food. The salesman did not expose the meat for sale, but put it aside and called the attention of the respondent, an inspector of nuisances, to it. The respondent seized the meat, and a justice condemned it. The appellant having been convicted of being the owner of unsound meat "unlawfully deposited for the purpose of sale and intended for the food of man," it was held the owner was not liable under s. 2 of the Nuisances Removal Act, 1863. But see now the different words of the present section.

Justice shall condemn.—The animal or article, after seizure, should be taken, within a reasonable time, to the justice for condemnation. It need not necessarily be on the day of seizure; *see Burton* v. *Bradley*, 51 J.P. 118.

The owner of the seized goods need not have notice of the seizure or of the intended application to a justice to condemn. *White* v. *Redfern*, (1879) 5 Q.B.D. 15.

Person liable on conviction.—The person charged, although proceedings are criminal, may give evidence, and so may the wife or husband of the defendant; s. 118, *infra*.

He may give evidence of the condition of the article at time of its condemnation by the justice. *Waye* v. *Thompson*, (1885) 15 Q.B.D. 342.

A notice of conviction.—The question arises, Can only one notice be fixed, or can one notice be affixed to each set of premises occupied by the convicted person? It would seem that the latter is the correct view of the section.

Licensed slaughter-house.—*See*, as to provisions of licence, &c., s. 20, *supra*, p. 45.

Obstruction of officer.—Where a butcher refused to accompany an inspector and open his shop for the inspector to seize meat, it was held he had not "obstructed" within the meaning of s. 118 of the Public Health Act, 1875. *Small* v. *Bickley*, 32 L.T. (N.S.) 726, 39 J.P. 422.

A justice may act.—A justice may act, although a ratepayer or a member of a sanitary authority; *see* s. 122.

Request removal.—This power of requesting removal in sub-section (8) is to enable a person relying on sub-section (3) to protect himself; *see Barlow* v. *Terrett*, *supra*.

Provisions as to Water. Sect. 48.

Provisions as to house without proper water-supply.

48.—(1.) An occupied house without a proper and sufficient supply of water shall be a nuisance liable to be dealt with summarily under this Act, and, if it is a dwelling-house, shall be deemed unfit for human habitation.

(2.) A house which after the commencement of this Act is newly erected, or is pulled down to or below the ground floor and rebuilt, shall not be occupied as a dwelling-house until the sanitary authority have certified that it has a proper and sufficient supply of water, either from a water company or by some other means.

(3.) If the sanitary authority refuse such certificate, or fail to give it within one month after written request for the same from the owner of the house, the owner of the house may apply to a petty sessional court, and that court, after hearing or giving the sanitary authority an opportunity to be heard, may, if they think the certificate ought to have been granted, make an order authorizing the occupation of the house; but, unless such order is made, an owner who occupies or permits to be occupied the house as a dwelling-house without such certificate shall be liable to a fine not exceeding ten pounds, and to a fine not exceeding twenty shillings for every day during which it is so occupied until a proper and sufficient supply of water is provided; but the imposition of such fine shall be without prejudice to any proceedings for obtaining a closing order.

This section does not follow s. 67 of the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102). Under that Act, the sanitary authority could compel a water-supply to a house if the cost did not exceed three pence per week. Sub-sections (2) and (3) are new.

This section should be compared with s. 62 of the Public Health Act, 1875, and s. 6 of the Public Health (Water) Act, 1878 (41 & 42 Vict. c. 25), on the latter of which this section is modelled.

Occupied house.—This would include schools, and factories and other buildings in which persons are employed, and houses wholly or partly erected under statutory authority; s. 141.

Nuisance.—The absence of water-fittings under the Metropolis Water Act, 1871 (34 & 35 Vict. c. 113,) s. 33, is a nuisance under this Act; *see* s. 2 (1) (*f*), *supra*, p. 3.

As to what is a nuisance, *see* note to s. 2, *supra*, p. 13.

Unfit for habitation.—If the house is complained of before

Sect. 48.

the petty sessional court, the court must make a closing order under s. 5 (6) and (7), *supra*, p. 21.

The sanitary authority under s. 40, *supra*, p. 74, have power to examine a water-supply and under s. 41, *supra*, p. 76, may do the necessary works if their order in that behalf is not obeyed. Compare with sub-section (2) the provisions as to water-closets in s. 37 (1), *supra*, p. 69.

Sanitary authority have certified.—No form of certificate is given under the Act. By s. 127, *infra*, documents are to be in writing, and authenticated by the clerk or officer by whom they are given.

Unless order is made.—If the order is refused, as no order is made, it is doubtful whether the owner could appeal under s. 125.

Owner liable to fine.—As to the recovery of fines, *see* s. 117, *infra*; and as to their application, *see* s. 119, *infra*.

Notice to sanitary authority of water-supply being cut off.

49.—(1.) Where a water company may lawfully cut off the water-supply to any inhabited dwelling-house and cease to supply such dwelling-house with water for non-payment of water rate or other cause, the company shall in every case, within twenty-four hours after exercising the said right, give notice thereof in writing to the sanitary authority of the district in which the house is situated.

(2.) Any company which neglects to comply with the foregoing provision shall be liable to a fine not exceeding ten pounds, and it shall be the duty of the sanitary authority to take proceedings against any company in default.

(3.) This section shall apply to every water company which is a trading company supplying water for profit.

By s. 74 of the Waterworks Clauses Act, 1847 (10 & 11 Vict. c. 17), 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 twenty pounds, with the expenses of cutting off the water, and costs of recoverin 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 twenty pounds or upwards, the undertakers may recover the same, with the expenses of cutting off the water, by action in any court of competent jurisdiction.

Sect. 49.

By s. 21 of the Waterworks Clauses Act, 1863 (26 & 27 Vict. c. 93), 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.

But by s. 4 of the Water Companies (Regulation of Powers) Act, 1887 (50 & 51 Vict. c. 21), which only applies to England, "where the owner, and not the occupier, is liable by law, or by agreement with the water company, to the payment of the water rate, in respect of any dwelling-house or part of a dwelling-house occupied as a separate tenement, no water company shall cut off the water-supply for non-payment of the water rate, but such water rate, without prejudice to the other remedies of the company for enforcing payment thereof from such owner, shall, together with interest thereon at the rate of five pounds per centum per annum, computed from the expiration of one month from the time when the same has been claimed by the company until receipt thereof by the company, be a charge on such dwelling-house, in priority to all other charges affecting the premises; and (without prejudice to such charge) the amount may be recovered, with the costs incurred, from the owner or from the occupier for the time being, in the same manner as water rates may by law be recovered: Provided always that proceedings shall not be taken against the occupier until notice shall have been given to him or left at his dwelling-house to pay the amount due for water rate out of the rent then due, or that may thereafter become due from him, and he shall have omitted to pay such water rate; and provided also that no greater sum shall be recovered at any one time from any such occupier than the amount of rent owing by him, or which shall have accrued due from him since such notice shall have been given or left as aforesaid, and that every such occupier shall be entitled to deduct from the rent payable by him the sum so recovered from him or which he shall have paid on demand."

And by s. 5, "In the event of any such supply being cut off in contravention of this Act, the company cutting off the same shall be liable to a penalty not exceeding five pounds for each day during which the water shall remain cut off, which penalty shall be recoverable summarily from the company by, and shall be paid to, the person aggrieved."

Cleansing of cisterns.

50.—Every sanitary authority shall make bye-laws for securing the cleanliness and freedom from pollution of tanks, cisterns, and other receptacles used for storing of water used or likely to be used by man for drinking or domestic purposes, or for manufacturing drink for the use of man.

Sect. 50.

Bye-laws.—By s. 114, *infra*, all bye-laws must be made in accordance with ss. 182 to 186 of the Public Health Act, 1875, which are set out in the First Schedule, *infra*.

Cistern.—This includes a water-butt, s. 141.

Power of sanitary authority as to public fountains.

51.—(1.) All existing public cisterns, reservoirs, wells, fountains, pumps, and works used for the gratuitous supply of water to the inhabitants of the district of any sanitary authority, and not vested in any person or authority other than the sanitary authority, shall vest in and be under the control of the sanitary authority; and that authority may maintain the same and plentifully supply them with pure and wholesome water, or may substitute, maintain, and plentifully supply with pure and wholesome water other such works equally convenient, and may maintain and supply with water as aforesaid other public cisterns, reservoirs, wells, fountains, pumps, and other such works within their district.

(2.) The sanitary authority may provide and maintain public wells, pumps, and drinking fountains in such convenient and suitable situations as they may deem proper.

(3.) If any person wilfully damages any of the said wells, pumps, or fountains, or any part thereof, he shall, in addition to any punishment to which he is liable, pay to the sanitary authority the expenses of repairing or reinstating such well, fountain, pump, or part thereof.

This section reproduces s. 7 of the Nuisances Removal Act, 1860 (23 & 24 Vict. c. 77); s. 116 of the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120); and s. 70 of the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102). It corresponds to s. 64 of the Public Health Act, 1875.

Gratuitous supply.—It is provided by s. 150 of the Metropolis Management Act, 1855, "that nothing herein contained shall authorize the said metropolitan board or any district board or vestry to use, or permit to be used, any such works for the purpose of carrying water by supply pipes into any house or factory for domestic, manufacturing or commercial purposes."

Shall vest.—As to the effect of these words, *see* note to s. 44 (2), *supra*, p. 82. *See*, as to action by a local board for trespass to a wall of a pond, *Leadgate Local Board* v. *Bland*, (1881) 45 J.P. 526.

Situations deemed proper.—As to this power of determining, *see* cases cited in note to s. 44 (1), *supra*, p. 81.

Maintain and plentifully supply with water.—Under similar words in s. 89 (4) of the Public Health (Scotland) Act, 1867,

Sect. 51.

a well situated on private ground, the water of which had been used for domestic purposes gratuitously by the inhabitants in the vicinity for the prescriptive period, was held to be a public well. It was further held that the local authority could enter the land and do all acts to the well for continuing and maintaining it which the inhabitants might have done before, notwithstanding that there might be a company with a vested right to supply the inhabitants with water. *Smith* v. *Archibald*, (1880) 5 App. Cas. 489. In that case the well was in a private field ; a footpath lead from the well to the entrance of the field ; from the entrance of the field there was a cart road to the public road. The inhabitants having used the well, and repaired it with stones at their expense, the local authority caused the well to be covered with an iron plate, and erected a hand-pump to keep the water free from pollution. The proprietor of the field, alleging the well to be his private property, proceeded against the authority for the removal of the cover and pump. It was held by the House of Lords that the well was a public well, and that the authority had not exceeded their powers.

It would seem that the authority can limit the purposes for which the water may be used, as in *Hildreth* v. *Adamson*, 8 C.B. (N.S.) 587, 30 L.J. M.C. 204.

Wilful damage.—For penalty for wilful damage to any fountain or pump, and for fouling water, *see* s. 53, *infra*.

Penalty for causing water to be corrupted by gas washings.

52.—(1.) If any person engaged in the manufacture of gas—

(*a.*) causes or suffers to be brought or to flow into any source of water-supply, or into any drain or pipe communicating therewith, any washing or other substance produced in making or supplying gas ; or,

(*b.*) wilfully or negligently does any act connected with the making or supplying of gas whereby the water in any source of water-supply is fouled,

he shall for every such offence be liable to a fine of two hundred pounds, and, after the expiration of twenty-four hours notice from the sanitary authority or the person to whom the water belongs in that behalf, to a further fine of twenty pounds for every day during which the offence continues.

(2.) Every such fine may be recovered, with full costs of action, in the High Court, in the case of water belonging to or under the control of the sanitary authority by that authority, and in any other case by the person into whose water such washing or other substance is

Sect. 52.

brought 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 sanitary authority of their intention to proceed for such fine, by the sanitary authority; but such fine shall not be recoverable unless it is sued for during the continuance of the offence, or within six months after it has ceased.

This section reproduces ss. 23–25 of the Nuisances Removal Act, 1855, with the amendment of the addition of the word "negligently" in sub-section (1) (*b*); it corresponds to s. 68 of the Public Health Act, 1875.

Person.—By the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 19, "person," unless a contrary intention appears, includes any body of persons, corporate or unincorporate, and by s. 1 of the same Act the singular includes the plural, and *vice-versa*.

Suffers.—As to recovery of penalty in a case where the pollution was through a defect of works unknown to the defendants, see *Hipkins* v. *Birmingham and Staffordshire Gas-Light Company*, 29 L.J. Ex. 169, and 30 L.J. Ex. 60.

See, as to the effect of similar words in 3 & 4 Will. 4, c. 90 s. 50, on a prescriptive right, or a licence to pollute, *Millington* v. *Griffiths*, (1874) 30 L.T. (N.S.) 65.

Fine.—The penalty is fixed by the section at two hundred pounds, and not any sum not exceeding two hundred pounds.

Full costs of action.—*See*, as to effect of these words, *Reeve* v. *Gibson*, (1891) 1 Q.B. 652 and 2 Q.B. 297, and *Avery* v. *Wood*, (1891) 65 L.T. (N.S.) 122.

Penalty for fouling water.

53.—If any person does any act whereby any fountain or pump is wilfully or maliciously damaged, or is guilty of any act or neglect whereby the water of any well, fountain or pump used or likely to be used by man for drinking or domestic purposes, or for manufacturing drink for the use of man, is polluted or fouled, he shall be liable to a fine not exceeding five pounds for each offence, and a further fine not exceeding twenty shillings for every day during which the offence continues after notice is served on him by the sanitary authority in relation thereto, but this section shall not extend to offences against the last preceding section by persons engaged in the manufacture of gas.

This section reproduces s. 8 of the Nuisance Removal Act, 1860. *See*, as to liability for expenses of repair in addition to the fine, s. 51, *supra*, p. 94.

Sect. 54.

Power to close polluted wells, &c.

54.—(1.) On the representation of any person to a sanitary authority that within their district the water in any well, tank, or cistern, public or private, or supplied from any public pump, is used or likely to be used by man for drinking or domestic purposes, or for manufacturing drink for the use of man, and is so polluted, or is likely to be so polluted, as to be injurious or dangerous to health, a petty sessional court, on complaint by such authority and after hearing the person who is the owner or occupier of the premises to which the well, tank, or cistern belongs, if it be private, or in the case of a public well, tank, cistern, or pump, is alleged in the complaint to be interested in the same, or after giving him an opportunity of being heard, may by summary order direct the well, tank, cistern, or pump to be permanently or temporarily closed, or make such other order as appears to the court requisite to prevent injury or danger to the health of persons drinking the water.

(2.) The court may, if they see fit, cause the water complained of to be analysed at the cost of the sanitary authority complaining.

(3.) If the person on whom the order is made fails to comply therewith, he shall be liable to a fine not exceeding twenty pounds, and a petty sessional court on complaint by the sanitary authority may authorize that authority to execute the order, and any expenses incurred by them in so doing may be recovered in a summary manner from the said person.

This section reproduces s. 50 of the Sanitary Act, 1874 (37 & 38 Vict. c. 89), and is almost identical with s. 70 of the Public Health Act, 1875. It amends the law, as regards London, by the insertion in the section of "*owner*" and the words as to "manufacturing drink."

Infectious Diseases.—Notification.

Notification of infectious disease.

55.—(1.) Where an inmate of any house within the district of a sanitary authority is suffering from an infectious disease to which this section applies, the following provisions shall have effect, that is to say:—

(*a.*) The head of the family to which such inmate (in this section referred to as the patient) belongs, and in his default the nearest relatives of the patient present in the house or being in attendance on the patient, and in default of such relatives, every person in charge of or in

Sect. 55.

attendance on the patient, and in default of any such person the master of the house, shall, as soon as he becomes aware that the patient is suffering from an infectious disease to which this section applies, send notice thereof to the medical officer of health of the district:

(*b.*) Every medical practitioner attending on or called in to visit the patient shall forthwith, on becoming aware that the patient is suffering from an infectious disease to which this section applies, send to the medical officer of health of the district a certificate stating the full name and the age and sex of the patient, the full postal address of the house, and the infectious disease from which in the opinion of such medical practitioner the patient is suffering, and stating also whether the case occurs in the private practice of such practitioner or in his practice as a medical officer of any public body or institution, and where the certificate refers to the inmate of a hospital it shall specify the place from which and the date at which the inmate was brought to the hospital, and shall be sent to the medical officer of health of the district in which the said place is situate:

Provided that, in the case of a hospital of the Metropolitan Asylum Managers, a notice or certificate need not be sent respecting any inmate with respect to whom a copy of the certificate has been previously forwarded by the medical officer of health of the district to the said Managers.

(2.) Every person required by this section to send a notice or certificate, who fails forthwith to send the same, shall be liable to a fine not exceeding forty shillings: Provided that if a person is not required to send notice in the first instance, but only in default of some other person, he shall not be liable to any fine if he satisfies the court that he had reasonable cause to suppose that the notice had been duly sent.

(3.) The Local Government Board may prescribe forms for the purpose of certificates to be sent in pursuance of this section, and if such forms are so prescribed, they shall be used in all cases to which they apply. The sanitary authority shall gratuitously supply forms of certificate to any medical practitioner residing or practising in their district who applies for the same,

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

(4.) Where a medical officer of health receives a certificate under this section relating to a patient within the Metropolitan Asylum district, he shall, within twelve hours after such receipt, send a copy thereof to the Metropolitan Asylum Managers, and to the head teacher of the school attended by the patient (if a child), or by any child who is an inmate of the same house as the patient. The Metropolitan Asylum Managers shall repay to the sanitary authority the fees paid by that authority in respect of the certificates whereof copies have been so sent to the Managers. The Managers shall send weekly to the county council, and to every medical officer of health, such return of the infectious diseases of which they receive certificates in pursuance of this section as the county council require.

(5.) Where in any district of a sanitary authority there are two or more medical officers of health of that authority, a certificate under this section shall be sent to such one of those officers as has charge of the area in which is the patient referred to in the certificate, or to such other of those officers as the sanitary authority may direct.

(6.) A notice or certificate to be sent to a medical officer in pursuance of this section may be sent to such officer at his office or residence.

(7.) This section shall apply to every building, vessel, tent, van, shed, or similar structure used for human habitation, in like manner as nearly as may be as if it were a house ; but nothing in this section shall extend to any house, building, vessel, tent, van, shed, or similar structure belonging to Her Majesty the Queen, or to any inmate thereof, nor to any vessel belonging to any foreign government.

(8.) In this section the expression "infectious disease to which this section applies" means any of the following diseases, namely, small-pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names, typhus, typhoid, enteric, relapsing, continued, or puerperal, and includes as respects

Sect. 55.

any particular district any infectious disease to which this section has been applied by the sanitary authority of the district in manner provided by this Act.

This section and the next two, reproduce, with slight amendments, the Infectious Disease (Notification) Act, 1889, 52 & 53 Vict. c. 72.

Any house.—This includes schools, factories, and other buildings in which persons are employed, and houses wholly or partly erected under statutory authority; s. 141, *infra*.

A vessel within the district of the authority will be within the operation of this section as if it were a house; s. 110, *infra*.

The section omits the exemption of hospitals for infectious diseases from notification, contained in s. 3 of the Act of 1889. The proviso at the end of sub-section (1) (*b*) is new; it is to prevent double notification of the same case.

Following provisions.—In addition to the provisions as to infectious diseases contained in this section, the sanitary authority have power to make and enforce bye-laws for the taking of precautions in case of any infectious disease; s. 94 (1) (*f*), *infra*.

Master of the house.—*See* definition of master in s. 141, *infra*.

Infectious disease to which this section applies.—In addition to the diseases specified under sub-section (8), this section can be extended, under s. 56, to other infectious diseases by any sanitary authority, and also by the county council under s. 56 (6). The diseases specified in sub-section (8), and any to which the provisions of this section are extended, are called "dangerous infectious diseases" in the rest of this Act; *see* s. 58, *infra*.

Full name, age, and sex.—These particulars required, and also those as to whether the patient is a private patient or in a hospital, are new. The particulars in sub-section (1) (*b*) are to prevent double notification.

Shall pay medical practitioner.—These payments will not disqualify for being a member of the county council, or sanitary authority, or for any public office; s. 57, *infra*.

Metropolitan asylum district.—The metropolis was formed into a district called the metropolitan asylum district, for the purpose of providing asylums for the reception and relief of sick, insane, and infirm, and other poor, chargeable in unions and parishes of the metropolis, ss. 5 and 6 of the Metropolitan Poor Act, 1867 (30 Vict. c. 6), amended by 32 & 33 Vict. c. 63, s. 1, and 39 & 40 Vict. c. 61, s. 40.

Head teacher.—The notification to the head teacher of the

school attended by the patient, or other inmate of the house, is new. **Sect. 55.**

Medical officer of health.—The weekly return, under the Act of 1889, had not to be sent to the medical officer.

As to appointment and duty of the medical officer, *see* ss. 106 to 109, *infra.*

Tent, van.—As to powers of entry if infectious disease is supposed to exist in tents, vans, &c., *see* s. 95 (3) (*b*), *infra.*

Power of sanitary authority to add to number of infectious diseases of which notification is required.

56.—(1.) The sanitary authority of any district may, by resolution passed at a meeting of that authority of which such notice has been given as in this section mentioned, order that the foregoing section with respect to the notification of infectious disease shall apply in their district to any infectious disease other than a disease specifically mentioned in that section; any such order may be permanent or temporary, and if temporary, the period during which it is to continue in force shall be specified therein, and any such order may be revoked or varied by the sanitary authority which made the same.

(2.) Fourteen clear days at least before the meeting at which such resolution is proposed special notice of the meeting, and of the intention to propose the making of such order, shall be given to every member of the sanitary authority, and the notice shall be deemed to have been duly given to a member if it is given in the mode in which notices to attend meetings of the sanitary authority are usually given.

(3.) An order under this section and the revocation and variation of any such order shall not be of any validity until it has been approved by the Local Government Board, and when it is so approved the sanitary authority shall give public notice thereof by advertisement in a local newspaper, and by handbills, and otherwise in such manner as the sanitary authority think sufficient for giving information to all persons interested; they shall also send a copy thereof to each legally qualified medical practitioner whom, after due inquiry, they ascertain to be residing or practising in their district.

(4.) The said order shall come into operation at such date not earlier than one week after the publication of the first advertisement of the approved order as the sanitary authority may fix, and upon the order coming into operation, and during the continuance thereof, an infectious disease mentioned in the order shall, within

Sect. 56.

the district of the authority, be an infectious disease to which the foregoing section with respect to the notification of infectious disease applies.

(5.) In the case of emergency three clear days notice of the meeting and of the intention to propose the making of the order shall be sufficient, and the resolution shall declare the cause of the emergency and shall be for a temporary order, and a copy thereof shall be forthwith sent to the Local Government Board and advertised, and the order shall come into operation at the expiration of one week from the date of the advertisement; but unless approved by the Local Government Board shall cease to be in force at the expiration of one month after it is passed, or any earlier date fixed by the Local Government Board; if it is approved by the Local Government Board that approval shall be conclusive evidence that the case was one of emergency.

(6.) The county council shall, as respects London, have the same power of extending the foregoing section by order to any infectious disease, and the same power of revoking and varying the order, as a sanitary authority have under this section as respects their district; and the foregoing section when so extended by the county council shall be construed as if it had been applied under this section as respects every district in London by the sanitary authority thereof.

This section reproduces s. 7 of the Infectious Disease (Notification) Act, 1889, with the addition, in sub-section (6), of the power of the county council of extending the operation of s. 55 to diseases other than those set out in s. 55 (8).

Non-disqualification of medical officer by receipt of fees.

57.—(1.) A payment made to any medical practitioner in pursuance of the provisions of this Act with respect to the notification of infectious disease shall not disqualify that practitioner for serving as member of the county council, or of a sanitary authority, or as guardian of a poor law union, or in any other public office.

(2.) Where a medical practitioner attending on a patient is himself the medical officer of health of the district, he shall be entitled to the same fee as if he were not such medical officer.

Infectious Diseases.—Prevention.

Application of special provisions to certain infectious diseases.

58.—The following provisions of this Act relating to dangerous infectious diseases shall apply to the infectious diseases specifically mentioned in the fore-

going enactment of this Act relating to the notification of infectious disease, and all or any of such provisions may be applied by order to any other infectious disease in the same manner as that enactment may be applied to such disease, subject to the same power of revoking and varying the order, and every such infectious disease is in this Act referred to as a dangerous infectious disease.

This section reproduces s. 2 of the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34).

That Act applied compulsorily to London (and, as to London, is repealed by this Act), and to urban and rural districts, if they adopt it, it did and does still apply.

Power of revoking and varying the order.—The revocation and variation of any order will have to be subject to the approval of the Local Government Board; *see* s. 56 (3), *supra*, p. 101.

Dangerous infectious disease.—This is the name by which the diseases specified in s. 55 (8), *supra*, are referred to in the subsequent provisions of this Act. The expression will also include those infectious diseases to which s. 55 is extended by virtue of the powers of s. 56. *Compare* s. 89 (1) (*a*) with s. 89 (1) (*b*), *infra*.

Provision of means for disinfecting of bedding, &c.

59.—(1.) Every sanitary authority shall provide either within or without their district, proper premises with all necessary apparatus and attendance for the destruction and for the disinfection, and carriages or vessels for the removal, of articles (whether bedding, clothing, or other) which have become infected by any dangerous infectious disease, and may provide the same for the destruction, disinfection, and removal of such articles when infected by any other disease; and shall cause any such articles brought for destruction or disinfection, whether alleged to be infected by any dangerous infectious disease or by any other disease, to be destroyed or to be disinfected and returned, and may remove, and may destroy, or disinfect and return, such articles free of charge.

(2.) Any sanitary authorities may execute their duty under this section by combining for the purposes thereof, or by contracting for the use by one of the contracting authorities of any premises provided for the purpose of this section by another of such contracting authorities, and may so combine or contract upon such terms as may be agreed upon.

Sect. 59.

Under s. 23 of the Sanitary Act, 1866 (29 & 30 Vict. c. 90), the sanitary authority could provide a place with apparatus for the disinfection of articles and bedding, but not for their destruction.

Under s. 24 of the same Act, and under s. 12 of the Nuisances Removal Act, 1860 (23 & 24 Vict. c. 77), provision of carriages for the conveyance of infected persons (but not articles and bedding) could be made. Similar limited power is contained in s. 123 of the Public Health Act, 1875.

By s. 51 of the Public Health Act, 1872 (35 & 36 Vict. c. 79), power was given to destroy bedding, etc.

Premises.—This term is defined in s. 141, *infra*.

Carriages.—Power to provide carriages for the removal of patients is contained in s. 78, *infra*. The Metropolitan Asylum Managers can provide carriages under s. 79, *infra*.

Dangerous infectious disease.—*See*, as to the meaning of this expression, note to s. 58, *supra*, p. 103.

The sanitary authority may borrow for the purposes of this section, s. 105, *infra*.

May destroy or disinfect free of charge.—*See* note to s. 60, *infra*, p. 106.

Cleansing and disinfecting of premises, &c.

60.—(1.) Where the medical officer of health of any sanitary authority, or any other legally qualified medical practitioner, certifies that the cleansing and disinfecting of any house, or part thereof, and of any articles therein likely to retain infection, or the destruction of such articles, would tend to prevent or check any dangerous infectious disease, the sanitary authority shall serve notice on the master, or where the house or part is unoccupied on the owner, of such house or part that the same and any such articles therein will be cleansed and disinfected or (as regards the articles) destroyed, by the sanitary authority, unless he informs the sanitary authority within twenty-four hours from the receipt of the notice that he will cleanse and disinfect the house or part and any such articles or destroy such articles to the satisfaction of the medical officer of health, or of any other legally qualified medical practitioner, within a time fixed in the notice.

(2.) If either—

(*a.*) within twenty-four hours from the receipt of the notice, the person on whom the notice is served does not inform the sanitary authority as aforesaid, or

(*b.*) having so informed the sanitary authority he

fails to have the house or part thereof and any such articles disinfected or such articles destroyed as aforesaid within the time fixed in the notice, or

(*c.*) the master or owner without such notice gives his consent,

the house or part and articles shall be cleansed and disinfected or such articles destroyed by the officers and at the cost of the sanitary authority under the superintendence of the medical officer of health.

(3.) For the purpose of carrying into effect this section the sanitary authority may enter by day on any premises.

(4.) The sanitary authority shall provide, free of charge, temporary shelter or house accommodation with any necessary attendants for the members of any family in which any dangerous infectious disease has appeared, who have been compelled to leave their dwellings, for the purpose of enabling such dwellings to be disinfected by the sanitary authority.

(5.) When the sanitary authority have disinfected any house, part of a house, or article, under the provisions of this section, they shall compensate the master or owner of such house, or part of a house, or the owner of such article, for any unnecessary damage thereby caused to such house, part of a house, or article; and when the authority destroy any article under this section they shall compensate the owner thereof; and the amount of any such compensation shall be recoverable in a summary manner.

This section reproduces, with amendment, ss. 5, 15, and 17 of the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34).

The words "destruction of such articles" do not occur in the Act of 1890. The section, as enacted in this Act, makes it clear when the owner is to be served with notice, and when the master of the house or part of a house.

Sub-section (2) (*c*) is new.

Under s. 23 of the Sanitary Act, 1866 (29 & 30 Vict. c. 90), and s. 51 of the Public Health Act, 1872 (35 & 36 Vict. c. 79), and s. 52 of the Sanitary Act, 1874 (37 & 38 Vict. c. 89), sanitary authorities had power to destroy or disinfect infected bedding, clothes, &c., free of charge, and to give compensation for articles destroyed.

See also s. 61 of this Act, *infra*, and ss. 121 and 122 of the Public Health Act, 1875.

Sect. 60.

Sub-section (3) of s. 5 of 53 & 54 Vict. c. 34, is omitted in this section.

Authority shall serve notice.—As to the authentication and service of notices, *see* ss. 127 and 128, *infra*.

Master.—This is defined in s. 141.

Owner.—As to the manner of serving the owner, *see* s. 128 (3), *infra*.

At the cost of the sanitary authority.—The Infectious Disease (Prevention) Act, 1890, in s. 5 (2), enabled the authority to recover expenses of disinfection from the owner or occupier.

The sanitary authority is bound to provide or contract for disinfection and destruction of infected articles. They are bound to disinfect or destroy infected goods when brought under s. 59 (1); but whether they are bound to do so free of charge is doubtful. The Act says *may* do so free of charge in s. 59 (1).

If the sanitary authority act under s. 60, it is clear the disinfection will have to be free of charge to the owner or occupier, as sub-section (2) expressly provides it is to be at the cost of the sanitary authority. *See* also s. 61 (2), *infra*.

As to the means of defraying expenses, *see* s. 103, *infra*.

Legally qualified medical practitioner.—*See* note to s. 21, *supra*, p. 50.

Any article.—As to the removal of infected rubbish, *see* s. 62, *infra*.

Any person who gives, lends, &c., or exposes any infected bedding, clothing, &c., is liable to a fine of five pounds; s. 68, *infra*.

Enter by day.—Day means the period from 6 A.M. to 9 P.M., s. 141. Under s. 17 of the Infectious Disease (Prevention) Act, 1890, entry had to be made between 10 A.M. and 6 P.M.

As to powers of entry, *see* s. 10, *supra*, and ss. 115 and 116, *infra*.

Premises.—*See* definition in s. 141, *infra*.

Temporary shelter.—The provisions as to temporary shelter in this section reproduce s. 15 of the Infectious Disease (Prevention) Act, 1890. Under s. 67, *infra*, there is power to detain in hospital a person who on leaving it would not be provided with lodging where proper precautions could be taken for preventing the spread of infection.

Dangerous infectious disease.—As to the meaning of this, *see* note to s. 58, *supra*, p. 103.

Compensation.—The compensation under this section is for unnecessary damage.

The insertion of "house and part of a house" is an amendment of the law.

Compensation is also provided for, as regards bedding, clothing, and articles disinfected and unnecessarily damaged, by the next section (61). Section 61, moreover, provides for compensation for articles necessarily destroyed.

Disinfection of bedding, &c.

61.—(1.) Any sanitary authority may serve a notice on the owner of any bedding, clothing, or other articles which have been exposed to the infection of any dangerous infectious disease, requiring the delivery thereof to an officer of the sanitary authority for removal for the purpose of destruction or disinfection; and if any person fails to comply with such notice he shall, on the information of the sanitary authority, be liable to a fine not exceeding ten pounds.

(2.) The bedding, clothing, and articles if so disinfected by the sanitary authority shall be brought back and delivered to the owner free of charge, and if any of them suffer any unnecessary damage the authority shall compensate the owner for the same, and the authority shall also compensate the owner for any articles destroyed; and the amount of compensation shall be recoverable in a summary manner.

This section corresponds to s. 6 of the Infectious Disease (Prevention) Act, 1890, and s. 51 of the Public Health Act, 1872, as extended to London by s. 52 of the Sanitary Act, 1874. *See* note to s. 60, *supra*, p. 105.

Compensation.—Compensation for damage unnecessarily done to a house, or part of a house, in disinfection is provided for in s. 60 (5), *supra*, p. 105.

The recovery in the county court, instead of in summary manner, if under £50 is claimed, is provided for in s. 117, *infra*.

Infectious rubbish thrown into ash-pits, &c., to be disinfected.

62.—(1.) If a person knowingly casts, or causes or permits to be cast, into any ash-pit any rubbish infected by a dangerous infectious disease without previous disinfection, he shall be liable to a fine not exceeding five pounds, and, if the offence continues, to a further fine not exceeding forty shillings for every day during which the offence so continues after the notice hereafter in this section mentioned.

(2.) The sanitary authority shall cause their officers to serve notice of the provisions of this section on the master of any house or part of a house in which they are aware that there is a person suffering from a dangerous infectious disease, and on the request of such

Sect. 62.

master shall provide for the removal and disinfection or destruction of the aforesaid rubbish.

This section reproduces ss. 13 and 14 of the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34). *See* also s. 68 of this Act, *infra*.

Ash-pit.—This includes other receptacles for rubbish; s. 141, *infra*.

Dangerous infectious disease.—As to definition of this expression, *see* note to s. 58, *supra*, p. 103.

Serve notice.—As to authentication and service of notices, *see* ss. 127 and 128, *infra*.

Shall provide for removal.—This proviso for removal of infected rubbish by the sanitary authority is an amendment.

As the duty imposed upon the sanitary authority is imperative, it seems they will have to remove such rubbish gratuitously, and not otherwise. *See* judgment of Lord Esher, M.R., in *St. Martin's Vestry* v. *Gordon*, (1891) 1 Q.B. 61, cited in note to s. 33, *supra*.

Penalty on letting houses in which infected persons have been lodging.

63.—(1.) Any person who knowingly lets for hire any house, or part of a house, in which any person has been suffering from any dangerous infectious disease, without having such house 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, or (as regards the articles) destroyed, shall be liable to a fine not exceeding twenty pounds.

(2.) 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.

This section reproduces s. 39 of the Sanitary Act, 1866, and corresponds to s. 128 of the Public Health Act, 1875. As to penalty for making a false statement as to infectious disease, on letting a house, *see* s. 64, *infra*.

Dangerous infectious disease.—*See* as to the meaning of the expression, note to s. 58, *supra*, p. 103.

Legally qualified medical practitioner.—For definition of this, *see* note to s. 21, *supra*, p. 50.

There is no implied warranty by the landlord in letting an unfurnished house that it is fit for habitation or occupation (*Smith* v. *Marrable*, 11 M. & W. 5; 12 L.J.Ex. 223; and *Wilson* v. *Finch Hatton*, 2 Ex. Div. 336; 40 L.J.Ex. 489, 36 L.T. 373), unless the house comes within the provisions of s. 76 of the Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70), which is as follows: "In any contract made

Sect. 63.

after the fourteenth day of August, one thousand eight hundred and eight-five, for letting for habitation by persons of the working classes a house or part of a house, there shall be implied a condition that the house is at the commencement of the holding in all respects reasonably fit for human habitation. In this section the expression 'letting for habitation by persons of the working-classes' means the letting for habitation of a house or part of a house at a rent not exceeding in England the sum named as a limit for the composition of rates by s. 3 of the Poor Rate Assessment and Collection Act, 1869, and in Scotland or Ireland four pounds" [*i.e.*, as regards London houses not exceeding £20 a year]. *See* *Walker* v. *Hobbs*, (1889) 23 Q.B.D. 458.

In the case of furnished houses or rooms the case is otherwise. *See* *Smith* v. *Marrable*, *supra*, and *Wilson* v. *Finch Hatton*, *supra*.

Liable to fine.—As to recovery of fines and penalties, *see* s. 117, *infra*.

Inn.—This is a house where a traveller is furnished with everything he has occasion for while on his way. *Thomson* v. *Lacy*, 3 B. & A. 283.

Inn-keeper.—Every licensed victualler is not an innkeeper. *See R.* v. *Rymer*, (1877) 2 Q.B.D. 136. An innkeeper, apart from this statutory duty, has a duty to take reasonable care of the persons of his guests, so that they are not injured by reason of a want of such care on his part whilst they are his guests. *Sandys* v. *Florence*, 49 L.J.C.P. 598.

Whether the provisions of s. 64 are extended to innkeepers is not clear.

A penalty of five pounds for not disinfecting a house or part of a house on ceasing to occupy the same is imposed by s. 65, *infra*.

Penalty on persons letting houses making false statements as to infectious disease.

64.—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, as to the fact of there being, or within six weeks previously having been, therein any person suffering from any dangerous infectious disease, knowingly makes a false answer to such question, shall be liable, at the discretion of the court, to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for a period not exceeding one month.

This section reproduces s. 56 of the Sanitary Act, 1874 (37 & 38 Vict. c. 89), and corresponds to s. 129 of the Public Health Act, 1875.

Dangerous infectious disease.—As to the meaning of this expression, *see* note to s. 58, *supra*, p. 103.

Sect. 64.

As to the letting of a house where a person suffering from dangerous infectious disease has been, *see* s. 63, *supra*.

Fine.—As to recovery of fines and penalties, *see* s. 117, *infra*.

Penalty on ceasing to occupy house without disinfection or notice to owner, or making false answer.

65.—(1.) Where a person ceases to occupy any house, or part of a house, in which any person has within six weeks previously been suffering from any dangerous infectious disease, and either—

(*a.*) fails to have such house, 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, or such articles destroyed, or

(*b.*) fails to give to the owner or master of such house, or part of a house, notice of the previous existence of such disease, or

(*c.*) on being questioned by the owner or master of, or by any person negotiating for the hire of, such house or part of a house, as to the fact of there having within six weeks previously been therein any person suffering from any dangerous infectious disease, knowingly makes a false answer to such question,

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

(2.) The sanitary authority shall cause their officers to serve notice of the provisions of this section on the master of any house or part of a house in which they are aware that there is a person suffering from a dangerous infectious disease.

This section reproduces s. 7 of the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34).

Sub section (2) reproduces s. 14 of the same Act.

Sub-section (1) is an amendment of the law, as under 53 & 54 Vict. c. 34, penalties can be recovered on information of the sanitary authority only (s. 18); this restriction is now omitted.

Dangerous infectious disease.—*See*, as to meaning of this expression, note to s. 58, *supra*, p. 103.

Person negotiating for hire.—This sub-section (1) (*c*), only affects the late occupant of the house, whereas, s. 64, under which is imposed double the penalty under this section, affects any person letting, or showing for that purpose, the house.

Notice.—This notice, even to the owner or master, by the late occupant must be in writing, *see* ss. 127 and 128, *infra*.

Master of the house.—*See*, as to definition of this expression, s. 141, *infra*. Sect. 65.

Removal to hospital of infected persons without proper lodging.

66.—(1.) A person suffering from any dangerous infectious disease, who is without proper lodging or accommodation, or is lodged in a tent or van, or is on board a vessel, may, on a certificate signed by a legally qualified medical practitioner, and with the consent of the superintending body of the hospital to which he is to be removed, be removed by order of a justice, and at the cost of the sanitary authority of the district where such person is found, to any hospital in or within a convenient distance of London.

(2.) The order may be addressed to such constable or officer of the sanitary authority as the justice making the same thinks expedient; and if any person wilfully disobeys or obstructs the execution of such order he shall be liable to a fine not exceeding ten pounds.

(3.) Any sanitary authority may make bye-laws for removing to any hospital to which that authority are entitled to remove patients, and for keeping in that hospital so long as may be necessary, any persons brought within their district by any vessel who are infected with a dangerous infectious disease.

This section reproduces, with amendment, ss. 26 and 29 of the Sanitary Act, 1866, s. 2 of the Sanitary Act, 1870 (33 & 34 Vict. c. 53), and s. 51 of the Sanitary Act, 1874 (37 & 38 Vict. c. 89). It corresponds to ss. 124 and 125 of the Public Health Act, 1875.

The above sections of the Sanitary Acts are amended by the insertion of "tent or van" in sub-section (1), and by the omission of certain words.

Dangerous infectious disease.—As to the meaning of these words, *see* note to s. 58, *supra*, p. 103.

Without proper lodging.—In this section are omitted the words "lodged in a room occupied by more than one family," which occur in s. 26 of the Sanitary Act, 1866, as evidently a person in such circumstances is without proper lodging. This section provides for the removal of an infected person to hospital; s. 67, *infra*, provides for his detention therein.

Legally qualified medical practitioner.—As to the meaning of this expression, *see* note to s. 21, *supra*, p. 50.

Tent or van.—Power to enter for the purpose of discovering if there is in any tent, van, etc., a person suffering from a dangerous infectious disease, is given in s. 95 (3) (*b*), *infra*.

Vessel.—This includes boat, and every description of vessel,

Sect. 66.

s. 141. As to the jurisdiction of the sanitary authority over ships, *see* s. 110, *infra.*

Hospital.—As to the provision of hospitals, etc., *see* ss. 75 to 81, *infra.*

As to definition, *see* s. 141, *infra.*

Cost of the sanitary authority.—For provisions as to defraying expenses incurred by sanitary authorities under this Act, *see* s. 103, *infra.*

Obstruction.—As to provisions of this Act respecting obstruction of officers, *see* ss. 115 and 116, *infra.*

As to what is obstruction, *see Small* v. *Bickley*, *supra*, p. 90.

Fine.—As to recovery of penalties, *see* s. 117, *infra.*

Bye-laws.—These must be made in accordance with ss. 182 to 186 of the Public Health Act, 1875, set out *infra* in Schedule I.; *see* s. 114, *infra.* *See* also s. 142 (3) *infra.*

Detention of infected person without proper lodging in hospital.

67.—(1.) A justice, on being satisfied that a person suffering from any dangerous infectious disease is in a hospital, and would not on leaving the hospital be provided with lodging or accommodation in which proper precautions could be taken to prevent the spreading of the disease by such person, may direct such person to be detained in the hospital at the cost of the Metropolitan Asylum Managers during the time limited by the justice. Any justice may enlarge the time as often as appears to him necessary for preventing the spread of the disease.

(2.) The direction may be carried into execution by any officer of any sanitary authority, or of the Metropolitan Asylum Managers, or by any inspector of police, or any officer of the hospital.

This section reproduces, with amendment, s. 12 of the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34).

A justice.—It would seem the proper justice to apply to is one having jurisdiction where the hospital is.

Dangerous infectious disease.—As to the meaning of this expression, *see* note to s. 58, *supra*. p. 103.

Hospital.—The definition of hospital is set out in s. 141, *infra.*

At cost of Metropolitan Asylum Managers.—In s. 12 of the Act of 1890, the cost of detention is borne by the sanitary authority.

As to the constitution of the Metropolitan Asylum Managers *see* note to s. 55, *supra*, p. 100, and to s. 79, *infra*, p. 124.

Sect. 67.

As to the funds of the Managers, out of which this expense will be borne, *see* s. 104, *infra*.

Penalty on exposure of infected persons and things.

68.—(1.) If any person—

(*a.*) while suffering from any dangerous infectious disease wilfully exposes himself without proper precautions against spreading the said disease in any street, public place, shop, or inn; or

(*b.*) being in charge of any person so suffering, so exposes such sufferer; or

(*c.*) gives, lends, sells, transmits, removes, or exposes, without previous disinfection, any bedding, clothing, or other articles which have been exposed to infection from any such disease;

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

(2.) Provided that proceedings under this section shall not be taken against persons transmitting with proper precautions any bedding, clothing or other articles for the purpose of having the same disinfected.

This section reproduces s. 38 of the Sanitary Act, 1866, with the omission of the provisions as to infected persons using public conveyances, which provisions are dealt with in s. 70, *infra*. It corresponds with that exception to s. 126 of the Public Health Act, 1875. The former section is further amended by the insertion of the words "shop or inn" following the same amendment in the Public Health Act, 1875.

Dangerous infectious disease.—For meaning of this expression, *see* note to s. 58, *supra*, p. 103.

Exposes.—As to prohibition on infected persons carrying on business, *see* s. 69, *infra*. It is now unlawful, even with the consent and knowledge of the owner, for an infected person to enter a public conveyance, s. 70, *infra*, although by strange anomaly a corpse of a person who has died from a dangerous infectious disease may be carried in a public conveyance. s. 74, *infra*.

To expose a person suffering from a contagious disease is a common law nuisance, and a person doing so is liable to indictment for such, *R.* v. *Vantandillo*, (1815) 4 M. & S. 73, in which case the mother of a child was convicted for causing the child infected with small-pox to be taken through the street.

In the case of *R.* v. *Burnett*, 4 M. & S. 272, the defendant, an apothecary, was indicted and convicted for unlawfully causing persons inoculated with small-pox at his premises to

Sect. 68.

be taken through the streets. *See* also *Metropolitan Asylums Districts* v. *Hill*, *supra*, p. 82.

Inn.—As to what is an inn, *see* note to s. 63, *supra*, p. 109.

Being in charge of any person.—In the case, *Tunbridge Wells Local Board* v. *Bishopp*, (1877) 2 C.P.D. 187, the respondent, a medical practitioner in Tunbridge, sent a patient who was suffering from scarlet fever to the fever hospital there with a certificate, directing him to walk in the middle of the road, and not to talk to any one; but in consequence of an informality in the certificate the patient was refused admission, whereupon the medical man walked with him through the streets of the town to the residence of the chairman of the local board, from whom, after some delay, he obtained an order for the man's admission to the hospital. He then returned with the man to the police-station to procure the ambulance to convey him thither. Upon an information against the medical man for an alleged infringement of the statute, the justices were of opinion that it was not proved before them that the medical man had charge of the patient, that he had not wilfully exposed the patient in any street or public place without proper precaution, and that he had made the best of the means at his disposal to prevent the spread of the fever, and refused to convict him. It was held, in the High Court, that the decision was right.

In *Best* v. *Stapp*, 2 C.P.D. 191, *n*, a lodging-house keeper at Eastbourne recovered and retained a verdict of £120 against a lodger who knowingly introduced into the plaintiff's house children infected with scarlet fever, in consequence of which the plaintiff lost four of his own children and was put to expense.

Transmitting with proper precautions.—The sanitary authority are required to provide carriages, etc., for the removal of articles, etc., for disinfection or destruction, s. 59, *supra*, p. 103. and may provide carriages for the conveyance of infected persons, s. 78, *infra*.

The Asylum Managers may provide carriages and attendants for the conveyance of infected persons, s. 79 (2) and (3), *infra*.

Under s. 62, the sanitary authority must provide for the removal of infected rubbish.

Prohibition on infected person carrying on business.

69.—A person who knows himself to be suffering from a dangerous infectious disease shall not milk any animal or pick fruit, and shall not engage in any occupation connected with food or carry on any trade or business in such a manner as to be likely to spread the infectious disease, and if he does so he shall be liable to a fine not exceeding ten pounds.

Sect. 69.

This section is new; it was proposed in the clause of the Bill as originally drawn to compensate for the loss entailed by the prohibition.

Dangerous infectious disease.—As to what this expression includes, *see* note to s. 58, *supra*, p. 103.

Fine.—As to recovery of penalties, *see* s. 117, *infra*.

Prohibition on conveyance of infected person in public conveyance.

70.—It shall not be lawful for any owner or driver of a public conveyance knowingly to convey, or for any other person knowingly to place, in any public conveyance, a person suffering from any dangerous infectious disease, or for a person suffering from any such disease to enter any public conveyance, and if he does so he shall be liable to a fine not exceeding ten pounds; and, if any person so suffering is conveyed in any public conveyance, the owner or driver thereof, as soon as it comes to his knowledge, shall give notice to the sanitary authority, and shall cause such conveyance to be disinfected, and if he fails so to do he shall be liable to a fine not exceeding five pounds, and the owner or driver of such conveyance shall be entitled to recover in a summary manner from the person so conveyed by him, or from the person causing that person to be so conveyed, a sum sufficient to cover any loss and expense incurred by him in connexion with such disinfection. It shall be the duty of the sanitary authority, when so requested by the owner or driver of such public conveyance, to provide for the disinfection of the same, and they may do so free of charge.

This section is a great alteration of the previous law, as by s. 25 of the Sanitary Act, 1866, it was not unlawful to convey an infected person, or for an infected person to be conveyed in a public conveyance. Under that section it was unlawful, under a penalty of £5, to be so conveyed without previously informing the owner or driver of the conveyance. The owner or driver was not compelled to convey, unless paid sufficient to compensate for expense of disinfection, etc. By s. 38, the owner or driver of the public conveyance was liable to a penalty of five pounds if he did not immediately provide for the disinfection of his conveyance after it had, with his knowledge, conveyed an infected person.

The Public Health Act, 1875, s. 126, makes it unlawful to use a public conveyance for an infected person without previously notifying the owner, and s. 127 imposes penalty on the owner if he does not disinfect.

Public conveyance.—This section only applies to public

Sect. 70.

conveyances, and not to private carriages. If a person improperly exposes himself, or is exposed in a private carriage, the offence can be dealt with under s. 68, *supra*.

Fine and compensation.—As to recovery of these, *see* s. 117, *infra*.

By what is probably an oversight, while making absolutely unlawful the carriage of a living person suffering from a dangerous infectious disease, it is left permissible, with the owner or driver's consent, to carry in a public conveyance the body of a person who has died from a dangerous infectious disease; s. 74, *infra*.

A possible reason there may be for leaving this power, that such power would be necessary in time of epidemics. But the same reason would apply with equal force to the conveyance of living persons infected with dangerous infectious disease.

Section 74 is transferred without alteration from s. 11 of the Infectious Disease (Prevention) Act, 1890, and the amendment of s. 70 took place after the transfer of s. 74, which probably escaped notice.

Inspection of dairies, and power to prohibit supply of milk.

71.—(1.) If the medical officer of health of any district has evidence that any person in the district is suffering from a dangerous infectious disease attributable to milk supplied within the district from any dairy situate within or without the district, or that the consumption of milk from such dairy is likely to cause any such infectious disease to any person residing in the district, such medical officer shall, if authorized by an order of a justice having jurisdiction in the place where the dairy is situate, have power to inspect the dairy, and if accompanied by a veterinary inspector or some other properly qualified veterinary surgeon to inspect the animals therein; and, if on such inspection the medical officer of health is of opinion that any such infectious disease is caused from consumption of the milk supplied therefrom, he shall report thereon to the sanitary authority, and his report shall be accompanied by any report furnished to him by the said veterinary inspector or veterinary surgeon, and the sanitary authority may thereupon serve on the dairyman notice to appear before them within such time, not less than twenty-four hours, as may be specified in the notice, to show cause why an order should not be made requiring him not to supply any milk therefrom within the district until the order has been withdrawn by the sanitary authority.

(2.) The sanitary authority, if in their opinion he fails to show such cause, may make the said order, and shall

forthwith serve notice of the facts on the county council of the county in which the dairy is situate, and on the Local Government Board, and, if the dairy is situate within the district of another sanitary authority, on such authority.

(3.) The said order shall be forthwith withdrawn on the sanitary authority or their medical officer of health on their behalf being satisfied that the milk-supply has been changed, or that the cause of the infection has been removed.

(4.) If any person refuses to permit the medical officer of health, on the production of a justice's order under this section, to inspect any dairy, or if so accompanied as aforesaid to inspect the animals kept there, or, after any such order has been made, supplies any milk within the district in contravention of the order or sells it for consumption therein, he shall, on the information of the sanitary authority, be liable to a fine not exceeding five pounds, and, if the offence continues, to a further fine not exceeding forty shillings for every day during which the offence continues.

(5.) Provided that—

(*a.*) proceedings in respect of the offence shall be taken before a court having jurisdiction in the place where the dairy is situate, and

(*b.*) a dairyman shall not be liable to an action for breach of contract if the breach be due to an order under this section.

(6.) Proceedings may be taken under this section in respect of a dairy situate in the district of a local authority under the Public Health Acts, and the notice of the facts shall be served on the local authority as if they were a sanitary authority within the meaning of this Act.

(7.) Nothing in or done under this section shall interfere with the operation or effect of the Contagious Diseases (Animals) Acts, 1878 to 1886, or this Act, or of any order, licence, or act of the Board of Agriculture or the Local Government Board thereunder, or of any order, bye-law, regulation, licence, or act of a local authority made, granted, or done under any such order of the Board of Agriculture or the Local Government Board, or exempt any dairy, building, or thing or any person from the provisions of any general Act relating to dairies, milk, or animals.

Sect. 71.

This section reproduces ss. 4, 16, 18, and 24 of the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34).

Medical officer of health.—His appointment, qualification, and duties are set out, *infra*, ss. 106 to 109.

Dangerous infectious disease.—*See*, as to what this expression includes, note to s. 58, *supra*, p. 103.

District.—This is defined, s. 99 (2), *infra*.

Dairy.—The expression "dairy," includes any farm, farm-house, cowshed, milk-store, milk-shop, or other place from which milk is supplied or in which milk is kept for the purpose of sale; s. 141.

If the dairy is outside the administrative county of London to which only this Act in general applies, the powers of this section can be executed by the proviso of s. 132. *See*, also, sub-section 6 of this section.

Order of justice.—A justice may grant a warrant to authorize the inspection under s. 115 (3), *infra*.

Order and notice.—As to authentication of orders and notices and service of them, *see* ss. 127, 128, *infra*.

Contagious Diseases (Animals) Acts.—These Acts are, 41 & 42 Vict. c. 74, 47 & 48 Vict. c. 13, 47; and 49 & 50 Vict. c. 32.

By the Local Government Act, 1888, s. 3 (xiii), the execution as local authority of these Acts was transferred from the justices to the county council, and the jurisdiction of the London county council is given to it by s. 40 (8) of that Act. The Corporation of the City of London is still the local authority for the execution of these Acts by ss. 35 (1) and 41 (1) of the Local Government Act, 1888.

Veterinary inspector.—The local authority, under the Contagious Diseases (Animals) Act, must appoint veterinary inspectors, 41 & 42 Vict. c. 74, s. 42.

Prohibition of retention of dead body in certain cases.

72.—(1.) A person shall not without the sanction in writing of the medical officer of health, or of a legally qualified medical practitioner, retain unburied for more than forty-eight hours elsewhere than in a room not used at the time as a dwelling-place, sleeping-place, or work-room, the body of any person who has died of any dangerous infectious disease.

(2.) If a person acts in contravention of this section he shall, on the information of the sanitary authority, be liable to a fine not exceeding five pounds.

This section reproduces s. 8 of the Infectious Disease (Prevention) Act, 1890.

Body retained unburied.—If a body is retained unburied in

Sect. 72.

contravention of this section, in addition to the penalty herein imposed, the remedy is given by s. 89, *infra*, by which a justice may direct the removal to a mortuary and burial of the body.

Dangerous infectious disease.—As to meaning of this expression, *see* note to s. 58, *supra*, p. 103.

Fine.—It must be observed, the fine can be imposed on the information of the sanitary authority only. As to the recovery of fines, *see* s. 117, *infra*, and as to their application, s. 119, *infra*.

Legally qualified medical practitioner.—As to this, *see* note to s. 21, *supra*, p. 50.

Body of person dying of infectious disease in hospital, &c., to be removed only for burial.

73.—(1.) If a person dies in a hospital from any dangerous infectious disease, and the medical officer of health, or any legally qualified medical practitioner, certifies that in his opinion it is desirable, in order to prevent the risk of communicating such infectious disease, that the body be not removed from such hospital except for the purpose of being forthwith buried, it shall not be lawful for any person to remove the body except for that purpose; and the body when taken out of such hospital shall be forthwith taken direct to the place of burial, and there buried.

(2.) If any person wilfully offends against this section he shall, on the information of the sanitary authority, be liable to a fine not exceeding ten pounds.

(3.) Nothing in this section shall prevent the removal of a dead body from a hospital to a mortuary, and such mortuary shall, for the purposes of this section, be deemed part of such hospital.

This section reproduces s. 9 of the Infectious Disease (Prevention) Act, 1890.

Hospital.—This means any premises or vessel for the reception of the sick, whether permanently or temporarily applied for that purpose, and includes an asylum of the Metropolitan Asylum Managers; s. 141.

Dangerous infectious disease.—*See* as to the meaning of this expression, note to s. 58, *supra*, p. 103.

Legally qualified medical practitioner.—*See* note to s. 21, *supra*, p. 50.

Forthwith buried.—Provision is made for a justice to issue his warrant to give effect to the provisions of this section if offended against; *see* s. 89, *infra*. Unless the friends or relations of the deceased undertake to bury the body within a time limited by the justice the relieving officer will have to bury

Sect. 73.

the body. There is no definition of "burial" in the Act; it would seem, however, that the word would include "cremation."

Fine.—As to recovery and application of fines, *see* ss. 117 and 119, *infra*. The fine under this section can be recovered on information of the sanitary authority only.

Mortuary.—Under s. 88, *infra*, every sanitary authority must provide a mortuary and may provide for economical interments at charges to be fixed by bye-laws.

Disinfection of public conveyances if used for carrying corpses.

74.—If—

(*a.*) a person hires or uses a public conveyance other than a hearse for conveying the body of a person who has died from any dangerous infectious disease, without previously notifying to the owner or driver of the conveyance that such person died from infectious disease, or

(*b.*) the owner or driver does not, immediately after the conveyance has to his knowledge been used for conveying such body, provide for the disinfection of the conveyance,

he shall, on the information of the sanitary authority, be liable to a fine not exceeding five pounds, and if the offence continues to a further fine not exceeding forty shillings for every day during which the offence continues.

This section reproduces s. 11 of the Infectious Disease (Prevention) Act, 1890. *See* note to s. 70, *supra*, p. 115. The section is amended so as to make the owner or driver liable for not disinfecting, if the knowledge of the use of the hearse for carrying a dead body of a person dying from a dangerous infectious disease is acquired in any manner, and not merely from the driver.

Public conveyance.—There is no definition in the Act as to what is included in this expression; it may be well thought that a hearse is not a public conveyance, despite the use of the words, "a public conveyance other than a hearse."

On information of the sanitary authority. — It would seem that the liability would not arise on information of any other person. These words were omitted in s. 65 (1), *supra*, but are retained in ss. 72 and 73.

Fine.—As to the recovery and application of the fine, *see* ss. 117 and 119, *infra*.

Hospitals and Ambulances. **Sect. 75.**

Power of sanitary authority to provide hospitals.

75.—(1.) Any sanitary authority may provide for the use of the inhabitants of their district hospitals temporary or permanent, and for that purpose may—

(*a.*) themselves build such hospitals, or

(*b.*) contract for the use of any hospital or part of a hospital, or

(*c.*) 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.

(2.) Two or more sanitary authorities may combine in providing a common hospital.

This section reproduces s. 37 of the Sanitary Act, 1866, and corresponds to s. 131 of the Public Health Act, 1875.

May provide.—Mortuaries may be provided under s. 88, *infra*, and a temporary supply of medicine and medical assistance under s. 77.

Hospital.—This means any premises or vessels for the reception of the sick, whether permanently or temporarily applied for that purpose, and includes an asylum of the Metropolitan Asylums Managers; s. 141, *infra*.

As to the expenses under this Act, *see* s. 103, *infra*.

The provision of hospitals is one of the purposes for which vestries and district boards are authorized to borrow; s. 105.

A sanitary authority for the purposes of their duty may acquire and hold land without any licence in mortmain; s. 99 (5), *infra*.

Contract.—As to power and manner of contracting by vestries and district boards, *see* s. 149 of the Metropolis Management Act, 1855, set out in Appendix, *infra*.

As to the removal to hospital of infected persons without proper lodging, *see* s. 66, *supra*. p. 111, and as to detention of such in hospital, *see* s. 67, *supra*, p. 112.

The powers under this section are permissive, and a sanitary authority must be careful that in carrying them out they do not create a nuisance; *see Hill* v. *Metropolitan Asylums District*, 6 App. Cas. 193, *supra*, p. 82.

In *Tod-Heatley* v. *Benham*, (1888) 40 Ch.D. 80, it was held that the establishment of a hospital for the treatment of out-door patients suffering from diseases of the throat, nose, ear, skin, eye, fistula, and other diseases, is a breach of a covenant in a building lease against carrying on certain specified trades, or doing any act which shall, or may be, or grow,

Sect. 75.

to the annoyance, nuisance, grievance or damage of the lessor or the inhabitants of the neighbouring or adjoining houses.

In order to enforce such a covenant it is sufficient, without proving actual risk of infection, that sensible people feel a reasonable apprehension of risk and interference with the pleasurable enjoyment of their houses for ordinary purposes, as distinguished from a mere fanciful feeling of distaste entertained by sensitive persons.

Sanitary authorities may combine.—Sanitary authorities may be combined by the Local Government Board for the enforcement of epidemic regulations under s. 84, *infra*. They may appoint the same person medical officer of health of their districts, under s. 106 (2), *infra*.

They may also combine for the purpose of providing a mortuary in common under s. 91, *infra*.

As to expenses, *see* note to s. 76, *infra*.

Recovery of cost of maintenance of non-infectious patient in hospital.

76.—Any expenses incurred by a sanitary authority in maintaining in a hospital (whether or not belonging to that authority) a patient who is not a pauper, and is not suffering from an infectious disease, shall be a simple contract debt due to the sanitary authority from that patient, or from any person liable by law to maintain him, but proceedings for its recovery shall not be commenced after the expiration of six months from the discharge of the patient, or if he dies in such hospital from the date of his death.

Any expenses.—As to recovery of expenses in abatement of nuisances, *see* s. 11, *supra*, p. 29.

Under s. 15 of the Poor Law Act, 1879 (42 & 43 Vict. c. 54), which is repealed by this Act, the Metropolitan Asylums Board could contract with sanitary authorities in the metropolis for the reception and maintenance in the Board's hospitals of persons suffering from dangerous infectious disorders, and such patients were deemed to be maintained in the hospital at the expense of the authority making the contract. The section then provided for the recovery of the expense incurred by the sanitary authority from the patient. Under s. 76 of this Act this power of recovery of costs is in respect of a patient suffering from only a non-infectious disease. This section is a considerable alteration of s. 15 of the Poor Law Act, 1879. *See* note to s. 80, *infra*.

The expenses of a sanitary authority under this Act are to be defrayed as directed in s. 103, *infra*. As to the recovery of expenses, *see* s. 117, *infra*. The expenses of providing buildings for the reception of patients for the purposes of the epidemic regulations of the Local Government Board, and two-thirds of the salaries of officers employed in such buildings

will be chargeable upon the metropolitan common poor fund; *see* s. 87, *infra*.

Person liable to maintain.—The persons liable by law to maintain another person are so liable by the 43 Eliz. c. 2. By s. 6 of that Act "the father and grandfather, and the mother and grandmother, and the children of every poor old blind, lame and impotent person, or other person not able to work, being of sufficient ability, shall at their own charges relieve and maintain every such poor person."

A man is further responsible at common law for the maintenance of his wife and family.

A married woman is also liable under s. 20 of the Married Woman's Property Act, 1882 (45 & 46 Vict. c. 75) for the maintenance of her husband, and under s. 21 of her children, under the conditions laid down in those sections.

The words "or from any person liable by law to maintain him," do not occur in s. 132 of the Public Health Act, 1875, which corresponds to this section.

Power to provide temporary supply of medicine.

77.—Any sanitary 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.

This section reproduces s. 10 of the Sanitary Act, 1868 (31 & 32 Vict. c. 115), and corresponds to s. 133 of the Public Health Act, 1875.

As to provisions of hospitals, *see* s. 75, *supra*, p. 121; and as to the provision of mortuaries, *see* s. 88, *infra*.

The expense entailed by this section is provided for by s. 103, *infra*. This section will extend to the provision of medicine on board ships under s. 110, *infra*.

Provision of conveyance for infected persons.

78.—A sanitary authority may provide and maintain carriages suitable for the conveyance of persons suffering from any infectious disease, and pay the expense of conveying therein any person so suffering to a hospital or other place of destination.

This section reproduces s. 24 of the Sanitary Act, 1866, and s. 12 of the Nuisances Removal Act, 1860, and corresponds to s. 123 of the Public Health Act, 1875. Under s. 59, *supra*, p. 103, the sanitary authority are empowered to provide conveyances for infected bedding, &c.

The expenses of the sanitary authority are provided for by s. 103, *infra*.

The application of this section is not restricted to dangerous infectious diseases; *see* note to s. 58, *supra*, p. 103.

Sect. 78.

The Metropolitan Asylum Managers may also provide carriages for the conveyance of persons suffering from dangerous infectious diseases; s. 79, *infra*.

Power for Metropolitan Asylum Board to provide landing-places, vessels, ambulances, &c.

79.—(1.) The Metropolitan Asylum Managers shall continue to maintain the wharves, landing-places, and approaches thereto heretofore provided by them, whether within or without London, and may use the same for the embarkation and landing of persons removed to or from any hospital belonging to the Managers, and for any other purpose in relation thereto.

(2.) The Managers may also provide and maintain vessels for use in connexion with the said wharves or landing-places, and with the hospitals of the Managers, and also carriages suitable for the conveyance of persons suffering from any dangerous infectious disease, and shall cause the vessels and carriages to be from time to time properly cleansed and disinfected, and may provide and maintain such buildings and horses, and employ such persons, and do such other things as are necessary or proper for the purposes of such conveyance.

(3.) The Metropolitan Asylum Managers may allow any of the said carriages with the necessary attendants to be also used for the conveyance of persons suffering from any dangerous infectious disease to and from hospitals and places other than hospitals provided by the Managers, and may make a reasonable charge for that use.

This section reproduces in part of sub-section (2) a part of s. 16 of the Poor Law Act, 1879 (42 & 43 Vict. c. 54). Sub-section (1) reproduces s. 6 of the Diseases Prevention (Metropolis) Act, 1883 (46 & 47 Vict. c. 35), by which the Metropolitan Asylum Managers were required to provide on the banks of the Thames wharves or landing places and approaches, three being within and one without the metropolis, for embarkation and landing of persons removed to or from an hospital ship or hospital belonging to the Managers. Sub-section (3) reproduces s. 6 of the Poor Law Act, 1889 (52 & 53 Vict. c. 56).

Metropolitan Asylum Managers.—The whole of the metropolis was formed by the Local Government Board (formerly Poor Law Board) into one asylums district, under Managers who are called the Metropolitan Asylum Managers or Metropolitan Asylum Board, under 30 Vict. c. 6, as amended by 32 & 33 Vict. c. 63, s. 1, and 39 Vict. c. 61, s. 40.

The Managers are partly elective and partly nominated, the former being elected by the guardians of the several unions and parishes.

Sect. 79.

Their duties are prescribed by s. 5 of 30 Vict. c. 6, as the provision of asylums for, and the reception and relieving of, sick, insane and infirm, or other class or classes of the poor chargeable in unions and parishes in the metropolis.

The Metropolitan Asylum Managers have, for the purposes of the epidemic regulations of the Local Government Board, such powers and duties of a sanitary authority as the Local Government Board may assign them; s. 85, *infra*.

Carriages.—As to the provision and use of carriages provided by the sanitary authority, *see* ss. 59 and 78, *supra*, pp. 103, 123.

Dangerous infectious disease.—As to the meaning of these words, *see* note to s. 58, *supra*, p. 103.

Reasonable charge.—As to the expense of the asylum board under the provisions of this Act, and the manner of defraying the same, *see* s. 104, *infra*.

Reception of non-pauper fever and small-pox patients into hospital in metropolitan district.

80.—(1.) The Metropolitan Asylum Managers, subject to such regulations and restrictions as the Local Government Board prescribe, may admit any person, who is not a pauper, and is reasonably believed to be suffering from fever or small-pox or diphtheria, into a hospital provided by the Managers.

(2.) The expenses incurred by the Managers for the maintenance of any such person shall be paid by the board of guardians of the poor law union from which he is received.

(3.) The said expenses shall be repaid to the board of guardians out of the metropolitan common poor fund.

(4.) The admission of a person suffering from an infectious disease into any hospital provided by the Metropolitan Asylum Managers, or the maintenance of any such person therein, shall not be considered to be parochial relief, alms, or charitable allowance to any person, or to the parent or husband of any person; nor shall any person or his or her parent or husband be by reason thereof deprived of any right or privilege, or be subjected to any disability or disqualification.

The first three sub-sections of this section reproduce the first three sub-sections of s. 3 of the Poor Law Act, 1889 (52 & 53 Vict. c. 56), with the omission in sub-section (2) of the power of the board of guardians to recover their expenses from the patient received. The fourth sub-section reproduces s. 7 of the Diseases Prevention (Metropolis) Act, 1883 (46 & 47 Vict. c. 35).

Expenses of the Managers.—The Metropolitan Asylums Managers, as constituted originally, were a poor law authority

Sect. 80.

only, and could receive into their hospitals for infectious diseases pauper cases only; to enable them to receive non-pauper patients power was given to them by s. 15 of the Poor Law Act, 1879 (42 & 43 Vict. c. 54) to contract with sanitary authorities for the reception and maintenance in their hospitals of *any* person suffering from a dangerous infectious disease whom a sanitary authority required them to receive to prevent the spread of infection. Such person was deemed to be maintained by the sanitary authority.

The power of the Metropolitan Asylums Managers to contract contained in s. 15, being now unnecessary under the provisions of s. 80 of this Act, is repealed by this Act (s. 142), and is not re-enacted. *See* further as to the expenses of, and power to borrow money by, the Managers, s. 104, *infra*.

Metropolitan common poor fund—As to the establishment, application and payment out of this fund, *see* the Metropolitan Poor Act, 1867 (30 Vict. c. 6), ss. 61 to 72, and the Acts amending the same.

Certain expenses of the sanitary authority in carrying out the epidemic regulations will be charged upon this fund; *see* s. 87, *infra*.

Reception into hospital in Metropolitan district of child from school outside London.

81.—(1.) Where the London School Board send any child to an industrial school which is provided by them outside London, such child shall for the purpose of the enactments relating to the Metropolitan Asylum Managers be deemed to continue to be an inhabitant of London, and if such child is sent to any hospital of those Managers he shall be deemed to have been sent from that place in London from which he was sent to the said industrial school.

(2.) This section shall apply to that part of London which is not within the Metropolitan Asylum district as if it were within that district, and the board of guardians of the poor law union comprising that part shall pay for such child accordingly.

This section is an amendment of the law.

Industrial school.—Under the Elementary Education Acts, 1870, 1873 and 1876 (33 & 34 Vict. c. 75, s. 28; 36 & 37 Vict. c. 86 s. 10; and 39 & 40 Vict. c. 79, s. 15), a school board have power, with the consent of one of Her Majesty's Principal Secretaries of State, to establish, build, and maintain industrial schools, and to spread the payment of the expense of such establishment and building over a number of years not exceeding fifty, and to borrow money for the purpose. And under the above Acts the school board has the same power as is given to a prison authority by s. 12 of the Industrial School Act, 1866 (29 & 30 Vict. c. 118, s. 12), to contribute to the alteration,

Sect. 81.

enlargement or re-building of an industrial school on its establishment or building. By the Elementary Education (Industrial Schools) Act, 1879 (42 & 43 Vict. c. 48), powers of school boards were enlarged, and by s. 4 power was given to guardians to contribute to the maintenance of a child in an industrial school.

The Industrial Schools Act, 1866, was amended by the Industrial Schools Acts Amendment Act, 1880 (43 & 44 Vict. c. 15).

Part of London.—The hamlet of Penge, which forms part of the district of the Lewisham District Board of Works, is, for sanitary purposes, within the county of London, *see* s. 246 of the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120); but it forms for poor-law purposes a part of the Croydon Union, which does not form part of the Metropolitan Asylum district. As to the apportionment of expenses between the hamlet of Penge and the remainder of Lewisham district, *see* s. 131, *infra*.

Prevention of Epidemic Diseases.

Sanitary authority to execute epidemic regulations. 38 & 39 Vict. c. 55.

82.—(1.) The sanitary authority of any district within which or part of which regulations issued by the Local Government Board in pursuance of section one hundred and thirty-four of the Public Health Act, 1875, set out in the First Schedule to this Act (in this Act referred to as the epidemic regulations) are 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 disease to which the regulations relate, or for superintending or aiding in the execution of such regulations, or for executing the same, as the case may require.

(2.) The sanitary authority may direct any prosecution or legal proceedings for or in respect of the wilful violation or neglect of any such regulation.

(3.) The sanitary authority shall have power to enter on any premises or vessel for the purpose of executing or superintending the execution of any of the epidemic regulations.

This section reproduces ss. 4, 8, and 9 of the Diseases Prevention Act, 1855 (18 & 19 Vict. c. 116), and corresponds to ss. 136 and 137 of the Public Health Act, 1875.

Medical officers.—*See*, as to power to appoint medical officers of health and sanitary inspectors under this Act, ss. 106–109, *infra*.

Sect. 82.

Execution of such regulations.—The duty o the sanitary authority under this section is imperative. As to procedure in case of neglect by the sanitary authority, *see* ss. 100 and 101, *infra*. The Local Government Board may combine sanitary authorities for the execution of epidemic regulations, *see* s. 84.

As to the penalty for violation of these regulations, *see* s. 140 of the Public Health Act, 1875, set out *infra*, in Schedule I.

Further powers of the Local Government Board as to cholera and other infectious diseases are contained in s. 113, *infra*.

Expenses.—The general expenses of the sanitary authority are provided for by s. 103, *infra*. The purposes of the epidemic regulations under this Act are purposes for which sanitary authorities are authorized to borrow under this Act; s. 105, *infra*.

The expense of providing buildings for patients in pursuance of the epidemic regulations, and two-thirds of the salaries of the officers employed therein, will be a charge upon the metropolitan common poor fund, to be paid by the treasurer of that fund to the sanitary authority upon the precept of the Local Government Board; s. 87, *infra*.

Legal proceedings.—These are regulated by s. 117, *infra*. The sanitary authority may appear before any court or in any legal proceedings by their clerk or other officer authorized by the authority to so appear; *see* s. 123, *infra*.

Entry.—For power to enter to inspect and abate nuisances, and to see to the enforcement of nuisance orders, *see* s. 10, *supra*, p. 28. As to general provisions as to obstruction of officers seeking to enter, etc., *see* ss. 115 and 116, *infra*.

Premises or vessel.—By s. 110, *infra*, a vessel within the district of a sanitary authority is subject to the jurisdiction of the sanitary authority as though it were a house. "Premises" is defined in s. 141, *infra*; as to provisions respecting vans, tents, etc., *see* s. 95, *infra*.

Poor law medical officers entitled to costs of attendance on board vessels.

83.—(1.) Whenever, in compliance with the epidemic regulations, 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 poor law union for which he is appointed; and such charges shall be paid by the master of the vessel on behalf of the owners thereof, together with any reasonable expenses for the treatment of the sick.

(2.) Where such service is rendered by any medical practitioner who is not a poor law medical officer, he shall be entitled to charge for the service with extra remuneration on account of distance, at the rate which he is in the habit of receiving from private patients of

Sect. 83.

the class of those attended and treated on shipboard, and such charge shall be paid as aforesaid. Any dispute in respect of such charge may, where the charges do not exceed twenty pounds, be determined by a petty sessional court; and that 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.

This section reproduces s. 12 of the Diseases Prevention Act, 1855 (18 & 19 Vict. c. 116), and corresponds to s. 138 of the Public Health Act, 1875.

Poor law medical officer.—If the poor law medical officer is paid a fixed salary, and not so much per case attended, it is difficult to see how his remuneration is to be fixed under this section. One way would be to divide his total salary by the total number of cases he attends.

Master of the vessel.—This means, in addition to the "master" any person in charge of the vessel; *see* s. 141, and also *see* s. 110 (2).

Petty sessional court.—This is defined by the Interpretation Act, 1889, s. 13.

Local Government Board may combine sanitary authorities.

84.—The Local Government Board may, if they think fit, by order authorize or require any two or more sanitary authorities to act together for the purposes of the epidemic regulations and prescribe the mode of such joint action, and of defraying the cost thereof, and generally may make any regulations necessary or proper for carrying into execution this section.

This section reproduces s. 40 of the Sanitary Act, 1866, and corresponds to s. 139 of the Public Health Act, 1875.

Sanitary authorities may combine and appoint the same person medical officer of health of their districts under s. 106 (2), *infra*, and may combine for providing a common hospital under s. 75 (2), *supra*, and a common mortuary under s. 91, *infra*.

Metropolitan Asylum Managers a sanitary authority for prevention of epidemic diseases.

85.—(1.) The Metropolitan Asylum Managers shall within their district have for the purpose of the epidemic regulations such powers and duties of a sanitary authority as may be assigned to them by the regulations; and the Local Government Board may make regulations for that purpose and thereby provide for the adjustment of the functions of the Managers relatively to those of any sanitary authorities.

Sect. 85.

(2.) Subject to such regulations the Metropolitan Asylum Managers may use any of their property, real or personal, and their staff, for the execution of any powers or duties conferred or imposed on them under this section.

This section reproduces ss. 2 and 10 of the Diseases Prevention (Metropolis) Act, 1883 (46 & 47 Vict. c. 35).

Metropolitan Asylum Managers.—As to the constitution and duties of the Metropolitan Asylum Managers, *see* note to s. 79, *supra*, p. 124.

Powers and duties of a sanitary authority.—The Metropolitan Asylum Managers will only have such powers of a sanitary authority as the Local Government Board may assign them in the regulation. They will not have all the general powers of a sanitary authority under this Act. As to the powers of a sanitary authority with regard to epidemic regulations, *see* s. 82, *supra*, p. 127. As to what are the authorities for the execution of this Act, *see* s. 99, *infra*.

Power to let hospitals, &c.

86.—Any authority or body of persons having the management and control of any hospital, infirmary, asylum, or workhouse may let the same or any part thereof to the Metropolitan Asylum Managers, and enter into and carry into effect contracts with those Managers for the reception, treatment, and maintenance therein of persons suffering from cholera or choleraic diarrhœa within the district of the Managers:

Provided that the power conferred by this section shall not, without the consent of the Local Government Board, be exercised with respect to any asylum under the Metropolitan Poor Act, 1867, or any workhouse.

30 & 31 Vict. c. 6.

This section reproduces ss. 3 and 12 of the Diseases Prevention (Metropolis) Act, 1883 (46 & 47 Vict. c. 35).

Contract with the Managers.—As to powers of sanitary authorities to contract for the use of a hospital, and to enter into agreements for the reception of sick inhabitants in hospitals, *see* s. 75, *supra*, p. 121. As to duties of the Metropolitan Asylum Managers, *see* s. 79, *supra*, p. 124.

District of the Managers.—*See* note to s. 79, *supra*, p. 124.

Repayment to sanitary authorities of certain expenses.

87.—The amount expended in pursuance of the epidemic regulations by any sanitary authority in providing any building for the reception of patients or other persons shall, to such extent as may be determined by the Local Government Board, together with two thirds of the salaries or remuneration of any

officers or servants employed in any such building under this Act, be repaid to such sanitary authority from the metropolitan common poor fund by the receiver of that fund, out of any moneys for the time being in his hands, on the precept of the said Board, to be issued after the production of such evidence in support of the expenditure as they may deem satisfactory, and the said Board may require contributions for the purpose of raising the sums so repayable.

This section reproduces s. 4 of the Diseases Prevention (Metropolis) Act, 1883 (46 & 47 Vict. c. 35).

Expenses.—*See* generally as to expenses under this Act, s. 103, *infra*. The purposes of the epidemic regulations are purposes for which a sanitary authority may borrow; *see* s. 105, *infra*. The expenses of the Metropolitan Asylum Managers are to be defrayed as directed in s. 31 of the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6); *see* s. 104 of this Act, *infra*.

For provision respecting the apportionment of expenses between the hamlet of Penge and the remainder of Lewisham District, *see* s. 131, *infra*.

Metropolitan common poor fund.—As to the establishment, application and payment out of this fund, *see* the Metropolitan Poor Act, 1867 (30 Vict. c. 6), ss. 61 to 72, and the Acts amending the same; *see* also s. 80, *supra*, p. 125.

Mortuaries, &c.

Power of local authority to provide mortuaries.

88.—Every sanitary authority 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 bye-laws with respect to the management and charges for the use of the same; they may also provide for the decent and economical interment, at charges to be fixed by such bye-laws, of any dead body received into a mortuary.

This section reproduces s. 27 of the Sanitary Act, 1866, and corresponds to s. 141 of the Public Health Act, 1875.

Shall provide.—The duty under this section is imperative; under the repealed section in the Sanitary Act, 1866, the power to provide mortuaries was optional. It is only compulsory outside London if the Local Government Board order a sanitary authority to provide a mortuary.

Although the duty is imperative, it may be discharged by the sanitary authority, with the approval of the county council, combining with another sanitary authority to provide one in

Sect. 88.

common, or by contracting for the use of the mortuary of another sanitary authority; s. 91, *infra*.

As to procedure in case of neglect to provide, *see* ss. 100 and 101, *infra*.

As to power of a sanitary authority to hold land, *see* s. 99, *infra*.

The expense of providing a mortuary will be defrayed as expenses under this Act are directed to be defrayed, s. 103, *infra*; and the provision of a mortuary is a purpose for which the sanitary authority may borrow, s. 105, *infra*.

Reception of dead bodies.—As to circumstances under which a dead body is to be removed to a mortuary, *see* s. 73, *supra*, and s. 89, *infra*.

Places for the reception of dead bodies for the purpose of *post-mortem* examination may be provided under s. 90 in connection with mortuaries. But that section does not authorize the holding of *post-mortem* examinations in mortuaries.

Bye-laws.—All bye-laws made by a sanitary authority under this Act must be in accordance with the provisions of ss. 182 to 186 of the Public Health Act, 1875; *see* s. 114, *infra*; *see* also s. 142 (3).

The model bye-laws, as to mortuaries, issued by the Local Government Board for the use of sanitary authorities, are set out *infra* in the Appendix.

The county council have power to provide in London one or two mortuaries to which coroners may order the removal of unidentified dead bodies; s. 93, *infra*.

Power of justice in certain cases to order removal of dead body to mortuary.

89.—(1.) Where either—

(*a.*) the body of a person who has died of any infectious disease is retained in a room in which persons live or sleep; or

(*b.*) the body of a person who has died of any dangerous infectious disease is retained without the sanction of the medical officer of health or any legally qualified medical practitioner for more than forty-eight hours, elsewhere than in a room not used at the time as a dwelling-place, sleeping-place, or work-room; or

(*c.*) any dead body is retained in any house or room, so as to endanger the health of the inmates thereof, or of any adjoining or neighbouring house or building,

a justice may, on a certificate signed by a medical officer of health or other legally qualified medical practitioner, direct that the body be removed, at the cost of the sanitary authority, to any available mortuary,

Sect. 89.

and be buried within the time limited by the justice; and may if it is the body of a person who has died of an infectious disease, or if he considers immediate burial necessary, direct that the body be buried immediately, without removal to the mortuary.

(2.) Unless the friends or relations of the deceased undertake to bury and do bury the body within the time so limited, it shall be the duty of the relieving officer to bury such body, and any expense so incurred shall be paid (in the first instance) by the board of guardians of the poor law union, but may be recovered by them in a summary manner from any person legally liable to pay the expense of such burial.

(3.) If any person obstructs the execution of any direction given by a justice under this section, he shall be liable to a fine not exceeding five pounds.

This section reproduces s. 27 of the Sanitary Act, 1866. Sub-section (1) (*b*) is taken from s. 10 of the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34), and sub-section (3) reproduces s. 16 of the same Act. It corresponds to s. 142 of the Public Health Act, 1875.

Dangerous infectious disease.—As to the meaning of this expression and the difference between it and "infectious disease," *see* note to s. 58, *supra*, p. 103.

The retention for more than forty-eight hours of a body of a person who has died from a dangerous infectious disease is prohibited by s. 72, *supra*, p. 118.

Legally qualified medical practitioner.—*See* note to s. 21, *supra*, p. 50.

Cost of the sanitary authority.—This cost is the cost of removal to the mortuary, and not the cost of the burial. If the body is removed to the mortuary, the friends will have to bury the body at their own expense within the time limited for burial by the justice's order. If the friends do not bury within that time, the relieving officer will have to bury the body at the expense of the guardians. The guardians under sub-section (2) will be able to recover this expense from the relatives of the dead person or other person liable in law to pay the expense of burial.

The expenses of the sanitary authority will be defrayed as directed in s. 103, *infra*.

Body to be buried immediately.—Similar power to that contained in this section is provided in the case of death in a hospital by s. 73, *supra*, p. 119.

Obstruction.—As to the power of a justice to grant warrants in case of refusal of admission, and penalties for obstruction, *see* ss. 115 and 116, *infra*.

Fine.—As to the recovery of fines, etc., *see* s. 117, *infra*.

Sect. 90.

Power of sanitary authority to provide places for post-mortem examinations.

90.—(1.) Any sanitary authority may, and if required by the county council shall, provide and maintain a proper building (otherwise than at a workhouse) 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 building.

(2.) Any such building may be provided in connexion with a mortuary, but this enactment shall not authorize the conducting of any post-mortem examination in a mortuary.

This section reproduces with amendment s. 28 of the Sanitary Act, 1866, and corresponds to s. 143 of the Public Health Act, 1875.

The section contains an amendment on s. 28 of the Sanitary Act, 1866, as that section did not empower the room for post-mortem examinations being erected in connection with the mortuary.

Shall provide.—Under the Sanitary Act, 1866, the provision of a place for holding post-mortem examination was entirely at the option of the sanitary authority. If the county council require the provision of such a place, this section makes the duty of the sanitary authority to provide it imperative. As to neglect of duty by the sanitary authority, *see* ss. 100 and 101, *infra*.

The county council cannot require under this Act the commissioners of sewers to provide and maintain a building for post-mortem examinations; s. 133 (*c*), *infra*.

Sanitary authorities may combine for the purpose of providing places for post-mortem examinations; s. 91, *infra*.

By s. 24 of the Coroners Act, 1887 (50 & 51 Vict. c. 71); "Where a place has been provided by a sanitary authority or nuisance authority for the reception of dead bodies during the time required to conduct a post-mortem examination, the coroner may order the removal of a dead body to and from such place for carrying out such examination, and the cost of such removal shall be deemed to be part of the expenses incurred in and about the holding of an inquest."

As to the power of a coroner to order the removal of a dead body to a mortuary for the reception of unidentified bodies, *see* s. 93, *infra*.

Power to sanitary authorities to unite for providing mortuary.

91.—Any sanitary authorities may, with the approval of the county council, execute their duty under this Act with respect to mortuaries and buildings for post-mortem examinations by combining for the purpose thereof, or by contracting for the use by one of the

contracting authorities of any such mortuary or building provided by another of such contracting authorities, and may so combine or contract upon such terms as may be agreed upon.

This section is an amendment of the law.

Sanitary authorities may combine.—The Local Government Board may combine sanitary authorities for the purpose of epidemic regulations under s. 84, *supra*, p. 129.

They may, under s. 75, *supra*, p. 121, combine for the purpose of providing a common hospital. Two or more sanitary authorities may appoint the same person medical officer of health under s. 106 (2), *infra*.

Under this section the combining authorities will require the approval of the county council.

Place for holding inquests.

92.—The county council shall provide and maintain proper accommodation for the holding of inquests, and may by agreement with a sanitary authority provide and maintain the same in connexion with a mortuary or a building for post-mortem examinations provided by that authority, or with any building belonging to that authority, and may do so on such terms as may be agreed on with the authority.

This section is an amendment of the law.

The duty of the county council under this section is imperative; *see* note to s. 105, *infra*.

As to the provision of mortuaries, *see* s. 88, *supra*, p. 131; and of places for post-mortem examinations, s. 90, *supra*.

As to provision by the county council of mortuaries for unidentified bodies, *see* s. 93, *infra*.

Mortuary for unidentified bodies.

93.—(1.) The county council may provide and fit up in London one or two suitable buildings to which dead bodies found in London and not identified, together with any clothing, articles, and other things found with or on such dead bodies, may on the order of a coroner be removed, and in which they may be retained and preserved with a view to the ultimate identification of such dead bodies.

(2.) A Secretary of State may make regulations as to—

(*a.*) the manner in which and conditions subject to which any such bodies shall be removed to any such building, and the payments to be made at such building to persons bringing any unidentified dead body for reception; and

Sect. 93.

(*b.*) the fees and charges to be paid upon the removal or interment of any such dead body which has been identified after its reception, and the persons by whom such fees and payments are to be made, and the manner and method of recovering the same; and

(*c.*) the disposal and interment of any such bodies.

(3.) The county council may provide at the said buildings all such appliances as they think expedient for the reception and preservation of bodies, and may make regulations (subject to the provisions aforesaid) as to the management of the said buildings and the bodies therein, and as to the conduct of persons employed therein or resorting thereto for the purpose of identifying any body.

(4.) Subject to and in accordance with such regulations as may be made by a Secretary of State, any such body found in London may (on the order in writing of a coroner holding or having jurisdiction to hold the inquest on the same) be removed to any building provided under this section, and subject as aforesaid the inquest on any such body shall be held by the same coroner and in the same manner as if the said building were within the district of such coroner.

This section reproduces s. 22 of the London Council General Powers Act, 1890, 53 & 54 Vict. c. ccxliii.

As to the provision by the county council of places for holding inquests, *see* s. 92, *supra*.

Order of a coroner.—By s. 18 of the Coroners Act, 1887, (50 & 51 Vict. c. 71), "except upon holding an inquest, no order, warrant, or other document for the burial of a body, shall be given by the coroner."

As to the power of a coroner to order removal of a body for the purpose of post-mortem examination, *see* note to s. 90, *supra*.

Bye-laws as to Houses let in Lodgings.

Power of sanitary authority to make bye-laws as to lodging-houses.

94.—(1.) Every sanitary authority shall make and enforce such bye-laws as are requisite for the following matters; (that is to say,)

(*a.*) for fixing 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:

(*b.*) for the registration of houses so let or occupied:

(*c.*) for the inspection of such houses:

(*d.*) for enforcing drainage for such houses, and for promoting cleanliness and ventilation in such houses:

(*e.*) for the cleansing and lime-washing at stated times of the premises:

(*f.*) for the taking of precautions in case of any infectious disease.

(2.) This section shall not apply to common lodging-houses within the Common Lodging Houses Act, 1851, or any Act amending the same. 14 & 15 Vict. c. 28. 16 & 17 Vict. c. 41.

This section reproduces s. 35 of the Sanitary Act, 1866, and s. 47 of the Sanitary Act, 1874; *see* also s. 8 of the Housing of the Working Classes Act, 1885 (48 & 49 Vict. c. 72); and it corresponds to s. 90 of the Public Health Act, 1875.

Shall make and enforce.—In s. 35 of the Sanitary Act, 1866, enforcement of the bye-laws was not compulsory.

Before making bye-laws under that Act, the sanitary authority had to obtain the consent of the Local Government Board.

By s. 47 of the Sanitary Act, 1874, the Local Government Board could declare the enactment contained in s. 35 to be in force in any part of the metropolis, notwithstanding the restriction in that section; and the power to make regulations was extended to the provision of regulations as to separation of the sexes.

By s. 8 of the Housing of the Working Classes Act, 1885 (48 & 49 Vict. c. 72), every sanitary authority was declared empowered to make such bye-laws, and by s. 7 of that Act (like s. 1 of this Act, *supra*, p. 1), it was declared the duty of sanitary authorities to enforce the powers vested in them relating to public health.

On reading the various sub-sections of this section separately it would appear, from the omission of the words "so let" and "such houses" in sub-sections (*e*) and (*f*), that these two sub-sections apply generally to all premises, and not merely to houses let in lodgings, as sub-sections (*a*), (*b*), (*c*), and (*d*) do. But this is, it would seem, clearly not the intention of the section, as may be gathered from the sub-heading and catch-words of the section. These evidently imply that the whole section shall apply to houses let in lodgings, and only to "such houses" or "houses so let."

The title of an Act is part of the Act, but the marginal notes are not. *Sutton* v. *Sutton*, (1882) 22 Ch. D. 513; *In re Venour*, (1876) 2 Ch. D., at p. 525. The title and recitals of an Act can be looked at, however, only when the enacting part is ambiguous; *Bentley* v. *Rotherham Local Board*, 4 Ch.D. 588.

The headings of the different portions of a Statute can

Sect. 94.

be referred to, to determine the meaning of any doubtful expression in a section placed under a particular heading. *Hammersmith Rail. Co.* v. *Brand*, L.R. 4 H.L. 171; *Eastern Counties Rail. Co.* v. *Marriage*, 9 H.L. 31; *Union Steamship Co.* v. *Melbourne Harbour Commissioners*, (1884) 9 App. Cas. 365. *See*, also, note to s. 1, *supra*, p. 1.

Bye-laws.—All bye-laws of the sanitary authority will have to be in accordance with ss. 182 to 186 of the Public Health Act, 1875, set out, *infra*, in Schedule I. to this Act; *see* s. 114, *infra*.

The model bye-laws for houses let in lodgings issued by the Local Government Board for the use of sanitary authorities are set out in the Appendix, *infra*.

Fixing number of persons.—In addition to proceedings for any penalties for infringing any bye-law made under this section, the sanitary authority may proceed, under s. 2, *supra*, p. 2, as for a nuisance, against the owner of any house overcrowded.

If two convictions for overcrowding occur within three months, the house may be ordered to be closed; s. 7, *supra*, p. 26.

Houses let in lodgings.—As provided by sub-section (2), this section will not apply to what are known as common lodging-houses under the provisions of the Common Lodging Houses Acts. What is a lodger, or a lodging-house, is a question which, in "each case must be decided on its own facts," per Grove, J., in *Langdon* v. *Broadbent*, (1877) 37 L.T. (N.S.) 434.

The question of what is a lodger was discussed under the Parliamentary Registration Acts, in the leading case of *Bradley* v. *Baylis*, (1881) 8 Q.B.D. 195. In that case Jessel, M.R., said: "The question whether a man is a lodger or whether he is an occupying tenant must depend upon the circumstances of each case. . . . First of all, take the case of a *lodger*. It seems to me, as to unfurnished lodgings (and I will only deal with unfurnished lodgings, as it is the only class of cases with reference to which questions are likely to arise), where the owner of the house does not let the whole of it, but retains a part for his own residence, and resides there, and where he does not let out the passages, staircase, and outer door, but gives to the 'inmates' merely a right of ingress and egress and retains to himself the general control, with the right of interfering—I do not mean an actual interference, but a right to interfere, a right to turn out trespassers and so on; there I consider that such owner is the occupying tenant of the house, and the inmate, whether he has or has not the exclusive use of the room, is a *lodger*. That is one extreme case. Now I take another case, where the landlord lets out the whole of the house into separate apartments, and lets out each floor separately, so as to demise the passages, reserving simply to each inmate of the upper floors the right

of ingress and egress over the lower passages, but parts entirely with the whole legal ownership, for the term demised, and retains no control over the house; there in my opinion the inmates are occupying tenants, and are capable of being rated as such. That is an extreme case on the other side. There will be an immense number of intermediate cases, which, as I said before, can only be dealt with as they arise. Take such a case as the first of those before us. Does it make any difference that the inmates have latchkeys to the outer door, and also keys to the inner door? I think not. I think they are still lodgers notwithstanding. Does it make any difference that the landlord does not reside personally, but has resident servants who occupy, on his behalf, part of the house. I think not. I think that the inmates are still *lodgers*. Does it make any difference that the landlord does or does not repair? I think not; they are still *lodgers*."

In the same case, Brett, L.J., said: "If the owner of the house reserves to himself a control over it (which he does if he resides in part of it, and where there is only the use of the passages and staircases given to the inmates to whom he lets the rest of it, or, if he does not reside in it, yet, if he, by his servants, performs any duties in the house, or undertakes a certain control), any person who occupies only a part of that house as his tenant, may be properly said to be a lodger with him." As to what has been held to be within the section, *see* *Roots* v. *Beaumont*, (1887) 51 J.P. 197.

Inspection.—It is the duty of the sanitary authority to inspect under s. 1, *supra*, p. 1.

Under s. 32 of the Housing of the Working-Classes Act, 1890 (53 & 54 Vict. c. 70), it is the duty of every local authority under that Act to inspect with a view to ascertaining whether any dwelling-house is in a state so dangerous or injurious to health as to be unfit for human habitation.

As to power of entry, *see.* s. 10, *supra*, p. 28.

Enforcing drainage.—In addition to "drainage," in subsection (*d*), the Public Health Act, 1875, s. 90, contains "privy accommodation," as did also s. 35 of the Sanitary Act, 1866. This is omitted here, as water-closet accommodation is provided for by ss. 37 to 42 and 46.

The power to make bye-laws under this section with regard to paving of courts and courtyards is also omitted, as it is sufficiently provided for in s. 16 (1) (*d*), *supra*, p. 36.

Infectious disease.—In s. 90 of the Public Health Act, 1875, the notification of infectious disease is provided for. It is omitted here as already dealt with in s. 55, *supra*, p. 97.

Common lodging house. — The Common Lodging House Acts, 1851 and 1853 (14 & 15 Vict. c. 28, and 16 & 17 Vict. c. 41), are repealed as to England, except as to the Metropolitan Police district, by s. 343 of the Public Health Act, 1875.

Sect. 94.

The General Board of Health in 1853 issued to local boards a circular giving the opinion of the then Law Officers of the Crown, Sir A. E. Cockburn (afterwards Lord Chief Justice) and Sir W. Page Wood (afterwards Lord Chancellor Hatherley), as to the definition of "common lodging-house" within the meaning of those Acts. The opinions were two in number, as follows :—

First.—"It may be difficult to give a precise definition of the term, 'common lodging-house,' but, looking to the preamble and general provisions of the Act, it appears to us to have reference to that class of lodging-houses in which persons of the poorer class are received for short periods and, though strangers to one another, are allowed to inhabit one common room. We are of opinion that it does not include hotels, inns, public-houses, or lodgings let to the upper and middle classes."

Second.—"The points upon which our opinion is desired appear to us to be the following :—

"1. What is the meaning of that part of the definition of a common lodging-house in our former opinion which refers to the parties inhabiting a common room being strangers to one another? The observation made would imply that we meant that the parties must be persons previously unacquainted with one another. Our obvious intention was to distinguish lodgers promiscuously brought together from members of one family or household.

2. "Whether lodging-houses, otherwise coming within the definition, but let for a week or longer period, would, from the latter circumstance, be excluded from the operation of the Act. We are of opinion that the period of letting is unimportant in determining whether a lodging-house comes under the Act now in question.

"3. Who is to be considered the keeper of a common lodging-house where the owner letting the lodgings does not himself reside in the house? We are of opinion that where he neither resides in the house nor exercises any control over its management, but simply receives the rent, he cannot be considered the keeper. It is clear that in such case he would not comply with the requirements of ss. 11, 12, and 13 of the Act. But where the owner, though not resident in the house, either in person or through an agent, colourably or otherwise, exercises control over its management, we have no doubt that he should be considered the keeper. A serious difficulty arises where the owner, *bonâ fide*, lets different parts of the house to different individuals, and these lessees take in lodgers of such a description as would in an ordinary case constitute the house a common lodging-house. The question which here arises is whether each apartment so used is to be considered a common lodging-house of which the lessee is the keeper. It seems to us difficult to suppose that the Act which

Sect. 94.

refers to common lodging-houses was intended to apply to single apartments, so that every room in a house becomes a separate common lodging-house. On the other hand it is to be observed that it is by s. 2 provided that part of a house, if used as a common lodging-house, shall be included in the Act, and it is also true that both under the law relating to burglary, and also with reference to the exercise of franchises, the separate apartments of lodgers, where the landlord did not reside, have been held to be dwelling-houses. Considering, therefore, that apartments thus let and occupied are especially within the mischief intended to be remedied by the Act, we think that an attempt should be made to treat them as common lodging-houses, and to enforce the provisions of the Act with respect to them against the tenants who thus admit lodgers. At the same time, we feel bound to say we entertain considerable doubts as to the results."

Tents and Vans.

Tents and vans used for human habitation.

95.—(1.) A tent, van, shed, or similar structure used for human habitation, which is in such a state as to be a nuisance or injurious or dangerous to health, or is so overcrowded as to be injurious or dangerous to the health of the inmates, whether or not members of the same family, shall be a nuisance liable to be dealt with summarily under this Act.

(2.) A sanitary authority may make bye-laws for promoting cleanliness in, and the habitable condition of tents, vans, sheds, and similar structures used for human habitation, and for preventing the spread of infectious disease by the persons inhabiting the same, and generally for the prevention of nuisances in connexion with the same.

(3.) Where any person duly authorized by a sanitary authority or by a justice has reasonable cause to suppose either—

(*a.*) that any tent, van, shed, or similar structure used for human habitation is in such a state or so overcrowded as aforesaid, or that there is any contravention therein of any bye-law made under this section; or

(*b.*) that there is in any such tent, van, shed, or structure any person suffering from a dangerous infectious disease,

he may enter by day such tent, van, shed, or structure, and examine the same and every part thereof in order to ascertain whether such tent, van, shed, or structure is

Sect. 95.

in such a state or so overcrowded as aforesaid, or whether there is therein any such contravention, or a person suffering from a dangerous infectious disease, and the provisions of this Act with respect to the entry into any premises by an officer of the sanitary authority shall apply to the entry by any person duly authorized as aforesaid.

(4.) Nothing in this section shall apply to any tent, van, shed, or structure erected or used by any portion of Her Majesty's naval or military forces.

This section reproduces s. 9 of the Housing of the Working Classes Act, 1885 (48 & 49 Vict. c. 72), which section is repealed as to London by this Act, s. 142, *infra*.

Tent, van, &c.—The provisions of this Act as to notification of infectious disease apply to tents, etc., *see* s. 55 (7), *supra*, p. 99. A tent or van is *primâ facie* not a proper lodging for a person suffering from any dangerous infectious disease; as to the removal from such, *see* s. 66 (1), *supra*, p. 111.

Nuisance, or injurious or dangerous to health.—The introduction of "dangerous" in this section is an amendment.

See, as to this, note to s. 2, *supra*, p. 4, and as to "nuisances" *see supra*, p. 13.

Overcrowding.—For provisions as to overcrowding, which is a nuisance in a house under s. 2 (1) (*e*), *supra*, and in a workshop under s. 2 (1) (*g*), *see* note on s. 2, *supra*, p. 6.

Bye-laws.—Bye-laws made by a sanitary authority must be in accordance with ss. 182 to 186 of the Public Health Act, 1875, set out in Schedule I., *infra*; *see* s. 114, *infra*.

As to bye-laws as to houses let in lodgings, *see* s. 94, *supra*, p. 136; and as to bye-laws for preventing nuisances, *see* s. 16, *supra*, p. 36. As to operation of bye-laws, see s. 142 (3).

Entry.—As to power of entry generally, *see* note to s. 10, *supra*, p. 28; as to the power of a justice to grant a warrant authorizing entry, *see* s. 115, *infra*. The person claiming the right to enter must, if required, produce a written document authorizing his entry: any person obstructing is liable to a fine of five pounds, s. 115, *infra*.

Dangerous infectious disease.—As to the meaning of this expression, *see* note to s. 58, *supra*, p. 103.

Underground Rooms.

Provisions as to the occupation of underground rooms as dwellings.

96.—(1.) Any underground room, which was not let or occupied separately as a dwelling before the passing of this Act, shall not be so let or occupied unless it possesses the following requisites; that is to say,

Sect. 96.

(*a.*) unless the room is in every part thereof at least seven feet high measured from the floor to the ceiling, and has at least three feet of its height above the surface of the street or ground adjoining or nearest to the room : Provided that, if the width of the area herein-after mentioned is not less than the height of the room from the floor to the said surface of the street or ground, the height of the room above such surface may be less than three feet, but it shall not in any case be less than one foot, and the width of the area need not in any case be more than six feet ;

(*b.*) unless every wall of the room is constructed with a proper damp course, and, if in contact with the soil, is effectually secured against dampness from that soil ;

(*c.*) unless there is outside of and adjoining the room and extending along the entire frontage thereof and upwards from six inches below the level of the floor thereof an open area properly paved at least four feet wide in every part thereof : Provided that in the area there may be placed steps necessary for access to the room, and over and across such area there may be steps necessary for access to any building above the underground room, if the steps in each case be so placed as not to be over or across any external window ;

(*d.*) unless the said area and the soil immediately below the room are effectually drained ;

(*e.*) unless, if the room has a hollow floor, the space beneath it is sufficiently ventilated to the outer air ;

(*f.*) unless any drain passing under the room is properly constructed of a gas-tight pipe ;

(*g.*) unless the room is effectually secured against the rising of any effluvia or exhalation ;

(*h.*) unless there is appurtenant to the room the use of a water-closet and a proper and sufficient ash-pit ;

(*i.*) unless the room is effectually ventilated ;

(*j.*) unless the room has a fire-place with a proper chimney or flue ;

(*k.*) unless the room has one or more windows opening directly into the external air with a total area clear of the sash frames equal to at

Sect. 96.

least one tenth of the floor area of the room, and so constructed that one half at least of each window of the room can be opened, and the opening in each case extends to the top of the window.

(2.) If any person lets or occupies, or continues to let, or knowingly suffers to be occupied, any underground room contrary to this enactment, he shall be liable to a fine not exceeding twenty shillings for every day during which the room continues to be so let or occupied.

(3.) The foregoing provisions shall at the expiration of six months after the commencement of this Act extend to underground rooms let or occupied separately as dwellings before the passing of this Act, except that the sanitary authority, either by general regulations providing for classes of underground rooms, or on the application of the owner of such room in any particular case, may dispense with or modify any of the said requisites which involve the structural alteration of the building, if they are of opinion that they can properly do so having due regard to the fitness of the room for human habitation, to the house accommodation in the district, and to the sanitary condition of the inhabitants and to other circumstances, but any requisite which was required before the passing of this Act shall not be so dispensed with or modified.

(4.) The dispensations and modifications may be allowed either absolutely or for a limited time, and may be revoked and varied by the sanitary authority, and shall be recorded together with the reasons in the minutes of the sanitary authority.

(5.) If the owner of any room feels aggrieved by a dispensation or modification not being allowed as regards that room, he may appeal to the Local Government Board, and that Board may refuse the dispensation or modification, or allow it wholly or partly, as if they were the sanitary authority. Such allowance may be revoked or varied by the Board, but not by the sanitary authority.

(6.) Where two or more underground rooms are occupied together, and are not occupied in conjunction with any other room or rooms on any other floor of the same house, each of them shall be deemed to be separately occupied as a dwelling within the meaning of this section.

Sect. 96.

(7.) Every underground room in which a person passes the night shall be deemed to be occupied as a dwelling within the meaning of this section; and evidence giving rise to a probable presumption that some person passes the night in an underground room shall be evidence, until the contrary is proved, that such has been the case.

(8.) Where it is shown that any person uses an underground room as a sleeping-place, it shall, in any proceeding under this section, lie on the defendant to show that the room is not separately occupied as a dwelling.

(9.) For the purpose of this section the expression "underground room" includes any room of a house the surface of the floor of which room is more than three feet below the surface of the footway of the adjoining street, or of the ground adjoining or nearest to the room.

This section reproduces with considerable amendments s. 103 of the Metropolis Management Act, 1855, and s. 62 of the Metropolis Management Act, 1862, and corresponds to ss. 71 to 74 of the Public Health Act, 1875.

Underground room.—This is defined in sub-section (9). The height of the ceiling above the surface of the adjoining street was formerly required to be only one foot.

Under s. 96, after six months from January 1st, 1892, all underground rooms, whether occupied before or after the passing of this Act, will have to comply with one set of regulations, and not, as was formerly the case, with one of two different sets (as in s. 103 of the Metropolis Management Act, 1855), according as the underground room was occupied before or after the passing of the 1855 Act.

Sub-section (1) (*b*) is an amendment.

Open area.—The width of this in sub-section (1) (*c*) is increased from three feet to four feet. Sub-section (*d*) is new.

Ventilation.—Sub-section (1) (*i*) is an amendment; the only ventilation formerly required was the provision of a fireplace, as required in sub-section (1) (*j*), and a window nine superficial feet in area. Sub-section (1) (*k*) is an amendment.

Appeal to the Local Government Board.—For provisions as to appeal to the county council, *see* s. 126, *infra*. They will afford guidance as to appeals to the Local Government Board.

Let or occupied separately.—Under this section, if an underground room is slept in, the room is *primâ facie* occupied separately; this is capable of being rebutted. If there is any evidence giving rise to a probable presumption of a person

Sect. 96.

having passed the night in the room, the room will be deemed to be occupied as a dwelling.

Fine.—As to the recovery of fines and penalties, *see* s. 117, *infra*. In the case of two convictions in respect of an underground room within three months, a closing order may be made; s. 98, *infra*.

Enforcement of provisions as to underground rooms.

97.—(1.) Any officer of a sanitary authority appointed or determined by that authority for the purpose shall, without any fee or reward, report to the sanitary authority, at such times and in such manner as the sanitary authority may order, all cases in which underground rooms are occupied contrary to this Act in the district of such authority.

(2.) Any such officer or any other person having reasonable grounds for believing that any underground room is occupied in contravention of this Act may enter and inspect the same at any hour by day; and if admission is refused to any person other than an officer of the sanitary authority, the like warrant may be granted by a justice under this Act as in case of refusal to admit any such officer.

(3.) A warrant of a justice authorizing an entry into an underground room may authorize the entry between any hours specified in the warrant.

This section reproduces with amendment parts of ss. 103 and 104 of the Metropolis Management Act, 1855, as amended by s. 62 of the Metropolis Management Act, 1862.

Any officer.—Under s. 103 of the Metropolis Management Act the district surveyor was required to report any case of an underground room illegally occupied to the county council and to the sanitary authority in whose district it was situated. By s. 62 of the Metropolis Management Act, 1862, he had to report in the months of June and December in each year, and at such other times as required by the sanitary authority.

Reasonable grounds.—As to what are reasonable grounds for believing a room is occupied in contravention of the Act, *see* s. 96 (7), *supra*.

Other person.—For provisions of this Act, enabling persons other than sanitary officers to proceed, *see* as to giving information of nuisance, s. 3, *supra*, p. 14; and as to complaint before a justice, s. 12, *supra*, p. 32.

Entry.—For power to enter for abatement of nuisances, *see* s. 10 and note, *supra*, p. 28. As to obstruction of officers, *see* ss. 115 and 116, *infra*.

The officer of a sanitary authority must, if required, produce

to a person from whom he demands admission a written document properly authenticated showing his right to enter; s. 115 (2) (*a*), *infra*.

By day.—Day means the period from 6 A.M. to 9 P.M., s. 141. But by the warrant of a justice under sub-section (3) entry may be authorized at any time specified in the warrant.

Provision in case of two convictions for unlawfully occupying underground room.

98.—Where two convictions for an offence relating to the occupation of an underground room as a dwelling have taken place within a period of three months (whether the persons convicted were or were not the same), a petty sessional court may direct the closing of the underground room for such period as the court may deem necessary, or may empower the sanitary authority of the district permanently to close the same, in such manner as they think fit, at their own cost.

This section reproduces s. 36 of the Sanitary Act, 1866, and corresponds to s. 75 of the Public Health Act, 1875.

Two convictions.—Similar power to close a house, in case of two convictions for overcrowding, is contained in s. 7, *supra*, p. 26. As to closing orders in the case of houses unfit for human habitation, *see* s. 5, *supra*, p. 21.

Petty sessional court.—This is defined by the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 13.

Authorities for Execution of Act.

Definition of sanitary authority. 18 & 19 Vict. c. 120. 48 & 49 Vict. c. 33. 50 & 51 Vict. c. 17.

99.—(1.) Subject to the provisions of this Act, the sanitary authority for the execution of this Act (in this Act referred to as "the sanitary authority") shall be as follows; (namely,)

(*a.*) in the City of London the commissioners of sewers; and

(*b.*) in each of the parishes mentioned in Schedule (A.) to the Metropolis Management Act, 1855, as amended by the Metropolis Management Amendment Act, 1885, and the Metropolis Management (Battersea and Westminster) Act, 1887, other than Woolwich, the vestry of the parish; and

(*c.*) in each of the districts mentioned in Schedule (B.) to the same Act, as so amended, the district board for the district; and

(*d.*) in the parish of Woolwich, the local board of health; and

Sect. 99.

(*e.*) in any place mentioned in Schedule (C.) to the Metropolis Management Act, 1855, the board of guardians for such place or for any parish or poor law union of which it forms part, or, if there is no such board of guardians, the overseers of the poor for such place, or for the parish in which it is situate, and the said guardians and overseers respectively shall have the same powers for the purposes of this Act as a vestry or district board have under this Act, and their expenses shall be defrayed in the same manner as the expenses of the execution of the Acts relating to the relief of the poor are defrayed in the said place.

(2.) The area within which this Act is executed by any sanitary authority is in this Act referred to as the district of that authority.

(3.) The purposes for which a committee of a vestry or district board may be appointed under the Metropolis Management Act, 1855, and the Acts amending the same, shall include the purposes of this Act, and the provisions of those Acts with respect to committees shall apply accordingly.

(4.) Where a sanitary authority appoint a committee for the purposes of this Act, that committee, subject to the terms of their appointment, may serve and receive notices, take proceedings, and empower any officer of the authority to make complaints and take proceedings in their behalf, and otherwise to execute this Act.

(5.) A sanitary authority may acquire and hold land for the purposes of their duties without any licence in mortmain.

This section reproduces s. 134 of the Metropolis Management Act, 1855, as amended by the Metropolis Management Acts, 1885 and 1887; ss. 2, 5, 6, 11 of the Nuisances Removal Act, 1860; ss. 15 and 17 of the Sanitary Act, 1866; and ss. 12 and 16 of the Infectious Disease (Notification) Act, 1889.

Subject to the provisions of this Act.—The Metropolitan Asylum Managers within their district have for the purpose of the epidemic regulations the powers and duties of a sanitary authority which the regulations assign them; s. 85, *supra*, p. 129. In case any sanitary authority make default in doing their duty, the county council may do any act which the sanitary authority might have done; s. 100, *infra*. In case of default of a sanitary authority in doing its duty, the Local Government Board may appoint the county council to perform its duty, and

under such appointment the county council will have all the powers of a sanitary authority; s. 101, *infra*.

Under s. 19 *supra*, p. 41, the county council are the authority for the execution of the provisions of the Act respecting offensive trades, except in the City of London, where the commissioners of sewers are the local authority; s. 19 (10), *supra*, p. 43. The mayor, commonalty and citizens of the City of London are the sanitary authority for the port of London, s. 111, *infra*, and as such port sanitary authority, the Local Government Board may assign to them any powers, duties, etc., of a sanitary authority under this Act; s. 112, *infra*.

Execution of this Act.—The Act extends only to London, s. 132, and London means the administrative county of London, s. 141, *infra*.

Parishes and districts.—The schedules A, B and C of the Metropolis Management Act, 1855, are set out in the Appendix, *infra*.

Woolwich.—Under the Public Health Act, 1848 (11 & 12 Vict. c. 63), Woolwich was a district governed by a local board of health. As to the extent to which the Metropolis Management Act, 1855, affected Woolwich, *see* s. 238 of that Act set out in the Appendix, *infra*; *see* also note to s. 140 of this Act, *infra*.

Committees.—The purposes for which a committee of a vestry or district board can be appointed under the Metropolis Management Act, 1855, are defined by s. 58 of that Act, set out in the Appendix, *infra*, and their powers prescribed by s. 59.

As to the powers of a committee of the county council under this Act, *see* note to s. 20 (5), *supra*, p. 47.

Notices.—As to the serving and authentication of notices under this Act, *see* ss. 127 and 128, *infra*.

Take proceedings.—Legal proceedings are regulated by s. 117, *infra*.

The sanitary authority may enter and examine premises, etc., by any officers or persons appointed by them; s. 115 (1).

The sanitary authority may appear before any court, or in any legal proceeding, by their clerk or by any officer or member authorized by resolution of the authority; s. 123, *infra*.

Power of county council to prosecute on default of sanitary authority.

100.—The county council, on it being proved to their satisfaction that any sanitary authority have made default in doing their duty under this Act with respect to the removal of any nuisance, the institution of any proceedings, or the enforcement of any bye-law, may institute any proceeding and do any act which the authority might have instituted or done for that pur-

Sect. 100.

pose, and shall be entitled to recover from the sanitary authority in default all such expenses in and about the said proceeding or act as the county council incur, and are not recovered from any other person, and have not been incurred in any unsuccessful proceeding.

This section is in substitution for s. 16 of the Sanitary Act, 1866, as amended by s. 19 of the Sanitary Act, 1874. Under those sections, if the Secretary of State (afterwards the Local Government Board) saw fit, on default of the sanitary authority in any district, he could appoint the chief constable to do any act instead of such sanitary authority, and recover his expenses from the defaulting sanitary authority. Similar powers to the above are contained in s. 106 of the Public Health Act, 1875. As to proceeding by mandamus on the order of the Local Government Board, *see* s. 101, *infra*.

The county council.—How the default of the sanitary authority is to be proved to the satisfaction of the county council, whether by public inquiry such as those held by order of the Home Secretary under s. 73 of the Housing of the Working Classes Act, 1890, or those under s. 10 or s. 55 or s. 85 of that Act, or merely on a written complaint, is not stated in the Act.

The power of the county council to proceed in case of default does not extend to the case of default of the commissioners of sewers; s. 133 (*d*), *infra*, but *see* s. 134, *infra*, p. 194.

In the case of nuisances, private persons, on the default of the sanitary authority, can proceed under s. 12; and as to offensive trades, under s. 21.

Duty.—As to duty of sanitary authority to inspect their district, *see* s. 1, *supra*, p. 1; as to provisions respecting nuisances, *see* ss. 2 to 15, *supra*.

Expenses.—These may be recovered from the sanitary authority in a summary manner, or if less than fifty pounds in the county court; s. 117, *infra*. It would seem that proceedings for recovery of expenses incurred under s. 100 would not require the prior sanction of the Local Government Board under s. 117 (4), *infra*.

Proceedings on complaint to Local Government Board of default of sanitary authority.

101.—(1.) Where complaint is made by the county council to the Local Government Board that a sanitary authority have made default in executing or enforcing any provisions which it is their duty to execute or enforce of this Act, or of any bye-law made in pursuance thereof, the Local Government Board, if satisfied after due inquiry that the authority have been guilty of the alleged default, and that the complaint cannot be remedied under the other provisions of this Act, shall

make an order limiting a time for the performance of the duty of such authority in the matter of such complaint. If such duty is not performed by the time limited in the order, the order may be enforced by writ of Mandamus, or the Local Government Board may appoint the county council to perform such duty

(2.) Where such appointment is made, the county council shall, for the purpose of the execution of their duties under the said appointment, have all the powers of the defaulting sanitary authority, and all expenses incurred by the county council in the execution of the said duties, together with the costs of the previous proceedings, so far as not recovered from any other person, shall be a debt from the sanitary authority in default to the county council, and shall be paid by the sanitary authority out of any moneys or rate applicable to the payment of the expenses of performing the duty in which they have made default.

(3.) For the purpose of recovering such debt the county council, without prejudice to any other power of recovery, shall have the same power of levying the amount by a rate, and of requiring officers of the defaulting authority to pay over money in their hands, as the defaulting authority would have in the case of expenses legally payable out of a rate raised by that authority.

(4.) The county council shall pay any surplus of the rate so levied to or to the order of the defaulting authority.

(5.) If any loan is required to be raised for the purpose of the execution of their duties under the said appointment, the county council with the consent of the Local Government Board may raise the same, and may for that purpose borrow the required sum in the name of the defaulting authority for the same period, on the same security, and on the same terms as that authority might have borrowed, and the principal and interest of such loan shall be a debt due from the defaulting authority, and shall be secured and may be recovered in like manner as if the loan had been borrowed by that authority.

(6.) The surplus (if any) of any loan not applied for the purpose for which it is raised shall, after payment of the expenses of raising the same, be paid to or to the order of the defaulting authority, and be applied as if it were the surplus of a loan raised by that authority.

Sect. 101.

This section is in substitution for s. 49 of the Sanitary Act, 1866, and s. 8 of the Sanitary Act, 1868, as amended by the Sanitary Loans Act, 1869, and s. 20 of the Sanitary Act, 1874. Under those Acts, if a sanitary authority made default in doing their duty, the Local Government Board could make an order requiring them to perform their duty within the time limited in the order. This order could be enforced by mandamus.

The Local Government Board could appoint some person to perform the duties of the sanitary authority, and could charge the expenses of the order and its execution upon the sanitary authority, and could authorize the levying of a rate or the raising of a loan charged upon a rate.

For the corresponding provision in the Public Health Act, 1875, *see* ss. 299 to 302 of that Act.

Sanitary authority made default.—For provision enabling the county council to act without application to the Local Government Board, *see* s. 100, *supra*.

For example of order under s. 49 of the Sanitary Act, 1866, *see R.* v. *Cockerell*, (1871) L.R. 6 Q.B. 252, 40 L.J.M.C. 153.

As to the sanitary authorities under this Act, *see* s. 99, *supra*.

County council.—Under this section the complaint can be made only by the county council. Under the repealed Acts any person could make the complaint. The order empowering the county council to act under this section can only be made as a last resource: the Local Government Board will have to be satisfied that the complaint cannot be remedied under the other provisions of this Act.

After due inquiry.—All inquiries made by the Local Government Board under this Act will be governed by ss. 293 to 296 of the Public Health Act, 1875, set out in Schedule I. of this Act; *see* s. 129, *infra*.

Other provisions. — Other provisions enabling sanitary matters to be remedied are contained in s. 100, *supra*, p. 149, where the county council can act; s. 12, *supra*, p. 32, where private individuals may proceed before justices.

Limiting the time.—The order in *R.* v. *Cockerell*, *supra*, limited the time within which the duty was to be commenced, and not the time within which it was to be completed. It may be doubted, although the *commencing* the works was a performance of part of its duty, whether it was *the* performance contemplated in s. 49 of the Sanitary Act, 1866, or intended in this section.

The duty of the Local Government Board to make the order is imperative if that Board is satisfied.

Mandamus.—As a general rule a mandamus will not be granted where any other remedy is open to the applicant. *R.*

v. *Bishop of Chester*, 1 T.R. 396; *R.* v. *Wigan*, L.R. 9 Q.B. 317; *Holborn Union* v. *St. Leonard's, Shoreditch*, 2 Q.B.D., at p. 149. But under this section, as express power is given to enforce the order, in addition to another remedy, either remedy can be pursued.

Appoint county council.—If the defaulting authority is the the commissioners of sewers, the county council cannot act in its place under the power given in s. 100. It is not clear whether, in such case, the Local Government Board could appoint the county council to act in the City of London under this section; *see* s. 133, *infra*.

Expenses.—As to the recovery of expenses, *see* s. 117, *infra*. As to the method of defraying the expenses under this Act, *see* s. 103, *infra*.

Power of levying rate.—As to the levying a rate by the sanitary authority, *see* ss. 158 and 161 of the Metropolis Management Act, 1855, set out in the Appendix, *infra*.

Application of Public Health Acts to Woolwich.

102.—(1.) The provisions of the Public Health Acts, which are set out in the Second Schedule to this Act, except so far as they are superseded by this Act, shall extend to the parish of Woolwich, and to the local board of health thereof, in like manner as they apply to any urban sanitary district elsewhere, and the sanitary authority thereof, without prejudice to the existing effect of the Metropolis Management Act, 1855, and the Acts amending the same, or to the powers, duties, and liabilities of the county council and the local board of health of Woolwich under the latter Acts.

(2.) The Woolwich Local Board may borrow for the purposes of this Act in like manner as if those purposes were purposes of the Public Health Acts.

The Public Health Acts.—Except as otherwise specially provided (*e.g.*, *see* s. 142 (5), *infra*), the Public Health Act, 1875, does not apply to the metropolis. Section 5 of that Act provides that: "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."

By s. 4 of the same Act, "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."

Sect. 102.

Woolwich is a place mentioned in Schedule A to the Metropolis Management Act, 1855; but special provision was made as to Woolwich by s. 238 of that Act, which is set out in the Appendix, *infra*; *see* note to s. 99, *supra*, p. 149.

Expenses of execution of Act.

103.—The expenses incurred by sanitary authorities in London under this Act shall, save as otherwise in this Act mentioned, be defrayed as follows; (namely,)

In the case of the commissioners of sewers, out of their sewer rate and consolidated rate, or either of such rates:

In the case of any vestry or district board, out of their general rate:

In the case of the local board of health of Woolwich, out of the district fund or general district rate.

Expenses.—By s. 134 of the Metropolis Management Act, 1855, the Vestries and District Boards under that Act were appointed the local authorities to execute the Nuisances Removal and Diseases Prevention Acts, and by ss. 158 and 161 provision was made for the defraying the expenses of discharging the duties imposed by the Metropolis Management Act, 1855. These sections are set out in the Appendix, *infra*.

Their effect was not altered by the Nuisances Removal Act, 1860 (23 & 24 Vict. c. 77), ss. 4, 6, and 11.

By s. 9 of the Infectious Disease (Notification) Act, 1889, the expenses of that Act are directed to be defrayed as expenses relating to public health; but that Act as regards London is repealed by this Act, s. 142, *infra*.

As to the expense of salaries of medical officers of health and sanitary inspectors, *see* s. 108 (1), *infra*.

As to the apportionment of the salary of a medical officer of health appointed in common by two sanitary authorities, *see* s. 106 (2), *infra*.

By s. 119, *infra*, all fines recovered under this Act are to be paid to the sanitary authority in aid of their expenses.

If the county council act in place of a defaulting sanitary authority, their expenses are provided for under ss. 100 and 101, *supra*.

As to expenses of the Metropolitan Asylum Managers, *see* s. 104, *infra*.

Any property seized under the Act may be ordered by the court to be sold, and the proceeds devoted towards defraying the expenses of executing the Act; s. 119, *infra*.

Refuse collected by the sanitary authority is the property of the sanitary authority, and may be sold, and the money

arising from the sale devoted towards defraying the expenses of the execution of the Act; s. 32, *supra*, p. 64.

Borrowing.—Power to borrow is provided for in s. 105, *infra*.

Expenses of Metropolitan Asylum Board.

104.—(1.) All expenses incurred by the Metropolitan Asylum Managers in the execution of the provisions of this Act relating to the provision and maintenance of carriages, buildings, and horses, and the conveyance in such carriages of persons suffering from any dangerous infectious disease, shall to such extent as the Local Government Board may sanction be defrayed out of the metropolitan common poor fund.

(2.) Save as aforesaid, all expenses incurred by the said Managers in the execution of this Act shall so far as they are not recovered from guardians in pursuance of this Act be defrayed in the same manner as the expenses mentioned in section thirty-one of the Metropolitan Poor Act, 1867, are to be defrayed under that section; and shall be raised and be recoverable in the same manner as expenses under that Act. 30 & 31 Vict. c. 6.

(3.) The provision of vessels and buildings in pursuance of this Act shall be purposes for which the Metropolitan Asylum Managers may borrow in pursuance of the Metropolitan Poor Act, 1867, and any Acts amending the same.

This section reproduces in sub-section (1) part of s. 16 of the Poor Law Act, 1879 (42 & 43 Vict. c. 54); sub-section (2) reproduces part of s. 4 of the Diseases Prevention (Metropolis) Act, 1883 (46 & 47 Vict. c. 35); sub-section (3) reproduces s. 2 of the Metropolitan Asylum Board (Borrowing Powers) Act, 1884 (47 & 48 Vict. c. 60), and s. 7 of the Poor Law Act, 1889 (52 & 53 Vict. c. 56).

As to the expenses of sanitary authorities, *see* s. 103, *supra*, p. 154.

Metropolitan Asylum Managers.—As to the constitution of the Managers, *see* notes to ss. 55 and 79, *supra*, pp. 100, 124.

Maintenance of carriages, etc.—The Asylum Managers may provide carriages, etc., under s. 79, *supra*, p. 124. As to power to charge for use of carriages, *see* s. 79 (3).

Metropolitan common poor fund.—*See*, as to this, note to s. 87, *supra*, p. 131.

Expenses recovered from guardians.—The expenses which, in pursuance of this Act, may be recovered from the guardians by the Asylum Managers, are those of the maintenance in their hospital of a person, not a pauper, suffering from fever, small-pox, or diphtheria; s. 80 (2), *supra*, p. 125.

Sect. 104.

By s. 31 of the Metropolitan Poor Act, 1867 (30 Vict. c. 6), "Expenses incurred by the Managers in or about the purchasing, hiring, building, repairing, and fitting up of buildings for the asylum, and any sum in the nature of rent or other compensation payable by the Managers to guardians in respect of the use for the asylum of a building previously used as a workhouse, and expenses incurred by the Managers in or about the providing of fixtures, furniture, conveniences, medicines, medical and surgical appliances and other necessaries required for keeping the asylum in proper order for daily use, and the salaries and maintenance of the officers thereof shall be defrayed by contributions from the unions and parishes forming the district."

But by section 32 of that Act, "Expenses incurred by the Managers in or about the food, clothing, maintenance, care, treatment and relief, or for the burials of inmates of the asylum shall be separately charged to the respective unions or parishes from which the inmates of the asylum are sent."

And by s. 55, sums to be contributed under that Act by unions and parishes shall be assessed on and contributed by them respectively in proportion to the annual rateable value of the property therein comprised, to be determined according to the valuation lists.

Provision of vessels.—The provision of vessels, etc., under this Act is required by s. 79, *supra*, p. 124.

Power to borrow.—By s. 17 of the Metropolitan Poor Act, 1867, "The managers may borrow money for purchasing lands or buildings, and for building, fitting up, and furnishing buildings, erected or hired for the asylum according to the provisions of the poor-law Acts, under which guardians are for the time being empowered to borrow money, and may charge the poor rates of the unions and parishes forming the district with the money so borrowed, and interest, subject and according to the following provisions: The amount borrowed shall not exceed one-third of the aggregate annual expenditure on the relief of the poor within the whole district (exclusive of reimbursements) for the period of three years ending on the 25th day of March next preceding the borrowing of the money.

"The amount borrowed shall be paid off, with interest, by equal annual instalments not exceeding twenty," now thirty, 31 & 32 Vic. c. 122, s. 35.

Power of vestries and district boards to borrow.

105.—(1.) The provision of hospitals and of mortuaries under this Act, and the purposes of the epidemic regulations under this Act, shall be purposes for which vestries and district boards are authorized to borrow.

(2.) A sanitary authority, with the consent of the

Local Government Board, may borrow for the purpose of providing, as required or authorized by this Act—

(*a.*) sanitary conveniences, lavatories, and ash-pits, and

(*b.*) premises, apparatus, carriages, and vessels for the disinfection, destruction, and removal of infected articles, and

(*c.*) a building for post-mortem examinations and accommodation for the holding of inquests.

(3.) The purposes for which a sanitary authority are authorized under this Act to borrow shall be purposes for which that authority may borrow under the Acts relating to the execution of the other duties of that authority, and, where the consent of the Local Government Board is required and given to any such loan, the consent of any other authority shall not be required.

This section reproduces, with amendments, s. 5 of the Diseases Prevention (Metropolis) Act, 1883 (46 & 47 Vict. c. 35), and s. 24 of the London Council (General Powers) Act, 1890 (53 & 54 Vict. c. ccxliii).

Hospitals and mortuaries.—As to the provision of hospitals, *see* s. 75, *supra*, p. 121 ; as to mortuaries, s. 88, *supra*, p. 131 ; and as to epidemic regulations, *see* ss. 82 to 87.

Sanitary conveniences.—Power to provide sanitary conveniences, and to make regulations for the same, is contained in ss. 44 and 45, *supra*, pp. 80, 84.

Disinfection.—Every sanitary authority must provide premises with the necessary carriages and apparatus for the destruction or disinfection of infected bedding, etc., s. 59, *supra*, p. 103.

Accommodation for holding inquests.—In clause 33, of the Public Health (London) Amendment Bill (which was consolidated with the Public Health (London) Consolidation Bill to form this Act), it was proposed that sanitary authorities should provide accommodation for holding inquests, and should be enabled to borrow for that purpose. In s. 92 of this Act the provision of accommodation for holding inquests was entrusted to the county council, but the power of sanitary authorities to borrow for the purpose has been left in the Act.

As to the provision of proper buildings for holding post-mortem examinations, *see* s. 90, *supra*, p. 134.

Power to borrow for other duties.—The powers of the vestries and district boards in London to borrow are regulated by ss. 183 to 191 of the Metropolis Management Act, 1855, set out in the Appendix, *infra*.

Sect. 105.

With this section the power to borrow under the Epidemic Diseases Prevention Act, 1883 (46 & 47 Vict. c. 59), should be compared.

Appointment of medical officers of health.

106.—(1.) Every sanitary authority shall appoint one or more medical officers of health for their district.

(2.) The same person may, with the sanction of the Local Government Board, be appointed medical officer of health for two or more districts, by the sanitary authorities of such districts; and the Local Government Board shall 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.

(3.) Every person appointed or re-appointed after the commencement of this Act as medical officer of health of a district shall (except during the two months next after the time of his appointment, or except in cases allowed by the Local Government Board) reside in such district or within one mile of the boundary thereof, and, if while not so residing as required by this enactment he assumes to act or receives any remuneration as such medical officer of health, he shall cease to hold the office.

(4.) A medical officer of health may exercise any of the powers with which a sanitary inspector is invested.

(5.) The annual report of a medical officer of health to the sanitary authority shall be appended to the annual report of the sanitary authority.

This section reproduces with amendment s. 132 of the Metropolis Management Act, 1855, as amended by ss. 18, 19 and 88 of the Local Government Act, 1888.

Medical officer of health.—This name was given to these officers by s. 132 of the Metropolis Management Act, 1855, under which section they were required to be appointed by vestries and district boards, and their duties were specified. This provision as to their duties is omitted in this section.

As to the power of the Local Government Board with regard to the duties of medical officers of health, *see* s. 108, *infra*, and s. 139 (1) (*b*), *infra*. The general order (Metropolis) of the Local Government Board issued in 1889 under the Local Government Act, 1888, which prescribed the regulations as to the appointment, salary, tenure of office, and duties of medical officers of health is set out together with the general regulations in the Appendix, *infra*.

The medical officer of health can be called upon to inspect artizans' dwellings for the purpose of granting a certificate which will exempt the dwellings from inhabited house

duty under the Customs and Inland Revenue Act, 1890 (53 Vict. c. 8). Sec. 26 (2) of that Act is as follows:—"The assessment to inhabited house duty of any house originally built or adapted by additions or alterations and used for the sole purpose of providing separate dwellings for persons, at rents not exceeding for each dwelling the rate of seven shillings and sixpence a week, and occupied only by persons paying such rents, shall be discharged by the said Commissioners provided that a certificate of the medical officer of health for the district in which the house is situate, or other medical practitioner appointed as herein-after provided, shall be produced to them to the effect that the house is so constructed as to afford suitable accommodation for each of the families or persons inhabiting it, and that due provision is made for their sanitary requirements. The medical officer of health of a district, on request by the person who would be liable to pay the house duty on any house in the district if the duty were not discharged as aforesaid, shall examine the house for the purpose of ascertaining whether such a certificate can properly be given, and, if the house be constructed so as to afford such accommodation and due provision be made as aforesaid, shall certify the same accordingly; provided that the authority, if they are of opinion that the duties which would devolve on the medical officer of health under this section could not be performed by him without interference with the due performance of his ordinary duties, may appoint some other legally qualified medical practitioner, having the qualification required for office of medical officer of health of the district, to make such examinations and give such certificates as aforesaid."

The Local Board of Woolwich was required to appoint a medical officer of health under s. 12 of the Infectious Disease (Notification) Act, 1889 (52 & 53 Vict. c. 72.)

The power to appoint the same person medical officer of health for two or more districts was not prohibited, though not expressly permitted under s. 132 of the Metropolis Management Act, 1855.

But by s. 139 of that Act (set out in the Appendix, *infra*), the county council is empowered to direct appointments of officers to be made for parishes or districts jointly.

As to the power of the Local Government Board to combine authorities for the purposes of epidemic regulations, *see* s. 84, *supra*, p. 129; and for other purposes, *see* ss. 75. and 91, *supra*.

See, as to the power under the Public Health Act, 1875, s. 286 of that Act.

The county council have power to appoint a medical officer of health and to render his services available in the districts of any sanitary authority under s. 17 of the Local Government Act, 1888. *See* that section set out in the Appendix, *infra*.

Sect. 106.

The London county council may, with the consent of a Secretary of State, at any time appoint one or more legally qualified practitioner or practitioners, with such remuneration as they think fit, for the purpose of carrying into effect any part of the Housing of the Working Classes Act, 1890. And any medical officer of health appointed by the London county council, and any officer appointed for that purpose by the London county council shall be deemed to be a medical officer of health of a local sanitary authority; *see* s. 76 of the Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70). As to the duties of a medical officer of health under that Act, *see* ss. 5, 30, 31, 38, 52, 72, 73 of that Act.

As to the qualification and removal from office of a medical officer of health, *see* s. 108, *infra*. As to the temporary appointment where occasion requires, *see* s. 109, *infra*.

The power to appoint as medical officers of health, with the sanction of the Local Government Board, district medical officers of a union is not contained in this Act (*see* s. 286 of the Public Health Act, 1875).

As to the continuance in office of officers appointed under enactments repealed by this Act, *see* s. 142 (6), *infra*.

Expenses of appointment.—The method of defraying expenses under this Act is provided for by s. 103, *supra*, p. 154; but *see*, as to the contribution by the county council of half the salaries of medical officers of health and sanitary inspectors out of the exchequer contribution account, s. 108 (1), *infra*.

Officer to reside in district.—This provision is new; it only affects appointments made after the commencement of the Act (January 1, 1892; *see* s. 143).

The medical officer of health is protected from personal liability for any matter or thing done *bonâ fide* for the purposes of executing the Act; s. 124, *infra*.

Powers of sanitary inspector.—As to these officers, *see* ss. 107 to 109, *infra*.

Annual report.—By s. 43 of the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102), the medical officer of health was required to make an annual report to the vestry or district board of the sanitary condition of the parish or district.

By s. 198 of the Metropolis Management Act, 1855, the vestries and district boards are to attach such report to the annual report of the vestry or district board, and to send the same to the county council annually.

By s. 19 of the Local Government Act, 1888 (51 & 52 Vict. c. 41), set out in Appendix, *infra*, every medical officer of health must send to the county council a copy of the reports made by him to the Local Government Board

Appointment of sanitary inspectors.

107.—(1.) Every sanitary authority shall appoint an adequate number of fit and proper persons as sanitary

Sect. 107.

inspectors, and may distribute among them the duties to be performed by sanitary inspectors, and every such inspector shall be a person qualified and competent by his knowledge and experience to perform the duties of his office.

(2.) Where the Local Government Board, on a representation from the county council, and after local inquiry, are satisfied that any sanitary authority have failed to appoint a sufficient number of sanitary inspectors, the Board may order the authority to appoint such number of additional sanitary inspectors and to allow them such remuneration as the order directs, and the sanitary authority shall comply with the order.

(3.) The sanitary inspectors shall report to the sanitary authority the existence of any nuisances; and the sanitary authority shall cause a book to be kept in which shall be entered all complaints made of any infringement of the provisions of this Act or of any bye-laws made thereunder, or of nuisances; and every such inspector shall forthwith inquire into the truth or otherwise of such complaints, and report upon the same, and such report shall be laid before the sanitary authority at their next meeting, and together with the order of the sanitary authority thereon shall be entered in a book, which shall be kept at their office, and shall be open at all reasonable times to the inspection of any inhabitant of the district, and of any officer either generally or specially authorized for the purpose by the county council; and it shall be the duty of such inspector, subject to the direction of the sanitary authority, or of a committee thereof, to make complaints before justices and take legal proceedings for the punishment of any person for any offence under this Act or any such bye-laws.

This section reproduces, with amendments, s. 133 of the Metropolis Management Act, 1855, and s. 9 of the Nuisances Removal Act, 1860 (23 & 24 Vict. c. 77).

Sanitary inspector.—Under the repealed Nuisances Removal and Sanitary Acts and the various sections of the Metropolis Management Act, this officer was sometimes described as a sanitary inspector, and sometimes as an inspector of nuisances. Throughout the present Act he is consistently referred to by the proper description given in this section, as directed in s. 139 (1) (*d*), *infra*.

It was the intention, by this Act, to repeal the power to appoint the same person sanitary inspector for two districts; but, with the consent of the county council, it will still be

Sect. 107.

possible under s. 139 of the Metropolis Management Act, 1855, set out in the Appendix, *infra*.

Adequate number of inspectors. — Under this Act the number of sanitary inspectors is to be adequate, and the inspectors are to be fit and proper persons.

Under the Metropolis Management Act, 1855, the vestries and district boards were required to appoint only such number of persons they thought fit.

Qualified by knowledge and experience. — The repealed enactments were silent on the qualification of the persons appointed as sanitary inspectors.

All persons appointed as sanitary inspectors after 1894 will have to be holders of certificates of proficiency of such body as the Local Government Board may approve, subject to certain exceptions; s. 108, *infra*.

Local inquiry.—By s. 129, *infra*, the provisions as to local inquiries under the Public Health Act, 1875, contained in ss. 293 to 296 of that Act, and which are set out in Schedule I. of this Act, *infra*, are to apply to all inquiries which the Local Government Board hold under this Act.

Complaint book.—The provisions as to the inspection of the complaint and order book by the county council's officer is new.

Nuisances.—As to what are nuisances under this Act (for it is to these only that sub-section (3) refers, and not to public nuisances generally), *see* s. 2 and notes thereon, *supra*, pp. 4, 13.

Existing officers.—As to provisions for existing officers, *see* ss. 139 and 142 (6), *infra*.

The officers of a sanitary authority are protected from personal liability for anything done *bonâ fide* for the purpose of executing the Act; s. 124, *infra*.

Provisions as to medical officers and sanitary inspectors.

108.—(1.) Subject to the provisions of this Act as to existing officers, the Local Government Board shall have the same powers as they have in the case of a district medical officer of a poor law union with regard to the qualification, appointment, duties, salary, and tenure of office of every medical officer of health and sanitary inspector, and one-half of the salary of every such medical officer and sanitary inspector shall be paid by the county council out of the Exchequer contribution account in accordance with section twenty-four of the Local Government Act, 1888, and that section shall be construed as if in sub-section two thereof the references to the Public Health Act, 1875, included a reference to this Act.

51 & 52 Vict. c. 41.

Sect. 108.

(2.) Provided that—

(*a.*) A medical officer of health shall be legally qualified for the practice of medicine, surgery, and midwifery, and also either be registered in the Medical Register as the holder of a diploma in sanitary science, public health, or State medicine under section twenty-one of the Medical Act, 1886, or have been during three consecutive years preceding the year one thousand eight hundred and ninety-two a medical officer of a district or combination of districts in London or elsewhere with a population according to the last published census of not less than twenty thousand, or have before the passing of the Local Government Act, 1888, been for not less than three years a medical officer or inspector of the Local Government Board; and

49 & 50 Vict. c. 48.

(*b.*) A medical officer of health shall be removable by the sanitary authority with the consent of the Local Government Board, or by that Board, and not otherwise:

Provided that the Local Government Board shall take into consideration every representation made by the sanitary authority for the removal of any medical officer, whether based on the general interests of the district, on the conduct of such officer, or on any other ground; and

(*c.*) Any such medical officer shall not be appointed for a limited period only; and

(*d.*) A sanitary inspector appointed after the first day of January one thousand eight hundred and ninety-five shall be holder of a certificate of such body as the Local Government Board may from time to time approve, that he has by examination shown himself competent for such office, or shall have been, during three consecutive years preceding the year one thousand eight hundred and ninety-five, a sanitary inspector or inspector of nuisances of a district in London, or of an urban sanitary district out of London containing according to the last published census a population of not less than twenty thousand inhabitants.

Sect. 108.

This section reproduces in sub-section (1) the effect of s. 88 (*c*) of the Local Government Act, 1888, which is repealed by this Act. By the same section, the operation of s. 191 of the Public Health Act, 1875, was extended to London.

Sub-section (2) (*a*) reproduces s. 18 (2) of the Local Government Act, 1888. The operation of that section was postponed until January 1st, 1892. That date is omitted in sub-section 2 (*a*) of the present section, as the section will not come into operation till that day, which is the date of the commencement of this Act; s. 143, *infra*.

Existing officers. — Officers appointed under any Act repealed by this Act are to continue in office in like manner as if they were appointed in pursuance of this Act, subject to the provisions of the Act respecting existing officers; s. 142 (6), *infra*. And by s. 139, *infra*, provision is made respecting the protection of existing officers, to whom this section as to qualification will not apply.

Exchequer contribution account.—By s. 24 (2) of the Local Government Act, 1888, "in substitution for local grants, the council for each county shall from time to time pay out of the county fund and charge to the exchequer contribution account the following sums:—

"(*c.*) They shall pay to every local authority for any area, wholly or partly in the county, by whom a medical officer of health or inspector of nuisances is paid, one half of the salary of such officer, where his qualification, appointment, salary, and tenure of office are in accordance with the regulations made by order under the Public Health Act, 1875, or any Act repealed by that Act; but if the Local Government Board certify to the council that such medical officer has failed to send to the Local Government Board such report and returns as are for the time being required by the regulations respecting the duties of such officer made by order of the board under any of the said Acts, a sum equal to such half of the salary shall be forfeited to the Crown, and the council shall pay the same to Her Majesty's exchequer, and not to the said local authority."

Before the Local Government Act, 1888, was passed, no part of the salaries of medical officers of health or sanitary inspectors was paid out of the grants in aid for which the above payment out of the exchequer contribution account was substituted. The effect of the Local Government Act, 1888, was, and of this Act is, to place these officers in London in the same position, as to control, qualification, and duties, as those outside London and appointed under the Public Health Act, 1875. Reference must be had as to existing officers to ss. 139 and 142, *infra*.

Legally qualified for the practice of medicine, etc.—Before the passing of the Local Government Act, 1888, which

contained, in s. 18, provisions similar to sub-section 2 of this section, the qualification required in medical officers of health in London was that they should be legally qualified medical practitioners of skill and experience, under s. 132 of the Metropolis Management Act, 1855. Outside of London the qualification was that required in s. 191 of the Public Health Act, 1875.

A legally qualified medical practitioner is one registered under the Medical Act (21 & 22 Vict. c. 90, s. 34). By the Medical Act, 1886 (49 & 50 Vict. c. 48), s. 2, "a person shall not be registered under the Medical Acts in respect of any qualification referred to in any of those Acts unless he has passed such qualifying examination in medicine, surgery, and midwifery as is in this Act mentioned." The third section of that Act contains a list of the examining bodies. By s. 21 of that Act "every registered medical practitioner to whom a diploma for proficiency in sanitary science, public health, or state medicine has, after special examination, been granted by any college, or faculty of physicians or surgeons, or university in the United Kingdom, or by any such bodies acting in combination, shall, if such diploma appears to the privy council or to the general council to deserve recognition in the medical register, be entitled, on payment of such fee as the general council may appoint, to have such diploma entered in the said register, in addition to any other diploma or diplomas in respect of which he is registered."

Medical officer removable.—Sub-section 2 (*b*) is an amendment of the law. It was proposed to make this sub-section apply also to sanitary inspectors, who require its protection at least as much as medical officers of health. The words "sanitary inspector" were omitted from the Bill at the third reading in the House of Lords.

It is probable that both medical officers of health and sanitary inspectors are sufficiently protected without this sub-section, by the control of the Local Government Board over the terms of their appointment in sub-section 1.

Appointment for limited period. — For the temporary appointment of sanitary officers, *see* s. 109, *infra*.

Sanitary inspector to hold certificate. — The examining bodies for granting these certificates are left entirely to the discretion of the Local Government Board.

The Act is silent as to how the approval is to be expressed.

Temporary arrangement for duties of medical officer or sanitary inspector.

109.—A sanitary authority, where occasion requires, may, with the sanction of the Local Government Board, make any temporary arrangement for the performance of all or any of the duties of a medical officer of health or sanitary inspector, and any person appointed by virtue of any such arrangement to perform those

Sect. 109.

duties, or any of them, shall, subject to the terms of his appointment, have all the powers, duties, and liabilities of a medical officer of health or sanitary inspector as the case may be.

Medical officer of health.—As to the qualification, appointment, and duties of the officer, *see* s. 106, *supra*, p. 158, and s. 108, *supra*, p. 162.

Sanitary inspector.—As to the appointment, qualification, and duties of this officer, *see* ss. 107 and 108, *supra*, pp. 160, 162.

Temporary officers.—Sanitary authorities are empowered to appoint special medical and other officers for the purposes of prevention of epidemic disease under s. 82 (1), *supra*, p. 127.

Jurisdiction as to ships.

110.—(1.) For the purposes of this Act any vessel lying in any river or other water within the district of a sanitary authority shall (subject to the provisions of this Act with respect to the port sanitary authority of the port of London) be subject to the jurisdiction of that authority in the same manner as if it were a house within such district.

(2.) The master of any such vessel shall be deemed for the purposes of this Act to be the occupier of such vessel.

(3.) This section shall not apply to any vessel under the command or charge of any officer bearing Her Majesty's commission, or to any vessel belonging to any foreign government.

This section reproduces s. 30 of the Sanitary Act, 1866, and corresponds to s. 110 of the Public Health Act, 1875, as amended by s. 2 of the Public Health Act, 1885 (48 & 49 Vict. c. 35).

Vessel.—This term includes a boat and every description of vessel used in navigation ; s. 141.

Sub-section (3) of this present section, which excludes Her Majesty's ships and those of foreign governments, does not alter the law but simply declares it.

As to the consumption of smoke arising from engines and furnaces of ships on the Thames, *see* s. 23 (3), *supra*, p. 52.

The provisions of this Act as to infectious disease notification are expressly extended to ships by s. 55 (7), *supra*, p. 99.

A person on board ship, and suffering from any dangerous infectious disease, may be removed to a hospital ; s. 66 (1), *supra*, p. 111.

Port sanitary authority of London.—This is the Mayor, Commonalty, and Citizens of London ; *see* ss. 111 and 112, *infra*.

Master of the vessel.—This expression includes any other person in charge of the vessel; s. 141, *infra*.

As to the service of notices, etc., on the owner or occupier, *see* s. 128 (3), *infra*.

Port Sanitary Authority of Port of London.

Port sanitary authority of port of London.

111.—The Mayor, Commonalty, and Citizens of the City of London shall continue to be the port sanitary authority of the port of London, as established for the purposes of the laws relating to the customs of the United Kingdom, and shall pay out of their corporate funds all their expenses as such port sanitary authority.

This section re-enacts s. 291 of the Public Health Act, 1875, and s. 20 of the Public Health Act, 1872, which are repealed by this Act.

The port of London.—The port of London extends over the waters reaching from Staines Bridge, in Middlesex, to Yantlett Creek, in Kent, for conservancy purposes.

The limits of the port of London vary for different purposes. For customs purposes the port may extend to a line drawn from the Naze to the North Foreland: for other purposes it may extend to Gravesend only. The limits of a port may depend on the existence of wharves, quays, houses, buildings, and other conveniences. It may accordingly from time to time vary and increase with the increase of population and buildings. "The port of London," says Lord Hale in "De Portibus Maris," "anciently extended to Greenwich in the time of Edward I., and Gravesend is a member of it."

The extent of a port is a question of fact. For the purpose of pilotage the present limit is Gravesend: *see* the judgment of the court in the Exchequer Chamber in *The General Steam Navigation Company* v. *The British and Colonial Steam Navigation Company, Limited*, (1869) L.R. 4 Ex. 238.

The Local Government Board, under s. 287 of the Public Health Act, 1875, have power to permanently constitute "port sanitary authorities."

In that section "port" is defined as "a port as established for the purposes of the laws relating to the customs of the United Kingdom."

By the Customs Laws Consolidation Act, 1876 (39 & 40 Vict. c. 36), ss. 11–16, the Commissioners of the Treasury may by warrant appoint any port in the United Kingdom and declare the limits of it, and may annul the limits of any port already appointed, or to be thereafter appointed.

Port sanitary authority.—As to the powers of the port sanitary authority, *see* s. 112, *infra*.

Sect. 111.

The port sanitary authority are to enforce the provisions of this Act with respect to smoke consumption, which are extended to the port of London by s. 23 (7), *supra*, p. 53.

Powers of port sanitary authority of port of London.

38 & 39 Vict. c. 55.

112.—(1.) The Local Government Board may by order assign to the port sanitary authority of the port of London any powers, rights, duties, capacities, liabilities, or obligations of a sanitary authority under this Act, or of a sanitary authority under the Public Health Act, 1875, and any Act extending or amending the same respectively, with such modifications and additions (if any) as may appear to the Board to be required, and the order may extend to the said port a bye-law made under this Act otherwise than by the port sanitary authority, and any such bye-law until so extended shall not extend to the said port; and the said port sanitary authority shall have the powers, rights, duties, capacities, liabilities, and obligations assigned by such order in and over all waters within the limits of the said port, and also in and over such districts or parts of districts of riparian authorities as may be specified in any such order, and the order may extend this Act, and any part thereof, and any bye-law made thereunder, to such waters and districts and parts of districts when not situate in London.

(2.) The said port sanitary authority may acquire and hold land for the purposes of their constitution without any licence in mortmain.

(3.) The said port sanitary authority may, with the sanction of the Local Government Board, delegate to any riparian authority the exercise of any powers conferred on the port sanitary authority by the order of the Board, but except in so far as such delegation extends no other authority shall exercise any powers conferred on such port sanitary authority by the order of the Board within the limits of the port of London.

(4.) "Riparian authority" in this section means any sanitary authority under this Act and any sanitary authority under the Public Health Act, 1875, whose district or part of whose district forms part of or abuts on any part of the said port, and any conservators, commissioners, or other persons having authority in or over any part of the said port.

This section reproduces the effect of ss. 287 to 289 of the Public Health Act, 1875.

The port sanitary authority is constituted by s. 111, where, *see* note, *supra*, p. 167.

Order of the Local Government Board.—All orders of the Local Government Board in pursuance of the Public Health Act, 1875, are binding and conclusive in respect of the matters to which they refer, and are to be published in such manner as that Board direct (*see* s. 295 of that Act). As to the regulations respecting Provisional Orders of the Local Government Board under that Act, *see* s. 297 of that Act.

As considerable part of the port of London is within London the effect of this section is to give power to extend the operation of the Public Health Act, 1875, to part of London.

Bye-laws.—As to bye-laws made under this Act, *see* s. 114, *infra*. The bye-laws made by the county council do not extend to the city; s. 133 (*b*), *infra*. It is to the extension of such bye-laws as "made otherwise than by the port sanitary authority," as well as to those of riparian sanitary authorities, which would apply to the port except for the exclusion of their operation by this section, that s. 112 (1) applies.

The provisions of s. 23 of the Act, as to smoke consumption, are extended to the port of London by the Act itself in s. 23 (7), *supra*, p. 53.

Application of Public Health Acts as to Cholera, &c.

Powers of Local Government Board as to epidemic diseases.

113.—The sections of the Public Health Acts (relating to regulations and orders of the Local Government Board with respect to cholera, or other epidemic, endemic, or infectious diseases) set out in the First Schedule to this Act, shall extend to London, and shall apply in like manner as if a sanitary authority under this Act were a local authority within the meaning of those sections.

In a memorandum attached to this Act when introduced as a Bill into the House of Commons, it was explained that the sections of the Public Health Act, 1875, referred to here, confer general powers on the Local Government Board for the whole country, and are worded accordingly. There was great difficulty in re-enacting them for London only, and therefore the course was taken of declaring that the sections as they stand shall apply to London as well as the rest of the country.

This course has the advantage also, that if the powers have to be exercised it will not be necessary to issue two sets of regulations, one for London and another set of regulations for the rest of the country. The regulations issued by the Local Government Board are set out *infra*, in the Appendix.

The effect of the section is to reproduce ss. 5, 6, 7, 11 and 14 of the Diseases Prevention Act, 1855 (18 & 19 Vict. c. 116); s. 52 of the Sanitary Act, 1866 (29 & 30 Vict. c. 90);

Sect. 113.

s. 52 of the Public Health Act, 1872 (35 & 36 Vict. c. 79), and the Public Health Act, 1889 (52 & 53 Vict. c. 64).

Regulations to apply to sanitary authority.—It is the duty of every sanitary authority to enforce and superintend the execution of the epidemic regulations of the Local Government Board under this section; *see* s. 82, *supra*, p. 127. London means the administrative county of London; s. 141, *infra*.

Bye-laws.

Bye-laws.

114.—All bye-laws made by the county council or by any sanitary authority under this Act shall be made subject and according to the provisions with respect to bye-laws contained in sections one hundred and eighty-two to one hundred and eighty-six of the Public Health Act, 1875, and set forth in the First Schedule to this Act; and those sections shall apply in like manner as if the county council or sanitary authority were a local authority:

38 & 39 Vict. c. 55.

Provided that the county council, in making any bye-laws which will have to be observed and enforced by any sanitary authority, shall consider any representations made to the council by that authority, and not less than two months before applying to the Local Government Board for the confirmation of any such bye-laws shall send a copy of the proposed bye-laws to every such authority.

Bye-laws.—For bye-laws as to cleansing of streets, preventing nuisances, and removal of noxious matter, *see* s. 16, *supra*, p. 36.

The county council have power to make bye-laws for the regulation of offensive trades under s. 19 (4), *supra*, p. 42; as to regulations by the Local Government Board respecting dairies, *see* s. 28, *supra*, p. 58.

The county council and sanitary authorities are to make bye-laws respecting water-closets and the supply of water to them under s. 39, *supra*, p. 73; and respecting public conveniences, under s. 45, *supra*, p. 84; and for the cleansing of cisterns, under s. 50, *supra*, p. 93. As to bye-laws for mortuaries, *see* s. 88, *supra*, p. 131; for lodging-houses, s. 94, p. 136; for tents and vans, s. 95, *supra*, p. 141; and as to removals to hospitals of infectious disease patients, s. 66, *supra*, p. 111.

The bye-laws made by the county council and sanitary authorities will not extend to the port of London unless extended thereto by order of the Local Government Board, s. 112, *supra*, p. 168, nor will those of the county council apply to the city of London, s. 133 (*b*), *infra*.

Where bye-laws are to be made for any purpose for which no bye-laws are at the commencement of the Act in force, they must be submitted to the Local Government Board for sanction within six months of the commencement of the Act; s. 142 (3), *infra*. The Acts in Schedule IV., which are repealed from the coming into force of bye-laws made for the like purpose, are to be repealed within the time limited in s. 142 (4), *infra*.

The sections of the Public Health Act, 1875, are set out *infra*, where *see* notes.

As to power of the county council to make bye-laws under the Local Government Act, 1888, *see* s. 16 of that Act.

Legal Proceedings.

General provisions as to powers of entry.

115.—(1.) Where a sanitary authority have by virtue of this Act power to examine or enter any premises, whether a building, vessel, tent, van, shed, structure, or place open or enclosed, they may examine or enter by any members of the authority, or by any officers or persons authorized by them, either generally or in any particular case.

(2.) Where a sanitary authority, or their officers, or any persons acting under such authority, or under any of their officers, have by virtue of any enactment in this Act a right to enter any premises, whether a building, vessel, tent, van, shed, structure, or place open or enclosed, then, subject to any special provisions contained in such enactment, the following provisions shall apply, that is to say—

(*a.*) The person so claiming the right to enter shall, if required, produce some written document, properly authenticated on the part of the sanitary authority, showing the right of the person producing the same to enter.

(*b.*) Any person refusing or failing to admit any person who is authorized and claims to enter the premises shall if—

(i.) the entry is for the purpose of carrying into effect an order of a court of summary jurisdiction, and either is stated in the said document to be for that purpose or is claimed by an officer of the sanitary authority, or

(ii.) it is proved that the refusal or failure is with intent to prevent the discovery of

Sect. 115.

some contravention of this Act or any bye-law under this Act, or

(iii.) the refusal or failure is declared by the enactment conferring the right of entry to render the person refusing or failing subject to a fine,

be liable to a fine not exceeding five pounds.

(3.) If a justice is satisfied by information on oath—

(*a.*) that there is reasonable ground for such entry, and that there has been a refusal or failure to admit to such premises, and either that reasonable notice of the intention to apply to a justice for a warrant has been given, or that the giving of notice would defeat the object of the entry, or

(*b.*) that there is reasonable cause to believe that there is on the said premises some contravention of this Act or of any bye-law under this Act, and that an application for admission or notice of an application for the warrant would defeat the object of the entry,

the justice may by warrant under his hand authorize the sanitary authority or their officers or other person, as the case may require, to enter the premises, and if need be by force, with such assistants as they or he may require, and there execute their duties under this Act.

(4.) Any person obstructing the execution of any such warrant, or of any warrant granted by a justice in pursuance of any other provision of this Act, and authorizing the entry by the sanitary authority or their officer or any other person into any premises, shall be liable to a fine not exceeding twenty pounds, or, in a case where a greater punishment is imposed by this Act or any other enactment, either to such fine or to that greater punishment.

(5.) The warrant shall continue in force until the purpose for which the entry is necessary has been satisfied.

(6.) Where a house or part of a house is alleged to be overcrowded so as to be a nuisance liable to be dealt with summarily under this Act, a warrant under this section may authorize an entry into such house or part of a house at any hour of the day or night specified in the warrant.

This section reproduces ss. 11 and 36 of the Nuisances Removal Act, 1855; s. 3 of the Nuisances Removal Act, 1863

(26 & 27 Vict. c. 117); ss. 20 and 31 of the Sanitary Act, 1866; s. 55 of the Sanitary Act, 1874 (37 & 38 Vict. c. 89); and s. 9 of the Housing of the Working Classes Act, 1885 (48 & 49 Vict. c. 72). It corresponds to ss. 102 and 103 of the Public Health Act, 1875.

The object of this section is to have one common procedure for enforcing the power to enter. Difficulty was experienced in making the powers under this section and s. 10, *supra*, p. 28, uniform, owing to the variations in the time and power of entry, and procedure in respect thereof, given in the various enactments repealed by this Act. The common procedure under this section of this Act is in some cases more stringent, and in others less stringent, against the occupier of the premises.

Power to enter.—As to power of the sanitary authority to enter and examine premises, *see* as to nuisances, s. 10, *supra*, p. 28; as to smoke abatement, s. 23 (6), *supra*, p. 53; as to slaughter-houses and knackers' yards, s. 20 (7), *supra*, p. 46; as to water-closets, etc., ss. 39 (3), 40 (1) and 41 (2) (3), *supra*, pp. 73, 76; as to drains, etc., s. 43 (2), *supra*, p. 78; as to unsound food, s. 47, *supra*, p. 86; as to cleansing and disinfection, s. 60 (3), *supra*, p. 105; for the purpose of prevention of epidemic diseases regulations, s. 82, *supra*, p. 127; as to tents and vans, s. 95 (3), *supra*, p. 141; as to underground rooms, s. 97, *supra*.

Power is given to authorize the entry of a constable or other person to verify a complaint made by a private individual, under s. 12 (2), *supra*, p. 32.

The county council have power to enter dairies, etc., for the purpose of enforcing the orders and regulations respecting dairies, under s. 28, *supra*, p. 59.

Premises.—This expression includes messuages, buildings lands, easements, and hereditaments of any tenure, whether open or enclosed, whether built on or not, and whether public or private, and whether maintained or not under statutory authority; s. 141, *infra*.

Written document authenticated.—Writing includes printing, lithography, photography and other modes of representing or reproducing words in a visible form; Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 20.

The authentication will be by the document being signed by the clerk of the sanitary authority; s. 127, *infra*.

Refusing or failing to admit.—*See* the provisions empowering entry cited in note, *supra*.

The words "refusing or failing to admit" are wider than the words "wilfully obstructs," in s. 116, *infra*.

It is submitted that the words in this section would cover such a case as *Small* v. *Bickley*, (1875) 32 L.T. (N.S.) 726. In that case a butcher, at his residence, half a mile distant

Sect. 115.

from his shop, on a Sunday afternoon, was requested to go or send some one to admit the sanitary inspector to his shop to examine meat deposited there. The butcher refused. It was held that, although Sunday afternoon might not be an unreasonable time for the examination of the meat, the butcher had not been guilty of "preventing" or "obstructing or impeding" within s. 3 of the Nuisances Removal Act, 1863 (26 & 27 Vict. c 117).

The power of entry which the sanitary authority have is permissive; they cannot be compulsorily forced by mandamus to exercise it; *see ex parte Bassett, In re Local Board of Ham*, 26 L.J.M.C. 64.

Fine.—As to procedure for the recovery of fines and penalties, *see* s. 117, *infra*; and as to the application of fines, *see* s. 119, *infra*.

Justice's warrant.—The form of this warrant is set out, *infra*, in Schedule III., form E.

Overcrowding.—As to provisions respecting overcrowding, *see* s. 2 (1) (*e*), *supra*, p. 3; s. 5 (7), *supra*, p. 21; and s. 7, *supra*, p. 26.

Day.—This is defined as the period between 6 A.M. and 9 P.M.; s. 141, *infra*.

Penalty on obstructing execution of Act.

116.—(1.) If any person—

(*a.*) wilfully obstructs any member or officer of a sanitary authority or any person duly employed in the execution of this Act, or

(*b.*) destroys, pulls down, injures, or defaces any bye-law, notice, or other matter put up by authority of the Local Government Board or county council, or of a sanitary authority, or any board or other thing upon which such bye-law, notice, or matter is placed or inscribed, or

(*c.*) wilfully damages any works or property belonging to any sanitary authority,

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

(2.) Where the occupier of any premises prevents the owner thereof from obeying or carrying into effect any provision of this Act, a petty sessional court, on complaint, shall by order require such occupier to permit the execution of any works which appear to the court necessary for the purpose of obeying or carrying into effect such provision of this Act; and if within twenty-four hours after service on him of the order such occupier fails to comply therewith, he shall be liable to a fine not exceeding five pounds for every day during the continuance of such non-compliance.

Sect. 116.

(3.) If the occupier of any premises, when requested by or on behalf of the sanitary authority to state the name and address of the owner of the premises, 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 fine not exceeding five pounds.

This section reproduces parts of ss. 206 to 209 of the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), and ss. 36 and 37 of the Nuisances Removal Act, 1855 (18 & 19 Vict. c. 121), s. 90 of the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102), s. 45 of the Sanitary Act, 1866 (29 & 30 Vict. c. 90), and s. 16 of the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34). It corresponds to ss. 306 and 307 of the Public Health Act, 1875, extended by s. 48 of the Public Health Amendment Act, 1890 (53 & 54 Vict. c. 59).

Wilfully obstructs.—As to what is wilful obstruction, *see* *Small* v. *Bickley*, *supra*, and the note to s. 115, *supra*, p. 173.

If a party is charged with obstructing the works of a local board of health, he is not necessarily entitled to have the case dismissed by the magistrates because the obstruction took place in assertion of a private right. In such case the justices are not warranted in refusing as frivolous an application to state a case. *R.* v. *Pollard*, 14 L.T. 599.

Damage to property.—*See*, as to liability for damage to a street lamp, *Harding* v. *Barker & Sons*, (1889) 5 T.L.R. 42.

Occupier to state the name of owner.—The addition of the address of the owner in the information to be given by the occupier is an amendment. An occupier or owner may be proceeded against under such designation without further description; *see* s. 120 (4), *infra*. The term "owner" is defined in s. 141, *infra*.

Fine.—Under the Metropolis Management Acts the amount of the fine varies from five shillings to five pounds. This section fixes one uniform maximum of five pounds.

As to the recovery of penalties, *see* s. 117, *infra*; and as to their application, s. 119, *infra*.

Summary proceedings for offences, expenses, &c.

117.—(1.) All offences, fines, penalties, forfeitures, costs, and expenses under this Act or any bye-law made under this Act directed to be prosecuted or recovered in a summary manner, or the prosecution or recovery of which is not otherwise provided for, may be prosecuted

Sect. 117.

and recovered in manner directed by the Summary Jurisdiction Acts.

(2.) Proceedings for the recovery of a demand not exceeding fifty pounds, which a sanitary authority or any person are or is empowered to recover in a summary manner, may, at the option of the authority or person, be taken in the county court as if such demand were a debt.

(3.) A proceeding under this Act shall not be taken by the county council against a sanitary authority save with the sanction of the Local Government Board, unless such proceeding is for the recovery of expenses or of money due from the sanitary authority to the council.

This section, with necessary amendment, reproduces ss. 225 to 227 of the Metropolis Management Act, 1855, ss. 20 and 38 of the Nuisances Removal Act, 1855, and s. 54 of the Sanitary Act, 1866. It corresponds to ss. 251 and 261 of the Public Health Act, 1875.

Expenses.—The expenses of and incidental to a nuisance order may be recovered under s. 11, *supra*, p. 29, and s. 12 (2) (*b*), *supra*, p. 32; those of the examination of sanitary appliances, under s. 40, *supra*, p. 74; those of the execution of necessary works, under s. 41 (2), *supra*, p. 76, and s. 43 (2), *supra*, p. 78. The expenses incurred in maintaining a non-infectious patient in a hospital may be recovered under s. 76, *supra*. As to recovery from the occupier of expenses recoverable from the owner, *see* s. 121, *infra*.

Application of fines.—All fines recovered under this Act are to be paid to the sanitary authority, and applied by them in aid of their expenses under this Act; s. 119, *infra*.

Joint defendants.—Where the offence is caused by persons jointly liable, the proceedings may be taken by the sanitary authority against one or more of them; s. 120, *infra*.

A judge or justice of the peace is not incapable of acting because he is a member of a sanitary authority; s. 122, *infra*.

Appearance of sanitary authority.—The county council or a sanitary authority may appear in any proceedings or before any court by their clerk or by any officer or member authorized in that behalf; s. 123, *infra*.

Appeal.—Any person aggrieved by any conviction or order made by a court of summary jurisdiction may appeal therefrom to a court of quarter sessions; s. 125, *infra*.

Proceedings in the High Court.—As to power of a sanitary authority to proceed to enforce abatement of or prohibition of nuisances in the High Court, *see* s. 13, *supra*, p. 33, and s. 11 (2), *supra*, p. 30.

A sanitary authority may take proceedings in the High Court for offences relating to offensive trades; s. 21 (3), *supra*, p. 49.

Summary Jurisdiction Acts.—By the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 13 (10), the expression "the Summary Jurisdiction Acts," when used in relation to England and Wales, means the Summary Jurisdiction (England) Acts; and by s. 13 (7) the expression "the Summary Jurisdiction (England) Acts" means the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), and the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), and any Act, past or future, amending those Acts or either of them.

These Acts are amended by the Summary Jurisdiction (Process) Act, 1881 (44 & 45 Vict. c. 24), and the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43).

Proceedings must be taken within six months of the cause arising, under the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), s. 11.

As to the distinction in summary proceedings between informations of a criminal nature and complaints of a civil nature, *see* note on s. 11, *supra*, p. 29.

Whether the proceedings are criminal or civil proceedings, the defendant and his wife or her husband may give evidence; s. 118, *infra*.

The county court was held to have jurisdiction under the Nuisances Removal and Diseases Prevention Act, 1848 (11 & 12 Vict. c. 123), s. 3, even if the question of title arose. *R.* v. *Harden*, 2 E. & B. 188; 22 L.J.Q.B. 299; *Hertford Union* v. *Kimpton*, 11 Ex. 295, 25 L.J.M.C. 41.

Proceedings by county council.—As to proceedings by the county council on default of a sanitary authority, *see* ss. 100 and 101, *supra*, pp. 149–151.

Evidence by defendant.

118.—Any person charged with an offence under this Act, and the wife or husband of such person, may, if such person thinks fit, be called, sworn, examined, and cross-examined as an ordinary witness in the case.

Since the defendant and the husband or wife of such person can be examined, etc., as an ordinary witness, one consideration which was formerly of importance, viz., whether the proceedings were civil or criminal, is not of so much importance now. *See* note to s. 11, *supra*, p. 29. It must be observed that the examination, etc., of these persons is to take place only if the defendant thinks fit.

Application of fines and disposal of things forfeited.

119.—(1.) All fines recovered under this Act shall, notwithstanding anything in any other Act, be paid to

Sect. 119.

the sanitary authority and applied by them in aid of their expenses in the execution of this Act, except that any fine imposed on the sanitary authority shall be paid to the county council.

(2.) All things forfeited under this Act may be sold or disposed of in such manner as the court ordering the forfeiture may direct.

This section reproduces s. 38 of the Nuisances Removal Act, 1855; s. 105 of the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102); and s. 18 of the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34). It corresponds to s. 254 of the Public Health Act, 1875.

Some of the fines under the repealed Acts were payable to the receiver of the metropolitan police district under the Act relating to the metropolitan police courts, and were applied in aid of the expenses of those courts; *see* 2 & 3 Vict. c. 71. Under the present Act a uniform rule has been adopted of making all fines payable to the sanitary authority except those imposed upon a sanitary authority, which are payable to the county council.

Expenses of execution of the Act.—These are provided for as directed in s. 103, *supra*, p. 154. Any property seized under the Act may be disposed of according to the order of the court, and may be applied in aid of the expenses of the sanitary authority. The refuse collected, which is the property of the sanitary authority, may be sold, and the money arising from the sale must be applied in defraying the expenses of the execution of the Act; s. 32, *supra*, p. 64.

It will be necessary to get an order of the court to direct the manner of the disposal of things forfeited: this should be done at the hearing of the complaint.

Proceedings in certain cases against nuisances.

120.—(1.) Where any nuisance under this Act appears to be wholly or partially caused by the acts or defaults of two or more persons, the sanitary authority or other complainant may institute proceedings against any one of such persons, or may include all or any two or more of them in one proceeding; and any one or more of such persons may be ordered to abate the nuisance, so far as it 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 the court contribute to the 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 the court may appear fair and reasonable.

Sect. 120.

(2.) 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.

(3.) Where some only of the persons by whose act or default any nuisance has been caused have been proceeded against under this Act, they shall, without prejudice to any other remedy, be entitled to recover in a summary manner from the other persons who were not proceeded against a proportionate part of the costs of and incidental to such proceedings and abating such nuisance, and of any fine and costs ordered to be paid by the court in such proceedings.

(4.) Whenever in any proceeding under the provisions of this Act relating to nuisances 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.

This section reproduces ss. 33 to 35 of the Nuisances Removal Act, 1855, and corresponds to s. 255 of the Public Health Act, 1875.

Nuisances.—The provisions of this Act relating to nuisances are contained in ss. 2 to 18, *supra*, pp. 2 to 41; *see* the cases of *Draper* v. *Sperring* and *Brown* v. *Bussell*, *supra*, pp. 16, 17; *Guardians of Hendon* v. *Bowles*, *supra*, p. 18. As to procedure when the person causing the nuisance and the owner and occupier of the premises are unknown, *see* s. 8, *supra*, p. 27. As to procedure generally, *see* s. 117, *supra*.

Costs distributed.—The court has power to divide the costs, expenses and fines between persons by whose acts, defaults or sufferance a nuisance exists under s. 11 (2), *supra*, p. 30.

Sub-section (3) of this section is an extension of the former law, which only enabled persons entitled by law to contribution to obtain their share from parties not before the court. This extends a right to any person whose act, etc., jointly with that of others causes the nuisance, to insist that all persons in default shall bear their portion of the fine, expenses, and costs.

The extended remedy here is only to recover in a *summary manner*.

Owner or occupier.—As to recovery of costs from the owner or occupier, *see* s. 121, *infra*. As to disclosure by the occupier of the owner's name and address when required by the sanitary authority, *see* s. 116 (3), *supra*, p. 175.

Sect. 121.

Recovery of expenses by sanitary authority from owner or occupier.

121.—Any costs and expenses which are recoverable under this Act by a sanitary authority from an owner of premises may be recovered from the occupier for the time being of such premises; and the owner shall allow the occupier to deduct any money which he pays under this enactment out of the rent from time to time becoming due in respect of the premises, as if the same had been autually paid to the owner as part of the rent: Provided that—

(*a.*) the occupier shall not be so required to pay any further sum than the amount of rent which either is for the time being due from him, or which after demand from him of such costs or expenses, and notice not to pay any rent without first deducting the same, becomes payable by him, unless he refuses, on the application of the sanitary 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 aforesaid amount of rent shall lie on such occupier; and

(*b.*) nothing in this section shall affect any contract between any owner and occupier of any premises whereby the occupier agrees to pay or discharge all rates, dues, and sums of money payable in respect of such premises, or shall affect any contract whatsoever between landlord and tenant.

This section reproduces s. 96 of the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102), and s. 34 of the Sanitary Act, 1866 (29 & 30 Vict. c. 90); and corresponds to s. 104 of the Public Health Act, 1875.

Occupier for time being.—The occupier for the time being was held liable even where judgment had been recovered and remained unsatisfied against the previous owner, who had parted with his interest to the owner from whom the occupier then held. *Bermondsey Vestry* v. *Ramsey* (1871), L.R. 6 C.P. 247.

As to the duty of the occupier to disclose the name and address of the owner, *see* s. 116 (3), *supra*, p. 175.

Owner.—This means the person for the time being receiving the rack rent, whether on his own account or as agent or trustee, or who would receive the same if the premises were let at a rack rent; *see* s. 141, *infra*.

As if actually paid to owner.—To prevent the landlord dis-

training, the occupier must actually have paid the rent to the sanitary authority; the service of notice by the sanitary authority is not of itself sufficient protection. *Ryan* v. *Thompson* (1868), L.R. 3 C.P. 144.

A. was lessee for twenty-one years at a rack rent of a house and shop: he occupied the shop and underlet the upper part of the house to B. as a yearly tenant. The upper part was shut off from the shop, and A. had no access to it. In the upper part of the house was a privy, which was a nuisance in consequence of its defective condition; the sanitary authority took proceedings to abate the nuisance against C., who received the rent from A. as agent for A.'s landlord. It was held that C. was not the "owner," as he did not receive the rent from B., who was the occupier of the premises on which the nuisance arose. *Cook* v. *Montagu*, (1872) L.R. 7 Q.B. 418.

But the omission from this section of the words "from the occupier," which were contained in s. 2 of the Nuisances Removal Act, 1855, renders the decision no longer important upon this point.

After demand.—If the demand is an order it must be under the seal of the sanitary authority; the notice not to pay must be in writing signed by the clerk of the sanitary authority; s. 127, *infra*.

Costs and expenses.—As to the ordinary method of recovering these, *see* s. 117, *supra*, p. 175; *see* also s. 11, *supra*, p. 29.

Contract to discharge all rates.—As to what is included in this, *see Thompson* v. *Lapworth*, (1868) L.R. 3 C.P. 149; *Wilkinson* v. *Collyer*, (1884) 13 Q.B.D. 1; *Aldridge* v. *Ferne*, (1886) 17 Q.B.D. 212; *Batchelor* v. *Bigger*, (1889) W.N. 52.

Justice to act though member of sanitary authority or liable to contribute.

122.—A judge or justice of the peace shall not be incapable of acting in cases arising under this Act by reason of his being a member of any sanitary 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 a sanitary authority are to be defrayed.

This section reproduces s. 2 of the Nuisances Removal Act, 1866 (29 & 30 Vict. c. 41), and corresponds to s. 258 of the Public Health Act, 1875.

Disability of a judge or justice.—This removal of disability of a judge is in consequence of the power to proceed in the High Court or a county court; *see* s. 117, *supra*, p. 176.

The owner (H.) of a farm in the parish of Edmonton, bounded by the river Lee, entered into an agreement with the Enfield Board of Health, under which H. received the sewage of the Enfield district and disposed of it over his farm. After

Sect. 122.

a few months disagreements arose, and the Enfield Board took legal proceedings against H. to enforce the agreement. While these were still pending, H., after notice given to the board, diverted the sewage from his farm through a pipe into the old open channel or watercourse in the parish of Edmonton, through which the sewage had been used to flow into the river Lee. On this the Edmonton Local Board of Health threatened proceedings against the Enfield Board for the nuisance, and the Lee Conservancy took out summonses under their Act against H. for having opened the pipe into the channel, etc., and for continuing the use of it. On the summonses coming on for hearing, M., who was the chairman of the Enfield Local Board, and had taken an active part in its proceedings, sat with three other justices on the Bench. H. objected to M. sitting as a justice, but he remained, and H. was convicted in penalties. A rule for certiorari was then obtained for the purpose of quashing the convictions on the ground that M. was an interested justice. On showing cause, M. made affidavit that, though he sat on the Bench, he took no part until the other justices had unanimously determined to convict H., when he, M., proposed a mitigation of the penalties, and that he did not sign the conviction. It was held that M. had such an interest as might give him a real bias in the matter; consequently he ought not to have sat as a justice, and it was immaterial what part he really took in the matter, and the court made the rule absolute, with costs, against M. *R.* v. *Meyer*, (1875) 1 Q.B.D. 173.

A town council passed a resolution that steps should be taken for the removal of a nuisance, and took out a summons under the Public Health Act, 1875, against B. At the hearing an order for the abatement of the nuisance was made, and two justices who were present were members of the town council when the resolution was passed. It was held that the councillors who were justices had such an interest as might give them a bias in the matter, that they ought not to have sat as justices on the hearing of the summons, and that a rule for a certiorari to quash the order must be made absolute. *R.* v. *Milledge*, (1879) 4 Q.B.D 332.

Three justices who were members of the town council of a borough, and as such had taken an active part in the making of an order under the Dogs Act, 1871 (34 & 35 Vict. c. 56), sat to hear a complaint of non-observance of the order; it was held they had no such interest in the subject matter as to oust their jurisdiction. *R.* v. *Huntingdon, JJ.*, (1879) 4 Q.B.D. 522.

By a local Act for the improvement of a borough the corporation was made the authority for the execution of the Act, with power to direct prosecutions for this purpose. An information for an offence under the Act having been preferred by an officer on behalf of the corporation; a summons was issued upon it by

Sect. 122.

a justice who was also an alderman and member of the corporation, but came on for hearing before justices none of whom was connected with the corporation. It was held, notwithstanding, that such justices could not proceed with the hearing of the summons, for it had been issued by one who was virtually a prosecutor. *R.* v. *Gibbon*, (1880) 6 Q.B.D. 168. That case was not followed, but disapproved in *R.* v. *Handsley*, (1881) 8 Q.B.D. 383. In that case it was held that where by a statute a member of the town council of a borough may act as a justice of the peace in matters arising under the Act; in order to disqualify him from so acting, it is not sufficient to show that, as a member of the town council, he has a pecuniary interest in the result of the information or complaint, or that the corporation of which he is a member are the prosecutors, but it must be established that he has such a substantial interest in the result of the hearing as to make it likely that he has a real bias in the matter. The facts were as follows:— An officer of a corporation appointed to collect the borough rate obtained a summons against a ratepayer in arrear. In so doing he acted in discharge of his duty, but on his own responsibility, and without consulting the town council. At the hearing the justice dismissed the summons, on the ground that one of the sitting magistrates, being a town councillor, was thereby disqualified from adjudicating upon the summons. It was held, on a motion for a mandamus to the justices to hear and adjudicate on the summons, that there was no ground for supposing either substantial interest or likelihood of bias, and consequently no disqualification.

The sanitary committee of the town council of Wakefield passed a resolution directing the town clerk to prosecute S. for exposing for sale meat unfit for human food; at the hearing of the information laid in pursuance of the resolution, S. was convicted before four justices, one of whom was a member of the sanitary committee and was present when the resolution was passed. It was held that s. 258 of the Public Health Act, 1875, did not remove the disqualification attaching to the justice by reason of his having acted as a member of the sanitary committee in directing the prosecution, and that a rule must be made absolute to bring up and quash the conviction. *R.* v. *Lee*, (1882) 9 Q.B.D. 394.

Any pecuniary interest in the subject-matter of the litigation, however slight, will disqualify a magistrate from taking part in the decision of a case. If a magistrate has such a substantial interest, other than pecuniary, in the result of the hearing as to make it likely that he will have a bias, he is disqualified. *R.* v. *Farrant*, (1887) 20 Q.B.D. 58. *See* also *Leeson* v. *General Council of Medical Education*, (1889) 43 Ch.D. 366.

A justice may act in adjudicating on an offender against the provisions respecting unsound food, whether he has or has not

Sect. 122.

acted in ordering the animal or article to be destroyed or disposed of; s. 47 (7), *supra*, p. 88.

Appearance of sanitary authority in legal proceedings.

123.—The county council or a sanitary authority may appear before any court or in any legal proceeding by their clerk, or by any officer or member authorized generally or in respect of any special proceeding by resolution of such council or authority; and their clerk, or any officer or member so authorized, shall be at liberty to institute and carry on any proceeding which the county council or sanitary authority are authorized to institute and carry on under this Act.

This section reproduces s. 5 of the Nuisances Removal Act, 1855, and s. 48 of the Sanitary Act, 1866, and corresponds to s. 259 of the Public Health Act, 1875.

Legal proceedings.—*See* as to these, s. 117, *supra*.

Officer or member authorized.—The evidence of authorization will be, it would seem, a copy of the minute of the resolution duly authenticated as required by s. 127, *infra*, or perhaps the production of the minute book.

Protection of sanitary authority and their officers from personal liability.

124.—No matter or thing done, and no contract entered into by the county council or any sanitary authority, and no matter or thing done by any member of such council or authority, or by any officer of such council or authority or other person whomsoever acting under the direction of such council or 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 the county council or any such authority, member, officer, or other person acting as last aforesaid, shall be borne and repaid out of the rate applicable by that council or authority to the purposes of this Act:

Provided that nothing in this section shall exempt any member of the county council or 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 council or authority, and which that member authorized or joined in authorizing.

This section reproduces s. 42 of the Nuisances Removal Act, 1855, and corresponds to s. 265 of the Public Health Act, 1875.

Sect. 124.

The effect of this section is only to relieve the members and officers of the county council and sanitary authorities from personal liability for the acts, etc., done *bonâ fide*.

It does not remove any liability which the county council or a sanitary authority, as such, is under, for acts, etc., done, for which, apart from this section, they would be liable.

As to personal liability under this Act, *see* s. 30 (3), *supra*, p. 62.

Expense to be repaid out of rate.—As to the rates out of which the sanitary authorities are to pay the expenses of the execution of this Act, *see* s. 103, *supra*, p. 154.

As to the limitations as to notice, etc., in actions against vestries and district boards, *see* s. 106 of the Metropolis Management Act, 1862.

Appeal.

Appeal to quarter sessions.

125.—Any person who deems himself aggrieved by any conviction or order made by a court of summary jurisdiction on determining any information or complaint under this Act may, save as otherwise provided in this Act, appeal therefrom to a court of quarter sessions.

This section reproduces s. 231 of the Metropolis Management Act, 1855; ss. 15, 16 and 40 of the Nuisances Removal Act, 1855; and s. 6 of the Slaughter House Act, 1874 (37 & 38 Vict. c. 67); and corresponds to s. 269 of the Public Health Act, 1875.

Appeal.—There is no power of appeal from the decision of Justices unless it is given by the statute (as here) under which the proceedings have been grounded. But under the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), s. 19, "where, in pursuance of any Act, whether past or future, any person is adjudged by a conviction or order of a court of summary jurisdiction to be imprisoned without the option of a fine either as a punishment for an offence, or, save as hereinafter mentioned, for failing to do or to abstain from doing any act or thing required to be done or left undone, and such person is not otherwise authorized to appeal to a court of general or quarter sessions, and did not plead guilty or admit the truth of the information or complaint, he may, notwithstanding anything in the said Act, appeal to a court of general or quarter sessions against such conviction or order.

"Provided, that this section shall not apply where the imprisonment is adjudged for failure to comply with an order for the payment of money, for the finding of sureties, for the entering into any recognizance or for the giving of any security."

Under 2 & 3 Vict. c. 71, s. 50, there is an appeal from every decision of a metropolitan police magistrate if the judgment

Sect. 125.

imposes a sum exceeding £3, or imprisonment exceeding one month.

The appeal under the present section, however, is quite general.

Proceedings on appeal.—These are governed by the Summary Jurisdiction Acts. By s. 31 of the Act of 1879 (42 & 43 Vict. c. 49), "where any person is authorized [by this Act or any future Act] to appeal from the conviction or order of a court of summary jurisdiction to a court of general or quarter sessions, he may appeal to such court subject to the conditions and regulations following:—

"(1.) The appeal shall be made to the prescribed court of general or quarter sessions, or if no court is prescribed to the next practicable court of general or quarter sessions having jurisdiction in the county, borough, or place for which the said court of summary jurisdiction acted, and holden not less than fifteen days after the day on which the decision was given upon which the conviction or order was founded: and

"(2.) The appellant shall, within the prescribed time, or if no time is prescribed within seven days after the day on which the said decision of the court was given, give notice of appeal by serving on the other party and on the clerk of the said court of summary jurisdiction notice in writing of his intention to appeal, and of the general grounds of such appeal: and

"(3.) The appellant shall, within the prescribed time, or if no time is prescribed, within three days after the day on which he gave notice of appeal, enter into a recognizance before a court of summary jurisdiction, with or without a surety or sureties, as that court may direct, conditioned to appear at the said sessions and to try such appeal, and to abide the judgment of the court of appeal thereon, and to pay such costs as may be awarded by the court of appeal; or the appellant may, if the court of summary jurisdiction before whom the appellant appears to enter into a recognizance think it expedient, instead of entering into a recognizance, give such other security by the deposit of money with the clerk of the court of summary jurisdiction, or otherwise, as that court deem sufficient: and

"(4.) Where the appellant is in custody the court of summary jurisdiction before whom the appellant appears to enter into a recognizance may, if the court think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody: and

"(5.) The court of appeal may adjourn the hearing of the appeal, and upon the hearing thereof may confirm, reverse or modify the decision of the court of summary jurisdiction, or remit the matter with the opinion of the court of appeal thereon to a court of summary jurisdiction acting for the same county, borough, or place, as the court by whom the conviction or order appealed against was made, or may make such other order in the matter as the court of appeal may think just,

and may by such order exercise any power which the court of summary jurisdiction might have exercised, and such order shall have the same effect and may be enforced in the same manner as if it had been made by the court of summary jurisdiction. The court of appeal may also make such order as to costs to be paid by either party as the court may think just: and

"(6.) Whenever a decision is not confirmed by the court of appeal the clerk of the peace shall send to the clerk of the court of summary jurisdiction from whose decision the appeal was made, for entry in his register, and also endorse on the conviction or order appealed against, a memorandum of the decision of the court of appeal; and whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence of the said decision in every case where such copy or certificate would be sufficient evidence of such conviction or order: and

"(7.) Every notice in writing required by this section to be given by an appellant shall be in writing, signed by him or by his agent on his behalf, and may be transmitted as a registered letter by the post in the ordinary way, and shall be deemed to have been served at the time when it would be delivered in the ordinary course of the post."

See R. v. *Shingler*, (1886) 17 Q.B.D. 49; *R.* v. *Glamorganshire Justices*, (1889) 22 Q.B.D. 628.

As to the stay of proceedings pending an appeal, *see* s. 6, *supra*, p. 24.

Conviction or order.—There must be a conviction or order; if the complaint or information is dismissed, the complainant cannot appeal under this section.

R. v. *Middlesex Justices*, (1881) 45 J.P. 420; *R.* v. *Keepers of the Peace and Justices of the County of London*, (1890) 25 Q.B.D. 357.

By s. 2 of the Summary Jurisdiction Act, 1857 (20 & 21 Vict. c. 43), "after the hearing and determination by a justice or justices of the peace of any information or complaint which he or they have power to determine in a summary way by any law now in force or hereafter to be made, either party to the proceeding before the said justice or justices may, if dissatisfied with the said determination as being erroneous in point of law, apply in writing within three days after the same to the lord justice or justices to state and sign a case setting forth the facts and the grounds of such determination for the opinion thereon of the High Court of Justice; and such party, hereinafter called 'the appellant,' shall within three days after receiving such case transmit the same to the court, first giving notice in writing of such appeal, with a copy of the case so stated and signed, to the other party to the proceeding

Sect. 125.

in which determination was given, hereinafter called 'the respondent.'"

By the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), s. 33, "any person aggrieved who desires to question a conviction, order, determination or other proceeding of a court of summary jurisdiction, on the ground that it is erroneous in point of law, or is in excess of jurisdiction, may apply to the court to state a special case setting forth the facts of the case and the grounds on which the proceeding is questioned, and if the court decline to state the case may apply to the High Court of Justice for an order requiring the case to be stated.

"The application shall be made and the case stated within such time and in such manner as may be from time to time directed by rules under this Act, and the case shall be heard and determined in manner prescribed by rules of court made in pursuance of the Supreme Court of Judicature Act, 1875, and the Acts amending the same; and subject as aforesaid, the Act of the session of the twentieth and twenty-first years of the reign of Her present Majesty, chapter forty-three, entitled 'An Act to improve the administration of the law so far as respects summary proceedings before justices of the peace,' shall, so far as it is applicable, apply to any special case stated under this section as if it were stated under that Act.

"Provided that nothing in this section shall prejudice the statement of any special case under that Act."

The Summary Jurisdiction Rules, 1886, must be observed as to time, etc. *See Westmore* v. *Paine*, (1891) 1 Q.B. 482; *Edwards* v. *Roberts*, (1891) 1 Q.B. 302; *R.* v. *Glamoganshire Justices*, (1890) 24 Q.B.D. 675.

May appeal save as otherwise provided.—Under s. 6 (2), *supra*, p. 25, there is no appeal to quarter sessions against a nuisance order unless it includes a prohibition or closing order, or requires the execution of structural works. The Public Health Act, 1875, s. 269, gives an appeal in all cases. The restriction of appeal has been made in the above section only where no structural works, and consequently no serious expenses are involved, and where, on the other hand, the delay pending appeal might be a serious evil.

Provisions as to appeals to county council.

126.—Any appeal to the county council against a notice or act of a sanitary authority under this Act shall be conducted in accordance with sections two hundred and eleven and two hundred and twelve of the Metropolis Management Act, 1855, which sections, as modified by the Local Government Act, 1888, are set out in the First Schedule to this Act.

18 & 19 Vict. c. 120.

The sections of the Metropolis Management Act are set out, *infra*, p. 218.

Sect. 126.

Appeal to the county council.—Appeals to the county council under this Act are given as to regulations, etc., respecting water-closets, etc., by s. 37 (5), *supra*, p. 70, and s. 41 (3), *supra*, p. 76. As to drains, ditches, etc., by s. 43 (3), *supra*, p. 79. There is no appeal to the county council from the commissioners of sewers; s. 133 (*a*), *infra*.

Appeal to Local Government Board.—There is an appeal to the Local Government Board from the sanitary authority under s. 96 (5), *supra*, p. 144, respecting dispensations as to the requirements for the occupation of underground rooms.

There is also an appeal to the Local Government Board by the sanitary authority or any person aggrieved against the county council's bye-laws respecting offensive trades; s. 19 (6), *supra*, p. 42. *See* also s. 294 of the Public Health Act, 1875, set out in Schedule I., *infra*, p. 218.

Notices.

Authentication of notices, etc.

127.—(1.) Notices, orders, and other such documents under this Act shall be in writing; and notices and documents other than orders, when issued by the county council or a sanitary authority, shall be sufficiently authenticated if signed by their clerk or by the officer by whom the same are given or served.

(2.) Orders shall be under the seal of the council or authority duly authenticated.

This section reproduces s. 15 of the Diseases Prevention Act, 1855 (18 & 19 Vict. c. 116), s. 222 of the Metropolis Management Act, 1855, and s. 32 of the Nuisances Removal Act, 1855; and corresponds to s. 266 of the Public Health Act, 1875.

Orders.—Under s. 32 of the Nuisances Removal Act, 1855, copies of orders were to be signed by the chairman of the sanitary authority or a committee. Under the Public Health Act, 1875, all orders may be authenticated by the clerk or officer of the authority. But as orders under the Public Health (London) Act, 1891, are of a formal character, they must be under seal.

Writing.—"Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form."—Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 20.

Seal.—The district boards and vestries which are sanitary authorities under s. 99 of this Act were made bodies corporate by s. 42 of the Metropolis Management Act, 1855, and every such board and vestry has perpetual succession and

Sect. 127.

a common seal under that section. The county council of London succeeded the Metropolitan Board of Works, which was a body corporate with perpetual succession and a common seal under s. 43 of that Act, and is incorporated and has a common seal; *see* ss. 2, 40, and 79 of the Local Government Act, 1888 (51 & 52 Vict. c. 41), and s. 250 (1) of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50).

Committee.—As to the power of committees under this Act to serve and receive notices, *see* s. 99 (4), *supra*, p. 148.

Service of notices.

128.—(1.) Any notice, order, or other document required or authorized to be served under this Act may be served by delivering the same or a true copy thereof either to or at the usual or last known residence in England of the person to whom it is addressed, or, where addressed to the owner or occupier of premises, then to some person on the premises, or, if there is no person on the premises who can be so served, then by fixing the same or a true copy thereof on some conspicuous part of the premises; it may also be served by sending the same or a true copy thereof by post addressed to a person at such residence or premises as above mentioned.

(2.) Any notice required or authorized for the purposes of this Act to be served on a sanitary authority or on the county council shall be deemed to be duly served if in writing delivered at, or sent by post to, the office of the authority or council, addressed to such authority or council, or their clerk.

(3.) Any notice by this Act required to be given to or served on 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 or served, without further name or description.

This section reproduces s. 15 of the Diseases Prevention Act, 1855 (18 & 19 Vict. c. 116), s. 221 of the Metropolis Management Act, 1855, and s. 31 of the Nuisances Removal Act, 1855; and corresponds to s. 267 of the Public Health Act, 1875.

Under the Nuisances Removal Act, 1855, for the service by post it was necessary that the letter should be registered, and that the person served lived five miles from the office of the authority.

Service of notices.—A committee appointed under this Act may receive and serve notices under the Act; s. 99 (4), *supra*, p. 148.

Owner.—As to the definition of owner, *see* s. 141, *infra*.

Provisions for the recovery from the occupier of the expenses of the sanitary authority due from the owner are contained in s. 121, *supra*, p. 180.

Miscellaneous Provisions.

Inquiries by Local Government Board. 38 & 39 Vict. c. 55.

129.—Sections two hundred and ninety-three to two hundred and ninety-six of the Public Health Act, 1875, which are set forth in the First Schedule to this Act, shall apply to all inquiries which the Local Government Board may make in pursuance of or for the purposes of this Act.

These sections of the Public Health Act, 1875, are set out, *infra*, pp. 217, 218.

Inquiries.—The Local Government Board have power under this Act to hold inquiries as to the sufficiency of the number of sanitary inspectors appointed under s. 107, *supra*, p. 161; as to default by a sanitary authority on complaint of the county council under s. 101, *supra*, p. 150, and for other purposes.

Forms. 42 & 43 Vict. c. 49.

130.—The forms in the Third Schedule to this Act, or forms to the like effect, varied as circumstances may require, may, unless other forms are prescribed under the Summary Jurisdiction Act, 1879, be used and shall be sufficient for all purposes.

This section reproduces s. 41 of the Nuisances Removal Act, 1855, and corresponds in part to s. 317 of the Public Health Act, 1875.

Forms.—The Lord Chancellor has power to make, rescind, alter and add to rules in relation to the forms to be used under the Summary Jurisdiction Acts, or any of them, by s. 29 of the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49).

Provision for apportionment of certain expenses between hamlet of Penge and remainder of Lewisham district.

131.—Where the whole or any part of any expense incurred by the Lewisham District Board of Works, in pursuance of the epidemic regulations, may, under this Act, be repaid to that board out of the metropolitan common poor fund, the amount to be so repaid when ascertained shall be apportioned between the hamlet of Penge and the remainder of the Lewisham district in proportion to the rateable value of such hamlet and remainder, according to the valuation lists in force at the date of the apportionment, and the amount

Sect. 131.

apportioned to the hamlet of Penge shall be repaid to the district board by the board of guardians for the Croydon Union out of the common fund of the union, in pursuance of a precept of the Local Government Board to be issued after the like proceedings and in the like manner as in the case of a repayment from the metropolitan common poor fund; and the amount apportioned to the remainder of the Lewisham district shall be repaid to the district board out of the metropolitan common poor fund.

The hamlet of Penge forms part of the district of the Lewisham District Board of Works, and as such is, for sanitary purposes, within the county of London. It is, however, in the Croydon Union for poor-law purposes, and the Croydon Union does not form part of the Metropolitan Asylums District; *see* note to s. 81 (2), *supra*, p. 127.

Metropolitan common poor fund.—*See*, as to formation and application of this fund, note to s. 80 (3), *supra*, p. 126.

The amount expended under the epidemic regulations by a sanitary authority in providing buildings, and two-thirds of the salaries of officers and servants employed in such buildings, is to be repaid to the sanitary authority from the metropolitan poor fund; s. 87, *supra*, p. 130.

Extent of Act.

132.—This Act shall (save as otherwise expressly provided) extend only to London:

Provided that this Act shall extend to places elsewhere so far as is necessary for giving effect to any provisions thereof in their application to London and to any places to which such provisions are expressly applied.

London.—This means the administrative county of London; s. 141, *infra*.

Application of Act outside London.—Where a nuisance is caused outside London and affects the inhabitants of a district within London, the sanitary authority of that district may take proceedings in respect of the nuisance as though it occurred within their district; s. 14, *supra*, p. 34, and ss. 108 and 115 of the Public Health Act, 1875, set out in Schedule I., *infra*, pp. 213, 214.

The Metropolitan Asylum Managers are to continue to maintain the wharves, landing-places, and approaches thereto provided by them, whether within or without London; s. 79 (1), *supra*, p. 124.

Children sent by the London School Board to one of their industrial schools outside London are to be received into

hospitals of the Metropolitan Asylum Managers and deemed to be inhabitants of London; s. 81, *supra*, p. 126.

The medical officer of health, in the case of suspected infection by milk supplied in his district from a dairy situate without his district, has power to inspect and proceed in such a case as if the dairy were situate within the district; s. 71, *supra*, p. 116.

The port of London extends beyond the county of London; *see* note to s. 111.

Under s. 112, *supra*, p. 168, the Local Government Board may by order assign to the port sanitary authority any powers, etc., of a sanitary authority under the Act, and may extend to the port a bye-law made under the Act otherwise than by the port sanitary authority.

City of London.

133.—In the application of this Act to the City of London the following modifications shall be made: Application of Act to City.

(*a.*) There shall be no appeal under this Act from the commissioners of sewers to the county council:

(*b.*) The bye-laws made by the county council under this Act shall not extend to the city:

(*c.*) The county council shall not have power under this Act to require the commissioners of sewers to provide and maintain a building for post-mortem examinations:

(*d.*) The powers of the county council under this Act to proceed in case of default of a sanitary authority shall not extend to the commissioners of sewers.

City of London.—The sanitary authority of the City of London are the commissioners of sewers; s. 99, *supra*, p. 147. They and not the county council are the authority in the City of London respecting offensive trades; s. 19 (10), *supra*, p. 43.

For the registration of dairies under s. 28, the mayor, commonalty and citizens acting by the council are the local authority, and not the county council; s. 28 (4), *supra*, p. 59.

Appeal to the county council.—The matters on which an appeal from the sanitary authority to the county council is provided are set out in the note to s. 126, *supra*, p. 188, which section regulates appeals to the county council, and applies for that purpose ss. 211 and 212 of the Metropolis Management Act, 1855, under which section orders made by the vestries and district boards can be appealed against, but not those of the commissioners of sewers.

Sect. 133.

Bye-laws of the county council.—The county council have power to make bye-laws as to the removal of offensive matter through London, and as to closing cesspools and privies and the disposal of refuse, under s. 16 (2), *supra*, p. 36; as to offensive trades, under s. 19 (4), *supra*, p. 42; as to water-closets, etc., under s. 39.

Post-mortem building.—The power of the county council to require a sanitary authority to provide a building for the holding of post-mortem examinations is given by s. 90, *supra*, p. 134.

Default of sanitary authority.—Power is given to the county council to proceed as a sanitary authority on being satisfied that the latter has made default, by s. 100, *supra*, p. 149. The county council can make complaint to the Local Government Board that a sanitary authority have made default, and the Local Government Board, on being satisfied as to default, etc., may appoint the county council to perform such duty; *see* s. 101. Power is given to the Local Government Board to authorize an officer of the city police to take proceedings in case of default of the commissioners of sewers, under s. 134, *infra*. The provisions corresponding to those contained as to other sanitary authorities in s. 101 are provided by s. 135, *infra*.

Power of city police to proceed in certain cases against nuisances.

134.—Where it is proved to the satisfaction of the Local Government Board that the commissioners of sewers have made default in doing their duty in relation to nuisances under this Act, the Board may authorize any officer of police of the City of London to institute any proceeding which the commissioners might institute with regard to such nuisances, and that officer may recover from the commissioners in a summary manner or in the county court or High Court any expenses incurred by him, and not paid by the person proceeded against. Such officer of police shall not for the purpose of this section be at liberty to enter any house or part of a house used as the dwelling of any person without either such person's consent or the warrant of a justice.

This section preserves, as regards the City of London, the effect of s. 16 of the Sanitary Act, 1866 (29 & 30 Vict. c. 90), as amended by s. 19 of the Sanitary Act, 1874 (37 & 38 Vict. c. 89). The power corresponding to that of the Local Government Board under this section is, as regards the other sanitary authorities of London, vested in the county council; s. 100, *supra*, p. 149. As to the exclusion of the exercise of the county council's powers in the city, *see* s. 133, *supra*, 193. This present section corresponds to s. 106 of the Public Health Act, 1875.

Sect. 134.

In the application of s. 19 to the City of London, the commissioners of sewers are substituted for the county council; s. 19 (10), *supra*, p. 43. It may be doubted, however, whether that proviso will exclude the exercise within the City of London of the powers conferred by s. 22, *supra*, p. 50, on the county council, should occasion arise.

Expenses.—As to the recovery of expenses, *see* s. 117, *supra*, p. 175.

Warrant of justice.—This may be granted under s. 115 (3), *supra*, p. 172.

Proceedings on complaint to Local Government Board of default of commissioners of sewers.

135.—(1.) Where complaint is made to the Local Government Board that the commissioners of sewers have made default in executing or enforcing any provisions of this Act, the Local Government Board, if satisfied, after due inquiry, that those commissioners have been guilty of the alleged default, shall make an order limiting a time for the performance of their duty in the matter of such complaint. If the duty is not performed by the time limited in the order, the order may be enforced by writ of Mandamus, or the Local Government Board may appoint some person to perform the duty, and shall by order direct that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending the performance, and amounting to a sum specified in the order, together with the costs of the proceedings, shall be paid by the commissioners of sewers, and any order made for the payment of such expenses and costs may be removed into the High Court, and enforced as an order of that court.

(2.) Any person so appointed shall, in the performance and for the purposes of the said duty, be invested with all the powers of the commissioners of sewers other than (save as herein-after provided) the powers of levying rates; and the Local Government Board may by order change any person so appointed.

(3.) Any sum specified in an order of the Local Government Board for payment of the expenses of performing the duty of the commissioners of sewers, together with the costs of the proceedings, shall be deemed to be expenses properly incurred by those commissioners, and to be a debt due from them, and payable out of any moneys in their hands or the hands of their officers, or out of any rate applicable to the payment of any expenses properly incurred by the commissioners (which rate is in this section referred to

Sect. 135.

as "the local rate"). If the commissioners refuse to pay any such debt for a period of fourteen days after demand, the Local Government Board may by order empower any person to levy, by and out of the local rate, such sum (to be specified in the order) as may, in the opinion of the Local Government Board, be sufficient to defray the debt, and all expenses incurred in consequence of the nonpayment thereof.

(4.) Any person so empowered shall have the same powers of levying the local rate, and requiring all officers of the commissioners of sewers to pay over any money in their hands, as the commissioners would have in the case of expenses legally payable out of a local rate to be raised by them; and the said person, 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 commissioners of sewers.

(5.) The Local Government Board may certify the amount of expenses incurred, or an estimate of the expenses about to be incurred, by any person appointed by the Board under this section to perform the duty of the commissioners; also, the amount of any loan required to defray any expenses so incurred, or estimated as about to be incurred; and the certificate of the Board shall be conclusive as to all matters to which it relates.

(6.) Whenever the Local Government Board so certifies a loan to be required, that 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 the loan, and every such charge shall have the same effect as if the commissioners of sewers were empowered to raise the loan on the security of the local rate, and had duly executed an instrument charging the same on that rate.

(7.) Any principal money or interest for the time being due in respect of a loan under this section shall be a debt due from the commissioners of sewers, and, in addition to any other remedies, may be recovered in the manner in which a debt due from those commissioners may be recovered in pursuance of this section.

(8.) 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 commissioners of sewers.

(9.) "Expenses," for the purposes of this section, shall include all sums payable under this section by or by the order of the Local Government Board, or the person appointed by that Board.

This section reproduces s. 49 of the Sanitary Act, 1866 (29 & 30 Vict. c. 90), and s. 8 of the Sanitary Act, 1868 (31 & 32 Vict. c. 115), as amended by the Sanitary Loans Act, 1869 (32 & 33 Vict. c. 100), and s. 20 of the Sanitary Act, 1874 (37 & 38 Vict. c. 89). For the corresponding provisions of the Public Health Act, 1875, *see* ss. 299 to 302 of that Act.

For the provisions similar to those contained in this section, and which are applicable to the remainder of London, *see* s. 101, *supra*, p. 150.

Complaint.—This may be made apparently by anybody, and is not restricted, as in s. 101, to the complaint of the county council.

After due inquiry.—All inquiries made by the Local Government Board under this Act will be regulated by ss. 293 to 296 of the Public Health Act, 1875, set out *infra* in Schedule I. of this Act. *See* s. 129, *supra*, p. 191.

Local rate.—The expenses incurred by the commissioners of sewers are to be defrayed out of their sewer rate and consolidated rate, or either of such rates; s. 103, *supra*, p. 154.

For example of order made under the former Acts, *see R.* v. *Cockerell*, cited in note to s. 101, *supra*, p. 152.

Saving Clauses.

Saving for water rights.

136.—Nothing in this Act shall be construed to authorize any sanitary authority to injuriously affect the navigation of any river or canal, or to divert or diminish any supply of water of right belonging to any river or canal; or 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 person would, if this Act had not been passed, have been entitled by law to prevent or be relieved against the injuriously affecting of such reservoir, canal, river, stream, feeders, or such supply, quality, or fall of water, unless the sanitary authority first obtain the consent in writing of the person so entitled as aforesaid.

This section reproduces ss. 44 and 45 of the Nuisances Removal Act, 1855, and corresponds to s. 332 of the Public Health Act, 1875.

Sect. 136.

Injuriously affect.—As to what would be included in these words, see *Fletcher and Musgrave* v. *Smith*, (1877) 2 App. Cas. 781, in which case it was laid down that where a person, "for his own convenience, does something, *e.g.*, diverts the course of a stream, he must take care that the new course provided for it shall be sufficient to prevent mischief from an overflow, so that, even if that overflow should be directly and mainly occasioned by an act of nature, his own conduct in not forming the new and diverted course for the stream of form and of sufficient capacity to carry off an accidental overflow of water, even of an exceptional kind, will be matter for consideration in determining the question of liability."

Every riparian proprietor has a right to the reasonable use of the water flowing past his land, without regard to the effect which such use may have in case of a deficiency upon proprietors lower down the stream. *Stockport Water Company* v. *Potter*, 3 H. & C. 300, 10 Jur. N.S. 1,005, 10 L.T.N.S. 748.

Every proprietor of land on the banks of a natural stream has a right to use the water, provided he so uses it as not to work any material injury to the rights of the proprietors above or below him on the stream. *Sampson* v. *Hoddinott*, 1 C.B.N.S. 590, 3 Jur. N.S. 243, 26 L.J.C.P. 148.

The principles which regulate the rights of owners of land in respect of water flowing in known and defined channels, whether upon or below the surface of the ground, do not apply to underground water which merely percolates through the strata in no known channels.

Where, therefore, a landowner and a millowner who had for above sixty years enjoyed the use of a stream which was chiefly supplied by such percolating underground water, lost the use of the stream after an adjoining owner had dug on his own ground an extensive well for the purpose of supplying water to the inhabitants of the district, many of whom had no title as landowners to the use of the water, it was held, that the millowner had no right of action. *Chasemore* v. *Richards*, 7 H.L. Cas. 349; 5 Jur. N.S. 873; 29 L.J. Exch. 81, and Exch. Cham. 2 H. and N. 168; 3 Jur. N.S. 984; 26 L.J. Exch. 393.

But no one has a right to use his own land in such a way as to be a nuisance to his neighbour, and therefore, if a man puts filth or poisonous matter on his land, he must take care that it does not escape so as to poison water which his neighbour has a right to use, although his neighbour may have no property in such water at the time it is fouled. *Ballard* v. *Tomlinson*, (1885) 29 Ch.D. 115. In that case the plaintiff and defendant were adjoining landowners, and had each a deep well on his own land, the plaintiff's being at a lower level than the defendant's. The defendant turned sewage from his house into his well, and this polluted the water that percolated

underground from the defendant's to the plaintiff's land, and consequently the water which came into the plaintiff's well from such percolating water when he used his well by pumping, came adulterated with the sewage from the defendant's well. It was held that the plaintiff had a right of action against the defendant for so polluting the source of supply, although, until the plaintiff had appropriated it, he had no property in the percolating water under his land, and although he appropriated such water by the artificial means of pumping.

Entitled by law to prevent.—A local board of health, in the making of sewers, under 11 & 12 Vict. c. 63, and 21 & 22 Vict. c. 98, injuriously affected a stream without having obtained the consent of the occupier of a mill on the stream and entitled to the flow of the stream to his mill. He obtained a mandamus to the local board for compensation, and made a claim for damages sustained in consequence of the board opening the main sewer so as to allow the water of the stream to flow through. It was held that 21 & 22 Vict. c. 98, s. 73 (which was in almost identical terms with the present section), was not confined to cases in which a court of equity would grant an injunction against the local board, and that the occupier of the mill was in the position of a person who would, if the Act had not passed, have been entitled by law to prevent the injuriously affecting the stream. *R.* v. *Darlington Local Board*, 6 B. & S. 562; 35 L.J.Q.B. 45; 13 W.R. 789; 29 J.P. 419.

Although a landowner will not in general be restrained from drawing off the subterranean waters in the adjoining land, yet he will be restrained if, in so doing, he draws off the water flowing in a defined surface channel through the adjoining land.

Where a local board of health interferes with a watercourse in a manner not authorized by their statutory powers, they will be restrained from so doing, and the person injured will not be left to a remedy under the compensation clause of the Act. *Grand Junction Canal Company* v. *Shugar*, (1871) L.R. 6 Ch. 483.

Where any work which a sanitary authority does or requires to be done for the purposes of s. 43 of this Act interferes with or prejudicially affects any ancient mill or any right connected therewith or *other* right to the use of water, the authority shall make compensation to the persons sustaining damage, or may purchase the mill or rights; s. 43 (2) (*b*), *supra*, p. 78.

137.—Nothing in this Act shall affect any power of the Conservators of the Thames under the Thames Navigation Act, 1870, or otherwise.

Saving for Thames Conservators. 33 & 34 Vict. c. cxlix.

Sect. 137.

The port sanitary authority for the port of London are the mayor, commonalty and citizens of the City of London; s. 111, *supra*, p. 167. *See*, as to their powers, s. 112, *supra*, p. 168.

As to the maintenance of wharves and landing places on the Thames by the Metropolitan Asylum Managers, *see* s. 79, *supra*, p. 124.

"By virtue of, and under divers charters recognized and confirmed by divers Acts of Parliament, the mayor and commonalty and citizens of the City of London have had and exercised the office of bailiff and conservator of the water of Thames," 14 Geo. III. c. 91.

The Conservancy of the Thames is now vested in the Thames Conservancy Board under the Thames Conservancy Acts, 1857 and 1864, 1866, 1879 (20 & 21 Vict. c. cxlvii, 27 & 28 Vict. c. 113, 29 & 30 Vict. c. 89, 42 & 43 Vict. c. 73). These have been amended by the following Local and Personal Acts: 30 & 31 Vict. c. ci, 33 & 34 Vict. c. cxlix, 41 & 42 Vict. c. ccxvi, 46 & 47 Vict. c. lxxix.

The Conservancy are also the authority for enforcing the Thames Preservation Act, 1885 (48 & 49 Vict. c. 76), which, among other things, is to prevent nuisances in the Thames above Teddington.

Powers of Act to be cumulative.

138.—All powers, rights, and remedies given by this Act shall be in addition to and not in derogation of any other powers, rights, and remedies conferred by any Act of Parliament, law, or custom, and all such other powers, rights, and remedies may be exercised and put in force in the same manner and by the same authority as if this Act had not passed.

This section reproduces s. 43 of the Nuisances Removal Act, 1855, and s. 55 of the Sanitary Act, 1866, and corresponds to ss. 111 and 341 of the Public Health Act, 1875.

The effect of this section would, it seems, not be to enable the sanitary authority to proceed under this Act and also to proceed under other powers against the same individual, but to proceed under this Act or under any other powers they may possess. Such a proviso is expressly made in s. 341 of the Public Health Act, 1875.

Temporary Provisions.

Existing officers.

139.—(1.) In the case of any medical officer of health or inspector of nuisances who holds office under an appointment made before the commencement of this Act (in this section referred to as an existing officer), the provisions of this Act with respect to his salary and

tenure of office shall be qualified as follows; that is to say,

(*a.*) Where a portion of his salary is paid by the county council out of the Exchequer contribution account, the Local Government Board shall have the same powers as they have in the case of a district medical officer of a poor law union with regard to the qualification, appointment, duties, salary, and tenure of office of such officer:

(*b.*) In any other case the Local Government Board may prescribe the qualification and duties of a medical officer of health:

(*c.*) Subject to the said powers of the Local Government Board, the sanitary authority may make such payments as they think fit on account of the remuneration and expenses of such officer, and every such officer shall be removable by the sanitary authority at their pleasure:

(*d.*) Every such inspector of nuisances shall be called a sanitary inspector.

(2.) The requirements of this Act with respect to the qualification of medical officers shall not apply to medical officers appointed before the first day of January one thousand eight hundred and ninety-two; and this Act shall not prevent any person who at the commencement of this Act is both a district medical officer of a union and a medical officer of health from continuing to hold those appointments in like manner as if this Act had not been passed.

Medical officer of health.—The appointments of medical officers of health in future will be governed by ss. 106 and 108 *supra*, pp. 158, 162.

As to the continuance in office of medical officers of health appointed under the Acts repealed by this Act, *see* s. 142 (6), *infra*.

Inspectors of nuisances.—These are in future to be designated sanitary inspectors; their appointment in future will be governed by ss. 107 and 108, *supra*, pp. 160, 162.

As to the continuance in office of inspectors appointed under the Acts repealed by this Act, *see* s. 142 (6), *infra*.

Exchequer contribution account.—*See* note to s. 108, *supra*, p. 164.

Sect. 140.

Term of office of existing members of Woolwich board.

140.—Those members of the Woolwich Local Board whose term of office, if this Act had not been passed, would have expired in the month of August in any year, shall go out of office on the fifteenth day of April in the same year.

Woolwich.—In Woolwich, which is a part of the county of London, the sanitary authority is the local board of health; s. 99 (1) (*d*), *supra*, p. 147.

The provisions of the Public Health Act, 1875, set out *infra* in Schedule II. to the present Act, except in so far as they are superseded by this present Act, are extended to the parish of Woolwich; s. 102, *supra* p. 153. In consequence of the application to Woolwich of these provisions of the Public Health Act, 1875, the change of the date of the termination of office of the members of the present board of health is necessary, as by r. 59 of Schedule II. of the Public Health Act, 1875, one-third of the members of a local board are to go out of office on the 15th day April in each year.

Interpretation.

Interpretation of terms.

141.—In this Act, unless the context otherwise requires,—

The expression "London" means the administrative county of London:

The expression "county council" means the London County Council:

The expression "the Metropolitan Asylum Managers" means the Managers of the Metropolitan Asylum District:

The expression "street" includes any highway, and any public bridge, and any road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not, and whether or not there are houses in such street:

The expression "premises" includes messuages, buildings, lands, easements, and hereditaments of any tenure, whether open or enclosed, whether built on or not, and whether public or private, and whether maintained or not under statutory authority:

The expression "house" includes schools, also factories and other buildings in which persons are employed:

The expressions "building" and "house" respectively include the curtilage of a building or

house, and include a building or house wholly or partly erected under statutory authority :

The expression "bakehouse" means any place in which are baked bread, biscuits, or confectionery, from the baking or selling of which a profit is derived :

The expression "vessel" includes a boat and every description of vessel used in navigation :

The expression "hospital" means any premises or vessels for the reception of the sick, whether permanently or temporarily applied for that purpose, and includes an asylum of the Metropolitan Asylum Managers :

The expression "master" means, in the case of a building or part of a building, a person in occupation of or having the charge, management, or control of the building, or part of the building, and in the case of a house the whole of which is let out in separate tenements, or in the case of a lodging-house the whole of which is let to lodgers, includes the person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person, and in the case of a vessel means the master or other person in charge thereof :

The expression "house refuse" means ashes, cinders, breeze, rubbish, night-soil, and filth, but does not include trade refuse :

The expression "trade refuse" means the refuse of any trade, manufacture, or business, or of any building materials :

The expression "street refuse" means dust, dirt, rubbish, mud, road-scrapings, ice, snow, and filth :

The expression "owner" means the person for the time being receiving the rack-rent of the premises in connexion 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 premises were let at a rack-rent :

The expression "rack-rent" means rent which is not less than two-thirds of the full annual value of the premises out of which the rent arises ; and the full annual value shall be taken to be the annual rent which a tenant

Sect. 141.

might reasonably be expected, taking one year with another, to pay for the premises, if the tenant undertook to pay all usual tenant's rates and taxes, and tithe commutation rent-charge (if any), and if the landlord undertook to bear the cost of the repairs, and insurance, and the other expenses (if any) necessary to maintain the premises in a state to command such rent:

The expression "slaughterer of cattle or horses" means a person whose business it is to kill any description of cattle, or horses, asses, or mules, for the purpose of the flesh being used as butcher's meat; and the expression "slaughter-house" means any building or place used for the purpose of such business:

The expression "knacker" means a person whose business it is to kill any horse, ass, mule, or cattle which is not killed for the purpose of the flesh being used as butcher's meat; and the expression "knacker's yard" means any building or place used for the purpose of such business:

The expression "cattle" includes sheep, goats, and swine:

The expression "source of water supply" means any stream, reservoir, aqueduct, pond, well, tank, cistern, pump, fountain, or other work or means for the supply of water, whether actually used or capable of being used for the supply of water or not:

The expression "sanitary convenience" includes urinals, water-closets, earth-closets, privies, and any similar conveniences:

The expression "day" means the period between six o'clock in the morning and the succeeding nine o'clock in the evening:

The expression "ash-pit" means any ash-pit, dust-bin, ash-tub, or other receptacle for the deposit of ashes or refuse matter:

The expression "cistern" includes a water-butt:

The expression "dairy" includes any farm, farm-house, cowshed, milk-store, milk-shop, or other place from which milk is supplied, or in which milk is kept for purposes of sale:

The expression "dairyman" includes any cow-keeper, purveyor of milk, or occupier of a dairy.

Means.—The use of this word must be distinguished from that of "includes" in an interpretation clause. "In a definition clause 'means' has the effect of enacting that the word defined in the Act shall in that Act have no other meaning except that given to it in the interpretation clause;" per Lord Esher, M.R., in *Gough* v. *Gough*, (1891) 65 L.T. (N.S.), 112.

"The words 'shall include' mean 'shall have the following meanings in addition to its popular meaning;'" per Brett, M.R., in *Corporation of Portsmouth* v. *Smith*, (1883) 13 Q.B.D. at p. 195.

London.—By s. 40 of the Local Government Act, 1888 (51 & 52 Vict. c. 41), the Metropolis was made an administrative county by the name of the administrative county of London. By s. 100 of that Act the Metropolis meant the City of London and the parishes and places mentioned in Schedules A. B. and C. of the Metropolis Management Act, 1855, which are set out *infra*.

It must be noticed, therefore, that throughout the Public Health (London) Act, 1891, "London," which means "the administrative county of London" must be distinguished from the "county of London," which does not include in its area the City of London, which is a county of a city itself; *see* s. 40 (2) of the Local Government Act, 1888.

County Council.—The London County Council was created by the Local Government Act, 1888, s. 1; the number of its members is regulated by s. 40 (4) (5) of that Act. By s. 40 (8) of the same Act there were transferred to the London County Council the powers, duties and liabilities of the Metropolitan Board of Works, which ceased to exist, and the property, debts and liabilities of that board were transferred to the London County Council, who are the successors in law of the Metropolitan Board of Works.

Metropolitan Asylum Managers.—*See* note to s. 79, *supra*, p. 126; and ss. 55, 80, 81.

Street.—In this definition the word used is "includes": so that "street" will also mean what is popularly known as a street in addition to what is "included" in the interpretation.

The words "whether or not there are houses in such street" are not found in the interpretation clause of s. 4 of the Public Health Act, 1875.

The use of the word "street" in the interpretation of "street" is noticeable. The use of the new words gives effect to the decision of *Coverdale* v. *Charlton* (*see* note to s. 29, *supra*, p. 60, and s. 44 (2), *supra*, p. 83), where a highway repairable by the inhabitants at large, and which had no houses in it, was held to be a street within s. 4 of the Public Health Act, 1875.

Certain ways six feet wide, communicating with the backs of houses in an urban district, and used by the urban autho-

Sect. 141.

rity for the purpose of obtaining access to privies and ash-pits in order to remove the contents thereof, were held to be "passages," and therefore "streets" within the meaning of s. 4 of the Public Health Act, 1875, which the urban authority could prescribe the width of under s. 157 of that Act. *R.* v. *The Local Board of Goole*, (1891) 2 Q.B. 212.

A road ran from a turnpike road to a bridge, where it passed into another parish, and was from that point repaired by the local board of the parish as a highway. It was 900 feet long, and had on the south side several houses, including the appellant's house, abutting on it; on the north side there was none for 785 feet from the turnpike road. For the rest of its course it was bounded on that side by a sewage farm belonging to the rural authority, on which were two buildings. It was a public highway. There was no evidence of formal dedication of the road, but there was evidence of its use as a public highway since 1835, and some evidence before 1835, but none inconsistent with its having been an occupation road or footpath. The justices held that although it was not a street in the popular acceptation of the word, it was a street within the meaning of s. 4 of the Public Health Act, 1875, and the decision on this point was affirmed by the Queen's Bench Division. *Fenwick* v. *The Rural Sanitary Authority of Croydon*, (1891) 2 Q.B. 216. *See* also *Corporation of Portsmouth* v. *Smith*, (1883) 13 Q.B.D. 184.

Where a builder made what is known as a builder's road, which was made and coated with gravel and ballasted. The footpaths were made with gravel and kerbed with granite. The houses on either side of the road were not completed and occupied, but the road was open for carriages and foot passengers. It was lighted by the parish, but had not been taken to as a public road. It was held that the road was not the less a "street" within the definitions in s. 250 of the Metropolis Management Act, 1855, and s. 112 of the Metropolis Management Act, 1862, because it came within the definition of a new street in the last-mentioned section. *Hampstead Vestry* v. *Hoopel*, (1885) 15 Q.B.D. 652.

Premises.—By s. 3 of the Interpretation Act, 1889 (52 & 53 Vict. c. 63), "the expression 'land' shall include messuages, tenements and hereditaments, houses and buildings of any tenure," unless a contrary intention appears in the Act in which the word occurs.

See also definition of "owner" and notes thereon.

The words "whether maintained or not under statutory authority" are new; *see*, as to their effect, *Metropolitan Asylum Managers* v. *Hill*, (1881) 6 Ap. Cass. 193. *See* also provisions as to tents, vans, &c., s. 95, *supra*, p. 141.

House.—A chapel registered as a place of religious worship, which had not been consecrated, and of the land of which there had been no dedication in perpetuity, was held to be a

house within the meaning of 18 & 19 Vict. c. 120, s. 105. *Caiger* v. *St. Mary, Islington, Vestry*, 50 L.J. M.C. 59; 44 L.T. 605; 29 W.R. 538; 45 J.P. 570.

A church has been held to be not a house within 18 & 19 Vict. c. 120, s. 105. *Angell* v. *Paddington Vestry*, L.R. 3 Q.B. 714; 37 L.J. M.C. 171; 16 W.R. 1,167; 9 B. & S. 496.

A consecrated church of the established Church of England is not within the definition of "house" in 18 & 19 Vict. c. 130, s. 105, because by reason of its consecration it becomes by common law for ever incapable of being used as an habitation for man; but a leasehold chapel, to be used as a place of religious worship by a congregation of Wesleyans, was held to be a house within the definition in that section, and liable as such for paving expenses of a new street. *Wright* v. *Ingle*, (1885) 16 Q.B.D. 379. As to what has been held to be a building, *see Richardson* v. *Brown*, (1885) 49 J.P. 661.

Any vessel within the district of a sanitary authority is subject to the jurisdiction of that authority as if it were a house; s. 110, *supra*, p. 166.

Bakehouse.—This definition is taken from definition (22) in Schedule IV. of the Factory and Workshop Act, 1878 (41 Vict. c. 16).

Master.—The master of a vessel, for the purposes of this Act, is deemed the occupier of the vessel; s. 110 (2), *supra*, p. 166.

House refuse; trade refuse.—Clinkers produced in the furnaces of boilers belonging to an hotel, used to generate steam for the purpose of supplying power for electric lighting and for warming and cooking and other purposes of the hotel, are not refuse of a trade, manufacture, or business. *Vestry of St. Martin's* v. *Gordon*, (1891) 1 Q.B. 61.

Owner.—The definition of owner in the Nuisances Removal Act, 1855, was slightly different from the definition in this Act. Under the former Act the decision of *Cook* v. *Montagu*, *supra*, p. 18, was given.

A. was owner in fee of certain lands, and entered into a building agreement with B., by which B. agreed to build certain houses on part of the land and lay out the remainder as a garden for the exclusive use of the tenants of the houses, and A. agreed to grant B. a lease of each house as it was built, and to grant him a lease of the garden with the last house; and it was expressly agreed that B. should have no interest in any house or land until a lease of it was granted. B. built some of the houses, but not all, and laid out the garden; and A. subsequently sold the reversions of the houses which were built to C.

It was held that A. was the owner of the land within the meaning of the Metropolis Management Acts, 1855 and 1862

Sect. 141.

(18 & 19 Vict. c. 120, and 25 & 26 Vict. c. 102), and was liable to the proportion of paving rate of the road passing the garden. *Lady Holland* v. *Kensington Vestry*, L.R. 2 C.P. 565; 36 L.J. M.C. 105; 17 L.T. (N.S.), 73; 15 W.R. 1,045; 31 J.P. 758. See also *Mayor of St. Helen's* v. *Riley*, (1883) 47 J.P. 471.

A receiver appointed by the court is not an "owner" within the meaning of this section. *Corporation of Bacup* v. *Smith*, (1890) 44 Ch.D. 395.

See, as to cases of owner of churches and chapels, *R.* v. *Lee*, 4 Q.B.D. 75, and the cases cited under "house," *supra*, p. 206.

Rack-rent.—The "full annual value" in this definition is the same as the definition of "gross value" given in s. 4 of the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67).

Slaughterer of cattle or horses.—By a private Act which followed the words of the Markets and Fairs Clauses Act, 1847 (10 & 11 Vict. c. 14), it was enacted that "no person shall slaughter any cattle or dress any carcase for sale as human food in any place other than" such slaughter-house as there described, and imposed a penalty for doing so. It was held that the enactment only applied to slaughtering beasts intended by the person slaughtering for sale as human food. *Elias* v. *Nightingale*, 8 E. & B. 698. The effect of this decision is preserved by the words "a person whose business it is to kill."

Knacker.—In *Colam* v. *Hall*, (1871) L.R. 6 Q.B. 206, it was held that s. 9 of 12 & 13 Vict. c. 92, which imposes a penalty on any person who, having the management of any place for the purpose of slaughtering horses or other cattle not intended for butcher's meat, shall use, or permit to be used, any horse or other cattle brought to such place for the purpose of being slaughtered, applies to a private as well as a licensed slaughter-house.

Day.—*See* note to s. 10, *supra*, p. 28.

Repeal.

Repeal of enactments in schedule.

142.—(1.) The Acts specified in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule, and shall be so repealed as from the date in that schedule mentioned, and where no date is mentioned as from the commencement of this Act;

(2.) Provided that—

(*a.*) where any enactment in the said schedule extends beyond London, such enactment shall not unless otherwise expressed be deemed to

be hereby repealed, so far as it applies beyond London :

(*b.*) all securities given under and all orders, bye-laws, rules, regulations, and notices duly made or issued under or having effect in pursuance of any Act hereby repealed shall be of the same validity and effect as if they had been given, made, or issued under this Act, and any penalties recoverable under any such order, bye-law, rule, regulation, or notice may be recovered as if they were imposed by bye-laws under this Act.

(3.) Where the county council or a sanitary authority are required by this Act to make bye-laws for any purpose for which there are no bye-laws of the council or authority in force at the commencement of this Act, the first bye-laws made by the county council or sanitary authority for that purpose under this Act shall be submitted to the Local Government Board for sanction not later than six months after the commencement of this Act.

(4.) Any enactment expressed in the Fourth Schedule to this Act to be repealed as from the coming into operation of any bye-law made for the like object shall, although no such bye-law is made, be repealed on the expiration of twelve months next after the commencement of this Act, or such later day, not exceeding eighteen months from such commencement, as may be fixed by Order in Council.

(5.) For the removal of doubts it is hereby declared that so much of the Public Health Act, 1875, as re-enacts sections fifty-one and fifty-two of the Sanitary Act, 1866, and sections thirty-four to thirty-six of the Public Health Act, 1872, extends to London.

38 & 39 Vict. c. 55.
29 & 30 Vict. c. 90.
35 & 36 Vict. c. 79.

(6.) Officers appointed under any enactment hereby repealed shall continue in office in like manner as if they were appointed in pursuance of this Act, subject nevertheless to the provisions of this Act respecting existing officers.

(7.) Where in any enactment or in any order made by a secretary of State or by the Local Government Board, and in force at the time of the passing of this Act, or in any document, any Act or any provisions of an Act are mentioned or referred to which relate to London and are repealed by this Act, such enactment, order, or document shall be read as if this Act or the

Sect. 142.

corresponding provisions of this Act were therein mentioned or referred to instead of such repealed provisions, and as if a sanitary authority under this Act were substituted for any nuisance authority mentioned in such repealed provisions.

Date of repeal.—By s. 11 of the Interpretation Act, 1889 (52 & 53 Vict. c. 63), where an Act passed after the year 1850 repeals a repealing enactment it does not revive any enactment repealed unless words having that effect are added; and where an Act passed after 1850 repeals any former enactment and substitutes provisions for the enactment repealed, the repealed enactment will remain in force until the substituted provisions come into operation.

The enactments with special dates for their repeal are those referred to in sub-section (4) of this section as repealed from the coming into operation of bye-laws made for the like effect. They are 57 Geo. 3, c. xxix, s. 64; 2 & 3 Vict. c. 47, s. 60; 18 & 19 Vict. c. 120, ss. 126, 202.

Enactments inconsistent with this Act are by implication repealed by this Act without express enactment. *Dean of Ely* v. *Bliss*, 5 Beav. at p. 582; *Daw* v. *Metropolitan Board of Works*, 12 C.B. N.S. 161, 31 L.J.C.P. 223; *R.* v. *Middlesex Justices*, 2 B. & Ad. 818.

A local Act is not, in the absence of indication to the contrary, repealed by a subsequent public general Act. *Fitzgerald* v. *Champneys*, 2 John. & H. 31.

A clause in a public Act will, however, repeal a clause in a previous private Act which is quite inconsistent with it. *Great Central Gas Consumers* v. *Clarke*, 13 C.B. N.S. 838; but *see Hill* v. *Hall*, 1 Ex.D. 411.

Liability under repealed enactments.—The Nuisances Removal Act, 1855 (18 & 19 Vict. c. 121), was, except as regards London, repealed by the Public Health Act, 1875, and s. 343 of the latter Act contained a proviso that the "repeal shall not affect any right or liability acquired, accrued, or incurred under any enactment hereby repealed."

An order having been made on May 24, 1875, to discontinue an offence under the Nuisances Removal Act, 1855, the respondent was afterwards summoned before the justices for having, on August 12, 1875, disobeyed the order made under the earlier Act, which was repealed (as stated above) on August 11. It was held that the order was a liability within the proviso, and was in force notwithstanding the repeal of the statute under which it was made. *Barnes* v. *Eddlestone*, 1 Ex.D. 102.

Where after an action had been brought a statute has been passed, the law as it existed when the action was commenced must decide the rights of the parties unless the legislature express a clear intention to vary the relation of litigant parties

to each other; *Hitchcock* v. *Way*, 6 A. & E. 943. After the repeal of a statute the court can order the payment of costs of a case decided under the statute before the repeal; *Restall* v. *London and South Western Railway Co.*, L.R. 3 Ex. 141.

But apart from express enactment, an action depending on the words of a statute which is repealed while the action is pending cannot be proceeded with: *Miller's case*, 1 Wm. Bl. 451; *R.* v. *Denton*. 18 Q.B. 761; and *R.* v. *Mackenzie*, R. & R.C.C. 429.

Public Health Act, 1875.—This Act by its repealing section (343) repeals the Acts set out in its Fifth Schedule, parts 1 and 2, "with the following qualification (that is to say): That so much of the said Acts as is set forth in the third part of that Schedule shall be re-enacted in manner therein appearing, and shall be in force as if enacted in the body of this Act."

In the third part of that Schedule occur ss. 51 and 52 of the Sanitary Act, 1866 (29 & 30 Vict. c. 90); and ss. 34 to 36 of the Public Health Act, 1872 (35 & 36 Vict. c. 79.) The sections are set out *infra*, in the Appendix.

Officers under repealed Acts.—Provision is made in s. 139, *supra*, p. 200, as to the salary and tenure of office of medical officers of health and sanitary inspectors appointed under the repealed Acts.

143.—This Act shall come into operation on the first day of January next after the passing thereof. Commencement of Act.

144.—This Act may be cited as the Public Health (London) Act, 1891. Short Title.

SCHEDULES.

FIRST SCHEDULE.

Enactments Applied.

Section 33 of the Metropolis Water Act, 1871. 34 & 35 Vict. c. 113.

33.—The absence in respect of any premises of prescribed fittings after the prescribed time shall be a nuisance, within section 11 and sections 12–19 (inclusive) of the Nuisances Removal Act for England, 1855, and within all provisions of the same or any other Act applying, amending, or otherwise relating to those sections; and that nuisance, if in any case proved to exist, shall be presumed to be such as to render the premises unfit for human habitation within section 13 of the Nuisances Removal Act for England, 1855, unless and until the contrary is shown to the satisfaction of the justices acting under that section.

Absence of proper water fittings in premises to be a nuisance.

Nuisance.—The provisions of the Public Health (London) Act, 1891, by which the absence of water fittings is declared to be a nuisance, are contained in s. 2 (1) (*f*), *supra*, p. 2.

Sections 108 and 115 of the Public Health Act, 1875, relating to Nuisances out of the District. 38 & 39 Vict. c. 55.

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 authorized, with the same incidents 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.

Power to proceed where cause of nuisance arises without district.

This section shall extend to the metropolis so far as to authorize 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.

Application to London.—The extension of this section to London is continued by s. 14 of the Public Health (London) Act, 1891, *supra*, p. 34.

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 authorized 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 authorize 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.

Application to London.—The extension of this section to London is continued by s. 21 (5) of the Public Health (London) Act, 1891, *supra*, p. 49.

38 & 39 Vict. c. 55. 52 & 53 Vict. c. 64.

Sections 130, 134, 135, *and* 140 *of the Public Health Act*, 1875, *and section* 2 *of the Public Health Act*, 1889, *relating to regulations and orders of the Local Government Board with respect to cholera, or other epidemic, endemic, or infectious diseases.*

These sections (130, 134, 135, and 140) of the Public Health Act, 1875, as explained by s. 2 of the Public Health Act, 1889, are applied to London by s. 113 of the Public Health Act (London) Act, 1891. *See* note to that section, *supra*, p. 169.

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 three 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 fifty pounds.

Explanation of powers of Local Government Board to make regulations.

2.—(1.) Regulations of the Local Government Board made in relation to cholera and choleraic diarrhœa in pursuance of section one hundred and thirty of the Public Health Act, 1875, may provide for such regulations being enforced and executed by the officers of Customs as well as by other authorities and officers, and

without prejudice to the generality of the powers conferred by the said section may provide for the detention of vessels and of persons on board vessels, and for the duties to be performed by pilots, masters of vessels, and other persons on board vessels ;

(2.) Provided that the regulations, so far as they apply to the officers of Customs, shall be subject to the consent of the Commissioners of Her Majesty's Customs ;

(3.) The officers of Customs, for the purpose of the execution of any powers and duties under the said regulations, may exercise any powers conferred on such officers by any other Act.

Regulations.—The Local Government Board under this section are to declare what sanitary authorities are to enforce the regulations. And it is the duty of such sanitary authorities to see to the execution of the regulations.

The regulations under s. 134, *infra*, are to be enforced as directed in s. 82 of the Act, *supra*, p. 127.

See as to the Port Sanitary Authority of London, ss. 111 and 112, *supra*, pp. 167, 168.

Penalty.—As to the recovery of fines and penalties *see* s. 117, *supra*, p. 175, and as to the application of fines, &c., *see* s. 119, *supra*.

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.

This section re-enacts ss. 5, 6, and 11 of the Diseases Prevention Act, 1855 (18 & 19 Vict. c. 116), which Act, although repealed except as to London by the Public Health Act, 1875, still remained in force as to London until repealed by the Public Health (London) Act, 1891, s. 142, *supra*, p. 208.

The authority for enforcing these regulations is the sanitary authority as directed in s. 82 of the Act, *supra*, p. 127.

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.

This section reproduces s. 7 of the Diseases Prevention Act, 1885 ; *see* note to s. 134, *supra*.

Conclusive evidence.—As to receiving the *London Gazette* in evidence, *see* R. v. *Lowe*, 52 L.J. M.C. 122 ; 48 L.T. (N.S.) 768 ; 47 J.P. 535.

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 five pounds.

This section reproduces s. 14 of the Diseases Prevention Act, 1855; *see* note to s. 134.

Penalty.—As to the recovery of penalties, *see* s. 117, *supra*, p. 175. As to the application of penalties, *see* s. 119, *supra*, p. 177.

38 & 39 Vict. c. 55.

Sections 182–186 *of the Public Health Act*, 1875, *relating to bye-laws.*

These sections (182 to 186) of the Public Health Act, 1875, are applied to London by s. 114 of the Public Health (London) Act, 1891, *supra*, p. 170, where *see* the purposes for which bye-laws may be made.

Authentication and alteration of bye-laws.

182.—All bye-laws made by a local authority under and for the purposes of this Act shall be under their common seal; and any such bye-law may be altered or repealed by a subsequent bye-law made pursuant to the provisions of this Act: Provided that no bye-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.

Common seal.—In addition to being under the common seal of the authority, bye-laws must be allowed and confirmed by the Local Government Board under s. 184, *infra.*

Bye-laws not to be repugnant to the laws of England.—The bye-laws can be made only for the purposes specified in the Act, and not generally for the purposes of the Act. *See R.* v. *Rose*, 24 L.J. M.C. 130; 1 Jur. N.S. 802; *R.* v. *Wood*, 5 E. & B. 49.

Although the bye-laws may be for purposes authorized by the Act, yet they must be reasonable: as to what is reasonable, *see Johnson* v. *Mayor of Croydon*, (1886) 16 Q.B.D. 708; and *R.* v. *Powell*, 51 L.T. (N.S.) 48 J.P. 740; *Munro* v. *Watson*, 1887, W.N. 60; *Everett* v. *Grapes*, 3 L.T. 669.

A bye-law may be good in part and bad in part if the two parts are distinct from each other and separately entire, *R.* v. *Faversham*, 8 T.R. 352; and may be enforceable as to the valid part, *R.* v. *Lundie*, 31 L.J. M.C. 157, 8 Jur. N.S. 640, 5 L.T. 830, 10 W.R. 267.

Repeal.—Every bye-law may be repealed by the same body which made it. *R.* v. *Ashwell*, 12 East. 22.

Power to impose penalties on breach of bye-laws.

183.—Any local authority may, by any bye-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 five pounds for each offence, and in the case of a continuing offence a further penalty not exceeding forty shillings for each day after written notice of the offence from the local authority; but all such bye-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.

Recovery of Penalties.—This is provided for by s. 117, *supra*, p. 175; and the application of penalties is governed by s. 119, *supra*, p. 177.

Confirmation of bye-laws.

184.—Bye-laws made by a local authority under this Act 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 bye-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 bye-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 bye-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 bye-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 bye-laws or any part thereof, on payment of sixpence for every hundred words contained in such copy.

A bye-law required to be confirmed by the Local Government Board shall not require confirmation, allowance, or approval by any other authority.

Confirmed by the Local Government Board.—This confirmation will not make the bye-laws valid if otherwise not valid, nor will it prevent inquiry as to their validity. *R.* v. *Rose* (or *Wood*), *supra* ; *Johnson* v. *Mayor of Croydon*, (1886) 16 Q.B.D. 708.

185.—All bye-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 bye-laws relate, on his application for the same. Bye-laws to be printed, &c.

186.—A copy of any bye-laws made under this Act by a local authority, 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 bye-laws without further or other proof. Evidence of bye-laws.

Sections 293–296 *of the Public Health Act*, 1875, *relating to Inquiries of the Local Government Board.* 38 & 39 Vict. c. 55.

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. Power of Board to direct inquiries.

This and the three following sections of the Public Health Act, 1875, are applied to London by s. 129 of the Public Health (London) Act, 1891. They are also applied to inquiries held by the Local Government Board under the Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70), s. 85.

Inquiries directed by the Act.—For the inquiries directed by the Act *see* s. 101, *supra*, p. 150, s. 107, *supra*, p. 161, and s. 129, *supra*, p. 191. It would seem that as ss. 293 to 296 of the Public Health Act 1875, are

not incorporated into the Public Health (London) Act, 1891, but only applied for the purposes of the inquiries under that Act, their operation will not extend to authorizing the Local Government Board to hold in London "such inquiries as they see fit in relation to any matters concerning the public health."

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.

Rules of court.—Rules of court whereby any sum of money or any costs, charges, or expenses shall be payable to any person, shall have the effect of judgments in the superior courts of common law, and the persons to whom any such share shall be payable shall be deemed judgment creditors with the meaning of the Act; s. 18 of 1 & 2 Vict. c. 110.

Orders of Board under this Act.

295.—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.

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.

The inspectors have power to require the attendance of witnesses either to give evidence or to produce books, writings, &c., and have power to examine witnesses, and for the purpose to administer an oath or affirmation (10 & 11 Vict. c. 109, s. 11).

18 & 19 Vict. c. 120.

Sections 211 *and* 212 *of the Metropolis Management Act*, 1855, *relating to Appeals to London County Council.*

Power to appeal against orders and acts of vestries and district boards in relation to construction of works.

211.—Any person who deems himself aggrieved by any order of any vestry or district board in relation to the level of any building, or any order or act of any vestry or district board in relation to the construction, repair, alteration, stopping or filling up, or demolition of any building, sewer, drain, ... , may, within seven days after notice of any such order to the occupier of the premises affected thereby, or after such act, appeal to the county council against the same; and all such appeals shall stand referred to the committee appointed by such council for hearing appeals as herein provided; and such committee shall hear and determine all such appeals, and may order any costs of such appeals to be paid to or by the vestry or district board by or to the party appealing, and may, where they see fit, award any compensation in respect of any act done by any such vestry or district board in relation to the matters aforesaid; provided that no such compensation shall be awarded in respect of any such act which may have been done under any of the provisions of this Act on any default to comply with any such order as aforesaid, unless the appeal be lodged within seven days after

notice of such order has been given to the occupier of the premises to which the same relates.

For other provisions of the Metropolis Management Act, 1855, *see* the Appendix, *infra*. This section and the next (212) are applied to appeals under the Public Health (London) Act, 1891, by s. 126 of that Act, *supra*, p. 188, where *see* in note the matters in respect of which appeals are given.

Committee of council.—As to the appointment of this committee by the council and as to its powers, *see* s. 212, *infra*. *See* also note to s. 20, *supra*, p. 47, s. 99 (4), *supra*, p. 148.

May appeal to the county council.—A vestry gave notice to the respondent requiring him to furnish proper doors and coverings to a water-closet; the respondent did not comply with the order, and did not appeal to the county council; then the vestry summoned the respondent under s. 81 of the Metropolis Management Act, 1855, and s. 64 of the Metropolis Management Act, 1862, for neglecting to comply with the order. The magistrate held that the order of the Vestry was wrongly made, and dismissed the summons. But it was held, on a case stated, that the respondent's proper remedy if he objected to the order of the vestry was by appealing to the county council; and as he had not done so, the only questions for the decision of the magistrate were, whether the order of the vestry had in fact been made, and whether it had been disobeyed; and that if he decided those questions in the affirmative he was bound to convict. *Vestry of St. James and St. John, Clerkenwell* v. *Feary*, (1890) 24 Q.B.D. 703.

Hear and determine.—It may be doubted whether these words give power to vary an order.

Under the Metropolis Management Act, 1862 (25 & 26 Vict. c. 102), s. 29, the present section was amended in order that the committee on appeal might vary the order appealed from. The section of the 1862 Act is not applied by the Public Health (London) Act, 1891.

County council to appoint a committee for hearing appeals.

212.—The county council shall appoint a committee for the purpose of hearing all such appeals as may be made to the said council as aforesaid, which committee shall have power to hear and decide all such appeals, and the county council shall from time to time fill up any vacancy in such committee, and the chairman of the said council shall, by virtue of his office of chairman, be a member of the said committee in addition to the members appointed by the said council, and shall preside at all meetings of such committee at which he is present; and in case of a vacancy in the office of such chairman, or in his absence, some other member of the committee shall be chosen to preside; and all the powers of such committee may be exercised by any three of them; and any member of such committee may at any time resign his office.

Committee.—*See*, as to the duty of the committee, note to last section and note to s. 20, *supra*, p. 47, and s. 99 (4), *supra*, p. 148.

SECOND SCHEDULE.

PROVISIONS OF PUBLIC HEALTH ACTS EXTENDED TO WOOLWICH.*

Enactments.	Subject Matter.
38 & 39 Vict. c. 55 :	
Section four . . .	Definitions.
Sections five to eight, ten, and twelve	Authorities for execution of Act.
Sections thirteen to thirty-four .	Sewerage and drainage.
Section forty-one, so far as it relates to a drain.	Examination, and enforcement of law, as to drain.
Sections fifty-one to sixty-one, sixty-three, and sixty-five.	Water supply.
Sections one hundred and forty-four to one hundred and forty-eight.	Highways.
Sections one hundred and forty-nine to one hundred and fifty-five, and one hundred and fifty-seven to one hundred and sixty.	Streets and buildings.
Sections one hundred and sixty-one to one hundred and sixty-three.	Lighting streets.
Sections one hundred and sixty-four and one hundred and sixty-five.	Public pleasure grounds and clocks.
Sections one hundred and sixty-six to one hundred and sixty-eight.	Markets.

* *See* ss. 102 and 140 of the Act, *supra*, pp. 153, 202.

Enactments.	Subject Matter.
38 & 39 Vict. c. 55 :	
Section one hundred and seventy-two.	Licensing of, and bye-laws for, horses, boats, &c., let for hire.
Sections one hundred and seventy-three and one hundred and seventy-four.	Contracts.
Sections one hundred and seventy-five to one hundred and seventy-eight.	Purchase of land.
Sections one hundred and seventy-nine to one hundred and eighty-one.	Arbitration.
Sections one hundred and eighty-two to one hundred and eighty-six, and one hundred and eighty-eight.	Bye-laws.
Sections one hundred and eighty-nine, and one hundred and ninety-two, to one hundred and ninety-six.	Officers.
Sections one hundred and ninety-seven, one hundred and ninety-nine, two hundred, and two hundred and three to two hundred and six.	Mode of conducting business.
Sections two hundred and seven, and two hundred and nine to two hundred and twenty-seven	Expenses and rates.
Sections two hundred and thirty-three to two hundred and forty-three.	Borrowing.
Sections two hundred and forty-five, two hundred and forty-seven, two hundred and forty-nine, and two hundred and fifty.	Audit.
Sections two hundred and fifty-one, two hundred and fifty-three, two hundred and fifty-four, and two hundred and fifty-six to two hundred and sixty-nine.	Legal proceedings.

Enactments.	Subject Matter.
38 & 39 Vict. c. 55 :	
Section two hundred and eighty-five.	Works outside district.
Sections two hundred and ninety-three to three hundred and four.	Powers of Local Government Board.
Sections three hundred and five to three hundred and eleven, and three hundred and thirteen to three hundred and seventeen.	Miscellaneous.
Sections three hundred and twenty-seven to three hundred and thirty-seven, and three hundred and thirty-nine to three hundred and forty-one.	Saving clauses.
The schedules so far as they are applicable.	—
45 & 46 Vict. c. 23. . . .	Bye-laws for fruit pickers' lodgings.
46 & 47 Vict. c. 37. . . .	Support of sewers.
47 & 48 Vict. c. 12. . . .	Confirmation of bye-laws.
47 & 48 Vict. c. 74. . . .	Officers.
48 & 49 Vict. c. 53. . . .	Members and officers of local authority.
51 & 52 Vict. c. 52. . . .	Buildings in streets.
53 & 54 Vict. c. 17. . . .	Rating of orchards.

THIRD SCHEDULE.

FORMS.*

FORM A.

Form of Notice requiring Abatement of Nuisance.

To [*person causing the nuisance, or owner or occupier of the premises at which the nuisance exists, as the case may be*].

Take notice that under the provisions of the Public Health (London) Act, 1891, the [*describe the sanitary authority*], being satisfied of the existence at [*describe premises where the nuisance exists*] of a nuisance being [*describe the nuisance, for instance,* premises in such a state as to be a nuisance or injurious or dangerous to health, *or for further instance,* a ditch or drain so foul as to be a nuisance or injurious or dangerous to health], do hereby require you within [*specify the time*] from the service of this notice to abate the same [and to execute such works and do such things as may be necessary for that purpose, *or* and for that purpose to *specify any works to be executed*], [and the said [*authority*] do hereby require you within the said period to do what is necessary for preventing the recurrence of the nuisance, and for that purpose to *&c.*]

Where the nuisance has been abated, but is likely to recur, say, being satisfied that at *&c.* there existed recently, to wit, on or about the day of the following nuisance, namely [*describe nuisance*], and that although the said nuisance has since the last-mentioned day been abated, the same is likely to recur at the said premises, do hereby require you within [*specify time*], to do what is necessary for preventing the recurrence of the nuisance [and for that purpose to *&c.*]

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 before a petty sessional court, to answer a complaint which will be made for the purpose of enforcing the abatement of the nuisance, or prohibiting the recurrence thereof, or both, and for recovering the costs and penalties that may be incurred thereby.

Dated this day of 18 .

Signature of officer of sanitary authority

* These forms or others to the like effect, unless others are prescribed under the Summary Jurisdiction Act, 1879, are to be used; s. 130, *supra*, p. 191.

FORM B.

Form of Summons.

Summons.

To *A.B.*, of [*or* to the owner *or* occupier of] [*describe premises*] situated [*insert such description of the situation as may be sufficient to identify the premises*],

County of &c., to wit. } YOU are required to appear before [*describe the petty sessional court*], at the court [*or* petty sessions] 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 at the premises above mentioned [*or* at certain premises situated at No. in street in the parish of *or insert any other such description or reference as may be sufficient to identify the premises*], in the district of [*describe the sanitary authority*], the following nuisance exists [*describe the nuisance and add, where the person causing the nuisance is summoned*, and that the said nuisance is caused by the act, default, or sufferance of you, *A.B.*].

Where the nuisance is discontinued, but is likely to be repeated, say, to answer the complaint *&c.* that at *&c.* there existed recently, to wit, on or about the day of , the following nuisance [*describe the nuisance, and add, where the person causing the nuisance is summoned*, and that the said nuisance was caused, *&c.*], and although the said nuisance has since the said last-mentioned day been abated or discontinued, that the same or the like nuisance is likely to recur at the said premises.

Given under my hand and seal this day of 18 .

J.S. (L.S.)

FORM C.

Form of Nuisance Order.

To *A.B.*, of [*or* to the owner *or* occupier of [*describe premises*] situated [*insert such description of the situation as may be sufficient to identify the premises*].

County of, &c. to wit. } WHEREAS the said *A.B.* [*or* the owner *or* occupier of the said premises within the meaning of the Public Health (London) Act, 1891] has this day appeared before me [*or* us, *describing the court*], to answer the matter of a complaint made by *&c.* that at *&c.* [*follow the words of complaint in summons*] [*or in case the party charged do not appear, say*, Whereas it has been now proved to my (*or* our) satisfaction that a summons has been duly served according to the Public Health (London) Act, 1891, requiring the said *A.B.*, [*or* the owner *or* occupier of the said premises] to appear this day before me [*or* us] to answer the matter of a complaint made by *&c.* that at *&c.*] :

[*Any of the following orders may be made or a combination of any of them as the case seems to require.*]

Abatement Order. Now on proof here had before me [*or* us] that the nuisance so

complained of does exist at the said premises [*add, where the order is made on the person causing the nuisance*, and that the same is caused by the act, default, or sufferance of *A.B.*], I [*or* we], in pursuance of the Public Health (London) Act, 1891, do order the said *A.B.* [*or* the said owner *or* occupier] within [*specify the time*] from the service of this order according to the said Act [*here specify the nuisance to be abated, as, for instance*, to prevent the premises being a nuisance or injurious or dangerous to health, or, *for further instance*, to prevent the ditch or drain being a nuisance or injurious or dangerous to health] [and *state any works to be executed, as, for instance*, to whitewash and disinfect the premises, *or, for further instance*, to clean out the ditch].

And I [*or* we] being satisfied that, notwithstanding the said nuisance may be temporarily abated under this order, the same is likely to recur, do therefore prohibit the said *A.B.* [*or* the said owner *or* occupier] from allowing the recurrence of the said or a like nuisance [and for that purpose I *or* we direct the said *A.B. or* the said owner *or* occupier, *here specify any works to be executed, as, for instance*, to fill up the ditch]. Prohibition Order, No. 1.

Now, on proof here had before me [*or* us] that at or recently before the time of making the said complaint, to wit, on the nuisance so complained of did exist at the said premises, but that the same has since been abated [*add, where the order is made on the person causing the nuisance*, and that the nuisance was caused by the act, default, or sufferance of *A.B.*], yet, notwithstanding such abatement, I [*or* we] being satisfied that it is likely that the same or the like nuisance will recur at the said premises, do therefore prohibit [*continue as in Prohibition Order, No.* 1]. Prohibition Order, No. 2.

Now, on proof here had before me [*or* us] that the nuisance is such as to render the dwelling-house [*describe the house*] situated at [*insert such a description of the situation as may be sufficient to identify the dwelling-house*] unfit in my [*or* our] judgment for human habitation, I [*or* we] in pursuance of the Public Health (London) Act, 1891, do hereby prohibit the use of the said dwelling-house for human habitation. Closing Order.

Given under the hand and seal of me [*or* the hands and seals of us, *describing the court*].

This day of 18 .

J.S. (L.S.)

J.P. (L.S.)

FORM D.

Form of Nuisance Order to be executed by Sanitary Authority.

To the , [*describe the sanitary authority*],

County of, &c., to wit. } WHEREAS a complaint has been made by that at certain premises situated at No. in street, in the parish of [*or insert any other description or reference as may be sufficient to identify the premises*] in the district of [*describe the sanitary authority*] the following nuisance exists [*describe the nuisance*].

And it has been now proved to my [*or* our] satisfaction that such nuisance exists, but that no owner or occupier of the premises, or person by whose act, default, or sufferance the nuisance is caused, is known *or* can be found [*as the case may be*] ; Now I [*or* we] in pursuance of the Public Health (London) Act, 1891, do [*continue as in any of the orders in Form C. with the substitution of the name of the sanitary authority for that of A.B. or the owner or occupier*].

Given, *&c.* (*as in last form*).

FORM E.

Warrant of Justice for Entry to Premises.

WHEREAS *A.B.*, being a person authorized under the Public Health (London) Act, 1891, to enter certain premises [*describe the premises*], has made application to me, *C.D.*, one of Her Majesty's justices of the peace having jurisdiction in and for [*describe the place*], to authorize the said *A.B.* to enter the said premises, and whereas I, *C.D.*, am satisfied by information on oath that there is reasonable ground for such entry, and that there has been a refusal or failure to admit to such premises, and *either* that reasonable notice of the intention to apply to a justice for a warrant has been given, *or* that the giving of notice of the intention to apply to a justice for a warrant would defeat the object of the entry.

[*or* am satisfied by information on oath that there is reasonable cause to believe that there is on the said premises a contravention of the Public Health (London) Act, 1891, or of a bye-law made under that Act, and that an application for admission or notice of an application for a warrant would defeat the object of the entry.]

Now, therefore, I, the said *C.D.*, do hereby authorize the said *A.B.* to enter the said premises, and if need be by force, with such assistants as he may require, and there execute his duties under the said Act.

Given, *&c.* (*as in last form*).

FOURTH SCHEDULE.

ENACTMENTS REPEALED.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
26 Geo. 3. c. 71.	An Act for regulating houses and other places kept for the purpose of slaughtering horses.	The whole Act.
57 Geo. 3. c. xxix.	An Act for the better Paving, Improving, and Regulating the Streets of the Metropolis, and Removing and Preventing Nuisances and Obstructions therein.	Section fifty-seven so far as it relates to a cesspool; sections fifty-nine to sixty-one; section sixty-three; section sixty-four from "or shall throw" to "either of such pavements" as from the coming into operation of any bye-law made for the like object; sections sixty-seven and sixty-eight; and sections seventy-three and seventy-four as from the coming into operation of any bye-law made for the like object.
2 & 3 Vict. c. 47.	An Act for further improving the Police in and near the Metropolis.	Section sixty, from "or cause any offensive matter" to "so as to be a common nuisance," as from the coming into operation of any bye-law made for the like object; and from "every occupier of a house" to "this enactment."
7 & 8 Vict. c. 87.	An Act to amend the law for regulating places kept for slaughtering horses.	The whole Act.

* *See*, as to the time and extent of the repeal of these enactments, s. 142, *supra*, p. 208.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
16 & 17 Vict. c. 128.	An Act to abate the Nuisance arising from the Smoke of Furnaces in the Metropolis and from Steam Vessels above London Bridge.	The whole Act as respects all places without as well as within London.
18 & 19 Vict. c. 116.	The Diseases Prevention Act, 1855.	The whole Act.
18 & 19 Vict. c. 120.	The Metropolis Management Act, 1855.	Section eighty-one; sections eighty-two to eighty-five, except so far as they relate to a drain or sewer, or any work or apparatus connected therewith; section eighty-six down to "defrayed under this Act"; sections eighty-eight, one hundred and three, and one hundred and four; section one hundred and sixteen from "and also to cause" to the end of the section; sections one hundred and seventeen, and one hundred and twenty-five; section one hundred and twenty-six, as from the coming into operation of any bye-law made for the like object; sections one hundred and twenty-seven to one hundred and twenty-nine, one hundred and thirty-two, one hundred and thirty-three, and one hundred and thirty-four; section one hundred and ninety-eight from "and to every such report" to "for their parish or district"; section two hundred and two from "for the emptying" to "disposing of refuse" as from the coming into operation of any bye-law made for the like object; and section two hundred and eleven so far as regards any water-closet, privy, ash-pit, or cesspool.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
18 & 19 Vict. c. 121.	The Nuisances Removal Act for England, 1855.	The whole Act.
19 & 20 Vict. c. 107.	An Act to Amend the Smoke Nuisance Abatement (Metropolis) Act, 1853.	The whole Act as respects all places without as well as within London.
23 & 24 Vict. c. 77.	An Act to Amend the Acts for the Removal of Nuisances and the Prevention of Diseases.	The whole Act.
25 & 26 Vict. c. 102.	The Metropolis Management Amendment Act, 1862.	Sections forty-three and sixty-two; in section sixty-four the word "eighty-first," and the words "and eighty-sixth"; sections sixty-seven, seventy, eighty-nine, ninety-one, ninety-three, ninety-four, and ninety-five; and section one hundred and five, from "and all penalties" to "1855."
26 & 27 Vict. c. 117.	The Nuisances Removal Act for England (Amendment) Act, 1863.	The whole Act.
29 & 30 Vict. c. 41.	The Nuisances Removal (No. 1) Act, 1866.	The whole Act.
29 & 30 Vict. c. 90.	The Sanitary Act, 1866.	The whole Act, except section forty-one.
31 & 32 Vict. c. 115.	The Sanitary Act, 1868.	The whole Act.
32 & 33 Vict. c. 100.	The Sanitary Loans Act, 1869.	The whole Act.
33 & 34 Vict. c. 53.	The Sanitary Act, 1870.	The whole Act.
35 & 36 Vict. c. 79.	The Public Health Act, 1872.	The whole Act.
37 & 38 Vict. c. 67.	The Slaughterhouses, &c. (Metropolis) Act, 1874.	The whole Act.
37 & 38 Vict. c. 89.	The Sanitary Law Amendment Act, 1874.	The whole Act, except so much of sections forty-six and forty-nine as relates to common lodging-houses.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
38 & 39 Vict. c. 55.	The Public Health Act, 1875.	Section one hundred and eight from "In this section" to the end of the section; section one hundred and fifteen from "In this section" to the end of the section. Section two hundred and ninety-one, as respects the whole of the Port of London.
41 & 42 Vict. c. 74.	The Contagious Diseases (Animals) Act, 1878.	Section thirty-four.
42 & 43 Vict. c. 54.	The Poor Law Act, 1879.	Sections fifteen and sixteen.
43 & 44 Vict. c. lix.	The Local Government Board's Provisional Orders Confirmation (Amersham Union, &c.) Act, 1880.	Section two.
46 & 47 Vict. c. 35.	The Diseases Prevention (Metropolis) Act, 1883.	The whole Act.
46 & 47 Vict. c. 53.	The Factory and Workshop Act, 1883.	Section seventeen, down to "for the district," being the first two sub-sections.
47 & 48 Vict. c. 60.	The Metropolitan Asylum Board (Borrowing Powers) Act, 1884.	The whole Act.
48 & 49 Vict. c. 72.	The Housing of the Working Classes Act, 1885.	Section seven; and section nine from "This section shall apply" to "sanitary authority," being sub-section (6)
49 & 50 Vict. c. 32.	The Contagious Diseases (Animals) Act, 1886.	Section nine.
51 & 52 Vict. c. 41.	The Local Government Act, 1888.	Section forty-five; and section eighty-eight, from "Section one hundred and ninety-one" to the end of the section, being sub-section (*c*).
52 & 53 Vict. c. 56.	The Poor Law Act, 1889.	Section three, down to "common poor fund," being sub-sections (1), (2), and (3); and sections six and seven.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
52 & 53 Vict. c. 65.	The Public Health Act, 1889.	Section one, from "and as regards" to the end of the section; and in section two the words "or of section fifty-two of the Sanitary Act, 1866."
52 & 53 Vict. c. 72.	The Infectious Disease (Notification) Act, 1889.	Section two, from "to every London" down to "Act and" being sub-section (*a*); sections ten and twelve; section sixteen, from "the Commissioners of Sewers" down to "Act, 1887," being sub-sections (*a*) and (*b*); and from "The expression 'London district'" down to "local authority is elected."
53 & 54 Vict. c. 34.	The Infectious Disease (Prevention) Act, 1890.	Section two, from "Local authority" to the end of the section; section three from "to every London district" to "this Act; and"; and section five, down to "London district, and".
53 & 54 Vict. c. ccxliii.	The London Council (General Powers) Act, 1890.	Sections twenty-two and twenty-four.

APPENDIX.

METROPOLIS LOCAL MANAGEMENT ACT, 1855.

18 & 19 Vict. Cap. 120.

Committees may be appointed.

58.*—It shall be lawful for the Metropolitan Board of Works†, and the board of works for any district, and any such vestry respectively, to appoint a committee or committees for any purposes which, in the discretion of the board or vestry, would be better regulated and managed by means of such committee, and at any meeting to continue, alter, or discontinue such committee: Provided always, that the Acts of every such committee shall be submitted to the general body of the board or vestry appointing such committee for their approval.

Powers of committees.

59.—Every committee so appointed may meet from time to time, and may adjourn from place to place, as they may think proper, for carrying into effect the purposes of their appointment; but no business shall be transacted at any meeting of the committee unless three members of the committee are present.

Metropolitan Board† may direct appointments to be made for two parishes or districts jointly.

139.‡—The Metropolitan Board of Works†, where it appears to them expedient that any officer or set of officers necessary for any of the purposes of this Act should act for a larger area than is comprised in one parish or district, or for parts of different parishes or districts, may, with the consent of the vestries or boards of such parishes or districts, direct that such vestries or boards shall unite in the appointment and removal of such officer or set of officers; and the said Metropolitan Board† shall in such case direct the mode in which the respective bodies or committees thereof shall act together for

* *See* s. 99 of the Public Health (London) Act, 1891, *supra*, p. 134; and 25 & 26 Vict. c. 102, s. 31.

† The London County Council is now substituted for the Metropolitan Board of Works, 51 & 52 Vict. c. 41, s. 41 (8).

‡ *See* ss. 106, 107 of the Public Health (London) Act, 1891, *supra*, pp. 158, 161.

the purposes of every such appointment and removal, and the proportions in which the salary or salaries of such officer or officers shall be borne and paid by every such parish and district respectively.

Auxiliary Powers common to the Metropolitan Board of Works and to Vestries and District Boards.*

Power of boards and vestries to enter into contracts for carrying Act into execution.

149.†—The Metropolitan Board of Works, and every district board and vestry, may enter into all such contracts as they may think necessary for carrying this Act into execution; and every such contract for works or materials whereof the value or amount exceeds ten pounds shall be in writing or print, or partly in writing and partly in print, sealed with the seal of the board or vestry; and every contract so entered into, and duly executed by the other parties thereto, shall be binding on the board or vestry and their successors, and upon all other parties thereto: Provided always, that it shall be lawful for any such board or vestry to compound with any contractor or other person in respect of any penalty incurred by reason of the nonperformance of any contract entered into as aforesaid, whether such penalty be mentioned in any such contract or in any bond or otherwise, for such sum of money or other recompense as to the board or vestry may seem proper.

Power to compound for penalties in respect of breach of contracts.

Power to boards and vestries to purchase lands, &c., for the purposes of this Act.

150.†—It shall be lawful for the Metropolitan Board of Works* and every district board and vestry to purchase, or to take on lease for such term as they may think fit, any land, or any right or easement in or over any land which they may deem necessary or expedient for the formation or protection of any works which they are authorized to execute under this Act, also any offices and other buildings, yards, stations, or places for deposit of refuse, materials, and things, or any land for the erection and formation of such offices and other buildings, yards, stations, or places for deposit; and also to contract for the purchase, removal, or abatement of any mill-dam, pound, weir, bank, wall, lock, or other obstruction to the flow of water, whereby sewerage or drainage is interrupted or impeded, and for the purchase of any land, or any right or easement in or over any land, which it may be necessary or expedient to purchase to prevent the obstruction of sewerage or drainage; and also to purchase or take on lease as aforesaid the whole or any part of any streams or springs of water, or any rights therein, which it appears to them necessary to acquire and use for the purposes of cleansing sewers and

* The London County Council is now substituted for the Metropolitan Board of Works, 51 & 52 Vict. c. 41, s. 41 (8).

† *See* s. 43 of the Public Health (London) Act, 1891, *supra*, p. 78.

drains and the other purposes of this Act, or any land which is deemed by them advisable to purchase or take on lease for the purpose of drawing or obtaining water from springs, or by sinking of wells, and for making and providing reservoirs, tanks, aqueducts, watercourses, and other works, or for any other purpose connected with the works for obtaining such supply of water as aforesaid: Provided always, that nothing herein contained shall authorize the said Metropolitan Board,* or any district board or vestry, to use or permit to be used any such works for the purpose of carrying water by supply pipes into any house or factory for domestic, manufacturing, or commercial purposes.

Certain provisions of 8 & 9 Vict. c. 18, incorporated with this Act.

151.—For the purpose of enabling the said Metropolitan Board,* and every district board and vestry, to obtain any land, or any right or easement in or over any land, which they respectively may require for the purposes of this Act, "The Lands Clauses Consolidation Act, 1845," except the provisions of that Act with respect to the recovery of forfeitures, penalties, and costs, shall, subject to the provisions herein contained, be incorporated with this Act; and the provisions of the said Act so incorporated with this Act which would be applicable in the case of a purchase of any land shall be applicable in the case of the purchase of a right or easement in or over any land; and for the purposes of this Act the expression "the promoters of the undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean the Metropolitan Board, or the district board or vestry, acting under the provisions of the said Act and this Act, as the case may be.

Lands not to be taken compulsorily, except by Metropolitan Board with consent of Secretary of State.

152.—Provided always, that the provisions of the said Lands Clauses Consolidation Act "with respect to the purchase and taking of lands otherwise than by agreement" shall not be incorporated with this Act, save for enabling the Metropolitan Board of Works* to take land, or any right or easement in or over land, for the purpose of making any sewers or works for preventing the sewage or any part of the sewage within the Metropolis from passing into the *Thames* in or near the Metropolis, or otherwise for the purpose of the sewerage or drainage of the Metropolis: Provided also, that no land, or right or easement in or over land, for the purposes aforesaid, shall be taken compulsorily by the said Board, without the previous consent in writing of one of Her Majesty's Principal Secretaries of State.

Previous notice to be given.

153.—The Metropolitan Board of Works,* before applying for the consent of the Secretary of State for taking land, or

* The London County Council is now substituted for the Metropolitan Board of Works, 51 & 52 Vict. c. 41, s. 41 (8); *see* also p. 248, *infra*.

any right or easement in or over land, compulsory, as aforesaid, shall publish, once at the least in each of four consecutive weeks, in one of the daily newspapers published in the Metropolis, an advertisement describing the nature of the works in respect of which the land, right or easement, is proposed to be taken, naming a place where a plan of the proposed works is open for inspection at all reasonable hours, and stating the quantity of land or the particulars of the right or easement that they require for the purpose of such works, and shall serve a notice on the owners or reputed owners, lessees or reputed lessees, and occupiers of the land intended to be taken, or of the land in or over which such right or easement is intended to be taken, such service to be made four weeks previously to the application to such Secretary of State, and such notice shall state the particulars of the land, right, or easement so required, and that the Metropolitan Board are willing to treat for the purchase thereof, and as to the compensation to be made for the damage that may be sustained by reason of the proposed works.

Power to dispose of lands or property not wanted.

154.—The Metropolitan Board of Works,* and any district board or vestry, may sell and dispose of any land purchased by them under this Act, and any property whatsoever vested in them under this Act, which it may appear to them may be properly sold or disposed of; and for completing and carrying any such sale of any land into effect such board may make and execute a conveyance of the land sold and disposed of as aforesaid unto the purchaser, or as he shall direct, and such conveyance shall be under the seal of the said board or vestry; and the word "grant" in such conveyance shall have the same operation as by the said Lands Clauses Consolidation Act, 1845, is given to the same word in a conveyance of lands made by the promoters of the undertaking; and a receipt under the seal of the said board or vestry shall be a sufficient discharge to the purchaser of any such land or any other such property as aforesaid for the purchase money in such receipt expressed to be received; and the money arising from such sale of any land purchased under this Act, and (except as herein-after otherwise provided) of any such property, shall be applied in aid of the rate out of which the expenses of the purchase of such land or providing such property have been or are authorized to be defrayed under this Act; and the money arising from the sale of any property vested in any such board or vestry under this Act, and which, before becoming so vested, was vested in any commissioners or other body, or in any officer of any commissioners or other body, or in any surveyor of highways, shall be applied in or towards the discharge of any debts or liabilities for the dis-

* The London County Council is now substituted for the Metropolitan Board of Works, 51 & 52 Vict. c. 41, s. 41 (8).

charge whereof rates are by this Act authorized to be raised in the parish, or part, to the commissioners or other body for the management of the paving, lighting, or cleansing whereof such property may have belonged before the commencement of this Act, and, subject as aforesaid, shall be applied in aid of such rate to be raised under this Act in such parish or part as to the board or vestry disposing of such property may seem just; and any such board or vestry may let any land purchased by or vested in them under this Act, and which for the time being is not required for the purposes thereof, in such manner and on such terms as such board or vestry may see fit.

Owners of land may on sale reserve a right of pre-emption.

155.—Provided always, That where any land or any right or easement in or over land is purchased by the said Metropolitan Board,* or any district board or vestry, under this Act, it shall be lawful for the owners of or parties entitled to sell or convey such land, right, or easement to reserve upon the sale thereof to such board or vestry in and by the conveyance such right of pre-emption to the person for the time being entitled to the land (if any) from which the land so purchased was severed, or in or over which such right or easement is granted, as is provided by sections 128, 129, and 130 of the said Lands Clauses Consolidation Act; but, except where such right of pre-emption is so reserved, there shall be no such right, notwithstanding the incorporation of the said Lands Clauses Consolidation Act with this Act.

Penalty for withholding property transferred to Metropolitan Board or any vestry or district board.

156.—In case any person having the charge, control, or possession of any property, matters, or things vested in the Metropolitan Board of Works,* or the vestry of any parish, or any district board, by or under this Act, neglect or refuse to give up the same, on demand, to such board or vestry, or such person as they respectively may order, every person so offending shall, upon being convicted thereof before any two justices of the peace, for every such offence forfeit and pay, over and above the value of the property not given up, such sum not exceeding five pounds as the said justices may think fit.

Provisions for defraying Expenses of Vestries and District Boards.

How sums to be raised by vestries and district boards for defraying their expenses.

158.—Every vestry and district board shall from time to time, by Order under their Seal, require the overseers of their parish, or of the several parishes in their district, to levy, and

* The London County Council is now substituted for the Metropolitan Board of Works, 51 & 52 Vict. c. 41, s. 41 (8).

to pay over to the treasurer of such vestry or board, or into any bank in such Order mentioned, and within the time or times thereby limited, the sums which such vestry or board may require for defraying the expenses of the execution of this Act (and such Orders may be made wholly or in part in respect of expenses already incurred or of expenses to be thereafter incurred); and every such vestry and board shall distinguish in their Orders sums required for defraying expenses of constructing, altering, maintaining, and cleansing the sewers or otherwise connected with sewerage, and also, where the Act of the session holden in the third and fourth years of King *William* the Fourth, Chapter Ninety, or any other Act by virtue whereof land is rated in respect of expenses of lighting at a less amount in proportion to the annual value thereof than houses, or is wholly exempted from being rated in respect of such expenses, is in force in any parish, or any part of any parish, at the time of the passing of this Act, distinguish, as regards such parish, or part, the sums required for defraying expenses of lighting their parish or district from sums required for defraying other expenses of executing this Act; but every such vestry and board may cause to be raised as expenses connected with sewerage such portion of the expenses incident to the conduct of their business in relation to sewerage, in common with the conduct of their other business under this Act, as to such vestry or board may seem just; and the overseers or collectors, in the receipts to be given for the sums levied or collected by them, shall distinguish the rate in the pound required for sewerage expenses, and the rate required for the other expenses of this Act.

Overseers to collect the rate in the same manner as the poor rate.

161.—The overseers of the poor of every parish to whom any such Order as aforesaid is issued shall levy the amount mentioned therein according to the exigency thereof, and shall for that purpose make separate equal pound rates upon their parish, or the part thereof upon which any sum specified in such Order is required to be levied, in respect of each sum thereby ordered to be levied; that is to say, a separate rate in respect of each sum ordered to be levied for defraying expenses connected with sewerage, to be called a sewers rate; a separate rate in respect of each sum ordered to be levied for defraying expenses of lighting (where a separate sum is ordered to be levied for defraying such expenses), to be called a lighting rate; and a separate rate in respect of each sum ordered to be levied for defraying other expenses of executing this Act, to be called a general rate; and shall make such respective rates of such amount in the pound on the annual value of the property rateable as will in their judgment, having regard to all circumstances, be sufficient to raise the sums specified in such Order; and such rates shall be levied on the persons and in respect of the property by law rateable to the relief of the poor in

the respective parishes, and shall be assessed upon the net annual value of such property ascertained by the rate for the time being for the relief of the poor; and the said overseers shall, for the purpose of levying such rates, proceed in the same manner, and have the same powers, remedies, and privileges, as for levying money for the relief of the poor; and all such rates shall be allowed in the same manner, and be subject to all the same provisions in relation to appeal and to excusing persons from payment on account of poverty and otherwise, as the rate for the relief of the poor in the same parish; and such overseers shall pay to the treasurer of the vestry or board, or otherwise, as in such Order directed, the amount mentioned in the Order, within the time or respective times specified for that purpose, and the excess, if any, which may have been levied beyond such amount, which excess shall be placed to the credit of the parish or part in which the same has been levied; and the said overseers shall at the time of making any such payment deliver with the money a note in writing signed by them, specifying the amount so paid, which note shall be kept as a voucher for the receipt of that particular amount; and the receipt of the treasurer of the vestry or board, or of any proper officer or person of or belonging to any bank into which such money is so paid, specifying the amount paid to him by the overseers, shall be a sufficient discharge to the overseers for such amount.

General Powers to Metropolitan and District Boards and Vestries to borrow.*

Power to boards and vestries to borrow money on mortgage.

183†.—It shall be lawful for the Metropolitan Board,‡ and every district board and vestry, for the purposes of defraying any expenses incurred or to be incurred by them in the execution of this Act, to borrow and take up at interest, on the credit of all or any of the monies or rates authorized to be raised by them under this Act, 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 board or vestry may mortgage and assign over to the persons by or on behalf of whom such sums are advanced the respective monies or rates upon the credit of which such sums are borrowed; and the respective mortgagees shall be entitled to a proportion of the monies or rates comprised in their respective mortgages, according to the sums in such mortgages mentioned to have

* The London County Council is now substituted for the Metropolitan Board of Works, 51 & 52 Vict. c. 41, s. 41 (8).

† As to the repeal of this and the following sections (184–191) as regards the London County Council's power to borrow, *see* 32 & 33 Vict. c. 102, s. 50.

‡ *See* s. 105 of the Public Health (London) Act, 1891, *supra*, pp. 156 and 157.

No priority amongst mortgagees.

been advanced; and each mortgagee shall be entitled to be repaid the sums so advanced, with interest, without any preference over any other mortgagee or mortgagees by reason of any priority of advance or the date of his mortgage: Provided always, that no monies shall be so borrowed by any district board or vestry without the previous sanction in writing of the said Metropolitan Board.

Power to commissioners acting under 14 & 15 Vict., c. 23, to make advances.*

184.—It shall be lawful for the commissioners acting in the execution of an Act passed in the Session holden in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Twenty-three, "to authorize for a further period the advance "of money out of the Consolidated Fund to a limited amount "for carrying on Public Works and Fisheries and Employ-"ment of the Poor," and any Act or Acts for amending or continuing the same, to make advances to any such board or vestry upon the security of all or any of the monies or rates to be raised by them under this Act, and without requiring any further or other security than a mortgage of such monies or rates.

Form of mortgage.*

185.—Every mortgage authorized to be made under this Act shall be by deed duly stamped, truly stating the date, consideration, and the time of payment, and shall be sealed with the seal of the board or vestry, and may be made according to the Form (E.) contained in the Schedule to this Act annexed, or to the like effect, or with such variations or additions in each case as the board or vestry and the party advancing the money intended to be thereby secured may agree to; and there shall be kept at the office of the board or vestry a register of the mortgages made by them, and within fourteen 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 descriptions of the parties thereto, as stated in the deed; and 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 five pounds.

Register of mortgages.*

Repayment of money borrowed at a time agreed upon.*

186.—The board or vestry making any such mortgage may, if they think proper, fix a time or times for the repayment of all or any principal monies borrowed under this Act, and the payment of the interest thereof respectively, and may provide for the repayment of such monies, with interest, by instalments or otherwise, as they may think fit; and in case the board or vestry fix the time or times of repayment they shall cause such time or times to be inserted in the mortgage

* *See* note (†) to s. 183, *supra*, p. 239.

deed; and at the time or times so fixed for payment thereof such principal moneys and interest respectively shall, on demand, be paid to the party entitled to receive the same accordingly; and if no other place of payment be inserted in the mortgage deed, the principal and interest shall be payable at the principal office of the board or vestry, and unless otherwise provided by any mortgage, the interest of the money borrowed thereupon shall be paid half-yearly; and if no time be fixed in the mortgage deed 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 twelve months from the date of such deed, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months' previous notice for that purpose; and in the like case the board or vestry 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 shall be given in manner herein provided for service of notices on the board or vestry, and if given by the board or vestry shall be given either personally to such mortgagee or left at his residence, or if such mortgagee or his residence be unknown to them, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the *London Gazette;* and if the board or vestry have given notice of their intention to pay off any such mortgage 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 board or vestry fail to pay the principal and interest due at the expiration of such notice on such mortgage.

Interest on mortgages to be paid half-yearly.

As to repayment of money borrowed when no time has been agreed upon.

Interest to cease on expiration of notice to pay off a mortgage debt

187.—It shall be lawful for the said Metropolitan Board, with respect to any security granted by the Metropolitan Commissioners of Sewers, or granted by such board under this Act, and for every district board and vestry, with respect to any security for any existing debt or liability which such board or vestry are by this Act required to discharge, and any security granted by such board or vestry under this Act, to raise and borrow the monies necessary for paying off such security, and to pay off the same; and the monies borrowed for the purpose of such payment shall be secured and repaid in like manner as if borrowed for defraying the expenses of the execution of this Act: Provided always, that nothing herein contained shall extend to authorize the paying off of any security otherwise than in accordance with the provisions thereof.

Power to borrow to pay off existing securities.*

188.—If at the expiration of six months from the time when any principal money or interest has become due upon

Payment of principal and interest may be enforced by the appointment of a receiver.*

* *See* note (†) to s. 183, *supra*, p. 239.

any mortgage made under this Act, or under the said Act of the Eleventh and Twelfth Years of Her Majesty, Chapter One Hundred and Twelve, or any Act continuing or amending the same, and after demand in writing, the same be not paid, the mortgagee may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to two justices, who are hereby empowered, after hearing the parties, to appoint, in writing under their hands and seals, some person to collect and receive the whole or a competent part of the monies or 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 the costs of collection, are fully paid; and upon such appointment being made all such monies or 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, and shall be rateably apportioned between or among them, but subject and without prejudice to such rights of priority, if any, as shall then be subsisting between the mortgagees or any of them: Provided always, that no mortgagee shall be prejudiced, either directly or indirectly, by any loss which may be occasioned by the misapplication or nonapplication of any monies or rates received by any receiver appointed otherwise than upon the application or with the express consent of such mortgagee, or by any act, deed, neglect, or default on the part of such receiver, but such loss shall be wholly borne by the mortgagee or mortgagees upon whose application or with whose express consent such receiver was appointed: Provided also, that no such application shall be entertained unless the sum or sums due and owing to the applicant amount to one thousand pounds, or unless a joint application be made by two or more mortgagees to whom there may be due, after such lapse of time, and demand, as last aforesaid, monies collectively amounting to that sum.

Transfer of mortgages.*

189.—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, the names and descriptions of the parties thereto, and the consideration for the transfer; and such transfer may be according to the form contained in the Schedule (F.) to this Act annexed, or to the like effect; and there shall be kept at the office of every board and vestry making any mortgages under this Act a register of the transfers of such mortgages; and within thirty days after the date of any such deed of transfer, if executed within the United Kingdom, or within thirty days after its arrival in the United Kingdom if executed

Register of transfers.

* *See* note (†) to s. 183, *supra*, p. 239.

elsewhere, the same shall be produced to the clerk of the board or vestry making the mortgage; and such clerk shall, upon payment of the sum of five shillings, 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 upon any transfer being so registered, the transferee, his executors, administrators, or assigns, shall be entitled to the full benefit of the original mortgage, and the principal and interest secured thereby; and every such transferee may in like manner transfer his estate and interest in any such mortgage; and no person, except the person to whom the same has been last transferred, his executors, administrators, or assigns, shall be entitled to release or discharge any such mortgage, or any money secured thereby.

Sinking fund to be formed for paying off mortgages.*

190.—For the purpose of providing a fund for paying off mortgages granted under this Act, the board or vestry granting such mortgage shall once in every year set aside, out of the monies or rates charged thereby, such sum as they think proper, being not less than two pounds *per centum* on the amount of the principal monies secured thereby; and the sum so from time to time set aside, and all other monies applied by the board or vestry in augmentation of the said fund, shall be applied, in the manner herein-after directed, in payment, so far as the same will extend, of the principal money secured by such mortgages, or the same shall be invested in the public funds, or on Government or real security, in the name of the board or vestry; and the dividends and interest of the monies so invested, when and as the same become due, shall from time to time be received and invested in like manner, in order that the said monies so set aside and invested may accumulate at compound interest; and when such accumulated fund amounts to a sum which, in the opinion of the board or vestry, can be conveniently applied for that purpose, the stocks, funds, or securities whereon the same is invested shall be sold or otherwise converted into money, and the monies arising from any such sale and conversion shall be applied, in the manner herein-after directed, in payment, so far as the same will extend, of the said principal monies, and so from time to time until the whole of the said principal monies are discharged.

Mode of paying off mortgages.*

191.—When and as often as the board or vestry are enabled and think it expedient to pay off one or more of the said mortgages, they shall cause the several numbers of such mortgages to be written upon distinct slips of paper of an equal size, and all such slips shall be rolled or folded up in a similar form, and put in a box, and the clerk of the said board or vestry shall, at a meeting of the board or vestry, draw sepa-

* *See* note (†) to s. 183, *supra*, p. 239.

rately out of the said box one of the said slips, and thereupon the mortgage corresponding with the number so drawn shall be paid off by the board or vestry; and after every such ballot the board or vestry shall cause a notice, signed by the clerk, to be given to the person entitled to the money to be paid off, 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 in such notice, at the expiration of six months from the date of giving such notice; and at the expiration of such period the interest of the principal money to be paid off shall cease, unless such principal money and interest be not paid, on demand, pursuant to such notice; but such principal money, and the interest thereof to the end of the said six months, shall nevertheless be payable on demand.

Special provision as to parish of Woolwich.

238.*—Notwithstanding anything in this Act contained to the contrary, the provisions of this Act shall extend and apply to the parish of *Woolwich* only to the extent and in manner herein-after mentioned; (that is to say,)

A member of the Metropolitan Board of Works shall be from time to time elected by the Local Board of Health of *Woolwich* at a meeting of such board, as by this Act directed with respect to the vestry of each of the parishes mentioned in the said Schedule (A.):

The said Metropolitan Board shall have and perform, within and in relation to the said parish, all the powers and duties vested in them under this Act, in like manner as within and in relation to other parishes mentioned in the said Schedule (A.), save that the said Local Board shall be subject to all orders of the said Metropolitan Board in relation to sewerage and otherwise, and to all precepts requiring payment of money, in all respects as the vestries of other parishes in the said Schedule (A.) are subject to the same, in lieu of the vestry of the said parish; and all sums required to be paid by such precepts shall be defrayed out of any moneys carried to the district fund account, or by means of a general district rate to be levied on the whole of the parish of *Woolwich*, or such part thereof as may be specified in the precept of the said Metropolitan Board.

* *See* s. 99 of the Public Health (London) Act, 1891, *supra*, p. 147. Ss. 211 & 212 are set out in Schedule I. to the Public Health (London) Act, 1891, *supra*, p. 218.

SCHEDULE (A).*

PART I.—*Parishes each electing Two Members of the Metropolitan Board of Works.*

Saint Marylebone.
Saint Pancras.†
Lambeth.
Saint George, Hanover Square.
Islington, Saint Mary.†
Shoreditch, Saint Leonard.

PART II.—*Parishes each electing One Member of the Metropolitan Board of Works.*

Paddington.‡
Saint Matthew, Bethnal Green.
Saint Mary, Newington, Surrey.
Camberwell.‡
Saint James, Westminster.
Saint James and Saint John, Clerkenwell, to be considered as one parish.
Chelsea.
Kensington, Saint Mary Abbott.†
Saint Luke, Middlesex.
Saint George the Martyr, Southwark.
Bermondsey.
Saint George-in-the-East.
Saint Martin-in-the-Fields.
Hamlet of Mile End Old Town.
Woolwich.
Rotherhithe.
Saint John, Hampstead.

SCHEDULE (B).

PARISHES UNITED INTO DISTRICTS FOR THE PURPOSES OF THE ACT.

PART I.—*Districts each electing One Member of the Metropolitan Board of Works.*

Name of District.	Parishes.
Whitechapel District ...	Saint Mary, Whitechapel. Christchurch Spitalfields. Saint Botolph Without Aldgate, in the County of Middlesex.

* *See* s. 99 of the Public Health (London) Act, 1891, *supra*, p. 147.
† Elected three members of the Metropolitan Board of Works by 48 & 49 Vict. c. 33, s. 1.
‡ Elected two members of the Metropolitan Board of Works by 48 & 49 Vict. c. 33, s. 1.

Name of District.	Parishes.
Whtechapel District ...	Holy Trinity, Minories. Saint Katherine, Precinct of. Mile End New Town, Hamlet of. Liberty of Norton Folgate. Old Artillery Ground. Tower, District of.
Westminster District*...	Saint Margaret. Saint John the Evangelist.
Greenwich District† ...	Saint Paul, Deptford, including Hatcham. Saint Nicholas, Deptford. Greenwich.
Wandsworth District‡	Clapham. Tooting Graveney. Streatham. Saint Mary, Battersea, excluding Penge. Wandsworth. Putney, including Roehampton.
Hackney District† ...	Hackney. Saint Mary, Stoke Newington.
Saint Giles District ...	Saint Giles-in-the-Fields. Saint George, Bloomsbury.
Holborn District ...	Saint Andrew, Holborn above Bars. Saint George the Martyr. Saint Sepulchre, in the County of Middlesex. Saffron Hill, Hatton Garden, Ely Rents, and Ely Place. The Liberty of Glasshouse Yard.
Strand District ...	Saint Anne, Soho. St. Paul, Covent Garden. Saint John the Baptist. Savoy, or Precinct of the Savoy. Saint Mary-le-Strand. St. Clement Danes. Liberty of the Rolls.
Fulham District§ ...	Saint Peter and Saint Paul, Hammersmith. Fulham.

* The district dissolved. Each parish elected one member by 50 & 51 Vict. c. 17, s. 12.

† Elected two members of the Metropolitan Board of Works by 48 & 49 Vict. c. 33, s. 1.

‡ Elected three Members of the Metropolitan Board of Works by 48 & 49 Vict. c. 33, s. 1; but the district was divided into Battersea parish and Wandsworth district; the former elected one member and the latter two members of the Metropolitan Board of Works by 50 & 51 Vict. c. 17, ss. 4–6.

§ The district dissolved; each parish elected one member by 48 & 49 Vict. c. 33, s. 3.

Name of District.	Parishes.
Limehouse District ...	Saint Anne, Limehouse. Saint John, Wapping. Saint Paul, Shadwell. Ratcliff, Hamlet of.
Poplar District* ...	All Saints, Poplar. Saint Mary, Stratford-le-Bow. Saint Leonard, Bromley.
Saint Saviour's District	Christ Church. St. Saviour (including the Liberty of the Clink).

PART II.—*Districts united for electing One Member of the Metropolitan Board of Works.*

Plumstead District ...	Charlton, next Woolwich. Plumstead. Eltham. Lee. Kidbrooke.
united with	
Lewisham District†	Lewisham (including Sydenham Chapelry). Hamlet of Penge.

PART III.—*Parish and District united for electing One Member of the Metropolitan Board of Works.*

The Parish of Rotherhithe united with Saint Olave District..	Saint Olave. Saint Thomas, Southwark. Saint John, Horsleydown.

SCHEDULE (C).

The Close of the Collegiate Church of St. Peter.
The Charter House.
Inner Temple.
Middle Temple.
Lincoln's Inn.
Gray's Inn.
Staple Inn.
Furnival's Inn.

* Elected two members of the Metropolitan Board of Works by 48 & 49 Vict. c. 33, s. 1.

† Each district separately elected a member by 48 & 49 Vict. c. 33, s. 2.

THE LANDS CLAUSES CONSOLIDATION ACT, 1845.*

Appointment of arbitrator when questions are to be determined by arbitration.

25.—When any question of disputed compensation by this or the Special Act, or any Act incorporated therewith, authorized or required to be 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 promoters of the undertaking under the hands of the said promoters or any two 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 fourteen 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 to be supplied.

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 seven 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

* *See* s. 43 of the Public Health (London) Act, 1891, *supra*, p. 80.

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.

Board of Trade empowered to appoint an umpire on neglect of the arbitrators, in case of railway companies.

28.—If in either of the cases aforesaid the said arbitrators shall refuse, or shall, for seven 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 two 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.

In case of death of single arbitrator the matter to begin *de novo*.

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 *ex parte*.

30.—If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse or for seven 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 twenty-one 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 twenty-one 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.

Power of arbitrators to call for 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 a 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 misdemeanour.

Costs of arbitration how to be borne.

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 to the promoters of the undertaking.

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 error in 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.

LANDS CLAUSES CONSOLIDATION ACT, 1869.

32 & 33 Vict. Cap. 18.

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 therefore enacted and declared by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Costs of arbitrations where either party so requires, to be settled by a master of superior courts.

1.—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. c. 119, s. 33.

2.—Section thirty-three 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.

Provision respecting lands in Westminster.

3.—Where any lands by the special Act authorized to be taken are situate within the city and liberty of Westminster, then, with respect to those lands, in every case in which any question of disputed compensation is required by the Lands Clauses Consolidation Act, 1845, or any Act amending the same, to be determined by the verdict of a jury, the high bailiff of the city and liberty of Westminster, or his deputy, shall be deemed to be substituted for the sheriff throughout such of the enactments of the Lands Clauses Consolidation Act, 1845, and any Act amending the same as relate to the reference to a jury.

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 those Acts and this Act may be cited together as the Lands Clauses Consolidation Acts, 1845, 1860, and 1869.

THE LOCAL GOVERNMENT ACT, 1888.

51 & 52 Vict. c. 41.*

Power of county councils to appoint medical officer of health.

17.—(1.) The council of any county may, if they see fit, appoint and pay a medical officer of health or medical officers

* *See* ss. 106 to 109 of the Public Health (London) Act, 1891, *supra*, pp. 158 to 166.

of health, who shall not hold any other appointment or engage in private practice without express written consent of the council.

(2.)—The county council and any district council may from time to time make and carry into effect arrangements for rendering the services of such officer or officers regularly available in the district of the district council, on such terms as to the contribution by the district council to the salary of the medical officer, or otherwise, as may be agreed, and the medical officer shall have within such district all the powers and duties of a medical officer appointed by a district council.

(3.)—So long as such an arrangement is in force, the obligation of the district council under the Public Health Act, 1875, to appoint a medical officer of health shall be deemed to be satisfied without the appointment of a separate medical officer.

Power of county council as to report of medical officer of health.

19.—(1.) Every medical officer of health for a district in any county shall send to the county council a copy of every periodical report, of which a copy is for the time being required by the regulations of the Local Government Board to be sent to the Board; and if a medical officer fails to send such copy the county council may refuse to pay any contribution which otherwise the council would in pursuance of this Act pay, towards the salary of such medical officer.

(2.)—If it appears to the county council from any such report that the Public Health Act, 1875, has not been properly put in force within the district to which the report relates; or that any other matter affecting the public health of the district requires to be remedied, the council may cause a representation to be made to the Local Government Board on the matter.

THE SANITARY ACT, 1866.*

29 & 30 Vict. c. 90.

Power to reduce penalties imposed by 6 Geo. 4, c. 78.

51.—All penalties imposed by the Act of the sixth year of King George the Fourth, chapter seventy-eight, 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.

Description of vessels within provisions of 6 Geo. 4, c. 78.

52.—Every vessel having on board any person affected with a dangerous or infectious disorder shall be deemed to be within the provisions of the Act of the sixth year of King George the Fourth, chapter seventy-eight, although such vessel has not commenced her voyage or has come from or is bound for some place in the United Kingdom; and the Lords and

* *See* s. 142 of the Public Health (London) Act, 1891, *supra*, p. 209.

others of Her Majesty's most honourable Privy Council, or any three or more of them (the Lord President of the Council or one of Her Majesty's principal Secretaries of State being one), may, by order or orders to be by them from time to time made, make such rules, orders and regulations as to them shall seem fit, and every such order shall be certified under the hand of the clerk in ordinary of Her Majesty's Privy Council, and shall be published in the *London Gazette*, and such publication shall be conclusive evidence of such order to all intents and purposes; and such orders shall be binding and be carried into effect as soon as the same shall have been so published, or at such other time as shall be fixed by such orders, with a view to the treatment of persons affected with cholera, and epidemic, endemic and contagious 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 three miles of the coasts thereof, as on land; and to declare and determine by what nuisance authority or authorities such orders, rules, and regulations shall be enforced and executed; and any expenses incurred by any such nuisance authority or authorities shall be deemed to be expenses incurred by it or them in carrying into effect the Nuisances Removal Acts.

THE PUBLIC HEALTH ACT, 1872.*

35 & 36 Vict. c. 79.

As to consent of Local Government Board required in certain cases.

34.—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 bye-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 purpose 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.

Transfer of powers and duties of Board of Trade under Alkali Act, 1863, and Metropolis Water Acts, 1852 & 1871, to Local Government Board.

35.—The powers and duties of the Board of Trade under the Alkali Act, 1863, and any Act amending the same and under the Metropolis Water Acts, 1852 and 1871, shall be exercisable 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.

* *See* s. 142 (5) of the Public Health (London) Act, 1891, *supra*, p. 207.

Transfer of powers and duties of Secretary of State under Highway and Turnpike Acts to Local Government Board.

36.—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 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.

FACTORY AND WORKSHOP ACT, 1878.*

41 Vict. c. 16.

An Act to Consolidate and Amend the Law relating to Factories and Workshops.

[27th May, 1878.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1.—This Act may be cited as the Factory and Workshop Act, 1878.

PART I.

GENERAL LAW RELATING TO FACTORIES AND WORKSHOPS.

(1.) *Sanitary Provisions.*

Sanitary condition of factory and workshop.

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.

* *See s.* 2 of the Public Health (London) Act, 1891, *supra*, *p.* 7.

† The words in italics are repealed by the Factory and Workshop Act, 1891, *infra*, *see* ss. 5 & 39.

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, ash-pit, 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.

Notice by inspector to sanitary authority of sanitary defects in factory or workshop.

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.

PART II.

SPECIAL PROVISIONS RELATING TO PARTICULAR CLASSES OF FACTORIES AND WORKSHOPS.

(1.) *Special Provisions for Health in certain Factories and Workshops.*

33.*—For the purpose of securing the observance of the requirements of this Act as to cleanliness in every factory *and workshop*, all the inside walls of the rooms of a factory *or workshop*, and all the ceilings or tops of such rooms (whether such walls, ceilings, or tops be plastered or not), and all the passages and staircases of a factory *or workshop*, if they have not been painted with oil or varnished once at least within seven years, shall be limewashed once at least within every fourteen months, to date from the period when last limewashed; and if they have been so painted or varnished shall be washed with hot water and soap once at least within every fourteen months, to date from the period when last washed.

Limewashing and washing of the interior of factories and workshops.

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.

Where it appears to a Secretary of State that in any class of factories *or workshops*, or parts thereof, the regulations in this section are not required for the purpose of securing therein the observance of the requirements of this Act as to cleanliness, or are by reason of special circumstances inapplicable, he may, if he thinks fit, by order made under this part of this

* The words in italics are repealed by the Factory and Workshop Act, 1891, *infra*. *See*, as to amendment of this and the next two sections, the Factory and Workshop Act, 1883, *infra*. *See*, also, ss. 25 to 27 of the Public Health (London) Act, 1891, *supra*.

Act, grant to such class of factories *or workshops*, or parts thereof, a special exception that the regulations in this section shall not apply thereto.

Limewashing, painting, and washing of the interior of bakehouses.

34.—Where a bakehouse is situate in any city, town, or place containing, according to the last published Census for the time being, a population of more than five thousand persons, all the inside walls of the rooms of such bakehouse, and all the ceilings or tops of such rooms (whether such walls, ceilings, or tops be plastered or not), and all the passages and staircases of such bakehouse, shall either be painted with oil or varnished or be limewashed, or be partly painted or varnished and partly limewashed; where painted with oil or varnished there shall be three coats of paint or varnish, and the paint or varnish shall be renewed once at least in every seven years, and shall be washed with hot water and soap once at least in every six months; where limewashed the limewashing shall be renewed once at least in every six months.

A bakehouse in which there is any contravention of this section shall be deemed not to be kept in conformity with this Act.

Provision as to sleeping places near bakehouses.

35.—Where a bakehouse is situate in any city, town, or place containing, according to the last published Census for the time being, a population of more than five thousand persons, a place on the same level with the bakehouse, and forming part of the same building, shall not be used as a sleeping place, unless it is constructed as follows; that is to say,

unless it is effectually separated from the bakehouse by a partition extending from the floor to the ceiling; and

unless there be an external glazed window of at least nine superficial feet in area, of which at the least four and a half superficial feet are made to open for ventilation.

Any person who lets or occupies or continues to let or knowingly suffers to be occupied any place contrary to this section shall be liable to a fine not exceeding, for the first offence, twenty shillings, and for every subsequent offence five pounds.

(4.) *Special Exception for Domestic and certain other Factories and Workshops.*

Exception of domestic factories and workshops and certain other workshops from certain provisions of the Act.

61.—The provisions of this Act which relate—

(1.) To the cleanliness (including limewashing, painting, varnishing, and washing) or to the freedom from effluvia, or to the overcrowding, or ventilation of a factory or workshop; or

(2.) To all children, young persons, and women employed in a factory or workshop having the times allowed

for meals at the same hour of the day, or during any part of the times allowed for meals in a factory or workshop being employed in the factory or workshop or being allowed to remain in any room ; or

(3.) To the affixing of any notice or abstract in a factory or workshop ; or specifying any matter in the notice so affixed ; or

(4.) To the allowance of any holidays to a child, young person, or woman ; or

(5.) To the sending notice of accidents ;

shall not apply—

(*a.*) Where persons are employed at home, that is to say, to a private house, room, or place which, though used as a dwelling, is by reason of the work carried on there a factory or workshop within the meaning of this Act, and in which neither steam, water, nor other mechanical power is used, and in which the only persons employed are members of the same family dwelling there ; or

(*b.*) *To a workshop which is conducted on the system of not employing children or young persons therein, and the occupier of which has served on an inspector notice of his intention to conduct his workshop on this system.**

And the provisions of this Act with respect to certificates of fitness for employment shall apply to any such private house, room, or place as aforesaid, which by reason of the nature of the work carried on there is a factory, as if the same were a workshop within the meaning of this Act, and not a factory.

Where the occupier of a workshop has served on an inspector notice of his intention to conduct that workshop on the system of not employing children or young persons therein, the workshop shall be deemed for all the purposes of this Act to be conducted on the said system until the occupier changes it, and no change shall be made until the occupier has served on the inspector notice of his intention to change the system, and until the change a child or young person employed in the workshop shall be deemed to be employed contrary to the provisions of this Act. A change in the said system shall not be made oftener than once a quarter, unless for special cause allowed in writing by an inspector.

Nothing in this section shall exempt a bakehouse from the provisions of this Act with respect to cleanliness (including limewashing, painting, varnishing, and washing) or to freedom from effluvia.

* The words in italics are repealed by the Factory and Workshop Act, 891, *infra*.

Exception for certain descriptions of flax scutch mills from certain provisions of Act.

62.—The regulations of this Act with respect to the employment of women shall not apply to flax scutch mills which are conducted on the system of not employing either children or young persons therein, and which are worked intermittently, and for periods only which do not exceed in the whole six months in any year. A flax scutch mill shall not be deemed to be conducted on the system of not employing therein either children or young persons until the occupier has served on an inspector notice of his intention to conduct such mill on that system.

(5.) *Supplemental as to Special Provisions.*

Requirement of sanitary provisions as condition of special exceptions.

63.—Where it appears to a Secretary of State that the adoption of any special means or provision for the cleanliness or ventilation of a factory or workshop is required for the protection of the health of any child, young person, or woman employed, in pursuance of an exception under this part of this Act, either for a longer period than is otherwise allowed by this Act, or at night, he may by order made under this part of this Act direct that the adoption of such means or provision shall be a condition of such employment; and if it appears to a Secretary of State that the adoption of any such means or provision is no longer required, or is, having regard to all the circumstances, inexpedient, he may, by order made under this part of this Act, rescind the order directing such adoption without prejudice to the subsequent making of another order.

Power to rescind order granting or extending exception.

64.—Where an exception has been granted or extended under this part of this Act by an order of a Secretary of State, and it appears to a Secretary of State that such exception is injurious to the health of the children, young persons, or women employed in, or is no longer necessary for the carrying on of the business in, the class of factories or workshops or parts thereof to which the said exception was so granted or extended, he may by an order made under this part of this Act rescind the grant or extension, without prejudice to the subsequent making of another order.

Provisions as to order of Secretary of State.

65.—Where a Secretary of State has power to make an order under this part of this Act, the following provisions shall apply to that order:

(1.) The order shall be under the hand of the Secretary of State, and shall be published in the *London Gazette*, and shall come into operation at the date of such publication in the *London Gazette*, or at any later date mentioned in the order:

(2.) The order may be temporary or permanent, conditional or unconditional, and whether extending a prohibition or exception, granting an exception, directing the adoption of any means or provisions or

rescinding a previous order, or affecting any other thing, may do so either wholly or partly.

(3.) The order shall be laid as soon as may be before both Houses of Parliament, and if either House of Parliament, within the next forty days after the same has been so laid before such House, resolve that such order ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such order or to the making of any new order:

(4.) The order, while it is in force, shall, so far as is consistent with the tenor thereof, apply as if it formed part of the enactment which provides for the extension or grant or otherwise for making the order.

Provisions to occupier availing himself of special exceptions, and registry of work under them.

66.—An occupier of a factory or workshop, not less than seven days before he avails himself of any special exception under this part of this Act, shall serve on an inspector, and (except in the case of a factory or workshop to which the provisions of this Act with respect to the affixing of notices do not apply) affix in his factory or workshop notice of his intention so to avail himself, and whilst he avails himself of the exception shall keep the notice so affixed.

Before the service of such notice on the inspector the special exception shall not be deemed to apply to the factory or workshop, and after the service of such notice on the inspector it shall not be competent in any proceeding under this Act for the occupier to prove that such special exception does not apply to his factory or workshop, unless he has previously served on an inspector notice that he no longer intends to avail himself of such special exception.

The notice so served and affixed shall specify the hours for the beginning and end of the period of employment, and the times to be allowed for meals to every child, young person, and woman where they differ from the ordinary hours or times.

An occupier of a factory or workshop shall enter in the prescribed register, and report to an inspector, the prescribed particulars respecting the employment of a child, young person, or woman in pursuance of an exception, but such entry and report need not be made in the case of a factory or workshop to which the provisions of this Act with respect to the affixing of notices do not apply, except so far as may be from time to time prescribed by a Secretary of State.

Where the occupier of a factory or workshop avails himself of an exception under this part of this Act, and a condition for availing himself of such exception (whether specified in this part of this Act, or in an order of a Secretary of State made under this part of this Act is not observed in that factory or workshop, then

(1.) If such condition relates to the cleanliness, ventilation, or overcrowding of the factory or workshop, the factory or workshop shall be deemed not to be kept in conformity with this Act; and

(2.) In any other case a child, young person, or woman employed in the factory or workshop, in alleged pursuance of the said exception, shall be deemed to be employed contrary to the provisions of this Act.

PART III.

(4.) *Fines.*

Fine for not keeping factory or workshop in conformity with Act.

81.—If a factory or workshop is not kept in conformity with this Act, the occupier thereof shall be liable to a fine not exceeding ten pounds.

The court of summary jurisdiction, in addition to or instead of inflicting such fine, may order certain means to be adopted by the occupier, within the time named in the order, for the purpose of bringing his factory or workshop into conformity with this Act; the court may, upon application, enlarge the time so named, but if, after the expiration of the time as originally named or enlarged by subsequent order, the order is not complied with, the occupier shall be liable to a fine not exceeding one pound for every day that such non-compliance continues.

Fine on person committing offence for which occupier is liable.

86.—Where an offence for which the occupier of a factory or workshop is liable under this Act to a fine, has in fact been committed by some agent, servant, workman or other person, such agent, servant, workman, or other person shall be liable to the same fine as if he were the occupier.

Power of occupier to exempt himself from fine on conviction of the actual offender.

87.—Where the occupier of a factory or workshop is charged with an offence against this Act, 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, after the commission of the offence has been proved, the occupier of the factory or workshop proves to the satisfaction of the court that he had used due diligence to enforce the execution of the Act, 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 occupier shall be exempt from any fine.

When it is made to appear to the satisfaction of an inspector at the time of discovering the offence, that the occupier of the factory or workshop had used all due diligence to enforce the execution of this Act, and also by what person such offence

had been committed, and also that it had been committed without the knowledge, consent, or connivance of the occupier and in contravention of his orders, then the inspector shall proceed against the person whom he believes to be the actual offender in the first instance, without first proceeding against the occupier of the factory or workshop.

Restraint on cumulative fines.

88.—A person shall not be liable in respect of a repetition of the same kind of offence from day to day to any larger amount of fines than the highest fine fixed by this Act for the offence, except—

(*a.*) where the repetition of the offence occurs after an information has been laid for the previous offence; or

(*b.*) where the offence is one of employing two or more children, young persons, or women contrary to the provisions of this Act.

(5.) *Legal Proceedings.*

Prosecution of offences and recovery and application of fines.

89.—All offences under this Act shall be prosecuted, and all fines under this Act shall be recovered, on summary conviction before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

A summary order may be made for the purposes of this Act by a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

All fines imposed in pursuance of this Act shall, save as otherwise expressly provided by this Act, be paid into the Exchequer.

The court of summary jurisdiction, when hearing and determining a case arising under this Act, shall be constituted either of two or more justices of the peace sitting at some court or public place at which justices are for the time being accustomed to assemble for the purpose of holding petty sessions or of some magistrate or officer sitting alone or with others at some court or other place appointed for the public administration of justice, and for the time being empowered by law to do alone any act authorized to be done by more than one justice of the peace.

Where a proceeding is taken before a court of summary jurisdiction with respect to an offence against this Act alleged to be committed in or with reference to a factory or workshop, the occupier of that factory or workshop, and the father, son, or brother of such occupier, shall not be qualified to act as a member of such court.

Appeal to quarter sessions.

90.—If any person feels aggrieved by a conviction or order made by a court of summary jurisdiction on determining an information or complaint under this Act, he may appeal there-

from; subject, in England, to the conditions and regulations following:

(1.) The appeal shall be made to the next practicable court of general or quarter sessions having jurisdiction in the county or place in which the decision of the court was given, holden not less than twenty-one days after the day on which such decision was given; and

(2.) The appellant shall, within ten days after the day on which the decision of the court was given, serve notice on the other party and on the clerk of the court of summary jurisdiction of his intention to appeal, and of the general grounds of such appeal; and

(3.) The appellant shall, within three days after such notice is served, enter into a recognizance before a court of summary jurisdiction, with or without a surety or sureties as the court may direct, conditioned to appear at the said sessions and 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 the appellant may, if the court of summary jurisdiction thinks it expedient, instead of entering into a recognizance give such other security by deposit of money with the clerk of the court of summary jurisdiction or otherwise as the court deem sufficient; and

(4.) Where the appellant is in custody a court of summary jurisdiction may, if they think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody; and

(5.) The court of appeal may adjourn the hearing of the appeal, and upon 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; and

(6.) The court of appeal may also make such order as to costs to be paid by either party as the court thinks just; and

(7.) Whenever a decision is reversed by the court of appeal the clerk of the peace shall indorse on the conviction or order appealed against a memorandum that the same has been quashed, and whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence that the conviction or order has been quashed, in every case

where such copy or certificate would be sufficient evidence of such conviction or order; and

(8.) Every notice in writing required by this section to be given by an appellant may be signed by him or by his agent on his behalf, and may be transmitted in a registered letter by the post in the ordinary way, and shall be deemed to have been served at the time when it would be delivered in the ordinary course of post.

Limitation of time and general provisions as to summary proceedings.

91.—The following provisions shall have effect with respect to summary proceedings for offences and fines under this Act:

(1.) The information shall be laid within two months, or, where the offence is punishable at discretion by imprisonment, or is a breach of the provisions of this Act with respect to holidays, within three months after the commission of the offence:

(2.) The description of an offence in the words of this Act, or in similar words, shall be sufficient in law:

(3.) 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:

(4.) It shall be sufficient to allege that a factory or workshop is a factory or workshop within the meaning of this Act, without more:

(5.) It shall be sufficient to state the name of the ostensible occupier of the factory or workshop or the title of the firm by which the occupier employing persons in the factory or workshop is usually known:

(6.) A conviction or order made in any matter arising under this Act, either originally or on appeal, shall not be quashed for want of form, and a conviction or order made by a court of summary jurisdiction against which a person is authorized by this Act to appeal shall not be removed by certiorari or otherwise, either at the instance of the Crown or of any private person, into a superior court, except for the purpose of the hearing and determination of a special case.

Evidence in summary proceedings.

92.—If a person is found in a factory, except at meal times, or while all the machinery of the factory is stopped, or for the sole purpose of bringing food to the persons employed in the factory between the hours of four and five o'clock in

the afternoon, such person shall, until the contrary is proved, be deemed for the purposes of this Act to have been then employed in the factory :

Provided that yards, playgrounds, and places open to the public view, school rooms, waiting rooms, and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on, shall not be taken to be any part of the factory within the meaning of this enactment ; and this enactment shall not apply to a factory or workshop to which the provisions of this Act with respect to the affixing of notices do not apply.

Where a child or young person is, in the opinion of the court, apparently of the age alleged by the informant, it shall lie on the defendant to prove that the child or young person is not of that age.

A declaration in writing by a certifying surgeon for the district that he has personally examined a person employed in a factory or workshop in that district, and believes him to be under the age set forth in the declaration, shall be admissible in evidence of the age of that person.

A copy of a conviction for an offence against this Act purporting to be certified under the hand of the clerk of the peace having the custody of such conviction to be a true copy shall be receivable as evidence, and every such clerk of the peace shall, upon the written request of an inspector and payment of a fee of one shilling, deliver to him a copy of the conviction so certified.

Application to factories and workshops of 38 & 39 Vict. c. 55.

101.—The provisions of section ninety-one of the Public Health Act, 1875, with respect to a factory, workshop, or workplace 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 workplace.

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 twenty are employed.

FACTORY AND WORKSHOPS ACT, 1883.

46 & 47 Vict. c. 53.

An Act to Amend the Law relating to certain Factories and Workshops.

[25th August, 1883.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lord's Spiritual and

* The word in italics is repealed.

Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1.—This Act may be cited as the Factory and Workshop Act, 1883.

Bakehouses.

Regulations for new bakehouses.

15.—It shall not be lawful to let or suffer to be occupied as a bakehouse, or to occupy as a bakehouse, any room or place which was not so let or occupied before the first day of June one thousand eight hundred and eighty-three, unless the following regulations are complied with:

(i.) No water-closet, earth-closet, privy, or ash-pit shall be within or communicate directly with the bakehouse;

(ii.) Any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern for supplying water to a water-closet;

(iii.) No drain or pipe for carrying off fœcal or sewage matter shall have an opening within the bakehouse.

Any person who lets or suffers to be occupied or who occupies any room or place as a bakehouse in contravention of this section shall be liable, on summary conviction, to a fine not exeeeding forty shillings, and to a further fine not exceeding five shillings for every day during which any room or place is so occupied after a conviction under this section.

Penalty for bakehouse being unfit on sanitary grounds for use as a bakehouse.

16.—Where a court of summary jurisdiction is satisfied on the prosecution of an inspector or a local authority that any room or place used as a bakehouse (whether the same was or was not so used before the passing of this Act) is in such a state as to be on sanitary grounds unfit for use or occupation as a bakehouse, the occupier of the bakehouse shall be liable, on summary conviction, to a fine not exceeding forty shillings, and on a second or any subsequent conviction not exceeding five pounds.

The court of summary jurisdiction, in addition to or instead of inflicting such fine, may order means to be adopted by the occupier, within the time named in the order, for the purpose of removing the ground of complaint. The court may, upon application, enlarge the time so named, but if, after the expiration of the time as originally named or enlarged by subsequent order, the order is not complied with, the occupier shall be liable to a fine not exceeding one pound for every day that such non-compliance continues.

Enforcement of law as to retail bakehouses by local authorities.

17.*—(1.) *As respects every retail bakehouse, the provisions of this part of this Act and of sections three, thirty-three, thirty-four, and thirty-five of the Factory and Workshop Act, 1878*

* Sub-sections (1) and (2) are repealed by the Public Health (London) Act, 1891, *supra*, and sub-sections (2) and (3) by the Factory and Workshop Act, 1891, *infra*.

(which relate to cleanliness, ventilation, overcrowding, and other sanitary conditions), shall be enforced by the local authority of the district in which the retail bakehouse is situate, and not by an inspector under the Factory and Workshop Act, 1878; and for the purposes of this section the medical officer of health of the local authority shall have and exercise all such powers of entry, inspection, taking legal proceedings and otherwise, as an inspector under the Factory and Workshop Act, 1878.

(2.) *If any child, young person, or woman is employed in any retail bakehouse, and the medical officer of the local authority becomes aware thereof, he shall forthwith give written notice thereof to the factory inspector for the district.*

(3.) *An inspector under the Factory and Workshop Act, 1878, shall not, as respects any retail bakehouse, exercise the powers of entry and inspection conferred by that Act, unless he has notice or reasonable cause to believe that a child, young person, or woman is employed therein.*

Construction of Act and definitions. 41 & 42 Vict. c. 16.

18.—This Act shall be construed as one with the Factory and Workshop Act, 1878; and in this Act, unless the context otherwise requires,—

. . . . . .

The expression "retail bakehouse" means any bakehouse or place, the bread, biscuits, or confectionery baked in which are not sold wholesale but by retail in some shop or place occupied together with such bakehouse:

The expression "local authority" means, as respects the City of London and the liberties thereof, the Commissioners of Sewers; as respects the parishes and districts mentioned in the Schedules A. and B. annexed to the Metropolis Management Act, 1855, and any parish to which the said Act may be extended by Order in Council in manner in the said Act provided, the vestries and district boards elected under the said Act; and as respects any urban sanitary district, the urban sanitary authority, and as respects any rural sanitary district, the rural sanitary authority within the meaning of the Public Health Act, 1875.

18 & 19 Vict. c. 120.

THE FACTORY AND WORKSHOP ACT, 1891.

54 & 55 Vict. c. 75.

An Act to amend the Law relating to Factories and Workshops.

[5th August, 1891.]

Whereas it is expedient to amend the Factory and Workshop Act, 1878 (herein-after referred to as the principal Act):

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Powers of Secretary of State as to sanitary provisions in workshops.

1.—(1.) If the Secretary of State is satisfied that the provisions of the law relating to public health as to effluvia arising from any drain, privy, or other nuisance, or with respect to cleanliness, ventilation, overcrowding or lime-washing are not observed in any workshops or class of workshops (including workshops conducted on the system of not employing any child, young person, or woman therein), or laundries, he may, if he thinks fit, by order, authorize and direct an inspector or inspectors under the principal Act to take, during such period as may be mentioned in the order, such steps as appear necessary or proper for enforcing the said provisions.

(2.) An inspector authorized in pursuance of this section shall, for the purpose of his duties, have the same powers with respect to workshops and laundries to which this section applies, as he has under the principal Act as amended by this Act with respect to factories, and may for the same purpose take the like proceedings for punishing or remedying any default in compliance with the said provisions of the law relating to public health as might be taken by the sanitary authority of the district in which the workshops or laundries are situate, and shall be entitled to recover from that sanitary authority all such expenses in and about any proceedings in respect of such workshops or laundries as he may incur and are not recovered from any other person, and have not been incurred in any unsuccessful proceedings.

Powers of factory inspector after notice to sanitary authority.

2.—(1.) Section four of the principal Act shall apply to workshops conducted on the system of not employing any child, young person, or woman therein, and to laundries.

(2.) Where notice of an act, neglect, or default is given by an inspector under the said section four, as amended by this Act, to a sanitary authority, and proceedings are not taken within a reasonable time for punishing or remedying the act, neglect, or default, the inspector may take the like proceedings for punishing or remedying the same as the sanitary authority might have taken, and shall be entitled to recover from the sanitary authority all such expenses in and about the proceedings as the inspector incurs and are not recovered from any other person, and have not been incurred in any unsuccessful proceedings.

Enforcement by sanitary authority of sanitary provisions as to workshops, 41 & 42 Vict. c. 16. 54 & 55 Vict. c. 76.

3.—(1.) Sections three and thirty-three of the Factory and Workshop Act, 1878 (which relate to cleanliness, ventilation, and overcrowding in, and lime-washing of, factories and workshops), shall cease to apply to workshops.

(2.) For the purpose of their duties with respect to workshops (not being workshops to which the Public Health (London) Act, 1891, applies), a sanitary authority and their officers shall, without prejudice to their other powers, have all such powers of entry, inspection, taking legal proceedings or otherwise, as an inspector under the principal Act.

(3.) If any child, young person, or woman is employed in a workshop, and the medical officer of the sanitary authority becomes aware thereof, he shall forthwith give written notice thereof to the factory inspector of the district.

Cleanliness and lime-washing of workshops, 38 & 39 Vict. c. 55.

4.—(1.) Every workshop as defined by the principal Act (including any workshop conducted on the system of not employing any child, young person, or woman therein), and every workplace within the meaning of the Public Health Act, 1875, shall be kept free from effluvia arising from any drain, water-closet, earth-closet, privy, urinal, or other nuisance, and unless so kept shall be deemed to be a nuisance liable to be dealt with summarily under the law relating to public health.

(2.) Where on the certificate of a medical officer of health or inspector of nuisances it appears to any sanitary authority that the lime-washing, cleansing, or purifying of any such workshop, or of any part thereof, is necessary for the health of the persons employed therein, the sanitary authority shall give notice in writing to the owner or occupier of the workshop to lime-wash, cleanse, or purify the same or part thereof, as the case may require.

(3.) If the person to whom notice is so given fails to comply therewith within the time therein specified, he shall be liable to a fine not exceeding ten shillings for every day during which he continues to make default, and the sanitary authority may, if they think fit, cause the workshop or part to be lime-washed, cleansed, or purified, and may recover in a summary manner the expenses incurred by them in so doing from the person in default.

54 & 55 Vict. c. 76.

(4.) This section shall not apply to any workshop or workplace to which the Public Health (London) Act, 1891, applies.

Amendment of 41 & 42 Vict. c. 16, s. 3, as to sanitary provisions.

5.—In section three of the principal Act, for the word "privy" shall be substituted the words "water-closet, earth-closet, privy, urinal," and for the words "injurious to the health of the persons employed therein" shall be substituted the words "dangerous or injurious to the health of the persons employed therein."

Amendment of 41 & 42 Vict. c. 16, s. 61, as to exemption of certain workshops.

21.—There shall be repealed so much of section sixty-one of the principal Act as enacts that the provisions therein mentioned shall not apply to a workshop which is conducted on the system of not employing children or young persons therein, and the occupier of which has served on an inspector notice of his intention to conduct his workshop on that system.

28.—The fine imposed on a conviction under sections sixty-eight, eighty-one, eighty-two, or eighty-three of the principal Act, for any offence in relation to a factory, shall, in case of a second or subsequent conviction for the same offence within two years from the last conviction for that offence, be not less than one pound for each offence. Minimum penalties in certain cases.

29.—In summary proceedings for offences and fines under the principal Act as amended by any subsequent Act, an information may be laid within three months after the date at which the offence comes to the knowledge of a factory inspector, or in case of an inquest being held in relation to the offence, then within two months after the conclusion of the inquest, so, however, that it shall not be laid after the expiration of six months from the commission of the offence. Limitation of time for summary proceedings.

30.—Section ninety-two of the principal Act shall apply to a workshop in like manner as it applies to a factory. Amendment of 41 & 42 Vict. c. 16, s. 92.

31.—In section ninety-three of the principal Act for the words "a place solely used as a dwelling shall not be deemed to form part of the factory or workshop for the purposes of this Act," shall be substituted the words "a room solely used for the purpose of sleeping therein shall not be deemed to form part of the factory or workshop for the purposes of this Act." Amendment of 41 & 42 Vict. c. 16, s. 93.

36.—The expression "retail bakehouse" in the Factory and Workshops Act, 1883, shall not include any place which is a factory within the meaning of the principal Act. Amendment of 46 & 47 Vict c. 53, s. 18.

37.—(2.) In this Act the expression "domestic workshop" means a workshop to which section sixteen of the principal Act applies. Definition of "domestic workshop."

38.—There shall be added in line three, sub-section (3), of the Fourth Schedule of the principal Act, after "earthenware," the words "or china." Amendment of 41 & 42 Vict. c. 16, Sch. IV

39.—The enactments specified in the Second Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule. Repeal.

Provided that any special rules or requirements made under any enactment repealed by this Act shall continue to have effect as if made under this Act, and the provisions of this Act shall apply thereto accordingly.

40.—This Act shall, except where it is otherwise expressed, come into operation on the first day of January one thousand eight hundred and ninety-two. Commencement of Act.

41.—(1.) This Act may be cited as "The Factory and Workshop Act, 1891," and shall be construed as one with the Factory and Workshop Act, 1878. Short title and construction.

41 & 42 Vict. c. 16. 46 & 47 Vict. c. 53. 5 & 53 Vict. c 62.

(2.) The Factory and Workshop Act, 1878, the Factory and Workshop Act, 1883, and the Cotton Cloth Factories Act, 1889, may, together with this Act, be cited collectively as "The Factory and Workshops Acts, 1878 to 1891."

SECOND SCHEDULE. (Section 39.)

ENACTMENTS REPEALED.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
41 & 42 Vict. c. 16.	The Factory and Workshop Act, 1878.	In section three, the words "and a workshop" and "or workshop" wherever they occur. In section five, sub-section (1) the words "near to which any person is liable to pass or to be employed." Sections six, seven. and eight. Section fifteen, from "and" at the end of sub-section (1) to the end of the section. In section twenty-two, sub-section (4). In section thirty-one the words "and is of such a nature as to prevent the person injured by it from returning to his work in the factory or workshop within forty-eight hours after the occurrence of the accident." In section thirty-three the words "and workshop," "or workshop," and "or workshops," wherever they respectively occur. Section sixty-one, from "or" at the end of the paragraph marked (*a*) to the words "workshop on that system." Section sixty-nine. Section ninety-one, from "(1.) The information shall be laid" to "commission of the offence." In section one hundred and one, the words "or workshop."
46 & 47 Vict. c. 53.	The Factory and Workshop Act, 1883.	Sections seven to twelve and sub-sections (2) and (3) of section seventeen.
51 & 52 Vict. c. 22.	The Factory and Workshop Amendment (Scotland) Act, 1888.	The whole Act.
52 & 53 Vict. c. 62.	The Cotton Cloth Factories Act, 1889.	Section twelve.

THE DAIRIES, COW-SHEDS, AND MILK-SHOPS ORDER OF 1885.

At the Council Chamber, Whitehall, the 15th day of June 1885.
By Her Majesty's Most Honourable Privy Council.

PRESENT.

LORD PRESIDENT. MR. TREVELYAN.

The Lords and others of Her Majesty's Most Honourable Privy Council, by virtue and in exercise of the powers in them vested under the Contagious Diseases (Animals) Act, 1878, and of every other power enabling them in this behalf, do order, and it is hereby ordered, as follows :—

Short title.

1.—This Order may be cited as "The Dairies, Cow-sheds, and Milk-shops Order of 1885."

Extent.

2.—This Order extends to England and Wales and Scotland only.

Commencement.

3.—This Order shall commence and take effect from and immediately after the thirtieth day of June, one thousand eight hundred and eighty-five.

Interpretation.

4.—In this Order—

The Act of 1878 means the Contagious Diseases (Animals) Act, 1878.

Other terms have the same meaning as in the Act of 1878.

Revocation of former Order.

5.—The Dairies, Cow-sheds, and Milk-shops Order of July, 1879, is hereby revoked : Provided that nothing in this Order shall be deemed to revive any Order of Council thereby revoked or to invalidate or make unlawful anything done before the commencement 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, the said Order hereby revoked.

Registration of dairymen and others.

6.—(1.) It shall not be lawful for any person to carry on in the district of any local authority the trade of a cow-keeper, dairyman, or purveyor of milk unless he is registered as such therein in accordance with this Article.

(2.) Every local authority shall keep a register of persons from time to time carrying on in their district the trade of cow-keepers, dairymen, or purveyors of milk, and shall from time to time revise and correct the register.

(3.) The local authority shall register every such person, but the fact of such registration shall not be deemed to authorize such person to occupy as a dairy or cow-shed any

particular building or in any way preclude any proceedings being taken against such person for non-compliance with or infringement of any of the proceedings of this Order or any regulation made thereunder.

(4.) 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, handbills, or otherwise, of registration being required, and of the mode of registration.

(5.) 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 purposes of registration, be deemed to be a person carrying on the trade of cow-keeper or dairyman, and need not, by reason thereof, be registered.

(6.) 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.

Construction and water-supply of new dairies and cow-sheds.

7.—(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 commencement 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

8.—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 commencement 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 or contamination.

Contamination of milk.

9.—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—

(*a.*) to allow any person suffering from a dangerous infectious disorder, or having recently been in contact with a person so suffering, to milk cows or 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, so far as regards the production, distribution, or storage of milk; or

(*b.*) 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 to 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, after the receipt of notice of not less than one month from the local authority calling attention to the provisions of this article, to permit any water-closet, earth-closet, privy, cesspool, or urinal to be within, communicate directly with, or ventilate into, any dairy or any room used as a milk-store or milk-shop.

11.—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 as a sleeping apartment, or 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.

12.—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 cowshed 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.

13.—A local authority may from time to time make regulations for the following purposes, or any of them: Regulations of local authority.

(*a.*) For the inspection of cattle in dairies.

(*b.*) For prescribing and regulating the lighting, ventilation, cleansing, draining, and water-supply of dairies and cow-sheds in the occupation of persons following the trade of cow-keepers or dairymen.

(*c.*) For securing the cleanliness of milk-stores, milk-shops, and of milk-vessels used for containing milk for sale by such persons.

(*d.*) For prescribing precautions to be taken by purveyors of milk and persons selling milk by retail against infection or contamination.

Provisions as to regulations of local authority.

14.—The following provisions shall apply to regulations made by the local authority under this order :—

(1.) Every regulation shall be published by advertisement in a newspaper circulating in the district of the local authority.

(2.) The local authority shall send to the Privy Council a copy of every regulation made by them not less than one month before the date named in such regulation for the same to come into force.

(3.) If at any time the Privy Council are satisfied on inquiry, with respect to any regulation, that the same is of too restrictive a character, or otherwise objectionable, and direct the revocation thereof, the same shall not come into operation or shall thereupon cease to operate, as the case may be.

Existence of disease among cattle.

15.—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.

Acts of local authorities.

16.—(1.) All orders and regulations made by a local authority under the Dairies, Cow-sheds, and Milk-shops Order of July, 1879, or any Order revoked thereby, 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 July, 1879, or any Order revoked thereby, may be used as far as they are suitable for the purposes of this Order.

Scotland.

17.—Nothing in this Order shall be deemed to interfere with the operation of The Cattle Sheds in Burghs (Scotland) Act, 1866.

C. L. PEEL.

THE CONTAGIOUS DISEASES (ANIMALS) ACT, 1886.

49 & 50 Vict. c. 32.

LOCAL GOVERNMENT BOARD,
WHITEHALL, S.W.,
20th October, 1886.

SIR,

I am directed by the Local Government Board to advert to section 9 of the Contagious Diseases (Animals) Act, 1886, which has transferred to the Board and to urban and rural sanitary authorities in their several districts certain powers relating to the regulation of dairies, cow-sheds, and milk-shops, formerly exercised by the Privy Council and the local authorities acting under the Contagious Diseases (Animals) Act, 1878.

It has been suggested to the Board that it would be convenient if the attention of sanitary authorities were specially drawn to this enactment, with a view of informing them of the powers which have thus been conferred on them.

The section in question has provided that the powers vested in the Privy Council of making General or Special Orders under section 34 of the Act of 1878 shall henceforth be exercisable by the Board, who may from time to time alter or revoke any such Order; and that for the purposes of the two sections and any Order in force thereunder, the expression "local authority" (unless the context otherwise requires) shall, outside the metropolis, have the same meanings as in the Public Health Act, 1875; in other words shall mean the urban or rural sanitary authority, as the case may be.

Section 34 of the Act of 1878 enabled the Privy Council to make orders for the following purposes:—

(1.) For the registration with the local authority of all persons carrying on the trade of cow-keepers, dairymen, or purveyors of milk.

(2.) 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 occupations of persons following the trade of cow-keepers or dairymen.

(3.) For securing the cleanliness of milk-stores, milk-shops, and of milk-vessels used for containing milk for sale by such persons.

(4.) For prescribing precautions to be taken for protecting milk against infection or contamination.

(5.) For authorizing a local authority to make regulations for the purposes aforesaid, or any of them, subject to such conditions, if any, as the Privy Council might prescribe.

In pursuance of the last-mentioned section the Privy Council on the 15th June, 1885, made an Order known as "The Dairies, Cow-Sheds, and Milk-Shops Order of 1885," a copy of which is enclosed for the information of the sanitary authority.

It will be seen that this Order, subject to the exceptions therein specified, required the local authority to keep a register of persons from time to time carrying on in their district the trade of cow-keepers, dairymen, or purveyors of milk, and in this connexion it may be mentioned that the recent Act has provided that in counties so much of this register as relates to the district of the sanitary authority, or a copy thereof, shall be delivered to the sanitary authority by the county authority. If, therefore, this has not already been furnished to the sanitary authority, it would be well that the sanitary authority should apply for it to the county authority.

The Order also contains provisions with respect to the lighting, ventilation, cleansing, drainage, and water-supply of dairies and cow-sheds, the contamination of milk, and the sale and use of the milk of diseased cows ; and it enabled local authorities, subject to the control of the Privy Council, to make regulations for the following purposes :—

(*a.*) For the inspection of cattle in dairies.

(*b.*) 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 cow-keepers or dairymen.

(*c.*) For securing the cleanliness of milk-stores, milk-shops, and of milk-vessels used for containing milk for sale by such persons.

(*d.*) For prescribing precautions to be taken by purveyors of milk and persons selling milk by retail against infection or contamination.

The above Order and the regulations made by county authorities under it or under previous Orders of the Privy Council, and in force at the passing of the recent Act, are to be deemed to have been made respectively by the Board, and so far as they extend to the district of the sanitary authority, by the sanitary authority. It is manifestly desirable, therefore, that every sanitary authority should ascertain whether any such regulations are in force in their district, and that if so, they should obtain copies of them.

Any expenses incurred by the sanitary authority in pursuance of the powers transferred to them by the recent Act are to be defrayed as if they were incurred in the execution of the Public Health Act, 1875, and in the case of a rural authority are to be deemed to be general expenses.

For the purpose of enforcing orders under section 34 of the Act of 1878, and any regulations made thereunder, sanitary authorities and their officers will have the same right to be

admitted to any premises as they have under section 102 of the Public Health Act, 1875, for the purpose of examining as to the existence of nuisances; but no entry may be made, except with the permission of the local authority under the Contagious Diseases (Animals) Act, 1878, into any cow-shed or other place in which an animal infected with any disease is kept, and which is situate in a place declared to be infected with such disease.

The Board understand that the Agricultural Department of the Privy Council are of opinion that it is desirable, for the due carrying out of the Contagious Disease (Animals) Acts, that the officers of sanitary authorities should give notice to the county authorities of any disease of animals found by them in any dairy or cow-shed; and the Board suggest that the sanitary authority should give directions to their officers to furnish this information to the county authority.

I am, Sir,

Your obedient Servant,

HUGH OWEN,

Secretary.

The Clerk to the Sanitary Authority.

THE CONTAGIOUS DISEASES (ANIMALS) ACT 1886.

49 & 50 Vict. c. 32.

LOCAL GOVERNMENT BOARD,

WHITEHALL, S.W.,

3rd November, 1886.

SIR,

I am directed by the Local Government Board to enclose two copies of an Order which they have issued in pursuance of section 9 of the Contagious Diseases (Animals) Act, 1886, for the purpose of amending "The Dairies, Cow-sheds, and Milk-shops Order of 1885," made by the Privy Council under Section 34 of the Contagious Diseases (Animals) Act, 1878.

Article 13 of the Order of 1885 provides that a local authority may from time to time make regulations for the purposes mentioned in that article, and by Article 14 of the Order it is required that every regulation so made by a local authority shall be sent by them to the Privy Council, and that if, at any time, the Privy Council are satisfied on inquiry with respect to any such regulation that the same is of too restrictive a character, or otherwise objectionable, and direct the

revocation thereof, the same shall not come into operation, or shall thereupon cease to operate, as the case may be.

The Board are advised that in the absence of an Order of the Board amending the Order of 1885, regulations made by a local authority would have to be sent to the Privy Council, and that the power conferred by Article 14 would still be exercisable by that Department and not by the Board. As it is not intended that this should be the case, the Board by the Order which they have issued have substituted the words "Local Government Board," for the words "Privy Council," in Article 14 of the Order of 1885. Hence all regulations made by local authorities in future under that Order must be sent to the Board and not the Privy Council.

The Board are further advised that it is doubtful whether the penalties imposed by the Act of 1878, for offences against that Act, are, since the passing of the Act of 1886, applicable to an offence against the Order of 1885. In these circumstances the Board have deemed it advisable to exercise the power conferred upon them by sub-section (5) of section 9 of the Act of 1886, and they have therefore, by the Order which they have now issued, imposed penalties for offences against the Order of 1885.

It will be observed that the penalties so imposed are those which under section 183 of the Public Health Act, 1875, may be imposed by any sanitary authority for offences against bye-laws made by them under that Act. This is in accordance with the requirements of sub-section (5) of section 9 of the Act of 1886.

I am, Sir,

Your obedient Servant,

HUGH OWEN,

Secretary.

The Clerk to the Sanitary Authority.

THE DAIRIES, COW-SHEDS, AND MILK-SHOPS AMENDING ORDER, 1886.

[Date of Publication in the *London Gazette*, 2nd Nov. 1886.]

TO THE MAYOR AND COMMONALTY AND CITIZENS of the CITY OF LONDON, acting by the Mayor, Aldermen, and Commons of that City in Common Council assembled :—

To the Metropolitan Board of Works ;—

To the several Urban and Rural Sanitary Authorities for the time being in England and Wales ;—

And to all others whom it may concern

WHEREAS by section 34 of the Contagious Disease (Animals) Act, 1878 (herein-after referred to as "the principal Act"), it was enacted that Her Majesty's Most Honourable Privy Council (herein-after referred to as "the Privy Council") might from time to time make such general or special Orders as they should think fit, subject and according to the provisions of the Act, for the purposes specified in that section;

And whereas on the 15th day of June, 1885, the Privy Council, in pursuance of the powers vested in them by the principal Act, made a General Order known as "The Dairies, Cow-sheds, and Milk-shops Order of 1885" (herein-after referred to as "the Order of 1885"); and such Order extends to the whole of England and Wales;

And whereas by article 14 of the Order of 1885, it is provided that a copy of every regulation therein referred to shall be sent to the Privy Council, and that if at any time the Privy Council are satisfied on inquiry with respect to any regulation that the same is of too restrictive a character, or otherwise objectionable, and direct the revocation thereof, the same shall not come into operation, or shall thereupon cease to operate, as the case may be;

And whereas by section 9 of the Contagious Diseases (Animals) Act, 1886 (herein-after referred to as "the Act of 1886"), it is enacted as follows:—

"(1.) The powers vested in the Privy Council of making general or special Orders under section thirty-four of the principal Act, for the purposes in that section mentioned, are hereby transferred to and shall henceforth be exercisable by the Local Government Board; every such Order shall have effect as if enacted in this section, and shall be published in such manner as the Local Government Board may direct, and the said Board may from time to time alter or revoke any such Order."

"(2.) For the purposes of the said section and this section, and of any Order in force thereunder, the expression 'local authority,' unless the context otherwise requires, in the metropolis has the same meanings as in the principal Act, and elsewhere has the same meaning as in the Public Health Act, 1875."

* * * * * *

"(5.) The like penalties for offences against orders or regulations made for the purposes of section 34 of the principal Act as amended by this section may be imposed by the Local Government Board or local authority making the same, and such offences may be prosecuted and penalties recovered in a summary manner, and subject to the like provisions, as if such orders or regulations were bye-laws of a local authority under the Public Health Act, 1875, and as if the local authority mentioned in that Act included a local authority in the metropolis as defined in this section."

* * * * * *

"(6) (*a.*) The Dairies, Cow-sheds, and Milk-shops Order of 1885, and any regulations thereunder, or having effect in pursuance thereof, made by any local authority under the principal Act, other than the local authority of a county, shall be deemed to have been made respectively by the Local Government Board and by a local authority under this section."

And whereas it is expedient that the Order of 1885 should be altered as herein-after mentioned, and that penalties should be imposed for offences against such Order:

NOW THEREFORE, We, the Local Government Board, in pursuance of the powers vested in us by the Act of 1886, hereby order as follows:—

ARTICLE 1.—This Order may be cited as "The Dairies, Cow-sheds, and Milk-shops Amending Order of 1886."

ARTICLE 2.—Article 14 of the Order of 1885 shall be altered by the substitution therein of the words "Local Government Board" for the words "Privy Council" occurring therein.

ARTICLE 3.—If any person is guilty of an offence against the Order of 1885, he shall for every such offence be liable to a penalty of five pounds, and in the case of a continuing offence to a further penalty of forty shillings for each day after written notice of the offence from the local authority:

Provided, nevertheless, that the justices or court before whom any complaint may be made, or any proceedings may be taken in respect of any such offence, may, if they think fit, adjudge the payment as a penalty of any sum less than the full amount of the penalty imposed by this Order.

ARTICLE 4.—In this Order the expression "local authority" means—

In the City of London and the Liberties thereof, the Mayor and Commonalty and Citizens of the City of London acting by the Mayor, Aldermen, and Commons of that City in Common Council assembled:

In the Metropolis, except the City of London and the Liberties thereof, the Metropolitan Board of Works:

Elsewhere than in the Metropolis, the Urban or Rural Sanitary Authority.

Given under the Seal of Office of the Local Government Board, this First day of November, in the year One thousand eight hundred and eighty-six.

(L.S.) CHAS. T. RITCHIE,
President.

HUGH OWEN,
Secretary.

LOCAL GOVERNMENT ACT, 1888.

Medical Officers of Health (Metropolis).

LOCAL GOVERNMENT BOARD,
WHITEHALL, S.W.,
30th March, 1889.

SIR,

I am directed by the Local Government Board to draw attention to paragraph (*c*) of section 88 of the Local Government Act, 1888, by which section 191 of the Public Health Act, 1875, is, after the 1st of April 1889, made applicable to the metropolis in like manner as if the commissioners of sewers in the City of London, and every vestry of a parish in Schedule A., and district board of a district in Schedule B. to the Metropolis Management Act, 1855, or under any Act amending the same, were a local authority within the meaning of that section, and as if any medical officer of health hereafter appointed by such commissioners, vestry, or district board were appointed under the Public Health Act. It is also enacted that the provisions of the Local Government Act with respect to the qualification of a medical officer or to the payment by a county council of a portion of the salary of a medical officer shall apply accordingly.

Under section 24 (2) (*c*) of the Local Government Act, which is thus made applicable to the metropolis, so far as medical officers of health are concerned, it will devolve on the London county council to pay, to every local authority for any area in the county by whom a medical officer of health is paid, one half of the salary of such officer, where his qualification, appointment, salary, and tenure of office are in accordance with the regulations made by order under the Public Health Act, 1875; and by section 191 of the Public Health Act, as amended by section 24 (3) of the Local Government Act, the Board are empowered to prescribe regulations in regard to the qualification, appointment, duties, salary, and tenure of office of a medical officer of health in respect of whose salary payment will be made by the county council.

The Board are also empowered to prescribe regulations in regard to the qualification and duties of a medical officer of health no portion of whose salary will be so paid.

The Board have accordingly issued an Order containing regulations with regard to the matters above mentioned, and two copies of it are enclosed.

The Order is divided into two parts, Part I. relating to every medical officer of health appointed on or after the 1st of

April 1889, one half of whose salary will be payable to the local authority by the London county council, and Part II. to every medical officer of health appointed on or after the date referred to, no part of whose salary will be payable by the London county council.

In Part II. the duties only of the medical officer of health are prescribed; but Part I. deals with the appointment, tenure of office, and remuneration, as well as with the duties of any medical officer of health to whom that Part applies.

It will be observed that before a local authority proceed to the appointment of a medical officer of health one half of whose salary will be payable by the county council, a statement is to be submitted to the Board, in a prescribed form, indicating the proposals of the local authority in regard to the district for which the officer is intended to be employed, the salary to be assigned to him, and certain other particulars. Two copies of the form of statement are enclosed for use in case the local authority should decide to make an appointment with a view to repayment by the county council of one half of the salary of the medical officer of health. Until the proposals contained in the statement have been submitted to and approved by the Board, the local authority should not proceed with the appointment of the officer.

When such approval has been obtained, the next step, unless the case comes within Article 6, will be to insert, in some public newspaper circulating in the district of the local authority, and at least seven days before the day fixed for the appointment, an advertisement containing the particulars mentioned in Article 3 of the Order. The appointment will be subject to the Board's approval.

If the local authority wish to obtain payment from the county council in respect of the future salary of a medical officer of health in office on the 1st of April, it is necessary that he should be appointed under the Order, but in such a case the Board do not consider it needful that an advertisement should be published in a newspaper of the proposal to appoint the officer. They have therefore provided by Article 6 that it shall not be requisite in any case of this kind to give notice by advertisement, if notice be given at one of the two ordinary meetings of the local authority next preceding the meeting at which the appointment is to be made. The article will also apply in cases in which it is hereafter desired to renew appointments made under the Order for a specified term.

Article 5 has been inserted with a view to enable a local authority to provide in certain cases for filling up a vacancy about to arise in the office of medical officer of health, before the vacancy has actually arisen, and Article 7 provides for the remuneration of a person employed to act as a substitute for a medical officer who may be temporarily prevented by sick-

ness or accident, or other sufficient reason, from performing his duties.

Articles 8 to 11 refer to the tenure of office of medical officers of health appointed under the Order. Articles 12 to 15 relate to the salaries of officers so appointed, and Article 16 to their duties. It will be observed that the salary payable to any such officer must be approved by the Board.

The Board do not consider it necessary to refer in detail to the duties prescribed by the Order for medical officers of health. For the most part they are analogous to those at present prescribed for medical officers of health appointed under the Public Health Act, 1875.

It will be observed that paragraph (16) of Article 16 will require the medical officer of health to transmit to the Board a copy of each annual and of any special report. It is important that this should be done, as, if the Board certify that the requirement has not been complied with, a sum equal to one half of his salary will be forfeited to the Crown, under section 24 (2) (*c*) of the Local Government Act, and must be paid by the county council into the Exchequer, and not to the local authority.

A copy of each report, whether annual or special, must be sent to the London county council by the medical officer of health, and, if a copy of each annual report is not so sent, the county council may refuse to pay any contribution which otherwise they would, in pursuance of the Act, pay towards the salary of the officer. See section 19 (1).

It will also be the duty of the medical officer of health to give immediate information to the Board and to the London county council of any outbreak of dangerous epidemic disease within his district.

The duties assigned by Part II. of the Order to a medical officer of health no part of whose salary is payable by the London county council will be the same as those assigned in the cases in which half of the salary will be paid, with the addition that under Article 17 (1) of the order it will be incumbent on the officer within seven days after his appointment to report the same in writing to the Board.

I am directed to add that the Board have not thought it necessary to prescribe any qualification for medical officers of health in the metropolis, as this matter appears to them to be sufficiently dealt with by section 18 of the Local Government Act, taken in connexion with section 88 (*c*). Having regard to these enactments, it seems to the Board that, except where they for reasons brought to their notice may see fit specially to allow, no person can hereafter be appointed the medical officer of health of any district in the metropolis, or the deputy of any such officer, unless he is legally qualified for the practice of medicine, surgery, and midwifery.

Moreover, after the 1st of January 1892, no person can be

appointed the medical officer of health of any district in the metropolis which contained, according to the last published census for the time being, 50,000 or more inhabitants, unless he is qualified as above-mentioned, and also either is registered in the medical register as the holder of a diploma in sanitary science, public health, or State medicine, under section 21 of the Medical Act, 1886, or has been during three consecutive years preceding the year 1892 a medical officer of a district or combination of districts with a population, according to the last published census, of not less than 20,000 inhabitants, or has, before the passing of the Local Government Act, been for not less than three years a medical officer or inspector o the Board.

I am, Sir,

Your obedient Servant,

HUGH OWEN,

Secretary.

To the Clerk to the

REGULATIONS AS TO MEDICAL OFFICERS OF HEALTH.

[28th March, 1889.]

[Date of Publication in the *London Gazette*, 29th March, 1889.]

TO THE COMMISSIONERS OF SEWERS IN THE CITY OF LONDON ;—

To the Vestries and District Boards for the time being acting under the Metropolis Management Act, 1855, or any Act amending the same ;—

And to all others whom it may concern.

WHEREAS by paragraph (*c*) of section 88 of the Local Government Act, 1888, it is enacted as follows :—

> Section one hundred and ninety-one of the Public Health Act, 1875, shall apply to the metropolis in like manner as if the commissioners of sewers in the City of London, and every vestry of a parish in Schedule A., and district board of a district in Schedule B., to the Metropolis Management Act, 1855, or under any Act amending the same, were a local authority within the meaning of that section, and as if any medical officer hereafter appointed by such commissioners, vestry, or district board were appointed under the said Act, and the provisions of this Act with respect to the qualification of a medical

officer or to the payment by a county council of a portion of the salary of a medical officer shall apply accordingly;

And whereas by section 191 of the Public Health Act, 1875 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;

And whereas by sub-section (2) of section 24 of the said Local Government Act it is enacted that the council of each county shall from time to time as from the 31st day of March, 1889, pay out of the county fund and charge to the Exchequer Contribution Account the sums referred to in paragraphs (*a*) to (*k*) of that sub-section, and paragraph (*c*) is as follows:—

(*c*.) They shall pay to every local authority, for any area wholly or partly in the county, by whom a medical officer of health or inspector of nuisances is paid, one-half of the salary of such officer, where his qualification, appointment, salary, and tenure of office are in accordance with the regulations made by order under the Public Health Act, 1875, or any Act repealed by that Act; but if the Local Government Board certify to the council that such medical officer has failed to send to the Local Government Board such report and returns as are for the time being required by the regulations respecting the duties of such officer made by order of the Board under any of the said Acts, a sum equal to such half of the salary shall be forfeited to the Crown, and the council shall pay the same into Her Majesty's Exchequer, and not to the said local authority;

And whereas it is enacted by sub-section (3) of section 24 of the said Local Government Act as follows:

A reference in sections one hundred and eighty-nine and one hundred and ninety-one of the Public Health Act, 1875, to officers any portion of whose salary is paid out of moneys provided by Parliament shall

be construed to refer to those officers in respect of whose salaries payment is made by a county council in pursuance of this section;

And whereas by sub-section (2) of section 109 of the said Local Government Act it is enacted as follows:—

> Any enactment of this Act authorizing anything to be done by the . . . Local Government Board, . . . or relating . . . to any matter required to be done for the purpose of bringing this Act into operation on the appointed day, shall come into effect on the passing of this Act:

NOW THEREFORE, We, the Local Government Board, in pursuance of the powers given to us by the statutes in that behalf, hereby order as follows in regard to medical officers of health who may be appointed on or after the first day of April, one thousand eight hundred and eighty-nine, by the commissioners of sewers in the City of London, or by any vestry or district board acting under the Metropolis Management Act, 1855, or any Act amending the same, the said commissioners and any such vestry or district board being herein-after referred to as the "local authority":—

PART I.

In regard to the appointment, tenure of office, salary, and duties of every medical officer of health one-half of whose salary will be payable to the local authority by the London county council in pursuance of the above-cited section 24 of the Local Government Act, 1888, we do hereby order:—

Appointment.

Article 1.—A statement shall be submitted to us, in a form to be supplied by us, showing the population and area of the district for which the local authority propose to appoint a medical officer of health, together with the salary intended to be assigned to him, and such other particulars as may be prescribed by such form. If the local authority desire at any time to alter the district or make an appointment at a different salary a fresh statement shall be submitted to us.

Article 2.—When our approval has been given to the proposals contained in the statement so submitted to us, the local authority shall proceed to the appointment of the medical officer of health accordingly. Provided that if the local authority make the appointment before submitting such a statement as herein-before mentioned, the appointment shall be valid if approved by us.

Article 3.—An appointment of a medical officer of health shall not be made unless an advertisement specifying the

district for which the appointment is to be made, together with 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 of the local authority, at least seven days before the day so fixed.

Article 4.—Every medical officer of health shall be appointed by a majority of the members present at a meeting of the local authority and voting on the question, but such appointment shall be subject to our approval.

Article 5.—If a vacancy be about to occur on notice given by an officer of an intended resignation to take effect on a future day, or on notice given by the local authority in pursuance of Article 10 of this Order, or, in the case of an officer who holds his office for a specified term, by the term coming to an end, the local authority may provide for the continuance of such officer, or appoint his successor, at any time subsequent to the giving of the notice, or within three calendar months next before the expiration of the term.

Article 6.—If in the case of an officer holding office at the date of this Order the local authority desire to appoint him under this Order, or if, in the case of an officer who may have been appointed under this Order for a specified term, the local authority should desire to renew his appointment for a further term, or otherwise in conformity with the provisions of this Order, it shall not be necessary for notice of the proposed appointment or renewal to be given by advertisement, if notice be given at one of the two ordinary meetings of the local authority next preceding the meeting at which the appointment is made or renewed.

Article 7.—If any officer be temporarily prevented by sickness or accident, or other sufficient reason, from performing his duties, the local 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 the foregoing Articles of this Order shall be complied with, nor shall our approval be required to any such appointment, but no compensation shall be paid in any such case for a longer period than six weeks unless our consent be first obtained.

Tenure of Office.

Article 8.—Every officer shall continue to hold office for such period as the local authority may, with our approval, determine, or until he die, or resign, or be removed by such authority with our assent, or be removed by us, or be proved to be insane by evidence which we shall deem sufficient.

Article 9.—The local 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 us; and if we remove the suspension of such officer by the local authority, he shall forthwith resume the performance of his duties.

Article 10.—Where any change in the extent of the district of any officer, or in his duties or salary, may be deemed necessary, and he shall decline to acquiesce therein, the local authority may, with our consent, but not otherwise, and after six months' notice in writing, signed by their clerk, given to such officer, determine his office.

Article 11.—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.

Article 12.—The local authority shall pay to every officer such salary as may be approved by us.

Provided always that the local authority, with our approval, 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 for which he is appointed.

Article 13.—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 local authority may be entitled to make in respect of Article 11 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 representatives.

Provided that an officer who may be suspended, and who may, without the previous removal of such suspension, resign or be removed under Article 8 of this Order, shall not be entitled to any salary from the date of such suspension.

Article 14.—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 local 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.

Article 15.—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.

Article 16.—The following shall be the duties of the medical officer of health in respect of the district for which he is appointed:—

(1.) He shall inform himself as far as practicable respect-

ing 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 and 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 local authority on all matters affecting the health of the district, and on all sanitary points involved in the action of the local authority; and in cases requiring it, he shall certify, for the guidance of the local 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 local authority on any question relating to health involved in the framing and subsequent working of such bye-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 authorized, assist in the execution of the same.

(7.) Subject to the instructions of the local authority, he shall direct or superintend the work of the inspectors of nuisances in the way and to the extent that the local authority shall approve, and on receiving information from any 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 authorized by the Statutes 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 local 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 bye-laws and regulations of the local authority, duly confirmed where confirmation is legally required, in respect of any matter affecting the public health, and touching which they are authorized to frame bye-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 make the necessary inspections and otherwise perform the duties devolving on him under the Factory and Workshop Act, 1883, in regard to bakehouses.

(12.) He shall attend at the office of the local authority, or at some other appointed place, at such stated times as they may direct.

(13.) He shall from time to time report in writing to the local 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 as far as he has been enabled to ascertain the same.

(14.) He shall keep a book or books, to be provided by the local 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 local authority.

(15.) 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 any Statute, 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 local 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 us, or to the like effect,) of the sickness and mortality within the district, classified according to diseases, ages, and localities.

(16.) He shall give immediate information to us and to the London county council of any outbreak of dangerous epidemic disease within the district. He shall also transmit to us a copy of each annual and of any special report, and any report made by him under the Artizans Dwellings Acts, 1868 to 1885, shall be deemed to be a special report.

(17.) He shall, at the same time that he transmits to us a copy of his annual report and of any special report, transmit a copy of such report to the London county council.

(18.) In matters not specifically provided for in this Order, he shall observe and execute any instructions issued by us, and any lawful orders and directions of the local authority applicable to his office.

(19.) Whenever we shall make regulations for all or any of the purposes specified in section 6 of the Diseases Prevention Act, 1855, and shall declare the regulations so made to be in force within the district of the local authority, he shall observe such regulations, so far as the same relate to or concern his office under the local authority.

PART II.

In regard to the duties of every medical officer of health no part of whose salary will be payable to the local authority by the London county council in pursuance of the above-cited section 24 of the Local Government Act, 1888, we do hereby order :—

Article 17.—The following shall be the duties of the medical officer of health in respect of the district for which he is appointed :—

(1.) He shall within seven days after his appointment, report the same in writing to us.

(2.) He shall perform all the duties prescribed by Article 16 of this Order for a medical officer of health in respect of whose salary a payment is made by the London county council as aforesaid.

Given under the Seal of Office of the Local Government Board, this twenty-eighth day of March, in the year one thousand eight hundred and eighty-nine.

(L.S.) CHAS. T. RITCHIE,
President.

HUGH OWEN,
Secretary.

CHOLERA CIRCULAR.

LOCAL GOVERNMENT BOARD,
WHITEHALL, S.W.,
29th July, 1885.

SIR,

I am directed by the Local Government Board to state that having regard to the serious and continued prevalence of cholera in Spain, they deem it desirable to bring under the attention of the sanitary authority the memorandum of the Board's medical officer, on the precautions to be taken against the infection of cholera, of which copies were forwarded to the sanitary authority in July of last year.

The Board direct me to enclose a reprint of that memorandum, and to urge upon the sanitary authority the importance of their taking such measures of precaution as the sanitary condition of their district may demand.

I am, Sir,
Your obedient Servant,
HUGH OWEN,
Secretary.

To the Clerk to the Sanitary Authority.

PRECAUTIONS AGAINST THE INFECTION OF CHOLERA.

1.—The Order of the Local Government Board, of July 12, 1883, now in force, gives certain special powers to the sani-

tary authorities of the sea coast, enabling them to deal with any cases of cholera brought into port, so as to prevent as far as possible the spread of the disease into the country. But as cases of choleraic infection have widely different degrees of severity, it is possible that some such cases, slightly affected, will, notwithstanding the vigilance of local authorities, be landed without particular notice in English sea-board towns, whence they may advance to other, and perhaps inland, places.

2.—Former experience of cholera in England justifies a belief that the presence of imported cases of the disease at various spots in the country will not be capable of causing much injury to the population, if the places receiving the infection have had the advantage of proper sanitary administration; and, in order that all local populations may make their self-defence as effective as they can, it will be well for them to have regard to the present state of knowledge concerning the mode in which epidemics of cholera (at least in this country) are produced.

3.—Cholera in England shows itself so little contagious, in the sense in which small-pox and scarlatina are commonly called contagious, that, if reasonable care be taken where it is present, there is almost no risk that the disease will spread to persons who nurse and otherwise closely attend upon the sick. But cholera has a certain peculiar infectiveness of its own, which, *where local conditions assist*, can operate with terrible force, and at considerable distances from the sick. It is characteristic of cholera (and as much so of the slight cases where diarrhœa is the only symptom as of the disease in its more developed and alarming forms) that *all matters which the patient discharges from his stomach and bowels are, or can become, infective.* Probably, under ordinary circumstances, the patient has no power of infecting other persons except by means of these discharges; nor any power of infecting even by them except in so far as particles of them are enabled to taint the food, water, or air which people consume. Thus, when a case of cholera is imported into any place, the disease is not likely to spread, unless in proportion as it finds, locally open to it, certain facilities for spreading by *indirect infection.*

4.—In order rightly to appreciate what these facilities must be, the following considerations have to be borne in mind:—*First*, that any choleraic discharge, cast without previous thorough disinfection into any cesspool or drain, or other depository or conduit of filth, has a faculty of infecting the excremental matters with which it there mingles, and probably, more or less, the effluvia which those matters evolve; *secondly*, that the infective power of choleraic discharges attaches to whatever bedding, clothing, towels and like things, have been imbued with them, and renders these things, if not thoroughly disinfected, as capable of spreading the disease in

places to which they are sent (for washing or other purposes) as, in like circumstances, the patient himself would be; *thirdly*, that if, by leakage or soakage from cesspools or drains, or through reckless casting out of slops and washwater, any taint (however small) of the infective material gets access to wells or other sources of drinking water, it imparts to enormous volumes of water the power of propagating the disease. When due regard is had to these possibilities of indirect infection, there will be no difficulty in understanding that even a single case of cholera, perhaps of the slightest degree, and perhaps quite unsuspected in its neighbourhood, may, *if local circumstances co-operate*, exert a terribly infective power on considerable masses of population.

5.—The dangers which have to be guarded against as favouring the spread of cholera infection are particularly two. First and above all, there is the danger of WATER-SUPPLIES which are in any (even the slightest) degree tainted by house refuse or other like kinds of filth, as where there is outflow, leakage or filtration, from sewers, house-drains, privies, cesspools, foul ditches, or the like, into springs, streams, wells, or reservoirs from which the supply of water is drawn, or into the soil in which the wells are situate; a danger which may exist on a small scale (but, perhaps, often repeated in the same district) at the pump or dipwell of a private house, or, on a large or even vast scale, in the source of public water-works. And secondly, there is the danger of breathing AIR which is foul with effluvia from the same sorts of impurity.

6.—Information as to the high degree in which those two dangers affect the public health in ordinary times, and as to the special importance which attaches to them at times when any diarrhœal infection is likely to be introduced, has now for so many years been before the public, that the improved systems of refuse-removal and water-supply by which those dangers are permanently obviated for large populations, and also the minor structural improvements by which separate households are secured against them, ought long ago to have come into universal use.

So far, however, as this wiser course has not been adopted in any sanitary district, security must, as far as practicable, be sought in measures of a temporary and palliative kind.

(*a.*) Immediate and searching examination of sources of water-supply should be made in all cases where the source is in any degree open to the suspicion of impurity; and the water both from private and public sources should be examined. Where pollution is discovered, everything practicable should be done to prevent the pollution from continuing, or, if this object cannot be obtained, to prevent the water from being drunk. Cisterns should be cleaned, and any connexions of waste water-pipes with drains should be severed.

(*b.*) Simultaneously, there should be immediate thorough

removal of every sort of house refuse and other filth which has accumulated in neglected places; future accumulations of the same sort could be prevented; attention should be given to all defects of house-drains and sinks through which offensive smells are let into houses; thorough washing and lime-washing of uncleanly premises, especially of such as are densely occupied, should be practised again and again.

7.—It may fairly be believed that, in considerable parts of the country, conditions favourable to the spread of cholera are now less abundant than at any former time; and in this connexion, the gratifying fact deserves to be recorded that during recent years enteric fever, the disease which in its methods of extension bears the nearest resemblance to cholera, has continuously and notably declined in England. But it is certain that in many places such conditions are present as would, if cholera were introduced, assist in the spread of that disease. It is to be hoped that in all these cases the local sanitary authorities will at once do everything that can be done to put their districts into a wholesome state. Measures of cleanliness, taken beforehand, are of far more importance for the protection of a district against cholera than removal or disinfection of filth after disease has actually made its appearance.

8.—It is important for the public very distinctly to remember that pains taken and costs incurred for the purposes to which this memorandum refers cannot in any event be regarded as wasted. The local conditions which would enable cholera, if imported, to spread its infection in this country, are conditions which, day by day, in the absence of cholera, create and spread other diseases; diseases which, as being never absent from the country, are in the long run far more destructive than cholera; and the sanitary improvements which would justify a sense of security against any apprehended importation of cholera would, to their extent, though cholera should never re-appear in England, give amply remunerative results in the prevention of those other diseases.

GEORGE BUCHANAN,
Medical Officer of the Board.

Local Government Board,
July 21, 1885.

CHOLERA REGULATIONS.

LOCAL GOVERNMENT BOARD,
WHITEHALL, S.W.,
30th August, 1890.

SIR,

I AM directed by the Local Government Board to advert to section 130 of the Public Health Act, 1875, under which they are empowered to make regulations with a view to the treatment of persons affected with cholera, and preventing the spread of the disease both on land and water.

Doubts having arisen as to the extent of the powers conferred on the Board by this section as respects authorities and vessels, it was provided by the Public Health Act, 1889 (52 & 53 Vict. c. 64), that regulations made by the Board in relation to cholera in pursuance of the enactment above mentioned might provide for such regulations being enforced and executed by the officers of customs as well as by other authorities and officers, and for the detention of vessels and of persons on board vessels, and for the duties to be performed by pilots, masters of vessels, and other persons on board vessels.

Under these circumstances the Board have thought it desirable to rescind the several Orders previously issued by them with a view to the treatment of persons affected with cholera, and preventing the spread of the disease, and to prescribe fresh regulations on the subject. Copies of the new Order are enclosed. It has been so framed as to apply to every port sanitary authority as well as to every urban or rural sanitary authority whose district includes or abuts on any part of a customs port, which part is not within the jurisdiction of a port sanitary authority. The necessity for issuing special Orders in certain exceptional cases has thus been obviated.

In the main the regulations prescribed by the new Order are the same as those previously in force, and the only points to which it appears requisite to draw attention are the following.

Under Article 6 of the Order it is the duty of every port sanitary authority and of every other sanitary authority within whose district persons are likely to be landed from any ship coming foreign, to fix some place where any ship certified to be infected with cholera may be moored or anchored. A proviso has been added to the Article to the effect that where, in pursuance of any of the Orders now revoked, places have already been fixed for the like purpose, such places shall be deemed to have been so fixed for the purpose of the Order now issued.

Article 9 requires the medical officer of health, after examining a ship infected with cholera, to forward to the Board information as to the arrival of the ship, and such other particulars as they may require.

Under Article 12 any person on board a ship infected with cholera, who is not certified by the medical officer of health to be suffering from cholera, or from any illness which the medical officer of health may suspect to be cholera, is to be permitted to land on giving to the medical officer of health his name and the place of his destination, and also, where practicable, his address at such place. Having obtained this information, it will be the duty of the medical officer of health forthwith to report the same to the clerk to the sanitary authority, who is required thereupon to transmit the particulars to the local authority of the district in which the place of destination is situate. By the term "local authority" in the Article is meant any urban or rural sanitary authority, and in the administrative county of London the commissioners of sewers, the vestry or district board under the Metropolis Management Acts, and the Woolwich Local Board of Health.

The Board think it important that a local authority should be made aware that a person has come into their district who, though not himself certified as being infected with cholera, has come from an infected ship, and the Board trust that the requirements of this Article will be strictly complied with.

By Article 19, the master of every ship infected with cholera is required, when within three miles of the coast, to cause to be hoisted the Commercial Code Signal Q, being a yellow flag, under the national ensign, and to keep the same displayed during the whole of the time between sunrise and sunset.

The term "master," as will be seen from Article I. of the order, includes the officer, pilot, or other person for the time being in charge of the ship.

The Order is, of course, designed for the protection of the English shores from the introduction of cholera, and as cases of the disease are now occurring on the continent, the Board trust that sanitary authorities on the sea-board will use the utmost vigilance in seeing that the provisions of the Order are efficiently and strictly complied with.

I am, Sir,

Your obedient Servant,

HUGH OWEN,

Secretary.

To the Clerk to the
Sanitary Authority.

CHOLERA REGULATIONS: PORTS.

[28th Aug, 1890.]

[Date of Publication in the *London Gazette*, 29th Aug 1890.]

TO ALL PORT SANITARY AUTHORITIES;—

To all other Sanitary Authorities as herein defined;—

To the Queen's Harbour Masters of Dockyard Ports;—

To all Officers of Customs;—

To all Medical Officers of Health of the Sanitary Authorities aforesaid;—

To all Masters of Ships;—

To all Pilots;—

And to all others whom it may concern.

WHEREAS we, the Local Government Board, are empowered by Section 130 of the Public Health Act, 1875, from time to time, to make, alter, and revoke such regulations as to us may seem fit, with a view to the treatment of persons affected with cholera, and preventing the spread of cholera, as well on the seas, rivers, and waters of the United Kingdom, and on the high seas within three miles of the coasts thereof, as on land; and may declare by what authority or authorities such regulations shall be enforced and executed;

And whereas by section 2 of the Public Health Act, 1889, it is enacted that regulations of the Local Government Board made in relation to cholera and choleraic diarrhœa, in pursuance of section 130 of the Public Health Act, 1875, may provide for such regulations being enforced and executed by the officers of customs, as well as by other authorities and officers, and, without prejudice to the generality of the powers conferred by the said section, may provide for the detention of vessels and of persons on board vessels, and for the duties to be performed by pilots, masters of vessels, and other persons on board vessels; provided that the regulations, so far as they apply to the officers of customs, shall be subject to the consent of the Commissioners of Her Majesty's Customs;

And whereas by certain Orders dated the 12th day of July, 1883, and an Order dated the 21st day of April, 1884, we prescribed rules and regulations with a view to the treatment of persons affected with cholera, and for preventing the spread of the disease, and it is expedient that such Orders should be revoked, and that further regulations should be prescribed as herein-after mentioned, to which the Commissioners of Her Majesty's Customs have signified their consent so far as such regulations apply to the officers of customs:

NOW THEREFORE, we, the Local Government Board, do hereby revoke the aforesaid Orders, except in so far as they

may apply to any proceedings now pending, and we do, by this our Order, and in exercise of the power conferred on us by the Public Health Act, 1875, as amended and extended by the Public Health Act, 1889, and every other power enabling us in that behalf, make the following regulations and declare that they shall be enforced and executed by the authorities herein-after named :—

Definitions.

Article 1.—In this Order—

The term "ship" includes vessel or boat;

The term "officer of customs" includes any person acting under the authority of the Commissioners of Her Majesty's Customs;

The term "master" includes the officer, pilot, or other person for the time being in charge or command of the ship;

The term "cholera" includes choleraic diarrhœa;

The term "sanitary authority" means every port sanitary authority and every urban or rural sanitary authority whose district includes or abuts on any part of a customs port, which part is not within the jurisdiction of a port sanitary authority;

The term "medical officer of health" includes any duly qualified medical practitioner appointed by a sanitary authority to act in the execution of this Order;

For the purpose of this Order,—

(1.) So much of a customs port abutting on an urban or rural sanitary district as is nearer to such district than to any other, and is not included within the jurisdiction of any port sanitary authority, shall be deemed to be within such district;

(2.) Every ship shall be deemed infected with cholera in which there is or has been during the voyage, or during the stay of such ship in a port in the course of such voyage, any case of cholera.

I.—*Regulations as to Detention by Officers of Customs.*

Article 2.—If any officer of customs, on the arrival of any ship, ascertain from the master of such ship or otherwise, or have reason to suspect that the ship is infected with cholera, he shall detain such ship, and order the master forthwith to moor or anchor the same in such position as such officer of customs shall direct; and thereupon the master shall forthwith moor or anchor the ship accordingly.

Article 3.—Whilst such ship shall be so detained, no person shall leave the same.

Article 4.—The officer of customs detaining any ship as aforesaid shall forthwith give notice thereof, and of the cause of such detention, to the sanitary authority of the place to which the ship shall be bound, or where the ship shall be about to call.

Article 5.—Such detention by the officer of customs shall cease as soon as the ship shall have been duly visited and examined by the medical officer of health; or, if the ship shall, upon such examination, be found to be infected with cholera, as soon as the same shall be moored or anchored in pursuance of Article 10 of this Order.

Provided, that if the examination be not commenced within twelve hours after notice given as aforesaid, the ship shall, on the expiration of the said twelve hours, be released from detention.

II.—*Regulations as to Sanitary Authorities.*

Article 6.—Every port sanitary authority and every other sanitary authority within whose district persons are likely to be landed from any ship coming foreign shall, as speedily as practicable, with the approval of the chief officer of customs of the port, fix some place where any ship may be moored, or anchored, for the purpose of Article 10; and shall make provision for the reception of cholera patients and persons suffering from illness removed under Articles 13 and 14. The place to be fixed as aforesaid, where any ship may be moored or anchored for the purpose of Article 10, shall be some place within the jurisdiction or district of the sanitary authority, unless the Local Government Board otherwise consent; in which case the place so fixed shall, for the purposes of this Order, be deemed to be within such jurisdiction or district.

Provided that in the case of any dockyard port for which a Queen's harbour-master has been appointed the place where any ship shall be moored or anchored for the purpose of this article shall from time to time be fixed by the port sanitary authority with the approval of the Queen's harbour-master instead of with that of the chief officer of customs of the port.

Provided also, that where, in pursuance of any of the above-cited orders, places have been duly fixed for the mooring or anchoring of ships for the like purpose, such places shall be deemed to have been so fixed in pursuance of this Order.

Article 7.—The sanitary authority, on notice being given to them by an officer of customs, under this Order, shall forthwith cause the ship in regard to which such notice shall have been given, to be visited and examined by their medical officer of health for the purpose of ascertaining whether she is infected with cholera.

Article 8.—The medical officer of health, if he have reason to believe that any ship coming or being within the jurisdiction or district of the sanitary authority, whether examined by the officer of customs or not, is infected with cholera, shall, or if she have come from a place infected with cholera, may, visit and examine such ship, for the purpose of ascertaining whether she is so infected; and the master of such ship shall permit the same to be so visited and examined.

Article 9.—If the medical officer of health on making such examination as aforesaid (whether under Article 7 or under Article 8), shall be of opinion that the ship is infected, he shall forthwith give a certificate in duplicate in the following form, or to the like effect, and shall deliver one copy to the master, and retain the other copy or transmit it to the sanitary authority. He shall also give to the Local Government Board information as to the arrival of the ship, and such other particulars as that Board may require.

Certificate.

day of 189 .

SANITARY AUTHORITY OF

I hereby certify that I have examined the ship
of , now lying in the Port of [*or detained at*] and that I find that she is infected with Cholera.

Medical Officer of Health [or Medical Practitioner appointed by the Sanitary Authority].

Article 10.—The master of any ship so certified to be infected with cholera shall thereupon moor or anchor her at the place fixed for that purpose under Article 6, and she shall remain there until the requirements of this Order have been duly fulfilled.

Article 11.—No person shall leave any such ship until the examination herein-after mentioned shall have been made.

Article 12.—The medical officer of health shall, as soon as possible after any such ship has been certified to be infected with cholera, examine every person on board the same, and in the case of any person suffering from cholera or from any illness which the medical officer of health suspects may prove to be cholera, shall certify accordingly; and any person who shall not be so certified by him shall be permitted to land immediately on giving to the medical officer of health his name and place of destination, stating, where practicable, his address at such place.

The name and address of any such person shall forthwith be given by the medical officer of health to the clerk of the sanitary authority, and such clerk shall transmit the same to

the local authority of the district in which the place of destination of such person is situate.

In this article the term "local authority" means any urban or rural sanitary authority; and in the administrative county of London, the commissioners of sewers, the vestry under the Metropolis Management Act, 1855, of a parish in Schedule A., and the district board of a district in Schedule B. to that Act, as amended by the Metropolis Management Amendment Act, 1885, and the Metropolis Management (Battersea and Westminster) Act, 1887, and the Woolwich Local Board of Health.

Article 13.—Every person certified by the medical officer of health to be suffering from cholera shall be removed, if his condition admit of it, to some hospital or other suitable place appointed for that purpose by the sanitary authority; and no person so removed shall leave such hospital or place until the medical officer of health shall have certified that such person is free from the said disease.

If any person suffering from cholera cannot be removed, the ship shall remain subject, for the purposes of this Order, to the control of the medical officer of health; and the infected person shall not be removed from or leave the ship, except with the consent in writing of the medical officer of health.

Article 14.—Any person certified by the medical officer of health to be suffering from any illness which such officer suspects may prove to be cholera, may either be detained on board the ship for any period not exceeding two days, or be taken to some hospital or other suitable place appointed for that purpose by the sanitary authority, and detained there for a like period, in order that it may be ascertained whether the illness is or is not cholera.

Any such person who, while so detained, shall be certified by the medical officer of health to be suffering from cholera, shall be dealt with as provided by Article 13 of this Order.

Article 15.—The medical officer of health shall, in the case of every ship certified to be infected, give directions, and take such steps as may appear to him to be necessary, for the preventing the spread of infection, and the master of the said ship shall forthwith carry into execution such directions as shall be so given to him.

Article 16.—In the event of any death from cholera taking place on board such ship while detained under Article 10, the master shall, as directed by the sanitary authority or the medical officer of health, either cause the dead body to be taken out to sea, and committed to the deep, properly loaded to prevent it rising, or shall deliver it into the charge of the said authority for interment; and the authority shall thereupon have the same interred.

Article 17.—The master shall cause any articles that may have been soiled with cholera discharges to be destroyed, and

the clothing and bedding and other articles of personal use likely to retain infection which have been used by any person who may have suffered from cholera on board such ship, or who, having left such ship, shall have suffered from cholera during the stay of such ship in any port, to be disinfected or (if necessary) destroyed; and if the master shall have neglected to do so before the ship arrives in port, he shall forthwith, upon the direction of the sanitary authority or the medical officer of health, cause the same to be disinfected or destroyed, as the case may require; and if the said master neglect to comply with such direction within a reasonable time, the authority shall cause the same to be carried into execution.

Article 18.—The master shall cause the ship to be disinfected, and every article therein, other than those last described, which may probably be infected with cholera, to be disinfected or destroyed, according to the directions of the medical officer of health.

III.—*Flag to be hoisted by Ships infected with Cholera.*

Article 19.—The master of every ship infected with cholera shall, when within three miles of the coast of any part of England or Wales, cause to be hoisted the Commercial Code Signal Q, being a yellow flag, under the National Ensign, and shall keep the same displayed during the whole of the time between sunrise and sunset.

Given under the Seal of Office of the Local Government Board, this twenty-eighth day of August, in the year one thousand eight hundred and ninety.

(L.S.) CHAS. T. RITCHIE,
President.

HUGH OWEN,
Secretary.

NOTICE.—The Public Health Act, 1875, provides by section 130 that any person wilfully neglecting, or refusing to obey or carry out, or obstructing the execution of any regulation made under that section, shall be liable to a penalty not exceeding *Fifty Pounds*.

MODEL BYE-LAWS ISSUED BY THE LOCAL GOVERNMENT BOARD FOR THE USE OF SANITARY AUTHORITIES.

XIII.—Houses let in Lodgings.

MEMORANDUM.

By section 90 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is enacted as follows:—

"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 bye-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:

"(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."

In the absence of any express limitation of their scope, bye-laws such as are authorized by the above-cited enactment would apply to every house or part of a house which, not being a common lodging-house, is let in lodgings or occupied by members of more than one family. But in many districts where the enactment is in force there are to be found houses which, though let in lodgings or occupied by members of more than one family, are of such a character as to render it inexpedient, if not absolutely unnecessary, to bring them within the range of bye-laws having for their primary object the regulation of premises where neglect of sanitary requirements might otherwise ensue. The Board have, therefore, thought it desirable to suggest in the model series of bye-laws a clause providing for the exemption of lodging-houses as to which it may be reasonably inferred that such supervision as elsewhere a local authority alone can efficiently exercise will, in fact, be exercised by the lodgers themselves. In illustration of the view which has induced them to propose this exemption, the Board may refer to the observations of the judges of the Common Pleas Division who decided the case of *Langdon, Appellant*, v. *Broadbent, Respondent* (42 J.P. 56).

The exemption clause, it will be seen, consists of two sections, of which section (*a*) relates to unfurnished, and section (*b*) to furnished lodgings. The clause assumes that all houses below a certain rateable value will, if let in lodgings, or

occupied by members of more than one family, be within the scope of the bye-laws. In the case of houses of higher rateable value, the clause confers exemption if the rent of each lodger exceeds a certain minimum. It will, of course, rest with the local authority when framing bye-laws upon the basis of the model series to determine what limits of rateable value and rent the circumstances of their district may render it desirable to prescribe.

It will be observed that the local authority are empowered to make bye-laws for fixing and "from time to time varying" the number of occupants of the houses to which the provisions of section 90 of the 38 & 39 Vict. c. 55, apply. The local authority may also make bye-laws "for the separation of the sexes" in such houses.

In the model clauses the Board have deemed it inexpedient to provide for a variation of the number of occupants. The Board have thought it preferable to suggest a few simple rules whereby the number of occupants of rooms used for sleeping may be determined with reference to a minimum allowance of free air-space for each occupant. They have assumed that before registration, or at some other convenient opportunity, the surveyor or inspector of nuisances will be instructed by the local authority to ascertain the dimensions of the several rooms in each house, and that when the maximum number of inmates has been fixed by the application of the rules embodied in the model clauses, the local authority will supply the landlord and lodgers with tickets or placards which may be affixed to the walls or doors or in some other suitable position, and which will show precisely how many inmates may be received in each sleeping apartment.

If in any case a local authority who may have adopted the model bye-laws for fixing the number of occupants should afterwards find that it is practicable to enforce an increased allowance of free air-space, the Board will gladly facilitate the confirmation of new bye-laws for that purpose.

The omission from the model clauses of provisions for the separation of the sexes is due to the doubt which the Board have entertained as to how far this desirable object can be practically attained in view of the ordinary conditions of life in lodgings of the poorer class. Where, however, the local authority are satisfied that a rule on this subject may be enforced without hardship, as, for instance, in cases where it is found that individual holdings in the lodging-houses of a district generally comprise two or more rooms, the Board will readily co-operate with the authority in framing a bye-law to provide for the separation of the sexes.

In explanation of the model clause with respect to registration, the Board have to point out that while in the case of common lodging-houses it is expressly provided by section 77 of the 38 & 39 Vict. c. 55, that a person shall not keep such

a house or receive a lodger therein unless the house is registered, there is no similar enactment with regard to the lodging-houses to which section 90 has reference.

The Board have, therefore, considered that, in relation to the latter class of houses, the chief practical purpose that a bye-law requiring registration can effect is to aid the local authority by rendering it the duty of the landlord to supply information which may facilitate their subsequent supervision of his premises. Though the landlord who neglects this duty may become liable to a penalty, the local authority will, doubtless, find that the reports of their officers, after inspection, will readily supply the particulars necessary for the accurate keeping and correction of the register.

The Board, in view of the varying circumstances of the district to which bye-laws under section 90 of the 38 & 39 Vict. c. 55, may be applied, have been unable to suggest for general use any clauses for enforcing drainage. They think that in practice it will be found that the powers which local authorities derive from the statutory provisions on this subject will be sufficient to enable them to enforce drainage without recourse to bye-laws.

Generally, with respect to all the clauses comprised in the accompanying model series, the Board have to observe that the scope of these clauses has been strictly limited to the various matters for which bye-laws are authorized. But it is to be remembered that bye-laws are not the only means by which local authorities may enforce sanitary requirements in the case of such premises as are now under consideration. The bye-laws which a local authority may make under section 90 of the 38 & 39 Vict. c. 55, are merely intended to supplement the numerous enactments which, in that and other statutes, have direct reference to matters of importance in relation to houses of this description.

That these enactments should be brought specially to the knowledge of the persons who, as landlords or lodgers, will be affected by the bye-laws is clearly desirable, and it will doubtless occur to many authorities that the practical value of their bye-laws will be materially enhanced by a carefully selected appendix of statutory provisions.

JOHN LAMBETH,

Local Government Board, *Secretary.*

31*st December*, 1880.

BYE-LAWS WITH RESPECT TO HOUSES LET IN LODGINGS, OR OCCUPIED BY MEMBERS OF MORE THAN ONE FAMILY.

Interpretation of Terms.

1.—In these bye-laws, unless the context otherwise requires, the following words and expressions have the meanings hereinafter respectively assigned to them; that is to say,—

"Lodging-house" means a house or part of a house which is let in lodgings or occupied by members of more than one family:

"Landlord," in relation to a house or part of a house which is let in lodgings or occupied by members of more than one family, means the person (whatever may be the nature or extent of his interest in the premises) by whom or on whose behalf such house or part of a house is let in lodgings or for occupation by members of more than one family, or who for the time being receives, or is entitled to receive, the profits arising from such letting:

"Lodger," in relation to a house or part of a house which is let in lodgings or occupied by members of more than one family, means a person to whom any room or rooms in such house or part of a house may have been let as a lodging or for his use and occupation.

Exempted Houses.

2.—In any one of the several cases herein-after specified, a lodging-house shall be exempt from the operation of these bye-laws; that is to say,—

(*a.*) Where for the purposes of any rate for the relief of the poor the rateable value of the house exceeds , and the rent or charge payable by each lodger, and exclusive of any charge for the use by such lodger of any furniture, shall be such that the amount accruing due in any term shall be at the rate or in the proportion of not less than *per week*:

(*b.*) Where for the purposes of any rate for the relief of the poor the rateable value of the house exceeds , and the rent or charge payable by each lodger, and inclusive of any charge for the use by such lodger of any furniture, shall be such that the amount accruing due in any term shall be at the rate or in the proportion of not less than *per week*:

For fixing 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:
For the registration of houses so let or occupied:
For the inspection of such houses:
For enforcing the provision of privy accommodation for such houses, and for promoting cleanliness and ventilation in such houses:
For the cleansing and lime-washing at stated times of the premises, and for the paving of the courts and courtyards thereof:
For the giving of notices, and the taking of precautions in case of any infectious disease.

3.—The landlord of a lodging-house shall not knowingly cause or suffer a greater number of persons than will admit of the provision of *three hundred cubic feet* of free air space for each person of an age exeeding *ten years*, and of *one hundred and fifty cubic feet* of free air space for each person of an age not exceeding *ten years* to occupy, at any one time, as a sleeping apartment, a room which is used exclusively for that purpose.

4.—The landlord of a lodging-house shall not knowingly cause or suffer a greater number of persons than will admit of the provision of *four hundred cubic feet* of free air space for each person of an age exceeding *ten years*, and of *two hundred cubic feet* of free air space for each person of an age not exceeding *ten years* to occupy, at any one time, as a sleeping apartment, a room which is not used exclusively for that purpose.

5.—A lodger in a lodging-house shall not knowingly cause or suffer a greater number of persons than will admit of the provision of *three hundred cubic feet* of free air space for each person of an age exceeding *ten years*, and of *one hundred and fifty cubic feet* of free air space for each person of an age not exceeding *ten years* to occupy, at any one time, as a sleeping apartment, a room which is used exclusively for that purpose, and which has been let to such lodger.

6.—A lodger in a lodging-house shall not knowingly cause or suffer a greater number of persons than will admit of the provision of *four hundred cubic feet* of free air space for each person of an age exceeding *ten years*, and of *two hundred cubic feet* of free air space for each person of an age not exceeding *ten years* to occupy, at any one time, as a sleeping apartment, a room which is not used exclusively for that purpose, and which has been let to such lodger.

7.—The landlord of a lodging-house, within a period of after he shall have been required by a notice in writing, signed by the clerk to the sanitary authority, and duly served upon or delivered to such landlord, to supply the information necessary for the registration of such house

by the sanitary authority, shall, personally or by his agent duly authorized in that behalf, attend at the office of the ssnitary authority during office hours, and then and there furnish and sign a true statement of the following particulars with respect to such house; that is to say—

(*a.*) The total number of rooms in the house:
(*b.*) The total number of rooms let in lodgings or occupied by members of more than one family:
(*c.*) The manner of use of each room:
(*d.*) The number, age, and sex of the occupants of each room used for sleeping:
(*e.*) The Christian name and surname of the lessee of each room; and
(*f.*) The amount of rent or charge payable by each lessee.

8.—In every case where the landlord of a lodging-house occupies or resides in any part of the premises, or retains a general possession or control of the premises, such landlord shall, at all times when required by the medical officer of health, the inspector of nuisances, or the surveyor of the sanitary authority, afford any such officer free access to the interior of the premises for the purpose of inspection.

9.—In every case where the landlord of a lodging-house does not occupy or reside in any part of the premises or retain a general possession or control of the premises, every lodger who is entitled to have or to exercise the control of the outer door of the premises shall, at all times when required by the medical officer of health, the inspector of nuisances, or the surveyor of the sanitary authority, afford any such officer free access to the interior of the premises for the purpose of inspection.

10.—Every lodger in a lodging-house shall, at all times when required by the medical officer of health, the inspector of nuisances, or the surveyor of the sanitary authority, afford any such officer free access for the purpose of inspection to the interior of any room or rooms which may have been let to such lodger.

11.—In every case where the medical officer of health, the inspector of nuisances, or the surveyor of the sanitary authority has, for the purpose of inspection, obtained access to the interior of a lodging-house or to the interior of any room or rooms in such house, a person shall not wilfully obstruct any such officer in the inspection of any part of the premises, or, without reasonable excuse, neglect or refuse, when required by any such officer, to render to him such assistance as may be reasonably necessary for the purpose of such inspection.

12.—The landlord of a lodging-house shall provide privy accommodation for such house by means of a water-closet or water-closets, an earth-closet or earth-closets, or a privy or privies.

He shall provide such accommodation so that the number of water-closets, earth-closets, or privies in relation to the greatest number of persons who, subject to the restrictions imposed by any bye-law in that behalf, may, at any one time, occupy rooms in the house as sleeping apartments, shall be in the proportion of not less than one water-closet, earth-closet, or privy to every *twelve* persons.

13.—In every case where, for the purpose of providing privy accommodation for a lodging-house in pursuance of the requirements of any bye-law in that behalf, the construction of a new water-closet is necessary, and where such construction, so far as regards the several details herein-after specified, is not already the subject of regulation by any statute or bye-law in force within the district, the landlord shall construct such water-closet in accordance with the following rules :—

(i.) If the water-closet is intended to be within the house, he shall construct such water-closet in such a position that one of its sides at the least shall be an external wall :

(ii.) He shall construct in one of the walls of the water-closet, whether the situation of such water-closet is or is not within the house, a window of not less dimensions than *two feet* by *one foot*, exclusive of the frame, and opening directly into the external air :

He shall, in addition to such window, cause the water-closet to be provided with adequate means of constant ventilation by at least one air-brick built in an external wall of such water-closet, or by an air-shaft, or by some other effectual method or appliance :

(iii.) He shall furnish the water-closet with a separate cistern, or flushing box of adequate capacity, which shall be so constructed, fitted, and placed as to admit of the supply of water for use in such water-closet without any direct connexion between any service pipe upon the premises and any part of the apparatus of such water-closet, other than such cistern or flushing box :

He shall furnish the water-closet with a suitable apparatus for the effectual application of water to any pan, basin, or other receptacle with which such apparatus may be connected and used, and for the effectual flushing and cleansing of such pan, basin, or other receptacle, and for the prompt and effectual removal therefrom of any solid or liquid filth which may from time to time be deposited therein.

He shall furnish the water-closet with a pan, basin, or other suitable receptacle of non-absorbent

material, and of such shape, of such capacity, and of such mode of construction as to receive and contain a sufficient quantity of water, and to allow all filth which may from time to time be deposited in such pan, basin, or receptacle to fall free of the sides thereof, and directly into the water received and contained in such pan, basin, or receptacle:

He shall not construct or fix under such pan, basin, or receptacle, any "container" or other similar fitting:

He shall not construct or fix in or in connexion with the water-closet apparatus any trap of the kind known as a "D trap."

14. In every case where, for the purpose of providing privy accommodation for a lodging-house in pursuance of the requirements of any bye-law in that behalf, the construction of a new earth-closet is necessary, and where such construction, so far as regards the several details herein-after specified, is not already the subject of regulation by any statute or bye-law in force within the district, the landlord shall construct such earth-closet in accordance with the following rules:—

(i.) If the earth-closet is intended to be within the house, he shall construct such earth-closet in such a position that one of its sides at the least shall be an external wall:

(ii.) He shall construct in one of the walls of the earth-closet, whether the situation of such earth-closet is or is not within the house, a window of not less dimensions than *two feet* by *one foot*, exclusive of the frame, and opening directly into the external air:

He shall, in addition to such window, cause the earth-closet to be provided with adequate means of constant ventilation by at least one air-brick built in an external wall of such earth-closet, or by an air-shaft, or by some other effectual method or appliance:

(iii.) He shall furnish the earth-closet with a reservoir or receptacle of suitable construction and of adequate capacity for dry earth or some other deodorizing substance, and he shall construct and fix such reservoir or receptacle in such a manner and in such a position as to admit of ready access to such reservoir or receptacle for the purpose of depositing therein the necessary supply of dry earth or other deodorizing substance:

He shall construct or fix, in connection with such reservoir or receptacle, suitable means or apparatus for the frequent and effectual application of a

sufficient quantity of dry earth or other deodorizing substance to any filth which may from time to time be deposited in any pan, pit, or other receptacle for filth constructed, fitted, or used in or in connexion with such earth-closet:

(iv.) If he provides in or in connexion with the earth-closet a fixed receptacle for filth, he shall construct or fix such receptacle in such a manner and in such a position as to admit of the frequent and effectual application of a sufficient quantity of dry earth or other deodorizing substance to any filth which may from time to time be deposited in such receptacle and in such a manner and in such a position as to admit of ready access to such receptacle for the purpose of removing the contents thereof. He shall not construct such receptacle of a capacity greater than may be sufficient to contain such filth and dry earth or other deodorizing substance as may be deposited therein during a period not exceeding *three months*, or in any case of a capacity exceeding *forty cubic feet*. He shall construct such receptacle of such material or materials, and in such a manner as to prevent any absorption by any part of such receptacle of any filth deposited therein, or any escape, by leakage or otherwise, of any part of the contents of such receptacle. He shall construct or fix such receptacle so that the bottom or floor thereof shall be at least *three inches* above the level of the surface of the ground immediately adjoining the earth-closet, and so that the contents of such receptacle may not at any time be exposed to any rainfall, or to the drainage of any waste water or liquid refuse from any adjoining premises:

(v.) If he provides in or in connexion with the earth-closet a movable receptacle for filth, he shall construct such earth-closet so that the position and mode of fitting of such receptacle may admit of the frequent and effectual application of a sufficient quantity of dry earth or other deodorizing substance to any filth which may from time to time be deposited in such receptacle, and may also admit of ready access to that part of the earth-closet in which such receptacle may be placed or fitted, and of the convenient removal of such receptacle or of the contents thereof. He shall also construct such earth-closet so that the contents of such receptacle may not at any time be exposed to any rainfall, or to the drainage of any waste water or liquid refuse from any adjoining premises.

15.—In every case where, for the purpose of providing privy accommodation for a lodging-house in pursuance of the requirements of any bye-law in that behalf, the construction of a new privy is necessary, and where such construction, so far as regards the several details herein-after specified, is not already the subject of regulation by any statute or bye-law in force within the district, the landlord shall construct such privy in accordance with the following rules :—

(i.) He shall construct the privy at a distance of *six feet* at the least from a dwelling-house or public building, or any building in which any person may be or may be intended to be employed in any manufacture, trade, or business :

(ii.) He shall not construct the privy within the distance of *thirty feet* from any well, spring, or stream of water used or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, or otherwise in such a position as to render any such water liable to pollution:

(iii.) He shall construct the privy in such a manner and in such a position as to afford ready means of access to such privy for the purpose of cleansing such privy and of removing filth therefrom, and in such a manner and in such a position as to admit of all filth being removed from such privy, and from the premises to which such privy may belong, without being carried through any dwelling-house or public building or any building in which any person may be or may be intended to be employed in any manufacture, trade, or business :

(iv.) He shall provide the privy with a sufficient opening for ventilation, as near to the top as practicable, and communicating directly with the external air :
He shall cause the floor of the privy to be flagged or paved with hard tiles or other non-absorbent material, and he shall construct such floor so that it shall be in every part thereof at a height of not less than *six inches* above the level of the surface of the ground adjoining such privy, and so that such floor shall have a fall or inclination towards the door of such privy of *half-an-inch* to the foot :

(v.) If the privy is constructed for use in combination with a fixed receptacle for filth, he shall construct or fix in or in connexion with the privy suitable means or apparatus for the frequent and effectual application of ashes, dust, or dry refuse to any filth which may from time to time be deposited in such receptacle. He shall construct such receptacle so that the contents thereof may not at any time be exposed

to any rainfall, or the drainage of any waste water or liquid refuse from any adjoining premises. He shall construct such receptacle of such material or materials and in such a manner as to prevent any absorption by any part of such receptacle of any filth deposited therein, or any escape, by leakage or otherwise, of any part of the contents of such receptacle. He shall construct such receptacle so that the bottom or floor thereof shall be in every part at least *three inches* above the level of the surface of the ground adjoining the privy. He shall not in any case construct such receptacle of a capacity exceeding *eight cubic feet.* He shall construct the seat of the privy so that the whole of such seat, or a sufficient part thereof, may be readily removed or adjusted in such a manner as to afford adequate access to such receptacle for the purpose of removing the contents thereof, and of cleansing such receptacle, or shall otherwise provide in or in connexion with the privy adequate means of access to such receptacle for the purpose aforesaid:

(vi.) If the privy is constructed for use in combination with a movable receptacle for filth, he shall construct over the whole area of the space immediately beneath the seat of the privy, a flagged or asphalted floor, at a height not less than *three inches* above the level of the surface of the ground adjoining the privy; and he shall cause the whole extent of each side of such space between the floor and the seat to be constructed of flagging, slate, or good brickwork, at least *nine inches* thick, and rendered in good cement or asphalted. He shall construct the seat of the privy, the aperture in such seat, and the space beneath such seat, of such dimensions as to admit of a movable receptacle for filth of a capacity not exceeding *two cubic feet* being placed and fitted beneath such seat in such a manner and in such a position as may effectually prevent the deposit upon the floor or sides of the space beneath such seat, or elsewhere than in such receptacle, of any filth which may from time to time fall or be cast through the aperture in such seat. He shall construct the seat of the privy so that the whole of such seat, or a sufficient part thereof, may be readily removed or adjusted in such a manner as to afford adequate access to the space beneath such seat for the purpose of cleansing such space, or of removing therefrom or placing and fitting therein the appropriate receptacle for filth:

(vii.) He shall not cause or suffer any part of the space

under the seat of the privy, or any part of any receptacle for filth in or in connexion with the privy, to communicate with any drain.

16.—In every case where a lodger in a lodging-house is entitled to the exclusive use of any court, courtyard, area, or other open space within the curtilage of the premises, such lodger shall cause such court, courtyard, area, or other open space to be thoroughly cleansed from time to time as often as may be requisite for the purpose of keeping the same in a clean and wholesome condition.

17.—In every case where two or more lodgers in a lodging-house are entitled to the use in common of any court, courtyard, area, or other open space within the curtilage of the premises, the landlord shall cause such court, courtyard, area, or other open space to be thoroughly cleansed from time to time as often as may be requisite for the purpose of keeping the same in a clean and wholesome condition.

18.—The landlord of a lodging-house shall cause every part of the structure of every water-closet belonging to such house to be maintained at all times in good order, and every part of the apparatus of such water-closet, and every drain or means of drainage with which such water-closet may communicate to be maintained at all times in good order and efficient action.

19.—The landlord of a lodging-house shall cause every part of the structure of every earth-closet or privy belonging to such house, and every receptacle for filth provided or used in or in connexion with such earth-closet or privy to be maintained at all times in good order.

He shall cause all such means or apparatus as may be provided or used, in or in connexion with such earth-closet or privy and such receptacle, for the frequent and effectual application of dry earth or of any other deodorizing substance to any filth deposited in such receptacle to be maintained at all times in good order.

20.—In every case where a lodger in a lodging-house is entitled to the exclusive use of any water-closet, earth-closet, or privy belonging to such house, such lodger shall cause the pan, seat, floor, and walls of such water-closet, and the seat, floor, and walls of such earth-closet or privy to be thoroughly cleansed from time to time as often as may be necessary for the purpose of keeping such pan, seat, floor, and walls in a clean and wholesome condition.

21.—In every case where two or more lodgers in a lodging-house are entitled to the use in common of any water-closet, earth-closet, or privy belonging to such house, the landlord shall cause the pan, seat, floor, and walls of such water-closet, and the seat, floor, and walls of such earth-closet or privy to be thoroughly cleansed from time to time as often as may be

necessary for the purpose of keeping such pan, seat, floor, and walls in a clean and wholesome condition.

22.—In every case where a lodger in a lodging-house is entitled to the exclusive use of any earth-closet or privy belonging to such house, such lodger shall cause every receptacle for filth provided or used in or in connexion with such earth-closet or privy to be maintained at all times in a wholesome condition.

He shall cause a sufficient supply of dry earth or of some other deodorizing substance to be from time to time provided for use in such earth-closet, privy, or receptacle for filth, and shall cause such dry earth or other deodorizing substance to be frequently and effectually applied to such filth, or he shall cause such dry earth or other deodorizing substance as may from time to time be supplied to such house, in pursuance of the statutory provision in that behalf, by the sanitary authority or by any person with whom they may contract for the purpose, to be frequently and effectually applied to such filth.

23.—In every case where two or more lodgers in a lodging-house are entitled to the use in common of any earth-closet or privy belonging to such house, the landlord shall cause every receptacle for filth provided or used in or in connexion with such earth-closet or privy to be maintained at all times in a wholesome condition.

He shall cause a sufficient supply of dry earth or of some other deodorizing substance to be from time to time provided for use in such earth-closet, privy, or receptacle for filth, and shall cause such dry earth or other deodorizing substance to be frequently and effectually applied to such filth, or he shall cause such dry earth or other deodorizing substance as may from time to time be supplied to such house, in pursuance of the statutory provision in that behalf, by the sanitary authority or by any person with whom they may contract for the purpose, to be frequently and effectually applied to such filth.

24.—The landlord of a lodging-house shall cause every part of the structure of every ashpit belonging to such house to be maintained at all times in good order.

25.—In every case where a lodger in a lodging-house is entitled to the exclusive use of any ashpit belonging to such house, such lodger shall cause such ashpit to be kept at all times in a wholesome condition.

26.—In every case where two or more lodgers in a lodging-house are entitled to the use in common of any ashpit belonging to such house, the landlord shall cause such ashpit to be kept at all times in a wholesome condition.

27.—A lodger in a lodging-house, or an occupant of any room therein, shall not throw any filth or wet refuse into any ashpit belonging to such house and constructed and adapted for use only as a receptacle for ashes, dust, and dry refuse.

28.—Every lodger in a lodging-house shall cause the floor

of every room which has been let to him to be thoroughly swept once at least in *every day*, and to be thoroughly washed once at least in *every week*.

29.—Every lodger in a lodging-house shall cause every window, every fixture or fitting of wood, stone, or metal, and every painted surface in every room which has been let to him to be thoroughly cleansed from time to time as often as may be requisite.

30.—Every lodger in a lodging-house shall cause all solid or liquid filth or refuse to be removed once at least in *every day* from every room which has been let to him, and shall once at least in *every day* cause every vessel, utensil, or other receptacle for such filth or refuse to be thoroughly cleansed.

31.—In every case where a lodger in a lodging-house is entitled to the exclusive use of any staircase, landing, or passage in such house, such lodger shall cause every part of such staircase, landing or passage to be thoroughly cleansed from time to time as often as may be requisite.

32.—In every case where two or more lodgers in a lodging-house are entitled to the use in common of any staircase, landing, or passage in such house, the landlord shall cause every part of such staircase, landing or passage to be thoroughly cleansed from time to time as often as may be requisite.

33.—A lodger in a lodging-house shall not cause or suffer any animal to be kept in any room which has been let to such lodger, or elsewhere upon the premises in such a manner as to render the condition of such room or premises filthy or unwholesome.

34.—In every case where a lodger in a lodging-house is entitled to the exclusive use of any cistern or other receptacle for the storage of water supplied to the premises, such lodger shall cause every part of the interior of such cistern or receptacle to be thoroughly cleansed from time to time as often as may be requisite for the purpose of keeping the same in a clean and wholesome condition.

35.—In every case where two or more lodgers in a lodging-house are entitled to the use in common of any cistern or other receptacle for the storage of water supplied to the premises, the landlord shall cause every part of the interior of such cistern or receptacle to be thoroughly cleansed from time to time as often as may be requisite for the purpose of keeping the same in a clean and wholesome condition.

36.—The landlord of a lodging-house shall cause all such means of ventilation as may be provided in or in connexion with any room or passage in such house and in or in connexion with any water-closet, earth-closet, or privy belonging to such house to be maintained at all times in good order.

37.—The landlord of a lodging-house shall, in the first week

of the month of in every year, cause every part of the premises to be cleansed.

He shall, at the same time, except in such cases as are herein-after specified, cause every area, the interior surface of every ceiling and wall of every water-closet, earth-closet, or privy belonging to the premises, and the interior surface of every ceiling and wall of every room, staircase, and passage in the house to be thoroughly washed with hot lime-wash:

Provided that the foregoing requirement with respect to the lime-washing of the internal surface of the walls of rooms, staircases, and passages shall not apply in any case where the internal surface of any such wall is painted, or where the material of or with which such surface is constructed or covered is such as to render the lime-washing thereof unsuitable or inexpedient, and where such surface is thoroughly cleansed, and the paint or other covering is renewed, if the renewal thereof be necessary for the purpose of keeping the premises in a cleanly and wholesome condition.

38.—The landlord of a lodging-house shall cause every court and courtyard thereof to be properly paved with a hard, durable, and impervious pavement, evenly and closely laid upon a sufficient bed of good concrete and sloped to a properly constructed channel leading to a trapped gully grating, which shall be so constructed and placed as effectually to carry off all rain or waste water from such court or courtyard.

He shall cause such pavement, channel, and grating to be kept at all times in good order and in proper repair.

39.—Every lodger in a lodging-house shall, except in such cases as are herein-after specified, cause every window of every room which has been let to him, and which is used as a sleeping apartment, to be opened and to be kept fully open for *one hour* at least in the forenoon and for *one hour* at least in the afternoon of every day:

Provided that such lodger shall not be required, in pursuance of this bye-law, to cause any such window to be opened or to be kept open at any time when the state of the weather is such as to render it necessary that the window should be closed, or when any bed in any such room may be occupied by any person in consequence of sickness or of some other sufficient cause.

40.—The landlord of a lodging-house, immediately after he shall have been informed, or shall have ascertained that any person in such house is ill of an infectious disease, shall give written notice thereof to the medical officer of health of the sanitary authority.

41.—In every case where a lodger in a lodging-house has been informed, or has ascertained, or has reasonable grounds for believing that an occupant of any room which has been let to such lodger is ill of an infectious disease, such lodger shall

forthwith give written notice thereof to the landlord and to the medical officer of health of the sanitary authority, and verbal or written notice thereof to every other lodger in such house.

42.—In every case where, in pursuance of the statutory provision in that behalf, an order of a justice has been obtained for the removal from a lodging-house to a hospital, or other place for the reception of the sick, of a 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, the landlord of such house, and the lodger to whom any room whereof such person may be an occupant has been let shall, on being informed of such order, forthwith take all such steps as may be requisite on the part of such landlord and of such lodger, respectively, to secure the safe and prompt removal of such person in compliance with such order, and shall, in and about such removal, adopt all such precautions as, in accordance with any instructions which such landlord and such lodger, respectively, may receive from the medical officer of health of the sanitary authority, may be most suitable for the circumstances of the case.

Penalties.

43.—Every person who shall offend against any of the foregoing bye-laws shall be liable for every such offence to a penalty of
and in the case of a continuing offence to a further penalty of
for each day after written notice of the offence from the sanitary authority:

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this bye-law.

MODEL BYE-LAWS ISSUED BY THE LOCAL GOVERNMENT BOARD FOR THE USE OF SANITARY AUTHORITIES.

XV.—Mortuaries.

MEMORANDUM.

By section 141 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is enacted as follows:—

"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 bye-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 bye-laws, of any dead body which may be received into a mortuary."

The next section (142) is in these terms :—

"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 five pounds."

With regard to the enactments above cited, it is to be observed that they are intended to meet the requirements of all cases in which a mortuary is used, whether voluntarily or compulsorily. It is, however, chiefly in relation to those cases where the mortuary is used otherwise than in pursuance of an order of a justice under section 142, that it is important to consider to what extent sanitary authorities should avail themselves of their power of making bye-laws, and also by what other means they may provide for the efficient management of the mortuary, and for the removal and reception of the dead with least danger to the living.

It cannot be doubted that, apart from such cases as would come within the operation of section 142, there are many instances in which manifest benefit would result from the use of the mortuary for the reception of the dead during the period preceding burial. In the interests of the public health, it is clearly desirable that those who might otherwise seek permission to remove a corpse to the mortuary should not be deterred by regulations of undue stringency, or by any apparent disregard of care and decency in the internal arrangements or management of the building.

It is quite possible that at some future time, when the voluntary use of mortuaries may have become more general than at present, sanitary authorities may find it expedient to exercise more fully their power of making bye-laws under section 141. Under existing circumstances, however, it appears to the board that sanitary authorities may be advised to rely upon good administrative arrangements rather than upon bye-laws for the

proper management of their mortuaries. For certain purposes bye-laws will doubtless be necessary in most districts for which mortuaries have been provided. To such purposes the clauses comprised in the accompanying model series of bye-laws have reference.

The first and second of these clauses are designed to secure the removal of the corpse for burial within a specified period. The third and fourth clauses are intended for the prevention of misbehaviour. The fifth clause has been framed with the view of requiring undertakers to convey empty shells from the premises without delay.

With regard to the first and second clauses, it may be well to point out that bye-laws in these terms will not be operative in any case where a corpse has been removed to the mortuary in pursuance of a justice's order under section 142. In such a case, the limitation of the time within which the corpse is to be buried is a matter for which the justice is expressly authorized to give the necessary direction.

In other cases, however, it is important that the sanitary authority should have the power of enforcing the removal of corpses after a sufficient interval. Ordinarily, it may be assumed that there will be no difficulty in securing compliance with the requirements of this bye-law. The person who has obtained permission to use the mortuary for the reception of the corpse will, in the majority of instances, be in a position to provide for its removal within the prescribed time. But it may be well to draw attention to the fact that the provision in section 142, which requires the relieving officer, in default of the friends or relations of the deceased, to bury at the expense of the poor rate, is confined to cases where the removal of the body to the mortuary has been ordered by a justice and he has directed the burial to take place within a limited time.

With reference to other cases, it is to be observed that, although the 7 & 8 Vict. c. 101, s. 31, empowers the board of guardians to bury, at the cost of the poor rate, the body of any poor person which may be within their parish or union, there is no obligation upon them to incur this expense unless the body is lying in the workhouse or on premises belonging to the guardians. If, therefore, the body of a poor person has been received in the mortuary it by no means follows that the guardians or their duly authorized officer could be rendered responsible for the observance of the bye-law prescribing the period within which the body must be removed. It is possible that cases may occur where this responsibility may attach to the guardians or their officer in consequence of the directions which they may have given in pursuance of the enactment above-mentioned, and in all such cases the guardians or their officer, on being informed of the requirements of the bye-laws, would no doubt take steps to ensure

compliance with those requirements. Where, however, the cost of burial is only partially defrayed out of the poor rates, the sanitary authority, in dealing with an application for permission to use the mortuary, may sometimes find it necessary to ascertain that the applicant is, either voluntarily or by obligation, in a position to control the arrangements with regard to the burial, and may therefore, in the event of permission to use the mortuary being granted at his request, be held liable for neglect to comply with the bye-law limiting the time within which the body should be removed. But, upon the whole, it may be reasonably expected that the instances in which the sanitary authority may deem it incumbent upon them to enforce the bye-laws as to the removal of bodies will be extremely rare.

The sanitary authority will probably find that the practical questions requiring consideration in connection with any mortuary which they may provide will chiefly relate to (1) the selection of a suitable site and structure, and (2) the adoption of such administrative arrangements as will best serve the purpose of inducing persons to avail themselves of the facilities afforded by the mortuary for the safe and decent keeping of the dead during the interval before interment.

Upon these points, the Board have to offer the following suggestions.

1. *As to site and structure.*

In the choice of a site, care should be taken to ensure that the buildings to be erected thereon shall, as far as practicable, be isolated and unobtrusive. It may, indeed, be desirable to place the buildings on the site in such a position and manner as to admit of their being concealed from public view until the entrance gate to the premises has been passed.

The buildings should be substantial structures of brick or stone. In their external appearance attention should be paid to such architectural features as may serve to convey the impression of due respect for the dead.

Every chamber intended for the reception of corpses should be on the ground or basement floor.

In addition to such chambers, the premises should, if possible, comprise :

(*a.*) A waiting-room for visitors to the mortuary and for the use of mourners assembling there for funeral purposes ;

(*b.*) A caretaker's dwelling-house ; and

(*c.*) A shed or outhouse for the keeping of shells or other necessary appliances.

For these and other structural arrangements provision may be made in the manner indicated in the plan.

In the construction of each chamber intended for the recep-

tion of the dead, care should be taken to ensure convenience, decency, cleanliness, and coolness.

The chamber should be lofty and the area of its floor sufficient to allow freedom of movement between the slabs or tables on which the dead are to be placed.

There should be a ceiling to the chamber, or, if it be open to the roof, there should be a double roof with a space of 8 inches at least between the outer and inner covering or with the addttion of an intervening layer of felt.

Louvres or air-gratings under the eaves will be the best means of ventilation.

The chamber should, if practicable, be lighted by windows on the north side. If it is necessary to place windows on the south, east, or west sides, external louvre blinds should be provided for the windows.

The floor should be paved evenly and closely. The material used may be stone or slate; but a uniform cement floor is preferable.

Water should be laid on so as to be drawn from a tap within the chamber.

Shelves which may be conveniently placed around the interior of the chamber, and tables which may occupy any part of its area should preferably be made of slate slabs. If stone is used it should be smoothed on the upper surface and free edges.

The shelves and tables should be placed so that their upper surfaces may be at a height of 2½ feet or of not more than 3 feet above the floor.

The ceiling and the internal surface of the walls should be whitewashed. The outside of the roof should also be whitened.

The entrance to the chamber should be direct, without the intervention of any passage.

The number of chambers should be at least two, so that one may be appropriated exclusively for the bodies of persons who have died of infectious disease, and the other for the bodies of persons whose death has been due to other causes. It may be expedient to place these chambers as far apart as may be practicable, so that persons visiting the chamber used for the reception of the bodies of those who have died of non-infectious disease may have no reason to fear infection.

2. *As to administrative arrangements.*

No obstacle or difficulty should be placed in the way of receiving a body at any hour of the day or night. To obviate unnecessary applications for reception at night, it will probably be found sufficient to affix to the entrance gate a notice requesting persons to abstain, except in cases of emergency, from applying for the admission of bodies during certain specified hours of the night.

A caretaker should reside upon the premises, and his duties should comprise the general management of the mortuary, the maintenance of cleanliness, decency, and good order, and the keeping of such books or registers as the regulations of the sanitary authority may prescribe.

It will probably be found expedient to require the caretaker, in the case of each corpse received upon the premises, to ascertain and record the following particulars, namely:

(*a.*) Christian name and surname of the deceased;
(*b.*) Sex;
(*c.*) Age;
(*d.*) Cause of death;
(*e.*) Number of house and name of street or other description of the place whence the body has been brought to the mortuary;
(*f.*) Name and address of the person by whose order the body has been brought to the mortuary; and
(*g.*) Date of the removal of the body for burial.

It should, however, be clearly understood by the caretaker, that he would not be justified in refusing to admit a corpse on the ground that these particulars cannot be given at the time when the application for admission is made to him.

A sufficient number of shells of different sizes should be kept at the mortuary in charge of the caretaker, and he should be empowered to lend them to undertakers or other responsible persons for the conveyance of bodies to the mortuary.

The shells when not in use should be kept in a shed or other suitable place

Each shell should be constructed of strong wood, painted externally. The interior of the shell and the inner surface of its cover should be lined with tinned copper.

Each shell after being used and before being deposited in the shed or other place for storage should be thoroughly cleansed by the caretaker.

No dead body should be received upon the premises unless it is enclosed in a shell or coffin.

JOHN LAMBERT,
Secretary.

LOCAL GOVERNMENT BOARD,
25th July, 1882.

BYE-LAWS WITH RESPECT TO THE MANAGEMENT OF A MORTUARY.

1.—Every person who, in pursuance of permission obtained from the sanitary authority, has caused the body of one who has died of an infectious disease to be deposited in the

mortuary shall cause the body to be removed therefrom for the purpose of interment within a period of days from the date of death.

2.—Every person who, in pursuance of permission obtained from the sanitary authority, has caused the body of one who has died of a non-infectious disease to be deposited in the mortuary shall cause the body to be removed therefrom for the purpose of interment within a period of days from the date of death.

3.—Every person for the time being employed in depositing a body in the mortuary, or in removing a body therefrom, shall, while so employed, conduct himself in all respects with decency and propriety.

4.—Every person who, being a friend or relative of one whose body has been deposited in the mortuary, has been admitted to view the body shall, while on the premises, conduct himself in all respects with decency and propriety.

5.—Every person who, for the purpose of depositing a body in the mortuary, uses a shell which has not been provided by the sanitary authority shall, in every case where the body is transferred from the shell before being carried from the premises to the place of burial, cause the shell, as soon as conveniently may be after the transfer of the body therefrom, to be removed from the premises.

6.—Every person who shall offend against any of the foregoing bye-laws shall be liable for every such offence to a penalty of , and in the case of a continuing offence to a further penalty of for each day after written notice of the offence from the sanitary authority:

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this bye-law.

INDEX.

ABATEMENT,
of nuisance, sanitary authority to direct officers as to, 14.
of nuisance, person to be notified by written intimation, 14.
of nuisance from overcrowding, by sanitary authority, on certificate of medical officer of health, 15.
of nuisance, sanitary authority may enter premises for, 21.
cost of, paid by sanitary authority, 25.
cost of, recovered by sanitary authority, 25.
damages for, paid by sanitary authority, 25.
anything removed in, sanitary authority may sell, 27.
of nuisance caused by two or more persons, 178.
order, nuisance order, may be, 21.
order may require compliance with requisitions, 21.
order may require abatement within time specified, 21.
order may require works to be executed, 21.

ACCOMMODATION,
of sanitary conveniences in factories and workshops, 72.
for inquests, county council must provide, 135.
for inquests may be maintained in connection with mortuary, 135.
for inquests may be maintained in connection with building for post-mortem examination, 135.

ACCOUNT,
Exchequer Contribution, county council must pay half of medical officer's salary out of, 162.

ACCOUNTS,
of county council, auditor of, may surcharge member, 184.
of sanitary authority, auditor of, may surcharge member, 184.

ACCUMULATION,
when nuisances dealt with summarily, 2, 6.
when necessary for business, when not permissible, 3.

ACT,
provisions of, duty of sanitary authority to enforce, 1.
execution of, payment of expenses of, 33, 64.
execution of, fines paid to sanitary authority in aid of expenses, 177.
not applicable to slaughter of cattle at Deptford markets, 43.
contravention of, sanitary authority may enter and examine, 46.
requiring occupier or owner to cleanse footway and watercourses repealed, 60.
securities given under repealed Act valid as if given under, 209.
orders and bye-laws, &c. made or issued under repealed Act valid as if issued under, 209.

ACT—*continued.*
penalties under order, &c. under repealed Act recoverable as if under, 209.
time and conditions of repeal of enactments expressed in Fourth Schedule to, 209.
officers appointed under repealed enactment subject as existing officers to, 209.
substitation of, for repealed provisions in orders, enactments, &c., 209.
commencement of, 211.
short title of, 214.
does not prevent medical officer appointed before Act from being district medical officer of union. 139.
forms to be issued for purposes of, 191.
extends generally only to London, 192.
entends beyond London, when, 192.
application of, to city of London, modifications of, 193.
appeal under, none from commissioners of sewers to county council, 193.
bye-laws under, made by county council shall not extend to City, 193.
not to affect power of Conservators of the Thames, 199.
powers, &c., given by, in addition to powers conferred otherwise, 200.
qualification of, as to medical officer appointed before Act, 200.
qualification of, as to inspector of nuisances appointed before Act, 200.
does not apply to qualification of medical officer appointed before January 1st, 1892, 139 (2).

ACTION,
for beach of contract, dairyman exempt from, when, 117.

ACTS,
specified in Fourth Schedule to Act repealed to extent specified in third column, 208.

ADDRESS,
of owner, occupier refusing to give to sanitary authority liable to fine, 175.

ADVERTISEMENT,
of extension of number of diseases to be notified, 101.

ALKALI,
mixture of, with olein allowed in soap-boiling, 41.

ALLEY. *See* STREET, 202.

ALLOWANCE,
charitable, admission to hospital not deemed, 125.

ALMS,
admission to hospital not deemed, 125.

ANALYSIS,
of water on complaint of sanitary authority, 97.

ANIMAL,
when nuisance dealt with summarily, 2.
keeping in unfit place, prohibited by Court, 40.
intended for human food, inspection of, 86.

ANIMALS,
in dairy, inspection of, 116.

ANIMAL FAT,
with alkali, person using in production of soap liable to fine, 41.

ANNUAL REPORT,
of medical officer must be appended to annual report of sanitary authority, 158.

ANY PERSON,
may give information of nuisance, 14.

APPARATUS,
for disinfection, &c., sanitary authority may borrow for provision of, 157.

APPEAL,
to quarter sessions against nuisance order, 24.
to quarter sessions against nuisance order, stay of proceedings pending, when, 25.
to quarter sessions when none, 25, 92, 187.
from sanitary authority under s. 41 to county council, 76.
from sanitary authority under s. 43 to county council, 79.
to local government board from sanitary authority as to underground room, 144.
from court of summary jurisdiction to quarter sessions, 185.
to county council against sanitary authority, how conducted, 186, 218.
none from Commissioners of Sewers to county council, 193.
proceedings on, under Summary Jurisdiction Acts, 186.

APPELLANT,
to quarter sessions liable to fine, when, 25.

APPLICANT,
for licence, notice of objection must be served on, 46.
for licence when refused by committee may give seven days' notice to county council, 46.
for licence may be heard by county council, 46.

APPLICATION,
to carry on offensive trade, county council shall make public, 41.
to carry on offensive trade, county council shall serve sanitary authority with notice thereof, 41.
to carry on offensive trade, county council shall advertise time and place for hearing objections, 41.
of Act to city of London, modifications of, 193.
for licence for cowhouses, notice of, served on sanitary authority, 46.

APPOINTMENT,
of medical officer, when may be temporary, 165.
of sanitary inspector, when may be temporary, 165.
of county council to act on default of sanitary authority, 150.
of medical officer, powers of Local Government Board as to, 158.
of extra sanitary inspectors, Local Government Board may direct, 161.

APPORTIONMENT,
of costs and expenses in relation to nuisance, 30.
of expenses between Penge and remainder of Lewisham district, 191.
of costs of nuisances caused by two or more persons, 178.

AREA,
adjoining underground room to be paved, 143.
adjoining underground room to be effectually drained, 143.
requsite, for windows of underground room let or occupied after Act, 143.

ARREST,
constable may, without warrant, offender against bye-laws, 36.

ARTICLE,
intended for human food, inspection of, 86.
infected, may be destroyed or disinfected, 103.
when disinfected restored to owner, 107.
owner of infected, when destroyed sanitary authority shall compensate, 107.
infected, sanitary authority may borrow for disinfection, &c., of, 157.

ASHES,
nuisance from, prevention of, 36.
Included in HOUSE REFUSE, *which see*, 203.

ASHPIT,
when nuisance dealt with summarily, 2.
sanitary authority must cleanse, 62.
sanitary authority must give notice of time of cleansing, 62.
houses without proper, unlawful to erect or rebuild, 69.
notice as to, on whom to be served, 69.
county council shall make bye-laws as to, 73.
underground room must have use of, 143.
definition of, 204.
examination of, by sanitary authority, 74.
altering, restoring, destroying, powers of sanitary authority as to, 75.
public, sanitary authority may provide and maintain, 80.
public, sanitary authority may let, 84.
public, sanitary authority may make regulations as to, 84.
public, sanitary authority may fix fees for use of, 84.
public, not to be erected in street without consent of sanitary authority, 85.
public, not to be accessible from street without consent of sanitary authority, 85.
sanitary authority may borrow for provision, 157.

ASSISTANCE,
medical, sanitary authority may provide for district, 123.

ASYLUM,
authority having management of, may let to metropolitan asylum managers, 130.
authority having management of, may contract for reception of cholera patients, 130.
under Metropolitan Poor Act, 1867, consent of Local Government Board to use of, 130.

ATTENDANCE,
on vessels, poor law medical officer may charge for, 128.

ATTENDANTS,
metropolitan asylums managers may let out for the conveyance of infected persons, 124.

AUDITOR,
of county council, accounts may surcharge members, 184.
of sanitary authority, accounts may surcharge members, 184.

AUTHENTICATION,
of notices received by county council, 189.
of notices received by sanitary authority, 189.

AUTHORITY.
having management of hospital, &c., may let to metropolitan asylums managers, 130.
having management of hospital, &c. may contract for reception of cholera patients, 130.
See also SANITARY AUTHORITY, RIPARIAN AUTHORITY, COUNTY COUNCIL, LOCAL AUTHORITY.

BAKEHOUSE,
non-consumption of smoke by, nuisance under Act, 54.
sanitary condition of, enforced by sanitary authority, 57.
furnace of, to consume smoke, 52.
definition of, 203, 266.
lime-washing, &c., of, 256.
sleeping places near, 256.
regulations as to, 265.

BATH,
public, furnace of, to consume smoke, 52.

BEDDING,
when disinfected restored to owner free of charge, 107.
infected, when destroyed, sanitary authority shall compensate owner of, 107.
infected, may be destroyed or disinfected, 103.
infected, sanitary authority may require delivery of, 107.

BLOOD-BOILER,
prohibition as to trade of, 41.

BOARD,
district, in Schedule (B) to Metropolis Management Act, 1855, is sanitary authority, 147.
district, purposes for which it may borrow, 156.
of Health, in parish of Woolwich is sanitary authority, 147.
Woolwich Local, may borrow for purposes of Act, 153.
Woolwich Local, provisions of Public Health Acts extend to, 153.
district, must pay expenses out of general rate, 154.
See also LOCAL GOVERNMENT BOARD.

BOARD OF AGRICULTURE,
saving, for orders of, 117.

BODY,
dead, may "be removed" from hospital to mortuary, 119.
unidentified, mortuary provided for, 135.
unidentified, may be retained and preserved in mortuary, 135.
unidentified, removal to mortuary regulated by Secretary of State, 135.
unidentified, removal to mortuary, payment for, 135.
unidentified, removal from mortuary, payment for, 136.
unidentified, disposal and interment of, 136.
from mortuary, burial of, 131.

BONE-BOILER,
prohibition as to trade of, 41.

BOOK,
sanitary authority must enter all complaints in, 161.
report of sanitary inspector's inquiry, sanitary authority must enter in, 161.

BOOK—*continued.*
report, of sanitary authority must be open to inspection of any inhabitant, 161.
report, of sanitary authority must be open to inspection of any officer authorized by county council, 161.

BORROWING,
consent of Local Government Board as to, 156, 157.
by district boards and vestries, 239.

BREACH,
of contract, dairyman exempt from action for, when, 117.

BREAD,
unsound, person selling, liable to fine and imprisonment, 87.
unsound, person selling, may show at time ignorance of unsoundness, 87.

BREWERY,
prevention of nuisance from, 36.
non-consumption of smoke by, nuisance under Act, 54.
furnace of, to consume smoke, 52.

BUILDING,
causing effluvia certified as nuisance, 48.
causing effluvia, penalty for, 48.
causing effluvia out of district, proceedings against, 49.
used for human habitation, sec. 55 shall apply to, 99.
for post-mortem examination, county council may require, 134.
for post-mortem examination, sanitary authority may provide, 134.
for post-mortem examination, regulations of sanitary authority for, 134.
for post-mortem examination, must not be at workhouse, 134.
for post-mortem examination, may be in connection with mortuary, 134.
metropolitan asylum managers may borrow to provide, 155.
for post-mortem examination, sanitary authority may borrow for, 157.
for post-mortem examination, county council cannot require commissioners of sewers to provide, 193.
definition of, 202.
furnace of, to consume smoke, 52.
for unidentified bodies, county council may provide, 136.

BURIAL,
of persons dying in hospital from infectious disease, 119.
of bodies from mortuary, 131.
of infected body after removal, direct, 132.

BUSINESS,
offensive, established anew, what is, 42.
infected person must not carry on, 114.
offensive, not to be established anew, 41.
offensive, county council may declare, 41.
offensive, establishing anew, what is, 42, 43.
of soap-boiler, fat or oil with alkali not allowed in, 41.

BUTCHER'S SHOP,
nuisance from, prevention of, 36.

BYE-LAWS,
authentication, alteration or repeal of, 216.
confirmation of, 216, 217.
must be printed and exhibited, 217.
evidence of, 217.
of sanitary authority, 36.

BYE-LAWS—*continued.*
must be reasonable, 37, 216.
as to nuisances arising from snow, filth, &c., 36.
as to nuisances arising from slaughter houses, breweries, knackers'-yards, 36.
as to nuisances arising from keeping animals, 36.
as to paving yards and open spaces, 36.
of county council under Act, 36.
of county council as to removal of offensive matter or liquid in or through London, 36.
of county council, as to construction of carriages for offensive matter, 36.
of county council, as to cesspools and privies, 36.
of county council, as to removal and disposal of refuse, 36.
of county council, sanitary authority shall observe and enforce, 36, 73.
offenders against, constable may arrest without warrant, 36.
no offence under, to lay sand in street during frost, 36.
no offence under, to lay straw in time of sickness, 36.
of county council regulating offensive trades, 42.
of county council as to structure of premises, 42.
of county council as to mode of application or sanction, 42.
powers of petty sessional court under, 42.
person aggrieved by, may object to Local Government Board, 42.
sanitary authority may object to Local Government Board, 42.
county council not to make, affecting Deptford or Metropolitan Cattle Market, 43.
contravention of, sanitary authority may enter and examine as to, 46.
of county council as to dairies, 58.
fine for offence against, 59.
of county council as to waterclosets, &c., 73.
of county council as to ashpits and cesspools, 73.
of county council as to dung receptacles, 73.
sanitary authority shall enforce, 73.
directions of sanitary authority must be in accordance with, 73.
of sanitary authority as to cleanliness of cisterns, 93.
of sanitary authority for removal of infected persons, 111.
of sanitary authority for detention of infected persons, 111.
of sanitary authority as to mortuaries, 131.
of sanitary authority as to burial of bodies from mortuary, 131.
of sanitary authority as to tents, vans, &c., used for human habitation, 141.
to be in accordance with Public Health Act, 1875, 170, 216.
proposed, county council must send to sanitary authority copy of, 170.
of county council not to extend to City, 193.
destruction, &c. of, penalty for, 174.
made or issued under repealed Act valid as if made or issued under Act, 209.
first to be submitted within six months to Local Government Board, 209.
model, of Local Government Board for lodging houses, 303, 307.
model, of Local Government Board for mortuaries, 319.
model, of Local Government Board for management of mortuaries, 324.

CANAL,
navigation of, sanitary authority must not injuriously affect without consent, 197.
water of, sanitary authority must not divert or diminish without consent, 197.
sanitary authority must not injuriously affect without consent, 197.

CANCELLATION,
of licence of slaughterhouse on conviction, 88.

CARRIAGE,
of offensive matter, 36.

CARRIAGES,
sanitary authority may provide for removal of infected articles, 103.
for hospitals, metropolitan asylum managers may maintain and must disinfect, 124.
for hospitals, metropolitan asylum managers may let out, 124.
for disinfection, &c., sanitary authority may borrow for provision of, 157.

CARRIAGEWAYS,
manure on, nuisance, 68.

CARRION,
nuisance from, prevention of, 36.

CATTLE,
slaughter of, prohibition as to, 41.
slaughter of, order of county council for, not necessary when, 43.
slaughter of, at Deptford and Metropolitan Cattle Markets, Act not applicable to, 43.
in dairies, orders as to, 58.
slaughterer of, definition of, 204.
definition of, 204.

CERTIFICATE,
of medical officer of health or sanitary inspector for cleansing workshops, 56.
of sufficiency of water supply to new houses, 91.
of sufficiency of water supply claimed by owner of premises, 91.
of sufficiency of water supply may be dispensed with, 91.
of infectious disease, notification, form of, Local Government Board to prescribe, 98.
of infectious disease, notification, form of, sanitary authority must supply gratis, 98.
of infectious disease, notification, copy of, to be sent to metropolitan asylum managers, 99.
of infectious disease, notification, copy of, to be sent to head teacher of school, 99.
of infectious disease, notification, fees for, sanitary authority to be repaid, 99.
of infectious disease, notification must be sent to medical officer of patient's district, 99.
of infectious disease, notification may be sent to office or residence of medical officer, 99.
of disinfection of infected house, person ceasing to occupy must obtain, 110.
for removal of infected person to hospital, 111.
of medical officer or practitioner for removal of infected body to mortuary, 132.
of Local Government Board conclusive, 196.

CESSPOOLS,
when nuisance dealt with summarily, 2.
sanitary authority must cleanse, 62.
sanitary authority must give notice of time of cleansing, 62.
county council shall make bye-laws as to, 73.
examination of, by sanitary authority, 74.
constructed without consent of sanitary authority, 75.
altering, restoring, destroying powers of sanitary authority as to, 75.

CHARGE,
on local rate by Local Government Board, 196.

CHARGES,
of medical officer master of vessel on behalf of owner must pay, 128.
of attendance of medical practitioner on vessel, 128.

CHARGES AND COST,
of joint medical officer of health, powers of Local Government Board as to, 158.

CHILD,
employed in workshops, medical officer of health to give notice of, 58.
definition of, 58
sent to industrial school out of London deemed inhabitant of London, 126.

CHIMNEY,
underground room must have, 143.
sending out black smoke, a nuisance, 55.

CHOLERA,
an infectious disease to be notified, 99.
persons suffering from, metropolitan asylum managers may contract for reception of, 130.
regulations as to, 214.
precautions as to, 292.
regulations for ports, 298.

CHOLERAIC DIARRHŒA. *See* CHOLERA.

CINDERS. *See* HOUSE REFUSE.

CISTERN,
definition of, 204.
when nuisance dealt with summarily, 2.
cleanliness of, sanitary authority must secure, 93.
public, unvested, shall vest in sanitary authority, 94.
public, sanitary authority may maintain and keep supplied, 94.
public, person damaging, liable for costs to sanitary authority, 94.
polluted, any person may complain to sanitary authority of, 97.
polluted, sanitary authority may complain to petty sessional court, 97.
polluted, petty sessional court may close, 97.

CITY OF LONDON,
commissioners of sewers authority for offensive trades in, 43.
consolidated rate substituted for county fund in, 43.
council of, local authority as to dairies in, 59.
council of, expenses of, paid out of consolidated rate, 59.
sanitary authority in, commissioners of sewers, 147.
modifications of application of Act to, 193.
bye-laws of county council shall not extend to, 193.
any officer of police of, may institute proceedings when commissioners of sewers in default, 194.
any officer of police of, may recover expenses from commissioners of sewers, 194.
any officer of police of, entry of dwelling by, 194.

CITY OF LONDON SEWERS ACT, 1851,
unaltered, unrepealed by sec. 23, 53.

CITATION,
of Act, 211.

CIVIL PROCEEDINGS,
what are, 30, 31.

CLEANLINESS,
&c. of houses let in lodgings, sanitary authority to make bye-laws as to, 137.
of tents, &c., bye-laws of sanitary authority as to, 141.

CLEANSING,
of workshops, 56.
streets, means of, by sanitary authority, 63.
privies and ashpits, 63.
earth-closets and cesspools, 63.
stables and cowhouses by sanitary authority, 68.

CLOSETS. *See* WATER-CLOSET, EARTH-CLOSET

CLOSING ORDER,
when, must be made, 21.
on making, court may impose fine, 21.
may be cancelled by petty sessional court, 21.
nuisance order, may be, 21.
may prohibit habitation of dwelling-house, 21.
fine on non-compliance with, 21, 23.
of underground room by petty sessional court, 147.
of underground room, costs of payable by whom, 147.

CLOTHING,
when disinfected restored to the owner free, 107.
owner of infected, when destroyed, sanitary authority shall compensate, 107.

COMBINATION,
of orders, nuisance order, may be, 21.
of sanitary authorities to provide buildings for post-mortem examinations, 135.
of sanitary authorities to provide hospitals, 121.
of sanitary authorities to provide mortuaries, 134.

COMMENCEMENT,
of Act, 211.

COMMISSIONERS OF SEWERS,
are sanitary authority in the City of London, 147.
the authority for offensive trades in City of London, 43.
must pay expenses out of sewer rate or Consolidated rate, 154.
no appeal under Act to county council from, 193.
county council cannot require, to provide building for post-mortem examinations, 193.
powers of county council against defaulting sanitary authority shall not extend to, 193.
in default, officers of City police may institute proceedings, 194.
any officer of City police may recover expenses from, 194.
duty omitted by, Local Government Board may limit time for performance of, 195.
duty omitted by, within prescribed time, may be enforced by mandamus, 195.
order of Local Government Board as to expenses incurred through default of, enforced in High Court, 195.
duty omitted by, person appointed to do, shall have power of, 195.
expenses of performing duty of, deemed debt due, 195.
person empowered to levy local rate has powers of, 195.
Local Government Board may certify expenses incurred by person appointed to perform duty of, 196.
principal and debt due in respect of loan deemed debt due from, 196.
surplus of loan after payment of expenses paid over to, 196.

COMMITTEE,
of county council may refuse application for licence, 46.
of county council to hear appeals, 219.
of vestry or district board may be appointed for purposes of the Act, 148.
of sanitary authority, powers of, for purposes of Act, 148.

COMPANY,
water, cutting off water must give notice to sanitary authority, 92.
water, not giving such notice liable to fine, 92.

COMPENSATION,
by sanitary authority for interference with mill, or right, 78, 79.
by sanitary authority for damage done in disinfecting, 105.
by sanitary authority for damage done in disinfecting may be recovered summarily, 105.
for destruction of infected bedding, &c., may be recovered summarily, 107.

COMPLAINT,
sanitary authority shall make to petty sessional court, 21.
when to be in writing, 22.
costs and expenses of, by whom payable, 29.
of nuisance may be made by any person, 32.
by county council of sanitary authority to Local Government Board, 150.

COMPLAINTS,
sanitary authority must keep book for, 161.
inquiry into, sanitary inspectors must report to sanitary authority, 161.

CONSENT,
to sanitary authority cleansing stables, &c., how given, 68.
withdrawal or revocation of, 68.
of Local Government Board necessary to enable county council to raise loan, 151.
of Local Government Board necessary to enable sanitary authority to borrow, 156.
of Local Government Board sufficient to enable sanitary authority to borrow, 157.
of person requisite before entry of dwelling by officer of City police, 194.

CONSERVATORS OF THAMES,
Act does not affect powers of, 199.

CONSOLIDATED RATE,
substituted for county fund, 43.
expenses of council of City of London as to dairies paid out of, 59.
commissioners of sewers must pay expenses out of, 154.

CONSTABLE,
may enter premises by order of court, 32.
may recover expenses, 32.
to be deemed officer of sanitary authority, 32.
may arrest without warrant offender against bye-laws, 36.
a justice's order for removal to hospital may be directed to any, 111.

CONSUMPTION OF SMOKE,
by steam engines and vessels on Thames, 52.
by steam engines and vessels on Thames, owner or master liable for, 52.
meaning of, 53, 56.

CONTAGIOUS DISEASES (ANIMALS) ACT, 1878 to 1886,
saving as to operation of, 117.

CONTINUED FEVER,
an infectious disease to be notified, 99.

CONTRACT,
breach of, dairyman exempt from action for, when, 117.
between owner and occupier as to payment of rates, unaffected by Act, 180, 181.
any, between landlord and tenant unaffected by Act, 180.
by sanitary authority, how made, 121.

CONTRACTOR,
of sanitary authority, person in employ of, demanding gratuity, liable to fine, 62.

CONVICTION,
effect of use of word, 54.

CORN,
unsound, person selling, liable to fine and imprisonment, 87.
unsound, person selling, may show at time ignorance of unsoundness, 87.

CONVENIENCES. *See* SANITARY CONVENIENCES.

CONVEYANCE,
public, no definition of, in Act, 120.
public, infected person not to be conveyed in, 115.
of infected persons, sanitary authority may provide for, 123.

CORONER,
may order removal of body to place for holding post-mortem examination, 134.
may order removal of unidentified body to mortuary for preservation, 136.
may hold inquest as if mortuary in his district, 136.

CORPORATE FUNDS,
expenses of port sanitary authority paid out of, 167.

COSTS,
of analysing water on complaint of sanitary authority, 97.
of abatement if appeal succeeds, paid by sanitary authority, 25.
of abatement recovered by sanitary authority, 25.
of serving notice deemed money paid for person on whom order made, 29.
of making complaint deemed money paid for person on whom order made, 29.
of obtaining nuisance order deemed money paid for person on whom order made, 29.
of carrying out order deemed money paid for person on whom order made, 29.
of order of sanitary authority, by whom payable, 29.
how recoverable, 30.
how apportioned, 30.
of detention in hospital of infected person borne by metropolitan asylum managers, 112.
of removal of infected persons, sanitary authority liable for, 111.
of removal of infected body to mortuary, sanitary authority to pay, 132.
of proceedings, county council may recover when sanitary authority in default, 149.

COSTS—*continued.*
all under Act or bye-laws may be recovered under Summary Jurisdiction Acts, 175.
of nuisance caused by two or more persons, how apportioned, 178.
recoverable from owner of premises may be recovered from occupier, 180.

COUNTY COUNCIL,
bye-laws of, under Act, 36.
bye-laws of, as to removal of offensive matter or liquid in or through London, 36.
bye-laws as to construction of carriage for same, 36.
bye-laws as to cesspools and privies, 36.
bye-laws as to removal and disposal of refuse, 36.
sanction of offensive trades by, 41.
may declare business to be offensive, 41.
shall sanction offensive trades by order, 41.
shall give sanitary authority notice of application for sanction of offensive trades, 41.
shall advertise notice of application, 41.
shall advertise time and place for receiving objections to, 41.
shall affix copy notice on premises, 41.
shall consider objections made, 41.
bye-laws of, as to offensive trades, 42.
bye-laws of, as to structure of premises used for offensive trades, 42.
bye-laws of, powers of petty sessional court under, 42.
fee to, for order sanctioning offensive trade, 42.
order of, not necessary for slaughter of cattle, when, 43.
bye-laws of, not to affect Deptford or Metropolitan Cattle Market, 43.
commissioners of sewers to be substituted for, as to offensive trades, 43.
to license slaughterers, knackers, and dairymen, 45.
licence for cow-house, &c., cost of, 45.
shall fix period for licences, 45.
may direct applicant for licence to be served with objection, 46.
may require applicant for licence to attend, 46.
may hear applicant when committee refuse licence, 46.
appeal to, from committee on refusal of licence for cowhouse, &c., 46.
may proceed against sanitary authority for offensive trade in dealing with refuse, 50.
deemed sanitary authority, 51.
bye-laws of, as to dairies, 59.
power to enter dairies as sanitary authority, 59.
City of London Council substituted for, 59.
appeal to, as to water-closet regulations from sanitary authority, 70.
bye-laws of, as to water-closets, &c., 73.
ash-pits, cesspools and dung receptacles, 73.
appeal to, from sanitary authority as to alteration of water-closets, &c., 76.
appeal to, from sanitary authority as to cleansing ditches, &c., 79.
return of infectious diseases to be sent to, 99.
can extend the number of infectious diseases to be notified, 102.
payment to medical practitioner shall not disqualify for member of, 102.
must be served with notice of infected dairy, 116.
may require sanitary authority to provide building for post-mortem examinations, 134.
must approve combination of sanitary authorities for providing mortuaries, &c., 134.
must provide accommodation for holding inquests, 135.
may agree with sanitary authority to maintain places for inquests in connection with mortuary, 135.

COUNTY COUNCIL—*continued.*

may provide mortuary for unidentified bodies found in London, 135.
may provide mortuary for articles, clothing, &c. of unidentified bodies, 135.
may provide for reception and preservation of unidentified bodies, 136.
may regulate management of buildings for unidentified bodies, 136.
may regulate conduct of persons employed therein, 136.
may regulate conduct of persons identifying bodies, 136.
may take proceedings in default of sanitary authority, 149.
may recover costs of proceedings in default of sanitary authority, 149, 151.
powers of, when sanitary authority in default, 149, 151.
may complain of sanitary authority to Local Government Board, 150.
appointment of, to perform duty omitted by sanitary authority, 150.
sanitary authority in default must pay expenses of, 151.
may recover debt from sanitary authority in default by levying rate, 151.
may require officer of defaulting sanitary authority to pay over money, 151.
must pay surplus of rate to defaulting sanitary authority, 151.
may raise loan as sanitary authority for purposes of defaulting sanitary authority, 151.
powers of, to raise loan for purposes of defaulting sanitary authority, 151.
must pay to sanitary authority surplus of loan, 151.
officer of, to inspect sanitary authority's report book, 161.
must pay half of salary of medical officer out of Exchequer Contribution Account, 162.
bye-laws of, how made, 170.
deemed a local authority, 170.
must send copy of proposed bye-laws to sanitary authority, 170.
appearance of, in legal proceedings, 184.
protection of members and officer of, from personal liability, 184.
person authorized by, 184.
expenses of, repaid out of rate applicable to purposes of Act, 184.
member of, liable to be surcharged by auditor of accounts, 184.
appeal to, against sanitary authority, how conducted, 188.
orders of, must be authenticated under seal of, 189.
proceedings by, against sanitary authority, Local Government Board must sanction, 176.
may recover expenses or money due from sanitary authority without sanction of Local Government Board, 176.
fines imposed on sanitary authority paid to, 177.
mode of service of notice on, 190.
no appeal from commissioners of sewers to, 193.
bye-laws of, shall not extend to City of London, 193.
cannot require commissioners of sewers to provide building for post-mortem examinations, 193.
powers of, to proceed against defaulting sanitary authority shall not extend to commissioners of sewers, 193.
definition of, 202, 205.
must submit first bye-laws to Local Government Board within six months, 209.

COUNTY COURT,

power of, as to costs and expenses in relation to nuisance, 30.
expenses of proceedings against nuisance may be recovered in, from commissioners of sewers, 194.
proceedings for recovery of demand under fifty pounds taken by sanitary authority in, 176.

COUNTY FUND,
Consolidated rate substituted for, when, 43.
fee for licence to be carried to, 42, 46.

COURT,
shall regard circumstances of user in cases of overcrowding, 3.
Petty Sessional, sanitary authority shall complain to, 21.
Petty Sessional, may make summary nuisance order, 21.
Petty Sessional, may make and cancel closing orders, 21.
may impose fine, on making closing order, 21.
of Quarter Sessions, appeal against nuisance, order to, 24.
of Quarter Sessions, appeal against nuisance, when none, 25.
of Quarter Sessions may impose fine like Petty Sessional Court, 25.
may order sanitary authority to abate nuisance, when, 25.
may order house to be closed on application by sanitary authority, 26.
County, power of, as to costs and expenses in relation to nuisance, 30.
High, power of, as to costs and expenses in relation to nuisance, 30.
may order examination of premises, 32.
may authorize entry of constable or other person, 32.
may authorize entry of constable or other person to execute order, 32.
may authorize entry of constable or other person to recover expenses, 32.
High, proceedings in, by sanitary authority, 33.
having jurisdiction in district of nuisance, proceedings in only, 34.
power of, as to fine for non-consumption of smoke by steam vessel, 53.
power of, on complaint of nuisance from smoke, 55.
Petty Sessional, to determine costs of medical practitioner when disputed, 128.
Petty Sessional, may close underground room, 147.
Petty Sessional, may direct manner of disposal of forfeited things, 178.
Petty Sessional, appeal from, to Quarter Sessions, 185.
appeal to High Court on point of law, 187.

COWHOUSE,
county council must licence, 45.
licence for, cost of, 46.
occupier of, may consent to sanitary authority cleansing, 68.
See also DAIRIES.

CRIMINAL PROCEEDING,
what is, 30, 31, 54.

CROUP,
membranous, an infectious disease to be notified, 99.

CROYDON UNION COMMON FUND.
expenses of epidemic regulations in Penge paid out of, 191.

CUSTOMS,
officers of, duty of as to epidemic regulations, 214.

DAIRIES,
orders as to cattle in, 58.
cleanliness of water supply to, 58.
bye-laws of county council as to, 59.
medical officer of health may inspect, 116.
sanitary authority may forbid milk to be sold from, 116.
Act does not exempt from provisions of any general Act, 117.
definition of, 204.
Order of 1885, as to, 271.
Order of 1886, as to, 278.

DAIRYMEN,
must be licensed by county council, 45.
exempt from breach of contract if due to order under sec. 71, 117.
definition of, 204.
orders of Local Government Board as to, 58.

DAMAGE,
done to closets, drains, &c., fine for, 35.
done while disinfecting, sanitary authority must compensate, 105.

DAMAGES,
for abatement paid by sanitary authority, when, 25.

DANGEROUS INFECTIOUS DISEASE,
definition of, 102, 103.
See also INFECTIOUS DISEASE.

DAY,
by, entry of premises by sanitary authority for purposes of disinfection, 105.
officer of sanitary authority may enter underground room during, 146.
definition of, 204.

DEAD BODY,
may be removed from hospital to mortuary, 119.

DEATH,
of persons does not abate proceedings, 179.

DEBT,
simple contract, expenses incurred for non-infectious patient in hospital, 122.
expenses caused by sanitary authority in default deemed a, 101 (2).

DEFACING,
bye-law notice, &c., penalty for, 174.

DEFAULT,
of sanitary authority, county council may take proceedings, 149, 151.
of sanitary authority, county council may recover costs of proceedings, 149, 151.
by commissioners of sewers, officer of City police may institute proceedings, 194.
by commissioners of sewers, powers of Local Government Board as to, 195.

DEFECT,
of structure, owner to be served with notice, 15.

DEFENDANT,
may give evidence, 177.
husband or wife of, may give evidence, 177.

DELIVERY,
of infected bedding, &c., sanitary authority may require, 107.

DEMAND,
under fifty pounds, proceedings for recovery of in County Court, 176.

DEPOSIT,
when nuisance dealt with summarily, 2.
when necessary for business, not punishable under sec. 2, 3.

DEPTFORD CATTLE MARKET,
provisions of Act as to slaughter-houses not applicable to, 43.

DESIGNATION,
of owner or occupier of premises, in proceedings, 179.

DESTRUCTION,
of infected articles, 104.
of infected articles by sanitary authority, 104.
of infected articles by owner of house, 104.
of infected articles by master of house, 104.
of bye-law notice, &c., penalty for, 174.

DETENTION,
in hospital of infected person, cost of borne by Metropolitan Asylums Managers, 112.
order carried out, by whom, 112.

DIARRHŒA, CHOLERAIC,
persons suffering from, Metropolitan Asylum Managers may contract for reception of, 130.
See also CHOLERA.

DIPHTHERIA,
an infectious disease to be notified, 99.
non-pauper suffering from, Metropolitan Asylum Managers may receive, 125.

DISEASE. *See* INFECTIOUS DISEASE.

DISINFECTION,
of infected house, or part, or articles, 104.
of infected house, or part, or articles by sanitary authority, 104.
of infected house, or part, or articles by owner of house, 104.
of infected house, or part, or articles by master of house, 104.
sanitary authority may borrow for purposes of, 157.

DISPENSATIONS,
of regulation for underground rooms, powers of sanitary authority as to, 144.
of regulation for underground rooms, sanitary authority must record in minutes, 144.
of regulation for underground rooms, reasons for must be recorded in minutes, 144.
of regulation for underground rooms, powers of Local Government Board as to, 144.

DISTILLERY,
furnace of, to consume smoke, 52.

DISTRICT,
sanitary authority to inspect, 1.
premises within, sanitary authority to secure sanitary condition of, 1.
nuisance arising without, how dealt with, 34, 213.
inhabitants of, may complain of manufactory or premises causing effluvia, 48.
premises out of, sanitary authority may proceed against, 49.
streets of, sanitary authority must cleanse, 60.
dairy without, proceedings as to, 117.
of Metropolitan Asylum, part of London not within, section 81 applies to, 126.
of sanitary authority, definition of, 148.
medical officer of health to reside in, 158.
any inhabitant of, may inspect sanitary authority's report book, 161.

DISTRICTS,
medical officer of health may be appointed for two or more, 158.

DISTRICT BOARD,
is sanitary authority, 147.
committee of, may be appointed for purposes of Act, 148.
must pay expenses out of general rate, 154.
may borrow for provision of hospitals and mortuaries, 156.
may borrow for purposes of epidemic regulations, 156.

DISTRICT FUND AND RATE,
Woolwich Local Board of Health to pay expenses out of, 154.

DISTRICT MEDICAL OFFICER,
of Union, medical officer of health appointed before Act may also be, 201.

DITCH,
when nuisance dealt with summarily, 2.
open offensive, sanitary authority to cleanse, cover, or fill up, 78.
open offensive, sanitary authority to give notice to owner or occupier, 78.

DOCUMENTS,
under Act, must be in writing, 189.
issued by county council or sanitary authority, requisite authentication of, 189.
under Act mode of service of, 190.

DRAIN,
when nuisance dealt with summarily, 2.
person causing to be nuisance liable to fine, 77.
offensive, sanitary authority must cleanse, cover, or fill up, 78.
no definition of, in Act, 5.
meaning of, in Public Health Act, 1875, 5.
passing under underground room must be of gas-tight pipe, 143.
damage to, fine for, 35.

DRAINAGE,
of houses let in lodgings, bye-laws of sanitary authority as to, 137.

DRIVER,
of public conveyance must not convey infected person, 115.
of public conveyance carrying infected person must notify sanitary authority, 115.
of public conveyance used for conveying infected body, must disinfect, 120.

DUNG,
removal of, by order of sanitary inspector, 67.
removal of, by sanitary authority, 67.
removal of, by sanitary authority, expenses of, 67.
on carriageways or footways, a nuisance, 68.
receptacles for, bye-laws of county council as to, 73.

DUNGHILL,
when nuisance dealt with summarily, 2.
nuisance from, prevention of, 36.

DUST,
nuisance from, prevention of, 36.

DUTY,
of Metropolitan Asylums Managers as to epidemic regulations, 129.
of medical officers of health Local Government Board may prescribe, 201.
of sanitary authority to inspect district, 1.
to enforce provisions of Act, 1.
to secure sanitary condition of premises within district, 1.
of officer of sanitary authority to give information of nuisance, 14.
of relieving officer to give information of nuisance, 14.
of authority to make regulations as to information of nuisance, 14.
of sanitary authority to direct officers to secure abatement of nuisance, 14.
of sanitary authority to observe and enforce bye-laws, 36.
of sanitary authority to disinfect public conveyance when required, 115.
of sanitary inspectors to make complaints before justices, 161.
of sanitary inspectors to take legal proceedings, 161.
of commissioners of sewers, default in, officer of City police may institute proceedings, 194.
of commissioners of sewers, default in, powers of Local Government Board as to, 195.
of commissioners of sewers omitted, enforced by mandamus, 195.
of commissioners of sewers, expenses of performing deemed debt due, 195.
omitted by commissioners of sewers, person appointed to do, shall have power of, 195.

DWELLING,
dead body of infected person not to be kept in, for more than 48 hours, 118.
underground, separate occupation of, what is, 144.
underground, deemed occupied when person passes night in, 145.
underground, definition of, 145.
entry of, by officer of City Police, 194.

DWELLING-HOUSE,
or part of, overcrowded when used as factory, &c., 3.
closing order may prohibit habitation of, 21.
paving of yards of, 36.

DWELLINGS,
persons leaving, to have disinfected, shelter gratis must be provided for, 105.

DYE-HOUSE,
furnace of, to consume smoke, 52.
non-consumption of smoke by, nuisance under Act, 55.

EARTH-CLOSET,
when nuisance dealt with summarily, 2.
sanitary authority must cleanse, 62.
sanitary authority must give notice of time of cleansing, 62.
may be used instead of water-closet, when, 70.
county council shall make bye-laws as to, 73.
examination of, by sanitary authority, 74.
constructed without consent of sanitary authority, 73.
altering, restoring, destroying, powers of sanitary authority as to, 73.
See also WATER-CLOSET.

EFFLUVIA,
from business premises, penalty for, 48.
from business premises, how complained of, 48.
from business premises, duty of sanitary authority as to, 48.
underground room must be secured against, 143.

ENACTMENT,
repealed in Fourth Schedule extending beyond London, unrepealed beyond, 208.
in Fourth Schedule to Act, time and conditions of repeal of, 209.
repealed, officers appointed under may continue in office, 209.
repealed, officers appointed under subject to Act as existing officers, 209.

ENDEMIC DISEASE,
Regulations of Local Government Board as to, 169, 214.

ENGINES,
steam, on Thames to consume smoke, 52.

ENTERIC FEVER,
an infectious disease to be notified, 99.

ENTRY,
of premises by sanitary authority, 28.
of premises by sanitary authority to abate nuisance, 22.
of premises by sanitary authority as to smoke, 53.
of premises by sanitary authority for offences in bakehouses, 57.
of dairy by county council, 59.
of premises by sanitary authority to examine water-closets, &c., 74.
power of, by sanitary authority to execute works as to water-closets, &c., 73.
of premises to inspect animal or article intended for food, 86.
power of, to execute epidemic regulations, 127.
of tents, &c., used for human habitation, 141.
of underground room, justice's warrant may authorize at any time, 146.
power of, may be exercised by any member of sanitary authority, 171.
power of, may be exercised by any officer or person authorized by sanitary authority, 171.
power of, person exercising must produce written authority, 171.
of premises by warrant of justice, 172.
of premises by warrant of justice granted on information on oath, 172.
of premises by warrant of justice, person refusing liable to fine, 172.
of premises, duration of time of warrant for, 172.
of overcrowded house, justice may grant warrant for, by night, 172.

EPIDEMIC REGULATIONS,
of Public Health Act, 1875, extended to London, 127, 214.
sanitary authority to execute, 127.
sanitary authority power of entry to execute, 127.
two or more sanitary authorities may act together for purposes of, 129.
Metropolitan Asylum Managers deemed a sanitary authority under, 129.
expenses of, incurred by sanitary authority repaid from Metropolitan Common Fund, 130.
for purposes of, vestries and district boards may borrow, 156.
expenses of, in Penge, paid from Croydon Common Poor Fund, 191.

ERYSIPELAS,
an infectious disease to be notified, 99.

ESTABLISHING ANEW,
offensive business, what is, 42, 43.

EVIDENCE,
of offence under sec. 20, 45.
of persons passing night in underground room, 145.
may be given by defendant, or husband or wife, 177.
of bye-laws, 217.

EXAMINATION,
by sanitary authority of water-closets, 74.
by sanitary authority of cesspools, water-supplies, taps, &c., 74.
post-mortem, building for, county council cannot require commissioners of sewers to provide, 193.
post-mortem, building for, county council may require, 134.
post-mortem, building for, sanitary authority may provide, 134.
post-mortem, building for, may be in connection with mortuary, 134.
post-mortem, must not be conducted in mortuary, 134.

EXCHEQUER CONTRIBUTION ACCOUNT,
county council must pay half of salary of sanitary officers out of, 162.

EXECUTION,
of Act, penalty for obstructing, 174.
of works, by order of Petty Sessional Court, 174.
of works, by order of Petty Sessional Court, occupier obstructing liable to fine, 174.

EXISTING OFFICER,
definition of, 200.

EXPENSES,
of abatement of nuisance, 27.
of serving notice and making complaint as to nuisance, 29.
of obtaining and carrying out nuisance order, 29.
of order on sanitary authority, by whom payable, 29.
how recoverable, 30.
how apportioned, 30.
of execution of Act, 33, 64, 237.
of sanitary authority in cleansing workshops recovered summarily, 56.
of examination of water-closets, &c., 74.
defrayed as sewerage expenses, 78, 237.
of public sanitary conveniences defrayed as sewerage expenses, 80, 237.
of non-infectious patient in hospital, sanitary authority may recover from patient, 122.
of non-infectious patient in hospital, sanitary authority may recover from persons liable at law to maintain, 123.
to be recovered within six months from discharge of patient, 122.
of non-pauper patient paid by guardians of poor law union, 125.
of non-pauper patient poor law guardians repaid out of Metropolitan Common Poor Fund, 125.
of epidemic regulations repaid to sanitary authority from Metropolitan Common Poor Fund, 130.
of burial of infected body paid by guardians of poor law union, 133.
of guardians or overseers under Act defrayed as in relief of poor, 148.
county council may recover from defaulting sanitary authority, 151.
of London sanitary authorities, how defrayed, 154, 237.
vestry or district board must pay out of general rate, 154, 237.
commissioners of sewers must pay out of sewer or Consolidated rate, 154.
of metropolitan asylum managers, as to infectious diseases, how defrayed, 155.
of port sanitary authority paid out of corporate funds of City of London, 167.
under Act or bye-laws may be recovered under Summary Jurisdiction Acts, 175.

EXPENSES—*continued.*
county council may recover from sanitary authority without sanction of Local Government Board, 176.
of execution of Act, fines paid to sanitary authority in aid of, 177.
revoverable from owner of premises, may be recovered from occupier, 180.
to be repaid out of rate applicable to purposes of Act, 184.
apportionment of, between Penge and remainder of Lewisham district, 191.
in proceedings against nuisances may be recovered from commissioners of sewers when in default, 194.
of performing duty of commissioners of sewers deemed debt due, 195.
incurred by person appointed to perform duty of commissioners of sewers, 195.

EXTENT,
of Act to London only, 192.
of Act beyond London, when, 192.
of repeal of Acts specified in Fourth Schedule to Act, 208.
of application of Public Health Act, 1875, to London, 209.

FACTORY,
when subject to Act as nuisance dealt with summarily 3, 10.
used as dwelling-house, overcrowding in, 3.
to which Factory and Workshop Act applies, 7, 8.
furnace of, to consume smoke, 52.
non-consumption of smoke by furnace of, a nuisance, 54.
not under Factory and Workshop Act, 1878, subject to Act, 56.
sanitary conveniences in, for persons of each sex, 72.
sanitary condition of, 254, 258.
inspector of, to give notice to sanitary authority of defects in, 255, 267.
inspector may take medical officer or sanitary inspector into, 255
lime washing of. under Factory Acts, 255.
lime washing of, when also a dwelling, 256, 257.
inspector of, to proceed as sanitary authority on default of the authority, 267.

FACTORY AND WORKSHOP ACT, 1878,
factory not under, subject to Act, 56.

FAT,
animal, using with alkali in production of soap, prohibited, 41.

FEE,
for order of county council sanctioning offensive trade, 42.
for licence for cowhouse, slaughter-house, knacker's yard, to be carried to county fund, 46.
for use of public sanitary conveniences, sanitary authority may charge, 84.
for certificates of infectious disease to be repaid sanitary authority, 99.

FELLMONGER,
prohibition as to trade of, 41.

FEVER,
non-pauper suffering from, metropolitan asylum managers may receive, 125.

FEVERS,
which are infectious diseases to be notified, 99.

FILTH,
removal of, on notice of sanitary inspector, 67.
removal of, by sanitary authority, 67.
removal of, expenses of, 67.
See also HOUSE REFUSE; STREET REFUSE.

FINE,
after notice served on person, 15.
Court may impose, on making closing order, 21.
for non-compliance with nuisance order, 21.
for acts contrary to prohibition or closing order, 21.
imposed by Court of Quarter Sessions, 25.
recovery of, in High Court, 33.
for damage to closets, drains, &c., 35.
for establishing anew offensive trades, 41.
for disobeying order prohibiting offensive trade, 42.
for using animal fat or oil with alkali in production of soap, 41.
for using premises as cowhouse without county council's licence, 45.
for using premises as slaughter-house without county council's licence, 45.
for using premises as knacker's yard without county council's licence, 45.
for business premises causing effluvia, 48, 52.
for business premises causing smoke, 52.
for steam vessel on Thames not consuming smoke, 52.
on owner or master of steam vessel on Thames not consuming smoke, 52.
on owner or occupier for not cleansing workshops, 56.
for not allowing entry into bakehouse, 57.
dairies orders of Local Government Board may impose, 59.
on sanitary authority for not keeping streets cleansed, 60.
on sanitary authority for not removing street refuse, 60.
on sanitary authority for not removing house refuse, 62.
on person in employ of sanitary authority demanding gratuity, 62.
for receiving, carrying away or collecting house or street refuse, 67.
for non-removal of manure and refuse after notice by sanitary authority, 68.
for erecting house without water-closet, &c., 69.
for not complying with notice as to ash-pit and water-closet, 69.
for not complying with notice as to sanitary conveniences in factory, &c., 73.
for work done contrary to bye-laws, 73.
for destruction of sink, trap, &c., 73.
for constructing water-closet or drain to be nuisance, 77.
for non-compliance with order as to drains, pools, &c., 78.
for contravention of provisions respecting sanitary conveniences, 84.
for injuring sanitary convenience used in common, 85.
for causing to be nuisance sanitary convenience used in common, 86.
for selling unsound food, 87.
for having unsound food on premises, 87.
for destroying notice of conviction for selling unsound food, 87.
for occupation of house without proper water supply, 48 (3).
for cutting off water without notice to sanitary authority, 92.
for gas-washings flowing into water supply, 95.
for gas-washings flowing into water supply recovered in High Court, 95.
for pollution of well, fountain, or pump, 96.
for not closing polluted well, &c., 97.
for not giving notice of infectious disease, 98.
for not allowing medical officer to inspect dairy or animal therein, 117.
for supplying or selling milk from infected dairy, 117.

FINE—*continued.*
for not complying with notice as to disinfection, 107.
for casting infected rubbish into ash-pit, 107.
for making false statement as to infected house, 109.
for failing to have infected house disinfected, 110.
for failing to notify case of infection to owner or master of house, 110.
for disobeying or obstructing execution of removal order of infected person, 111.
for infected person exposing himself in street, 113.
for giving, &c., infected bedding &c., 113.
for infected person dealing with food or carrying on trade, 114.
for conveying infected person in public conveyance, 115.
for omission to disinfect public conveyance, 115.
for retaining unburied body of persons dying from infectious disease, 118.
for hiring public conveyance for infectious dead body without notice, 120.
for obstructing removal of dead body to mortuary, 133.
for letting or occupying underground room contrary to Act, 144.
for refusing entry to person authorized, 171.
for refusing entry to person authorized by warrant of justice, 172.
for obstructing execution of Act, 174.
for destroying, defacing, &c., bye-law notice, &c., 174.
for damaging works or property of sanitary authority, 174.
occupier obstructing execution of order of Petty Sessional Court liable to, 174.
occupier refusing to give sanitary authority name and address of owner liable to, 175.

FINES,
all under Act or bye-laws may be recovered under Summary Jurisdiction Act, 175.
recovered under Act paid to sanitary authority in aid of expenses, 177.
imposed on sanitary authority paid to county council, 178.

FIREPLACE,
used in mill, factory, or manufacturing premises, and not consuming smoke, a nuisance, 54.
underground room must have, 143.

FISH,
nuisance from, prevention of, 36.

FISHMONGER'S SHOP,
nuisance from, prevention of, 36.

FITTINGS,
water, absence of, when nuisance, 15.

FLOUR,
unsound, person selling, liable to fine and imprisonment, 87.

FOOD,
animal or article intended for human, inspection of, 86.
unsound, may be carried to a justice and destroyed or disposed of, 87.
unsound, sanitary authority must remove on request as trade refnse, 88.
infected person must not deal with, 114.

FOOTWAYS,
sanitary authority must cleanse, 60.
adjoining premises, owner or occupier not liable to cleanse, 60.
manure on, a nuisance, 68.

FORCES,
military or naval, tents used by, exempt from sec. 95 of Act, 142.

FOREIGN GOVERNMENT,
vessel belonging to, exempt from sec. 110 of Act, 166.

FOREMAN,
of owner of premises causing effluvia liable to penalty, 48.
of owner of premises causing effluvia or smoke liable to penalty, 52, 54.

FORFEITED THINGS,
under Act sold as Court may direct, 178.

FORFEITURES,
all under Act or bye-laws may be recovered under Summary Jurisdiction Acts, 175.

FORM,
of certificate of infectious disease, Local Government Board to prescribe, 98.
of certificate of infectious disease, sanitary authority to supply gratis, 98.

FORMS,
in schedule to be used for purposes of Act, 191, 223.

FOUNTAINS,
public, unvested, shall vest in sanitary authority, 94.
public, sanitary authority may maintain and keep supplied, 94.
public, person damaging, liable for costs to sanitary authority, 94.
public, pollution of, penalty for, 96.

FRUIT,
unsound, person selling, liable to fine and imprisonment, 87.
infected person must not pick, 114.

FUND. *See* METROPOLITAN COMMON POOR FUND, *and* CROYDON UNION COMMON FUND.

FURNACE,
in working of engines by steam, to consume smoke, 52.
of public bath or workhouse, to consume smoke, 52.
of mill, factory, &c., to consume smoke, 52.
not consuming smoke, penalty for, 52.
of steam vessel on Thames, to consume smoke, 52.
of steam engine not consuming smoke, a nuisance, 54.
of mill, factory, or manufacturing premises not consuming smoke, 54.

GAS-WASHINGS,
flowing into water supply, penalty for, 95.
flowing into water supply, penalty for, person liable to, 95.

GAS-WORKS,
furnace of, to consume smoke, 52.
non-consumption of smoke by, nuisance under Act, 55.

GENERAL DISTRICT RATE,
Woolwich Local Board of Health must pay expenses out of, 154.

GENERAL NUISANCES. *See* NUISANCE.

GENERAL RATE,
vestry or district board must pay expenses out of, 154.

GLASSHOUSE,
furnace of, to consume smoke, 52.

GOVERNMENT,
foreign, vessel belonging to, exempt from sec. 110 of Act, 166.

GRATUITY,
person demanding, for removing refuse, liable to fine, 62.

GUARDIAN,
payment under Act to medical practitioner shall not disqualify for, 102.

GUARDIANS,
must pay non-pauper patient's expenses of metropolitan asylum managers, 125.
must pay non-pauper patient's expenses of burial of infected body by relieving officer, 133.
may recover expenses of burial from person legally liable to pay, 133.
under schedule (C) to Metropolis Management Act, 1855, are a sanitary authority, 148.
under schedule (C) to Metropolis Managemont Act, 1855, expenses of, defrayed as in relief of poor, 148.

GUTTER,
when nuisance dealt with summarily, 2.

HANDBILLS,
notice by, of infectious diseases by sanitary authority, 101.

HEALTH,
Local Board of, in parish of Woolwich is sanitary authority, 147.
Woolwich Local Board of, provisions of Public Health Acts extend to, 153.
Woolwich Local Board of, must pay expenses out of district fund or rate, 154.

HEALTH ACT. *See* PUBLIC HEALTH ACT, 1875.

HEALTH OFFICER. *See* MEDICAL OFFICER OF HEALTH, SANITARY INSPECTOR.

HEIGHT,
for underground room, 143.

HIGH COURT,
expenses of proceedings against nuisances may be recovered in, from commissioners of sewers, 194.
order of Local Government Board as to expenses incurred through default of commissioners of sewers, enforced in, 195.
power of, as to costs and expenses in relation to nuisance, 30.
proceedings in, by sanitary authority as to nuisances, 33.
proceedings in, by sanitary authority as to offensive trades, 49.

HORSES,
slaughterer of, definition of, 204.

HOSPITAL,
removal to, of persons suffering from dangerous infectious disease, 111.
consent of superintending body of, requisite for reception of infected person, 111.
dead body may be removed from, to mortuary, 119.
temporary or permanent, sanitary authority may provide, 121.
common, two or more sanitary authorities may combine to provide, 121.
admission to, not deemed parochial relief, &c., 125.
authority having management of, may let to metropolitan asylum managers, 130.
authority, having management of, may contract for reception of cholera patients, 130.
definition of, 203.
vestries and district boards may borrow for provision of, 156.

HOUSE,
or part of, overcrowded, a nuisance dealt with summarily, 3.
or part of, overcrowded, sanitary authority may abate, 15.
dwelling, closing order may prohibit habitation of, 21.
or part of, overcrowded, court on two convictions may close, 26.
paving of yards of, 36.
without proper water-closets and ash-pit, unlawful to erect or rebuild, 69.
occupied, without proper water supply, a nuisance dealt with summarily, 91.
while being disinfected, shelter must be provided gratis for occupiers, 105.
person making false statement as to infection on letting, liable to fine and imprisonment, 109.
infected, person ceasing to occupy, must obtain certificate of disinfection, 110.
owner and master of, entitled to notice of infection, 110.
infected, sanitary authority must serve master of, with notice as to disinfection, 110.
infected, penalty for letting, without disinfecting, 108.
warranty on letting, when, 108.
overcrowded, justice may grant warrant for entry of, 172.
definition of, 202, 206.
slaughter, definition of, 204.
for houses let in lodgings, *see* LODGINGS.
master of, *see* MASTER.
owner of, *see* OWNER.

HOUSE REFUSE,
removal of, after collection, may be offensive trade, 50.
removal of, by sanitary authority, 62.
removal of, sanitary authority must give notice of, 62.
property of sanitary authority, 64.
disposal of, by sanitary authority, 64.
if not removed after notice, may be sold by occupier, 66.
person receiving, carrying away, collecting, liable to fine, 67.
definition of, 67, 203.

HUMAN HABITATION,
tents, vans, &c. used for, powers of sanitary authority as to, 141.

HUSBAND,
of person charged with offence under Act may be called as ordinary witness, 177.

ICE,
nuisance from, prevention of, 36.
included in street refuse, 203.

IMPRISONMENT,
person selling unsound food, liable to, 87.
for making false statement as to infected house, 109.

INDUSTRIAL SCHOOL,
child sent to, deemed inhabitant of London, 126.

INFECTED ARTICLES,
power of sanitary authority to borrow for disinfection, &c. of, 157,

INFECTED BODY,
conveyance of, in public conveyance without notice, penalty for, 120.
removed from living or sleeping room to mortuary, 132.
sanitary authority to pay cost of removal of, 132.
removal of, for immediate burial, 132.
may be buried by relieving officer, 133.
expenses of burial paid by relieving officer recoverable from person legally liable to pay, 133.

INFECTED HOUSE,
making false statement as to, penalty for, 109.
person ceasing to occupy, must obtain certificate of disinfection, 110.
sanitary authority must serve master of, with notice of provisions as to disinfection, 110.

INFECTED PERSON,
exposing himself in street, &c. liable to fine, 113.
exposing himself in street, &c. a common law nuisance, 113.
conveyances for, provided by sanitary authorities, 123.
conveyances for, provided by metropolitan asylum managers, 124.

INFECTION,
of milk, prevention of, orders as to, 59.

INFECTIOUS DISEASE,
notice of, must be given by head of family, 97.
notice of, must be given by nearest relative, 97.
notice of, must be given by person in charge of patient, 97.
notice of, must be given by master of house, 97.
notice of, must be given to medical officer of health, 97.
notice of, must be given to patient's medical practitioner, 98.
notice of, mode of giving, 98.
notice of, not necessary by metropolitan asylum managers, 98.
notice of, persons exempt from giving, 98.
notice of, form of, Local Government Board to prescribe, 98.
notice of, form of, sanitary authority to supply gratis, 98.
notice of, to be given to metropolitan asylum managers, 99.
notice of, to be given to head teacher of school, 99.
return of, must be sent to county council, 99.
return of, must be sent to every medical officer of health, 99.
certificate of, must be sent to medical officer of health, of patient's district, 99.
certificate of, or notice of, may be sent to office or residence of medical officer, 99.
meaning of, 99.
number of, to be notified may be extended by sanitary authority, 101.
number of, to be notified may be extended by county council, 102.
dangerous, definition of, 103,
dangerous, articles infected by, may be destroyed or disinfected, 103.

INFECTIOUS DISEASE—*continued.*
dangerous, persons leaving house on account of, shelter must be provided, 105.
dangerous, bedding, &c. exposed to, sanitary authority may require delivery of, 107.
dangerous, attributable to milk, duty of sanitary authority, 116.
dangerous, person dying from, in hospital, may be buried direct, 119.
dangerous, person dying from, not to be kept for more than 48 hours in workroom, dwelling-place, or sleeping place, 118.
precautions in, bye-laws as to when house let in lodgings, 137.
prevention of, in tents, &c. used for human habitation, 141.
expenses of metropolitan asylum managers as to, how defrayed, 155.

INFIRMARY,
authority having management of, may let to metropolitan asylum managers, 130.
authority having management of, may contract for reception of cholera patients, 130.

INFORMATION,
of nuisance, on receipt of, sanitary authority shall serve notice, 14.
of nuisance may be given by any person to sanitary authority, 14.
of nuisance may be given by officer of sanitary authority, 14.
of nuisance may be given by relieving officer, 14.
as to smoke nuisance, must be under direction of sanitary authority, 53.

INHABITANT,
of London, child sent to industrial school deemed, 120.
of district may inspect sanitary authority's report book, 161.

INHABITANTS,
ten of district may complain of offensive trade, 48.

INJURIOUSLY AFFECT,
meaning of, 198.

INJURIOUS TO HEALTH,
meaning of, 4.

INN,
definition of, 109.
infected person exposing himself in, liable, 113.

INNKEEPER,
deemed to let for hire within sec. 63, 108.
who is, 109.

INQUESTS,
power of sanitary authority to borrow for building for holding, 157.
accommodation for, county council must provide, 135.

INQUIRIES,
of Local Government Board for purposes of Act, how conducted, 191, 217, 218.

INQUIRY,
into complaints, sanitary inspectors must lay before sanitary authority report of, 161.
report of sanitary inspector's inquiry, sanitary authority must enter in book, 161.

INSPECTION,
of district, duty of sanitary authority to make, 1.
of dairy and animals therein, 116.
of houses let in lodgings, bye-laws as to, 136.
of sanitary authority's report book, who may have, 161.

INSPECTOR,
veterinary, may inspect animals in dairy, 116.
of police may execute detention order of justice, 112.
See SANITARY INSPECTOR.

INTERFERENCE,
with mill or water right sanitary authority must compensate, 78.

INTERPRETATION,
of terms, 202.

INTIMATION,
written, to abate nuisance to be served by officer, 14.

IRON-FOUNDRY,
furnace of, to consume smoke, 52.

JUDGE,
may act though member of sanitary authority, 181.
may act though liable to contribute to rate, 181.

JURISDICTION,
where dairy is, proceedings must be taken before court having, 117.

JUSTICE,
may order unsound food to be destroyed or disposed of, 87.
may adjudicate, whether article ordered to be destroyed or not, 88.
may order inspection of dairy and animals therein, 116.
may order removal of infected person to hospital, 111.
may order detention of infected person in hospital, 112.
may order removal of infected body to mortuary, 132.
may order immediate burial of infected body, 132.
may authorize entry of tents, &c. used for human habitation, 141.
may grant warrant for entry at any time of underground room, 146.
warrant of, requisite before entry of dwelling by officer of City police, 194.
warrant of, for entry of premises granted on information on oath by, 172.
warrant of, for person refusing entry to persons authorized by, liable to fine, 172.
may grant warrant for entry of overcrowded house, 172.
may act though member of sanitary authority, 181.
may act though liable to contribute to rate, 181.

JUSTICES,
duty of sanitary inspectors to make complaints before, 161.

KNACKER,
definition of, 204.
prohibition as to establishing anew trade of, 41.
must be licensed by county council, 45.

KNACKER'S YARD,
definition of, 204.
nuisance from, prevention of, 36.
licence for, 45.
entry of, by sanitary authority, when, 46.

KEEPER,
of inn deemed to let house for hire, 108.

KEEPING,
animals so as to be nuisance, bye-laws as to, 36.
pigs, so as to be nuisance, 40.

LAND,
definition of, 206.
sanitary authority may hold, without licence in mortmain, 148.
port sanitary authority may hold, without licence in mortmain, 168.

LANDING PLACES,
for hospitals, metropolitan asylum managers must maintain, 124.

LANDLORD,
and tenant, contract between, unaffected by Act, 180.

LAVATORIES,
public, *see* SANITARY CONVENIENCES.

LEGAL PROCEEDINGS,
appearance of sanitary authority in, 184.
appearance of county council in, 184.

LEWISHAM DISTRICT,
apportionment of expenses between, and Penge, 191.

LIABILITY,
personal, protection of sanitary authority and officers from, 184.
personal, protection of county council and officers from, 184.

LICENCE,
for slaughter-house, cowhouse, and knacker's yard, cost of, 45.
application for, notice of, served on sanitary authority, 46.
grant or renewal of, sanitary authority may oppose, 46.
objection to, sanitary authority must give seven days' notice of, 46.
objection to, sanitary authority must serve on applicant, 46.
period for, county council shall fix, 45.
renewed, what is, 46.
in mortmain, sanitary authority may hold land without, 148.
in mortmain, port sanitary authority may hold land without, 168.

LOAN,
county council may raise as sanitary authority for purposes of defaulting sanitary authority, 151.
surplus of, county council must pay to sanitary authority, 151.
required, Local Government Board may certify, 196.

LOCAL AUTHORITY,
for workshops under Factory and Workshop Act, 1878, sanitary authority to be, 57.
under Public Health Act, proceedings as to dairy in district of, 117.
notice of infected dairy must be served on, 117.
county council and sanitary authority deemed, when, 170.
See also SANITARY AUTHORITY, METROPOLITAN ASYLUM MANAGERS, *and* COUNTY COUNCIL.

LOCAL BOARD OF HEALTH,
in parish of Woolwich is sanitary authority, 147.
of Woolwich, provisions of Public Health Acts extended to, 153
of Woolwich may borrow for purposes of Act, 153.
of Woolwich must pay expenses out of district fund or rate, 154.

LOCAL GOVERNMENT ACT, 1888,
sec. 24, construction of, 162.

LOCAL BOARD,
Woolwich, members of, term of office, 202.

LOCAL GOVERNMENT BOARD,
confirmation of orders by, 41.
notices of objection to bye-law may be given to, 42.
may make orders for registration of dairymen, 58.
may make orders for inspection of cattle in dairies, 58.
may make orders for ventilation and cleansing of, and water supply to, dairies, 58.
may make orders for cleanliness of milk vessels, 59.
may make orders for prevention of infection of milk, 59.
may make orders empowering county council to make bye-laws as to milk, 59.
may impose fines for offences against their orders, 59.
to prescribe form of certificate for notification of infectious disease, 98.
must approve order of sanitary authority as to extension of notification, 101, 102.
must be served with notice of infected dairy, 117.
to sanction sanitary authority providing medicine and medical aid, 123.
saving orders of, as to dairies, 117.
may require two or more sanitary authorities to act together for epidemic regulations, 129.
may regulate metropolitan asylum managers when a sanitary authority, 129.
must consent to use for cholera patients of asylum under Metropolitan Poor Act or workhouse, 130.
must determine amount to be paid sanitary authority for expenses of epidemic regulations, 130.
may require contributions for purposes of epidemic regulations, 131.
appeal to, from sanitary authority as to underground room, 144.
county council may complain of sanitary authority to, 150.
may order sanitary authority to perform omitted duty, 150.
may enforce order against sanitary authority by mandamus, 150.
may appoint county council to perform such duty, 150.
consent of, to county council raising loan, 151.
to sanction payment of expenses of metropolitan asylum managers out of metropolitan poor fund, 155.
consent of, necessary to enable sanitary authority to borrow, 156.
consent of, to loan, no other necessary, 157.
sanction of, necessary for appointment of medical officer to two or more districts, 158.
may direct appointment of extra sanitary inspectors, 161.
powers of, as to medical officers and sanitary inspectors, 162.
consent of, to removal of medical officer of health, 163.
powers of, as to port sanitary authority, 168.
may authorize City police to proceed against nuisances when commissioners of sewers in default, 194.
may limit time for performance of duty omitted by commissioners of sewers, 195.
powers of, when complaint made against commissioners of sewers, 195.
may perform duty omitted by commissioners of sewers and charge for same, 195.
order of, as to expenses incurred through default of commissioners of sewers enforced in High Court, 195.
must sanction proceedings against sanitary authority by county council, 176.
county council may recover expenses from sanitary authority without sanction of, 176.

LOCAL GOVERNMENT BOARD—*continued.*
inquiries of, for purposes of Act, how conducted, 191, 217, 218.
may change person appointed to do omitted duty of commissioners of sewers, 195.
may certify expenses incurred by person appointed to perform duty of commissioners of sewers, 196.
certificate of, conclusive, 196.
may certify loan required, 196.
may charge local rate with loan required, 196.
may prescribe qualification and duties of medical officer, when, 201.
powers of, as to remuneration of medical officer, 201.
powers of, as to removal of medical officer, 201.
first bye-laws must be submitted to, when, 209.
bye-laws, confirmation of, by, 216, 217.

LOCAL RATE,
Local Government Board may empower levy of, 196.

LODGING,
infected person not having, may be removed to hospital, 111.

LODGINGS,
bye-laws as to number of persons in, 136.
separation of sexes in, 136.
registration of houses let in, 136.
inspection of houses let in, 137.
drainage of houses let in, 137.
cleanliness, &c. of houses let in, 137.
precautions in case of infectious disease in, 137.
definition of, 138, 139.

LONDON,
City of, sanitary authority is commissioners of sewers in, 147.
Act extends to, only, 192.
Act extends beyond, when, 192.
City of, modifications of application of Act to, 193.
definition of, 202, 205.
enactment in Fourth Schedule extending beyond London unrepealed beyond, 208.
part of Public Health Act, 1875, extended to London, 209.
part of, not within metropolitan asylum district, section 81, applies to, 126.
See also CITY OF LONDON; PORT OF LONDON.

LONDON GAZETTE,
publication of orders in, 41.

LONDON SCHOOL BOARD,
child sent to industrial school by, 126.

MANAGERS. *See* METROPOLITAN ASYLUM MANAGERS.

MANDAMUS,
order of Local Government Board may be enforced by, 150.
duty omitted by commissioners of sewers enforced by, 195.
when granted, 152.

MANUFACTORY,
nuisance from, prevention of, 36.
causing effluvia, when nuisance, 48.
causing effluvia, when medical officer may certify, 48.
out of district, proceedings against, 49.
furnace of, to consume smoke, 52.
non-consumption of smoke by, nuisance, 54.

MANURE,
removal of, by sanitary authority after notice, 67.
removal of, by sanitary authority on consent of owner, 68.

MANURE MANUFACTURER,
prohibition as to trade of, 41.

MASTER,
of house, notice of disinfection must be served on, 104.
of house must disinfect house or articles or destroy articles, 104.
of house consenting, sanitary authority may disinfect, 105.
of steam vessel on Thames liable for non-consumption of smoke, 52.
of house entitled to notice of infection, 110.
of infected house, sanitary authority must serve with notice as to disinfection, 110.
of vessel deemed occupier, 166.
definition of, 203.

MEASUREMENTS,
requisite for underground room, 143.

MEDICAL ASSISTANCE,
sanitary authority may provide for district, 123.

MEDICAL OFFICER,
for epidemic regulations appointed and paid by sanitary authority, 127.
poor law, may charge for attendance on vessel, 128.
poor law, master of vessel must pay charges of, 128.
certificate of, for removal of infected body to mortuary, 132.

MEDICAL OFFICER OF HEALTH,
may certify house to be overcrowded, 15.
may certify sanitary convenience used in common to be nuisance, 85.
may certify business premises to be nuisance, 48.
may enter premises and inspect animal intended for food, 86.
may carry away unsound food for a justice to deal with, 86.
notice must be given to, of infectious disease, 97.
notice must be given to, of infectious disease by patient's medical practitioner, 98.
to send copy notice of infectious disease to metropolitan asylum managers, 99.
to send copy notice of infectious disease to school teacher, 99.
return of infectious diseases must be sent to, 99.
certificate or notice of infectious disease may be sent to officer or residence of, 99.
entitled to fee for notification, 102.
may certify for disinfection of house, or part thereof, or articles, 104.
may certify for destruction of infected articles, 104.
may inspect dairy and animals therein, 116.
must report to sanitary authority infected dairy, 116.
appointed before Act, application of Act to, 200.
county council may appoint, 251.
sanitary authority must appoint one or more, 158.
may be appointed for two or more districts, 158.
must reside in district or one mile of boundary of, 158.
may exercise powers of sanitary inspector, 158.
annual report of, must be appended to annual report of sanitary authority, 158.
periodical reports of to be sent to county council, 252.
salary of, county council must pay half out of Exchequer Contribution Account, 162.
powers of Local Government Board as to, 162.
necessary qualifications of, 163.

MEDICAL OFFICER OF HEALTH—*continued.*
removable by sanitary authority with consent of Local Government Board, 163.
removable by Local Government Board, 163.
not to be appointed for limited period only, 163.
may be appointed temporarily by sanitary authority, 165.
temporarily appointed, powers of, 165.

MEDICAL PRACTITIONER,
legally qualified, definition of, 50, 165.
must be served with notice of extension of notification of diseases, 101.
payment to, under Act, shall not disqualify for county council or public office, 102.
must give notice of infectious disease, 98.
shall be paid for giving notice of infectious disease, 98.
may certity removal of infected person to hospital, 111.
certificate of disinfection of infected house, 110.
when medical officer of health entitled to fee for notification, 102.
may certify for disinfection of house, or part thereof, or articles, 104.
may certify for destruction of infected articles, 104.
may charge extra for attendance on vessel, 128.
certificate of, for removal of infected body to mortuary, 132.
regulations of Local Government Board as to, 284.
two legally qualified, may certify business premises to be nuisance, 48.

MEDICINE,
sanitary authority may provide for district supply of, 123.

MEMBRANOUS CROUP,
an infectious disease to be notified, 99.

METROPOLIS MANAGEMENT ACT, 1855,
Schedule A, vestry of parish in, is sanitary authority, 147.
Schedule B, district board is sanitary authority, 147.
Schedule C, guardians and overseers of poor have powers of vestry and district board, 148.
Schedule C, expenses of guardians and overseers defrayed, as in relief of poor, 148.
committee of vestry under, powers under Act, 148.

METROPOLIS WATER ACT, 1871,
absence of fittings under, a nuisance, 15.

METROPOLITAN ASYLUM DISTRICT,
definition of, 100, 124.
part of London not within section 81 applies to, 126.

METROPOLITAN ASYLUM MANAGERS,
duties of, 125.
need not give notice of infectious disease in hospital, 98.
notice of infectious disease given to, 99.
shall pay sanitary authority fees for certificates, 99.
must send return of infectious diseases to county council, 99.
must send return of infectious diseases to every medical officer, 99.
liable for cost of detention in hospital of infected person, 112.
deemed a sanitary authority under epidemic regulations, 129.
when sanitary authority, Local Government Board may regulate, 129.
may use property, &c., under section 85, subject to regulations of Local Government Board, 130.
must maintain wharves, &c., for hospitals, 124.
may maintain vessels and carriages for hospitals, 124.
may maintain horses, &c., for conveyance of infected persons, 124.

METROPOLITAN ASYLUM MANAGERS—*continued.*
may let out their carriages, &c., for conveyance of infected persons, 124.
may receive non-pauper persons suffering from fever, small-pox, or diphtheria, 125.
expenses of non-pauper to be paid by guardians, 125.
expenses of, how defrayed, 155.
may borrow to provide vessels and buildings in pursuance of Act, 155.
definition of, 202.

METROPOLITAN CATTLE MARKET,
Act not to apply to, 43.

METROPOLITAN COMMON POOR FUND,
expenses of epidemic regulations incurred by sanitary authority repaid out of, 130.
salaries of officers and servants of sanitary authority under epidemic regulations paid from, 130.
definition of, 126.
payment out of, expenses of guardians for non-paupers, 125.
expenses of metropolitan asylum managers paid out of, 155.
expenses of epidemic regulations repaid out of, 191.

METROPOLITAN MARKET ACTS, 1851 & 1857,
slaughter-houses under, not within Act, 46.

MILITARY FORCES,
tents, &c., used by, exempt from sec. 95 of Act, 142.

MILK,
orders as to, by Local Government Board, 58.
infectious disease attributable to, duty of sanitary authority, 116.
infected person must not milk animals, 114.

MILKSHOP. *See* COWHOUSES *and* DAIRIES.

MILL,
furnace of, to consume smoke, 52.
non-consumption of smoke by, a nuisance, 54.
or right, interference with by sanitary authority, compensation for, 78.
or right, sanitary authority may purchase, 78.

MINUTES,
dispensations and modifications of sec. 96 must be recorded in, 144.
dispensations and modifications, reasons for, must be recorded in, 134.

MODIFICATIONS,
of application of Act to City of London, 193.

MONEY,
county council may require officer of defaulting sanitary authority to pay over, 151.

MORTMAIN,
sanitary authority may hold land without licence in, 148.
port sanitary authority may hold land without licence in, 168.

MORTUARY,
dead body may be removed to, from hospital, 119.
sanitary authority must provide, 131.
removal of infected body to, 132.
removal of infected body, order of justice necessary for, 132.
may be in connection with building for post-mortem examination, 134.

MORTUARY—*continued.*
post-mortem examination must not be conducted in, 134.
Secretary of State may regulate removal of unidentified body to, 135.
Secretary of State may regulate payment for bringing of unidentified body to, or removal from, 135.
Secretary of State may regulate payment of interment from, 135.
coroner may order removal of unidentified body to any, 136.
coroner may hold inquest in any, as if in district, 136.
vestries and district boards may borrow for provision of, 156.

NAME,
of owner, occupier to give to sanitary authority, 174.

NAVAL FORCES.
tents, &c., used by, exempt from Act, 142.

NAVIGATION,
of river or canal, sanitary authority must not injuriously affect without consent, 197.

NEWSPAPER,
local, notice in, by sanitary authority, 101.

NIGHT,
person passing, in underground room, evidence of, 145.

NOTICE,
to abate nuisance, sanitary authority shall serve, 14.
to abate nuisance, may be served on person causing nuisance, 14.
to abate nuisance, may be served on occupier or owner of premises, 14.
may limit time for abatement, 14.
may require works to be executed, 14.
fine on person for neglecting, 15, 16.
costs and expenses of serving, by whom payable, 29.
of application for sanction of offensive trades to be affixed to premises, 42.
of application for licence for slaughter-house, &c., served on sanitary authority, 46.
of objection to licence, sanitary authority must give seven days, 46.
of objection to licence, sanitary authority must serve on applicant, 46.
of time of removal of refuse by sanitary authority, 62.
to sanitary authority to remove refuse or to cleanse privy, &c., 62.
sanitary authority not complying with, liable to fine, 62.
by sanitary inspector for removal of filth, 67.
by sanitary authority of periodical removal of manure and stable refuse, 68.
to owner to provide ash-pit, 69.
to owner to provide water-closet, 69.
to owner to provide water-closet, non-compliance with, fine for, 69.
of conviction for selling unsound food affixed on premises, 87.
of conviction for selling unsound food affixed on premises, person to pay costs of, 87.
of conviction for selling unsound food, person destroying, &c., liable to fine, 87.
of infectious disease must be given to medical officer of health, 97.
of infectios disease, who to give, 97.
of infectious disease to be given by patient's medical attendant, 98.
of infectious disease, mode of giving, 98.
of infectious disease, not necessary by metropolitan asylum managers, 98.
of infectious disease, penalty for not giving, 98.
of infectious disease, persons exempt from giving, 98.

NOTICE—*continued.*

of infectious disease, form of, Local Government Board to prescribe, 98.
of infectious disease sanitary authority to supply gratis, 98.
of infectious disease given to metropolitan asylum managers, 99.
of infectious disease given to head teacher of school, 99.
of infectious disease may be sent to office or residence of medical officer, 99.
sanitary authority may require, of any infectious disease, 101.
in local newspaper by sanitary authority of extension of notification, 101.
by sanitary authority to deliver infected bedding, &c., 107.
by sanitary authority to dairyman of infected dairy to appear, 116.
of infected dairy served on county council, 116.
of infected dairy served on Local Government Board, 116.
of infected dairy served on other sanitary authority, 116.
of infected dairy served on local authority under Public Health Act, 1875, 117.
of disinfection of house or articles, 104.
of destruction of articles, 104.
by master or owner of house of intention to disinfect, 104.
destruction, &c., of, penalty for, 174.
must be in writing, 189.
issued by county council or sanitary authority, authentication of, 189.
mode of service of, 191.
mode of service of, on county council or sanitary authority, 190.
mode of service on owner or occupier of premises, 190.
made and issued under repealed Act valid as if made and issued under Act, 209.

NUISANCE.

definition of, 4, 12, 13.
which may be abated summarily, 2.
state of premises, when, 2.
pool, ditch, gutter, &c., when, 2.
animal kept in such a place or manner as to be, 2.
accumulation or deposit, when, 2.
house, or part of house, overcrowded, 3.
absence of water fittings under Metropolis Water Act, 1871, 3, 15, 213.
absence of water fittings under Metropolis Water Act, 1871, house is unfit for habitation, 15.
any factory, workshop, or workplace not within Factory and Workshop Act 1878, unclean, unventilated, or overcrowded, 3.
from overcrowding in factory, &c., used as dwelling-house, 3.
from overcrowding in dwelling, used also as factory, &c., 3.
information of, may be given by any person, 14.
abatement of, sanitary authority to direct officers as to, 14.
abatement of, sanitary authority may serve notice of, 14.
prevention of, sanitary authority may require, 15.
when abated, sanitary authority may require prevention of recurrence, 15.
abated by sanitary authority, 15.
arising from wilful act or default, 16.
recurrence of, prohibited, 21.
complaint of, may be made by any person, 32.
arising without district, how proceeded against, 34, 213.
arising without district authority under Public Health Act, 1875, sanitary authority substituted for, 34.
prevention of, from snow, filth, &c., 36.
prevention of, from slaughter-houses, 36.
prevention of, from keeping animals, 36.

NUISANCE—*continued.*
county council can make bye-laws as to, 36.
arising from effluvia from manufactory, 48.
arising from effluvia, persons liable for, 48.
arising from effluvia, penalty for, 48.
arising from effluvia, abatement of, 49.
arising from effluvia, proceedings in High Court, 49.
sec. 115 of Public Health Act, 1875, as to, continue to extend to London, 49, 214.
removal of house and street refuse may be, 50.
disposal of refuse by sanitary authority, 50.
from non-consumption of smoke dealt with summarily, 54.
from smoke from chimney dealt with summarily, 55.
from manure on carriageways or footways, 68.
from destruction of sink, trap, siphon, pipe, apparatus, 75.
water-closet or drain, person causing to be, liable to fine, 77.
occupied house without proper water supply, 91.
keeping swine in a city is, 40.
to expose a person suffering from infectious disease is, 113.
proceedings when caused by two or more persons, 178.
proceedings when caused by two or more persons, costs of, how apportioned, 178.
from tents, &c., injurious to health dealt with summarily, 141.
from tents, &c., injurious to health, prevention of, bye-laws for, 141.
sanitary inspector must report to sanitary authority, 161.
City police may proceed against, when commissioners of sewers in default, 194.

For INSPECTOR OF NUISANCES *see* SANITARY INSPECTOR.

NUISANCE AUTHORITY,
in repealed portions of orders, enactments, &c., sanitary authority substituted for, 200.

See SANITARY AUTHORITY.

NUISANCE ORDER,
made by Petty Sessional Court, 20, 21.
may be abatement order, 21.
may be prohibition order, 21.
may be closing order, 21.
may be combination of orders, 21.
non-compliance with, fine on, 21.
appeal against, 24.
appeal against, till determined or abandoned, no proceedings under order, 24.
appeal against, when none, 25.
addressed to, and executed by, sanitary authority, 27.
costs and expenses of, 29.

OATH,
warrant of entry of premises granted by justice on information on, 171.

OBSTRUCTION,
of officer entering premises, penalty for, 88.
of officer, what is, 90, 173.
of removal of dead body, 133.
of execution of Act, penalty for, 174.

OCCUPATION,
of underground rooms, officer of sanitary authority to report, 146.

OCCUPIED HOUSE,
without proper water supply, a nuisance dealt with summarily, 91.

OCCUPIER,
causing nuisance to abate it, 14.
causing nuisance to prevent recurrence of, 15.
of business premises causing effluvia, liable to penalty, 48.
of business premises causing smoke, liable to penalty, 52.
of premises not liable to cleanse footway, 60.
of premises must pay for removal of trade refuse, 64.
of premises may sell refuse after notice to sanitary authority, 66.
of premises, sanitary inspector may require to remove dung, &c., 67.
of premises, sanitary authority may recover from expenses of removal of dung, &c., 67.
of workshop, notice served on by sanitary authority to cleanse, 56.
of stables or cowhouses may consent to sanitary authority removing manure, 68.
of premises not complying with notice as to ash-pit or water-closet, liable to fine, 69.
of premises may be compelled to put water-closets in order, 76.
of premises may be compelled to drain, cleanse, cover, or fill up, offensive ponds, &c., 78.
of premises to construct proper drains, 78.
of slaughter-house, when convicted, licence of may be cancelled, 88.
master of vessel deemed, 166.
may be compelled to allow owner to execute works, 174.
obstructing execution of order of Petty Sessional Court liable to fine, 174.
refusing to give sanitary authority name and address of owner liable to fine, 175.
of premises, in proceedings may be called occupier, 179.
costs recoverable from owner of premises may be recovered from, 180.
may deduct from rent amount paid on behalf of owner, 180.
and owner, contract between, as to payment of rates, &c., unaffected by Act, 180.
of premises, mode of service of notice under Act on, 190.

OFFAL,
nuisance from, prevention of, 36.

OFFENCE,
of using unlicensed slaughter-house, &c., evidence of, 45.
under Act, person charged with, may be examined as witness, 177.
under Act, person charged with, husband or wife of, may be examined as witness, 177.

OFFENCES,
all, under Act or bye-law, may be prosecuted under Summary Jurisdiction Act, 175.

OFFENDERS,
against bye-laws, constable may arrest without warrant, 36.

OFFENSIVE TRADES,
notice of application for sanction shall be affixed on premises, 42.
county council may make bye-laws regulating, 42.
county council may make bye-laws as to structure of premises, 42.
county council may make bye-laws as to application for sanction, 42.
prohibition and regulation of, 41.
penalty for establishing anew, 41.
penalty for establishing anew without consent of county council, 41.

OFFENSIVE TRADES—*continued.*
county council shall sanction by order, 42.
powers of petty sessional court under county council's bye-laws, 42.
nuisance from, arising without district, 214.

OFFICE,
term of, of members of Woolwich Local Board, 202.
officers appointed under repealed enactment may continue in, 209.

OFFICER,
of sanitary authority, constable, or person, may have powers of, 32.
obstruction of, entering premises, penalty for, 88.
of sanitary authority, delivery to, of infected bedding, &c., 107.
of sanitary authority, person authorized to enter tents, &c., deemed to be, 141.
of sanitary authority to report occupation of underground rooms, 146.
of sanitary authority may enter underground room by day, 147.
of defaulting sanitary authority, county council may require to pay over money, 151.
county council's, may inspect report book of sanitary authority, 107.
of City police may institute proceedings when commissioners of sewers in default, 194.
of City police may recover expenses from commissioners of sewers, 194.
of City police must have warrant of justice or consent of person before entering dwelling of, 194.
existing, definition of, 200.
of sanitary authority may execute detention order of justice, 112.
of hospital authority may execute detention order of justice, 112.
of metropolitan asylum managers may execute detention order of justice, 112.
relieving, may bury infective dead body, 132.
bearing royal commission, vessel in charge of, exempt from Act, 166.
sanitary authority to direct as to abatement of nuisance, 14.
shall notify person to abate nuisance by written intimation, 14.
of sanitary authority under epidemic regulations paid from metropolitan common poor fund, 130.
of sanitary authority, protection of from personal liability, 184.
appointed under repealed enactment to continue in office, 209.
appointed under repealed enactment subject to Act as existing officers, 209.
See also MEDICAL OFFICER *and* SANITARY INSPECTOR.

OIL,
animal, not to be used with alkali in production of soap, 42.

OLEIN,
definition of, 44.
mixture of, with alkali, allowed in soap-boiling, 41.

ONUS,
of proof in proceedings against person sleeping in underground room, 145.

OPEN SPACES,
of dwelling-houses, paving of, 36.

ORDER,
See NUISANCE ORDER.
of county council to sanction offensive trades, 41.
of county council sanctioning offensive trades, fee for, 42.
of county council for slaughter of cattle not necessary, when, 43.

ORDER—*continued.*
of petty sessional court shall fix amount payable for removal of trade refuse, 64.
of sanitary authority as to notification Local Government Board must approve, 101.
of sanitary authority as to infectious disease notification to be advertised, 101.
of sanitary authority as to infectious disease, copy sent to every medical practitioner, 101.
as to infectious disease notification, time for operation of, 101.
emergency, as to infectious disease to be sent to Local Government Board, 102.
emergency, as to infectious disease to be advertised, 102.
emergency, as to infectious disease to be approved by Local Government Board, 102.
of justice for inspection of dairy and animals therein, 116.
prohibiting sale of milk may be withdrawn, 117.
of justice for removal of infected person to hospital, 111.
detention, whom carried out by, 112.
for removal of infected person to mortuary, 132.
of petty sessional court, penalty for non-compliance with by occupier, 174.

ORDERS,
of Local Government Board as to registration of dairymen, 58.
of Local Government Board as to inspection of cattle in dairies, 58.
of Local Government Board as to ventilation, cleansing of dairies, 58.
of Local Government Board as to water supply to dairies, 58.
of Local Government Board as to cleanliness of milk vessels, 59.
of Local Government Board as to prevention of infection of milk, 59.
of Local Government Board may impose fine for offences against, 59.
of Local Government Board to sanitary authority to perform duty, 150.
of Local Government Board enforced by mandamus, 151.
under Act must be in writing, 189.
under Act must be authenticated under seal, 189.
under Act, mode of service of, 190.
made under repealed Act valid as if under Act, 209.
substitution of Act for repealed Acts in, 209.
substitution of sanitary authority for nuisance authority in, 209.

OVERCROWDING,
in house, or part of, a nuisance dealt with summarily, 3, 6.
in house used as factory, &c., 3.
in factory or workshop, not subject to Factory Act, 1878, 3.
in factory or workshop used as dwelling-house, 3.
in house, or part of, on certificate of medical officer of health, sanitary authority may abate, 15.
house, or part of, Court may close for, 26.
in tents, &c., used for human habitation, 141.
warrant of justice for entry of house, 172.
warrant of justice for entry of house, time for execution of, 172.

OVERSEERS,
under Schedule (C) to Metropolis Management Act, 1855, are sanitary authority, 147.
under Schedule (C) to Metropolis Management Act, 1855, expenses of, defrayed as in relief of poor, 147.

OWNER,
to be served in case of defect in structure, 15.
causing nuisance to abate it, 14.
causing nuisance to prevent recurrence of, 15.

OWNER—*continued.*
of business premises causing effluvia liable to penalty, 48.
of business premises causing smoke liable to penalty, 52.
of steam vessel on Thames liable for non-consumption of smoke, 52.
of workshop, notice served on, by sanitary authority, to cleanse, 56.
of premises not liable to cleanse footways, 60.
of premises must pay for removal of trade refuse, 64.
of premises, sanitary inspector may require, to remove dung, &c., 67.
of premises, sanitary authority may recover from, expenses of removal of dung, &c., 67.
of dung, &c., sanitary authority may recover from, expenses of removal, 67.
of premises not complying with notice as to ash-pit or water-closet liable to fine, 69.
of house, expenses of works by sanitary authority recovered from, 69.
of premises may be compelled to put water-closets, &c., in order, 76.
of premises may be compelled to drain, cleanse, cover, or fill up offensive ponds, &c., 78.
of premises to construct proper drains, 78.
of house, notice of disinfection must be served on, 104.
must disinfect house or articles, or destroy articles, 104.
of infected bedding, &c., destroyed, sanitary authority to compensate, 107.
of house, notice of infection to be given to, 110.
of public conveyance not to convey infected person, 115.
of public conveyance carrying infected person to notify sanitary authority, 115.
of public conveyance carrying infected person to disinfect conveyance, 115.
of public conveyance may recover cost of disinfection, 115.
of public conveyance used for conveying infected body to disinfect, 120.
of underground room may appeal to Local Government Board, 144.
name and address of, occupier to give sanitary authority, 175.
may compel occupier to allow execution of works, 174.
of premises in proceedings against may be designated owner, 179.
of premises, costs recoverable from, may be recovered from occupier, 180.
and occupier, contract between as to payment of rate, &c., unaffected by Act, 180.
of premises, mode of service of notice under Act on, 190.
definition of, 18, 203, 207.

PAROCHIAL RELIEF,
admission to hospital not deemed, 125.

PARTIES,
entitled to recover for pollution of water by gas-washing, 95.

PATIENT,
suffering from infectious disease, notification of, by whom, 97.
in hospital, expenses of, may be recovered by sanitary authority, 122.

PAYMENT,
under Act, to medical practitioners shall not disqualify for any public office, 102.
of rates, &c., contract between owner and occupier as to, unaffected by Act, 180.
for bringing unidentified body to mortuary, 135.
upon removal of body identified from mortuary, 136.

PENALTY,
for premises causing effluvia, 48.
for premises causing effluvia, persons liable for, 48.
for obstruction of officer entering premises under sec. 47, 88.
for non-compliance with order as to polluted well, &c., 97.
for non-compliance with order as to polluted well, &c., recovered summarily, 97.
for not givng notice of infectious disease, 98.
for obstruction of execution of order of removal to mortuary, 133.
medical officer not residing in district liable to, 158.
for refusing entry to person authorized, 171.
for refusing entry to person authorized by warrant of justice, 172.
for obstructing execution of Act, 174.
for occupier obstructing owner executing works ordered, 174.
for refusal by occupier to give sanitary authority name and address of owner, 175.
under Act or bye-laws may be recovered under Sanitary Jurisdiction Acts, 175.
for nuisance caused by two or more persons, 178.
under order, &c., under repealed Act recoverable as if under Act, 209.

PENGE,
apportionment of expenses between, and remainder of Lewisham district, 191.
within London for sanitary purposes, 127.
not within metropolitan asylum district, 127.

PERSON,
definition of, 96.
causing nuisance, required to abate, 14.
causing nuisance, required to prevent, 14.
any, may give information of nuisance, 14.
fine on, after notice to abate nuisance, 15, 16.
default of, in complying with notice to abate, 21.
any, may make complaint of nuisance, 32.
any, may be authorized to enter premises, 32.
any, may be authorized to execute order, 32.
any, without district may be proceeded against for nuisance, 34.
damaging closets, drains, fine on, 35.
carrying on offensive trades liable to fine, 41.
using animal fat or oil with alkali in production of soap liable to fine, 41.
disobeying order of petty sessional court liable to fine, 42.
aggrieved by bye-law may object to Local Government Board, 42.
must not use unlicensed premises as knacker's yard, slaughter-house, or cow-house, 45.
causing effluvia from offensive trade liable to penalty, 48.
causing effluvia from offensive trade may be ordered to abate, 49.
causing or allowing effluvia or smoke liable to penalty, 48, 52.
refusing entry to sanitary authority liable to fine, 57.
young, employed in workshop, medical officer to give notice of, 58.
employed by sanitary authority demanding gratuity liable to fine, 62.
receiving, carrying away, or collecting house or street refuse liable to fine, 67.
offending against regulations as to water-closets liable to fine, 69.
constructing water-closet or drain so as to be nuisance liable to fine, 77.
not complying with order under sec. 43 liable to fine, 78.
having on premises unsound food liable to fine, 87.
any, may complain to sanitary authority of polluted well, &c., 97.
infected, exposing himself in street, &c., liable to fine, 113.
infected, must not milk any animal or pick fruit, 114.
infected, must not deal with food or carry on trade, 114.

PERSON—*continued.*
infected, must not enter or be placed in public conveyance, 115.
dying from infectious disease in hospital to be buried direct, 119.
charged with offence under Act may be called as ordinary witness, 177.
charged with offence under Act, husband or wife of may be called as ordinary witness, 177.

PERSONS,
employed in mortuary, county council to control, 136.
visiting in mortuary for purpose of identification, county council may regulate, 136.
some of proceeded against may recover costs, &c., from others, 179.
two or more causing nuisance, proceedings against, 178.
several, death of any of does not abate proceedings against, 179.

PERSONAL LIABILITY,
protection of sanitary authority and officers from, 184.
protection of county council and officers from, 184.

PETTY SESSIONAL COURT,
definition of, 22.
sanitary authority to make complaint to, 21.
may make summary nuisance order, 21.
may make or cancel closing order, 21.
may close overcrowded house, 26.
powers of, under bye-laws of county council, as to offensive trades, 42.
may fine person causing nuisance from offensive trade, 48.
may allow person to abate nuisance, 49.
to fix amount to be paid for removal of trade refuse, 64.
must determine what is trade refuse, 64.
can authorize use of house without certificate of sufficiency of water supply, 91.
may close polluted wells, &c., 97.
may order water to be analysed at cost of sanitary authority complaining, 97.
may empower sanitary authority to execute order as to polluted wells, &c., 97.
must determine costs of medical practitioners, 83.
powers of, to close underground room, 147.
may empower sanitary authority to close underground room, 147.
may compel occupier to allow owner to execute works, 174.
non-compliance by occupier with order of, penalty for, 174.

PIPES,
examination of, by sanitary authority, 74.
destruction of, fine for, 75.

POLICE,
inspector of, may execute detention order of justice, 112.
City, any officer of, may institute proceedings when commissioners of sewers in default, 194.
City, any officer of, must have warrant or consent of person before entering dwelling of, 194.

POLLUTION,
of water by gas-washings, parties entitled to recover for, 95.
of wells, fountains, &c., penalty for, 96.

PONDS,
offensive, sanitary authority must cleanse, cover, or fill up, 78.

POOL,
when nuisance dealt with summarily, 2.
offensive, sanitary authority must cleanse, cover, or fill up, 78.

POOR ACT,
Metropolitan, 1867, use of asylums under, 130.

POOR FUND. *See* METROPOLITAN COMMON POOR FUND.

POOR LAW GUARDIAN,
payment under Act to medical practitioner shall not disqualify for, 102.
See also GUARDIANS.

POOR LAW MEDICAL OFFICER,
may charge for attendance on vessel, 128.
charges of, master of vessel for owner must pay, 128.

POOR LAW UNION. *See* GUARDIANS.

PORT OF LONDON,
limits of, 167.
smoke provisions extend to, 53.
port sanitary authority of, who are, 167.

PORT SANITARY AUTHORITY,
to enforce provisions as to smoke, 53.
of port of London, definition of, 167.
must pay all expenses out of corporate funds, 167.
powers of, 168.
may hold land without licence in mortmain, 168.
may delegate powers to riparian authority, 168.

POST-MORTEM EXAMINATION,
building for, county council may require, 134.
building for, sanitary authority to provide, 134.
may be in connexion with mortuary, 134.
must not be conducted in mortuary, 134.
building for, county council cannot require commissioners of sewers to provide, 193.
sanitary authority may borrow for building for, 157.

POWERS,
county council have, of defaulting sanitary authority, 151.
of sanitary inspector, medical officer of health may exercise, 158.
of county council to proceed against defaulting sanitary authority shall not extend to commissioners of sewers, 193.
of Local Government Board when complaint made against commissioners of sewers, 195.
of commissioners of sewers, person appointed to do omitted duty of, shall have, 195.
of Conservators under Thames Navigation Act, 1870, or otherwise, Act does not affect, 199.
under Act are in addition to powers conferred otherwise, 200.

PRACTITIONER. *See* MEDICAL PRACTITIONER.
medical, must give notice of patient's infectious disease, 98.
medical, must be paid for giving notice of, 98.

PRECAUTIONS,
against infectious disease, bye-laws as to, when house let in lodgings, 137.

PREMISES,
when nuisance dealt with summarily, 2.
unoccupied, owner to be served, 15.
unfit for habitation, absence of water fittings renders, 15.

PREMISES—*continued.*

sanitary authority may enter, 28.
notice of application for offensive trade shall be affixed on, 42.
for offensive trade, structure of, county council to make bye-laws, 42.
not to be used as knacker's yard, slaughter-house, or cow house without licence, 45.
causing effluvia, certified as nuisance, 48.
causing effluvia, owner, occupier or foreman of, liable to penalty, 48.
causing effluvia out of district of sanitary authority, 49.
proceedings against, to be in district of, 49.
used for treatment of refuse an offensive business, 51.
used for treatment of refuse liable under Act as a nuisance, 51.
manufacturing, furnace of, to consume smoke, 52.
admission of sanitary authority, 53.
entry of, by sanitary authority, 57.
owner or occupier of, not liable to cleanse footway or watercourse adjoining, 60.
owner or occupier of, to remove manure, dung, and soil, 67.
owner of, liable for expenses of works by sanitary authority, 70.
entry of, by sanitary authority to examine water-closets, &c., 74.
entry of, by sanitary authority to examine water-closets, &c., expenses of, 74.
entry on, by sanitary authority to execute works as to water-closets, 76.
owner or occupier of, may be compelled to put water-closets, &c., in order, 76.
owner or occupier of, to drain, cleanse, cover, or fill up offensive ponds, pools, and open ditches, 78.
owner or occupier of, may be compelled to construct proper drains, 78.
owner of, can apply to petty sessional court as to certificate of sufficiency of water supply, 91.
owner of, allowing occupation without proper water supply, liability of, 91.
entry of, for inspection of animal or article intended for food, 87.
for disinfection, sanitary authority may contract with another for, 103.
entry of, by sanitary authority for purposes of disinfection, 105.
for disinfection, &c., sanitary authority may borrow for provision of, 157.
entry of, by warrant of justice, 172.
entry of, by warrant of justice, penalty for refusing, 172.
entry of, duration of time of warrant for, 172.
owner of, in proceedings against, may be designated owner, 179.
occupier of, in proceedings against, may be designated occupier, 179.
occupier of, costs recoverable from owner may be recovered from, 180.
owner or occupier of, mode of service of notice under Act on, 190.
definition of, 202, 206.

PRESERVATION,

of unidentified bodies found in London, in mortuary, 135.
of unidentified bodies, connty council may provide for, 136.

PREVENTION,

of infectious disease in tents, &c., bye-laws of sanitary authority as to, 141.

PRINTING-HOUSE,

furnace of, to consume smoke, 52.

PRIVIES,
instead of water-closet, when allowed, 70.
sanitary authority must cleanse, 62.
sanitary authority must give notice of time of cleansing, 62.
county council shall make bye-laws as to, 73.
examination of, by sanitary authority, 74.
constructed without consent of sanitary authority, 75.
altering, restoring, destroying, powers of sanitary authority as to, 75.
See also WATER-CLOSET.

PROCEEDINGS,
in High Court for abatement of nuisances, 33, 34.
when, criminal, 23.
only in Court having jurisdiction in district of nuisance, 34, 49.
in High Court as to offensive trades, 49.
summary, to be in district of premises, 49.
to be taken before Court having jurisdiction where dairy is, 117.
against dairy in district under Public Health Acts, 117.
against person sleeping in underground room, onus of proof in, 145.
county council may take, when sanitary authority in default, 149.
for recovery of demands under fifty pounds by sanitary authority taken in County Court, 176.
against sanitary authority by county council, Local Government Board must sanction, 176.
against nuisance caused by two or more persons, 178.
against several persons, death of any does not abate, 179.
appearance of sanitary authority or county council in, 184.

PROHIBITION ORDER,
nuisance order may be, 21.
may prohibit recurrence of nuisance, 21.
may specify works to be executed, 21.
fine on non-compliance with, 21.
of sale of milk withdrawn, when, 117.

PROOF,
onus of, in proceedings against person sleeping in underground room, 145.

PROPERTY,
of sanitary authority, house refuse or street refuse is, 64.
of sanitary authority, person damaging liable to fine, 174.

PROSECUTION,
sanitary authority may carry on, under epidemic regulations, 127.

PROTECTION,
of sanitary authority from personal liability, 184.
of officers of sanitary authority from personal liability, 184.
of county council and officers from personal liability, 184.

PROVISIONS,
of Act, duty of sanitary authority to enforce, 1.

PUBLIC HEALTH ACT, 1875,
sec. 115 of, shall extend to London, 49.
sec. 108 of, to continue to extend to London, 34.
sanitary authority must execute epidemic regulations under, 127.
application of, to Woolwich, extent of, 153.
application of part of, to London, 209.

PUBLIC OFFICE,
payment under Act to medical practitioner shall not disqualify for any, 102.

PUBLIC PLACE,
swine not to be kept within forty yards of, 40.
swine going about in, may be seized by constable, 40.
infected person exposing himself in, 113.

PUBLIC SANITARY CONVENIENCES. *See* SANITARY CONVENIENCES.

PUERPERAL FEVER,
an infectious disease to be notified, 99.

PUMP,
damage to, penalty for, 96.
public, unvested, shall vest in sanitary authority, 94.
public, sanitary authority may maintain and keep supplied, 94.
public, persons damaging liable for costs to sanitary authority, 94.

PURCHASE,
of mill or right by sanitary authority, 78.

QUALIFICATIONS,
necessary for medical officer of health, 163.
necessary for medical officer of health appointed before Act, 200.
necessary for sanitary inspector, 163.
necessary for sanitary inspector appointed before Act, 200.

QUARTER SESSIONS,
Court of, appeal to, from Court of Summary Jurisdiction, 185.
Court of, appeal to, against nuisance order, 24.
Court of, appeal to, against nuisance order, till determined or abandoned proceedings stayed, 24.
Court of, appeal to, against nuisance order, when none, 25.
Court of, may impose fine like Petty Sessional Court, 25.

RACK RENT,
definition of, 203.

RAILWAY COMPANY,
conveniences erected by, not within Act, 85.

RATE,
consolidated, City of London, expenses paid out of, 59.
sanitary authority defaulting must pay county council out of, 151.
county council may levy, 131.
commissioners of sewers must pay expenses out of sewer or consolidated, 154.
vestry or district board must pay expenses out of general, 154.
Woolwich Local Board of Health must pay expenses out of district, 154.
contract between owner and occupier as to payment of, unaffected by Act, 180.
applicable to purposes of Act, expenses of county council repaid out of, 184.
applicable to purposes of Act, expenses of sanitary authority repaid out of, 184. *See* LOCAL RATE.

RECEPTACLES,
for water, cleanliness of, sanitary authority must secure, 93.

REFINERY. *See* SUGAR REFINERY.

REFUSE,
removal of, may be offensive business, 50.
treatment of, when a nuisance, 51.
street, sanitary authority must remove, 60.
house, sanitary authority must remove, 62.
house, sanitary authority must give notice of removal, 62.
house or street, property of sanitary authority, 64.
powers of sanitary authority as to disposal of, 64.
expenses of Act defrayed out of disposal of, 64.
trade, sanitary authority must remove on payment, 64.
trade, what is, Petty Sessional Court must determine, 64.
house, may be sold after notice to sanitary authority to remove, 66.
house, or street, person receiving, carrying away, collecting, liable to fine, 67.
removal of, periodically on notice of sanitary authority, 68.
trade, sanitary authority on request must remove unsound food as, 88.
house, definition of, 203.
trade, definition of, 203.
street, definition of, 203.

REGISTRATION,
of dairymen, orders as to, 58.
of houses let in lodgings, sanitary authority must make bye-laws as to, 136.

REGULATIONS,
as to sanitary conveniences, sanitary authority may make, 84.
epidemic, under Public Health Act, 1875, 127.
epidemic, two or more sanitary authorities may act together for purpose of, 129.
epidemic, cost of Local Government Board to regulate payment of, 129.
epidemic, metropolitan asylum managers deemed a sanitary authority under, 129.
epidemic, expenses of, incurred by sanitary authority, repaid from metropolitan common fund, 130.
epidemic, contributions for purposes of, Local Government Board may require, 131.
epidemic, for purposes of, vestries and district boards may borrow, 156.
epidemic, expenses of, repaid out of metropolitan common poor fund, 191.
of Local Government Board, as to use of property of metropolitan asylum managers, 130.
for building for post-mortem examinations sanitary authority may make, 134.
made under repealed Act valid as if made under Act, 208.

RELAPSING FEVER,
an infectious disease to be notified, 99.

RELIEF,
parochial, admission to hospital not deemed, 125.

RELIEVING QFFICER,
to give information of nuisance, 14.
may bury infected body, 133.

REMEDIES,
given by Act are in addition to remedies conferred by any Act, law, or custom, 200.

REMOVAL,
of house and street refuse an offensive business, 50.
of street refuse by sanitary authority, 60.
of house refuse by sanitary authority, 62.
of trade refuse by sanitary authority, 64.
of trade refuse, owner or occupier must pay for, 64.
of manure, &c., sanitary inspector may order, 67.
of manure, &c., by sanitary authority after notice, 67.
of manure, &c., by sanitary authority after notice, expenses of, may be recovered summarily, 67.
of manure, &c., by sanitary authority periodically by contract, 68.
of infected articles, 103.
of infected body to mortuary, 132.
of infected body and burial direct, 132.
of infected articles, power of sanitary authority to borrow for, 157.

REMUNERATION,
of medical officer by sanitary authority subject to powers of Local Government Board, 201.

RENEWAL,
of licence for slaughter-house, sanitary authority may oppose, 46.
of licence, what is, 46.

RENT,
occupier may deduct amount paid for owner from, 180.
See also RACK-RENT.

REPEAL,
of Acts, extent of, specified in third column of Fourth Schedule, 208.
of Acts, time and condition of, 209, 210.

REPORT,
annual, of medical officer, must be appended to annual report of sanitary authority, 158.
of sanitary inspector's inquiry to be entered in book, 161.

REPORT BOOK,
of sanitary authority to be open to inspection of any inhabitant, 161.
of sanitary authority to be open to inspection of officer of county council, 161.

RESERVOIR,
sanitary authority must not injuriously affect without consent, 197.
public, unvested, shall vest in sanitary authority, 94.
public, sanitary authority may maintain and keep supplied, 94.
public person damaging liable for costs to sanitary authority, 94.

RESIDENCE,
of medical officer of health to be within district, 158.

RETURN,
of infectious diseases must be sent to county council, 97.
of infectious diseases must be sent to medical officer of health, 97.

RIGHTS,
given by Act are in addition to rights conferred by any Act, law, or custom, 200.

RIPARIAN AUTHORITY,
port sanitary authority may delegate powers to, 168.
definition of, 168.

RIVER,
sanitary authority must not injuriously affect navigation or water of, 197.

ROAD,
subsoil of, vested in sanitary authority, 81.

ROOM,
underground, occupied or let, requisite measurements of, 143.
underground, occupied or let, walls of, must be damp proof, 143.
underground, occupied or let, must have paved area adjoining, 143.
underground, occupied or let, external windows of, 143.
underground, occupied or let, area and soil of, must be effectually drained, 143.
underground, occupied or let, must be ventilated to outer air, 143.
underground, occupied or let, drain passing under must be of gas-tight pipe, 143.
underground, occupied or let, must be secured against effluvia, 143.
underground, occupied or let, must have use of water-closet and ash-pit, 143.
underground, occupied or let, must have fireplace and chimney, 143.
underground, occupied or let, sanitary authority may dispense with or modify requisites of, 144.
underground, reasons for dispensations as to, must be recorded in minutes, 144.
underground, owner of may appeal to Local Government Board, 144.
underground, two or more occupied together, each deemed separately occupied, 144.
underground, deemed a dwelling when person passes night in, 145.
underground, evidence of person passing night in, 145.
underground, persons sleeping in, onus of proof in proceedings, 145.
underground, definition of, 145.
underground, illegal occupation of, officer of sanitary authority must report, 145.
underground, officer of sanitary authority may enter, 146.
underground, justice may grant warrant for entry of, 146.
underground, powers of petty sessional court to close, 147.
underground, sanitary authority may close by order of petty sessional court, 147.
underground, cost of closing, by whom payable, 147.

ROYAL COMMISSION,
vessel in charge of officer bearing, exempt from Act, 166.

RUBBISH,
nuisance from, prevention of, 36.

RULES,
made or issued under repealed Acts valid as if made or issued under Act, 209.

SALARY,
of officers or servants of sanitary authority under epidemic regulations, payment of, 130.
of medical officer, powers of Local Government Board as to, 158.
of medical officer and sanitary inspector, county council must pay half of, out of Exchequer contribution account, 162.
of medical officer appointed before Act, qualification of Act as to, 200, 201.
of inspector of nuisances appointed before Act, qualification of Act as to, 200, 201.

SALT,
nuisance from, prevention of, 36.

SANCTION,
of Local Government Board for appointment of medical officer to two or more districts, 158.

SAND,
may be laid in street in time of frost, 36.

SANITARY AUTHORITY,
See also PORT SANITARY AUTHORITY.
duty of, to inspect district, 1.
notice to, of nuisance may be given by any person, 14.
to direct officers as to abatement of nuisance, 14.
to serve notice to abate nuisance, 14.
to specify time within which nuisance to be abated, 15.
to require works to be executed, 15, 18.
to require prevention of nuisance, 15.
themselves may abate nuisance, 15, 20.
must abate overcrowded house on certificate of medical officer of health. 15.
may enter premises and abate nuisance, 21.
may abate nuisance pending appeal by order of court, 25.
to pay cost of abatement and damages, if appeal allowed, 25.
may recover costs of abatement, 25.
on application of Court to order house to be closed, 26.
when nuisance order addressed to, 27.
when nuisance order executed by, 27.
may sell anything removed in abatement, 27.
may deduct expenses incurred in abatement, 27.
may enter premises to examine nuisance, 28.
may enter premises from time to time till nuisance abated, 28.
may enter premises to execute nuisance order, 28.
order made on, costs and expenses of, payable by whom, 29.
constable to have powers of officer of, 32.
may institute proceedings in High Court, 33.
may act as relators in action by Attorney-General, 34.
expenses of, incidental to proceedings, 33.
may proceed against nuisance without district, 34.
bye-laws of, as to nuisances from snow, filth, &c., 36.
bye-laws of, as to slaughter-houses, breweries, knackers' yards, &c., 36.
bye-laws of, as to keeping animals, 36.
bye-laws of, as to paving yards and open spaces, 36.
duty of, to observe and enforce bye-laws, 36.
may give notice to discontinue keeping swine, 40.
county council to serve with notice of application for offensive trade, 42.
may object to bye-laws for offensive trades to Local Government Board, 42.
to be served with notice of application for licence for cowhouse, &c., 46.
must give seven days' notice of objection to licence, 46.
must serve objection on applicant for licence, 46.
may enter slaughter-house or knacker's yard, 46.
shall complain to petty sessional court of offensive trade, 48.
may proceed in High Court, 49.
may proceed against offensive trade premises out of district, 49.
county council may proceed against, for nuisance from refuse, 50.
county council deemed to be, 50, 51.
to enforce provisions as to smoke, 53.
information as to smoke by, only, 53.

SANITARY AUTHORITY—*continued.*

powers of entry of, 53.
may serve notice to cleanse workshop, 56.
may cleanse workshop and recover expenses summarily, 56.
may enforce provisions of Factory and Workshop Acts as to bakehouses, 57.
entry of bakehouses by, 57.
to keep streets and footways swept and cleansed, 60.
to collect and remove all street refuse, 60.
liable to fine for not keeping streets cleansed, 60.
liable to fine for not removing all street refuse, 60.
to remove house refuse, 62.
to cleanse ash-pits, earth-closets, privies, and cesspools, 62.
to give notice of time for cleansing ash-pits, &c., 62.
must cleanse ash-pits, &c., within 48 hours of notice, 62.
liable to fine for non-removal of refuse, 62.
person in employ of, demanding gratuity liable to fine, 62.
shall employ scavengers to cleanse streets, 63.
shall employ scavengers to remove refuse, 63.
street and house refuse property of, 64.
powers of, as to disposal of refuse, 64.
to defray expenses of Act out of disposal of refuse, 64.
must remove trade refuse, 64.
must be paid for removal of trade refuse, 64.
may remove and dispose of manure, &c., 67.
may pay expenses out of disposal, 67.
may pay surplus to former owner of manure, &c., 67.
may recover expenses of removal of manure, 67.
may employ scavengers to cleanse stables and cowhouses, 68.
notice given by, of periodical removal of manure and refuse, 68.
may require ash-pit to be in accordance with notice, 69.
may require water-closet to be in accordance with notice, 69.
may enter and execute works as to ash-pits, 69.
may enter and execute works as to water-closets, 69, 75, 76.
may recover expenses of works from owner of house, 69.
appeal from, as to water-closet regulations to county council, 70.
may require sanitary conveniences in factory, workshop, or workplace, 72.
must make and enforce bye-laws as to supply of water to water-closets, 73.
directions of, must be in accordance with county council's bye-laws, 73.
entry of premises by, to examine water-closets, &c., 74.
entry of premises by, to examine water-closets, &c., expenses of, 74.
powers of, in examination of water-closets, &c., 74.
powers of, as to alteration, destruction, &c., of water-closet, &c., 75.
powers of, as to alteration, destruction, &c., of ash-pit or cesspool, 75.
powers of, as to alteration, destruction, &c., of water-supply, 75.
may compel owner or occupier of premises to put water-closets, &c., in order, 76.
appeal from, under sec. 41, to county council, 76.
must cleanse, cover, or fill up offensive ponds, ditches, &c., 78.
may enter premises and abate offensive ditches, drains, &c., 78.
may defray expenses as to ditches as expenses of sewerage, 78.
must compensate interference with mill or water right, 78.
may purchase mill or water right, 78.
appeal from, as to drains, to county council, 79.
may provide and maintain public lavatories, 80.
may provide and maintain public ash-pits, 80.
may provide and maintain public sanitary conveniences, 80.
may defray expenses of public sanitary conveniences as sewerage expenses, 80.

SANITARY AUTHORITY—*continued.*
subsoil of road vested in, 81.
may make regulations as to public sanitary conveniences, 84.
may let or charge fees for use of public sanitary conveniences, 84.
consent of, necessary for erection of conveniences in street, 85.
consent of, necessary for erection of conveniences accessible from street, 85.
may certify sanitary convenience used in common to be nuisance, 85.
must on request remove unsound food as trade refuse. 88.
must certify every new house has proper water-supply, 91.
water company cutting off water, must give notice to, 92.
shall make bye-laws for cleanliness of cisterns, &c., 93.
public cisterns, reservoirs, &c., unvested, shall vest in, 94.
may complain to petty sessional court of polluted wells, &c., 97.
may execute order of petty sessional court as to polluted wells, &c., 97.
to provide forms of certificate for notifying infectious disease, 98.
fees for certificates of infectious disease, metropolitan asylum managers to repay, 99.
may extend notification to any infectious disease, 101.
order of, as to notification, Local Government Board must approve, 101.
order of, as to notification, public notice of must be given, 101.
order of, as to notification, copy of must be sent to every medical practitioner in district, 101.
payment under Act to medical practitioner shall not disqualify for member of, 102.
must provide premises, &c., for destruction and disinfection of infected articles, 103.
may contract or combine with another, for purposes of disinfection, 103.
must serve notice of disinfection on owner and master of house, 104.
must pay cost of disinfection, 105.
may enter premises for purposes of disinfection, 105.
must provide gratis shelter for persons leaving houses to be disinfected, 105.
must compensate for damage done in disinfecting, 105.
may require delivery of infected bedding or other articles, 107.
expenses of epidemic regulations repaid to, 130.
may make order forbidding sale of milk from dairy, 116.
must serve notice of infected dairy on county council, Local Government Board and sanitary authority, 116.
must compensate owner for destruction of infected bedding, &c., 107.
must serve notice of disinfection on master of house, 107, 110.
must remove, disinfect, or destroy infected rubbish, 107.
must pay cost of removal of infected person, 111.
removal order of justice may be directed to any officer of, 111.
may make bye-laws for removal and detention of infected person, 111.
officer of, may execute detention order of justice, 112.
to disinfect public conveyance when required, 115.
temporary or permanent hospital, may build, 121.
temporary or permanent hospital, may contract for use of, 121.
reception of sick inhabitants, may contract for, 121.
may recover expenses incurred for non-pauper patient in hospital, 122.
may provide or contract for medicine and medical assistance, 123.
may provide conveyance for infected persons, 123.
to see to execution of epidemic regulations under Public Health Act, 1875, 127.
must appoint and pay medical officers and others, 127.
may prosecute for violation of epidemic regulations, 127.
may enter to execute epidemic regulations, 127.

SANITARY AUTHORITY—*continued.*
under epidemic regulations, metropolitan asylum managers deemed a, 129.
must provide mortuary, 131.
may make bye-laws as to mortuaries, 131.
may make bye-laws as to burial of bodies from mortuary, 131.
must pay cost of removal of infected body to mortuary, 132.
may provide building for post-mortem examination, 134.
may make regulations for management of post-mortem building, 134.
may make bye-laws as to tents, &c., used for human habitation, 141.
may authorize entry of tents, &c., used for human habitation, 141.
two or more may combine to provide common hospital, 121.
two or more may combine for purposes of epidemic regulations, 129.
two or more may combine and contract for mortuaries, 135.
two or more may combine and contract for places for post-mortem examinations, 135.
bye-laws of, as to lodging-houses, number of persons in, 136.
bye-laws of, as to lodging-houses, separation of sexes in, 136.
bye-laws of, as to lodging-houses, registration of, 136.
bye-laws of, as to lodging-houses, inspection of, 137.
bye-laws of, as to lodging-houses, drainage of, 137.
bye-laws of, as to lodging-houses, cleanliness, &c., of persons in, 137.
bye-laws of, as to lodging-houses, cleansing, &c. of, 137.
bye-laws of, as to lodging-houses, precautions in case of infectious disease, 137.
may modify requisites of underground rooms, 144.
must record in minutes dispensations of section 96 of Act, 144.
officer of, must report occupation of underground rooms, 146.
officer of, may enter underground room, 146.
may close underground room by order of Petty Sessional Court, 147.
definition of, 147.
in City of London are commissioners of sewers, 147.
is vestry in parishes other than Woolwich in Metropolis Management Act, 1855, Schedule A, 147.
is district board in Schedule (B) to Metropolis Management Act, 1855, 147.
in parish of Woolwich is Local Board of Health, 147.
district of, definition of, 148.
powers of committee of, for purposes of Act, 148.
may hold land without licence in mortmain, 148.
complaint of, by county council to Local Government Board, 150.
county council have powers of defaulting, 151.
defaulting, must pay county council expenses out of rate, 151.
defaulting, officer of county council may require to pay over money 151.
defaulting, county council must pay surplus of levied rate or loan to 151.
defaulting, for purposes of county council may raise a loan as, 151.
defaulting, county council may raise loan as, 151.
defaulting, expenses of, how defrayed, 154.
may borrow, with consent of Local Government Board, 156.
may borrow, with consent of Local Government Board, for sanitary conveniences, &c., 157.
may borrow, with consent of Local Government Board, for premises, &c., for disinfection, 157.
may borrow, with consent of Local Government Board, for buildings for post-mortem examinations, 157.
may borrow, with consent of Local Government Board, for building for inquests, 157.

SANITARY AUTHORITY—*continued.*
must appoint one or more medical officers of health for district, 158.
annual report of medical officer must be appended to annual report of, 158.
must appoint competent sanitary inspectors, 160.
inquiry as to complaints, sanitary inspectors must lay before, 161.
report book of, must be open to inspection of any inhabitant, 161.
report book of, must be open to inspection of officer of county council, 161.
existence of nuisances sanitary inspectors must report to, 161.
must enter in book all complaints, 161.
must enter in book report of inquiry into nuisances, 161.
may temporarily appoint medical officer, 165.
may temporarily appoint sanitary inspector, 165.
vessel in sanitary district, subject to, 166.
may remove medical officer with consent of Local Government Board, 163, 201.
deemed a local authority under Public Health Act, 1875, when, 169, 170.
bye-laws of, how made, 170.
county council must send copy of proposed bye-laws to, 170.
power of entry by, may be exercised by any member or officer of, 171.
power of entry by, may be exercised by warrant of justice, 172.
damage to works and property of, penalty for, 174.
proceedings for recovery of demand under fifty pounds taken in County Court by, 176.
proceedings against, by county council, Local Government Board must sanction, 176.
expenses due from, county council may recover without sanction of Local Government Board, 176.
fines recovered under Act paid to, 177.
fines paid to, in aid of expenses of execution of Act, 177.
fines imposed on, paid to county council, 177.
judge or justice being member of, may act, 181.
appearance of, in legal proceedings, 184.
personal liability, protection from, 184.
expenses of, repaid out of rate applicable to purposes of Act, 184.
member of, liable to be surcharged by auditor of accounts, 184.
appeal to county council against, how conducted, 188.
orders of, must be authenticated under seal of, 189.
mode of service of notice on, 190.
must not without consent injuriously affect navigation of river, &c., 197.
must not without consent divert or diminish water of river or canal, 197.
must not without consent injuriously affect any reservoir, 197.
must submit first bye-laws within six months after commencement of Act, 209.
substitution of, for nuisance authority in orders under repealed enactments, &c., 200.

SANITARY CONVENIENCES,
for persons of each sex in factory, workshop, &c., 72.
public, sanitary authority may provide and maintain, 80.
public, sanitary authority may determine situation of, 80, 81, 82.
public, regulations as to, sanitary authority may make, 84.
public, sanitary authority may let, 84.
public, fees for use of, sanitary authority may charge, 84.
public, not to be erected in or accessible from, street without consent of sanitary authority, 85.
public, erected by railway company not within Act, 85
used in common, person injuring liable to fine, 85.

SANITARY CONVENIENCES—*continued.*
used in common, person causing to be nuisance liable to fine, 85.
sanitary authority may borrow for provision of, 157.
definition of, 204.

SANITARY INSPECTOR,
certificate of, for cleansing workshop, 56.
may order removal of manure, filth, &c., 67.
may certify sanitary convenience used in common to be nuisance, 85.
may enter premises and inspect animal or article intended for food, 86.
may carry away unsound food for a justice to deal with, 87.
powers of, medical officer may exercise, 158.
necessary qualifications of, 163.
sanitary authority must appoint competent, 160.
Local Government Board may direct appointment of extra, 161.
must report to sanitary authority nuisances, 161.
must lay inquiry as to complaints before sanitary authority, 161.
sanitary authority must enter in book report of, 161.
duty of, to complain before justices, 161.
duty of, to take legal proceedings, 161.
powers of Local Government Board as to, 162.
may be appointed temporarily by sanitary authority, when, 165.
temporarily appointed, powers of, 165.
inspector of nuisances to be called, 201.
powers of Local Government Board as to, 201.
appointed before the Act, modification of Act as to, 200, 201.

SCARLATINA,
an infectious disease to be notified, 99.

SCARLET FEVER,
an infectious disease to be notified, 99.

SCAVENGERS,
employed by sanitary authority, 63.

SCHOOL,
head teacher of, notice to, of infectious disease, 99.

SCHOOL, INDUSTRIAL,
child sent to, deemed to continue inhabitant of London, 126.

SEAL,
of county council or sanitary authority requisite for authentication of orders, 189.

SECRETARY OF STATE,
may regulate removal of unindentified body to mortuary, 135.
may regulate payments for removal of unidentified bodies to or from mortuary, 135, 136.
may regulate interment of unidentified bodies, 136.

SECURITIES,
given under repealed Acts valid as if given under Act, 209.

SERVANTS,
of sanitary authority under epidemic regulations, salaries of, 130.

SERVICE,
of notice, order, or document, mode of, 190.
of notice on county council, mode of, 190.
of notice on sanitary authority, mode of, 190.
of notice on owner or occupier of premises, mode of, 190.

SESSIONAL COURT. *See* COURT, *and* PETTY SESSIONAL COURT.

SESSIONS. *See* QUARTER SESSIONS.

SEWERAGE,
expenses under ss. 43 & 44, sanitary authority may defray as, 78, 81.

SEWER RATE,
commissioners of sewers must pay expenses out of, 154

SEWERS. *See* COMMISSIONERS OF SEWERS.

SEWERS ACT,
City of London, 1851, unaltered and unrepeated by sec. 23, 53.

SEX,
sanitary conveniences for persons of each, in factory, workshop, &c., 72.

SEXES,
separation of, in lodgings, bye-laws, as to 136.

SHEDS,
used for human habitation, sec. 55, shall apply to, 99.
dealt with summarily when nuisance injurious to health, 141.
dealt with summarily when overcrowded, 141.
cleanliness of, power of sanitary authority as to, 141.
infectious disease in, prevention of, 141.
nuisances arising from, bye-laws as to, 141.
entry of, by authority of sanitary authority, 141.
entry of, by authority of justice, 141.
used by military or naval forces exempt from Act, 142.

SHELTER,
provided gratis for persons while house being disinfected, 105.

SHOP,
infected person exposing himself in, liable to fine, 113.

SINK,
destruction of, fine for, 75.

SINKS,
examination of, by sanitary authority, 74.

SIPHON,
destruction of, fine for, 75.
examination of, by sanitary authority, 74.

SLAUGHTER,
of cattle, order of county council for, not necessary, when, 43.
of cattle or horses, prohibition as to trade of, 41.
of cattle or horses, must be licensed by county council, 45.
of cattle or horses, carrying on business of, what is, 47.

SLAUGHTERER,
of cattle or horses, definition of, 204.

SLAUGHTER-HOUSE,
nuisance from, prevention of, 36.
licence for, cost of, 46.
entry of, by sanitary authority, 46.
occupier of, convicted, licence of to be cancelled, 88.
definition of, 204, 208.

SLEEPING PLACE,
dead body of infected person not to be kept in, for more than forty-eight hours, 118.

SMALL-POX,
an infectious disease to be notified, 99.
non-pauper suffering from, metropolitan asylum managers may receive, 125.

SMOKE,
consumption of, 52.
non-consumption of, penalty for, 52, 17.
non-consumption of, persons liable for, 52.
consumption of, by steam engines and vessels on Thames, 52.
consumption of, meaning of, 53.
non-consumption of, by steam vessel on Thames, owner or master liable, 52.
black, from chimney, a nuisance, 55.

SNOW,
nuisance from, prevention of, 36.
included in street refuse, 203.

SOAP,
production of, person using animal fat or oil with alkali liable to fine, 41, 44.

SOAP-BOILER,
prohibition as to establishing trade of, 41.
an offensive trade, when, 41, 44.
may make soap with olein, 41, 44.

SOIL,
below underground room let or occupied after Act must be effectually drained, 143.
See SUB-SOIL.

SOURCE OF WATER SUPPLY,
definition of, 204.

STABLES,
occupier of, may consent to sanitary authority cleansing, 68.

STATEMENT,
false, making, on letting infected house, punishment for, 109.
false, persons ceasing to occupy infected house making, 110.

STEAM ENGINE,
on Thames, to consume smoke, 52.
on Thames, owner or master of, liable for non-consumption of smoke, 52.
non-consumption of smoke by, a nuisance, 54, 55.

STEAM VESSEL,
on Thames, to consume smoke, 52.
on Thames, owner or master of, liable for non-consumption of smoke, 52.

STRAW,
may be laid in street in time of sickness, 36.

STREAM,
sanitary authority must not injuriously affect, without consent, 197.

STREET,
sand, straw may be laid in, during frost or sickness, 36.
swine not to be kept within forty yards of, 40.
swine going about, may be seized by constable, 40.
sanitary authority must cleanse, 60.
sanitary authority must remove all street refuse from, 60.
sanitary authority must employ scavengers to cleanse, 63.
infected person exposing himself in, liable to fine, 113.
definition of, 202, 205.

STREET-REFUSE,
removal of, may be nuisance under Act, 50, 51.
property of sanitary authority, 64.
disposal of, by sanitary authority, 64.
person receiving, carrying away, collecting, liable to fine, 67.
definition of, 203.

STRUCTURE,
want or defect of, owner to be served with notice, 15.
of premises for offensive trade, county council to make bye-laws as to, 42.

SUB-SOIL,
of road vested in sanitary authority, 81, 82.

SUBSTITUTION,
of Act for repealed Acts in orders, enactments, &c., 209.
of sanitary authority for nuisance authority in repealed portions of orders, enactments, &c., 209.

SUGAR REFINERY,
furnace of, to consume smoke, 52.

SUMMARY JURISDICTION,
Court of, appeal from, to quarter sessions, 185.
See also COURT: PETTY SESSIONAL COURT.

SUMMARY JURISDICTION ACTS,
all offences, &c., under Act or bye-law may be prosecuted or recovered under, 175.

SUMMARY ORDER,
under Act, made by petty sessional court, called nuisance order, 21.

SUMMARY PROCEEDINGS,
to be taken in district of premises causing effluvia, 49.

SUPPLY,
of water to water-closets, bye-laws as to, 73.
of water, examination of, by sanitary authority, 74.
of water discontinued without authority, penalty for, 73.
of water, company cutting off, must give notice to sanitary authority, 92.
of water in reservoir, &c., sanitary authority must not injuriously affect without consent, 197.
source of water, definition of, 204.

SWINE,
not to be kept in unfit place or to create nuisance, 40.
not to be allowed to go about street or public place, 40.
found straying may be seized by constable, 40.
not to be kept within forty yards of street or public place, 40.

SWINE—*continued.*
keeping in a city, is a common law nuisance, 40.
to be forfeited if kept in unfit place, 40.

TALLOW-MELTER,
prohibition as to trade of, 41.

TANKS,
polluted, any person may complain to sanitary authority of, 97.
polluted, sanitary authority may complain to petty sessional court, 97.
polluted, petty sessional court may close, 97.
cleanliness of, sanitary authority must secure, 93.

TEACHER,
head, of school, notice of infectious disease to be given to, 99.

TENANT,
and landlord, any contract between, unaffected by Act, 180.

TENT,
used for human habitation, notification of infectious disease in, 99.
infected person lodged in, may be removed to hospital, 111.
dealt with summarily when nuisance injurious to health, 141.
dealt with summarily when overcrowded, 141.
cleanliness of, power of sanitary authority as to, 141.
infectious disease in, prevention of, 141.
nuisances arising from, 141.
entry of, by authority of sanitary authority, 141.
entry of, by authority of justice, 141.
used by military or naval forces exempt from Act, 142.

TENURE,
of office of medical officer appointed before Act, qualification of Act as to, 200.
of office of inspector of nuisances appointed before Act, qualification of Act as to, 200.

TERM,
of office of members of Woolwich Local Board, 202.

THAMES,
steam engines or vessels on, to consume smoke, 52.

THAMES NAVIGATION ACT, 1870,
powers of conservators under, not affected, 199.

THINGS,
forfeited under Act sold as Court may direct, 178.

TIME,
within which penalty for pollution of water by gas washings recovered, 96.
warrant of justice may authorize entry of underground room at any, 146.
duration of, for warrant of entry of premises, 172.
for exercise of warrant for entry of overcrowded house, 172.
of repeal of enactments expressed in Fourth Schedule to Act, 209.

TRADE,
infected person must not carry on, 114.

TRADES,
offensive, what not to be established anew, 41.
offensive, what not to be established anew without sanction of county council, 41.
offensive, county council shall sanction by order, 41, 42.
offensive, application for sanction of, to be made public, 42.
offensive, application for sanction of, notice to be affixed on premises, 42.
offensive, application for sanction of, notice to be served on sanitary authority, 42.
offensive, bye-laws of county council may regulate, 42.
offensive, bye-laws of county council, powers of petty sessional court under, 42.
offensive, removal of refuse may be, 50.
offensive, nuisance from arising without district, 214.

TRADE-REFUSE,
sanitary authority must remove, 64.
owner or occupier must pay for removal of, 64.
sum payable for removal of, fixed by petty sessional court, 64.
what is, petty sessional court must determine, 64, 65, 67.
sanitary authority must remove unsound food as, 88.
definition of, 203.

TRAPS,
examination of, by sanitary authority, 74.
destruction of, fine for, 75.

TRIPE-BOILER,
prohibition as to trade of, unless sanctioned, 41.

TREATMENT,
of house and street refuse when a nuisance, 51.

TYPHOID FEVER,
an infectious disease to be notified, 99.

TYPHUS FEVER,
an infectious disease to be notified, 99.

UNDERGROUND ROOM. *See* ROOM UNDERGROUND.

UNIDENTIFIED BODIES. *See* BODY UNIDENTIFIED.

UNION. *See* GUARDIANS.
district medical officer of, may continue to be medical officer of health, 201.

UNOCCUPIED PREMISES,
owner to be served with notice, 15.

UNSOUND FOOD. *See* FOOD.

URINAL,
when nuisance, dealt with summarily, 2.

VAN. *See* TENT.

VEGETABLES,
unsound, person selling liable to fine and imprisonment, 87.
unsound, person selling liable to fine and imprisonment may show at time ignorance of unsoundness, 87.

VENTILATION,
of factory, workshop, 3.
of dairies, 58.
underground room, let or occupied after Act, must have effectual, 143.
underground room, space under floor of, must have, 143.

VESSEL,
used for human habitation, notification of infectious disease in, 99.
infected person lodged in, to be removed to hospital, 111.
attendance in, poor law medical officer may charge for, 128.
master of, must, on behalf of owner, pay such charges, 128.
attendance on, by medical practitioner not poor law medical officer, costs of, 128.
in sanitary district subject to sanitary authority, 166.
master of, deemed occupier, 166.
in charge of officer bearing Royal commission exempt from Act, 166.
belonging to foreign government exempt from Act, 166.
definition of, 203.
steam, consumption of smoke by, on Thames, 52.
milk, orders as to, 58.
for removal of infected articles may be provided, 103.
for hospital, metropolitan asylum managers may maintain, 124.
for hospital, metropolitan asylum managers must disinfect, 124.
metropolitan asylum managers may borrow to provide, 155.
for disinfection, &c., sanitary authority may borrow for provisions of, 157.

VESTRY,
is sanitary authority in parishes other than Woolwich, 147.
must pay expenses out of general rate, 154.
may borrow for provisions of hospitals or mortuaries, 156.
may borrow for purposes of epidemic regulations, 156.

VETERINARY INSPECTOR,
or surgeon, may inspect animals in dairy, 116.

WALLS,
of underground room must be damp proof, 143.

WARRANT,
without, constable may arrest offender against bye-laws, 36.
of justice, may authorize entry of underground room at any time, 146.
of justice requisite before entry of dwelling by officer of City police, 194.
of justice, entry of premises by, 172.
of justice, granted on information on oath, 172.
of justice, person refusing entry to person authorized by, liable to fine, 172.
of justice, duration of time of, 172.
of justice, for entry of overcrowded house by day or night, 172.

WASHHOUSE,
public, furnace of, to consume smoke, 52.

WATER,
of river or canal, sanitary authority must not divert or diminish without consent, 197.
source of, definition of, 204.

WATER ACT,
Metropolis, 1871, nuisance under, 3, 15.

WATER-CLOSET,
when nuisance dealt with summarily, 2.
penalty for injuring, 35.
unlawful to erect or rebuild house without proper, 69.
must have proper water apparatus, 69.
notice as to, on whom to be served, 69.
privy or earth-closet allowed instead of, when, 70.
used by inmates of two houses when sufficient, 70.
county council shall make bye-laws as to, 73.
supply of water to, bye-laws as to, 73.
examination of by sanitary authority, 74.
constructing, contrary to order of sanitary authority, fine for, 75.
altering, restoring, destroying, powers of sanitary authority as to, 75.
causing to be a nuisance, fine for, 77.
public fees for use of, sanitary authority may fix, 84.
underground room must have use of, 143.

WATER COMPANY,
cutting off water, must give notice to sanitary authority, 92.
not giving notice of cutting off water liable to a fine, 92.
definition of, 92.

WATERCOURSE,
adjoining premises, owner or occupier not liable to cleanse, 60.

WATER FITTINGS,
absence of, under Metropolis Water Act, 1871, a nuisance, 3, 15, 213.

WATER-SUPPLY,
to dairies, orders of Local Government Board as to, 58.
to water-closets, bye-laws as to, 73.
discontinued without lawful authority, 75.
altering, restoring, destroying, powers of sanitary authority as to, 75.
examination of, by sanitary authority, 74.
occupied house without proper, a nuisance, 91.
every new or rebuilt house must be certified to have, 91.
cutting off by water company, notice to be given to sanitary authority, 92.
cutting off by water company, when illegal, 93.
pollution of, by gas-washing, penalty for, 95.
pollution of, by gas-washing, parties entitled to recover, 95.
&c., in reservoir, &c., sanitary authority must not injuriously affect without consent, 197.

WATERWORKS,
furnace of, to consume smoke, 52.

WELLS,
public, unvested, shall vest in sanitary authority, 94.
public, sanitary authority may maintain and keep supplied, 94.
public, persons damaging, liable, 94.
pollution of, penalty for, 96.
polluted, any person may complain to sanitary authority of, 97.
polluted, sanitary authority may complain to petty sessional court, 97
polluted, petty sessional court may close, 97.

WHARVES,
for hospitals, metropolitan asylum managers must maintain, 124.

WHITECHAPEL IMPROVEMENT ACT, 1853,
unaltered by Act, 53.

WIFE,
of person charged with offence under Act may be called as ordinary witness, 177.

WINDOWS,
of underground room must not be blocked, 143.
of underground room, requisite area of, 143.

WITNESS,
person charged with offence under Act, and husband or wife, may be, 177.

WOMAN,
employment of, in workshop, medical officer of health to notify, 58.
definition of, 58.

WOOLWICH,
Local Board of Health is sanitary authority in parish of, 147.
application of Public Health Acts to, extent of, 153.

WOOLWICH LOCAL BOARD,
may borrow for purposes of Act, 153.
must pay expenses out of district fund or rate, 154.
term of office of members of, 202.

WORK,
directed by bye-law, not executed, fine for, 75.
contrary to bye-law, fine for, 75.

WORKS,
to abate nuisance, sanitary authority may specify, 14, 15, 18.
of sanitary authority, person damaging liable to fine, 174.
occupier obstructing execution of, liable to fine, 174.

WORKHOUSE,
may be let to metropolitan asylum managers for reception of cholera patients, 130.
Local Government Board must consent to use of, 130.
building for post-mortem examination must not be at, 134.

WORKPLACE. *See* WORKSHOP.

WORKROOM,
dead body of infected person not to be kept in, for more than forty-eight hours, 118.

WORKSHOP,
not subject to Factory and Workshop Act, 1878, unclean, unventilated, overcrowded, a nuisance, 3.
used as a dwelling-house, overcrowding in, 3.
cleansing, by order of sanitary authority, 56.
medical officer to notify employment of child, young person, or woman in, 58.
sanitary conveniences in, for persons of each sex, 72.
Secretary of State, powers of, as to sanitary condition of, 267.

WRITING,
person demanding entry must produce authority in, 171.
may be printing, lithography, &c., 173.

WRITTEN INTIMATION,
to abate nuisance to be served by officer, 14.

YARD,
knacker's, unlicensed premises not to be used as, 45.
knacker's, entry of, by sanitary authority, 46.
knacker's, definition of, 204.

YARDS,
of dwelling-houses, paving, 36.

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